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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1325

[Docket No. 84-02; Notice 2]

Procedures for Transition to New National Driver Register

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: For over 20 years, the Federal Government has operated the National Driver Register (NDR), a voluntary State/Federal cooperative program to assist the States in exchanging information regarding certain driving records. The NDR is designed to address the problem that arises when chronic traffic law violators, after losing their licenses in one State, travel to and receive licenses in another State. The current NDR relies primarily on the U.S. mail to receive information and to respond to inquiries from the States. In 1982, Congress enacted legislation to improve the NDR by converting it to a fully automated system, enabling a State to determine, virtually instantly, whether another State has taken an adverse action against a driver license applicant. This rule establishes the procedures NHTSA will follow for the orderly transition form the current NDR to the new, automated NDR.

EFFECTIVE DATE: This rule becomes effective August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Clayton Hatch, Chief, National Driver Register (NTS-33), 400 Seventh Street SW., Washington, D.C. 20590 or telephone (202) 426-4800.

SUPPLEMENTARY INFORMATION: On October 25, 1982, Congress enacted legislation which called for the establishment of an improved National Driver Register to assist chief driver licensing officials of participating States in exchanging information regarding certain motor vehicle driving records. The current Register was established in 1960 and is now operated by the National Highway Traffic Safety Administration (NHTSA). It is computer assisted, but uses the U.S. mail to send information to and to receive information from State licensing authorities. The October 1982 legislation envisioned a fully-automated system which would provide rapid, computer-processed responses to inquiries. This new system will enable the States to learn more quickly of adverse actions taken by other States and to decide whether to grant a driver's license to an applicant.

On October 1, 1984 [49 FR 38648] NHTSA issued a Notice of Proposed Rulemaking proposing procedures for the orderly transition from the current to the new NDR. The Agency has analyzed the comments received on the proposal and has decided to adopt, with slight modifications, the procedures proposed in the notice. The procedures, as adopted, and the comments on these procedures are discussed below.

Current NDR

States presently participate in the NDR by (1) providing reports of license withdrawals and denials for entry into the NDR file, and (2) submitting names of license applicants to be checked against the NDR file to determine if a report for license withdrawal or denial is in the file from another licensing jurisdiction. State participation is voluntary and currently all States participate in some manner.

Reports of license withdrawals and denials now on file contain descriptive information about the individual (name, date of birth, sex, height, weight, etc.) and details about the adverse action taken (traffic violation for which license was withdrawn or denied, date of action, date of eligibility for license restoration and date restored when applicable).

Transmission of the data on both inquiries and reports is predominantly by mail. State-supplied information is generally processed against the computer based file within 24 hours of receipt. The matching of an inquiry with a record on file produces a "Probable Identification" (no identification is "positive," since the possibility exists that the individual described on the inquiry record may not be the same person identified on the NDR record of withdrawal or denial). The "Probable Identification", which contains the substantive information regarding that individual, is immediately mailed to the inquiring State for appropriate action. This process (from the time of State inquiry to State receipt of a "Probable Identification") generally takes a week to ten days. The response identifies the inquiries for which a match occurred. In addition to allowing inquiries from State licensing agencies, the present NDR accepts requests for driver license checks to be performed for Federal Government agencies. However, any inquiry must, by law, be in connection with the issuance or reissuance of a motor vehicle operator's license.

Need for New NDR

Deficiencies in the current National Driver Register system have been identified over the years by the National Highway Traffic Safety Administration (NHTSA), the States and outside groups. The greatest problem of the current system is the length of time needed to respond to inquiries. Many States now issue a permanent license over-the-counter while the applicant is present. Although these States still send inquiries to the NDR, the results of National Driver Register file checks are received after a license has been issued. Therefore, an applicant can be licensed by one State while his privilege to drive was suspended or revoked in another State. The licensing State does not learn of the adverse driving record for a week or two, at which point it may be difficult to find the licensee to suspend or revoke his license. Additionally, NDR records are not immediately updated by the States and on occasion have contained inaccurate data due to transcription errors.

Aware of these shortcomings, NHTSA conducted a study in 1973 to identify program problems and their extent. The study's primary recommendation was that a rapid response service was needed and that such a capability should be developed. As a result, an effort was undertaken in March 1975, to determine system feasibility and to define and design a rapid response system. A comprehensive survey was made of all licensing jurisdictions which

showed that 41 States desired a rapid response service. Based on the determination that such a system was feasible, a plan was developed in April 1978, for the implementation of a state-of-the-art Federal/State driver record communication system. This system was identified as the "Rapid Response System". This system would have allowed States to obtain information directly from the NDR file in a matter of seconds through use of computer-assisted technology. Although this approach would have solved the response-time problem, it would not have corrected other shortcomings; in particular, data accuracy. A report was submitted to Congress in 1980, pursuant to the Surface Transportation Assistance Act of 1978, which outlined the problems of maintaining current and accurate data in a massive data file. The report recommended a system whereby the NDR serves as a conduit for retrieving information from the State of Record (SOR) and relaying the information immediately, without interception, to the State of Inquiry (SOI). Thus, the NDR would no longer be encumbered with high volume data handling problems, and could rely directly on the State to provide information which would be as accurate and as current as the data in the State file at the time of inquiry. This system would also solve concerns about the privacy implications of the Federal Government retaining detailed records on certain drivers.

New NDR

After consideration of the 1980 study, Congress enacted the NDR Act of 1982 (Pub. L. 97-364) to enhance the accuracy and effectiveness of the NDR.

The system described herein (the Problem Driver Pointer System, or PDPS) complies with the mandates of the NDR Act of 1982 and is similar to the problem driver pointer system which was conceptually defined in the 1980 study.

Briefly stated, the PDPS will operate as follows:

1. A State will ask the NDR to check whether adverse action has been taken in any other State against a driver license applicant.

2. The NDR file will contain identifying information about individuals against whom adverse action has been taken. The information in the NDR on each individual is known as a "record".

3. If the NDR locates a record on the applicant, it will first provide a response to the inquiring State indicating that a record has been found. It will then obtain the adverse action information (Driver History Summary) from the State in which the action occurred and relay it, without interception, to the inquiring State.

4. If the NDR does not locate a record, it will relay a response to the inquiring State that no match was found.

5. States will participate in the new NDR electronically, or until capable of participating electronically, through the U.S. mail.

The implementation of this system, in compliance with the Congressional mandate, will require some significant changes to the NDR. Prior to full implementation, the processes will be pilot-tested among four States (see discussion, *infra*) and changes may be made as a result of what is learned during the test.

A. Electronic Communications

The PDPS will use electronic communication systems (on-line interactive and on-line remote job entry) to replace mail as the principal means of data transmittal. "On-line interactive" means active two-way communication with a computer. It will allow requesters to receive information from the NDR file almost immediately. Remote job entry designates a slower automated response method. Information requests are sent in batches (usually in large numbers and at night). The responses are also assembled in batches. Once the entire group of requests has been acted on, all of the responses are sent back together to the requester.

Interactive service is intended to satisfy the immediate response needs of States which issue permanent licenses over-the-counter and electronically check their own files prior to issuance (20 States currently use this method). The Agency plans to limit interactive service to the processing of non-minimum age applicants requesting licenses for the first time in that jurisdiction. (It is assumed that minimum age applicants are not likely to have records elsewhere and therefore do not justify interactive record checks. Searches of minimum age applicants will be accepted by remote job entry mode during off-peak hours, i.e., at night. If the pilot test demonstrates a need to process these inquiries faster, i.e., interactively, consideration will then be given to that option.)

Remote job entry service is intended to be used (1) by States that do not perform on-line inquiries prior to issuing (either permanent or temporary) licenses while the applicant waits; (2) by States that do not possess the equipment necessary for interactive communications; (3) for those inquiries not needing an immediate response (license renewals and employer requests) and (4) for inquiries regarding minimum age applicants.

B. Shift in Record Custodianship

Under the PDPS, the NDR will no longer contain actual adverse action information. The NDR will contain identifying information (pointer records) to enable it to check *whether* adverse action has been taken against an individual. It will not contain, however, specific information about *why* an individual's name appears in the NDR. Such information will be maintained by the State which instituted the adverse action. When a match occurs with a pointer record on file in the NDR, the NDR will relay the adverse action information from the State of Record to the State of Inquiry. The NDR will not intercept the actual information. This change in record content underlies a shift in record custodianship from the Federal Government to the States and thereby protects individuals' privacy by ensuring that no central location houses all the details about adverse driver license actions taken and recorded in the States.

It was suggested in the comments that the NDR include a mechanism whereby the inquiring State can request a driver license abstract automatically through the NDR. Driver license abstracts contain the *complete* driver history of individuals. Such information goes beyond the scope of the NDR as provided in the Act and, therefore, such a mechanism will not be included.

C. Expanded Categories of Adverse Actions

In accordance with section 205(a) of the Act, the chief driver licensing officials in each participating State shall transmit a report to the NDR regarding any individual:

(1) Who is denied a motor vehicle operator's license by such State for cause;

(2) Whose motor vehicle operator's license is cancelled, revoked, or suspended by such State, for cause; or

(3) Who is convicted under the laws of such State of the following motor vehicle-related offenses or comparable offenses:

(A) Operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) A traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways;

(C) Failure to render aid or provide identification when involved in an

accident which results in a fatality or personal injury; or

(D) Perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a motor vehicle.

The NDR Act of 1982, therefore, expands the categories of adverse actions to include convictions for certain traffic offenses even though a license withdrawal or denial did not result. It did not go so far as to authorize the inclusion of an individual's complete driver history.

D. Information Transmitted to NDR File

Any report transmitted to the NDR regarding such individuals shall contain the following data:

(1) The legal name, date of birth (including day, month, and year), sex, (and if the State collects such data) height, weight, color of eyes, and color of hair;

(2) The name of the State transmitting such information;

(3) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number) and

(4) An element which indicates whether the individual currently holds a valid license (license status indicator).

This fourth item, the license status indicator, has been added pursuant to comments received from the National Driver Register Advisory Committee and a number of States.

Inclusion of this element will eliminate needless delays which will otherwise result under the new NDR. For example, in response to a request from a State of Inquiry (SOI), the NDR will, under the new system, indicate within 5–7 seconds whether there is a probable identification (a match).

The SOI will not learn within that time, however, whether this match corresponds to a current denial or withdrawal, a past denial or withdrawal (restored license) or a conviction. While all adverse action records provide useful information for historical purposes, States generally do not refuse to issue a license unless the applicant's license is *currently* denied or withdrawn in another State. The information which will identify the particular adverse action taken against the subject individual in the State of Record (SOR) will be received by the SOI within 5 minutes (if the SOR has interactive communications). Otherwise, receipt will in most cases require one and one half days, and in some instances seven to ten days. Inclusion of a license status indicator will rectify this problem by enabling the SOI to know within 5–7 seconds not only whether there is a match, but also whether the applicant's license is currently denied or withdrawn in another State.

Additionally, a number of States have indicated that, unless the indicator is included as an element to the pointer system, they will take unilateral action to insure that only records concerning individuals currently denied licenses remain in the pointer file by removing all other records from the NDR, thus depriving all users of historical information from these States. The Agency considers this information to be important for it is used by the States in sentencing and licensing decisions regarding individuals who have violated the law.

The indicator will not identify the particular action taken (for example, whether the individual's license has expired, been denied or cancelled, . . .). It will identify only whether the individual has or does not have a current license. By limiting the information in this way, the additional element will not significantly compromise either the accuracy of the NDR or privacy concerns. Detailed records regarding individuals will remain with the States.

In accordance with section 205(c) of the NDR Act of 1982, reports shall be transmitted by the chief driver licensing official to the NDR not later than 31 days after the adverse action information is received by the State motor vehicle department or 6 months after the date on which such State becomes a participating State.

The State of Wyoming suggested in its comments that data should be transmitted within a shorter period of time. These maximum time limits were established in the Act. The Agency will in the pilot test, however, encourage the States to transmit data more promptly and will examine the feasibility of more rapid transmissions.

E. Increased Access to the NDR

The chief driver licensing officials (except for individuals obtaining information on themselves pursuant to the Privacy Act) will be the only persons who have access to the NDR. Other individuals may receive information from the NDR, but requests must be made through these officials. Under the current system, chief driver licensing officials' access is restricted to information to be used for driver licensing purposes only. The NDR Act of 1982 now permits chief driver licensing officials to obtain NDR information for additional purposes and on behalf of other authorized users. The new law provides increased access as follows:

1. For purposes of State driver improvement or highway safety.

The Agency plans to define the specific purposes for which the NDR information may be used under this broadened authority in each pilot State contract (See discussion of pilot test program, *infra*). After completion of the pilot test program, the Agency will evaluate these uses as well as attendant procedures, and will seek comments on final definitions and procedures covering this provision. Until such time, requests pertaining to driver improvement or highway safety will be honored only from pilot States.

2. On behalf of the Chairman of the National Transportation Safety Board (NTSB) and the Administrator of the Federal Highway Administration, for purposes of requesting information regarding any individual who is the subject of any accident investigation conducted by NTSB or the Bureau of Motor Carrier Safety (BMCS).

Procedures have been established under an agreement with District of Columbia driver licensing officials, whereby NTSB and BMCS submit inquiries for transmittal to the District of Columbia for processing.

3. On behalf of a driver or person seeking employment as a driver, with the provision that the information will be transmitted directly to the employer or prospective employer, who shall make that information available to the affected individual. Further, the law stipulates that such information shall not have been entered in the Register more than three years before the date of the request.

Definitions and procedures to be followed by the State licensing officials for transmitting such requests and for sending the NDR responses to the employer, as well as the computer processing steps necessary to ensure compliance with the Act's limitation that the transmitted information be no more than three years old, will be developed and tested as part of the pilot test program. Thus, during the pilot test porgram period, requests pursuant to this section will be accepted only from the pilot States. When these definitions and procedures have been developed, they will be made available to interested parties. After completion of the pilot test program, the Agency will conduct an evaluation and will seek comments on final definitions and procedures covering this provision.

Requests from Federal agencies in connection with the issuance of permits to operate Federally owned vehicles, as are permitted under the current NDR (Pub. L. 89–563, 23 U.S.C. 313, note), will be treated differently under the new NDR. To obtain these records, Federal agencies will be required, like any other employer, to request the employee or prospective employee to arrange to have information provided to them. Until such time as the procedures for this employer access provision have been promulgated, Federal agencies will continue to submit requests directly to the NDR under current arrangement and procedures.

4. On behalf of an individual to:

a. Determine whether the NDR is providing any data regarding the individual or the accuracy of any such data, or

b. Obtain a certified copy of data provided through the NDR regarding the individual.

This information may also be obtained directly by the individual, as it is currently done, through Privacy Act requests sent directly to the NDR.

Procedures to be followed by individuals and State licensing officials pursuant to this provision will be developed and tested as part of the pilot test program. When they have been developed, they will be made available to interested parties. After completion of the pilot test program, the Agency will conduct an evaluation and will seek comments on final definitions and procedures covering this provision.

Pilot Test Program

To evaluate the features that now appear to be essential to the PDPS and to determine the extent to which the PDPS serves the needs of the States, Congress mandated that a pilot test program be conducted, and that, within one year after its conclusion, a report on the program be submitted to Congress. Following an evaluation of the pilot test program, a determination will be made with respect to desirable changes in the system and possible amendments to be sought in the law.

The pilot test program is intended to demonstrate the effectiveness of both aspects of the new NDR: (1) The pointer system and (2) electronic communications. All provisions of the new NDR including broadened uses, increased access and records on conviction data will be incorporated into the pilot test program. The impacts of these provisions including increased demands on State computer systems, State implementation costs and the adequacy of current State licensing procedures will be carefully assessed. The test will, therefore, initiate actual PDPS operations as well as provide a basis for Congressional, State and agency evaluations.

In accordance with section 207 of the Act, four (4) States will be selected to participate in the pilot test program on the following bases:

1. interest in participating in the program;

2. having, at the time of selection, an intrastate, on-line driver licensing system capable of electronic transmissions to the NDR;

3. indication of willingness to participate in a comprehensive mechanical and programmatic evaluation of the system;

4. variance from other selected States with respect to geography and population so that the four pilot States, as a group, will be representative of varying geographical and population characteristics of the Nation;

5. agreement to provide other States with driver record information as required in the system concepts; and

6. variance from other selected States with respect to computer technologies and equipment.

In addition to meeting these statutory bases, to be considered for selection, a State must agree to test all provisions of the new NDR including broadened uses (i.e., driver improvement and highway safety), increased access (i.e., employees, prospective employees, and individuals) and records on conviction data.

The selection of the pilot test program States will be accomplished through a competitive procurement process. A draft Statement of Work, including draft evaluation factors that will be used in the pilot state selection process, was provided to the States for comment. The final Statement of Work and evaluation factors have been included in the Request for Proposals (RFP), and have incorporated, as appropriate, comments received regarding these drafts. The RFP was issued on April 5, 1985.

A number of comments were received in response to the NPRM which relate more directly to the RFP and to aspects of the pilot test program. There were also considered and incorporated, as appropriate, into the pilot test program RFP.

Proposal for Transition Procedures

The transitional period will commence on the effective date of this rule, and will terminate upon the establishment of a fully electronic Register system. The NPRM (49 FR 38648) indicated that the NDR Act of 1982 requires that the transitional period end no later than October 25, 1989. Upon further examination of the relevant sections of the Act and the legislative history, however, the Agency has determined that it was not Congress' intent to end the transitional period by that date. Rather, the Act provides that "the Secretary shall not maintain in the Register any report or information which was compiled under the provisions of Pub. L. 86–660 [substantive records compiled under the current NDR] and was transferred to the Register after . . . the date of establishment of a fully electronic Register system." Section 203(b)(2). In other words, on the date of establishment of a fully electronic Register system, substantive records will no longer be accepted, thus ending the transitional period.

The term "fully electronic Register system" is not defined in either the Act, or the legislative history. It has been defined, in § 1325.3(f) of this Rule, to mean that all States which are participating in the NDR are doing so pursuant to Pub. L. 97–364.

The transitional period will, therefore, include the pilot test program period and the period during which the remaining States are converting to PDPS. During the period, some States will participate under the current NDR (as non-PDPS States) while others will participate under the new NDR (as PDPS States).

As was discussed in detail, *supra*, four (4) States will be selected to participate (as PDPS States) in the pilot test program of the new NDR. These States will be selected through the competitive process, and will participate in both aspects of the new NDR: (1) The pointer system and (2) electronic communications. Both aspects of the new NDR will thereby be initiated.

Once the pilot test program has been assessed, the Agency will promulgate regulations pursuant to section 204(c) of the Act, establishing procedures whereby each remaining State may notify the Agency of its intention to participate in the new NDR. In this way, States may be brought gradually into the PDPS, participating either electronically or, until capable of electronic data transmission, by mail.

During the transitional period, the NDR will continue to provide full service to all States by maintaining a dual system of records.

PDPS States shall transmit to the NDR pointer information pursuant to the new Act. In addition, all States, including PDPS States, shall continue to transmit to the NDR substantive information on adverse actions as described in the current Act. Therefore, for a period of time, PDPS States will transmit both pointer and substantive information.

The Agency does not wish to burden PDPS States with this requirement for an extended period of time. Therefore, after such time as either 40% of the participating States operate under PDPS or the establishment of a fully electronic Register system, whichever occurs first, PDPS States will be required to transmit only pointer records. As a result, when an inquiry from a non-PDPS State matches a record from a PDPS State, the State of Inquiry will be informed merely that an adverse action record exists in a given State. To retrieve the substantive information, the State of Inquiry must request it directly from the State of Record.

At a National Driver Register Advisory Committee (NDRAC) meeting held on November 1 and 2, 1984, the NDRAC indicated that it favored a date-based cutoff. (The transcript of this meeting has been placed in the docket, and may be obtained by interested parties). The Agency considered the Committee's preference. However, it is difficult to predict the number of States that will be participating under PDPS by any given date and either an early or late date would be unfair to the States. If, by a predetermined date, only a few States are under PDPS, the non-PDPS States will be deprived of the full substantive records which would otherwise be provided. Alternatively, if many States have converted to PDPS prior to that date, those States will bear the burden of providing dual records for the benefit of only a few non-PDPS States. The Agency has therefore determined that a percentage-based cutoff is more equitable to all States. No other comments were received regarding this procedure.

The types of records accessible through the new NDR have been broadened to include conviction records. The purposes for which information may be requested and the persons who will have access to such information have also been broadened. These changes will be incorporated into the pilot test program and will be extended to each remaining State when it converts to the new system. In the NPRM, the Agency indicated that conviction records, in pointer format, will be made accessible to all PDPS States of Inquiry, and sought comments regarding the feasibility and desirability of making the conviction records available to all States of Inquiry. Although the comments received generally encouraged the Agency to make these records available to all States, the Agency has decided not to do so. In view of Congress' concerns regarding privacy implications under the current system and since non-PDPS States continue to participate in the NDR under Pub. L. 86-660 which does not authorize the exchange of conviction records, the Agency believes that it would be inappropriate to make conviction records available to such States.

Implementation Schedule

In the National Driver Register Act of 1982, Congress established an implementation schedule for the new NDR. The statutory dates include the following:

1. Design of pilot test program.	Apr. 25, 1984.
2. Implementation of/begin pilot test program.	Oct. 25, 1984.
3. Selection of pilot States ...	Apr. 25, 1985.
4. Completion of pilot test program.	Oct. 25, 1985.
5. Submit report to Congress:	
a. regarding pilot test of PDPS.	Oct. 25, 1986.
b. regarding level of participation.	Do.

NHTSA requested comments regarding this schedule in the October 1, 1984 Notice of Proposed Rulemaking (NPRM), and a proposed revised schedule was discussed at the November NDRAC meeting.

In response to the NPRM, the State of Washington stated "the implementation schedule identified in the NPRM appears to be overly optimistic". In response to the proposed revised schedule presented at the NDRAC meeting, the Committee recognized difficulties with the statutory schedule, and recommended a revised schedule. (The State of Pennsylvania initially encouraged strict adherence to the statutory schedule but, as a participant on the NDRAC, did not dissent from the Committee's recommendations following the November meeting.)

Based on NDRAC's recommendation, comments from the States and the advice of our technical consultants, NHTSA believes that additional time is needed by the Federal government and the States to bring the pilot test program of the PDPS into full operation. The Agency has initiated contact regarding this issue with appropriate Congressional staff.

The Agency can complete a test program of a portion of the PDPS, called the Rapid Response System (RRS), within the time established for completion of the full PDPS pilot test program. The full PDPS pilot test program will test both aspects of the new NDR: (1) The pointer system, and (2) electronic communications. The RRS will test only the second element: the ability to the NDR, by the use of computer technology, to provide rapid responses to the States.

Upon completion and evaluation of the test program of the RRS, the Agency will consider making this improved service available to all member States. Comments were requested in the NPRM regarding implementation of the RRS. All comments were favorable.

Another interim improvement, which is already in effect, is the Remote Job Entry system (RJE), whereby States can send and receive data over telephone lines. States using this method are able to receive responses to their inquiries in less than 24 hours.

Privacy Considerations

The current NDR (including present and proposed interim improvements such as RJE and RRS) complies with the Federal Privacy Act, as will the PDPS and the transitional NDR.

The PDPS concept presents unique enhancements of data reliability and integrity. The change in custodianship of the data to the States and the use of electronic data transmission is intended to ensure that the NDR data base is more accurate and current. Further, because the size of the (pointer) file is greatly reduced, fewer data will be susceptible to recording errors.

Most NDR data are already in the public domain at the State level, and consequently are not highly sensitive. Therefore, an intensive degree of security is not required to protect individuals' right to privacy. No specialized communication measures appear to be necessary for the on-line portions of the system, particularly since States have strict access controls for their own systems. Nonetheless, a detailed privacy and security plan will be prepared for the electronic NDR and will be implemented as part of the pilot test program. This will include software techniques which will be adapted to maintain security through use of passwords, log-on procedures, etc. with minimal impact on users. Details of this plan appear in the RFP for the pilot test program. Similar system software techniques will be incorporated to safeguard against unauthorized access during the RRS implementation.

Economic and Other Effects

NHTSA has analyzed the effect of this action and has determined that it is not "major" within the meaning of Executive

Order 12291, but is "significant" within the meaning of Department of Transportation regulatory policies and procedures. The Agency is not imposing any mandatory requirements on the States because participation in the NDR will remain voluntary. For States that elect to participate, the Agency anticipates that those States will have to upgrade their computer systems. However, this upgrade may be for purposes broader than their participation in the NDR.

As soon as practicable, the Agency will commence a pilot test program in which: (a) Problems will be identified and corrected, thus enabling the Agency to establish procedures for full implementation of the PDPS, and (b) data and other information will be collected and analyzed for the purpose of assessing various operational and administrative aspects and features of the PDPS. When final decisions concerning the NDR are made by both the Agency and Congress, it will be possible to evaluate adequately the effect which the PDPS system will have upon the States.

Because there will be virtually no economic effect from this rule, a full regulatory evaluation is not necessary. As discussed above, State participation in the NDR is voluntary. Although States choosing to participate may have to expend funds to upgrade their computer systems, the upgrade may be for purposes broader than their participation in the NDR.

In accordance with the Regulatory Flexibility Act, the Agency has evaluated the effects of this rule on small entities. Based on that evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. The procedures set in the rule only affect State computer systems and will not affect small business entities or small governmental units.

The Agency has also analyzed this action for the purpose of the National Environmental Policy Act. The Agency has determined that this action will not have any effect on the human environment.

List of Subjects in 23 CFR Part 1325

Driver licensing, Driver records, Highway safety, National driver register.

In accordance with the foregoing, a new Part 1325 is added to Title 23 of the Code of Federal Regulations as set forth below.

PART 1325—TRANSITION PROCEDURES FROM CURRENT TO NEW NATIONAL DRIVER REGISTER

Sec.
1325.1 Scope.
1325.2 Purpose.
1325.3 Definitions.
1325.4 General transition procedures.

Authority: Pub. L. 97-364, 96 Stat. 1740 (23 U.S.C. 401 note).

§ 1325.1 Scope.

This rule provides procedures, in accordance with Section 203(c)(1) of the National Driver Register Act of 1982 (Pub. L. 97-364), for the orderly transition from the system regarding the motor vehicle driving records of individuals as provided in Pub. L. 86-660 as amended (current NDR), to the system established in Pub. L. 97-364 (new NDR).

§ 1352.2 Purpose.

The purpose of this rule is to provide States with information concerning the procedures which the National Highway Traffic Safety Administration plans to follow to implement the new National Driver Register. This will ensure that participating States understand their rights and obligations during the transitional period which will commence on the effective date of this rule and will terminate upon the establishment of a fully electronic Register system.

§ 1325.3 Definitions.

(a) *Problem Driver Pointer System (PDPS)*—system whereby the NDR serves as a conduit for retrieving information from the State which took adverse action against a driver (State of Record) and relaying that information, without interception, to the State requesting the information (State of Inquiry).

(b) *Pointer Record*—A report containing the following data:

(1) The legal name, date of birth (including day, month, and year), sex, (and if the State collects such data) height, weight, color of eyes, and color of hair;

(2) The name of the State transmitting such information;

(3) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number) and

(4) An element which indicates whether the individual currently holds a valid license (license status indicator).

(c) *PDPS State*—A State which participates in the pilot test program or, upon completion of the pilot test program, in the PDPS, by submitting pointer records for inclusion in the NDR file and by providing information to States of Inquiry as a State of Record.

(d) *Non-PDPS State*—A State which operates under the current NDP by submitting complete substantive adverse driver licensing data to the NDR.

(e) *Match*—When the personal identifying information in an inquiry compares with the personal identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person.

(f) *Fully Electronic Register System*—NDR system in which all States that are participating, are doing so pursuant to Pub. L. 97-364.

§ 1325.4 General transition procedures.

(a) *Data To Be Transmitted to NDR by PDPS States.* (1) The chief driver licensing official in each PDPS State shall transmit to the NDR a pointer record regarding any individual against whom adverse action, as described in section 205 of Pub. L. 97-364, has been taken.

(2) The chief driver licensing official in each PDPS State shall also transmit to the NDR the full substantive adverse action data on any individual against whom adverse action, as described in Pub. L. 86-660 as amended by Title IV of Pub. L. 89-563, 80 Stat. 730 (23 U.S.C. 313 note), has been taken, until such time as either 40% of the participating States operate under PDPS or the establishment of a fully electronic Register system, whichever occurs first.

(b) *Data to be Transmitted to NDR by Non-PDPS States.* The chief driver licensing official in each non-PDPS State shall transmit to the NDR the full substantive adverse action data on any individual against whom adverse action, as described in Pub. L. 86-660 as amended, has been taken.

(c) *Data to be Received by PDPS States.* (1) When a match occurs with a pointer record on file from a PDPS State, the PDPS State of Inquiry will receive the pointer record response from the NDR and the adverse action information from the State of Record.

(2) When a match occurs with a record on file from a non-PDPS State, the PDPS State of Inquiry will receive the full substantive record from the NDR.

(3) When no match occurs, the PDPS State of Inquiry will receive from the NDR a response that no match was

found to each inquiry that is either transmitted interactively or on behalf of a party other than the State, and no response to other inquiries.

(d) *Data to be Received by Non-PDPS States.* (1) When a match occurs with a record on file from a non-PDPS State, the non-PDPS State of Inquiry will receive the full substantive record from the NDR.

(2) When a match occurs with a record on file from a PDPS State, the non-PDPS State of Inquiry will receive the full substantive record from the NDR until such time as described in § 1325.4(a)(2), after which non-PDPS States of Inquiry will receive from the NDR only pointer records.

(3) When no match occurs, the non-PDPS State of Inquiry will receive from the NDR a response that no match was found to each inquiry that is either transmitted interactively or on behalf of a party other than the State, and no response to other inquiries.

(e) *Accessibility of NDR Information.* (1) All requests for information from the NDR must be made by State chief driver licensing officials or Federal departments or agencies in connection with the issuance of licenses or permits to operate Federally owned vehicles.

(2) All requests for information made by State chief driver licensing officials must pertain to driver licensing, be made on behalf of the Chairman of the National Transportation Safety Board or the Administrator of the Federal Highway Administration for purposes of requesting information regarding an individual who is the subject of an accident investigation conducted by the NTSB or Bureau of Motor Carrier Safety, or be made by a PDPS State. Requests from PDPS States may also be for the purposes of State driver improvement or highway safety, or on behalf of an individual who is employed as a driver of a motor vehicle, who seeks employment as a driver of a motor vehicle, to determine whether the Register is providing any data regarding the individual, to determine the accuracy of an such data or to obtain a certified copy of data provided through the Register regarding the individual.

Issued on: July 8, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 85-16508 Filed 7-8-85; 4:54 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200 and 203

[Docket No. N-85-1533; FR-2108]

Mutual Mortgage Insurance and Rehabilitation Loans; Mortgage Insurance Endorsement on a Proposed or New Dwelling in a Subdivision or Improved Area

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

ACTION: Notice of the Establishment of the Environmental Review Processing Fee.

SUMMARY: This Notice establishes the application fee to be paid to HUD for processing an Application for Environmental Review. The authority to establish this fee is included in HUD regulations at 24 CFR 203.12(g) published in the **Federal Register** on May 14, 1985.

FOR FURTHER INFORMATION CONTACT: Alan J. Kappeler, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Room 9266, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755-3046 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 14, 1985, the Department published a final rule (50 FR 20096) which modified its policy on processing requests for subdivision analysis. The rule included a requirement that those seeking HUD analysis of proposed subdivisions will be required to pay an application fee. The fee is a new requirement established by HUD to help defray the cost of conducting the environment assessment.

This notice sets forth the schedule of fees to be paid by builders or developers, and takes effect upon the effective date of the regulations at 24 CFR 203.12 (June 24, 1985). Any revision of this fee schedule will be announced by subsequent notice in the **Federal Register.**

Application Fee: All builders, developers or others seeking subdivision analysis by the HUD field office will be required to submit a non-refundable fee with an Application for Environmental Review, Form HUD-92250. (The OMB approval number for Form HUD-92250 is 2502-0080.) The application is required when the proposed development is to be located in a non-HUD certified area. (A non-HUD certified area is a locale that is *not* within the boundaries of a jurisdiction found, through a HUD study, to have subdivision standards, ordinances, and enforcement policies equal to or exceeding HUD's. A description of the local area certification process is found in HUD Handbook 4135. 1 REV 2. The HUD field offices maintain lists of certified areas.)

An application submitted without the required fee, or with incorrect payment, will be returned. Applications in process on the effective date of this notice are exempt from the fee requirement. New applications received after the effective date, including applications that involve other phases in a subdivision previously processed, are *not* exempt from the fee requirement.

The fee is $11.50 per lot per submission. Checks shall be made payable to the Department of Housing and Urban Development and shall accompany the Application for Environmental Review, Form HUD-92250.

When the results of the Environmental Review indicate that a subdivision proposal is not acceptable, the fee is nevertheless considered earned and is not returnable. However, in the event that the application is incomplete on its fact or is otherwise not acceptable for processing, the fee will be returned with the application.

Authority: Sec. 211, National Housing Act (12 U.S.C. 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 3, 1985.

Janet Hale,

Acting General, Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-16544 Filed 7-10-85; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 885

[Docket No. R-85-1227; FR-2066]

Loans for the Elderly or Handicapped; Interest Rate Adjustments

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

ACTION: Final rule.

SUMMARY: This rule amends 24 CFR 885.410(g), which governs the establishment of the interest rate for

direct loans for housing for the elderly or handicapped under section 202 of the Housing Act of 1959. Under the final rule, the Secretary will set the interest rate for loans at or below a prescribed rate ceiling. The interest rate determination will be announced annually by placing a notice in the **Federal Register.** This notice will include a statement explaining the basis of the interest rate determination, if the interest rate is set below the prescribed rate ceiling.

EFFECTIVE DATE: September 12, 1985.

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Director, Assisted Elderly and Handicapped Housing Division, 451 Seventh Street SW., Room 6116, Washington, D.C. 20410, Telephone (202) 426–8730. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 202(a)(3) of the Housing Act of 1959 provides that a loan for housing for the elderly or handicapped shall bear interest at a rate, established by the Secretary of Housing and Urban Development, "which is not more than a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made, adjusted to the nearest one-eighth of one percentum, plus an allowance adequate in the judgment of the Secretary [of HUD] to cover administrative costs and probable losses under the program." HUD's current regulation at 24 CFR 885.410(g) states that the Secretary will set the direct loan interest rate at the rate determined by the Secretary of the Treasury, plus an allowance of .25 percent per annum to cover administrative costs and probable losses.

In recent years, the Department has made annual amendments to § 885.410(g) to set a lower interest rate. On March 4, 1982, the Secretary amended the regulation to continue the Fiscal Year 1981 rate (including the allowance for administrative costs and probable losses) at 9.25 percent for Fiscal Year 1982 (47 FR 9207). Similarly, on February 8, 1983 (48 FR 5721), December 23, 1983 (48 FR 56749) and January 22, 1985 (50 FR 2781), the Department amended § 885.410(g) to set the interest rate (and allowance) for section 202 loans at 9.25 percent for Fiscal Years 1983, 1984 and 1985, in accordance with the Further Continuing Appropriations Act, 1983 (Pub. L. 97–377), the Housing and Urban Rural Recovery Act of 1983 (Pub. L. 98–181), and the Housing and Urban Development-Independent Agencies Appropriations Act, 1985 (Pub. L. 98–371).

To avoid the need for annual amendments to Part 885, on March 26, 1985 (50 FR 11903) the Department proposed the revision of § 885.410(g). Under the proposed rule, the interest rate on section 202 loans would not exceed either: (1) The average interest rate on all interest-bearing obligations of the United States, as determined by the Secretary of the Treasury, plus an allowance of .25 percent per annum to cover administrative costs and probable losses; or (2) any applicable statutory ceiling on interest rates or allowances for administrative costs and probable losses established for section 202 loans. The Secretary would annually announce the section 202 interest rate by placing a notice in the **Federal Register.** If the Secretary determines that the interest rate should be set below the rate ceiling, the **Federal Register** notice would explain the Secretary's rationale for the lower rate.

The Department received no public comments to the proposed rule. Accordingly, the final rule will adopt the text of the proposed rule without amendment.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 24 CFR 50.20(1), an environmental finding is not necessary because statutorily required establishment of interest rates is among matters categorically excluded from the environmental requirements of 24 CFR Part 50.

This rule was listed as item 118 in the Department's Semiannual Agenda of Regulations published April 29, 1985 (50 FR 17286, 17316) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program title and number is: Housing for the Elderly and Handicapped, 14.157.

Under section 605(b) of the Regulatory Flexibility Act, the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, since the interest rate on section 202 loans will continue to be set at or below the rate that would be established under the existing regulations, and the rate will be established on the same basis as in the past.

List of Subjects in 24 CFR Part 885

Aged, Grant programs—Housing and community development, Handicapped, Loan programs—Housing and community development, Low and moderate income housing.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

For the reasons set out in the preamble, 24 CFR Part 885 is amended as set forth below.

1. The authority citation for 24 CFR Part 885 is revised to read as set forth below and any authority citation following any section in Part 885 is removed:

Authority: Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 885.410(g) is revised to read as follows:

§ 885.410 Amount and terms of financing.

* * * * *

(g) *Loan interest rate.* (1) Loans shall bear interest at a rate established by the Secretary. The interest rate set by the Secretary shall not exceed either:

(i) A rate determined by the Secretary of the Treasury to be the average interest rate on all interest-bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year immediately prior to the date on which the loan is made, plus an allowance to cover administrative costs and probable losses under the program. (This allowance has been determined by the Secretary of Housing and Urban Development to be one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods); or

(ii) Any statutory ceiling on interest rates or allowances for administrative costs and probable losses for such loans as may be applicable.

(2) The Secretary of Housing and Urban Development shall annually establish the loan interest rate by publishing a notice of the rate in the **Federal Register.** If the Secretary sets a

loan interest rate below the interest rate ceilings described under paragraph (g)(1), the **Federal Register** notice will include a statement explaining the basis for the interest rate determination.

* * * * *

Dated: July 3, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-16543 Filed 7-10-85; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 18

Office of Justice Programs Hearing and Appeal Procedures

AGENCY: Office of Justice Programs, Justice.

ACTION: Final regulation.

SUMMARY: The Office of Justice Programs (OJP) is revising the regulation for the hearing and appeal procedures of the Justice Assistance agencies. These include: The Office of Justice Programs (OJP); the National Institute of Justice (NIJ); the Bureau of Justice Statistics (BJS); The Bureau of Justice Assistance (BJA); the Office of Juvenile Justice and Delinquency Prevention (OJJDP); and the Office for Victims of Crime (OVC). The new regulation is necessary to reflect changes made by Congress in the authorizing legislation of these agencies. The proposed regulation will provide guidelines for the hearing and appeal process available to a block grant or formula grant applicant or recipient or a recipient of a categorical grant or cooperative agreement whose grant or cooperative agreement may be terminated.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Charles A. Lauer, 202/724-7792.

SUPPLEMENTARY INFORMATION: The changes to Title 28, Part 18 implement three new legislative provisions and otherwise simplify the appeal process.

The Justice Assistance Act of 1984, Title II, Chapter VI, Division I, of Pub. L. 98-473, 98 Stat. 1837 (Oct. 12, 1984) reauthorized and amended Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (Crime Control Act). The amendments eliminated the Office of Justice Assistance, Research, and Statistics and the Law Enforcement Assistance Administration and established an Office of Justice Programs (OJP) and a Bureau of Justice Assistance (BJA). BJA will administer a criminal justice block and discretionary grant program. The National Institute of Justice and the Bureau of Justice Statistics (BJS) were reauthorized by the amendments. Section 802 of the Justice Assistance Act contains hearing and appeal provisions applicable to OJP, BJA, NIJ, and BJS under the express terms of the Crime Control Act.

The Juvenile Justice, Runaway Youth, and Missing Children's Act amendments of 1984, Title II, Chapter VI, Division II, of Pub. L. 98-473, supra, reauthorized and amended the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (Juvenile Justice Act). The Juvenile Justice Act is administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), under the administrative authority of the Attorney General and with coordination and staff support services provided by OJP. Sections 223(d), 226, and 228(e) of the Juvenile Justice Act contain hearing and appeal provisions incorporating or comparable to those in Sections 802-804 of the Crime Control Act.

The Victims of Crime Act of 1984, Title II, Chapter XIV of Pub. L. 98-473, supra, established a Crime Victims Fund to be administered by the Attorney General. An Office for Victims of Crime has been established by the Attorney General in the Office of Justice Programs. Section 1407(f) of the Victims of Crime Act contains hearing and appeal provisions comparable to those in Section 802 of the Crime Control Act.

The Justice Assistance Act of 1984 made two substantive changes to existing hearing and appeal provisions which had been implemented by 28 CFR Part 18. Section 802(b) (previously Section 803(b)) was amended to eliminate access to a formal hearing process for applicants for categorical grants. The Juvenile Justice amendments and the Victims of Crime Act provisions are comparable. Access to the statutory hearing process remains available to State block grant applicants for criminal justice block grants, State applicants for Juvenile Justice Act formula grant funds, and Victims of Crime Act State compensation and assistance programs.

The formal hearing process leads to a recommendation by a hearing officer and reconsideration by the responsible agency official, resulting in a "final" agency decision. The termination of any existing block, formula, or categorical grant or cooperative agreement remains an appealable action under all of the above referenced Acts and the revised 28 CFR Part 18. Categorical grant applicants are not provided access to the formal hearing process.

The second substantive change, also provided in section 802(b), provides for the responsible agency official to take "final action without a hearing if, after an administrative review of the denial of such application or termination of such grant, it is determined that the basis for the appeal, if substantiated, would not establish a basis for awarding or continuing of the grant involved." This change is designed to avoid a waste of resources on frivolous or unsubstantiated appeals. Appellate court review is available to avoid abuse of this provision. A direct and informal request for reconsideration of the denial of categorical grant or cooperative agreement applications was deemed to be more appropriate, to take less time, and to be less costly to both the applicant and the agency.

The OJP administrative appeal process also continues to be unavailable to subgrant applicants or recipients of funds from a State agency administering one of the block, formula or victims assistance/compensation programs. These subgrant applicants or recipients must continue to pursue appropriate due process remedies under applicable State law and procedure.

The changes to Title 28, Part 18 implement these new legislative provisions and otherwise simplify the appeal process.

This order is not a rule within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612. This order is not a "major rule" as defined by section 1.b. of Executive Order No. 12291, 3 CFR 127 (1981).

Proposed changes were published for comment on March 26, 1985 (50 FR 11905) No comments were received and no changes have been made.

List of Subjects in 28 CFR Part 18

Administrative practice and procedure, Crime, Grant programs—law Investigations, Law enforcement.

Title 28 of the Code of Federal Regulations is amended by revising Part 18 to read as follows:

PART 18—OFFICE OF JUSTICE PROGRAMS HEARING AND APPEAL PROCEDURES

Sec.

18.1 Purpose.
18.2 Application.
18.3 Definitions.
18.4 Preliminary hearings.
18.5 Hearings.
18.6 Conduct of hearings.
18.7 Discovery.
18.8 Recommended decision.
18.9 Final agency decision.
18.10 Rehearing.

Authority: Secs. 802-804 of the Omnibus Crime Control and Safe Streets Act of 1968,

42 U.S.C. 3701, *et seq.*, as amended (Pub. L. 90–351, as amended by Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–157, and Pub. L. 98–473).

Sec. 223(d), 226 and 228(e) of the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601, *et seq.*, as amended (Pub. L. 93–415, as amended by Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–509, and Pub. L. 98–473).

Sec. 1407(F) of the Victims of Crime Act of 1984, 42 U.S.C. 10601, *et seq.* Pub. L. 98–473, 98 Stat. 2176.

§ 18.1 Purpose.

The purpose of this regulation is to implement the hearing and appeal procedures available to State block or formula grant applicants or recipients and existing categorical grantees under sections 802 through 804 of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (Crime Control Act); sections 223(d), 226 and 228(e) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (Juvenile Justice Act); and section 1407(F) of the Victims of Crime Act of 1984 (Victims of Crime Act).

§ 18.2 Application.

(a) These procedures apply to all appeals and hearings of State formula or block grant applicants or recipients and all existing recipients of categorical grants or cooperative agreements requested under section 802 of the Justice Assistance Act; sections 223(d), 226 and 228(e) of the Juvenile Justice Act; section 1407(F) of the Victims of Crime Act; the nondiscrimination provision of section 809 of the Crime Control Act, or the cross-refereńced provisions of the Emergency Federal Law Enforcement Assistance Program. The method of notifying recipients of their non-compliance with section 809 (the nondiscrimination provison of the Crime Control Act and 28 CFR 42.208.

(b) These procedures do not apply to hearings requested under the Public Safety Officers' Benefits Act, 42 U.S.C. 3796, *et seq.* The hearing and appeal procedures available to claimants denied benefits under that Act are set forth in the Appendix to 28 CFR Part 32.

(c) These procedures do not apply to subgrant applicants or to recipients or third party beneficiaries of block or formula grants awarded to a State.

(d) These procedures do not apply to categorical grant applicants.

(e) These procedures do not apply to private sector/prison industry enhancement certification applicants; Regional Information Sharing Systems grant applicants; surplus Federal property certification applicants; or the State reimbursement program for Incarcerated Mariel-Cubans.

§ 18.3 Definitions.

(a) "Block or formula grant applicant or recipient" means an applicant for a grant awarded under the provisions of Part D of the Crime Control Act; Part B, Subpart I of the Juvenile Justice Act; and sections 1403 and 1404 of the Victims of Crime Act.

(b) "Categorical grant recipient" means a public or private agency which has received a research, statistics, discretionary, technical assistance, special emphasis, training, concentration of Federal effort or other direct Federal assistance award of grant funds.

(c) "Categorical grant applicant" means a public or private agency which has applied for a research, statistics, discretionary, technical assistance, special emphasis, training, concentration of Federal effort or other direct Federal assistance award of grant funds.

(d) "Grant" includes cooperative agreements and means a direct award of financial assistance from OJP, BJA, NIJ, OJJDP, BJS or OVC.

(e) "Crime Control Act" means the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, *et seq.*, as amended.

(f) "Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601, *et seq.*, as amended.

(g) "Responsible agency" means the organizational unit whose action is being appealed. This will be OJP, NIJ, BJS, OJJDP, BJA or OVC as appropriate. In hearings requested under the nondiscrimination provisions of the Crime Control Act, the responsible agency is OJP. In hearings requested to contest block or formula grant denials or terminations or categorical grant terminations, the responsible agency is the organizational unit that took the action at issue: OJP, BJA, OJJDP, NIJ, BJS or OVC.

(h) "Responsible agency official" means the Assistant Attorney General, Office of Justice Programs (OJP); the Director, Bureau of Justice Assistance (BJA); the Director, National Institute of Justice (NIJ); the Director, Bureau of Justice Statistics (BJS); the Director, Office for Victims of Crime (OVC); or the Administrator, Office of Juvenile Justice and Delinquency Prevention (OJJDP), as appropriate.

(i) "Sub-grant applicant or recipient" means the State agency, unit of local government or private non-profit organization which applies for, or receives, a grant from a State agency which administers a block or formula grant.

(j) "Victims of Crime Act" means the Victims of Crime Act of 1984, 42 U.S.C. 10601, *et seq.*

§ 18.4 Preliminary hearings.

(a) A grantee determined to be in noncompliance with the nondiscrimination provisions of the Crime Control Act, the Juvenile Justice Act or the Victims of Crime Act may request a preliminary hearing within 90 days after receipt of the notification of noncompliance.

(b) The preliminary hearing shall be initiated within 30 days of the request.

(c) The sole issue to be adjudicated by the hearing officer is whether the grantee is likely to prevail on the merits of the issue at a full hearing requested under 28 CFR 42.215. The grantee shall have the burden of persuading the hearing officer that the grantee is likely to prevail on the merits.

(d) The hearing officer may permit the parties to argue the issue by briefs, oral argument, or the presentation of testimony and exhibits. The hearing officer shall accept as evidence documents and other exhibits which can reasonably be authenticated and subjected to cross-examination at a full hearing.

(e) The hearing officer shall make the final decision on the issue within 15 days after the conclusion of the preliminary hearing.

§ 18.5 Hearings.

(a) Whenever the responsible agency official finds that there has been a substantial failure to comply with:

(1) The provisions of the Crime Control Act, the Juvenile Justice Act, or the Victims of Crime Act;

(2) Regulations promulgated by the responsible agency pursuant to appropriate statutory authority; or

(3) A plan or application submitted in accordance with the provisions of the Crime Control Act; the Juvenile Justice Act, the Victims of Crime Act, or the provisions of any other applicable Federal act, regulation or guideline;

the responsible agency shall notify the grantee or applicant State that all or part of its grant or subgrant will be terminated or suspended until the responsible agency is satisfied that there is no longer such failure.

(b) The notice shall contain:

(1) A statement of facts sufficient to inform the party of the reasons for the agency's proposed action;

(2) A statement of the nature of the action proposed to be taken; and

(3) A reference of the available appeal rights.

(c) If a block or formula grant applicant or recipient or a categorical grant recipient wishes to appeal any action covered by § 18.5(a) it may request a review of the issues in controversy within 30 days after notice of termination, noncompliance or denial by writing to:

Office of General Counsel, office of Justice Programs, U.S. Department of Justice, 633 Indiana Avenue NW., Room 1268, Washington, D.C. 20531.

(d) The request for a review shall contain:

(1) A factual statement sufficient to inform the responsible agency of the nature of the issues involved;

(2) A recital of the relief requested; and

(3) A request for an oral hearing, or in the alternative, an opportunity to submit only written information or argument to a hearing officer.

(e) If the responsible agency official determines that basis for the appeal in § 18.5(c) would not, if substantiated, establish a basis for grant award or continuation, the official may take final agency action on the appeal.

(f) The responsible agency or its representative may attempt to informally resolve a controversy arising under this section prior to initiating a hearing. Unless it is expressly agreed otherwise, an agreement to attempt informal resolution does not waive the right to the formal hearing.

(g) If the responsible agency or its representaive does not receive a request for a review within 30 days after notice has been sent, the opportunity for review is waived.

(h) All oral hearings requested under this section shall be held in Washington, D.C., unless the hearing officer decides that the hearing could be conducted in a more expeditious, fair, or cost effective manner in another location.

(i) The responsible agency may suspend all or part of the grantee's funding pending the completion of the review process. If, at the conclusion of the review process, the responsible agency determines that the grantee is in compliance, it shall restore all previously suspended funding to the grantee.

(j) Any person may request the responsible agency official to determine whether a grantee has failed to comply with the terms of the statute under which the grant was awarded, agency regulations or the terms and conditions of the grant. The responsible agency may, in its discretion, conduct an investigation into the matter and, if warranted, make a determination of noncompliance. Only a grantee determined to be in noncompliance may request a compliance hearing.

§ 18.6 Conduct of hearings.

(a) A hearing officer appointed by the responsible agency official shall preside over the hearing. The hearing officer may be an administrative law judge, or an employee of the Department of Justice who was not involved in the administration, investigation or prosecution of the matter at issue. In hearings held under the nondiscrimination provisions of the Crime Control Act, the Juvenile Justice Act or the Victims of Crime Act, the hearing officer shall be an administrative law judge.

(b) If the hearing officer appointed is unacceptable to the appellant, it shall promptly inform the responsible agency official of the reasons for its position. The responsible agency official may select another hearing officer, or affirm the initial selection. In either case, the official shall inform the appellant of the reasons for the decision.

(c) The hearing officer shall have the following powers and duties:

(1) The power to hold hearings and regulate the course of the hearings and the conduct of the parties and their counsel;

(2) The power to sign and issue subpoenas and other orders requiring access to records;

(3) The power to administer oaths and affirmations;

(4) The power to examine witnesses;

(5) The power to rule on offers of proof and to receive evidence;

(6) The power to take depositions or to cause depositions to be taken;

(7) The power to hold conferences under § 18.6(d) for the settlement or simplification of the issues or for any other proper purpose;

(8) The power to consider and rule upon procedural requests and other motions, including motions for default;

(9) The duty to conduct fair and impartial hearings;

(10) The duty to maintain order;

(11) The duty to avoid unnecessary delay; and

(12) All powers and duties reasonably necessary to perform the functions enumerated in subsections (1)–(11).

(d) The hearing officer may call upon the parties to consider:

(1) Simplification or clarification of the issues;

(2) Stipulations, admissions, agreements on documents, or other understandings which will expedite conduct of the hearing;

(3) Limitation of the number of witnesses and of cumulative evidence;

(4) Settlement of all or part of the issues in dispute;

(5) Such other matters as may aid in the disposition of the case.

(e) All hearings under this part shall be public unless otherwise ordered by the responsible agency official.

(f) The hearing shall be conducted in conformity with sections 5–8 of the Administrative Procedure Act, 5 U.S.C. 554–557.

(g) The responsible agency shall have the burden of going forward with the evidence and shall generally present its evidence first.

(h) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules designed to assure production of the most credible evidence available and to subject testimony to cross-examination shall be applied where reasonably necessary by the hearing officer. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record.

(i) During the time a proceeding is before a hearing officer, all motions shall be addressed to the hearing officer and, if within his or her delegated authority, shall be ruled upon. Any motion upon which the hearing officer has no authority to rule shall be certified to the responsible agency official with a recommendation. The opposing party may answer within such time as may be designated by the hearing officer. The hearing officer may permit further replies by both parties.

§ 18.7 Discovery.

(a) (1) At any time after the initiation of the proceeding, the hearing officer may order, by subpoena if necessary, the taking of a deposition and the production of relevant documents by the deponent. Such order may be entered upon a showing that the deposition is necessary for discovery purposes, and that such discovery could not be accomplished by voluntary methods. Such an order may also be entered in extraordinary circumstances to preserve relevant evidence upon a showing that there is substantial reason to believe that such evidence could not be presented through a witness at the hearing. The decisive factors for a determination under this subsection, however, shall be fairness to all parties

and the requirements of due process. Depositions may be taken orally or upon written questions before any person who has the power to administer oaths.

(2) Each deponent shall be duly sworn, and any adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds upon which objections are made. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate), shall be reduced to writing and certified by the officer before whom the deposition was taken. Thereafter, the officer shall forward the deposition and one (1) copy thereof to the party at whose instance the deposition was taken and shall forward one (1) copy to the representative of the other party.

(3) A deposition may be admitted into evidence as against any party who was present or represented at the taking of the deposition, or who had due notice thereof, if the hearing officer finds that there are sufficient reasons for admission and that the admission of the evidence would be fair to all parties and comport with the requirements of due process.

(b) (1) At any time after the initiation of the appeal, any party may serve upon any other party written interrogatories to be answered by the party served, or by an authorized representative of the party if the party served is a corporate or governmental entity. The party served shall furnish all information which is available to it.

(2) Each interrogatory shall be answered separately and fully in writing under oath by the party addressed or by an authorized representative. The time and manner of returning the interrogatory shall be prescribed by the hearing officer.

§ 18.8 Recommended decision.

Within a reasonable time after the close of the record of the hearings conducted under § 18.6, the hearing officer shall submit findings of fact, conclusions of law, and a recommended order to the responsible agency official, in writing. The hearing officer shall promptly make copies of these documents available to the parties.

§ 18.9 Final agency decision.

(a) In hearings conducted under § 18.6, the responsible agency official shall make the final agency decision, on the basis of the record, findings, conclusions, and recommendations presented by the hearing examiner.

(b) Prior to making a final decision, the responsible agency official shall give the parties an opportunity to submit the following, within thirty (30) days after the submission of the hearing officer's recommendations:

(1) Proposed findings and determinations;

(2) Exceptions to the recommendations of the hearing officer; and

(3) Supporting reasons for the exceptions or proposed findings or determinations; and

(4) Final briefs summarizing the arguments presented at the hearing.

(c) All determinations, findings and conclusions made by the responsible agency official shall be final and conclusive upon the responsible agency and all appellants.

§ 18.10 Rehearing.

(a) Any appellant dissatisfied with a final agency decision under § 18.9 may, within 30 days after the notice of the final agency decision is sent, request the responsible agency official to re-review the record, and present additional evidence which is appropriate and pertinent to support a different decision.

(b) If the responsible agency official finds that the appellant has:

(1) Presented evidence or argument which is sufficiently significant to require the conduct of further proceedings; or

(2) Shown some defect in the conduct of the initial hearing sufficient to cause substantial unfairness or an erroneous finding in that hearing, the responsible agency official may require that another oral hearing be held on one or more of the issues in controversy, or permit the dissatisfied party to present further evidence or argument in writing.

(c) Any rehearing ordered by the responsible agency official shall be conducted pursuant to §§ 18.5–18.8.

Lois Haight Herrington,

Assistant Attorney General.

[FR Doc. 85–16441 Filed 7–10–85; 8:45 am]

BILLING CODE 4410–18–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[OW-FRL-2861-8]

Revision of West Virginia's NPDES Program Transferring Authority Over Coal Mines and Coal Preparation Plants From the West Virginia Department of Natural Resources' Division of Water Resources to its Division of Reclamation

AGENCY: Environmental Protection Agency.

ACTION: Notice of rulemaking.

SUMMARY: This rule approves the transfer of certain water pollution regulatory authorities and responsibilities under the Clean Water Act, 33 U.S.C. 1251 et seq., from one division of a West Virginia State Agency to another without any significant change in the substance of those State regulatory authorities or responsibilities. Previously, the West Virginia Department of Natural Resources ("DNR"), Division of Water Resources ("DWR") administered the National Pollutant Discharge Elimination System ("NPDES") permit program which regulated all discharges of pollutants to the waters of the State pursuant to section 402 of the Clean Water Act, 33 U.S.C. 1342. This rule approves transfer of these NPDES authorities for regulation of discharges from coal mines and coal preparation plants (and all refuse and waste therefrom) from the Division of Water Resources to the Division of Reclamation ("DR"), still within the Department of Natural Resources. The DR is already charged with other regulatory authority, including permitting authority, over these facilities, and administration of both programs by the same regulatory authority will result in increased efficiencies for both the regulatory authority and the regulated public.

FOR FURTHER INFORMATION CONTACT: Jed Callen at (215) 597–9882.

SUPPLEMENTARY INFORMATION: On May 10, 1982, the State of West Virginia was given approval by EPA to administer, through its Divisioin of Water Resources, the NPDES permit program for regulating discharges of pollutants to waters within its boundaries. The State has also received approval from the Department of Interior to administer the Surface Mining Control and Reclamation Act of 1977 ("SMCRA"), regulating the coal mining industry. This broad regulatory program is administered in West Virginia by the Department of Natural Resources' Division of Reclamation ("DR").

As applied to coal mining and coal preparation plants, the requirements of the NPDES and SMCRA permit programs are overlapping and duplicative. To minimize confusion and inefficient duplication of effort, as well as to provide the coal industry with a one-stop permitting process, West Virginia requested on November 19, 1984 pursuant to 40 CFR 123.62, that EPA approve a modification of its NPDES responsibilities with respect to coal mines and preparation plants that are

currently performed by the Division of Water Resources.

In order to accomplish this shift of regulatory authority, the West Virginia Legislature enacted S.B. 745 (codified as W. Va. Code § 20–6–43) during the 1984 session, and the Department of Natural Resources promulgated regulations codified as West Virginia Administrative Regulations, Chapter 20, Article 6, Series VII, Section 10.

Notices of this proposed program and requests for public comment were published in the **Federal Register** on January 23, 1985, and in the major West Virginia newspapers on February 22, 1985. With only three comments received, public interest was not deemed sufficient to justify holding a public hearing. Based on the comments received, and on the determination that the program revision is consistent with the Clear Water Act and 40 CFR Part 123, the Regional Administrator has approved West Virginia's program revision request.

This Notice of Rulemaking is referenced under the Clean Water Act. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this proposed approval will not have a significant economic impact on a substantial number of small business entities.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians lands, Waste treatment and disposal, Water pollution control, Water supply.

Dated: June 28, 1985.

Stanley Laskowski,

Acting Regional Administrator, EPA Region III.

[FR Doc. 85–16472 Filed 7–10–85; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–54

[ADM 5420.40C]

GSA-Sponsored Advisory Committees

AGENCY: Office of the Associate Administrator for Administration, General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation sets forth revisions to policies and procedures in GSA regarding the establishment, renewal, operation, and control of advisory committees under GSA's responsibility. These revisions are necessary to comply with recent guidelines concerning advisory committees. The revisions are intended to provide the most up-to-date procedures needed to effectively carry out the advisory committee function in GSA.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth L. George, Office of Organization and Staff Utilization; Office of Civil Rights, Organization, and Training; Office of the Associate Administrator for Administration; General Services Administration; Washington, DC 20405, (202–566–0086).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

List of Subjects in 41 CFR Part 105–54

Advisory committees, Government property management, Reporting requirements.

PART 105–54—ADVISORY COMMITTEE MANAGEMENT

1. The authority citation for Part 105–54 is revised to read as follows:

Authority: Pub. L. 92–463 dated October 6, 1972, as amended; and 5 U.S.C. 552.

2. The table of contents for Part 105–54 is amended by adding the following sections and removing §§ 105–54.301–1 thru 105–54.301–6 as follows:

105–54.304–1 Amendment of advisory committee charters.
105–54.305–1 Added responsibilities of Service and Staff Office Heads and Regional Administrators.
105–54.305–2 Advisory committee duties of the GSA Committee Management Officer.

Subpart 105–54.1—General Provisions

3. Section 105–54.101 is revised as follows:

§105–54.101 Applicability.

This Part 105–54 applies to all advisory committees for which GSA has responsibility. This part also applies to any committee that advises GSA officials even if the committee were not established for that purpose. This applicability, however, is limited to the period of the committee's use as an advisory body. This part does not apply to:

(a) An advisory committee exempted by an Act of Congress;

(b) A local civic group whose primary function is to render a public service in connection with a Federal program;

(c) A State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies;

(d) A meeting initiated by the President or one or more Federal officials for the purpose of obtaining advice or recommendations from one individual;

(e) Certain excepted advisory committees:

(1) A meeting with a group initiated by the President or one or more Federal official(s) for the sole purpose of exchanging facts or information; or

(2) A meeting initiated by a group with the President or one or more Federal official(s) for the purpose of expressing the group's views, provided that the President or Federal official(s) does not use the group as a preferred source of advice or recommendations;

(f) A committee that is established to perform primarily operational as opposed to advisory functions, except that such committee may be covered by the Act if it becomes primarily advisory in nature;

(g) A meeting initiated by a Federal official(s) with more than one individual for the purpose of obtaining the advice of individual attendees and not for the purpose of utilizing the group to obtain consensus advice or recommendations; and

(h) A committee composed wholly of full-time officers or employees of the Federal Government.

4. Section 105–54.102 is amended by adding paragraphs (c) through (e) as follows:

§ 105–54.102 Definitions.

* * * * *

(c) "Independent Presidential advisory committee" means any Presidential advisory committee not assigned by the President, or the President's delegate, or by the Congress in law, to an agency for administrative and other support and for which the Administrator of General Services may provide administrative and other support on a reimbursable basis.

(d) "Secretariat" means the General Services Administration's Committee Management Secretariat.

(e) "Utilized" (or used), as stated in the definition of "advisory committee," above, refers to when a committee or other group composed in whole or in part of other than full-time Federal officers or employees with an established existence outside the Federal Government is adopted by the President or agency official(s), such as through institutional arrangements, as a

preferred source from which to obtain advice or recommendations on a specific issue or policy within the scope of his/her responsibilities in the same manner as that individual would seek advice or recommendations from an established advisory committee.

5. Section 105–54.104 is amended by revising paragraph (a) to read as follows:

§ 105–54.104 Responsibilities.

(a) Responsibility for coordination and control of committee management in GSA is vested in the Deputy Administrator. The responsibility is exercised through the Associate Administrator for Administration (AA), who serves as the GSA Committee Management Officer (CMO). This Officer, on behalf of the Deputy Administrator, carries out the functions prescribed in section 8(b) of the Federal Advisory Committee Act. The Officer controls and supervises the establishment, procedures, and accomplishments of GSA-sponsored advisory committees. The Office of Civil Rights, Organization, and Training provides staff resources and furnishes the Staff Contact Person (SCP) to the CMO.

* * * * *

Subpart 105–54.2—Establishment of Advisory Committees

6. Section 105–54.201 is revised as follows:

§ 105–54.201 Proposals for establishing advisory committees.

(a) The Administrator approves the establishment of all GSA Federal Advisory Committees.

(b) The Head of a Service or Staff Office (HSSO) proposes establishment of a Central Office or regional advisory committee within the scope of assigned program responsibilities. In doing so, the HSSO assures that advisory committees are established only if they are essential to the conduct of agency business. Advisory committees are established only if there is a compelling need for the committees, the committees have a truly balanced membership, and the committees conduct their buisiness as openly as possible under the law and their mandate. Each proposal is submitted to the GSA Committee Management Officer for review and coordination and includes:

(1) A letter and one copy addressed to the Committee Management Secretariat signed by the HSSO with information copies for the Administrator, Deputy Administrator, the Associate Administrator for Operations, and the Director of Ethics, describing the nature and purpose of the proposed advisory committee; why it is essential to agency business and is in the public interest; why its functions cannot be performed by an existing committee, by the agency, or other means such as a public hearing; and the plans to ensure balanced membership;

(2) A notice for publication in the **Federal Register** containing the Administrator's certification that creation of the advisory committee is in the public interest and describing the nature and purpose of the committee; and

(3) A draft charter and two copies for review by the Committee Management Secretariat, prepared in the format outlined in § 105–54.203.

(c) The requirements of paragraphs (a) and (b) of this section apply for any subcommittee of a chartered committee, whether its members are drawn in whole or in part from a parent advisory committee that functions independently of the parent advisory committee, such as by making recommendations directly to GSA rather than to the advisory committee.

7. Section 105–54.202 is revised as follows:

§ 105–54.202 Review and approval of proposals.

(a) The GSA Committee Management Officer reviews each proposal to make sure it conforms with GSA policies and procedures. The Officer sends the letter of justification, including the draft charter, to the Committee Management Secretariat.

(b) When the Secretariat notifies the Officer that establishing the committee conforms with the Federal Advisory Committee Act, the Officer obtains the Administrator's approval of the charter and the **Federal Register** notice. The notice is published at least 15 calendar days before the filing of the charter under § 105–54.203.

8. Section 105–54.203 is revised as follows:

§ 105–54.203 Advisory committee charters.

No advisory committee meets or takes any action until the Administrator approves its charter and the Deputy Administrator sends a copy of it to the standing committees of the Senate and the House of Representatives that have legislative jurisdiction over GSA. This applies to committees used as advisory committees though not established for that purpose but only to the extent that the group advises a GSA official.

9. Section 105–54.203–1 is revised as follows:

§ 105–54.203–1 Preparation of charters.

Each committee charter contains the following information:

(a) The committee's official designation;

(b) The committee's objectives and the scope of its activities;

(c) The period of time necessary for the committee to carry out its purpose (If the committee is intended to function as a standing advisory committee, this fact should be made clear.);

(d) The official to whom the committee reports, including the official's name, title, and organization;

(e) The agency and office responsible for providing the necessary support for the committee;

(f) A description of the duties for which the committee is responsible (If the duties are not solely advisory, the statutory or Presidential authority for additional duties shall be specified.);

(g) The estimated annual operating costs in dollars and person-years for the committee;

(h) The estimated number and frequency of committee meetings;

(i) The committee's termination date, if it is less than 2 years from the date of its establishment; and

(j) The date the charter is filed. This date is inserted by the GSA Committee Management Officer after the Administrator approves the charter.

10. Section 105–54.203–2 is revised as follows:

§ 105–54.203–2 Active charters file.

The GSA Committee Management Officer retains each original signed charter in a file of active charters.

11. Section 105–54.203–3 is revised as follows:

§ 105–54.203–3 Submission to Library of Congress.

The GSA Committee Management Officer furnishes a copy of each charter to the Library of Congress when or shortly after copies are filed with the requisite committees of the Congress. Copies for the Library are addressed: Library of Congress, Exchange and Gift Division, Federal Documents Section, Federal Advisory Committee Desk, Washington, DC 20540.

12. Section 105–54.204 is revised as follows:

§ 105–54.204 Advisory committee membership.

(a) Advisory committees GSA establishes represent the points of view of the profession, industry, or other group to which it relates, taking into account the size, function, geographical location, affiliation, and other

considerations affecting the character of a committee. To ensure balance, the agency considers for membership a cross-section of interested persons and groups with demonstrated professional or personal qualifications or experience to contribute to the functions and tasks to be performed. This does not limit the participation of any individual if participation is needed to obtain different points of view relevant to committee business. The Administrator designates members, alternates, and observers, as appropriate, of advisory committees. He designates a Federal officer or employee to chair or attend each meeting of each advisory committee. The Administrator also designates GSA employees to serve on advisory committees sponsored by other Government agencies. The HSSO or Regional Administrator submits nominations and letters of designation for the Administrator's signature to the Deputy Administrator (Attn: GSA Committee Management Officer) and to the Director of Ethics for review and forwarding to the Administrator.

(b) Discrimination is prohibited on the basis of race, color, age, national origin, religion, sex, or mental and physical handicap in selecting advisory committee members.

(c) Nominees for membership must submit a Statement of Employment and Financial Interests (provided to the nominee by the HSSO or Regional Administrator) and may not be appointed until cleared by the Designated Agency Ethics Official.

Subpart 105-54.3—Advisory Committee Procedures

13. Section 105-54.301 is revised as follows:

§ 105-54.301 Meetings.

(a) Each GSA advisory committee meeting is open to the public unless the Administrator decides otherwise;

(b) Each meeting is held at a reasonable time and in a place reasonably accessible to the public. Unless otherwise authorized, meetings are held in space under the control of the government;

(c) The meeting room size is sufficient to accommodate committee members, committee or GSA staff, and interested members of the public;

(d) Any private citizen is permitted to file a written statement with the advisory committee;

(e) Any private citizen is permitted to speak at the advisory committee meeting, at the chairperson's discretion;

(f) All persons attending committee meetings at which classified information will be considered are required to have an adequate security clearance;

(g) The Designated Federal Official:

(1) Attends all meetings (no part of a meeting may proceed in the Designated Federal Official's absence);

(2) Adjourns the meeting when he or she determines that adjournment is in the public interest;

(3) Approves or calls the meetings of the advisory committee;

(4) Approves the meeting agenda, which lists the matters to be considered at the meeting and indicates whether any part of the meeting will be closed to the public under the Government in the Sunshine Act (5 U.S.C. 552b(c)). Ordinarily, copies of the agenda are distributed to committee members before the date of the meeting; and

(5) Chairs the meeting when asked to do so; and

(h) The Committee Chairperson makes sure that detailed minutes of each meeting are kept and certifies to their accuracy. The minutes include:

(1) Time, date, and place;

(2) A list of the following persons who were present;

(i) Advisory committee members and staff;

(ii) Agency employees; and

(iii) Private citizens who presented oral or written statements;

(3) The estimated number of private citizens present;

(4) A description of each matter discussed and the resolution of the matter, if any; and

(5) Copies of each report or other document the committee issues.

(i) The responsible HSSO or the Regional Administrator publishes at least 15 calendar days before the meeting a notice in the **Federal Register** that includes:

(1) The name of the advisory committee as chartered;

(2) The time, date, place, and purpose of the meeting;

(3) A summary of the agenda; and

(4) A statement whether all or part of the meeting is open to the public or closed, and if closed, the reasons why, and citing the specific exemptions of the Government in the Sunshine Act (5 U.S.C. 552b) as the basis for closure;

(j) In exceptional circumstances and when approved by the General Counsel or designee, less than 15 calendar days notice may be given, provided the reasons for doing so are included in the committee meeting notice published in the **Federal Register.**

(k) Notices to be published in the **Federal Register** are submitted through the **Federal Register** liaison officer (ATRAI). At least four workdays are needed for printing of the notice;

(l) Meetings may also be announced by press release, direct mail, publication in trade and professional journals, or by notice to special interest and community groups affected by the committee's deliberations. This procedure cannot be a substitute for **Federal Register** publication;

(m) The fact that a meeting may be closed to the public under the exemptions of the Government in the Sunshine Act does not relieve GSA of the requirement to publish a notice of it in the **Federal Register.** The Committee Management Secretariat may authorize an exception to this requirement for reasons of national security if the HSSO requests it at least 30 calendar days before the meeting, with the concurrence of the General Counsel or designee;

(n) An advisory committee is not open to the public, nor is the attendance, appearance, or filing of statements by interested persons permitted, if the Administrator decides that the meeting is exempted under the Government in the Sunshine Act (5 U.S.C. 552b(c)) and there is sufficient reason to invoke the exemption. If only part of the meeting concerns exempted matters, only that part is closed. The HSSO or Regional Administrator submits any decisions concerning the closing of meetings in writing to the Administrator for approval at least 30 calendar days in advance of the meeting. These decisions clearly set forth the reasons for doing so. They are made available to the public on request. The Administrator may waive the 30-day requirement when a lesser period of time is requested and adequately justified;

(o) If any meeting or portion of a meeting is closed to public attendance, the advisory committee issues a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of 5 U.S.C. 552(b). Notice of the availability of the report and instructions on how to gain access to it are published in the **Federal Register** no later than 60 days after its completion. In addition, copies of the report are filed with the Library of Congress according to § 105-54.203-3.;

(p) The General Counsel reviews all requests to close meetings; and

(q) The HSSO or Regional Administrator publishes the meeting notices in the **Federal Register**, including the reasons why all or part of the meeting is closed, citing the specified exemptions used from the Government in the Sunshine Act.

§ 105-54.301-1—105-54.301-6 [Removed]

14. Sections 105-54.301-1 thru 105-54.301-6 are deleted.

15. Section 105-54.302 is revised as follows:

§ 105-54.302 Committee records and reports.

(a) Subject to the Freedom of Information Act (5 U.S.C. 552), the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were available to or prepared for or by a GSA advisory committee are available (until the committee ceases to exist) for public inspection and copying in the office of the Government chairperson or designated Government committee official. Requests to inspect or copy these records are processed under 41 CFR 105-60.4. Except where prohibited by a contract entered into before January 5, 1973, copies or transcripts, if any, of committee meetings are made available by the Government chairperson or designated Government official to any person at the cost of duplication. After the committee's work ends, disposition of the committee documents and the release of information from them are made under Federal records, statutes, and regulations.

(b) Subject to 5 U.S.C. 552(b) and instructions of the Committee Management Secretariat, the Government chairman or Designated Federal Official files at least eight copies of each report an advisory committee makes with the Library of Congress at the time of its issuance. Where appropriate, the chairman also files copies of background papers consultants to the advisory committee prepare with the Library of Congress. The transmittal letter identifies the materials being furnished, with a copy of the transmittal provided to the GSA Committee Management Officer.

16. Section 105-54.303 is revised as follows:

§ 105-54.303 Fiscal and administrative provisions.

(a) Each HSSO and each Regional Administrator ensure that under established GSA procedures, records are kept that fully disclose the disposition of funds at the disposal of an advisory committee and the nature and extent of the committee's activities.

(b) When GSA is assigned to provide administrative support for a Presidential advisory committee, the Agency Liaison Coordinator, Regional Office of Administration, National Capital Region, as a part of its support, arranges with the Office of Finance, Office of the Comptroller, for maintaining all financial records.

(c) Unless otherwise provided in a Presidential order, statute, or other authority, the GSA service or staff office sponsoring an advisory committee provides support services for the committee.

(d) The guidelines in paragraphs (e) thru (m) of this section are established under section 7(d) of the Federal Advisory Committee Act, 86 Stat. 773. They apply to the pay of members, staff, and consultants of an advisory committee, except that nothing in this paragraph will affect a rate of pay or limit a rate of pay that is established by statute or a rate of pay established under the General Schedule classification and pay system in Chapter 51 and Subchapter III of Chapter 53 of Title 5, U.S.C.

(e) Unless required by law, committee members are not compensated for serving on GSA advisory committees. If the agency is unable to meet the need for technical expertise or the requirement for balanced membership by appointing uncompensated members, GSA may contract out for the services of a consultant selected to be a member of the committee. In such a case, GSA follows the procedures in paragraph (f) of this section. These exceptional circumstances permitting compensation do not apply to members of an advisory committee established pursuant to the Administrator's authority under Section 205(g) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(g)), since, by law, members so appointed shall serve without compensation.

(f) Before hiring a consultant, GSA must determine that the expertise or viewpoint offered is not otherwise available without cost to the agency. When the agency hires a consultant, the compensation may not exceed the maximum rate of pay authorized by 5 U.S.C. 3109. Hiring of consultants will conform with OMB Circular A-120 and applicable statutes, regulations, and Executive Orders.

(g) The pay of each staff member of an advisory committee is fixed at a rate of the General Schedule, General Management Schedule, or Senior Executive Service pay rate in which the staff member's position would be placed (5 U.S.C. Chapter 51). GSA cannot fix the pay of a staff member higher than the daily equivalent of the maximum rate for GS-15, unless the Administrator decides that under the General Schedule, General Management Schedule, or Senior Executive Service classification system, the staff member's position should be higher than GS-15. The Administrator must review this decision annually.

(1) In establishing compensation rates, GSA must comply with applicable statutes, regulations, and Executive Orders.

(2) A staff member who is a Federal employee serves with the knowledge of the Designated Federal Official and the approval of the employee's direct supervisor. If it involves a non-Federal employee, the staff member is appointed under agency procedures, after consultation with the advisory committee.

(h) Advisory committees and staff members, while performing their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem instead of subsistence, as authorized by 5 U.S.C. 5703 for persons employed intermittently in the Government service.

(i) Members of an advisory committee and its staff who are blind or deaf or who otherwise qualify as handicapped persons (under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794)), and who do not otherwise qualify for assistance under 5 U.S.C. 3102, as an employee of an agency (under section 3102(a)(1) of Title 5), may be provided the services of a personal assistant.

(j) Under this paragraph, GSA may accept the uncompensated or reimbursed services of a member, consultant, or staff member of an advisory committee.

(k) A person who (without regard to his or her service with an advisory committee) is a full-time Federal employee may receive compensation at the rate at which he or she would otherwise be compensated.

(l) A person who immediately before his or her service with an advisory committee was a full-time Federal employee may receive compensation at the rate at which he or she was compensated as a Federal employee.

(m) This paragraph does not affect the rate of pay or a limit on the rate of pay established by law or established under the General Schedule classification and pay system in 5 U.S.C. Chapters 51 and 53.

17. Section 105-54.304 is revised as follows:

§ 105-54.304 Renewal of advisory committees.

(a) Each advisory committee being continued is renewed for successive 2-year periods beginning with the date when it was established according to the following, except for statutory advisory committees: (For renewal of

statutory advisory committees, see paragraph (b) of this section.)

(1) Advisory committees are not renewed unless there is a compelling need for them, they have balanced membership, and they conduct their business as openly as possible under the law.

(2) The renewal of a committee requires that the responsible HSSO submit to the GSA Committee Management Officer the following:

(i) An updated charter with an explanation of the need for the renewal of the committee. (See § 105-54.203-1 for the contents of the charter. The charter and explanation are furnished 60 calendar days before the 2-year anniversary date of the committee);

(ii) A letter signed by the HSSO to the Director, Committee Management Secretariat (EMC), with information copies to the Administrator and the Deputy Administrator, setting forth:

(A) An explanation of why the committee is essential to the conduct of agency business and is in the public interest;

(B) GSA's plan to attain balanced membership of the committee; and

(C) An explanation of why the committee's functions cannot be performed by GSA, another existing advisory committee, or other means such as a public hearing;

(iii) A notice for publication in the **Federal Register** describing the nature and purpose of the committee and containing a certification by the Administrator that renewing the advisory committee is in the public interest.

(3) On receiving the above documents, the GSA Committee Management Officer submits the renewal letter to the Committee Management Secretariat not more than 60 calendar days nor less than 30 days before the committee expires. Following receipt of the Committee Management Secretariat concurrence in the committee renewal, the Deputy Administrator publishes notice of the renewal in the **Federal Register** and files copies of the updated charter as stated in § 105-54.203-1. The 15-day notice requirement does not apply to committee renewals.

(b) Each statutory advisory committee is renewed by the filing of a renewal charter upon the expiration of each successive two-year period following the date of enactment of the statute establishing the committee according to the following:

(1) The procedures in paragraph (a)(2) apply to the renewal of a statutory committee except that neither prior consultation with the Committee Management Secretariat nor a **Federal Register** notice is required. Accordingly, the letter paragraph (a)(2)(ii) requires is sent to the Administrator rather than the Committee Management Secretariat. Due to the nature of a committee the law established, the explanation of the need to continue the committee's existence is less extensive than the explanation for the continuation of a non-statutory committee; and

(2) The GSA Committee Management Officer provides the Committee Management Secretariat with a copy of the filed charter and the transmittal letters to the Committees of Congress.

(c) An advisory committee required to file a new charter may not take any action other than preparing the charter between the date it is to be filed and the date it is actually filed.

18. Section 105-54.304-1 is added as follows:

§ 105-54.304.1 Amendment of advisory committee charters.

(a) A charter is amended when GSA decides that it is no longer accurate. Changes may be minor, such as revising the name of the committee, or they may be major, dealing with the basic objectives or composition of the committee.

(b) To make a minor amendment, the Administrator approves the amended charter and has it filed according to § 105-54.203-1.

(c) To make a major amendment, the Committee Management Officer submits an amended charter and a letter to the Committee Management Secretariat, signed by the HSSO with the concurrence of the General Counsel or designee, requesting concurrence and explaining why the changes are essential and are in the public interest. The Committee Management Secretariat notifies the Committee Management Officer whether the request was approved or not within 15 calendar days of receiving it, if possible. The Administrator has the charter filed according to § 105-54.203-1.

(d) Amending an existing charter does not constitute renewal of the committee.

19. Section 105-54.305 is revised as follows:

§ 105-54.305 Termination of advisory committees.

(a) The sponsoring HSSO terminates an advisory committee that has fulfilled the purpose stated in its charter. The official takes action to rescind any existing orders relating to the committee and to notify committee members and the GSA Committee Management Officer of the termination.

(b) Failing to continue an advisory committee by the 2-year anniversary date terminates the committee.

20. Section 105-54.305-1 is added as follows:

§ 105-54.305-1 Added responsibilities of Service and Staff Office Heads and Regional Administrators.

(a) No later than the first meeting of an advisory committee, submit to committee members, committee staff, consultants, and appropriate agency management personnel a written statement of the purpose, objectives, and expected accomplishments of the committee;

(b) Solicit in writing or in a formal meeting at least annually the views of committee members on the effectiveness, activities, and management of the committee, including recommendations for improvement. Review comments to determine whether improvements or corrective action is warranted. Retain recommendations until the committee is terminated or renewed.

(c) Involve key management personnel of the agency whose interests are affected by the committee in committee meetings, including reviewing reports and establishing agendas.

(d) Limit membership to 25 members for committees with an agencywide mission and 12 members for those with a narrower function or specialized area of interest. More members may be authorized if they are needed for the committee to function or to achieve balanced membership.

(e) Periodically, but not less than annually, review the level of committee staff support to make sure that expenditures are justified by committee activity and benefit to the Government.

(f) Monitor the attendance and participation of committee members and consider replacing any member who misses a substantial number of scheduled meetings.

(g) Establish meeting dates and distribute agendas and other materials well in advance.

21. Section 105-54.305-2 is added as follows:

§ 105-54.305-2 Advisory committee duties of the GSA Committee Management Officer.

(a) Discharge the responsibilities enumerated in section 8(b) of the Federal Advisory Committee Act;

(b) Maintain in a single location a complete set of the charters and membership lists of each committee;

(c) Maintain information on the nature, functions, and operations of each committee; and

(d) Provide information on how to obtain copies of minutes of meetings and reports of each committee.

22. Section 105–54.306 is revised as follows:

§ 105–54.306 Complaint procedures.

(a) Any person whose request for access to an advisory committee document is denied may seek administrative review under 41 CFR Part 105–60, which implements the Freedom of Information Act. (See GSA Order, GSA regulations under the "Freedom of Information Act" (ADM 7900.3A).)

(b) Aggrieved individuals or organizations may file written complaints on matters not involving access to documents with the General Services Administration (AD), Washington, DC 20405. Complaints must be filed within 90 calendar days from the date the grievance arose. The Deputy Administrator promptly acts on the complaint and notifies the complainant in writing of the decision.

Subpart 105–54.4—Reports

23. Section 105–54.401 is revised as follows:

§ 105–54.401 Reports on GSA Federal Advisory Committees.

(a) The Committee Management Secretariat periodically issues reporting instructions and procedures. The GSA Committee Management Officer files a report each fiscal year providing program, financial, and membership information. The Secretariat uses the information in preparing recommendations and status reports on advisory committee matters and in assisting the President in preparing and submitting a fiscal year report to the Congress. The annual report is due to the Committee Management Secretariat on November 1 for the previous fiscal year. Instructions for preparing GSA's submission are provided by the GSA Committee Management Officer.

(b) The GSA Committee Management Officer updates the membership list for each GSA advisory committee, notifying the Secretariat quarterly of new vacancies and appointments during the period. (No new member may be appointed except by the Administrator after review by the Director of Ethics.)

Dated: June 28, 1985.

Dwight Ink,

Acting Administrator of General Services.

[FR Doc. 85–16517 Filed 7–10–85; 8:45 am]

BILLING CODE 6820–81–M

41 CFR Parts 201–2, 201–30, 201–31, 201–32, 201–39 and 201–40

[FIRMR Amdt. 4]

Implementation of Public Laws 98–369 and 98–577 Regarding Competition in the Acquisition of Information Resources and Codification of Temporary Regulations

Correction

In FR Doc. 85–15665 beginning on page 27142 in the issue of Monday, July 1, 1985, make the following corrections:

§ 201–2.001 [Corrected]

1. In § 201–2.001, on page 27146, in the second column, the second complete paragraph which is curently designated "(c) Equipment" should read "(b) Equipment".

§ 201–30.007 [Corrected]

2. On page 27158, in the first column, in § 201–30.007(d)(8)(iii), insert "data" before the phrase "base management".

§ 201–31.003 [Corrected]

3. On page 27160, in the second column, in § 201–31.003(a), in the eighth line, "1880" should read "1980".

§ 201–32.206 [Corrected]

4. On page 27162, in the first column, in § 201–32.206(f)(1), in the thirteenth line, "$5,000" should read "$50,000".

§ 201–32.303–2 [Corrected]

5. On page 27164, in the first column, in § 201–32.303–2(d), in the twelfth line, "of" should read "for".

§ 201–39.006–4 [Corrected]

6. On page 27166, in the first column, in § 201–39.006–4(a), in the second line, "of" should read "or".

§ 201–40.008 [Corrected]

7. On page 27168, in the second column, in § 201–40.008(a)(3), in the first line, "of" should read "or".

8. On same page, in the third column, in § 201–40.008(b)(2)(v)(D), add "and" after the semi-colon.

BILLING CODE 1505–01–M

41 CFR Parts 201–22 and 201–45

[FIRMR Amdt. 3]

Establishing Integrated Records Management Provisions for the Federal Information Resources Management Regulation (FIRMR)

Correction

In FR Doc. 85–15883 beginning on page 26908 in the issue of Friday, June 28, 1985, make the following corrections to the "Derivation Table" on that page:

1. In the third column, under the heading "FIRMR sections", the ninth entry should read "201–45.108–3".

2. In the same column, under the heading "FPMR sources", the forty-sixth entry should read "101–11.805–1".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6608

[U–31071]

Public Land Order No. 6389, Correction; Partial Revocation of Reclamation Withdrawal; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order corrects errors in the land description in Public Land Order No. 6389 of May 16, 1983.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Lillie Hikida, BLM, Utah SO, 324 South State Street, #301, Salt Lake City, Utah 84111–2303, (801) 524–3074.

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 hereby ordered as follows:

The land description in Public Land Order No. 6389 of May 16, 1983, in FR Doc. 83–13902 beginning on page 23225, in the issue of Tuesday, May 24, 1983, is hereby corrected as follows:

On page 23229, second column, thirty-eighth line, which reads "Sec. 17, NE¼, E½NW¼, SW¼NW¼;", is corrected to read "Sec. 17, NE¼, E½NE¼, NW¼NW¼;".

On page 23229, third column, fourteenth line from the bottom, which reads "Sec. 17, Part of S½NE¼ and S½;", is corrected to read "Sec. 17, W½, SE¼;".

Dated: July 2, 1985.

Robert N. Broadbent,

Assistant Secretary of the Interior.

[FR Doc. 85–16520 Filed 7–10–85; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF DEFENSE

48 CFR Part 209

Defense Acquisition Regulatory System; Debarment, Suspension and Ineligibility

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The DoD FAR Supplement Part 209 coverage concerning debarment of contractors when the debarment is based on felony criminal conviction has been changed. These changes provide that: (1) The debarment period be commensurate with the seriousness of the crime; and (2) a decision by the debarring official not to debar for a period of one year or less must be approved in writing by the Secretary concerned or, in the case of the Defense Agencies, the Under Secretary of Defense for Research and Engineering.

EFFECTIVE DATE: July 8, 1985.

FOR FURTHER INFORMATION CONTACT: Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, OUSDRE(AM)(DARS), (202)697-7267.

SUPPLEMENTARY INFORMATION:

A. Public Comments

The revisions to DoD FAR Supplement Part 209 concerning the debarment of contractors when the debarment is based on felony criminal conviction was publicized in accordance with FAR 1.501-1. Public comments were requested in a notice at 50 FR 8121, February 28, 1985, and were considered in the formulation of the revisions.

B. Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it has been determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, and, therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require approval of OMB under 44 U.S.C. 3501 et seq.

C. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1984 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1984 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 84-1 through 84-3.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

List of Subjects in 48 CFR Part 209

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore, the DoD FAR Supplement contained in 48 CFR Chapter 2 is amended as set forth below.

The interim rule published in 50 FR 8121, February 28, 1985, is adopted as final with the following changes.

1. The authority for 48 CFR Part 209 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 209—CONTRACTOR QUALIFICATIONS

2. Section 209.406-1 is amended by revising paragraph (d) to read as follows:

209.406-1 General.

* * * * *

(d) If the cause for debarment as listed in FAR 9.406-2 is based on a felony criminal conviction, the debarment period should be commensurate with the seriousness of the crime. The period of the debarment should afford adequate time for the contractor to eliminate the circumstances within the contractor's organization that encouraged the belief that the acts or omissions on which the organization's conviction was based would escape accountability or be condoned. Mitigating factors may be considered in making the debarment decision. However, for any decision not to debar or to debar for one year or less, the mitigating factors must demonstrate clearly to the debarring official's complete satisfaction, that the contractor has eliminated such circumstances and has implemented effective remedial measures.

* * * * *

2. Section 209.406-4 is amended by revising paragraphs (a) and (c) to read as follows:

209.406-4 Period of Debarment.

(a) If the debarment is based on a felony criminal conviction, the period shall be commensurate with the seriousness of the crime and will generally be for more than one year but not more than 3 years. A decision by the debarring official not to debar or to debar for one year or less than one year must be approved in writing by the Secretary concerned or, in the case of the Defense Agencies, by the Under Secretary of Defense for Research and Engineering. If the suspension precedes debarment, the suspension period shall be considered in determining the debarment period.

* * * * *

(c) If the debarment is based on a felony criminal conviction, the period or extent of debarment may be only reduced: (1) If the conviction upon which the debarment was based is reversed; or (2) if the contractor demonstrates to the debarring official's complete satisfaction, that the steps taken to eliminate the circumstances within the contractor's organization that encouraged the belief that the acts or omissions on which the organization's conviction was based would escape accountability or be condoned have been effective.

[FR Doc. 85-16486 Filed 7-10-85; 8:45 am]

BILLING CODE 3810-01-M

Proposed Rules

Federal Register
Vol. 50, No. 133
Thursday, July 11, 1985

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 967

Celery Grown in Florida; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would establish the quantity of Florida celery to be marketed fresh during the 1985–86 season, with the objective of assuring adequate supplies and orderly marketing.

DATE: Comments due August 12, 1985.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: James B. Wendland, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–5432.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act.

Information collection requirements contained in this regulation (7 CFR Part 967) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0082.

This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

Marketing Agreement No. 149 and Order No. 967, both as amended, regulate the handling of celery grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for local administration.

This notice is based upon the unanimous recommendations made by the committee at its public meeting in Orlando on May 23.

The committee recommended a Marketable Quantity of over 6.9 million crates of fresh celery for the 1985–86 season. This recommendation is based on an appraisal of the expected supply and prospective market demand.

The recommended Marketable Quantity is about 38 percent more than the approximately five million crates expected to be marketed fresh during the current season ending July 31, 1985. Each producer registered pursuant to § 967.37(f) would have an allotment equal to 100 percent of his/her historical marketings. This recommendation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

As required by § 967.37(d)(1) a reserve of six percent of the 1984–85 total Base Quantities is authorized for new producers and for increases by existing producers. One application for a new base of 140,000 crates was received and approved.

On the basis of all considerations it is hereby determined that this proposed regulation would tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

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

PART 967—[AMENDED]

It is proposed that § 967.320 (49 FR 33204, August 22, 1984) be removed and a new § 967.321 be added as follows:

§ 967.321 Handling regulation; marketable quantity; and uniform percentage for the 1985–86 season beginning August 1, 1985.

(a) The Marketable Quantity established under § 967.36(a) is 6,929,738 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1) a reserve of six percent of the total Base Quantities is hereby authorized for (1) New producers and (2) increases for existing Base Quantity holders.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

Dated: July 5, 1985.

Thomas R. Clark,

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

[FR Doc. 85–16463 Filed 7–10–85; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 33–6596; 34–22199; IC–14612 File No. S7–35–85]

Tender Offers by Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing for adoption amendments to Rule 13e–4, which regulates cash tender offers and exchange offers by issuers for their equity securities.

The amendment would require that an issuer tender offer subject to the rule remain open for a minimum period of 20 business days, and that securities be accepted on a pro rata basis throughout the offer if a greater number of securities is tendered than the number the issuer is willing to accept. The amendment would require an initial minimum 15 business day period during which tendered securities could be withdrawn and would require an issuer to extend withdrawal rights on the date, and until the expiration of ten business days following the date, of commencement by a third party of a tender offer for the issuer's securities. In addition, the amendments would require that an issuer tender offer remain open for a minimum period of ten business days from the date of an increase in any of the following: the consideration offered; the price paid to dealers to solicit shareholders to tender their shares to

the issuer; or the number of shares sought in the offer. The amendments would also revise the definition of the term business day, and would specify that the time periods shall run concurrently, not consecutively. Companion amendments are being proposed to Rule 14e–1.

Finally, the amendments would require issuers to extend a tender offer to all security holders of the class of securities subject to the tender offer, and to pay to any security holder who tenders pursuant to the tender offer the highest consideration offered to any other security holder at any time during the tender offer.

The purposes of the amendments are to bring the provisions governing the conduct of issuer tender offers into conformity with those governing third party tender offers, to eliminate the advantages afforded defensive issuer tender offers, and to alleviate the confusion that arises from disparate time periods. The purpose is also to codify the Commission's position that an issuer tender offer must be open to all holders of the class of the securities subject to the tender offer, and that all security holders must be paid the highest consideration offered to any security holder.

DATE: Comments must be received on or before September 9, 1985.

ADDRESSES: Interested persons should submit three copies of their written data, views and arguments to John Wheeler, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 and should refer to file No. S7–35–85. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 1024, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Nancy J. Burke at (202) 272–2880, or Deren E. Manasevit at (202) 272–7494, Office of Legal Policy and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. For information regarding amendments to Rule 14e–1 contact Thomas E. Sweeney at (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Background and Need for Amendments

In August 1979, the Commission adopted Rule 13e–4 [1] (the "Rule"), and a related Schedule 13E–4,[2] under the Securities Exchange Act of 1934 ("Exchange Act") [3] regulating cash tender offers and exchange offers by issuers for their equity securities.[4] The Rule and Schedule are patterned substantially on the regulatory scheme established by Sections 14(d) and 14(e) of the Exchange Act [5] and the rules promulgated thereunder relating to tender offers made by third parties for an issuer's equity securities.

A. Amendments to the Time Periods

Currently, paragraph (f)(1) of the Rule requires an issuer tender offer to remain open for at least 15 business days from its commencement.[6] Paragraph (f)(2) of the Rule grants security holders withdrawal rights during the following periods: a minimum period of ten business days from the commencement of the issuer tender offer; [7] if the securities have not yet been accepted for payment, a minimum period of seven business days from the date that a tender offer by a third party for the issuer's securities is first published, sent or given to security holders; [8] and, if the securities have not yet been accepted for payment, after 40 business days from the commencement of the issuer tender offer.[9] The Rule also requires an issuer to accept securities on a pro rata basis from among securities tendered during a minimum period of ten business days from the commencement of the issuer tender offer if the number of securities tendered during that period is greater than the number the issuer is willing to accept.[10]

Issuers often purchase their own securities for a variety of corporate purposes, such as to reduce the number of shares of a class of securities outstanding, to fund employee stock option or stock purchase plans, or to issue stock in a merger with another company. Rather than commence a tender offer under Rule 13e–4, these purchases often are made on a small scale through privately negotiated transactions, or through an open market purchase program as, for example, conducted pursuant to the "safe harbor" provided by Rule 10b–18 under the Exchange Act.[11] Issuers also may make these routine corporate repurchases pursuant to odd-lot tender offers that are exempt from the Rule.[12]

Since the Rule's adoption in 1979, however, the circumstances under which issuers make tender offers for their own securities have changed dramatically. Issuers have used self-tenders more frequently as defenses to hostile third party bidders. In addition, an issuer can make a tender offer in anticipation of possible hostile tender offers, such as in response to persons who file statements under Section 13(d) of the Exchange Act [13] reporting their acquisition of more than five percent of the issuer's securities, or after the announcement of a third party offer under Rule 14d–2(a).[14] but before the commencement of such offer under Rule 14d–2(a).[15] These defensive issuer tender offers are often for a greater percentage of the issuer's outstanding securities than issuer tender offers made in uncontested situations. In addition, defensive issuer tender offers increasingly involve consideration that includes securities whose face amounts, interest rates, and maturity dates vary. Such securities are not easily evaluated, especially if the consideration offered in

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[1] 17 CFR 240.13e–4.

[2] 17 CFR 240.13e–101.

[3] 15 U.S.C. 78a *et seq.*

[4] Securities Exchange Act Release No. 16112 (August 16, 1979), 44 FR 49406 (August 22, 1979). The Rule was proposed for public comment in Securities Exchange Act Release No. 14234 (December 7, 1977), 42 FR 63066 (December 14, 1977).

"Issuer tender offer" is defined in paragraph (a)(2) of the Rule as "a tender offer for, or a request or invitation for tenders of, any class of equity security, made by the issuer of such class of equity security or by an affiliate of such issuer."

[5] 15 U.S.C. 78n(d) and (e).

[6] 17 CFR 240.13e–4(f)(1). Rule 14e–1(a), 17 CFR 240.14e–1(a), requires an issuer tender offer to remain open for a minimum period of 20 business days if the issuer tender offer is made "in anticipation of or in response to" a third party offer.

[7] 17 CFR 240.13e–4(f)(2)(i).

[8] 17 CFR 240.13e–4(f)(2)(ii).

[9] 17 CFR 240.13e–4(f)(2)(iii).

[10] 17 CFR 240.13e–4(f)(3).

[11] 17 CFR 240.10b–18.

[12] An odd-lot tender offer is an offer to purchase securities from security holders who own a specified number of shares that is less than one hundred (an "Odd-lot Offer"). Odd-lot Offers are exempted from the Rule by paragraph (g)(5) of the Rule, 17 CFR 240.13e–4(g)(5). *See* discussion *infra* regarding the application to Odd-lot Offers of the "all-holders" and "best price" provisions proposed to be added to Rule 13e–4.

Where such routine repurchases (*e.g.*, in the open market, or by means of an Odd-lot Offer) are made after the filing of a notice of a third party tender offer for the same class of the issuer's equity securities, the issuer must file with the Commission and disclose to its security holders certain information with respect to such repurchases pursuant to Rule 13e–1 under the Exchange Act, 17 CFR 240.13e–1.

[13] 15 U.S.C. 78m(d).

[14] 17 CFR 240.14d–2(d).

[15] 17 CFR 240.14d–2(a).

Where an issuer commences a tender offer in response to a third party tender offer, the issuer must file with the Commission and disclose to shareholders the information required by Rule 13e–1, *see* n.12 *supra*, in addition to complying with Rule 13e–4. *See Defensive Tactics and the Fiduciary Obligations of the Target Board of Directors*, 7 J. Corp. L. 579, 589 n. 89 (1982); *see also* Nathan & Sobel, *Corporate Stock Repurchases in the Context of Unsolicited Takeover Bids*, 35 Bus. Law. 1545, 1562–63 (1980).

the competing third party offer also includes similar securities.

The Commission believes that, in light of these developments, the minimum offering, withdrawal, and proration periods required by the Rule should be the same as under the third party rules to allow investors to make the kind of well-informed, unpressured investment decision that the Williams Act[16] and the Rule were designed to promote.[17]

The minimum offering, withdrawal, and proration periods required by Rule 13e–4 create other problems in the context of competing tender offers for an issuer's securities. The disparity between those time periods and the time periods specified by Rules 14d–7, 14d–8, and 14e–1[18] for third party offers can create confusion detrimental to security holders who may fail to tender or withdraw their shares during the currently permissible shorter periods in the issuer offer, believing that longer periods apply. In addition, the disparity between issuer and third party rules may give defensive issuer tender offers unfair advantages over competing third party offers.[19]

Finally, when an issuer makes an issuer tender offer "in anticipation of or in response to" a third party offer, several different time periods are triggered that are longer than those specified by Rule 13e–4.[20] These differences require determinations that are inexact and highly fact sensitive as to whether an issuer tender offer was made "in anticipation of or in response to" a third party offer.

In the past, the Commission has recognized the possible need to amend Rule 13e–4 to reduce or eliminate disparities between the Rule and the rules governing third party offers. When the Rule was adopted on August 16, 1979, the Commission had proposed, but not yet adopted, amendments to the rules governing third party tender offers.[21] In adopting Rule 13e–4, the Commission noted that such proposed amendments were pending, and said, "To the extent that certain provisions of Rule 13e–4 differ from the requirements of any of the February Proposals which are adopted, the Commission may consider whether to amend Rule 13e–4 or the February Proposals to conform the requirements of both rules."[22]

The Commission adopted some of the February Proposals shortly after it adopted Rule 13e–4.[23] In addition, in 1982, the Commission amended Rule 14d–8[24] to require that a third party tender offeror accept shares on a pro rata basis throughout the period that the third party offer remains open.[25]

The amendments to the time periods governing third party offers, combined with the developments discussed above, convince the Commission that it is necessary and appropriate to conform the provisions governing issuer tender offers to those governing third party offers.

The Commission's Advisory Committee on Tender Offers (the "Advisory Committee") recommended that:

> Takeover regulation should not favor either the acquiror or the target company, but should aim to achieve a reasonable balance while at the same time protecting the interests of shareholders and the integrity and efficiency of the markets.[26]

Furthermore, the Advisory Committee recommended that, as a general matter, "The takeover process should not be permitted to become so complex that it is understood only by investment professionals."[27]

The Commission believes that the proposed amendments will accomplish both of these goals by simplifying the rules applicable to issuer and third party tender offers while bringing issuers and third party bidders closer to equal footing. The amendments to Rule 13e–4 would bring the minimum offering, withdrawal and proration periods into conformity with those governing third party offers, would alleviate the confusion resulting from varied time periods, would eliminate the advantages that the Rule currently provides issuers over competing third party bidders, and would remove the difficult factual question whether an issuer tender offer was made "in anticipation of or in response to" a third party offer.

B. All-holders and Best Price Provisions

In Securities Act Release No. 33–6595 (July 1, 1985 published at 50 FR 27976, July 9, 1985) ("Release 33–6595"), the Commission proposes Rule 14d–10, which would require third party tender offerors to extend their tender offers to all holders of the class of securities being sought (the "all-holders" requirement), and to pay to any security holder who tenders pursuant to the tender offer the highest consideration offered to any security holder at any time during the tender offer (the "best price" requirement). This proposal codifies existing interpretations by the Commission's staff. Because the Commission believes that the polices underlying proposed Rule 14d–10 are equally applicable to issuer tender offers, it is proposing identical amendments to Rule 13e–4. Persons are directed to Release 33–6595 for a detailed discussion of the background and need for the all-holders and best price amendments, and for a discussion of an interim interpretive position with respect to these matters, which will also be applied in the issuer tender offer context.

II. Discussion and Summary of Amendments

A. Summary of Present and Proposed Time Periods

The following chart summarizes and compares current issuer and third party tender offers and proposed time periods governing issuer tender offers:[28]

	Issuer current	Issuer proposed	Third party
Minimum offering period	15 days, 13e–4(f)(1)	20 days [13e–4(f)(1)(i)]	20 days, 14e–1(a).
Defensive minimum offering period[29]	20 days, 14e–1(a)	20 days [13e–4(f)(1)(i)]	20 days, 14e–1(a).
Minimum offering period after increase in consideration or soliciting dealer fee.	None[30]	10 days [13e–4(f)(1)(ii)]	10 days, 14e–1(b).

[16] The Williams Act added new Sections 13(d), 13(e), 14(d), 14(e) and 14(f) to the Exchange Act, 15 U.S.C. 78m(d)–(e) and 78n(d)–(f).

[17] *See, e.g.*, Edgar v. MITE Corp., 457 U.S. 624, 633–34 (1982).

[18] 17 CFR 240.14d–7, 240.14d–8, 240.14e–1.

[19] The Supreme Court noted in Edgar v. MITE Corp., *supra*, that a major concern of the Williams Act was to "avoid favoring either management or the takeover bidder." 457 U.S. at 633–34.

[20] *See* Rule 14e–1(a) and (b) under the Exchange Act, 17 CFR 240.14e–1(a) and (b).

[21] *See* Securities Exchange Act Release No. 15548 (February 5, 1979), 44 FR 9956 (February 15, 1979) (the "February Proposals"). Under the February Proposals, Rule 14e–1 would have required tender offers to remain open for 30 business days from the date of commencement, and for ten business days (to run concurrently) from the date of a notice of increase in the consideration offered or the dealer's soliciting fee. The February Proposals would also have required an initial 15 business day withdrawal period, and an additional ten business day withdrawal period (to run concurrently) upon the commencement of a competing offer.

[22] Securities Exchange Act Release No. 16112 (August 16, 1979), 44 FR 49406 (August 22, 1979), at n.5.

[23] Securities Exchange Act Release No. 16384 (November 29, 1979), 44 FR 70326 (December 6, 1979).

[24] 17 CFR 240.14d–8.

[25] Securities Exchange Act Release No. 19336 (December 15, 1982), 47 FR 57679 (December 28, 1982).

[26] SEC Advisory Committee on Tender Offers: Report of Recommendations, Recommendation 3 at 15 (July 8, 1983) (The "Advisory Committee Report").

[27] Advisory Committee Report, Recommendation 32 at 33.

[28] All days referred to are business days unless otherwise indicated.

	Issuer current	Issuer proposed	Third party
Minimum period after such increase in defensive offer.	10 days, 14e-1(b)	10 days [13e-4(f)(1)(ii)]	10 days, 14e-1(b).
Minimum offering period after increase in the amount of securities sought.	None	10 days [13e-4(f)(1)(ii)]	Proposed 10 days, [14e-1(b)].
Initial withdrawal period	10 days, 13e-4(f)(2)(i)	15 days [13e-4(f)(2)(i)]	15 days, 14d-7(a)(1).
Additional withdrawal upon third party offer.	7 days, 13e-4(f)(2)(ii)	10 days [13e-4(f)(2)(ii)]	10 days, 14d-7(a)(2).
Date after which shares not purchased may be withdrawn.	40 days, 13-4(f)(2)(iii)	40 days	60 calendar days, section 14(d)(5).
Minimum proration period for partial offer.	10 days, 13e-4(f)(3)	Length of the offer [13e-4(f)(3)].	Length of the offer, 14d-8.
Minimum proration period upon increase in consideration.	10 days, 13e-4(f)(3)	Length of the offer [13e-4(f)(3)].	Length of the offer, 14d-8.

[34] For purposes of this chart, defensive issuer tender offers are those that trigger Rule 14e-1(a) and (b) because they are made "in anticipation of or in response to" third party offers. As discussed *infra*, the Commission proposes to eliminate the provisions of Rule 14e-1(a) and (b) that limit that rule's operation only to defensive issuer tender offers.

[35] Rule 13e-4(f)(3) requires that a partial issuer tender offer must provide for a proration period of at least ten days after an increase in the consideration offered. This would have the effect of requiring the offering period to remain open for the same length of time.

B. Amendments to the Offering and Proration Periods

Rule 14d-8 [31] under the Exchange Act provides that, in an oversubscribed partial tender offer by a third party subject to Section 14(d) of the Exchange Act, purchases must be made on a pro rata basis from among all the securities tendered throughout the period that the offer remains open. In addition, such an offer must remain open for a minimum period of 20 business days from the date the tender offer is first published, sent, or given to security holders.[32] Therefore, in a partial third party tender offer, the third party bidder cannot buy any securities pursuant to its offer until at least 20 business days after the offer commences.

As described above, the proration period in an issuer tender offer is ten business days. Since the minimum withdrawal period in an issuer tender offer is also ten business days, Rule 13e-4 allows an issuer that makes a tender offer for its own securities to buy those securities after ten business days from the commencement of the issuer tender offer, and, if the offer is oversubscribed, to purchase securities on a pro rata basis from among securities tendered during the first ten business days. The ten business day proration period applies even for an issuer tender offer made in anticipation of or in response to a third party offer, and despite the fact that, in such a situation, both the issuer and third party offers must remain open for the same minimum period, 20 business days.[33]

In proposing amendments to Rule 14d-8, the Commission noted that:

> The end of the proration period represents a critical deadline for security holders faced with a partial tender offer. A security holder faced with such an offer must realistically choose and implement one of three investment options before the proration period ends: (1) Tender to the bidder in order to be sure of participating in the tender offer; (2) sell on the open market at prices reflecting the tender offer price, the risks of proration and, in some cases, the likelihood of competing bids (foregoing any possible price increases and avoiding the risk of proration or bid failure) [footnote omitted]; or (3) hold and remain a security holder of the subject company at least for the immediate future. Failure to select one of these three options before the expiration of the proration period is tantamount to choosing the third, because the first and second options can disappear at the end of the proration period if the offer is oversubscribed.[34]

A security holder facing an issuer tender offer must make one of the same three choices before the expiration of the proration period. Therefore, even in an uncontested partial issuer tender offer, security holders have effectively only ten business days to make their investment decision.

In a contested tender offer situation, the timing disparity between the offering and proration periods in Rules 13e-4 and 14d-8 poses three additional problems.

First, the difference can provide competitive advantages to target companies that commence defensive issuer tender offers. For example, a target company that commences a partial issuer tender offer shortly after commencement of a partial third party tender offer can buy securities under its offer before the third party bidder can buy securities under the third party offer, thus placing pressure on security holders to tender quickly into the issuer's offer. The Advisory Committee observed that this timing difference causes target company security holders in a partial issuer tender offer to "lose the protections afforded by the minimum offering period required of third party tender offers." [35] Moreover, the third party bidder has very little time to consider changing its offer in response to the issuer tender offer. The Advisory Committee therefore recommended: "Once a third party tender offer has commenced, the target company should not be permitted to initiate a self-tender with a proration date earlier than that of any tender offer commenced prior to the self-tender." [36] Requiring a partial issuer tender offer to be prorated throughout the offer would remedy this imbalance between Rules 13e-4 and 14d-8.

Second, the longer offering period currently required by Rule 14e-1(a) if an issuer tender offer is made "in anticipation of or in response to" a third party offer raises problematic factual and interpretive questions concerning the relationship between an issuer tender offer and a third party offer.[37] An issuer that initiated a tender offer before a third party offer might claim that it could use the shorter 15 business day period specified by Rule 13e-4(f)(1), rather than the 20 business day period specified by Rule 14e-1(a). Depending on the circumstances and the parties involved, such action by the issuer might result in litigation that would disrupt the tender offer process. To eliminate this problem, the amendments would require an issuer tender offer to remain open for a minimum period of 20 business days whether or not it was made in anticipation of or in response to a third party offer.

Third, and equally important, the disparity in time periods between issuer and third party offers can be confusing and complicated to securitry holders. A security holder may miss the opportunity to participate in the issuer tender offer, believing the longer offering and proration periods apply to both the issuer and the third party offers.

[31] 17 CFR 240.14d-8.

[32] 17 CFR 240.14e-1(a).

[33] 17 CFR 240.14e-1(a).

[34] Securities Exchange Act Release No. 18761 (May 25, 1982), 47 FR 24338 [June 4, 1982].

[35] Advisory Committee Report at 42. The Advisory Committee Report continued: "Such timing differences provide target companies significant advantages over competing tenders. The target company can create substantial uncertainty with respect to the values that will remain in the target company for security holders who do not tender to the target company. The Committee recommends regulatory revision to limit advantages of a self-tender over a competing third party bid." *Id.*

[36] Advisory Committee Report, Recommendation 39(b) at 42.

[37] *See* Nathan & Sobel, *Corporate Stock Repurchases in the Context of Unsolicited Takeover Bids*, 35 Bus. Law. 1545 (1980). *Cf.* Asarco, Inc., v. MRH Holmes A Court, Civil No. 85-1123 (D.N.J., May 1, 1985) (application of business judgment rule requires a complex analysis of whether the issuer's board of directors is acting in response to a takeover bid or taking precautionary measures because it "perceives a general vulnerability").

The amendments would put issuers and third party bidders on equal footing during competing tender offers by requiring a partial issuer tender offer to be pro rated throughout the offer. Under the proposed amendments, for example, if bidder A commenced a tender offer on day 1 [38] and the issuer commenced a defensive self-tender offer on day 4, the issuer would not be able to buy any securities pursuant to its offer until midnight on day 23. Without the amendment, however, the issuer would be able to purchase securities pursuant to its offer at midnight on day 13, *i.e.*, seven days before bidder A could purchase any securities, and security holders would lose protection of the minimum 20 day proration period in bidder A's offer. Under the proposed amendments, an issuer who commenced an issuer tender offer in anticipation of a third party offer by bidder A would have time period advantages over bidder A, but only those advantages that any preceding third party bidder would have.[39] For example, if the issuer commenced a tender offer on day 1, in anticipation of bidder A's offer, and bidder A commenced a third party offer on day 5, the issuer could buy securities pursuant to its offer on day 20, before bidder A could buy securities pursuant to its offer on day 20, before bidder A could buy securities pursuant to A's offer (*i.e.*, on day 25). But the issuer would have no timing advantage over another third party bidder who also commenced on day 1 in anticipation of bidder A's offer.

Even apart from the difficulties with respect to defensive issuer tender offers under Rule 13e–4 as presently formulated, the Rule also treats different types of nondefensive issuer tender offers differently. Rule 13e–4(*f*)(3) requires the issuer to afford proration rights for ten business days following an increase in the consideration offered in a nondefensive offer. This requirement has the effect of requiring the offer to remain open for that period. However, the Rule does not require an any-and-all nondefensive issuer tender offer to remain open for a minimum period of time following an increase in the consideration offered. Rule 14e–1(b) requires *defensive* issuer tender offers to remain open for ten business days in *all* cases following an increase in the consideration offered.

Futhermore, although an increase in the dealer's soliciting fee may result in additional pressures on security holders to tender their securities to the issuer, Rule 13e–4 does not require any nondefensive issuer tender offer to be open for any minimum period after such an increase. Rule 14e–1(b), however, requires a defensive issuer tender offer to be open for 10 business days following an increase in the dealer's soliciting fee.

When the Commission adopted Rule 14e–1(b), requiring defensive issuer tender offers and third party offers to remain open for a minimum period of ten business days after an increase in the consideration offered or the dealer's soliciting fee, the Commission said that the provision would "facilitate communication during tender offers and provide a realistic time frame for security holders to evaluate certain increases before making an investment decision. In the Commission's view, Rule 14e–1(b) will alleviate undue pressure on security holders without hindering the person making a tender offer." [40] The Commission believes that the approach in Rule 14e–1(b) with respect to defensive issuer tender offers is equally necessary and appropriate in the nondefensive issuer offer context.

In Release 33–6595, the Commission proposes to amend Rule 14e–1(b) to require that a tender offer be open for a minimum period of ten business days upon an increase in the number of securities sought, in addition to the present requirement that a tender offer remain open for at least ten business days following an increase in the consideration offered or the dealer's soliciting fee. For the reasons set forth for amending Rule 14e–1(b), the Commission is proposing to amend Rule 13e–4 to impose an identical requirement upon an issuer who increases the number of securities sought pursuant to an issuer tender offer.

Accordingly, the Commission proposes to amend Rule 13e–4(f)(1) to require that the offering period of any issuer tender offer that is subject to the Rule be open for a minimum of ten business days from the date that an increase in the consideration offered or the number of securities sought or the dealer's soliciting fee is first published, sent, or given to security holders.

The proposed minimum 20 business day offering period and the proposed minimum ten business day periods after an increase in the consideration offered or the number of securities sought or the dealer's soliciting fee, with prorationing throughout the offer, will bring issuer and third party rules into parity. The Commission believes that the amendments will alleviate confusion over timing in competing issuer and third party offers, eliminate the interpretive problem of whether an issuer tender offer was made "in anticipation of or in response to" a third party offer, and affort security holders the benefits of a longer offering period for all issuer tender offers subject to the Rule.[41]

C. Amendments to the Withdrawal Periods

Currently, paragraph (f)(2) requires that an issuer afford security holders withdrawal rights for a minimum period of ten business days following the commencement of the issuer tender offer and, if securities have not yet been accepted for payment, for a minimum period of seven business days following the commencement of a tender offer by a third party for the same class of securities.

The withdrawal periods required by Rule 13e–4 vary in problematic ways from the withdrawal periods required of third party offers. In contested situations, these differences can complicate the calculation of time periods, can confuse investors, and can disadvantage third party bidders in at least two ways.[42]

First, the minimum ten business day withdrawal period specified by Rule 13e–4(f)(1)(i) is shorter than the minimum 15 business day period specified by Rule 14d–7(a)(2).[43] Security holders who desire to participate in the third party offer may neglect to withdraw their securities from the issuer's tender offer during the first ten business days, believing a longer 15 day business day period is available. Even where security holders realize that only

[38] For purposes of all examples used in this release, all days referred to are business days.

[39] Currently, the issuer would have an advantage over the preceding third party bidder because the subsequent commencement of bidder A's offer would trigger a minimum ten business day withdrawal period for the earlier third party offer, while triggering only a minimum seven business day withdrawal period in the issuer's offer. *Compare* 17 CFR 240.14d–7(a)(2) *with* 240.13e–4(f)(3)(ii). However, as discussed *infra*, the proposed amendments would eliminate this discrepancy as well.

[40] Securities Exchange Act Release No. 16384 (November 29, 1979), 44 FR 70326 (December 6, 1979).

[41] The additional periods both for the offering period and for the withdrawal periods discussed herein are designed to run concurrently, not consecutively, as reflected in proposed paragraph (f)(7) to the Rule.

[42] The discussion following in the text assumes that the issuer tender offer and the third party tender offer begin on the same day. It should be noted that, even where the issuer commences its offer up to four days after the third party offer, the issuer currently has an advantage since its withdrawal period will terminate prior to the period in the third party offer. *Compare* 17 CFR 240.13e–4(f)(1)(i) *and* 240.14d–7(a)(2).

[43] 17 CFR 240.14d–7(a)(2).

the shorter ten business day period is available, they of course are denied the full benefits of the 15 business day withdrawal period for the third party offer. The third party bidder is disadvantaged because security holders are locked into the issuer's offer before they are locked into the third party's offer.

Second, the commencement of a third party offer by bidder B during competing offers by the issuer and bidder A triggers withdrawal periods of different lengths in the issuer's and bidder A's offers. Rule 14d–7(a)(2) [44] requires bidder A to grant additional withdrawal rights beginning on the date of commencement of bidder B's offer until the expiration of ten business days following that date. Rule 13e–4(f)(2)(ii) requires the issuer, however, to extend withdrawal rights only for an additional seven business days. This disparity disadvantages third party bidders, and can create confusion for security holders.

The amendments would require a minimum 15 business day withdrawal period for all issuer tender offers, and an extension of withdrawal rights on the date of commencement until the expiration of ten business days following the date of commencement of a third party tender offer. The Commission believes the amendments will provide the issuer's security holders with reasonable periods in which to evaluate the consideration offered, will alleviate the confusion presented by the many and varied specified time periods in competing tender offers, and will remedy the unequal treatment of competing offers for the issuer's securities.[45]

D. All-Holders and Best Price Provisions—New Paragraph (f)(8)

The Commission is proposing to amend paragraph (f) of Rule 13e–4 to impose all-holders and best price requirements on issuers who make issuer tender offers subject to Rule 13e–4. As in the third party context, the all-holders and best price requirements would require issuers to extend the tender offer to all security holders[46] of the class of securities subject to the tender offer, and to pay to any security holder who tenders pursuant to the tender offer the highest consideration offered to any other security holder at any time during the tender offer.

In Release 33–6595, proposing the all-holders and best price requirements for third party tender offers, the Commission discusses at length the background and purposes of the all-holders and best price requirements, and preliminarily determines that the proposed requirements are necessary to effectuate the fundamental policies of the Williams Act. The Commission believes that these policies apply equally to issuer tender offers, and therefore proposes to codify its historical position and apply the all-holders and best price provisions to issuer tender offers as well. Commentators are directed to Release 33–6595 in formulating their opinions, arguments, and comments concerning the application of the all-holders and best price requirements to issuer tender offers subject to Rule 13e–4.

In proposing a best price requirement for third party tender offers, the Commission proposes that the best price shall be determined as of the earlier of the date of public announcement meeting the criteria set forth in Rule 14d–2(b)[47] or the date of commencement as described in Rule 14d–2(a).[48] Rule 13e–4 currently does not distinguish between the public announcement and the commencement of an issuer tender offer.[49] As discussed in Release 33–6595, it is important to distinguish between an offer's announcement and its commencement in order to determine the best price that has been offered to any security holder during the tender offer. In proposing a best price amendment to Rule 13e–4, the Commission proposes to distinguish, solely for purposes of the proposed best price provision, between the announcement and commencement of the issuer tender offer. For purposes of the proposed best price provision, the public announcement of the issuer tender offer would be the date upon which the following information is made publicly available: the identity of issuer; the amount and class of securities being sought; and the price or range of prices being offered therefor.[50] Furthermore, as proposed in the third party context, if more than one type of consideration is offered pursuant to the issuer tender offer, the types of consideration must be substantially equivalent determined as of the earlier of the date of public announcement or the date of commencement of the issuer tender offer.[51]

The all-holders and best price provisions proposed to be added to Rule 13e–4 as paragraph (f)(8) will generally be applied and interpreted in the same manner as in the third party context. However, the commission believes that, under certain circumstances as discussed below, issuer repurchases through tender offers may present considerations justifying relief from the strict application of the all-holders and best price provisions.

Paragraph (g)(5) of Rule 13e–4 [52] currently allows an issuer to make a

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[44] *Id.*

[45] There will remain two areas where the provisions governing third party tender offers differ from the rules governing issuer tender offers. Section 14(d)(5) of the Exchange Act requires withdrawal rights in a third party offer to be reopened after 60 calendar days as to any securities not yet purchased. Rule 13e–4(f)(2)(iii) require withdrawal rights in an issuer tender offer to be reopened after 40 business days as to any securities not yet purchased. Since the periods specified by the two provisions are roughly equivalent, and Rule 13e–4 measures all other specified time periods in business days, the Commission does not believe that it is necessary to amend Rule 13e–4 in this regard.

Moreover, Rule 14d–7(a)(2) requires a third party bidder to grant additional withdrawal rights as specified by that rule upon the commencement of another bidder's tender offer. Rule 14d–1(b)(1), 17 CFR 240.14d–1(b)(1), defines "bidder" as not including an issuer who makes a tender offer for its own securities. As a result, the commencement of a defensive issuer tender offer does not trigger the additional withdrawal rights specified by Rule 14d–7(a)(2), but the commencement of a third party offer does trigger the additional withdrawal rights required of issuer tender offers as specified by Rule 13e–4(f)(ii). The proposed amendments will continue this distinction with respect to the effect of competing offers on withdrawal rights, and will only change the additional withdrawal rights period in the issuer offer from seven to ten business days.

The February Proposals, *see* n.21 *Supra*, continued a provision that would have included an issuer tender offer among those that would trigger Rule 14d–7(a)(2). The Commission deleted the provision because of the potential for abuse. The Commission stated that a target company "could obtain an advantage through the extension of the withdrawal period by making a tender offer for a de minimis amount of the securities being sought by the bidder." Securities Exchange Act Release No. 16384 (November 29, 1979), 44 FR 70362 (December 6, 1979). For the same reason, the Commission is not proposing to amend Rule 14d–2(a)(7) at this time.

[46] The term "security holders" is defined in paragraph (a)(6) of Rule 13e–4, 17 CFR 240.13e–4(a)(6) as "holders of record and beneficial owners of securities of the class of equity security which is the subject of an issuer tender offer."

[47] 17 CFR 240.14d–2(b).

[48] 17 CFR 240.14d–2(a).

[49] The prohibitions of Rule 10b–13, 17 CFR 240.10b–13, however, attach when the tender offer is "publicly announced or otherwise made known" to security holders. An issuer tender offer can be "publicly announced or otherwise made known" for purpose of Rule 10b–13 before its actual "commencement" under Rule 13e–4.

[50] This information is similar to the information specified by Rule 14d–2(c) under the Exchange Act, 17 CFR 240.14d–2(c), for third party offers.

[51] As more fully discussed in Release No. 33–6595, under this provision, alternative forms of consideration would be allowed as long as the various forms of consideration are substantially equivalent, and all security holders have the same choice among the considerations offered. Offers that are not so structured would raise questions under Rule 10b–13 under the Exchange Act, 17 CFR 240.10b–13.

[52] 17 CFR 240.13e–4(g)(5).

tender offer, under certain conditions, only to security holders who own an aggregate of not more than a specified number of shares that is less than one hundred (an "Odd-lot Offer"). Generally, the purpose of an Odd-lot Offer is to reduce the high costs to the issuer of servicing large numbers of small security holder accounts, and to enable those security holders to dispose of their shares without incurring the brokerage fees that normally attend odd-lot transactions. Odd-lot Offers were exempted from Rule 13e–4 because they present "minimal potential for fraud and manipulation." [53] The Commission proposes to continue to permit Odd-lot Offers to be made without complying with the general all-holders provision proposed to be incorporated in paragraph (f)(8) of the Rule.

The all-holders and best price provisions, however, would apply within the context of an Odd-lot Offer. An issuer making an Odd-lot Offer would continue to be required to extend the offer to all record and beneficial owners of the specified number of, or fewer, shares. Paragraph (g)(5) would be amended to provide that an Odd-lot Offer must comply with the all-holders requirement of proposed paragraph (f)(8)(i), except that, as currently permitted, an issuer could exclude participants in an issuer's plan as that term is defined in Rule 10b–6(c)(4). [54]

In addition, the best price requirement would apply to require the issuer to pay to all security holders who tender pursuant to the Odd-lot Offer the highest consideration offered to any security holder during the Odd-lot Offer. However, in the special context of issuer Odd-lot Offers, the Commisison believes that an exception is appropriate to allow an issuer to use a formula to determine the amount that will be paid to a particular security holder, as long as that formula is based on the market price for the security and is applied uniformly. [55] Paragraph (g)(5) would be amended to reflect that an issuer Odd-lot Offer must comply with the best price requirement of proposed paragraph (f)(8)(ii) or the issuer must pay an amount of consideration based on a uniformly applied formula based on the market price for the security.

The staff of the Division of Market Regulation has taken no-action positions under Rule 13e–4 to allow issuers to offer to repurchase securities only from certain security holders whose securities may have been issued in violation of state law or the registration provisions of the Securities Act of 1933 [56] (the "Securities Act") at varying prices equal to the price paid by each such security holder plus legal interest, if any ("Rescission Offer"). [57] In most cases, issuers would not make Rescission Offers if they were required to extend the offer to all holders of the class of securities that is the subject of the Rescission Offer, or if they were required to pay to every security holder the highest consideration offered to any other security holder pursuant to the Rescission Offer. In proposing all-holders and best price amendments to Rule 13e–4, the Commission also proposes to add paragraph (g)(6) [58] to the Rule exempting from the provisions of the Rule Rescission Offers that are registered under the Securities Act. An issuer seeking to make an unregistered Rescission Offer may request an exemption from the provisions of the Rule pursuant to redesignated paragraph (g)(7). [59]

E. Amendment to Definition of "Business Day"

The Amendments would also revise the definition of the term "business day" in Rule 13e–4(a)(3) [60] to conform it to the definition of that term in Rule 14d–1(b)(6). [61] The Division of market Regulation has interpreted the term "business day" for purposes of Rule 13e–4 to be coextensive with that term as defined by Rule 14d–1(b)(6), and the amendments would reflect this interpretation.

F. New Paragraph (f)(7)

The Commission proposes to add new paragraph (f)(7) to the Rule, which will parallel Rule 14d–7(b) under the Exchange Act [62] and provide that the time periods for the minimum offering periods and withdrawal rights shall be computed on a concurrent, as opposed to a consecutive, basis. The amendment furthers the Rule's objective of providing an adequate period of time for shareholder action following a significant development in an issuer tender offer, but will not necessarily require that the offering period be extended if the additional specified time periods expire on or before the expiration of the original offering and withdrawal rights periods.

G. Amendments to Rule 14e–1

For the reasons discussed above, the proposed amendments would remove the provisos in paragraphs (a) and (b) of Rule 14e–1 that make those paragraphs applicable only to issuer tender offers that are made "in anticipation of or in response to" third party offers. The proposed amendments to Rule 13e–4 would conform the time periods specified in the Rule to those specified by paragraphs (a) and (b) of Rule 14e–1.

Removing the provisos would mean that uncontested issuer tender offers not subject to Rule 13e–4 would be subject to the minimum time periods specified by those paragraphs. The Commission believes that, for all the reasons discussed above relating to both contested and uncontested offers subject to Rule 13e–4, it is appropriate to subject to Rule 14e–1(a) and (b) uncontested issuer offers not subject to Rule 13e–4.

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[53] Securities Exchange Act Release No. 19988 (July 21, 1983), 48 FR 34251 (July 28, 1983).

[54] 17 CFR 240.10b–6(c)(4). Since the term "security holders" is defined in Rule 13e–4(a)(6) to comprise record and beneficial owners of an issuer's securities, *see* n.47 *supra*, the Commission is proposing to delete the present reference in paragraph (g)(5) to "record and beneficial holders" and incorporate proposed paragraph (f)(8)(i), which uses the defined term "security holders," in order to eliminate any possible confusion with respect to the scope of the term in the Rule. This technical amendment does not reflect any change in the Commission's position that the Odd-lot Offer exception from the general requirements of Rule 13e–4 is conditioned upon the offer being made to all security holders (as defined) owning the specified number of shares.

[55] *See, e.g., Great American Industries, Inc.* (April 6, 1983).

[56] 15 U.S.C. 77a *et seq.*

[57] *See, e.g., Micron Technology, Inc.* (June 1, 1984).

[58] Current paragraph (g)(6) would be redesignated as paragraph (g)(7).

[59] The Commission may also use its exemptive authority in certain circumstances to allow issuers to exclude officers and directors on a non-discriminatory basis from the general all-holders requirement in those instances where the exclusion is not contrary to the purposes behind the all-holders provision.

There is at least one other area where exemptive relief from the application of the general best price provision of Rule 13e–4 may be appropriate in the context of issuer tender offers. Under current staff interpretation, issuers have been permitted to make modified "Dutch auction" issuer tender offers, although pure issuer "Dutch auction" tender offers currently are not permitted under Rule 13e–4. (In a pure Dutch auction cash tender offer, the bidder invites security holders to tender securities to it at a price to be specified by the tendering security holder, rather than at a price specified by the bidder. Securities are accepted, beginning with those for which the lowest price has been specified, until the bidder has purchased the desired number of securities.) Modified issuer Dutch auction tender offers have been permitted under Rule 13e–4 subject to several conditions: (i) Disclosure in the tender offer materials of the minimum and maximum consideration to be paid; (ii) pro rata acceptance throughout the offer with all securities purchased participating equally in prorationing; (iii) withdrawal rights throughout the offer; (iv) prompt announcement of the purchase price, if determined prior to the expiration of the offer; and (v) purchase of all accepted securities at the highest price paid to any security holder under the offer. The staff has not addressed defensive modified issuer Dutch auction tender offers.

[60] 17 CFR 240.13e–4(a)(3).

[61] 17 CFR 240.14d–1(b)(6).

[62] 17 CFR 240.14d–7(b).

III. Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis has been prepared in accordance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 603), and concerns the effect of proposed amendments to Rules 13e–4 and 14e–1 under the Exchange Act on small entities. Some or all of the proposed amendments may not have a "significant economic impact on a substantial number of small entities" because few small issuers would appear to be affected by the proposals. However, this analysis was prepared because of the uncertainty concerning the effects of the proposed amendments on small entities.

1. Reasons for Proposed Action

Rule 13e–4 specifies certain minimum time periods applicable to issuer tender offers or exchange offers for their equity securities. These time periods are different from the minimum time periods required of third party tender offers by Regulations 14D and 14E under the Exchange Act. These differences complicate the calculation of time periods in competing tender offers and confuse investors. In addition, the differences give issuers who make defensive issuer tender offers advantages over competing third party bidders. Also, Rule 14e–1 under the Exchange Act specifies certain other time periods for issuer tender offers when made "in anticipation of or in response to" third party offers. The proposed amendments to Rule 14e–1 would eliminate the provisos that make paragraphs (a) and (b) applicable to issuer tender offers only when made "in anticipation of or in response to" third party offers. As a result, the proposed amendments to Rule 14e–1 would eliminate the difficult factual question whether an issuer tender offer was made in anticipation of or in response to a third party offer.

The proposed amendment to Rule 13e–4 will require that an issuer making a tender offer extend the issuer tender offer to all holders of the class of securities being sought (the "all-holders" requirement), and pay to any security holder who tenders pursuant to the tender offer the highest consideration offered to any other security holder during the tender offer (the "best price" requirement). The amendments will make explicit what have heretofore been implicit requirements of Rule 13e–4. It should be noted that the Commission is proposing Rule 14d–10 under the Exchange Act which will impose similar all-holders and best price requirements in third party tender offers.

2. Objectives

The purposes of the proposed timing amendments are to alleviate the confusion to investors that the many and varied time periods present, remedy the imbalances between competing issuer and third party offers, and eliminate the factual question concerning whether an issuer tender offer was made in anticipation of or in response to a third party offer.

The objectives of the all-holders and best price amendments are to make explicit the requuirements that issuers must extend their tender offers to all holders of the class of securities being sought in the issuer tender offer, and must pay to any security holder who tenders pursuant to the issuer tender offer the highest consideration offered to any other security holder during the tender offer. The amendments would also place third party bidders and issuers on equal footing after the adoption of proposed Rule 14d–10 under the Exchange Act.

3. Legal Basis

The proposed amendments would be promulgated pursuant to Sections 3(b), 9(a)(6), 10(b), 13(e), 14(e) and 23(a) of the Exchange Act (15 U.S.C. 78c(b), 78i(a), 78j(b), 78m(e), 78n(e) and 78w(a)), and Section 23(c) of the Investment Company Act of 1940, (15 U.S.C. 80a–23(c)).

4. Small Entities Subject to the Rule

"Issuers" and "persons" are considered small for purposes of Commission rulemaking as defined by Rule 0–10(a) under the Exchange Act if such issuer or person had, on the last day of its most recent fiscal year, total assets of $3,000,000 or less. Rule 13e–4 only applies to issuers that have a class of equity securities registered pursuant to Section 12 of the Exchange Act, or that are required to file periodic reports pursuant to Section 15(d) of the Exchange Act. Under Rule 12g–1 under the Exchange Act, an issuer is exempt from Section 12(g)(1) of the Exchange Act if, on the last day of its last fiscal year, it had total assets of $3,000,000 or less. Most issuers who register pursuant to Section 12(g) of the Exchange Act are required to do so because they have total assets of $3,000,000 or more. Therefore, such issuers would not be considered small for purposes of Rule 0–10(a). As a result, the only small issuers to whom the Rule applies are those who voluntarily register pursuant to Section 12(g), and those who are required to file periodic reports under Section 15(d), of the Exchange Act.

In a review of a random sample of twenty per cent of the Schedule 13E–4s filed pursuant to Rule 13e–4 in fiscal year 1984, every issuer who filed a Schedule 13E–4 had assets of over $3,000,000. Thus, it appears that few (if any) small issuers would be affected by the proposed amendments to Rule 13e–4. The Commission also believes that the proposed amendments would not have a significant economic impact on a substantial number of small entities that might be third party offerors.

Currently, issuer tender offers not subject to Rule 13e–4 are subject to the minimum time periods specified by paragraphs (a) and (b) of Rule 14e–1 only when they are made "in anticipation of or in response to" third party offers. The proposed amendments to Rule 14e–1 would remove the provisos that make paragraphs (a) and (b) applicable to issuer tender offers only when made "in anticipation of or in response to" third party offers. As a result, all issuer tender offers, including non-defensive issuer tender offers not subject to Rule 13e–4, would be subject to the minimum time periods specified by paragraphs (a) and (b) of Rule 14e–1.

Those issuers currently not subject to either Rule 13e–4 or Rule 14e–1 may include a large number of issuers who have publicly traded securities that are not registered with the Commission, issuers whose securities are not publicly traded, and issuers and state and local governments with debt securities outstanding. An unknown portion of these issuers are small entities. At this time the Commission is unable to determine the costs to small entities of complying with the proposed amendments to Rule 14e–1 and whether the proposed amendments to Rule 14e–1 would have a significant economic impact on a substantial number of small entities.

5. Reporting, Recordkeeping and Other Compliance Requirements

The proposed amendments would not impose any additional reporting, recordkeeping or other compliance requirements.

6. Overlapping or Conflicting Federal Rules

The proposed amendments would eliminate certain disparities between the federal rules governing issuer and third party tender offers.

7. Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant

alternatives to the proposal that would accomplish the stated objectives while minimizing any significant adverse economic impact on small issurers. The Commission has considered imposing fewer requirements on tender offers by small issuers, such as making the amendments applicable only to defensive issuer tender offers, or exempting from Rule 13e-4 and 14e-1 affected small entitites, but does not believe that such alternative proposals would be consistent with the Commission's statutory mandate of investor protection.

8. Solicitation of Comments

The Commission encourages the submission of comments with respect to any aspect of this Initial Regulatory Flexiblity Analysis. Based upon these preliminary evaluations of the possible compliance costs and effects upon competition and after receipt of any comments from interested persons, it may be appropriate to conclude that the proposal does not have a significant economic impact on a substantial number of small entitites. Comments received will be considered in the preparation, if required, of a Final Regulatory Flexibility Analysis, if the proposed rule amendments are adopted. All submissions on the Initial Regulatory Flexibility Analysis will be placed in File No. S7-35-85 along with comments on the proposed amendments and will be available for public inspection at the Commission's Public Reference Room.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities, Tender offers, Issuers.

IV. Statutory Basis and Text of Proposed Amendment

Pursuant to Section 3(b), 9(a)(6), 10(b), 13(e), 14(e) and 23(e) of the Act, 15 U.S.C. 78c(b), 78i(a), 78j(b), 78m(e), and 78w(a), and 23(c) of the Investment Company Act of 1940, 15 U.S.C. 80a-23(c), the Commission proposes to amend § 240.13e-4 and § 240.14e-1 of Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 is amended by adding the following cite:

Authority: Sec. 23, 48 Stat. 901, as amended, 15 U.S.C. 78w, * * * §§ 240.13e-4 to 240.13e-101 also issued under secs. 3(b), 9(a)(6), 10(b), 13(e), 14(e), 15(c)(1), 48 Stat. 882, 889, 891, 894, 895, 901, sec. 8, 49 Stat. 1379, sec. 5, 78 Stat. 569, 570, secs. 2, 3, 82 Stat. 454, 455, secs. 1, 2, 3-5, 84 Stat. 1497, secs. 3, 18, 89 Stat. 97, 155; 15 U.S.C. 78c(b), 78j(b), 78m(e), 78n(e), 78o(c); sec. 23(c) of the Investment Company Act of 1940; 54 Stat. 825; 15 U.S.C. 80a-23(c) * * *.

2. By revising paragraphs (a)(3), (f)(1), introductory text (f)(2)(i), (f)(2)(ii), (f)(3) introductory text and (g)(5), and by adding new paragraphs (f)(7), (f)(8), and (g)(6), and redesignating current paragraph (g)(6) as (g)(7) of § 240.13e-4, to read as follows:

§ 240.13e-4 Tender offers by issuers.

(a) * * *

(3) As used in this section and in Schedule 13E-4 [§ 240.13e-101], the term "business day" means any day, other than Saturday, Sunday or a federal holiday, and shall consist of the time period from 12:01 a.m. through 12:00 midnight Eastern Time. In computing any time period under this Rule or Schedule 13E-4, the date of the event that begins the running of such time period shall be included *except that* if such event occurs on other than a business day such period shall begin to run on and shall include the first business day thereafter.

* * * * *

(f) * * *

(1) The issuer tender offer, unless withdrawn, shall remain open until the expiration of:

(i) At least twenty business days from its commencement; and

(ii) At least ten business days from the date that notice of an increase in the amount of shares being sought or the consideration offered or the dealer's, soliciting fee to be given is first published or sent or given to security holders.

(2) The issuer of affiliate making the issuer tender offer shall permit securities tendered pursuan to the issuer tender offer to be withdrawn:

(i) At any time until the expiration of fifteen business days from the commencement of the issuer tender offer; and

(ii) If not yet accepted for payment, on the date and until the expiration of ten business days following the date of commencement of another's bidder's tender offer than pursuant to Rule 14d-2(b) [§ 240.14d-2(b)] for securities of the same class;

* * * * *

(3) If the issuer or affiliate makes a tender offer for less than all of the outstanding equity securities of a class, and if a greater number of securities is tendered pursuant thereto than the issuer of affiliate is bound or willing to take and pay for, the securities taken up and paid for shall be taken up and paid for as nearly as may be pro rata, disregarding fractions, according to the number of securities tendered by each security holder during the period such offer remains open; *Provided, however,* That this provision shall not prohibit the issuer or affiliate making the issuer tender offer from:

* * * * *

(7) The time periods for the minimum offering periods and withdrawal rights pursuant to this section shall be computed on a concurrent, as opposed to a consecutive, basis.

(8) No issuer shall make a tender offer unless:

(i) The tender offer is open to all security holders of the class of securities subject to the tender offer; *however,* this section shall not affect: (A) Dissemination under paragraph (e) of this section or (B) a tender offer in which the issuer or affiliate is not a United States resident or citizen and the tender offer does not use the mails or any means or instrumentality of interstate commerce or any facility of a national securities exchange or otherwise; and

(ii) The consideration paid to any security holder pursuant to the tender offer is the highest consideration offered to any other security holder at any time during such tender offer, determined from the earlier of the date of public announcement or the date of commencement; *Provided, however,* That in a tender offer in which more than one type of consideration is offered, (A) the types of consideration are substantially equivalent in value on the earlier of the date of public announcement or the date of commencement, and (B) in the event of an increase by the issuer in the consideration offered during the tender offer, the types of consideration are substantially equivalent in value on the date such increase is first offered to security holders, and (C) the highest consideration of each type offered to any security holder is paid to any other security holder accepting that type of consideration. For purposes of this paragraph, the date of public announcement shall mean announcement of the identity of the issuer and the amount and class of securities being sought and the price or range of prices being offered therefor.

* * * * *

(g) * * *

(5) Offers to purchase from security holders who own an aggregate of not more than a specified number of shares that is less than one hundred: *Provided, however,* That: (1) The offer complies with paragraph (f)(8)(i) of this section

with respect to security holders who own the specified number of shares, except that an issuer can elect to exclude participants in an issuer's plan as that term is defined in Rule 10b–6(c)(4) under the Act [§ 240.10b–6(c)(4)], and (ii) the offer complies with paragraph (f)(8)(ii) of this section or the consideration paid pursuant to the offer is determined on the basis of a uniformly applied formula based on the market price of the subject security.

(6) An issuer tender offer made solely to effect a rescission offer: *Provided, however,* That the offer is registered under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*], and the consideration offered is the price paid by each security holder, plus legal interest if the issuer chooses to or is required to pay legal interest.

* * * * *

3. By revising paragraphs (a) and (b) of § 240.14e–1 as follows:

§ 240.14e–1 Unlawful tender offer practices.

* * * * *

(a) Hold such tender offer open for less than twenty business days from the date such tender offer is first published or sent or given to security holders;

(b) Increase the amount of securities being sought or the consideration offered or the dealer's soliciting fee to be given in a tender offer unless such tender offer remains open for at least ten business days from the date that notice of such increase is first published or sent or given to security holders;

* * * * *

V. Solicitation of Comments

All interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make submissions should submit three copies thereof to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, not later than September 9, 1985. Reference should be made to File No. S7–35–85.

All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 1024, 450 Fifth Street, NW., Washington, D.C. 20549.

Dated: July 1, 1985.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85–16244 Filed 7–10–85; 8:45 am]

BILLING CODE 8010–01–M

17 CFR Part 240

[Release No. 33–6594; 34–22197; 35–23753; IC–14610; File No. S7–33–85]

Request for Comments on "Opinion Shopping"

AGENCY: Securities and Exchange Commission.

ACTION: Request for Public Comment.

SUMMARY: The Commission is requesting comments on the practice of registrants who seek an auditor who is willing to support a proposed accounting treatment which is intended to accomplish the registrant's reporting objectives, but which is not necessarily in accordance with generally accepted accounting principles. This practice is commonly referred to as "opinion shopping". The Commission is also requesting comment on the most practical, cost-effective manner of obtaining better public disclosure about "opinion shopping" situations.

DATE: Comments should be received on or before October 9, 1985.

ADDRESS: Comments should be submitted in triplicate to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7–33–85. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Robert E. Burns, (202) 272–2130, Office of the Chief Accountant, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

Registrants may change independent accountants at their discretion. However, if a registrant changes accountants because of a desire to obtain the services of an accountant willing to interpret generally accepted accounting principles ("GAAP") in a manner which frustrates the reporting of the true economic substance of transactions or events, the registrant and the new accountant may be deemed to have participated in "opinion shopping." The new auditor in such a case may place more emphasis on achieving the registrant's desired reporting results than on the objective reporting of the registrant's financial condition and operating results. Even the appearance of such a biased attitude by the new auditor brings both his independence and the accuracy of the registrant's financial statements into question.

In this release, the Commission is requesting comments on possible amendments to its disclosure requirements concerning changes in accountants, and disagreements which accompany or precede such changes, to elicit more meaningful disclosure of opinion shopping situations. This request is in addition to the rule proposals in a companion release, Securities Act Release No. 6592. In that release the Commission is proposing to amend Item 304 of Regulation S–K,[1] Item 9(c) of Schedule 14A[2] and Form S–18[3] to require disclosure of changes in accountants and disagreements with former accountants which may have arisen prior to the registrant becoming subject to the filing requirements of the Securities Exchange Act of 1934.[4]

II. Concerns With Opinion Shopping Relating to Accountant's Independence, Client Pressures Placed Upon Accountants and Public Perceptions of the Professionalism Exhibited by Accountants

As recognized by both the Commission[5] and the courts,[6] not only the fact but also the appearance of independence by the auditor is essential to the integrity of the securities markets. Opinion shopping, at a minimum, impacts the appearance of the accountant's independence. A perceived conflict is created between the auditor accepting an accounting practice which particularly favors its client's reporting objectives and the auditor fulfilling his responsibilities to act as a "watchdog" for the public.[7] This practice therefore

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[1] 17 CFR 229.304.

[2] 17 CFR 240.14a–101.

[3] 17 CFR 239.28.

[4] 15 U.S.C. 78a et seq.

[5] *See In the Matter of Broadview Financial Corporation,* Accounting and Auditing Enforcement Rel. No. 54 (April 17, 1985); *In the Matter of Stephen O. Wade, Ralph H. Hewton, Jr., and Clark C. Burrit, Jr.,* Securities Exchange Act Release No. 21085 (June 25, 1984).

[6] *U.S.* v. *Arthur Young,* —— U.S. ——, 104 S. Ct. 1495, 1504 n. 15 (1984).

[7] *U.S.* v. *Arthur Young, supra,* in which the Court states:

> By certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility transcending any employment relationship with the client. The independent public accountant performing this special function owes ultimate allegiance to the corporation's creditors and stockholders, as well as to investing public. This "public watchdog" function demands that the accountant maintain total independence from the client at all times and requires complete fidelity to the public trust. *Id.,* at 1503

has an obvious and negative impact on the general public's perception of the professionalism exhibited by accountants and their firms.

In addition to the serious issue of the auditor's independence, accountants and others have identified practical problems inherent in opinion shopping.[8] A major hazard is that the auditor, who believes the registrant may "go shopping" unless he acquiesces to the registrant's views, is subject to increased client pressure for a "desired" answer (even though it may not be the best or even an acceptable answer). Furthermore, a solicited accountant may succumb to the pressure to give an unqualified answer to an abstract question without full access to the surrounding facts and circumstances.[9] Once the opinion is given and the accountant is awarded the engagement, he may be subject to pressures to abide by his original opinion even though additional facts are discovered which indicate a different solution. These pressures impact the auditor's ability to constructively evaluate the registrant's accounting practices and fulfill his responsibilities to act objectively on behalf of the public. Alleged failures to fulfill these responsibilities will be carefully scrutinized by the Commission and, when warranted, result in enforcement action.[10]

Efforts to deter opinion shopping by registrants, including full and accurate disclosure about changes in auditors and any disagreements accompanying or preceding such changes, are therefore in the public interest and necessary for the protection of investors.[11]

III. Proposals for disclosure of "opinion shopping"

The Commission, in a companion release, is presently proposing changes in Item 304 of Regulation S–K, Item 9(c) of Schedule 14A and Form S–18 to require disclosure of changes in accountants and any disagreements with former accounts which may have arisen prior to the registrant becoming subject to the filing requirements for Form 8–K and Form N–SAR. The Commission is proposing that in such cases the disclosure required by Item 4 of Form 8–K, Items 77K and 102J of Form N–SAR, and Item 304 of Regulation S–K be provided. The Commission, however, is also concerned about the adequacy of the disclosures received pursuant to existing Item 4 of Form 8–K and Items 77K and 102J of Form N–SAR.[12] Some companies and accounting firms may be reluctant to candidly report as "disagreements" material disputes on accounting issues.[13] Consideration is therefore being given to amending Form 8–K and Form N–SAR to require more direct disclosure of opinion shopping. For example, without regard to the existence of any "disagreeement," disclosure could be required if in connection with a change in accountants: (1) the registrant solicited opinions from other accountants on specific accounting issues concerning existing or contemplated transactions, or (2) the registrant engaged an accountant expressing an opinion which is different from its former accountant's position. Under this approach, the registrant would be required to discuss the issues presented to each accountant and the responses received; and the former auditor would be given the opportunity to express his position on these issues. Another possible approach is to require disclosure regardless of whether a change in accountants occurs. Forms 8–K and N–SAR could be amended to require registrants to disclosure any accounting issue for which they have asked for an opinion from any accountant other than their current accountant, and a summary of the responses received. This disclosure would not only aid in the detection of possible[14] opinion shopping but also alert the Commission and the public to emerging accounting issues. A third possibility may be to tie opinion shopping disclosures to changes in accounting principles. Not only would a preferability letter [15] be required when such a change occurs, but the registrant would be required to disclose the names of any accounting firms consulted prior to making the changes, and provide a summary of the responses received from these firms.

The Commission invites comments on these and other possible approaches to opinion shopping. In addition, the Commission invites specific comment on the following issues related to opinion shopping: the types of accounting issues which might trigger an opinion shopping disclosure requirement; the roles of new, prior and solicited accountants in

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[8] The American Institute of Certified Public Accountants (AICPA), the Auditing Standards Board, and the SEC Practice Section of the AICPA's Division for CPA Firms (SECPS), have developed initiatives and created task forces to review issues relating to professionalism and ethics, including opinion shopping. The Commission supports these efforts.

[9] The AICPA Code of Professional Ethics, ET section 201.04, requires that prior to answering such a question the solicited accountant consult with the registrant's present auditor to ascertain whether he is aware of all the available facts relevant to forming a professional judgment on the appropriate accounting or auditing standard to be applied. The Chairman of the Public Oversight Board (a panel of nonaccountants who oversee the activities of the SECPS and represent the public interest in the SECPS self-regulatory process) has recently recommended that SECPS membership requirements be revised to explicitly require successor accountants to document their consultations with predecessor firms, and that peer reviewers examine such documentation and make appropriate inquiries of the predecessor firms when necessary.

[10] For example, if the registrant's financial statements are materially misleading, the registrant may be in violation of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 ("the Exchange Act"). If fraudulent activity has occurred, the registrant may have violated section 17(a) of the Securities Act of 1933, 15 U.S.C. 77a et seq., or Section 10(b) of the Exchange Act. The accountant may directly violate several sections of the federal securities laws, including section 10(b) above; may aid and abet the registrant's violation of Sections 13(a), 10(b) and other provisions of the federal securities laws; and may be subject to disciplinary action under Rule 2(e) of the Commission's Rules of Practice and Investigations, 17 CFR 201.2(e).

[11] Item 4(d) of Form 8–K currently requires that the registrant request that the former auditor furnish the registrant with a letter addressed to the Commission (which the registrant will file with the Commission as an exhibit to Form 8–K) stating whether it agrees with the statements made by the registrant in response to item 4 of Form 8–K. Changes in Registrant's Certifying Accountant; and, if not, stating the respects in which he does not agree. In response to this request, and as part of their responsibilities to the public, the former auditors should ensure that the registrant has made full disclosure of any material disagreements with the registrant, including those which may have resulted in opinion shopping.

[12] Such disclosures may also be filed under Item 5 of Form 10–Q under certain circumstances. Also, similar disclosure is required under Rule 17a–5(f) when registered broker-dealers change accountants. Instead of using the word "disagreement" however the word "problems" is used. The Commission specifically requests comments on opinion shopping by broker-dealers and possible additional or revised disclosures concerning such shopping.

[13] Registrants, in particular, may be engaging in various schemes to avoid disclosure of "disagreements" while at the same time attempting to find an accountant who will accept their desired treatment. Accountants may be directly or indirectly contributing to such reporting failures either by failing to recognize differing positions to be "disagreements" or to insist that clear and accurate disclosure of the nature and extent of any disagreement be made under Item 4 of Form 8–K. In other words, some accountants may have a tendency to rationalize their loss of a client in an attempt to avoid any ill will or for other reasons. Finally, some accountants may contribute to "shopping," by not effectively fulfilling their responsibilities under the AICPA's Code of Professional Ethics (see Note 9 *supra*).

[14] The Commission is aware that there may be valid reasons for obtaining the views of an independent accountant other than the registrant's current accountant, and that some registrants have a practice of using a separate accounting firm for additional advice on complex issues. The Commission does not wish to detract from such practices. It may be appropriate, however, to require disclosure of communications with such a firm so that investors may assess their impact on the registrant's accounting policies. Alternatively, a disclosure requirement could exclude communications pursuant to such arrangements. Specific comment is requested on this issue.

[15] *See* Rule 10–01(b)(6) of Regulation S–X, 17 CFR 210.10–01(b)(6).

responding to the proposed disclosure by the registrant about opinion shopping; the potential for "shopping" for a different engagement partner within the registrant's current accounting firm; and incentives to overcome a possible reluctance of registrants and accounting firms to report "disagreements" under current Item 4.

By the Commission.

John Wheeler,

Secretary.

July 1, 1985.

[FR Doc. 85-16505 Filed 7-10-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-088 (Texas—15 Amt.]

High-Cost Gas Produced From Tight Formations; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Amended Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the amended recommendation of the Railroad Commission of Texas that the Deep Vicksburg Formation be designated as a tight formation under § 271.703(d). The original recommendation was noticed in a Notice of Proposed Rulemaking issued October 27, 1981 (46 FR 54384, November 2, 1981).

DATE: Comments on the proposed rule are due on July 22, 1985.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on July 22, 1985.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Walter W. Lawson, (202) 357-8556.

I. Background

On September 21, 1981, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that portions of the Vicksburg Formation located in the eastern part of Starr County, Texas be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, a Notice of Proposed Rulemaking was issued on October 27, 1981 (46 FR 54384, November 2, 1981) to determine whether Texas' recommendation that portions of the Vicksburg Formation be designated a tight formation should be adopted. A portion of Texas' original recommendation was the Lower Vicksburg Formation, located in the El Benadito South Field. The Lower Vicksburg Formation recommendation was approved by the Commission by final rule issued July 6, 1984, in Order No. 387 (Docket No. RM79-76-088; 49 FR 27935, July 9, 1984). On December 14, 1984, Texas submitted an amended recommendation for the Deep Vicksburg Formation portion of the original recommendation. This Notice of Proposed Rulemaking is hereby issued to give notice of the amended recommendation by Texas and to determine if the recommendation as amended should be adopted. Texas' original recommendation, subsequent amendments and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

As originally submitted to the Commission the Deep Vicksburg Formation recommended area consisted of a roughly rectangular area approximately 6.5 miles long and 4.5 miles wide, within Starr County, Texas, near the Hidalgo County line. Vertically, Texas defined the Deep Vicksburg as extending from the top of the "Hard" geopressure marker, at an average depth of approximately 7,835 feet, to the top of the Jackson Shale, generally found below 12,000 feet.

Texas' amended recommendation consists of a roughly rectangular section approximately 2.8 miles long and 1.7 miles wide, located within the area originally recommended by Texas, and covering portions of the Ygnacio Flores A-725 and the Nicolasa Salinas A-411 surveys in eastern Starr County. The vertical interval is redefined as that portion of the Deep Vicksburg sediments occurring between the top of the 9250' sand, or the unconformity where the 9250' sand has been eroded, and the base of the V-23 sand.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates, for the amended recommended area, that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are, or are expected to be, used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977-1981] FERC Stats. and Regs ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Texas that the Deep Vicksburg Formation, as described and delineated in Texas' amended recommendation, as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comments Procedures

To permit an expeditious review of the amended formation recommendation, the Director shortens the comment period, inasmuch as this is the second notice of proposed rulemaking issued in this docket, and no major changes have been made. Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy

Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 22, 1985. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-088 (Texas—15 Amendment), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than July 22, 1985.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by amending paragraph (d)(171) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(171) *Vicksburg Formation in Texas.* RM79-76-088 (Texas 15).

(i) *The Deep Vicksburg Formation in Starr County, Texas.*

(A) *Delineation of formation.* The Deep Vicksburg formation covers an area of approximately 4.8 square miles in portions of the Ygnacio Flores A-725 and Nicolasa Salinas A-411 surveys located in eastern Starr County, Texas. Railroad Commission District 4.

(B) *Depth.* The top of the Deep Vicksburg formation is defined as the top of the 9250' sand, or the unconformity where the 9250' sand has been eroded. The base of the formation is the base of the V-23 sand.

(ii) *The Lower Vicksburg Formation in Starr County, Texas.*

(A) *Delineation of formation.* The Vicksburg Formation is located in Railroad Commission District 4 in the eastern half of Starr County, Texas.

(B) *Depth.* The top of the Vicksburg formation is defined as the top of the Rincon Sand and the base as the top of the Yegua sand. Specifically, it is defined as that interval on the log of the Corpus Christi Oil and Gas Company, Heard #1 Well that occurs between a measured depth of 8,260 feet to 10,837 feet, which yields a gross thickness of 2,217 feet.

[FR Doc. 85-16436 Filed 7-10-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Public Comment and Opportunity for Public Hearing on a Modification to the Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by the Commonwealth of Kentucky as a modification to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments pertain to: hydrology and geology, including definitions, permitting requirements and surface and ground water monitoring requirements for surface and underground mines; and requirements for disposal of excess spoil for surface and underground mines. The amendments also include Reclamation Advisory Memoranda (RAM) #80, 81 and 82 of surface and ground water monitoring on interim permits.

This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments not received on or before August 12, 1985, will not necessarily be considered.

If requested, a public hearing on the proposed modifications will be held on August 5, 1985 beginning at 10:00 a.m. at the location shown below under **ADDRESSES."**

ADDRESSES: Written comments should be mailed or hand delivered to: W.H. Tipton, Director, Lexington Field Office, Office of Surface Mining, 240 Legion Drive, Suite 28, Lexington, Kentucky 40504.

If a public hearing is held its location will be at: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: W.H. Tipton, Director, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Kentucky 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 review at the OSM Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Office of Surface Mining, Reclamation and Enforcement, Room 5124, 1100 L Street, NW., Washington, D.C. 20240.

Bureau of Surface Mining, Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601.

Pursuant to 30 CFR 732.17(h)(2)(ii), each requestor may receive, free of charge, one single copy of the proposed amendment by contacting OSM's Lexington Field Office listed under **"ADDRESSES."**

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Lexington, Kentucky Field Office will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by the close of business ten working days before the date of the hearing. If no one requests to comment at the the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Submission of written statements at the time of the hearing is requested and will greatly assist the transcriber. Submissions of written statements in advance of the hearing will allow OSM officals to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in ADDRESSES by contacting the person listed under "FOR FURTHER INFORMATION CONTACT."

All such meetings are open to the public and if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Kentucky State Program

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background on the Kentucky State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register** notice.

III. Submission of Program Amendments

On May 20, 1985, Kentucky submitted emergency regulations as program amendments to modify requirements pertaining to hydrology and geology. The program amendments are intended to comply with the Settlement Agreement entered into in Civil Action 84–58 in the U.S. District Court for the Eastern District of Kentucky. Kentucky also submitted proposed amendments to the excess spoil rules as part of its response to a letter from the Director, OSM, which identified areas of the Kentucky program needing revision. Briefly, the proposed modifications and cites are:

1. Kentucky proposes to amend its definition of "aquifer" and to add a definition of "water transmitting zone." 405 KAR 7:020E.

2. Kentucky proposes to amend its permitting requirements for geologic and hydrologic information, ground water information and surface water information to change the designations to *premining* information and to delete current information requirements and add new requirements. 405 KAR 8:030E Section 12, 13, 14 and 15 and 405 KAR 8:040E Sections 12, 13, 14 and 15.

3. Changes are proposed to clarify requirements for alternative water supply information. 405 KAR 8:030E Section 16.

4. Existing requirements for permit information on protection of the hydrologic balance would be deleted and replaced by new requirements. 405 KAR 8:030E Section 32 and 405 KAR 8:040E Section 32.

5. Kentucky is proposing to amend its requirements for surface and ground water monitoring for surface and underground mines. 405 KAR 16:110E and 405 KAR 18:110E.

6. Kentucky is proposing to amend its general requirements for disposal of excess spoil, and its provisions on valley fills and head-of-hollow fills, rock-core chimney drains, end-dumped fills and disposal on existing benches, for surface and underground mines. 405 KAR 16:130 and 405 KAR 18:130. Kentucky is adding a paragraph on disposal of underground development waste to require disposal in accordance with 405 KAR 18:140 and 405 KAR 18:160. 405 KAR 18:130.

7. Kentucky is adding Reclamation Advisory Memoranda #80, 81 and 82 to clarify requirements for surface and ground water monitoring for interim permits.

Therefore, the Director, OSM is seeking public comment on the adequacy of the proposed program amendments. Comments should specifically address the issue of whether the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations.

IV. 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 does not require 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 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

The authority citation for Part 917 continues to read as follows:

Authority: Sec. 503; Pub. L. 95–87, 91 stat. 470 (30 U.S.C. 1253), unless otherwise noted.

Dated: July 5, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-16471 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-05-M

VETERANS ADMINISTRATION

38 CFR Part 3

Basic Eligibility for Loan Guaranty Benefits

AGENCY: Veterans Administration.

ACTION: Proposed rule.

SUMMARY: The Veterans Administration is proposing to amend its adjudication regulations concerning loan guaranty eligibility for Vietnam era veterans. This amendment is necessary because of a 1978 change of law. The effect of this amendment will be to equalize the loan guaranty eligibility of Vietnam era veterans with that of veterans of World War II and the Korean Conflict.

DATES: Comments must be received on or before August 12, 1985. It is proposed to make this amendment effective October 18, 1978, as provided by law.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this regulation to Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in room 132 at the above address only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until August 26, 1985.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Compensation and Pension Service (211B), Department of Veterans Benefits, (202) 389-3005.

SUPPLEMENTARY INFORMATION: Section 102 of Pub. L. 95-476, Veterans' Housing Benefits Act of 1978, provided Vietnam era veterans with the same loan guaranty eligibility that World War II and Korean Conflict veterans had. The law provided that if a veteran served during the Vietnam era (August 5, 1964, to May 7, 1975) and had less than 90 days of active duty, loan guaranty eligibility required a rating determination that the veteran was or could have been discharged or released because of a service-connected disability. This change was effectively implemented by publications from the Loan Guaranty Service but one adjudication regulation was overlooked. This proposed amendment to § 3.315 corrects that oversight.

The Administrator has certified that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. In accordance with Executive Order 12291, Federal Regulation, we have determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans, Veterans Administration.

(Catalog of Federal Domestic Assistance Program number is 64.119)

Approved: June 17, 1985.

By direction of the Administrator.

Everett Alvarez,

Deputy Administrator.

PART 3—[AMENDED]

38 CFR Part 3, COMPENSATION AND PENSION, § 3.315(b) is amended to read as follows:

§ 3.315 Basic eligibility determinations—dependents, loans, education.

* * * * *

(b) *Loans.* If a veteran of World War II, the Korean conflict or the Vietnam era had less than 90 days of service, or if a veteran who served after July 25, 1947, and prior to June 27, 1950, or after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975, has less than 181 days of service on active duty as defined in §§ 36.4301 and 36.4501, eligibility of the veteran for a loan under 38 U.S.C. ch. 37 requires a determination that the veteran was discharged or released because of a service-connected disability or that the official service department records show that he or she had at the time of separation from service a service-connected disability which in medical judgment would have warranted a discharge for disability. These determinations are subject to the presumption of incurrence under § 3.304(b). Determinations based on World War II, Korean conflict and Vietnam era service are also subject to the presumption of aggravation under § 3.306(b) while determination based on service on or after February 1, 1955, and before August 5, 1964, or after May 7, 1975, are subject to the presumption of aggravation under § 3.306 (a) and (c). The provisions of this paragraph are also applicable, regardless of length of service, in determining eligibility to the maximum period of entitlement based on discharge or release for a service-connected disability. (38 U.S.C. 1602(1)(A); 1652(a))

* * * * *

[FR Doc. 85-16488 Filed 7-10-85; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2862-5]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing rulemaking on a revision to the Illinois State Implementation Plan (SIP) for ozone. The revision pertains to rules developed to satisfy the reasonably available control technology (RACT) requirements for sources of volatile organic compounds (VOC) which are covered by USEPA's second set of Control Techniques Guidelines (CTGs). USEPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act). USEPA is proposing to approve a portion of the Illinois submittal, disapprove a portion, and to disapprove Illinois' Part D stationary source control strategy for ozone due to Illinois' failure to adopt adequate RACT rules for several required source categories.

DATE: Comments on this revision and on the proposed USEPA action must be received by August 12, 1985.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Randolph O. Cano, at (312) 886-6035 before visiting the Region V office).

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano (312) 886-6035.

SUPPLEMENTARY INFORMATION: On January 28, 1983, the State of Illinois submitted a December 30, 1982, Illinois Pollution Control Board (IPCB) Final Order (R80-5) for incorporation into the Illinois SIP. This Final Order was submitted to satisfy the provisions of the Clean Air Act which requires States to revise their SIPs for areas that have not attained the national ambient air quality standards (NAAQS). For States with ozone nonattainment areas, USEPA has stated that the minimum acceptable level of ozone control includes RACT requirements for sources of VOC emissions for which USEPA has published a CTG by January 1978 and additional RACT requirements on an annual basis for VOC sources covered by CTGs published by January of the preceding year. (See 44 FR 20372 (April 4, 1979) as supplemented at 44 FR 38538 (July 2, 1979); 44 FR 50371 (August 28, 1979); 44 FR 53761 (September 17, 1979); and 44 FR 67182 (November 23, 1979). Adoption and submittal of additional RACT regulations for sources covered by CTGs published between January 1978 and January 1979 were due July 1, 1980 (44 FR 50371, August 28, 1979).

Although initially these rules were due to USEPA earlier, because the State regulatory process took longer than anticipated and good faith efforts were made to adopt the necessary regulations, USEPA revised the July 1, 1980, deadline to January 1, 1981 (45 FR 78132 on November 25, 1980.

The State's January 28, 1983, submittal was intended to satisfy the Federal requirements for the adoption of rules concerning the sources covered by Group II of the CTGs.

USEPA published the CTGs in order to assist the States in determining RACT. The CTGs provide information on avaiable air pollution control techniques, their costs and their effectiveness, and provide recommendations on what USEPA calls the "Presumptive Norm" for RACT. Group II CTGs cover the following source categories.

- Factory surface coating of flatwood paneling.
- Petroleum refinery fugitive emissions.
- Pharmaceutical manufacturing.
- Rubber tire manufacturing.
- Surface coating of miscellaneous metal parts and products.
- Graphic Arts (printing).
- Dry cleaning perchloroethylene.
- Leak prevention from gasoline tank trucks and vapor collection systems.
- Petroleum liquid storage in external floating roof tanks.

State Implementation Plans setting emissions limits for sources in Group II of the CTG's are commonly referred to as RACT II rules.

Evaluation of the Illinois RACT II Rules

USEPA has evaluated the State's submittal and the accompanying technical support. This evaluation is based on the technical information contained in USEPA's CTG for each source category. The following discussion summarizes USEPA objections to rules which were found to be inconsistent with the requirements of RACT. A more detailed evaluation of the State's submittal and the deficiencies identified by USEPA is contained in the technical support documents which are available for inspection at the Region V office listed in the front of this **Federal Register** notice.

USEPA has reviewed the State's RACT II submittal and proposes approval of it with the exception of the rules which are summarized below and accompanied by USEPA's analysis and proposed action. The bases for USEPA's actions on the approvable provisions of the Illinois RACT II rules are discussed in detail in the technical support documents referenced above.

1. Rule 205(s)(2) provides an exemption to the limitations of Rule 205(s) for any facility whose aggregate uncontrolled rotogravure and/or flexographic printing press emission of volatile organic material is limited by operating permit conditions to 1000 tons per year or less in the absence of air pollution control equipment or whose actual emissions in the absence of air pollution control equipment would be less than 1000 tons per year when averaged over the preceding three calender years. USEPA proposes disapproval of this provision as it applies to sources which would be subject to the exemption. Illinois provides no technical or cost effectiveness analysis to justify this general exemption. Nor does the State provide an analysis to justify any plant specific exemptions to Rule 205(s). Such analyses could justify exemption to the application of RACT.

Alternatively, the exemption could be justified with a demonstration that the rule provide emission reductions generally equivalent to the level of control contemplated by the CTG. USEPA's equivalency policy allows exemptions that result in allowable emissions under the State's rule which are within 5 percent of the allowable emissions under the CTG. Illinois attempted to document that the exemption was within the 5 percent criterion. Illinois' analysis is not consistent with the 5 percent demonstration requirements and the State did not submit detailed technical data supporting this exemption as RACT.

The regulatory impact of USEPA's disapproval of the 1000 tons exemption is Rule 205(s)(2) is that Rule 205(s) only applies to sources greater than 1000 tons. As a result of USEPA's proposed disapproval, Illinois' rule is deficient with respect to sources less than 1,000 tons. This deficiency could be rectified if the State changed the 1000 tons exemption to a 100 ton exemption.

2. Rule 205(s)(1)(D)(ii) applies to the packaging rotogravure process and provides that a capture system used in conjunction with an emission control system must, in combination, provide an overall reduction in volatile organic emissions of at least 65 percent or the maximum reduction achievable using good engineering design. USEPA notes that the concept "maximum reduction achievable" is vague and cannot be measured by objective criteria. Without a clearly stated overall reduction requirement, there is no assurance that sources, which choose to comply by installing add-on control technology pursuant to section 205(s)(1)(C) of the Rule, will comply with RACT. Rather than resorting to the use of "maximum reduction achievable" the State could relax the 65 percent reduction on a source specific basis where appropriate. Therefore, USEPA proposes to disapprove Rule 205(s)(1) as it applies to packaging rotogravure sources. It should be noted that disapproval of only

section 205(s)(1)(C) would eliminate sources' legal ability to use add-on control technology, and force all such sources to comply through reformulation of coatings pursuant to sections 205(s)(1)(A) or (B) of the Rules. Such a result could place sources which have not been able to reformulate in violation with no available remedy. Therefore, USEPA believes it is necessary to disapprove Rule 205(s)(1) in its entirety, as it applies to packaging rotogravure sources. The remainder of the Rule, and Rule 205(s)(1) as applied to other sources is consistent with RACT guidance and approvable.

3. Rule 205(s)(4) states that compliance with Rule 205(s) is to be demonstrated by methods or procedures approved by the Illinois Environmental Protection Agency. No test methods are specified. USEPA proposes approval of Rule 205(s)(4) but notes that 40 CFR 51.12(c) provides that USEPA test methods specified in 40 CFR 60 shall be used for any SIP provision that does provide a test procedure.

4. Rule 205(n)(1)(K) allows 4.3 lbs. VOC/gallon of coating for an extreme performance topcoat and 4.8 lbs. VOC/gallon of coating for final repair coating. USEPA believes that these emission limitations do not represent RACT for these operations. USEPA has evidence that coatings meeting 3.5 lbs. VOC/gallon are presently in commercial use and reasonably available; therefore, USEPA proposes disapproval of Rule 205(n)(1)(K). However, USEPA will reconsider these exemptions if the allowable emissions for all miscellaneous metal sources (including heavy off-highway vehicles) is within 5 percent of the emissions allowed by the miscellaneous metals CTG presumptive norm.

5. USEPA proposes disapproval of the exemption for marine propulsion equipment and the exteriors of airplanes in the State's definition of "Micellaneous Metal Parts and Product" which is contained in Rule 201: Definitions. The basis of USEPA's disapproval is that the Group II CTG's are intended to apply to marine propulsion equipment and the exteriors of airplanes (if the airplane exteriors are coated as a separate manufacturing operation). However, USEPA will reconsider these exemptions if the allowable emissions for all miscellaneous metal sources (including heavy off-highway vehicles) is within 5 percent of the emissions allowed by the miscellaneous metals CTG presumptive norm.

6. Rule 205(o)(3)(D)(iv) exempts stationary storage tanks equipped with an external floating roof used to store crude oil from Rule 205(o)(3)(C) which requires the use of secondary seals on external floating tanks. USEPA proposes disapproval of Rule 205(o)(3)(D)(iv) because the State has failed to demonstrate that it is unreasonable to require the use of secondary seals in this circumstance. If the State, however, can demonstrate that crude oil other than "waxy, heavy pour crude oil" as defined by USEPA's recommended test method (which is exempted from the secondary requirement to have seals) will damage or interfere with the operation of secondary seals, USEPA will reconsider its position on the approvability of this exemption.

It is USEPA's understanding that the Illinois Environmental Protection Agency (IEPA) intends to propose a rule change to the IPCB which will make this exemption consistent with USEPA's CTG. When such a rule change is made, USEPA will, if requested by the State, consider the approvability of the revised rule.

Alternatively, the exemption could be justified with a demonstration that the rule provides emissions reduction generally equivalent to the level of control contemplated by the CTG. USEPA's equivalency policy allows exemptions that result in allowable emissions under the State's rule which are within five percent of the allowable emission under the CTG.

Further, if the exemption in Rule 205(O)(3)(D)(iv) is finally disapproved, the State could submit to USEPA source specific SIP revisions for sources which cannot meet the requirement for secondary seals on external floating tanks. USEPA will consider the approvability of each source specific revision based on its individual merits and on its conformity with the requirements of the Act.

7. An equation in Rule 205(n)(4) which concerns the internal offset provisions for surface coating contains an error which is being corrected as part of the IPCB's RACT III rulemaking proceeding. USEPA, therefore, proposes to disapprove Rule 205(n)(4).

It should also be noted that, in the portions of Illinois' submittal proposed for approval, there are numerous references to compliance schedules, alternative plans and procedures and other requirements which may be established subseqently by the Illinois Pollution Control Board. Pursuant to section 110 of the Clean Air Act, all such subsequent action must be submitted to USEPA for approval.

Failure of the State to Comply With All Federal Requirements

The Illinois submittal failed to adopt regulations to address the requirements presented by three CTGs issued as part of the RACT II requirements—factory surface coating of flatwood paneling, synthetic pharmaceutical manufacturing, and leak prevention from gasoline tank trucks and vapor collection systems.

The Illinois submittal provided certification that there are no manufacturers of flatwood paneling in the State and adopted no regulations for this sources category. Based on the State's certification, USEPA agrees that no rules need be submitted for this category.

In lieu of adopting regulations for leak prevention from gasoline tank trucks and vapor collection systems the State has proposed to rely on existing State regulations that, in USEPA's judgment, are not adequate to satisfy the requirements of leak tightness for gasoline tank trucks. Rule 205(p)(5) provides that any delivery vessel equipped with a vapor recovery control system must be designed and maintained to be vapor tight during normal operations. This provision is not adequate because it fails to define what is meant by vapor tight.

The State failed to adopt rules which represent RACT for the synthetic pharmaceutical manufacturing industry. The State based its decision not to adopt rules on testimony that indicated that the cost of control in this industry was unreasonable when compared to the cost of other stationary source control measures. USEPA believes that the State has failed to adequately justify exempting this source category from the requirement of RACT. Further, the State's failure to adopt regulations covering the synthetic pharmaceutical manufacturing industry, leaves these sources totally unregulated. USEPA believes that cost can be considered in determining whether or not a regulation should be adopted. The State must, however, better support its decision not to adopt these regulations due to the unreasonably high costs. For example, Illinois could compare the control costs for this industry in other States to costs for this industry in Illinois. USEPA's analyses indicate that RACT exists for the synthetic pharmaceutical manufacturing industry.

In its February 21, 1980 (45 FR 11493), approval of the Illinois plan for the attainment and maintenance of the National Ambient Air Quality Standards under section 110 of the Clean Air Act, it was noted that continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of the RACT requirements for sources covered by CTGs. As stated above, rules for the

RACT II CTGs should have been submitted by January, 1981. The current failure of the State to have adopted rules imposing RACT on all RACT II categories of sources violates the USEPA requirements for the continued satisfaction of the requirements of Part D for the ozone portion of the SIP. Therefore, USEPA is proposing to disapprove the Illinois' Part D stationary source control strategy for failure to meet the RACT II control requirements.

USEPA notes, however, that the State is moving to remedy many of the deficiencies noted above. USEPA specifically requests comments on the State's intentions to remove the deficiencies cited above. USEPA notes that final disapproval of the State's stationary source control strategy as meeting RACT requirements will result in the imposition of an industrial growth prohibition under section 110(a)(2)(I).

All interested persons are invited to submit written comments on the proposed SIP revision. Public comments received by the date indicated above will be considered by USEPA in the development of its final rulemaking.

Under 5 U.S.C. section 605(b) USEPA must determine whether or not this action will have a significant economic impact on a substantial number of small entities. This action, if finally adopted, will not have a significant impact on a substantial number of small entities. USEPA believes the rules proposed for disapproval today would regulate emissions from sources that cannot be properly categorized as small entities. Public comment is solicited on whether or not today's disapprovals impact on a large number of small entities.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to USEPA, and any USEPA response, are available for public inspection at the USEPA Region V office listed above.

Authority: 42 U.S.C. 7401–7642.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 29, 1984.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 85–16482 Filed 7–10–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF DEFENSE

48 CFR Parts 208 and 252

Department of Defense Federal Acquisition Regulation Supplement; Precious Metals

AGENCY: Department of Defense.

ACTION: Proposed rule and request for comment.

SUMMARY: The Defense Acquisition Regulatory Council is considering a change to the DoD FAR Supplement which recognizes the rule of the Defense Department's precious metals recovery program in acquisition and contracting. The proposed change will require bidders to bid items with precious metal content with two prices: "one price with contractor's furnished precious metals and another price without contractor's furnished precious metals."

DATE: Comments on the proposed revisions should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below on or before August 12, 1985 to be considered in the formulation of the final rule. Please cite DAR Case No. 82–69 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles Lloyd, Executive Secretary, OUSDRE(AM) DARS, The Pentagon, Washington, DC 20301–3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697–7266.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act.

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it has been determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act and, therefore, no regulatory flexibility analysis has been prepared.

List of Subjects in 48 CFR Parts 208 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Proposed Amendments to 48 CFR Part 208

1. The authority for 48 CFR Parts 208 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 208—REQUIRED SOURCES OF SUPPLY AND SERVICES

2. Subpart 208.77, consisting of §§ 208.7701 through 208.7703, is added to read as follows:

Subpart 208.77—Utilization of Government-Owned Precious Metals

Sec.

208.7701 Definitions.
208.7702 Policy.
208.7703 Applicable Procedures.

Subpart 208.77—Utilization of Government-Owned Precious Metals

208.7701 Definitions.

"Refined precious metal" means recovered silver, gold, platinum, palladium, iridium, rhodium, or ruthenium in bullion, granulation or sponge form which has been purified to at least .999 percentage of fineness.

"Defense Industrial Supply Center (DISC)" means the Defense Logistics Agency field activity which is the assigned Commodity Integrated Materiel Manager for refined precious metals and is responsible for the storage and issue of such materiel.

208.7702 Policy.

(a) This section establishes uniform policy, guidance, and procedures for implementing requirements of the Department of Defense Precious Metals Recovery Program (PMRP) concerning the utilization of PMRP recovered precious metals as Government-furnished material (GFM) in contracts as provided in DoD Directive 4160.22, "Recovery and Utilization of Precious Metals", December 1, 1976, and the related DoD Instruction 4140.41, "Government-Owned Materiel Assets Utilized as Government-furnished Materiel for Major Acquisition Programs", July 26, 1974.

(b) It is the policy of the Department of Defense that DoD Components participate in the PMRP to the maximum extent and promote optimum economic utilization of available Government-owned precious metals as Government-furnished material in lieu of contractor-furnished precious metals in production contracts.

(c) In order to realize more cost-effective contracting, DoD-refined precious metal assets shall be utilized in lieu of open market contracting in acquisition programs for military-designed or commercial material when

use of Government-furnished material (GFM) is the more cost-effective manner to accomplish the task, or is otherwise in the Government's best interest. The DISC issue price of GFM precious metals is normally significantly lower then the commercial market price.

208.7703 Applicable procedures.

(a) To assure maximum utilization of PMRP recovered precious metals as GFM in contracts for items which require those prcious metals cited in (d) below in their manufacture, the provision in 252.208–7004 in shall be inserted in solicitations for items in the Federal Supply Groups listed in (c) below or any subassembly, component, or part thereof except when: using small-purchase procedures; the contracting officer has determined, through the end item inventory manager, in accordance with the procedures in Chapter XVII of the Defense Utilization and Disposal Manual, DoD 4160.21–M, that the required precious metals are not available from DISC; or when the contracting officer knows that the supplies being acquired do not require precious metals in their manufacture.

(b) When an offeror advises of a precious metals requirement in accordance with 252.208–7704, the contracting officer shall have the end item inventory manager contact the DISC Precious Metal Inventory Manager (IM), in accordance with the procedures in Chapter XVII of the Defense Utilization and Disposal Manual, DoD 4160.21–M, to determine availability of required precious metal assets and current GFM unit prices. If the precious metals are available, the contracting officer shall evaluate offers and award the contract on the basis of that offer which is in the best interests of the Government.

(c) *Federal Supply Groups.* Acquisition of items in the following Federal Supply Groups are subject to the above-prescribed policy and procedures:

FS Groups and Description

12 Fire Control Equipment
14 Guided Missiles
15 Aircraft and Airframe Structural Components
16 Aircraft Components and Accessories
17 Aircraft launching, Landing, and Ground Handling Equipment
18 Space Vehicles
20 Ship and Marine Equipment
28 Engines, Turbines and Components
29 Engine Accessories
31 Bearings
34 Metalworking Machinery
58 Communications, Detection, and Coherent Radiation Equipment
59 Electrical and Electronic Equipement Components
61 Electric Wire and Power and Distribution Equipment
65 Medical, Dental, and Veterinary Equipment and Supplies
66 Instruments and Laboratory Equipments
67 Photographic Equipment
68 Chemicals and Chemical Products
84 Clothing, Individual Equipment, and Insignia
95 Metal Bar, Sheets, and Shapes

(d) *Refined Precious Metals.* The following refined precious metals are currently managed by DISC:

Precious Metal and National Stock Number (NSN)

Silver Bullion/Granules—9660–00—106–9432
Gold Bullion/Granules—9660–00–042–7733
Platinum Granules—9660–00—042–7768
Platinum Sponge—9660–00–151–4050
Palladium Granules—96600–00–042–7765
Rhodium Sponge—96600–01–010–2625
Iridium Sponge—96600–01–011–1937
Ruthenium Sponge—96600–01–039–0313

PART 252—CONTRACT CLAUSES AND SOLICITATION PROVISIONS

3. Section 252.208–7004 is added to read as follows:

252.208–7004 Notice of Intent To Furnish Precious Metals as Government-Furnished Material.

As prescribed at 208.7703(a), insert the following provision.

Notice of Intent to Furnish Precious Metals as Government-Furnished Material (Date)

(a) It is the Government's intent to furnish precious metal(s) required in the manufacture of contractually-deliverable items by the Offeror in performance of any contract resulting from this solicitation pursuant to the clause "Government-Furnished Property" herein (except that use of Government-furnished silver is mandatory only when the quantity required is one hundred (100) troy ounces or more), if such action is determined to be in the Government's best interest.

(b) To facilitate such determination the Offeror shall cite below the type (silver, gold, platinum, palladium, iridium, rhodium, and ruthenium) and quantity (in whole troy ounces) of precious metal(s) required in the performance of this contract (including precious metal required for any first article or production sample), and shall also cite in what contractually-deliverable item the precious metal(s) will be used, specifying National Stock Number and Nomenclature, if known.

Type of precious metal required [1]	Quantity (in whole troy ounces)	Contractually-deliverable item in which precious metals will be used (cite NSN and nomenclature)

[1] If platinum or palladium, specify whether sponge or granules are required.

(c) Offerors shall submit two prices for each contractually-deliverable item containing precious metal: one based on the Government's furnishing precious metals, and one based on the Contractor's furnishing precious metals; and award will be made, considering the Government-furnished material unit price which is in the best interest of the Government.

(d) The contractor agrees to insert this provision, including this paragraph (d), in solicitations for subcontracts and purchase orders issued in performance or any contract resulting from this solicitation unless the Contractor knows that the item being purchased contains no precious metals.

(End of provision)

[FR Doc. 85–16487 Filed 7–10–85; 8:45 am]
BILLING CODE 3810–01–M

Notices

Federal Register
Vol. 50, No. 133
Thursday, July 11, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Sawtooth National Forest Grazing Advisory Board; Meeting

The Sawtooth National Forest Grazing Advisory Board will hold a meeting in Stanley, Idaho, on August 8, 1985, at 1:00 p.m. The meeting will be held in the field and will begin at the Stanley Work Center Forest Office.

The Advisory Board, comprised of eight members, will meet to review and make recommendations to the Sawtooth National Forest Supervisor on a draft allotment management pian.

The meeting is open to the public. Persons who wish to attend should notify the Sawtooth National Forest Supervisor, 1525 Addison Avenue East, Twin Falls, Idaho 83301. Written statements may be filed with the advisory Board after the meeting.

July 23, 1985.

Roland M. Stoleson,

Forest Supervisor, Sawtooth National Forest.

[FR Doc. 85-16466 Filed 7-10-85; 8:45 am]

BILLING CODE 3410-11-M

Packers and Stockyards Administration

Proposed Posting of Stockyards

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards 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.

AZ-113 Western States Auction Sales, Inc., Vail, Arizona
CA-178 Chino Livestock Commission & Yardage Co., Chino, California
CO-152 Garfield Livestock, Inc., Silt, Colorado
ME-105 Clark Livestock Sales, Inc., Skowhegan, Maine
MN-181 Minnesota Feeder Pig Mkt., Dawson, Minnesota
MS-161 Meadows Livestock Auction, Inc., Mize, Mississippi
SC-138 Intercoastal Auction Barn Conway, South Carolina.

Notice is hereby given that pursuant to authority under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it is proposed to designate the stockyards named above as posted stockyards 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 Director, Livestock Marketing Division, Packers and Stockyards Administration, United States Department of Agriculture, Washington, DC 20250, by July 26, 1985.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC, this 5th day of July 1985.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 85-16507 Filed 7-10-85; 8:45 am]

BILLING CODE 3410-KD-M

Soil Conservation Service

San Felipe Creek Watershed, TX.; Intent To Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the San Felipe Creek Watershed project, Val Verde County, Texas.

FOR FURTHER INFORMATION CONTACT: Billy C. Griffin, State Conservationist, Soil Conservation Service, 101 South Main, Temple, Texas 76501, telephone 817-774-1214.

SUPPLEMENTARY INFORMATION: A determination has been made by Billy C. Griffin that the proposed works of improvement for the San Felipe Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Billy C. Griffin, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: July 5, 1985.

O'Gene W. Barkemeyer,

Assistant State Conservationist for Water Resources.

[FR Doc. 85-16515 Filed 7-10-85; 8:45 am]

BILLING CODE 3410-16-M

Lower Bayou Watershed, OK; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Bayou Watershed, Love, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, USDA Agricultural Center Building, Stillwater, Oklahoma 74074, telephone (405) 624-4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this

federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood control and watershed protection. The planned works of improvement include five floodwater retarding dams.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland R. Willis.

No administrative action in implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: July 3, 1985.

Roland R. Willis.

State Conservationist.

[FR Doc. 85-16539 Filed 7-10-85; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Forms Under review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collections of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: NOAA
Title: Logbook Family of Forms
Form Number: Agency—; OMB—0648-0016
Type of Request: Revision of a current approval collection.
Burden: +100 respondents; +1,316 reporting hours
Needs and Uses: An amendment to the Coastal Migratory Pelagic Resources Fishery Management Plan (FMP) is requested to monitor and evaluate changes in species abundance. These data will be used to distinguish harvest between Gulf and Atlantic migratory groups. A sample of ten percent of the approximately 1,000 boats in the southeast whose captains are licensed to carry passengers for a fee will be required to report all effort and catches of coastal pelagics by species.
Affected Public: Businesses or other for-profit; small businesses or organizations
Frequency: On occasion, quarterly
Respondent's Obligation: Mandatory
OMB Desk Officer: Sheri Fox, 396-3785.

Agency: NOAA
Title: Federal Fisheries Permit—Amendment G
Form Number: Agency—NOAA 88-156; OMB—0648-0097
Type of Request: Revision of a currently approved collection
Burden: +600 respondents; +300 reporting hours
Needs and Uses: Permits are required to identify the universe of commercial vessels engaged in fishing operations on the Gulf of Mexico king mackerel migratory groups due to the overfished conditions. A quota has been set which provides the commercial share of the stock rebuilding burden. Councils and NMFS will use the data monitor catch levels and to trigger closure dates.
Affected Public: Individuals or households, businesses or other for-profit, small businesses or organizations
Frequency: Annual
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox, 395-3785.

Agency: NOAA
Title: Dealer Purchases and Trip Interviews (Amendment 4)
Form Number: Agency—; OMB—0648-0013
Type of Request: Revision of a currently approved collection
Burden: +681 respondents; +159 reporting hours
Needs and Uses: Data on dealer purchases are required in establishing and evaluating fishery management and development activities to prevent overfishing of king mackeral stock and to monitor all stocks at maximum sustainable yield (MSY). All commercial fishing trips made by vessels participating in the coastal pelagics fishery will be reported.
Affected Public: Individuals or households, businesses or other for-profit, small businesses or organizations
Frequency: Weekly, monthly
Respondent's Obligation: Mandatory
OMB Desk Officer: Sheri Fox, 395-3785.

Agency: Minority Business Development Agency
Title: Quarterly Narrative Performance Report
Form Number: Agency—NA; OMB—0640—0007
Type of Request: Extension of a currently approved collection
Burden: 150 respondents; 9,600 reporting hours
Needs and Uses: This information is required to compare the individual organization's accomplishments against its performance goals for the quarter and to evaluate overall results of the agency funded programs.
Affected Public: Individuals or households, state or local governments, businesses or other for-profit institutions, non-profit institutions
Frequency: Quarterly
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Timothy Sprehe, 395-4814.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Office, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3225, New Executive Office Building, Washington, D.C. 20503.

Dated: July 3, 1985.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 85-16438 Filed 7-10-85; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[C-333-502]

Initiation of Countervailing Duty Investigation—Deformed Steel Concrete Reinforcing Bar From Peru

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Peru of deformed steel concrete reinforcing bar (rebar), as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants within the

meaning of the countervailing duty law. Since Peru is not a "country under the Agreement", section 303 of the Tariff Act of 1930, as amended (the Act), applies to this investigation. If this investigation proceeds normally we will make our preliminary determination on or before September 6, 1985.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth Haldenstein or Laura Winfrey, 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) 377–4136 or 377–0160.

SUPPLEMENTARY INFORMATION:

The Petition

On June 13, 1985, we received a petition from the Florida Steel Corporation and Chaparral Steel Company on behalf of the U.S. industry producing rebar. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters of rebar in Peru receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act). Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, sections 303(a)(1) and (b) of the Act apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on rebar from Peru, and we have found that the petition meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Peru of rebar as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants.

Scope of Investigation

For purposes of this investigation the term deformed concrete reinforcing bar covers hot-rolled steel bars, of solid cross section, having deformation of various patterns on their surfaces which are currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA) under item numbers 606.7900 and 606.8100

Deformed concrete reinforcing bars are hot-rolled bar products, consisting of special deformed sections used to resist tension, compression, temperature and/or shear stresses for reinforcing concrete. The category includes all deformed concrete reinforcing bars rolled from new billet steel, rail steel, or axle steel including straight lengths and coils.

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters in Peru of rebar receive benefits under the following programs which constitute bounties or grants:

- Certificate of Tax Rebate System (CERTEX)
- Nontraditional Export Fund (FENT)
- Law for the Promotion of Exports of Nontraditional Goods (Export Law)
  - —Articles 8 and 9
  - —Article 12
  - —Article 13
  - —Article 14
  - —Article 16
  - —Article 23
  - —Article 31
- Regional Incentives
- Export Promotion Fund (FOPEX) and the Peruvian Export Credit Insurance Company S.A. (SECREX)
- Equity Infusions into SIDERPERU
- Government Loans and Loan Guarantees
- Forgiveness and Capitalization of Debt
- Exemption of Import Duties—We note that we are currently reconsidering the issue of whether exemptions from import duties on raw materials physically incorporated in products sold on the domestic market confer a bounty or grant.
- Reimbursement of Duties.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

July 2, 1985.

[FR Doc. 85–16439 Filed 7–10–85; 8:45 am]

BILLING CODE 3510–DS–M

[C–517–501]

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From Saudi Arabia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Saudi Arabia of carbon steel wire rod, as described in the "Scope of the Investigation" section of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before September 5, 1985.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: John Davies or Barbara Tillman, 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) 377–1785 or (202) 377–2438.

SUPPLEMENTARY INFORMATION:

Petition

On June 12, 1985, we received a petition in proper form from counsel for Atlantic Steel Co., North Star Steel Texas, Inc., Georgetown Steel Corp. and Raritan River Steel Co. filed on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Saudi Arabia of carbon steel wire rod receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Since Saudi Arabia is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable, sections 303(a)(1) and (b) apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise from Saudi Arabia materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod from Saudi Arabia, and we have found that the petition meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Saudi Arabia of carbon steel wire rod, as described in the "Scope of the Investigation" secton of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination on or before September 5, 1985.

Scope of the Investigation

For purposes of this investigation the term carbon steel wire rod covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch in diameter, nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under 4 cents per pound. Wire rod is currently classifiable under items 607.14, 607.17, 607.22 and 607.23 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters in Saudi Arabia of carbon steel wire rod receive benefits under the following programs that constitute bounties or grants. We are initiating an investigation on the following allegations:

- Equity investment by the government of Saudi Arabia provided on terms inconsistent with commercial considerations.
- Special benefits, such as import duty exemptions and preferential utility rates, under the Law for the Protection and Encouragement of National Industry in the Kingdom of Saudi Arabia which may be limited to a specific enterprise or industry or group of enterprises or industries (We note that we are currently reconsidering the issue of whether duty exemptions on raw materials and packaging physically incorporated in products sold on the domestic market confer a bounty or grant.)
- Special benefits to enterprises located in Jubail:
- Special benefits to joint ventures under the Foreign Capital Investment Code, and the Saudi Arabian Tenders Regulations and Rules for Implementation.

We are also initiating an investigation on the following program which was not alleged by petitioners, but on which information was included in the petition:

- Loans from the Saudi Industrial Development Fund.

We are not initiating an investigation on the following allegation for the reasons stated below.

- *Equity investments by the Deutsche Entwicklungsgesellschaft (DEG) and Korf-Stahl.*

Petitioners also allege that the equity investments in SISCO made by the German partners were inconsistent with commercial considerations.

We are not initiating on the equity investments in SISCO by the foreign partners. Section 303 of the Act states that "whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States . . . there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed." Therefore, we do not believe that funds provided by German investors can confer a countervailable benefit on wire rod manufactured in and exported from Saudi Arabia.

Dated: July 2, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-16457 Filed 7-10-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-471-502]

Preliminary Negative Countervailing Duty Determination; Carbon Steel Wire Rod from Portugal

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Portugal of carbon steel wire rod.

We have notified the United States International Trade Commission (ITC) of our determination. If this investigation proceeds normally, we will make our final determination by September 16, 1985.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen or Mary Martin, 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) 377-0167 or 377-3464.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon investigation, we preliminarily determine that there is no reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Portugal of carbon steel wire rod.

Case History

On April 8, 1985, we received a petition filed by Atlantic Steel Co., Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co., on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Portugal of carbon steel wire rod directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on April 29, 1985, we initiated such an investigation (50 FR 19065). We stated that we expected to issue a preliminary determination by July 2, 1985.

Since Portugal is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of carbon steel wire rod from Portugal materially injure, or threaten

material injury to, a U.S. industry. On May 15, 1985, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of carbon steel wire rod from Portugal.

We presented a questionnaire concerning the allegations to the government of Portugal in Washington, D.C., on May 9, 1985. The government of Portugal and Siderurgia Nacional EP (SN) provided responses to our questionnaire on June 17, 1985.

Scope of the Investigation

The merchandise covered by this investigation is carbon steel wire rod, a coiled, semi-finished, hot-rolled carbon steel product or approximately round solid cross section, not under 0.20 inch nor over 0.74 ionch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound. Wire rod is currently classifiable under item 607.17 of the *Tariff Schedules of the United States* (TSUS).

Analysis of Programs

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

There is only one known producer in Portugal of carbon steel wire rod, Siderurgia Nacional EP ("SN"). We have received information from the company and the government of Portugal. For purposes of this preliminary determination, the period for which we are measuring subsidization ("the review period") is calendar year 1984.

Based upon our analysis of the petition and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that manufacturers, producers or exporters in Portugal of carbon steel wire rod did not use the following programs:

A. Export Financial at Preferential Rates—The "Export Card"

Petitioners alleged that manufacturers, producers, or exporters of carbon steel wire rod may be benefitting from export financing at preferential rates (the "export card" program.) The government of Portugal stated in its response that the short term export financing formerly provided under the "export card" program was terminated effective December 31, 1983. The response also stated that SN received no benefit from any (1) medium- or long-term financing or (2) foreign importer financing, under this program, during the review period. Therefore, we preliminarily determine that this program was not used.

B. Export Tax Incentives

Petitioners alleged that manufacturers, producers or exporters of carbon steel wire rod may be benefitting from export tax incentives under Decrees 42/77 and 1113/80, Law 4/80, and Decree-Laws 329/80 and 408/80. The government of Portugal stated in its response that SN received no benefits under the export tax incentives legislation. Accordingly, we preliminarily determine that this program was not used.

C. Integrated Investment Incentive System

Petitioners alleged that manufacturers, producers, or exporters in Portugal of carbon steel wire rod may be receiving benefits, which constitute subsidies, under the following regimes of Portugal's Integrated Investment Incentives System:

- General regime;
- Regional/sectoral regime;
- Extraordinary regime of capital donations;
- Contractual regime for projects of high economic and social impact;
- Subsidy regime for research and technical development.

The government of Portugal stated in its response that SN received no benefits under any of the regimes of the Integrated Investment Incentive System by Decree-Law 132/83. Therefore, we preliminarily determine that this program was not used.

D. Domestic Business Incentives

Petitioners alleged that manufacturers, producers, or exporters in Portugal of carbon steel wire rod may be receiving domestic business subsidies under Ruling 316/78 and/or Decrees 353-E/77 and 24/77. The government of Portugal stated in its response that Rulings 316/78, 197/80 and 1/81 provide various employment benefits to small—and medium-sized companies, and that SN received none of these benefits. The response further stated that SN did not take advantage of any benefits available under Decree-Law 353-E/77 or Regulatory Decree 24/77. Accordingly, we preliminarily determine that no domestic business incentives available under the aforementioned legislation were used.

II. Programs for Which Additional Information is Needed

A. Capital Increases

We examined SN's 1984 annual report and noted that the financial statement lists capital increases granted by the government of Portugal in 1983 and 1984. These increases were recorded as "Statutory Capital Increases." During verification, we intend to seek more information concerning these capital increases in order to determine whether the government of Portugal is providing a countervailable benefit to SN through these capital increases.

Preliminary Negative Determination of Critical Circumstances

On July 11, 1985, in a supplement to the petition, petitioners alleged that imports of wire rod from Portugal present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exists when the Department has a reasonable basis to believe or suspect that (1) the alleged subsidy is inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code"), and (2) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

In our preliminary determination, we have found that no benefits which constitute subsidies within the meaning of the countervailing duty law and the Subsidies Code are being provided to manufacturers, producers, or exports in, Portugal of carbon steel wire rod. We, therefore, did not consider whether there have been massive imports over a relatively short period.

For the reasons described above, we preliminarily determine that "critical circumstances" do not exist with respect to carbon steel wire rod from Portugal.

ITC Notification

In accordance with section 703(f) of

the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure or threaten material injury to a U.S. industry 120 days after the Department makes its preliminary determination or 45 days after its final affirmative determination, whichever is latest.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination. As previously stated, we will not accept any statement in the response that cannot be verified for our final determination.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. July 31, 1985, at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of pre-hearing briefs must be submitted to the Deputy Assistant Secretary by July 24, 1985. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: July 1, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-16456 Filed 7-10-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-506]

Preliminary Affirmative Countervailing Duty Determination; Carbon Steel Wire Rod From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Venezuela of carbon steel wire rod. The estimated net subsidy for carbon steel wire rod is 70.98 percent *ad valorem*.

We have notified the United States International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel wire rod from Venezuela that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond on entries of this product in the amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by September 16, 1985.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Terry Link or Barbara Tillman of the Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washingon, D.C. 20230; telephone: (202) 377-0189 or 377-2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitue within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Venezuela of carbon steel wire rod. For purposes of this investigation, the following programs are found to confer subsidies:

- Preferential Government Loans.
- Export Certificates for Credit Against Income Taxes.
- Sales Tax Exemption.
- Multiple Exchange Rates.
- Government Equity Infusions.
- Government Payments to Cover Debt Service Costs.

We preliminarily determine the estimated net subsidy for carbon steel wire rod to be 70.98 percent *ad valorem*.

Case History

On April 8, 1985, we received a petition in proper form from Atlantic Steel Co., Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co. filed on behalf of the U.S. industry producting carbon steel wire rod. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), The petition alleges that manufacturers, producers, or exporters in Venezuela of carbon steel wire rod, directly or indirectly, receive benefits which constitute within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on April 29, 1985, we initiated such an investigation (50 F.R. 19066). We stated that we expected to issue a preliminary determination by July 2, 1985.

Since Venezuela is a "country under the Agreement" within the meaning of section 701(b)(3) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On May 23, 1985, the ITC determined that there is a reasonable indication that imports of carbon steel wire rod materially injure of threaten material injury to a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Venezuela in Washington, D.C. on May 7, 1985. On June 6, 1985, we received responses to our questionnaire from the government of Venezuela and from C.V.G. Siderurgica Del Orinoco, C.A. (SIDOR), the only known producer and exporter in Venezuela of carbon steel wire rod to the United States.

Scope of the Investigation

The product covered by this investigation is carbon steel wire rod, a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross-section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly

manufactured, and valued over 4 cents per pound. Wire rod is currently classifiable under item 607.17 of the *Tariff Schedules of the United States* (TSUS).

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of this preliminary determination, the period for which we are measuring subsidization ("the review period") is the calendar year 1984.

Petitioners allege that SIDOR is both unequityworthy and uncreditworthy. We have consistently held that government provision of equity does not *per se* confer a subsidy. Government equity purchases bestow countervailable benefits only when they occur on terms inconsistent with commercial considerations. We prefer to measure the subsidy by reference to market price. When there is no market-determined price for equity, it is necessary to determine whether equity purchases in the company are reasonable commercial investments. Since SIDOR's shares are not publicly traded and there are no market-determined prices for its shares, we must determine whether SIDOR is "equityworthy" for the period 1971 through 1984.

To make this determination, we reviewed and assessed financial statements from 1969 to 1984. We also examined a World Bank study submitted by the government of Venezuela. In analyzing the financial statements, we considered the information from the viewpoint of an investor. The Department, when considering accounting principles and practices, analyzes the impact of the accounting practices used by the company on its overall financial results. In this review, we analyzed the results of the following ratios:

- Rate of return on sales.
- Rate of return from operations.
- Rate of return on equity.
- Debt to equity.
- Current ratio.

Based on our review of the financial statements and the company and government reponses, we determine that the government's equity infusions into SIDOR were on terms inconsistent with commercial considerations from 1978 through 1984.

SIDOR received a government (FIV) loan in 1975. To determine whether SIDOR was creditworthy when it received this loan, we examined the debt to equity ratio and the ability of the company, through its operations, to meet its interest obligations and principal payments. In addition to the above mentioned ratios, we also reviewed SIDOR's cash flow, debt repayment performance, and interest expense coverage ratio. Our analysis of these factors leads us to conclude that SIDOR was creditworthy for the period 1972 through 1976, the period during which it received the FIV loan.

Based upon our analysis of the petition and the responses to our questionnaire, we preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Venezuela of carbon steel wire rod under the following programs:

A. Preferential Government Loans

Petitioners allege that SIDOR receives large low-cost loans directly from the government agencies at preferential interest rates. Furthermore, it is alleged that SIDOR is an uncreditworthy borrower.

1. Ministry of Finance Loan

According to SIDOR's response, it received a 817 million bolivares (Bs.) loan from the Ministry of Finance (MOF) in 1977, which was outstanding during the review period. MOF never established terms for this loan and SIDOR has never made principal or interest payments. In 1981, the MOF indicates to SIDOR that it would convert this loan to equity, but it has not yet done so.

In its response, the government provided no information on the availability of MOF loans. Because respondents provided no information that MOF loans are not limited to a specific enterprise or industry or group of enterprises or industries, and because a loan with zero interest is on terms inconsistent with commercial considerations, we preliminarily determine that this loan is countervailable.

Since SIDOR does not know from year to year if this loan will be converted to equity, we treat this loan as a short-term one-year loan with a zero percent rate of interest. Under our current methodology, it is not necessary to make a creditworthiness determination for a short-term loan. To calculate the benefit from this loan, we compared the zero percent interest rate to the national average short-term rate for commercial loans (the short-term prime rate published by Morgan Guaranty in *World Financial Markets*) and allocated the benefit over total sale value. On this basis, we calculate an estimated net subsidy of 2.08 percent *ad valorem*.

2. Loan through the Venezuelan Investment Fund

Petitioners allege that the Venezuelan Investment Fund (FIV), a government-owned agency, provides large, low-cost loans to Venezuelan steel producers.

According to its response, SIDOR had one loan from the FIV in 1975 that was outstanding during the review period. Because the government of Venezuela has provided no information that FIV loans are not limited to a specific enterprise or industry, we preliminarily determine that these loans are limited to a specific enterprise or industry or group of enterprises or industries. As discussed in the "Analysis of Programs" section, we preliminarily determine that SIDOR was creditworthy during 1975.

As outlined in the Subsidies Appendix, the appropriate benchmark for long-term loans will be company specific, unless the company lacks adequate commercial loan experience. In its response, SIDOR states that it had no other outstanding bolivares loans during the review period. Therefore, for the purposes of this preliminarily determination, we are using a national average long-term rate for our benchmark, which is the yield on long-term corporate bonds, published by Morgan Guaranty in *World Financial Markets*. Using this rate as our benchmark, we find that the interest rate on the FIV loan is preferential, and as such, confers a benefit which constitutes a domestic subsidy.

To calculate the benefit from this loan, we used the methodology described in the Subsidies Appendix for long-term loans to creditworthy

companies. Since we did not have Sidor's marginal cost of debt or the national average rate of return on equity, we used as our discount rate the national average yield on long-term corporate bonds, published by Morgan Guaranty in *World Financial Markets*. We then allocated this benefit over total sales. On this basis, we calculate an estimated net subsidy of 1.04 percent *ad valorem*.

B. Export Certificates for Credit Against Income Taxes

Petitioners allege that Venezuelan steel exporters receive certificates to encourage exports, which may be sold for cash or used to pay income taxes. the value of the certificate is based on a percentage of the f.o.b. value of the exported merchandise.

According to the responses of the government of Venezuela and SIDOR, under this program a certain percentage of the value of an export shipment is paid by the government. The amount paid depends on the proportion of domestic content of the merchandise exported, as well as certain policy objectives of the government, such as maintaining a high rate of employment. Upon export, an exporter receives an export certificate which specifies the amount to be returned to the exporter. This amount is determined by multiplying the exporter's allowable rebate percentage by the f.o.b. value of the export in dollars. This dollar value is then converted to bolivares at a rate of Bs. 7.5 to the dollar. The certificate, along with accompanying shipping and sales documents, must be sent to the Central Bank, which then issues the export bond. This bond may be sold for cash or used to pay taxes. Because this program is limited to exporters and does not operate to rebate any indirect taxes, we preliminarily determine that this program confers an export subsidy.

To calculate the benefit, we allocate the amount received in bolivares during 1984 over total export sales. On this basis, we calculate an estimated net subsidy of 3.68 percent *ad valorem*.

C. Sales Tax Exemption

According to the response of the government of Venezuela, SIDOR has negotiated with the municipal authorities in the Province of Guayana, where SIDOR's steel making facilities are located, for an exemption from the payment of municipal sales taxes. We have no evidence that the municipal authorities have negotiated such an exemption with any other enterprises or industries. Because this tax exemption appears to be limited to a specific enterprise, we preliminarily determine that this exemption constitutes a domestic subsidy.

To calculate the benefit from this tax exemption, we allocated the total amount of sales taxes exempted during the review period over total sales. On this basis, we calculate an estimated net subsidy of 0.21 percent *ad valorem*.

D. Multiple Exchange Rates

On February 22, 1983, the government of Venezuela authorized the establishment of a multiple exchange rate system after more than 19 years at a fixed rate system of Bs. 4.30 to the dollar. In its response the government of Venezuela stated that this change in the exchange rate was made in an attempt to gradually devalue the bolivar while avoiding the inflationary impact of a sudden devaluation.

The Central Bank of Venezuela (CBV) and the Ministry of Finance (MOF) signed an Exchange Agreement on February 28, 1983, establishing a four-tiered exchange rate system. The first exchange rate is a fixed rate of Bs. 4.30 to the dolar. This rate is applied to the sale of foreign exchange by the CBV for payments on foreign-source private and public debt, the importation of essential goods and services, and the sale of foreign exchange from the state-owned oil industries (PDVSA), iron ore industry (FERROMINERA), and the Venezuelan Investment Fund. The second rate is also a fixed rate, but at Bs. 6.00 to the dollar. This rate is applied to the sale of foreign exchange by the CBV for the importation of less essential goods, foreign exchange obtained from the export of goods and services from state-owned enterprises (other than PDVSA and FERROMINERA), and foreign exchange on exports by the private sector when offered to the CBV.

The other two rates established are a foreign exchange free market rate (an average Bs. 12.47 to the dollar during 1984) established for all exchange operations not specifically provided for elsewhere, and a "free-but-official" rate for the purchase and sale of dollars by the CBV in the free market. According to the response from the government of Venezuela, the private sector used the free market exclusively, and did not offer its foreign exchange to the CBV under the second rate described above.

Under this Exchange Agreement, the government also established the Office of Preferential Exchange Regime (RECADI) to administer the multiple exchange rate system. RECADI is responsible for handling applications from importers for merchandise categorized as essential or less essential. To receive the more preferential exchange rate for imports, an importer must submit an application to RECADI identifying the value, quantity and payment terms of the intended purchase. After RECADI reviews the application, it may authorize the use of the more preferential exchange rate to cover the particular purchase.

In May 1983, the government began gradually to allow the public sector companies (other than PDVSA and FERROMINERA) to use the free market rate. Until this time only private companies had access to the free market. In its response, the government stated that it excluded PDVSA and FERROMINERA from the free market during 1983 and 1984, because it recognized that their substantial foreign exchange earnings would have an inflationary impact on the overall economy.

On February 24, 1984, the government of Venezuela signed an Exchange Control Agreement between the MOF and the CBV which increased the exchange rate for importation of less essential goods from Bs. 6.00 to Bs. 7.50 to the dollar. In addition, this Agreement created the "quota share" policy, which required all exporters to sell back to the Central Bank the dollars earned on the imported component of the finished product at the same exchange rate used for the importation. Until the 1984 Agreement was signed, exporters could buy imports at the Bs. 4.30 or the Bs. 7.50 to the dollar rate, and, upon exportation, sell the dollars earned on the imported component at the free market exchange rate. The difference in the exchange rate between the lower rate used to purchase imports and the free market rate for selling dollars provided a benefit to exporters.

To implement the quota share policy, the government published Resolution No. 84–05–01 in May 1984. This resolution required that the value of 50 percent of the import content of the exported product, as calculated in the ICE certificate used for granting export bonds, be sold to the CBV at the lower (the same rate at which they buy foreign exchange for imports) exchange rate of Bs. 7.50 to the dollar. To enforce the quota share program, the CBV requires exporters to sign a contract upon exportation stating that the specified proportion of export earnings will be sold to the CBV at the same rate used for importation of the material inputs.

For SIDOR, the ICE certificate calculation of imported raw material content is 47 percent. SIDOR imports scrap and other items which are classified as less essential items. During the review period, less essential items

were eligible for the Bs. 7.50 exchange rate. Therefore, under this program, SIDOR was required to sell at least 23.5 percent of its dollars earned from exports of wire rod to the CBV at the Bs. 7.50 rate.

Under the multiple exchange rate system, one dollar received for export sales yields more bolivares than SIDOR pays to purchase one dollar for imports. Because receipt of the higher exchange rate is contingent upon selling dollars earned from export sales, we consider the multiple exchange rate to confer an export subsidy. However, since our experience in examining multiple exchange rate systems is limited, we welcome comments on the counteravailbility and the calculation of potential benefits received through multiple exchange rate systems.

To calculate the benefit from this program, we subtracted the exchange rate applicable to SIDOR's purchase of imports from the weighted average exchange rate received by SIDOR when selling dollars from export sales. We multiplied this difference by the total 1984 export value for SIDOR in dollars and allocated the product over SIDOR's total 1984 export sales in bolivares. On this basis, we calculate an estimated net subsidy of 33.63 percent *ad valorem.*

E. Government Equity Infusions

Petitioners allege that equity infusions into SIDOR by the government of Venezuela were on terms inconsistent with commercial considerations.

As discussed in the "Analysis of Programs" section, we preliminarily determine that SIDOR was not a reasonable commercial investment from 1978 through 1984, and, thus the government equity infusions in 1978, 1981, 1982 and 1983 were on terms inconsistent with commercial considerations. Therefore, we preliminarily determine that these equity infusions confer benefits which constitute a subsidy.

To calculate the benefit, we followed the rate of return shortfall methodology outlined in the Subsidies Appendix. We used the commercial bank prime rate (published by Morgan Guaranty in *World Financial Markets*) as the rate from which we subtracted SIDOR's rate of return on equity during the review period, because we were unable to obtain the national average rate of return on equity for 1984. On this basis, the estimated net subsidy is 30.06 percent *ad valorem.*

F. Government Payments To Cover Debt Service Costs

Petitioners allege that SIDOR received "tax contributions" authorized by the Ministry of the Treasury, to meet its interest obligations from 1980 through 1983. According to SIDOR's response, it receives no such tax contributions. However, SIDOR's 1984 Annual Report states that in December 1984, SIDOR received a financial contribution from the National Executive to cover the service cost of the external debt. Because we could not determine from the information provided by respondent that such financial contributions are not limited to a specific enterprise or industry or group of enterprises or industries, we preliminary determine that this contribution confers a subsidy.

To calculate the benefit we allocate this contribution over the average useful life of capital assets in the steel industry (15 years), using the methodology outlined in the Subsidies Appendix. Since we did not have Sidor's marginal cost of debt or the national average rate or return on equity, we used as our discount rate the national average yield on long-term corporate bonds, published by Morgan Guaranty in *World Financial Markets.* We then divided the 1984 benefit by total sales. On this basis, we calculate an estimated net subsidy of 0.28 percent *ad valorem.*

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel wire rod from Venezuela which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry in the amount of 70.98 percent *ad valorem.* This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure or threaten material injury to a U.S. industry within 120 days after the Department makes its preliminary affirmative determination or 45 days after its final affirmative determination, whichever is latest.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on August 7, 1985, at the U.S. Department of Commerce, room 5611, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B-099, at the above address within 10 days of the publication of this notice.

Requests for a hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of the pre-hearing briefs must be submitted to the Deputy Assistant Secretary by August 1, 1985. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: July 1, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-16458 Filed 7-10-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-469-021]

Bottled Green Olives From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On August 20, 1984, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on bottled green olives from Spain. The review covers the period January 1, 1982, through May 2, 1982, and five programs

We gave interested parties an opportunity to comment on the preliminary results. After review of the comment received, the Department has determined the net subsidy during the period of review to be zero.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 20, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 33040) the preliminary results of its administrative review of the countervailing duty order on bottled green olives from Spain (39 FR 32904, September 12, 1974). The Department has now completed that administrative review, in accordance with section 751 of the Traiff Act of 1930 ("the Tariff Act").

On May 21, 1984, the International Trade Administration ("the ITC") notified the Department of its determination (49 FR 22720) that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of bottled green olives from Spain if the order were revoked. Consequently, the Department published in the **Federal Register** (49 FR 23671, June 7, 1984) a revocation of the order with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after May 3, 1982, the date of the ITC's notification to the Department of the request for an injury determination.

Scope of Review

Imports covered by the review are shipments of Spanish bottled green olives. Such merchandise is currently classifiable under items 148.4420, 148.4440, 148.4800 and 148.5020 through 148.5080 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, through May 2, 1982, and five programs: (1) a rebate of indirect taxes upon exportation, under the Desgravacion Fiscal a La Exportacion; (2) an operating capital loans program; (3) an export investment reserve program; (4) preferential financing for plant expansion; and (5) regional financing through the SODIAN and SODIEX programs.

Analysis of Comment Received

We gave interested parties an opportunity to comment on the preliminary results. We received a written comment from Aceitunas de Mesa, S.A., the Spanish Table Olives Exporters' Association.

Comment

The Exporters' Association maintains that, because we revoked the countervailing duty order on Spanish bottled green olives effective May 3, 1982, our determination of the benefits from the operating capital loans program should be calculated only for shipments exported on or after January 1, 1982, and entered, or withdrawn from warehouse, for consumption on or before May 2, 1982, rather than for calendar year 1982. The Association further maintains that, to be consistent with the methodology adopted in other Spanish countervailing duty cases, and in the most recent notice of final results of administrative review in this case (48 FR 51501, November 9, 1983), we must consider the benefit to have occurred on the date that the loans were received.

Spanish exporters received no new loans during the period January 1, 1982, through May 2, 1982, and therefore there is no benefit from such loans. Further, because the Department used the date of receipt methodology in the last administrative review, of the 1980–1981 period, the benefit from loans granted in 1981, but still outstanding in 1982, was already captured in the last review. Finally, if the Department considers the benefit to occur when loans are received, loans granted on or after the effective date of revocation cannot be attributed to exports made prior to May 3, 1982. Therefore, there is no subsidy resulting from the operating capital loans program.

Department's Position

We agree that there is no countervailable benefit to Spanish exporters resulting from the operating capital loans program for the period of January 1, 1982, through May 2, 1982. We already countervailed the interest benefit from new loans in 1981 in the last review using date of receipt of loans as the best information then available of the timing of the benefit. Further, Spanish exporters did not take out new loans during the January 1, 1982, through May 2, 1982, period. Therefore, no benefit is possible. This change reduces the total benefit during the review period from 1.75 percent *ad valorem* to zero.

Final Results of the Review

After review of the comment received and adjusting for the change described above, we determine the net subsidy to be zero for the period January 1, 1982, through May 2, 1982. The Department will instruct the Customs Service not to assess countervailing duties on any shipments of bottled green olives exported on or after January 1, 1982, and entered, or withdrawn from warehouse, for consumption before May 3, 1982, the effective date of the revocation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 335.41 of the Commerce Regulations (19 CFR 355.41).

Dated: July 3, 1985

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 85–16504 Filed 7–10–85; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

[Modification No. 3 to Permit No. 413]

Marine Mammals Permit Modification; Southwest Fisheries Center

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216), and § 222.25 of the regulations governing endangered species permits (50 CFR 222), Scientific Research Permit No. 413 issued to the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, on April 20, 1983 (48 FR 17638), as modified on July 6, 1983 (48 FR 31062) and May 11, 1984 (49 FR 20047), is further modified as follows:

Section A–7 is added:

"7. Up to seventy (70) seals may be taken by bleach marking on Kure Atoll from April through September 1985. Animals of both sexes and all age groups may be taken, except nursing and pregnant females. Each animal may be re-bleached once following molt."

This modification became effective on July 3, 1985.

As required by the Endangered Species Act of 1973 issuance of this modification is based on a finding that such modification (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species

which is the subject of the modification, and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This modification was issued in accordance with, and is subject to Parts 220–222 of Title 50 CFR of the National Marine Fisheries Service regulations governing endangered species permits (39 FR 41367), November 27, 1974.

Documents submitted in connection with the above modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235 and;

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 3, 1985.

Carmen J. Blondin,

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

[FR Doc. 85–16483 Filed 7–10–85; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Issuance of Permit; Dr. Louis Rigley

On March 29, 1985, notice was published in the **Federal Register** (50 FR 12603) that an application had been filed by Dr. Louis Rigley, Dickinson State College, Dickinson, North Dakota 58607, for a permit to take Atlantic bottlenose dolphins by inadvertent harassment during the course of scientific research.

Notice is hereby given that on July 8, 1985 and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Mammal Fisheries issued a Permit for the above taking and importing subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98115.

Dated: July 8, 1985.

Carmen J. Blondin,

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

[FR Doc. 85–16546 Filed 7–10–85; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6–332,906 (4,517,080)
Apparatus for Encapsulating Additives in Resealed Erythrocytes

SN 6–380,374 (4,516,385)
Wrapping Machine

SN 6–738,707
Control of Eastern Black Nightshade with a Fungal Pathogen

SN 6–738,815
Oil-Absorbent Cellulosic Derivatives

Department of Commerce

SN 6–436,124 (4,525,067)
Twin-Etalon Scanning Spectrometer

Department of Health and Human Services

SN 6–553,387 (4,517,665)
Acoustically Transparent Hydrophone Probe

SN 6–706,622
Use of Paramagnetic Metalloporphyrins as Contrast Agents for Tumors in NMR Imaging

SN 6–717,613
Therapeutic and Diagnostic Monoclonal Antibody Specific for Human T-Cell Leukemia Virus Types I Envelopes Protein

SN 6–729,206
Vaccine Against Neisseria Meningitidis Group B Serotype 2 Invasive Disease

SN 6–740,171
Medical Apparatus

Department of the Air Force

SN 6–465,227
Optical Correlator

SN 6–547,610
Anaglyphic Stereoscopic Image Apparatus and Method

SN 6–632,179
Electrochromic Display Device

SN 6–657,092
Transceiver Test Device

SN 6–689,700
Microcomputer Controlled Image Processor

SN 6–690,212
Removable Cleanable Antireflection Shield

SN 6–696,129
Soil Extraction Kit

SN 6–706,205
Process for Improving the Quality of Epitaxial Silicon Films Grown on Insulating Substrates

SN 6–716,863
Method of Characterizing Critical Timing Paths and Analyzing Timing Related Failure Modes in Very Large Scale Integrated Circuits

SN 6–720,126
Robotic Order Picking

SN 6–721,836
Brush and Commutator Segment Torquer Motor

SN 6–721,977
Differentiating Spatial Light Modulator

SN 6–724,714
Wide-Band Phase Locked Loop Amplifier Apparatus

SN 6–724,719
Carbon/Carbon Combustor External Insulation

SN 6–726,558
Low Noise Polycrystalline Semiconductor Resistors by Hydrogen Passivation

SN 6–729,389
Hermetic Chip Carrier

SN 6–731,646
Reducing Grating Lobes Due to Subarray Amplitude Tapering

SN 6–733,991
Maintenance Port System

SN 6–737,377
Rotor Blade Test Apparatus

Department of the Army

SN 6–737,627
Microwave Saw Monochromator

[FR Doc. 85–16537 Filed 7–10–85; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending Export Visa Requirement for Certain Cotton, Wool and Man-Made Fiber Apparel Products Produced or Manufactured in India

July 8, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 15, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On November 29, 1979 a letter from the Chairman of CITA to the Commissioner of Customs was published in the **Federal Register** (44 FR 68504), which established an export visa requirement and certification for exemption of certain cotton, wool and man-made fiber textile products, produced or manufactured in India and exported to the United States. The Government of India has notified the United States Government that, effective on July 1, 1985 for goods exported on and after that date, it will visa apparel products in Categories 330–371, 431–459, and 630–671, which are covered under the terms of the bilateral agreement between the two governments, using a printed Special Customs Invoice, issued by the Apparel Export Promotion Council (AEPC). Each such document will include a serial number. A fascimile of the new visa form is published as an enclosure to the letter to the Commissioner of Customs which follows this notice. Apparel products exported before July 1, 1985 will not be denied entry, or withdrawal from warehouse for consumption in the United States until August 31, 1985, for lack of the new visa, provided they are visaed in accordance with previously established visa procedures.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

July 8, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This letter further amends, but does not cancel, the letter of November 26, 1979, as amended, which established an export visa and exempt certification requirement for certain cotton, wool and man-made fiber textile products, produced or manufactured in India.

Effective on July 15, 1985, the letter of November 26, 1979, is hereby further amended to require that apparel products in Categories 330–371, 431–459, and 630–671, as applicable, produced or manufactured in India and exported on and after July 1, 1985, shall be visaed using a printed Special Customs Invoice issued by the Apparel Export Promotion Council (AEPC) of the Government of India. Each document will include a serial number in the lower lefthand corner. A facsimile of the new form is enclosed. Apparel products exported before July 1, 1985 shall not be denied entry, or withdrawal from warehouse, for consumption in the United States until August 31, 1985 for lack of the the new visa, provided they are visaed in accordance with the previously established visa procedures.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

BILLING CODE 3510-DR-M

DEPARTMENT OF THE TREASURY
United States Customs Service
19 U.S.C. 1481, 1482, 1484

SPECIAL CUSTOMS INVOICE

(Use separate invoice for purchase and non-purchased goods)

Form Approved
O.M.B. No. 48 RO 342

1. SELLER

2. DOCUMENT NO.* 3. INVOICE NO. DATE*

4. REFERENCES

5. CONSIGNEE

6. BUYER (if other than consignee)

7. ORIGIN OF GOODS
INDIAN

8. NOTIFY PARTY*

9. TERMS OF SALE, PAYMENT AND DISCOUNT

10. ADDITIONAL TRANSPORTATION INFORMATION*

11. CURRENCY USED

12. EXCH. RATE (if fixed or agreed)

13. DATE ORDER ACCEPTED

14. Marks and Numbers on Shipping Packages	15. Number of Packages	16. Full Description of goods	17. Quantity	Unit Price 18. Marks	Unit Price 19. Invoice	20. Invoice Total

21. ☐ If the production of these goods involved furnishing goods or services to the seller (e.g. assists such as dies, moulds, tools, engineering work) and the value is not included in the invoice price, check box (21) and explain below

27. DECLARATION OF SELLER / SHIPPER (OR AGENT)

I declare:

(A) ☐ If there are any rebates, drawback or bounties allowed upon the exportation of goods, I have checked box (A) and itemized separately below.

I further declare that there is no other invoice differing from this one (unless otherwise described below) and that all statements contained in this invoice and declaration are true and correct.

(B) ☐ If the goods were not sold or agreed to be sold I have checked box (B) and have indicated in col. 19 the price I would be willing to receive.

(C) SIGN. OF SELLER/SHIPPER (OR AGENT)

22. PACKING COSTS	
23. OCEAN OR INTERNATIONAL FREIGHT	
24. DOMESTIC FREIGHT CHARGES	
25. INSURANCE COSTS	
26. OTHER COSTS (specify below)	

28. THIS SPACE FOR CONTINUING ANSWERS

This form of invoice is required urgently if rate of duty based upon or regulated by value of goods and purchased price or value of shipment exceeds$ 500 otherwise use commercial Invoice.

*Not necessary for U.S. Customs purpose.

Custom Form 5515 12 20-76

AEPC/ № 50957

[FR Doc. 85-16443 Filed 7-10-85; 8:45 am]
BILLING CODE 3510-DR-C

11 3. 702

Request for Public Comment on Bilateral Textile Consultations With the Government of Malaysia To Review Trade in Category 648 (Women's, Girls' and Infants' Trousers, Slacks, and Shorts)

July 8, 1985.

On May 31, 1985, the Government of the United States requested consultations with the Government of Malaysia with respect to Category 648. This request was made on the basis of the agreement, as amended and extended, between the Governments of the United States and Malaysia relating to trade in Cotton, Wood and Man-Made Fiber Textiles and Textile Products, effected by exchange of notes dated December 5, 1980 and February 27, 1981. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, as amended and extended, may establish a prorated specific limit for the entry and withdrawal from warehouse for consumption of textile products in Category 648, produced or manufactured in Malaysia and exported to the United States during the period which began on May 31, 1985 and extends through August 31, 1985. This number will be revised to correspond to the consultation provisions of the new agreement once notes are exchanged. The Government of the United States has decided, pending agreement on a mutually satisfactory solution concerning this category, to control imports during the sixty-day consultation period (May 31, 1985 through July 29, 1985) at a level of 104,949 dozens. In the event the level established for the consultation period is exceeded, such excess amount, if allowed to enter, may be charged to the level established during the subsequent restraint period.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 648 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Malaysia, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lehahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

MALAYSIA—MARKET STATEMENT

Category 648—Man-made Fiber Women's Girls' and Infants' Trousers, Slacks and Shorts (MMF WGI Trousers)

May 1985.

Summary and Conclusions

Category 648 imports—MMF WGI trousers—from Malaysia reached 378,000 dozens during the year-ending March 1985, compared with the 70,000 dozens imported during the previous twelve months. Imports for the 1st three months of 1985 reached 177,000 dozens which, if annualized, would indicate a 1985 import level of over 700,000 dozens. This is twice the total amount of MMF WGI trousers imported from Malaysia during 1981–1984.

This is a sharp and substantial increase in imports which, if continued, creates a real risk of market disruption.

Imports and Import-to-Production Ratio

In the latest five year period, Category 648 imports have increased by 60 percent, from 5,947,000 dozens in 1980 to 9,503,000 dozens in 1984. Coinciding was a rise in the import-to-production ratio, from 32 percent in 1980 to between 45 percent and 46 percent in 1984.

Imports are up an additional 8 percent during the 1st quarter of 1985 to 3,367,000 dozens compared with 3,119,000 dozens in January–March 1984.

U.S. Production

Domestic production was 21,641,000 dozens in 1983. Trade sources estimate that Category 648 production declined between two and four percent in 1984. This contrasts with the one and a half million dozens increase in imports. Other indicators of a decline in domestic output is the cuttings data which shows an eleven percent drop in women's trouser cuttings in 1984.

Further, cuttings, of women's trousers has continued to decline into 1985. During the 1st quarter of this year, cuttings of women's trousers were off by 7 percent, compared with January—March 1984.

U.S. Market Share

Since 1980, the U.S. market for MMF WGI trousers has grown by about 6 million dozens. This market was at least 30,200,000 dozens in 1984, based on current estimates. Despite the growing market, U.S. producers are losing market share as imports increase. The domestic producers' share of the Category 648 market has declined from 76 percent in 1980 to an estimated 69 percent in 1984.

Import Values and Domestic Producer Price

Forty-three percent of the Category 648 imports from Malaysia are entered under TSUSA No. 383.9069—Women's and girls' woven non-ornamented shorts; 26 percent under 383.8164—women's and girls' knit non-ornamented shorts. These imports are entered at landed, duty-paid values below the U.S. producer price for comparable garments.

July 8, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton , Wool and Man-Made Fiber Textile Agreement effected by exchange of notes dated December 5, 1980 and February 27, 1981, as amended and extended, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1982, as amended, you are directed to prohibit, effective on July 12, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Category 648 produced or manufactured in Malaysia and exported during the sixty-day period which began on May 31, 1985 and extends through July 29, 1985, in excess of 104,949 dozen.[1]

Textile products in Category 648 which have been exported to the United States prior to May 31, 1985 shall not be subject to this directive.

Textile products in Category 648 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

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[1] The level of restraint has not been adjusted to reflect any imports exported after May 30, 1985.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-16444, Filed 7-10-85; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Textile Consultations With Portugal on Categories 339 and 340

July 8, 1985.

On June 26, 1985, the United States Government, under the agreement with the Government of Portugal, effected by exchange of notes dated August 20, 1975, and Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Government of Portugal to enter into consultations concerning exports to the United States of women's, girls' and infants' cotton knit shirts in Category 339 and men's and boys' cotton shirts in Category 340, produced or manufactured in Portugal.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Portugal, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of such products produced or manufactured in Portugal and exported to the United States during the twelve-month period which began on June 26, 1985 and extends through June 25, 1986 at levels of 257,853 dozen (Category 339) and 133,733 dozen (Category 340).

Summary market statements concerning these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of these categories is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C. and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreement considers appropriate for further consideration.

The solicitation of Comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

PORTUGAL—MARKET STATEMENT

Category 339—Women's, Girls' and Infants' Cotton Knit Blouses

June 1985.

Summary and Conclusions

U.S. imports of Category 339 from Portugal were 301,115 dozens during the year-ending April 1985, over ten times the imports of 28,115 dozens of a year earlier. Imports for the first four months of 1985 were in excess of imports for the full calendar year of 1984 and were at an annual rate of 556,000 dozens.

The imports from Portugal are entering a market already disrupted by imports. This rapid growth and substantial volume of imports from Portugal are disrupting the market and continuation of the growth would further disrupt the market.

U.S. Production

Production of Category 339 in 1983 was 8.1 million dozens, down 3.5 percent from the 8.4 million in 1982. Production in 1984 is estimated to have been between 8.0 million and 8.4 million dozens. Cuttings of women's knit blouses during the first quarter declined by 29.1 percent from the first quarter of 1984.

U.S. Imports

Imports of Category 339 from all sources increased from 7.4 million dozens in 1983 to 10.0 million in 1984. Imports during the first four months of 1985 were at an annual rate of 12.8 million dozens.

Import Penetration

The ratio of imports to production in 1984 was at a record level with imports at 10.0 million dozens exceeding production which is estimated to have been between 8.0 and 8.2 million dozen. The ratio for a number of years has been around 100 percent.

The market for domestically produced and imported Category 339 increased sharply in 1984 after several years of relative stability. However, import growth accounted for most if not all the market growth in 1984.

Duty-Paid Values and U.S. Producer Prices

Most of the U.S. imports of Category 339 from Portugal are entered under TSUSA Numbers 383.2706—women's tank tops; 383.2724 women's, girls' and infants' T-shirts; and 383.2730—women's other shirts. These garments are being imported at duty-paid values below the U.S. producer prices for comparable garments.

PORTUGAL—MARKET STATEMENT

Category 340—Men's and Boys' Woven Cotton Shirts

June 1985.

Summary and Conclusion

United States imports of Category 340 from Portugal were 136,000 dozens for the year-ending April 1985. Imports were 59,000 dozens for the same period one year earlier. Imports from Portugal of this category were 38,000 dozens in 1983 and 32,000 dozens in 1982.

Import growth from Portugal of Category 340 has been sharp and substantial, adding to the existing market disruption in this category.

General Imports

Imports of Category 340 from all sources increased 29 percent between 1983 and 1984. In the first four months of 1985 imports of this category increased 27 percent from the same period in 1984. The overall growth rate from 1980 to 1984 was 45 percent; seventy-two percent of this growth occurred in 1984 alone.

U.S. Production and Market Share

U.S. Production of this category has declined over 50 percent since 1973. Between 1980 and 1983 production declined from 5,526,000 dozens to 4,735,000 dozens, a drop of 14 percent. Production in 1984 is estimated to be flat, or just slightly below the 1983 level. Cuttings of all men's and boys' shirts declined 5 percent in the first three months of 1985.

Imports have not only captured all of the growth but have also displaced domestically produced MB cotton woven shirts in the market. The U.S. Category 340 market increased by 2 million dozens during 1980–1984. Imports increased by about 2.8 million dozens while domestic production was reduced by 800,000 dozens. The U.S. producers' market share for Category 340 was 46.7 percent in 1980 and only an estimated 34.0 percent in 1984.

Import Penetration

The import-to-production ratio for this category has increased sharply over the last 5 years. In 1980 the ratio topped 100 percent for the first time, reaching 114 percent. By 1983 the ratio had climbed 36 percentage points to 150 percent. The huge increase in imports in

1984 helped boost the ratio an additional 44 percentage points, nearing 194 percent.

Employment

Employment in the men's and boys' shirt industry was 99,200 workers in 1984.[1] This is approximately the same level as in 1980. In the first four months of 1985 employment was down 3.3 percent from the same period one year earlier.

Import Value vs. Domestic Producer's Price

In the first four months of 1985, seventy-five percent of Category 340 imports from Portugal entered under three TSUSA numbers. These were 379.5530—boys' cotton dress shirts, 379.5545—men's cotton sport shirts, yarn-dyed, and 379.5550—men's other cotton sport shirts. These items entered at duty-paid values below the U.S. producer's price for comparable garments.

[FR Doc. 85-16445, Filed 7-10-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

July 2, 1985.

The USAF Scientific Advisory Board Ad Hoc Committee on Enhanced Non-nuclear Munition Storage will meet at US Air Forces Europe Headquarters, Ramstein Air Base, Germany, with site visits to Spangdahlem AB, Hahn AB, and Bitburg AB, Germany, August 12 through 16, 1985, to view weapon storage and handling facilities and to discuss munitions maintenance, logistics and operations procedures.

This meeting will concern matters listed in section 552b(c) of Title 5, United State Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 687-4648.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-16464 Filed 7-10-85; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

July 14, 1985.

The USAF Scientific Advisory Board C³I Subcommittee of the Ad Hoc Committee on Options for Attack of Strategic Relocatable Targets will meet on July 25, 1985 at The MITRE Corporation, Bedford, Massachusetts, from 9:00 a.m. to 4:00 p.m. The C³I Subcommittee will meet to hold classified discussions on existing and programmed systems which may be effectively applied to attack of mobile ballistic missiles for the purpose of drafting the subcommittee's input to the Ad Hoc Committee report.

This meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, Specifically subparagraph (1) thereof, and will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-16465 Filed 7-10-85; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Performance Review Boards; Names of Members for 1985

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of members of the Performance Review Boards for the Department of the Army for 1985.

EFFECTIVE DATE: June 17, 1985.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310-0300, (202) 697-2204.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance wtih regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executives' appraisals from their respective commands or activities. A consolidated board has been established for those commands who do not have enough senior executives to warrant the establishment of separate boards. Publication of this notice rescinds notice published in 49 FR, No. 132, dated 9 July 1984, to account for additions and deletions to the membership of those boards previously published.

The members of the Performance Review Board for the Office, Secretary of the Army, are:

1. Ms. Susan Crawford, General Counsel, Office, General Counsel, Headquarters, Department of the Army.

2. Mr. Steven Dola, Deputy for Management and Budget, Office, Assistant Secretary of the Army (Civil Works).

3. Mr. Neil R. Ginnetti, Deputy for Planning, Programming, Budgeting and Budget Execution Systems, Office, Assistant Secretary of the Army (Financial Management).

4. Ms. Judy Ann F. Miller, Deputy Assistant Secretary of the Army (Military Personnel, Equal Opportunity and Human Resources), Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).

5. Mr. Jack E. Hobbs, Deputy for Management and Programs, Office, Assistant Secretary of Army (Research, Development and Acquisition).

6. Ms. Eileen Siedman, Technical Advisor to the Inspector General, Department of Commerce.

7. Mr. Peter Stein, Deputy Administrative Assistant, Office of the Administrative Assistant to the Secretary of the Army.

8. Mr. Lewis D. Walker, Deputy for Environment Safety and Occupational Health, Office, Assistant Secretary of the Army (Installations and Logistics).

9. Ms. Juanita P. Watts, Director, Small and Disadvantaged Business Utilization, Office of the Secretary of the Army.

10. Mr. Robert G. Stockton, Operations Research Analyst for Systems, Office, Under Secretary of the Army.

11. Brigadier General Richard B. Griffitts, Deputy Chief of Public Affairs, Office of Public Affairs, Office of the Secretary of the Army.

The members of the Performance Review Board for the U.S. Army Materiel Command are:

1. Major General James G. Boatner, Deputy Chief of Staff for Personnel, Headquarters, U.S. Army Materiel Command.

2. Major General R. D. Hammond, Deputy Chief of Staff, Development, Engineering and Acquisition, Headquarters, U.S. Army Materiel Command.

3. Brigadier General James R. Klugh, Deputy Commanding General, Chemical Matters, U.S. Army Armament, Munitions and Chemical Command.

4. Dr. Herbert C. Puscheck, Director, Program Analysis Evaluation, Headquarters, U.S. Army Materiel Command.

5. Mr. James R. Jury, Assistant Deputy Chief of Staff, Procurement and Policy

[1] SIC 2321, Men's and boys' shirt and nightwear industry.

Evaluation, Headquarters, U.S. Army Materiel Command.

6. Dr. Edward S. Wright, Director, U.S. Army Materiel and Mechanics Research Center.

7. Mr. Donald B. Dinger, Deputy Director, U.S. Army Foreign Science and Technology Center.

8. Mr. Archie D. Grimmett, Assistant Deputy Chief of Staff for Personnel, Headquarters, U.S. Army Materiel Command.

9. Mr. Jack R. Isom, Director, Missile Logistics Center, U.S. Army Missile Command.

10. Major General Arthur Holmes, Jr., Commanding General, U.S. Army Tank-Automotive Command.

11. Brigadier General Michael Pepe, Deputy Commanding General, Research and Development, U.S. Army Aviation Systems Command.

12. Mr. Roy D. Greene, Assistant Deputy Chief of Staff for Program and Management, Headquarters, U.S. Army Materiel Command.

13. Mr. William L. Clemons, Director, Procurement and Production, U.S. Army Missile Command.

14. Mr. Dale F. Kinney, Deputy for Industrial Preparedness and Installations, U.S. Army Armament, Munitions and Chemical Command.

15. Mr. Harry L. Reed, Jr., Chief, Systems Engineering and Concepts Analysis Division, U.S. Army Materiel Systems Analysis Activity.

16. Mr. Walter W. Pattishall, Assistant Technical Director, Electronic Warfare and Intelligence, U.S. Army Electronics Research and Development Command.

17. Mr. Benjamin Halperin, Chief Counsel, U.S. Army Armament, Munitions and Chemical Command.

18. Major General Niles Fulwyler, Deputy Commanding General, U.S. Army Test and Evaluation Command.

19. Brigadier General H.G. Karegeannes, Deputy Commanding General, Procurement and Readiness, U.S. Army Communication-Electronics Command.

20. Mr. Douglas R. Newberry, Comptroller, U.S. Army Tank-Automotive Command.

21. Mr. Donald W. Schmitz, Director, Procurement and Production, U.S. Army Aviation Systems Command.

22. Mr. Truman W. Howard, III, Director, Product Assurance, U.S. Army Missile Command.

23. Dr. Robert J. Byrne, Technical Director, U.S. Army Natick Research and Development Center, U.S. Army Troop Support Command.

24. Dr. Robert E. Singleton, Director, Engineering Sciences Division, U.S. Army Research Office.

25. Mr. James E. Schell, Director, U.S. Army Tactical Computer Systems Center, U.S. Army Communications-Electronics Command.

26. Major General Jimmy D. Ross, Chief of Staff, Headquarter, U.S. Army Materiel Command.

27. Ms. Marie B. Acton, Deputy for Materiel Analysis, Headquarters, U.S. Army Materiel Command.

28. Mr. Robert O. Black, Principal Assistant Deputy for Research, Development and Acquisition, Headquarters, U.S. Army Materiel Command.

29. Dr. Richard L. Haley, Assistant Deputy for Science and Technology, Headquaters, U.S. Army Materiel Command.

30. Mr. Edwin Greiner, Assistant Deputy for Materiel Readiness, Headquarters, U.S. Army Materiel Command.

31. Mr. Burton M. Blair, Command Counsel, Headquarters, U.S. Army Materiel Command.

32. Mr. Seymour J. Lorber, Deputy Chief of Staff for Product Assurance and Test, Headquarters, U.S. Army Materiel Command.

33. Lieutenant General Lawrence F. Skibbie, Deputy Commanding General for Materiel Readiness, Headquarters, U.S. Army Materiel Command.

34. Lieutenant General Robert L. Moore, Deputy Commanding General for Research, Development and Acquisition, Headquarters, U.S. Army Materiel Command.

35. Major General Edward C. O'Connor, Commanding General, U.S. Army Security Assistance Center.

36. Major General Andrew H. Anderson, Commanding General, U.S. Army Test and Evaluation Command.

37. Brigadier General Ronald K. Anderson, Project Manager, Light Helicopter Experimental, U.S. Army Aviation Command.

38. Brigadier General John S. Drosdeck, Jr., Deputy Commanding General, Procurement and Readiness, U.S. Army Materiel Command.

39. Mr. J. Bruce King, Assistant Deputy Chief of Staff for Procurement and Production, Headquarters, U.S. Army Materiel Command.

40. Mr. George A. Hosler, Deputy Chief of Staff for Information Management, Headquarters, U.S. Army Materiel Command.

41. Mr. Marvin L. Hancks, Chief Counsel, U.S. Army Armament, Munitions and Chemical Command.

42. Mr. Lowell H. Barnett, Director, Product Assurance, U.S. Army Tank-Automotive Command.

43. Mr. Grady H. Bannister, Technical Director (EPG), U.S. Army Test and Evaluation Command.

44. Mr. Donald R. Lathrop, Comptroller, U.S. Army Armament, Munitions and Chemical Command.

45. Mr. Robert F. Giordano, Director, Electronics Warfare Laboratory, U.S. Army Electronics Research and Development Command.

46. Dr. John D. Weisz, Director, U.S. Army Human Engineering Laboratory.

The members of the Performance Review Board for the Office of the Chief of Staff, Army are:

1. Mr. Issac E. Barbre, Deputy Auditor General, Office of the Chief of Staff, Headquarters, Department of the Army.

2. Mr. Michael A. Janoski, Director, Acquisition and Systems Audit, Headquarters, U.S. Army Audit Agency.

3. Mr. Thomas A. Grant, Director, Personnel and Force Management Audits, Headquarters, U.S. Army Audit Agency.

4. Mr. Henry J. Fischer, Jr., Director, Audit Policy, Plans, and Resources, Headquarters, U.S. Army Audit Agency.

5. Mr. Michael R. DiFulgo, Director, Logistical and Financial Audits, Headquarters, U.S. Army Audit Agency.

6. Mr. Charles W. Weatherholt, Deputy Director of Civilian Personnel, Office, Deputy Chief of Staff of Personnel, Headquarters, Department of the Army.

7. Mr. Raymond J. Sumser, Director of Civilian Personnel, Office, Deputy Chief of Staff for Personnel, Headquarters, Department of the Army.

8. Ms. Anna Yurkoski, Chief, Staffing, Career Management and Training Office, Directorate of Civilian Personnel, Office, Deputy Chief of Staff for Personnel, Headquarters, Department of the Army.

9. Dr Edgar M. Johnson, Technical Director, Army Research Institute and Chief Psychologist, U.S. Army Research Institute for the Behavorial and Social Sciences.

10. Dr. Harold F. O'Neil, Director, Training Research Laboratory and Associate Director, Army Research Institute.

11. Mr. William M. Frailey, Chief, Civilian Personnel Center, Headquartefs, Department of the Army.

12. Major General William G. O'Leksy, Director of Military Personnel Management, Office, Deputy Chief of Staff for Personnel, Headquarters, Department of the Army.

13. Mr. Gary Purdum, Deputy for Manpower, Programs and Budget, Office, Deputy Chief of Staff for Personnel, Headquarters, Department of the Army.

14. Brigadier General Leslie E. Beavers, director, Personnel Plans and Systems, Office, Deputy Chief of Staff for Personnel, Headquarters, Department of the Army.

15. Major General William E. Sweet, Director, Human Resources Development, Office Deputy Chief of Staff for Personnel, Headquarters, Department of the Army.

16. Brigadier General James C. Cercy, Commanding General, U.S. Army Electronics Research and Development Command.

17. Brigadier General August M. Cianciolo, Deputy Director of Weapons Systems, Office, Deputy Chief of Staff for Research, Development and Acquisition, Headquarters, Department of the Army.

18. Dr. Frank D. Verderame, Assistant Director for Research Programs, Office, Deputy Chief of Staff for Research, Development and Acquisitions, Headquarters, Department of the Army.

19. Dr. Louis M. Cameron, Director of Army Research and Technology, Office, Deputy Chief of Staff for Research, Development and Acquisition, Headquarters, Department of the Army.

20 Ms. Mary H. Smith, Director, Resource Management Systems Integration Task Force, Office, Comptroller of the Army, Headquarters, Department of the Army.

21. Brigadier General Terrence L. Arndt, Deputy Commanding General, U.S. Army Finance and Accounting Center.

22. Brigadier General Eugene Fox, Ballistic Missile Defense Program Manager, Ballistic Missile Defense Systems Command.

23. Dr. James R. Fisher, Director, Technical Analysis Directorate, Ballistic Missile Defense Advanced Technology Center, Ballistic Missile Defense Systems Command.

24. Mr. Donald S. Russ, Director, Ballistic Missile Defense Advance Technical Center, Ballistic Missile Defense Systems Command.

25. Dr. Charles N. Davidson, Technical Director, U.S. Army Nuclear and Chemical Agency.

26. Major General James H. Johnson, Assistant Deputy Chief of Staff for Operations, Headquarters, Department of the Army.

27. Brigadier General Wayne C. Knudson, Director of Force Requirements, Office, Deputy Chief of Staff for Operations, Headquarters, Department of the Army.

28. Brigadier General Jackson E. Rozier, Jr., Director, Plans and Operations, Office Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

29. Major General Vincent M. Russo, Assistant Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

30. Major General Henry G. Skeen, Director, Supply and Maintenance, Office, Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

31. Mr. William L. Jackson, Chief, Security Assistance Policy Coordination Office, Office of the Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

32. Ms Mary Ellen Harvey, Assistant Director for Supply Management, Directorate of Supply and Maintenance, Office, Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

33. Mr. James B. Emahiser, Assistant Director for Maintenance Management, Office, Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

34. Mr. James T. Brown, Assistant Director for Resource Management, Office, Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

35. Major General William G. T. Tuttle, Jr., Commanding General, U.S. Army Operational Test and Evaluation Agency.

36. Brigadier General Donald W. Hansen, Assistant Judge Advocate General for Military Law, Office, The Judge Advocate General, Headquarters, Department of the Army.

37. Brigadier General James W. Shufelt, Office, Chief of Staff, Intelligence, Headquarters, Department of the Army.

38. Brigadier General Joseph L. Ecoppi, Deputy Director, U.S. Army Concepts Analysis Agency.

39. Dr. Julius Bellaschi, Deputy Director, Program Analysis Evaluation, Office, Chief of Staff, Headquarters, Department of the Army.

40. Brigadier General Connie L. Slewitzke, Chief, Army Nurse Corps, Office of the Surgeon General, Headquarters, Department of the Army.

41. Ms. Joann H. Langston, Director, Study Program Management Office, Office, Chief of Staff, Headquarters, Department of the Army.

42. Major General Edward Honor, Director, Transportation, Energy, and Troop Support, Office, Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

43. Dr. Darrell B. Harmon, Jr., Director, Missile Directorate, Ballistic Missile Defense Advance Technology Center.

44. Brigadier General Lynn H. Stevens, Director, Materiel, Plans and Programs, Office, Deputy Chief of Staff for Research, Development and Acquisition.

The members of the Performance Review Board for the Consolidated Commands are:

1. Mr. Larry C. Hanson, Assistant Deputy Chief of Staff for Resource Management, U.S. Army Training and Doctrine Command.

2. Major General Robert H. Forman, Chief of Staff, U.S. Army Training and Doctrine Command.

3. Major General James E. Drummond, Commanding General, Combined Arms Test Activity, U.S. Army Training and Doctrine Command.

4. Lieutenant General Robert L. Bergquist, Commanding General, U.S. Army Logistics Center.

5. Mr. Leon F. Goode, Jr., Director, TRADOC System Analysis Activity, U.S. Army Training and Doctrine Command.

6. Dr. Darrel W. Collier, Scientific Advisor, Combined Arms Test Activity, U.S. Army Training and Doctrine Command.

7. Dr. Wilbur B. Payne, Director, TRADOC Operations Research Activity, U.S. Army Training and Doctrine Command.

8. Mr. Arthur C. Christman, Jr., Sceintific Advisor, Office, Deputy Chief of Staff for Combat Developments, U.S. Army Training and Doctrine Command.

9. Dr. Marion R. Bryson, Director, U.S. Army Combat Development Experimentation Center, Combat Development Experimentation Command.

10. Major General Carl H. McNair, Jr., Deputy Chief of Staff for Combat Developments, U.S. Army Training and Doctrine Command.

11. Brigadier General Robert L. Gordon, Deputy Chief of Staff, Resource Management, U.S. Army Training and Doctrine Command.

12. Mr. James F. Fox, Scientific Advisor, Combined Arms Combat Development Activity, U.S. Army Training and Doctrine Command.

13. Mr. Raymond V. Michael, Assistant Deputy Chief of Staff for Personnel, Administration and Logistics (Civilian Personnel), U.S. Army Training and Doctrine Command.

14. Major General Charles F. Briggs, Deputy Chief of Staff for Personnel, U.S. Army Forces Command.

15. Major General John M. Brown, Deputy Chief of Staff, Comptroller, U.S. Army Forces Command.

16. Mr. William S. Fraim, Civilian Personnel Director, U.S. Army Forces Command.

17. Mr. William M. Wilkinson, Deputy Comptroller, U.S. Army Forces Command.

18. Major General Bruce R. Harris, Deputy Commanding General, U.S. Army Information Systems Command.

19. Brigadier General Alan B. Salisbury, Commanding General, U.S. Army Information Systems Software Support Command.

20. Mr. Leonard J. Mabius, Technical Director/Chief Engineer, U.S. Army Communications Systems Agency, U.S. Army Information Systems Command.

21. Mr. Feliciano Giordano, Technical Director, Electronic Warfare Laboratory, U.S. Army Communications Systems Agency, U.S. Army Information Systems Command.

22. Mr. Frederick Orr, Comptroller, U.S. Army Information Systems Command.

23. Mr. Gale W. Parks, Director, U.S. Army Computer Systems Selection Acquisition Agency, Field Operating Activity, Office, Deputy Chief of Staff for Operations, Headquarters, Department of the Army.

24. Mr. Ralph L. Gunn, Director, U.S. Army Management Systems Support Agency, Headquarters, Department of the Army.

25. Major General Scott B. Smith, Deputy Chief of Staff, Engineers, Headquarters, U.S. Army Europe and Seventh Army.

26. Mr. Andrew F. Foremen, Assistant Deputy Chief of Staff for Personnel, Civilian Personnel, Headquarters, U.S. Army Europe and Seventh Army.

27. Brigadier General John H. Stanford, Commanding General, Western Area, Military Traffic Management Command.

28. Mr. Allen J. Dowd, Special Assistant for Transportation Engineering, Military Traffic Management Command.

29. Dr. Robert G. Priddy, Special Assistant to the Assistant Chief of Staff for Intelligence, Headquarters, Department of the Army.

30. Mr. Issac E. Barbre, Deputy Auditor General, U.S. Army Audit Agency.

31. Mr. James T. Brown, Assistant Director for Resource Management, Office, Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

The Members of the Performance Review Board for the Office of the Surgeon General are:

1. Major. General Edward J. Huycke, M.D., Deputy Surgeon General, Headquarters, Department of the Army.

2. Major General H. Thomas Chandler, D.D.S., Assistant Surgeon General for Dental Services/Director of Personnel, Headquarters, Department for the Army.

3. Major General Garrison Repmund, M.D., Commander, U.S. Army Medical Research and Development Command

4. Brigadier General Girard Seitter, III, M.D., Director of Health Care Operations, Office of the Surgeon General, Headquarters, Department of the Army.

5. Brigadier General Thomas M. Geer, M.D., Director of Professional Service, Office of the Surgeon General, Headquarters, Department of the Army.

6. Brigadier General Robert R. Jorgensen, Assistant Surgeon General for Veterinary Services, Office of the Surgeon General, Headquarters, Department of the Army.

7. Gunter F. Bahr, M.D., Chairman, Department of Cellular Pathology, Armed Forces Institute of Pathology.

8. Louis W. Baron, Ph.D., Chief, Department of Bacterial Immunology, Walter Reed Army Institute of Research.

9. William R. Beisel, M.D., Special Assistant for Biotechnology, U.S. Army Research and Development Command.

10. Daniel H. Connor, M.D., Chairman, Department of Infectious and Parasitic Disease Pathology, Armed Forces Institute of Pathology.

11. Bhupendra P. Doctor, Ph.D., Director, Division of Biochemistry, Walter Reed Army Institute of Research.

12. Robert R. Engle, Ph.D., Deputy Director, Division of Experimental Therapeutics, Walter Reed Army Institute of Research.

13. Franz M. Enzinger, M.D., Chairman, Department of Soft Tissue Pathology, Armed Forces Institute of Pathology.

14. Samuel B. Formal, Ph.D., Chief, Department of Bacterial Diseases, Walter Reed Army Institute of Research.

15. Elson D. Helwig, M.D., Chairman, Department of Skin and Gastrointestinal Pathology, Armed Forces Institute of Pathology.

16. Nelson S. Irey, M.D., Chairman, Department of Environmental and Drug Induced Pathology, Armed Forces Institute of Pathology.

17. Kamal G. Ishak, M.D., Chairman, Department of Hepatic Pathology, Armed Forces Institute of Pathology.

18. Frank B. Johnson, M.D., Chairman, Department of Chemical Pathology, Armed Forces Institute of Pathology

19. Arthur D. Mason, Jr., M.D., Chief, Laboratory Division, U.S. Army Institute of Surgical Research.

20. Fathollah K. Mostofi, M.D., Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.

21. Henry J. Norris, M.D., Chairman, Department of Gynecologic and Breast Pathology, Armed Forces Institute of Pathology.

22. Howard E. Noyes, Ph.D., Associate Director for Research Management, Walter Reed Army Institute of Research.

23. Donald E. Sweet, M.D., Chairman, Department of Orthopedic Pathology, Armed Forces Institute of Pathology.

24. James A. Vogel, Ph.D., Director, Exercise Physiology Division, U.S. Army Research Institute of Environmental Medicine.

The members of the Performance Review Board for the U.S. Army Corps of Engineers are:

1. Major General Norman G. Delbridge, Jr., Deputy Commander, Headquarters, U.S. Army Corps of Engineers.

2. Brigadier General Forrest T. Gay III, Commander, U.S. Army Engineer Division, South Atlantic.

3. Brigadier General C.E. Edgar III, Deputy Director of Civil Works, Headquarters, U.S. Army Corps of Engineers.

4. Kisuk Cheung, Chief, Engineering Division, Pacific Ocean Division.

5. Lloyd A. Duscha, Deputy Director, Directorate of Engineering and Construction, Headquarters, U.S. Army Corps of Engineers.

6. Lester Edelman, Chief Counsel, Headquarters, U.S. Army Corps of Engineers.

7. Cecil G. Goad, Chief, Operations and Readiness Division, Directorate of Civil Works, Headquarters, U.S. Army Corps of Engineers.

8. Richard B. Gomez, Physical Scientist (Atmospheric Science), Directorate of Research and Development, Headquarters, U. S. Army Corps of Engineers.

9. John Harrison, Chief, Environmental Laboratory Waterways Experiment Station.

10. Alfred P. Hutchinson, Chief, Construction-Operations Division, Southwestern Division.

11. Bory Steinberg, Chief, Program Division, Directorate of Civil Works, Headquarters, U.S. Army Corps of Engineers.

Peter J. Ladzinski,

ASternate, Department of the Army Liaison with the Federal Register.

[FR Doc. 85-16447 Filed 7-10-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday, July 30, 1985.

Times of meeting: 0800–1700 hours.

Place: Hay Group, Inc., Washington, DC.

Agenda: The Army Science Board 1985 Summer Study on Manpower Implications of Logistic Support for AirLand Battle—Chair and three subpanel Chairs (Active/U.S. Army Reserve, Army National Guard, and Mobilization Base/Industrial Perspective)—will meet to draft a final report. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Peter J. Ladzinski,

Alternate, Department of the Army, Liaison with the Federal Register.

[FR Doc. 85–16448 Filed 7–10–85; 8:45 am]

BILLING CODE 3710–01–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Friday, 9 August 1985.

Time: 1300–1400.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup—TRADOC Operations Research Activity (TORA) will meet to discuss operations research activities. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Peter J. Ladzinski,

Alternate Department of the Army, Liaison With the Federal Register.

[FR Doc. 85–16497 Filed 7–10–85; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Monday and Tuesday, 5 and 6 August 1985.

Time: 0830–1630.

Place: Science Applications International Corporation, McLean, VA.

Agenda: The Army Science Board Ad Hoc Subgroup for the Detection of Soviet Theater Nuclear Forces will meet for briefings by intelligence agencies and government laboratories. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C. specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified :matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039–7046.

Peter J. Ladzinski,

Alternate Department of the Army, Liaison with the Federal Register.

[FR Doc. 85–16498 Filed 7–10–85; 8:45 am]

BILLING CODE 3710–08–M

Military Traffic Management Command; Directorate of Personal Property

AGENCY: Military Traffic Management Command (MTMC), Defense.

ACTION: On behalf of the Department of Defense, MTMC is considering testing an allocated traffic solicitation for household goods shipments between selected military installations. Headquarters, MTMC, MT–PPC, letter of July 1, 1985, specifically addresses the solicitation.

SUMMARY: The Department of Defense's actual requirement for transportation services under this solicitation will be allocated for the 6-month period to the responsive, responsible carrier or carriers whose offer conforms to the solicitation, will be the most advantageous to the Government under terms and conditions contained herein, and consistent with the capacity stated by the carrier in its response. Movements between the identified areas of responsibility will be for the same 6-month period as the solicitation, viz, starting May 1, 1986. The main purpose of this solicitation is to assure that service members receive quality service. Therefore, carriers responding to this solicitation agree that the Government reserves the right to immediately take action for failure to comply with all terms of the tender of service, especially failure to provide ontime pick up and delivery and proper packing.

Specific features included in the solicitation are as follows:

—The alternation clause will be waived for shipments moving under these provisions.

—All carriers must have a Carrier Evaluation Rating Score of 90 or above to participate.

—One rate will apply in both directions.

—Rate Solicitation 4–2 will be used as the rate basis for all submissions.

—All rates will be based on the applicable section 3 Rate Table.

—Carriers may file rates above, equal to, or below the baselines.

—All carriers must have an agent at origin and destination.

—Single percentage will be applied against the total cost of the shipment including storage in transit. This is similar to the program in existence for Volume Moves.

Comments: Written comments concerning this proposal will be considered if received not later than September 3, 1985.

Address Comments To: Commander, Military Traffic Management Command, Attn: Rate Acquisition Division (MT–PPC), Room 408, 5611 Columbia Pike, Falls Church, Virginia 22041–5050.

FOR FURTHER INFORMATION CONTACT: LTC Robert P. Coleman or Mr. Jeffry McKenzie, Military Traffic Management Command, Attn: MT–PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041–5050, (202) 756–2385.

Joseph R. Marotta,

Colonel, GS, Director of Personal Property.

[FR Doc. 85–16499 Filed 7–10–85; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

National Environmental Policy Act Record of Decision To Close Port Chicago Highway, Main Street and Waterfront Road, Naval Weapons Station, Concord, Contra Costa County, CA

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) (§ 1505.2 of Title 40, Code of Federal Regulations) and the Council on Environmental Quality Regulations (40 CFR Part 1500), the Department of the Navy announces its decision to close the Port Chicago Highway from north of the Town of Clyde at the southern boundary of the Naval Weapons Station, Concord, California for 3.1 miles to just west of the entrance of the chemical plant at Nichols Avenue; the entire 0.5 mile length of Main Street and a 1.75 mile portion of Waterfront Road to the western boundaries of the station. These road closures are required to comply with the directive of the Department of Defense Explosive Safety Board, which states that public roads within the safety arcs of Weapons Station facilities must be closed for reasons of public safety and military security. The Final Environmenal Impact Statement addressing the impacts of this action appeared in the **Federal Register**, Vol. 50, No. 61 of Friday, March 29, 1985.

The primary area of public concern was related to the need for additional mitigation for either motor vehicle or non-motor vehicle traffic due to the proposed roadway closure. The U.S. Navy has dedicated property and funds for the upgrading of State Route Four to a four lane freeway to mitigate traffic effects of the proposed closure. It is the Navy's position that State Route Four as currently constructed, constitutes a reasonable replacement. With the construction of a path for non-motor vehicle travel (such as pedestrians, equestrians, and bicycles) parallel to State Route Four as part of the proposed closure the only remaining impact is avoided. Access would be authorized on Tidal Area roadways for easement holders (such as utilities), farm equipment for Tidal Area uses, emergency services and emergencies resulting from temporary State Route Four closure.

July 3, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 85-16435 Filed 7-10-85; 8:45 am]

BILLING CODE 3810-AE-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-735-DR]

Illinois; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-735-DR), dated March 29, 1985, and related determinations.

DATED: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice: The notice of a major disaster for the State of Illinois, dated March 29, 1985, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 29, 1985:

Brown, LaSalle, and Woodford Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-16460 Filed 7-10-85; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Citicorp; Application to Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 U.S.C. 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 29, 1985.

A. **Federal Reserve Bank of New York** (A Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to engage directly or indirectly through a subsidiary in making, acquiring, or servicing loans and other extensions of credit, secured or unsecured for consumer or commercial purposes. These activities will be conducted worldwide.

Board of Governors of the Federal Reserve System, July 5, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-16420 Filed 7-10-85; 8:45 am]

BILLING CODE 6210-01-M

Claiborne Holding Co., Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 2, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Claiborne Holding Company, Inc.*, Tazewell, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of Claiborne County Bank, Tazewell, Tennessee.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *National Banking Corp.*, North Little Rock, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of National

Bank of Arkansas in North Little Rock, North Little Rock, Arkansas.

2. *National Commerce Bancorporation*, Memphis, Tennessee; to acquire 100 percent of the voting shares or assets of Knoxville Bank & Trust, Knoxville, Tennessee and Nashville Bank of Commerce, Nashville, Tennessee.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Watford City Bancshares, Inc.*, Watford City, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of First International Bank of Watford City, Watford City, North Dakota.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *IB Bancshares, Inc.*, Plano, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Independence Bank, Plano, Texas.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Zions Utah Bancorporation*, Salt Lake City, Utah; to acquire 100 percent of the voting shares or assets of Nevada State Bank, Las Vegas, Nevada.

Board of Governors of the Federal Reserve System, July 5, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-16419 Filed 7-10-85; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0515A]

Requests for Comments on Proposals Regarding Book-Entry Securities Transfers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Extention of the comment periods.

SUMMARY: On May 17, 1985, the Board requested public comment on proposals regarding book-entry securities transfers (Docket No. R-0515A). These requests are related to the Board's attempts to reduce risks in the payments system that were announced on the same day. 50 FR 21120 *et seq.* Comments were due by August 15, 1985. In response to a request, the Secretary of the Board, acting pursuant to delegated authority, 12 CFR 265.2(a)(6), has extended the comment period for 45 days.

DATE: Comments must be received by September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Edward C. Ettin, Deputy Director, Division of Research and Statistics (202/452-3368); Mr. Elliott C. McEntee, Associate Director (202/452-3926), Ms. Florence Young, Adviser (202/452-3955), Division of Federal Reserve Bank Operations; or Ms. Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) (202/452-3244).

By order of the Secretary of the Board, acting pursuant to delegated authority, 12 CFR 265.2(a)(6), July 8, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-16502 Filed 7-10-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

GSA Bulletin FPMR E-210, Supply and Procurement

June 27, 1985.

To: Heads of Federal agencies.

Subject: Acquisition of systems furniture.

1. *Purpose.* This bulletin is issued in accordance with the requirements of FPMR Temp. Reg. E-81, dated May 2, 1985. It contains detailed information required for compliance with the FPMR and for obtaining GSA authorization to procure systems furniture.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled or superseded.

3. *Definitions.* For the purpose of this bulletin:

a. "Systems furniture" consists of interconnecting panel assemblies together with work surfaces, storage units, and other major components which are panel-supported. Systems furniture includes, and is limited to, items covered by GSA contracts under Federal Supply Schedule FSC Group 71, Part II, Section E.

b. "Conventional office furniture" includes all items available through the Federal supply system except for the contract items under the systems furniture schedule. (See subparagraph 3a.) It also includes agency-owned assigned and unassigned conventional furniture and Government excess furniture. Products most commonly used in comparing systems furniture to conventional furniture can be found in the GSA Supply Catalog and Federal Supply Schedules FSC Group 71, Part II, Section B, and Part III, Sections D, M, and N.

c. "Space savings" is the difference between the amount of office space required for systems furniture and conventional furniture based upon the same functional requirements. The use of systems furniture must provide significantly better space utilization than conventional furniture to be cost effective. Also, the saved space msut be taken advantage of in a constructive manner to obtain the desired cost benefits; e.g., release to another agency/activity. Space savings also occur whenever available space is subtantially less than would be assigned under governing standards and the use of systems furniture alleviates the need to procure additional office space.

d. "FSS" is the GSA Office of Federal Supply and Services.

4. *Program management responsibilities.*

a. *GSA.* Primary responsibility for administering the systems furniture program has been delegated within GSA to the Assistant Administrator for FSS. FSS is responsible for establishing contract coverage for systems furniture, for promoting competitive procurement methods, and for providing agency assistance regarding compliance with the FPMR and procurement approaches. FSS is also responsible for monitoring agency compliance with the FPMR, and for collecting and evaluating data concerning agency demand and procurements.

b. *Agencies.*

(1) *General.* Space management, buildings management, property management, and procurement programs and policies are now more closely interrelated, both at the national and local levels, than in the past. Agency officials are encouraged to familiarize themselves with the dynamic changes taking place with regard to facilities design/management and to establish internal space and property management policies and procedures to ensure proposed furniture procurements, whether for a new facility or for retrofitting existing office space, are subjected to comprehensive planning. In this connection, the Assistant Administrator for FSS has been authorized to grant waivers from the FPMR requirement that agencies obtain GSA authorization prior to initiating procurement action. (See paragraph 5d(1).)

(2) *Approving officials.* This bulletin specifies that agency heads approve requests to procure systems furniture amounting to $500,000 or more prior to submission to FSS for procurement authorization. For lesser amounts, civil agency approval requires the signature

of an Assistant Secretary, or equivalent. For the Department of Defense, approval of amounts of less than $500,000 by commanding officers of major claimant commands is required. These authorities may be redelegated within the agency to the lowest responsible level as determined by the agency head. To facilitate the processing of agency requests, agencies should notify the FSS Furniture Commodity Center, in writing, of any additional delegations.

5. *Request for GSA procurement authorization.*

a. *Applicability.*

(1) *Executive agencies.* The FPMR requirement for obtaining GSA procurement authorization is applicable to all departments and independent establishments, including wholly-owned Government corporations in the executive branch of the Government whether procurement will be performed by an agency contracting officer or by a prime contractor on behalf of an agency.

(2) *Exemptions.* The legislative and judicial branches of the Federal Government, the U.S. Postal Service, and other organizations authorized to use GSA sources of supply are exempt from the requirement for obtaining GSA procurement authorization. They are, however, subject to following the procurement procedures prescribed in the systems furniture schedule.

b. *New projects.* Project proposals should be submitted to the Director, Furniture Commodity Center (FN), Office of Federal Supply and Services, Washington, DC 20406, prior to initiating procurement action. (If an agency has internal processing procedures, requests should be routed to FSS in accordance with agency procedures.)

(1) As a minimum, requests should have the endorsement of the agency approving official and include the following:

(a) Cost comparison analysis (attachment C);

(b) Program management data (attachment D); and

(c) Prototypical work station illustrations and summaries of space requirements and furniture costs. (See attachments E thru I for suggested formats.)

(2) In determining whether to authorize the procurement of systems furniture, FSS will review the submitted information to ensure that it demonstrates:

(a) Recovery of the net difference between the initial cost of systems furniture and other comparable options within at least 8 years of project installation; and

(b) Compliance with property and space management regulations. (See attachment A.)

(3) FSS will respond to agency requests for procurement authorization within 20 days after receipt. If the requested authority cannot be granted, the requesting official will be provided a written explanation of the problem and advised of what additional information is needed. (Prior to rejecting a request, FSS will make every effort to reconcile problems with agency project officers. The name of the agency project officer and their FTS/commercial telephone number should be provided with each request.)

c. *"Add-on" requirements.*

(1) *General.* For the purposes of this paragraph, the term "add-on" applies to requirements for additional products or services required to maintain systems furniture projects which were approved by GSA, or by an agency under written authority provided by FSS in accordance with subparagraph 5d(1). To maximize competition, only minor additions for reconfigurations and replacements should be acquired from the same supplier. For the purposes of the authorities provided in subparagraph 5c(2), "add-ons" are limited to:

(a) Design/layout, installation, and post installation support services associated with relocation, reconfiguration, or general maintenance;

(b) Additional products associated with relocation, reconfiguration, or project maintenance; or

(c) Additional products and/or services associated with assembly of additional adjoining work stations.

(2) *Authorities.* Procurement authorization is not required to meet cumulative requirements of less than $25,000 per fiscal year (products and services inclusive) for projects which were approved for less than $500,000; or, to meet requirements of less than $50,000 for projects which were approved for over $500,000. To facilitate order processing by a GSA contractor, the following statement should appear in the purchase document: "GSA/FSS procurement authorization is not required for this order in accordance with paragraph 5c of GSA Bulletin FPMR E–210. The products and/or services included in this order are required for systems furniture project (*Enter GSA project control number*)."

(3) *Limitations.* Procurement authorization is required for add-ons to projects which were not previously approved by GSA and/or do not meet the definition in subparagraph 5c(1) and, for requirements over the limits established in subparagraph 5c(2). Requests for add-on procurement authority should be submitted by an agency contracting officer to the Director, Furniture Commodity Center (FN), Office of Federal Supply and Services, Washington, DC 20406. 20406. (If an agency has internal processing procedures, requests for add-ons should be routed to FSS in accordance with agency procedures.) Requests should include an itemized listing of desired product and/or related services and an explanation of need. For projects which were approved under the FPMR Temp. Reg. E–76 program, the cost comparison analysis under which the project was originally approved should be amended to reflect the changed furniture costs and space utilization data, and be submitted with the request.

d. *Waivers.*

(1) *General.* FSS will grant a waiver from the requirement for obtaining GSA procurement authorization to any department or agency, or major subdivision thereof, which provides compelling evidence that internal procurement, property management and space management policies and programs have been installed within the agency, or activity, to ensure that systems furniture will be competitively procured and employed cost effectively. Requests should be submitted by the agency head, or a designated official, to the Assistant Administrator (F), Office of Federal Supply and Services, Washington, DC 20406. The Assistant Administrator, upon granting a waiver, will require the agency to provide periodic procurement and program management data reports which are necessary for FSS to fulfill its reponsibilities.

(2) *Special.* Procurement authorization is not required in connection with the procurement of systems furniture (including add-ons) for use in a clinical area of a medical facility operated by either the Veterans Administration or an agency of the Department of Defense. (Contracting officers are, however, subject to following the procurement procedures prescribed in the systems furniture schedule.) Clinical areas are defined as pharmacies, laboratories, combination doctors office/examination rooms, and nursing stations. To facilitate order processing by contractors, the following statement should be included in agency purchase documents: "GSA/FSS procurement authorization is not required for this order in accordance with subparagraph 5d(2) of GSA Bulletin FPMR E–210. The products and/or services included in this order are required for *(Describe*

clinical area) at (*Enter name of medical facility*)."

(3) *Other.*

(a) *Terchnical considerations.* Agencies may request authority to use the systems furniture schedule for procuring products and services when items provided under other schedules/contracts will not serve their functional requirements and/or when the use of systems furniture is more cost effective than other alternatives. (Example: Cost analysis demonstrates that the costs of carpentry and electrical services required to construct a lobby security desk are higher than the costs of systems furniture products and services.) Requests should be submitted to the Director, Furniture Commodity Center (FN), Office of Federal Supply and Services, Washington, DC 20406, and should include information similar to that required by FPMR 101–26.100–2. (If an agency has internal processing procedures, requests should be routed to FSS in accordance with agency procedures.)

(b) *National security.* Requests for waiver of the requirement for obtaining GSA procurement authorization for national security reasons should be forwarded to the Assistant Administrator (F), Office of Federal Supply and Services, Washington, DC 20406.

6. *Procurement methodology.*

a. *General.* Systems furniture products and related services, described below, are available from the systems furniture schedule. Contractors are prohibited from accepting orders from executive agencies unless accompanied by a GSA letter of procurement authorization. (See subparagraphs 5c, 5d(1), and 5d(2) for exceptions.) The schedule contains four line items:

(1) *Products.* Items covered under GSA contracts meet standards established by the Business and Institutional Furniture Manufacturers Association (BIFMA). Major product components are either fully or partially depenent upon systems partitions for support. Free-standing items such as desks, tables, files, and seating are not covered; they should be procured from other GSA sources/schedules to avoid potential breach of other GSA contracts. In the event agency requirements cannot be satisfied from items included from other GSA sources/schedules, the agency shall submit a waiver request to GSA in accordance with FPMR 101–26.100–2. (See subparagraph 5d(3)(a).)

(2) *Design/layout services.* Contractors are prohibited from accepting orders for design services under contract until furniture is ordered. This limitation is necessary because completion of design services by a contractor, or a business affiliated with a contractor (e.g., a dealership) during the procurement planning phases, can provide an advantage over other contractors (i.e., potential competitors) when they compete for the furniture contract. If design services are not available in-house, agencies housed in GSA-leased space should obtain them from the Public Buildings Service of GSA. For agencies which are housed in other than GSA-leased space, services should be obtained from design firms which do not have an affiliation with a GSA systems furniture contractor. Typical work station drawings and summaries of space requirements and furniture costs which form the basis for completing the required cost analysis justification, as well as any related systems furniture layouts, should be developed only to illustrate functional and design intent; i.e., they should not be brand-name identifiable or so narrowly prescribed as to preclude equitable competition among as many firms as practicable. After award, the successful contractor, under the design/layout services terms of the schedule, will convert drawings to be brand-specific. This prohibition does not apply to requirements for add-ons and/or clinical areas being procured in accordance with subparagraphs 5c and 5d(2).

(3) *Installation services.* Requirements should be formulated to ensure maximum practicable competition for projects. Installation services may be either negotiated on a project-by-project basis or tied into the competitive procurement of products as an agency requirement. Ordering activities should define their requirements, as necessary, for such things as delivery control, warehousing, staging, and professional installation of the product. Professional installation should require: that all panels be straight, plumb, and level; that hang-on components be aligned, adjusted, and tightly secured in position and operating safely; that all electrical/communications be installed according to local code; that damaged components be repaired or replaced; and, that the furniture be clean and all debris removed from the work area prior to move-in. The agency contracting officer, end-user, and contractor representative should conduct a thorough walk-through inspection of the installation to ensure proper installation and receipt of all products included in the order.

(4) *Post-installation services.* Schedule contracts provide for end-user orientation and training in the use of the new product. It also provides for supplemental training and maintenance services which are subject to price negotiation between the requiring activity and contractors. For example, an ordering activity may consider training its in-house labor force in installation procedures or, as an alternative, entering into an appropriate agreement with the contractor to provide reconfiguration services at predetermined times based upon plans for office relocation. Consideration may also be given to establishing a continuing program which provides for the periodic realigning and tightening of partitions and hang-on components, and repair or replacement of soiled or damaged parts to ensure that a functional, safe, and attractive work environment is maintained.

b. *Procurement.* Detailed procurement procedures, and general aids, are included in Federal Supply Schedule FSC Group 71, Part II, Section E.

7. *Agency comments and assistance.* Comments or inquiries concerning the effect and impact of the requirements and guidance contained in this bulletin should be submitted to the Furniture Commodity Center (FNE), Washington, DC 20406, telephone (703) 557–8473. Procurement related questions should be referred to the FSS contracting officer, telephone (703) 557–5949.

By delegation of the Assistant Administrator.

James J. Grady, Jr.,

Director of Policy and Agency Assistance.

Attachment A—Federal Regulations

This attachment lists Federal regulations which should be considered by agency approving officials in connection with reviewing program proposals to procure systems furniture:

1. FPMR Temp. Reg. E–81, Acquisition of systems furniture, dated May 2, 1985.

2. Public Law 98–369, Competition in Contracting Act of 1984, signed July 18, 1984, promotes use of advance procurement planning to obtain full and open competition, and requires the use of functional specifications.

3. FPMR 101–25.302 requires agencies to establish use standards for office furniture.

GSA Bulletin FPMR E–207, dated December 11, 1984, provides general information designed to assist agencies in establishing use standards.

4. FPMR 101–43.3 addresses the utilization of excess property.

5. FPMR 101–25.104–1 addresses the redistribution, repair, or rehabilitation of agency-owned furniture.

6. FPMR 101–25.404 addresses replacement standards for furniture.

7. FPMR 101–25.104 addresses the acquisition of office furniture based upon essentiality and cost.

8. FPMR 101–25.302–2 addresses the utilization and replacement of file cabinets.

9. FPMR Temp. Reg. D–71 provides criteria and guidelines which must be considered in connection with achieving more efficient layouts and better space utilization.

10. FPMR 101–26.408 addresses the procument of lowest price items under multiple-award contracts.

Attachment B—Cost Comparison Analysis

1. *Purpose.* This attachment provides general information and detailed instructions which agencies should follow to conduct comparative cost analyses of systems furniture and conventional office furniture based upon space savings.

2. *Acquisition planning.* Early teamwork and planning between contracting personnel and program personnel who require the furniture are necessary for the proper procurement of systems furniture. It takes at least 10 months for an agency to plan, procure, and install a systems furniture project. Federal managers and contracting officers are required to comply with numerous Federal procurement, property, and space management regulations in exercising their responsibilities. It is essential, therefore, that acquisition planning begin as soon as a need is identified, and that planning groups include agency contracting and budget officials, and agency property and space management specialists as well as the intended end users.

3. *Background.* GSA has determined that systems furniture is a viable solution to some space management problems; however, it is only one option which managers should consider. It is more expensive than conventional office furniture. This fact necessitates the careful review of all options, including optimum utilization of existing space and furniture, to ensure that it is procured only when cost effective for the Government. In most cases, justification for incurring the additional expense of systems furniture can best be quantified based upon space savings.

4. *Development of options.* To conduct a cost analysis between systems furniture and conventional furniture, each option must be carefully developed to provide a realistic and useful comparison. Comprehensive property surveys will usually be required to properly complete this effort. In none of the options should new furniture be acquired if agency-owned or Government excess is available that will adequately satisfy the requirement. To this extent, agency approving officials should review applicable FPMR governing the replacement of Government-owned property to determine if the planned procurement of systems furniture satisfies regulations. (See attachment A.) The number of options will depend largely upon the circumstances confronting the agency; each one should be equally capable of satisfying the functional requirements of the organization being studied. As a minimum, the following options should be developed:

a. Conventional furniture in proposed office space with no wall changes; and

b. Systems furniture in proposed office space with no wall changes.

Full consideration should also be given to the use of systems furniture panels and overhead storage units together with existing furniture.

5. *Space analysis.* A detailed space analysis must be performed for all conventional and systems furniture options. The objectives are to determine the amount and utilization rate of office space required under each furniture option, and to determine the annual cost per-square-foot of the office space in which the furniture will be installed. Design/layout services covered under Federal Supply Schedule FSC Group 71, Part II, Section E, are not available for planning purposes. (See subparagraph 7a(2) of the bulletin.)

a. *First,* develop prototypical work stations. (See attachments E, F, and G for examples.) At least two layouts are required—one using systems furniture and the other using conventional furniture-for each different type of work station required. They must illustrate similar utility to provide a true comparison. The arrangements should be drawn to scale and the furnishings included in each should be selected after review of the functions of the employees. The prototypicals used for systems should be generically illustrated since they will later be used by the agency contracting officer in soliciting competitive offers. (See subparagraph 7a(2) of the bulletin.)

b. *Second,* determine the space requirement for each work station arrangement developed in a, above. Enter the information on the work station drawings and on the "Space Requirements Summary Work Sheet," attachment H;

c. *Third,* determine the number of required units for each work station arrangement developed in a, above. Enter the information on the work station drawings and on the "Space Requirements Summary Work Sheet," attachment H;

d. *Fourth,* on the work sheet (attachment H), total the space requirements for each work station and option and apply a 30 percent weight factor to allow for circulation space and building design constraints.

e. The *final* space related data element which must be determined is the annual cost per-square-foot chargeable to the office space under consideration. The rate should be for the year of installation and should not be inflated for future price increases. This rate should include the costs of rent, utilities, maintenance, and any overhead chargeable to that space. If the space is GSA-controlled, the agency rental cost for the space should be used. If the space is agency-controlled, either the actual annual lease cost per-square-foot, or the fair market rental value per-square-foot for comparable space in the surrounding community should be used. Assistance in determining the appropriate rate may be obtained from the regional GSA Public Buildings Service. Enter the cost-per-square foot rate on line 4a, attachment D, Program Management Data.

6. *Cost analysis.* A detailed cost analysis should be performed for all conventional and systems furniture options. The objective is to develop complete cost estimates for each furniture option, and to develop a record of furniture to be reassigned in the event systems furniture is authorized for procurement. An inventory of existing furniture assigned the organization under study and survey of items available from agency-owned or Government unassigned and excess inventories should be conducted. The furniture assigned the organization under study should also be coded according to condition.

a. *First,* determine the cost for each work station arrangement developed in paragraph 5a and itemize the furniture pieces and costs on the work stations drawing as shown in examples, attachments E, F, and G. Enter the costs in the "Cost Summary Work Sheet," attachment I.

b. *Second,* enter the number of required units for each work station. (Should be the same as entered on the Space Requirements Summary Work Sheet, attachment H.)

c. *Third,* on the work sheet (attachment I), total the costs for each work station and option subtracting the value of existing conventional and/or systems furniture inventory which can, or will be reutilized. In the event any of the furniture can be retained in service if rehabilitated, subtract 60 percent of the "new" value of those pieces.

7. *Cost comparison of furniture options.*

a. Once all furniture options have been identified and projections of office space requirements and furniture costs for each have been completed, it is then appropriate to compare the cost of the available options. The objective of such an analysis is to identify that option which satisfies organizational needs in the most cost effective manner. The format for the analysis of each option will be:

Total Initial Costs plus Annual Costs minus Salvage Value of Equipment equals Total Costs of the Option

b. The following operating assumptions have been made in connection with the cost analysis. They are:

(1) Projected furniture and office space costs are evaluated over an 8-year term.

(2) Future costs will stated in constant dollars; i.e., projections of office space costs will not be adjusted for inflation.

c. A cost comparison analysis for furniture evaluation, attachment C, has been developed based on the above assumptions. Discounting factors have been included so that the results are stated in present value terms. In the following subparagraphs a discussion of the elements involved in the analysis is provided.

(1) *Initial costs.* (Lines 1a and 1b) Transfer the cost estimates itemized in the "Cost Summary Work Sheet," attachment I, to line 1b, Option 1 for systems; and line 1a, Option 2 for conventional.

(2) *Design/layout costs.* (Line 2) The estimated cost for design services for each furniture option should be developed. The sources of this estimate may be the regional GSA Public Buildings Service, private design contractors, or agency experience. Information provided by agencies to GSA indicates that costs average 5 and 3 percent, respectively, for systems and conventional.

(3) *Delivery and installation costs.* (Line 3) The costs of installation of the furniture should be reviewed for each option. Estimates may be obtained from manufacturers' representatives. For conventional and systems furniture ordered from a GSA furniture schedule, there is no

charge for delivery to the building containing the office space under consideration. However, the furniture must be moved from the building loading dock to the office area and be installed. Estimates should be developed for those installation costs based on the number of hours required and cost per hour for such labor. The installation of systems furniture will require specially trained individuals and may be more expensive than conventional furniture. Information provided by agencies to GSA indicate that costs average 9 and 5 percent, respectively, for systems and conventional. (See subparagraph 7a(3) of the bulletin.)

(4) *Post-installation cost.* (Line 4) Enter zero.

(5) *Alteration costs.*

(a) *Alterations to existing space.* The costs will vary between furniture options because some options will include partitions capable of providing electrical and telephone conduits. This difference will result in varying telephone, electrical, and lighting fixture installation costs. Costs associated with the installation/removal of walls shall be included for each option. Planners are advised that wall installation/removal costs may not be used to increase conventional furniture solution costs if not proven cost effective. Therefore, for each option, a schedule of building alteration costs should be prepared. The development of estimates should be coordinated with the building facilities manager and the space manager, and the results retained in the project record.

(b) *New building construction.* (Line 5b) New construction involves higher initial costs than acquisition of leased space or alterations of existing space. Consequently, reducing new construction costs through space-efficient options can result in savings for the Goverment. For projects in new facilities, and for existing facilities which require new construction to accommodate an option, construction costs should be included. The cost should be the current estimated cost-per-square foot for the project multiplied by the space requirement for each option compared.

(6) *Service contract cost.* (Line 6) Service contract costs should be obtained by competitive bid, and occur only in conjunction with systems furniture. In such cases estimates should be obtained from manufacturers and documented in the project record. Such services are optional and should only be included if they will be part of the initial furniture purchase.

(7) *Annual cost of office space.* (Line 8) To determine this cost, the total space requirement of each option itemized in the "Space Requirements Summary Worksheet," attachment H, should be multiplied by the current per-square-foot cost of the office space determined under subparagraph 5e.

(8) Salvage value of equipment. (Lines 10 a and b) Since it is anticipated that office furniture will have an economic life greater than 8 years, it is necessary to account for the equipment salvage value at the end of the evaluation period. For the purposes of this analysis, it will be assumed that all rehabilitated and new furniture will have 27 percent of its original cost remaining at the end of the 8-year period. The original equipment costs (not installation, design, or building preparation costs) for each furniture option should be multiplied by .27; the result is salvage value for the option.

(9) *Feasibility determination.* (Lines 12 thur 15) Once all estimates have been developed and documented, the cost comparison analysis should be completed in accordance with the instructions provided. The option with the lowest present value cost should be selected. If there is less than ½ of 1 percent difference of total present value cost between several options, those alternatives should be considered essentially as identical. In all other cases, the option with the lowest present value cost should be selected.

(In rare cases, supplemental potential savings, such as productivity and energy savings, may partially offset the cost difference between the systems furniture option and the conventional office furniture options. Such claims must be fully quantified and documented within the agency cost analysis to be considered by GSA.)

Attachment C—Cost Comparison Analysis

	Options		
	Systems	Conventional	Other
I. Initial Costs			
1. Furniture cost:			
a. Conventional			
b. Systems			
2. Design/layout cost			
3. Installation cost			
4. Post-installation support cost			
5. Alteration cost:			
a. Existing space			
b. New construction			
6. Service contract cost			
7. Total initial costs (Lines 1 thru 6)			
II. Recurring Costs			
8. Annual cost of office space (space requirement times cost-per-square foot)			
9. Total recurring costs			
III. Salvage Value			
10. Salvage value:			
a. Conventional (Line 1a×.27)			
b. Systems (Line 1b×.27)			
11. Total salvage value			
IV. Present Value (PV) Cost of Options			
12. Total initial costs (Enter costs from line 7)			
13. PV of annual costs (Line 9×5.335=)			

—Continued

	Options		
	Systems	Conventional	Other
14. PV of salvage (Line 11×.4665=)			
15. PV of options (Lines 12+13−14=)			

Select Option With the Lowest Present Value Cost

Prepared by:
(a) Name _____
(b) Date _____
(c) FTS/Comm Tel _____

1. Project organization and location
   a. Office:
   b. Mailing address:
   c. Building, floor, room numbers:
2. Contacts (Name and telephone number)
   a. Agency approving official: .....
   b. Project officer: .....
3. Procurement data
   a. Number of work stations to be procured: .....
   b. Procurement cost estimate: .....
      (1) Furniture ..... $.....
      (2) Design/layout service ..... $.....
      (3) Installation service .... $.....
4. Space management data
   a. Annual cost-per-square foot of office space: .....
   b. Current space utilization rates:
      (1) Area to receive systems: .....
      (2) Facility (i.e., building) .....
   c. Planned space utilization rate: .....
      (1) Area to receive systems: .....
      (2) Facility (i.e., building) .....

5. Amount of planned space savings (in square feet): _____
6. Utilization of saved space (Describe how the saved space will be used.):

_____

_____

7. Did an acquisition planning group including agency contracting, budget, space, and property management officials develop this proposal?

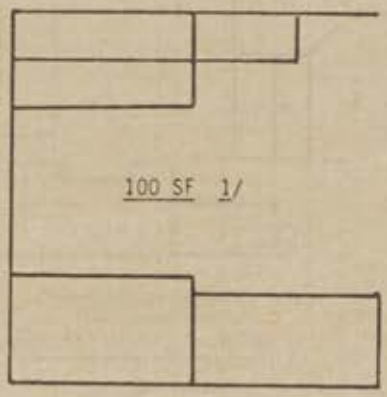
_____YES/NO

BILLING CODE 6820-96-M

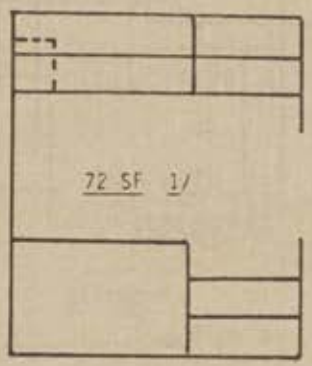
GSA Bulletin FPMR E-210
Attachment E

Type of work station: Engineering/Architect 1/

Number required: _____ 1/



CONVENTIONAL



SYSTEMS

Desk	30 x 60	$ 250
Bookcase	32" w/1 shelf	77
Table	30 x 60	86
Carrell w/light	60"	275
Drafting table	36 x 60	N/C
		($ 688)
Panels: non-power; interconnecting; acoustical		
6 ea - 60 x 62 @ $216		$1,296
Panel sharing		x .625
		($ 810)
TOTAL (EST.) COST		$1,498 2/

Work surfaces	11 LF	$ 305
Shelving w/task lights	11 LF	315
Pedestal	2 drwr.	185
Drafting table	35 x 60	N/C
		($ 805)
Panels: non-power; interconnecting; seated-privacy height		
	31 LF	$2,265
Panel sharing		x .625
		($1,415)
TOTAL (EST.) COST		$2,220 2/

1/ Transfer to work sheet, attachment H

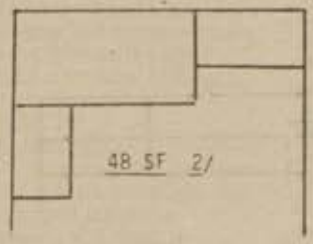
2/ Transfer to work sheet, attachment I

EXAMPLE

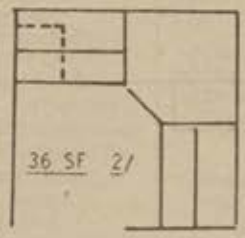
GSA Bulletin FPMR E-210
Attachment F

Type of work station: Clerical 1/

Number required: _____ 1/



CONVENTIONAL



SYSTEMS

Desk	30 x 60 w/"L"	$ 250
Lateral file	2 drwr. 36"	128
Terminal stand	30 x 48	260
		($ 638)
Panels: non-power, interconnecting; acoustical		
1 ea - 60 x 62		$ 216
1 ea - 36 x 62		158
2 ea - 72 x 62 @ $254		508
		$ 882
Panel sharing		x .625
		($ 551)
TOTAL (EST.) COST		$1,189 2/

Work surfaces	9 LF	$ 290
Storage cabinet w/task lights	6 LF	295
Pedestal	2 drwr.	185
		($ 760)
Panels: non-power, interconnecting; seated-privacy height		
	21 LF	$1,635
Panel sharing		x .625
		($1,022)
		$1,782 2/

1/ Transfer to work sheet, attachment H

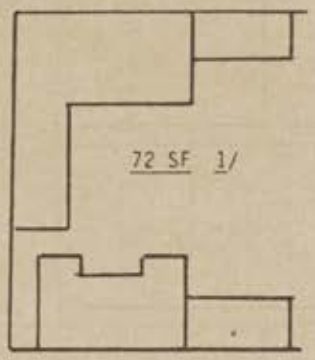
2/ Transfer to work sheet, attachment I

EXAMPLE

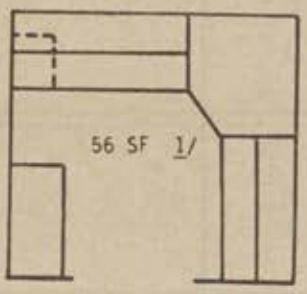
GSA Bulletin FPMR E-210
Attachment G

Type of work station: Professional 1/

Number required: _____ 1/



CONVENTIONAL



SYSTEMS

Desk	30 x 60	$ 370
Lateral file	2 drwr, 36"	128
Bookcase	1 shelf, 32"	77
Terminal stand	30 x 48	260
Table		
Carrell		
		($ 835)
Panels: non-power, interconnecting, acoustical		
5 ea - 48 x 62 @ $185		$ 925
1 ea - 60 x 62		216
		$1,141
Panel sharing		X .625
		($ 713)
TOTAL (EST.) COST		$1,548 2/

Work surfaces	13 LF	$ 325
Storage cabinets w/task lights	10 LF	475
Lateral file	3 LF	175
Pedestal	2 drwr.	185
		($1,160)
Panels: non-power, interconnecting, seated-privacy height		
	27 LF	$1,975
Panel sharing		x .625
		($1,234)
		$2,394 2/

1/ Transfer to work sheet, attachment H

2/ Transfer to work sheet, attachment I

EXAMPLE

SPACE REQUIREMENTS SUMMARY WORK SHEET

WORK STATION TYPE	OPTION 1: SYSTEMS			OPTION 2: CONVENTIONAL			OPTION 3: OTHER		
	SPACE REQUIREMENT	NO. OF WORK STATIONS	TOTAL	SPACE REQUIREMENT	NO. OF WORK STATIONS	TOTAL	SPACE REQUIREMENT	NO. OF WORK STATIONS	TOTAL
SUBTOTAL									
plus									
CIRCULATION (30%)			x 1.30			x 1.30			x 1.30
TOTALS									

GSA Bulletin FPMR E-210
Attachment H

COST SUMMARY WORK SHEET

WORK STATION TYPE	OPTION 1: SYSTEMS			OPTION 2: CONVENTIONAL			OPTION 3: OTHER		
	UNIT COST	NO. OF WORK STATIONS	TOTAL	UNIT COST	NO. OF WORK STATIONS	TOTAL	UNIT COST	NO. OF WORK STATIONS	TOTAL
SUBTOTAL									
less									
REUTILIZED									
TOTALS									

GSA Bulletin FPMR E-210
Attachment 1

[FR Doc. 85-16488 Filed 7-10-85; 8:45 am]
BILLING CODE 6820-96-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

ADAMHA Peer Review Appeals system; Establishment

Background

The Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) has initiated an appeals process whereby applicants may request an examination of their concerns about the referral and peer review of their applications for research grants, research training grants and fellowships and cooperative agreements for research.

This process is intended to resolve those concerns which arise from perceived shortcomings or errors in the substance or procedure of peer review—i.e., from receipt and assignment of an application through its review by a National Advisory Council. Such concerns may involve refusal to accept an application; a disputed assignment of the application to an initial review group or to a particular Institute; perceived insufficient expertise on the initial review group or site visit team or conflict of interest on the part of one or more members; apparent factual or scientific errors, oversights, or bias associated with the review of an application at the initial or advisory council review; and perceived inappropriate handling of the review of the application.

However, the appeals process is not intended to resolve purely scientific disputes between peer reviewers and the investigator; to provide a mechanism for allowing investigators to submit information that should have been presented in the original proposal; or to provide a forum for disputing priority score determinations in the absence of specific and substantive evidence pointing to a flawed review.

The appeals process will not supersede or bypass the peer review process, but if serious shortcomings are found to have occurred in the review of an application, they will be rectified by one of the following actions: re-review by the same or another initial review group; special consideration by the advisory council; or administrative action authorized by the Institute Director or designated staff.

As in the past, investigators are urged to communicate and discuss their concerns regarding peer review with appropriate staff. Now, if investigators are still dissatisfied after a response is received to their communications, they may also request a further examination of these concerns.

Under the appeals system, all concerns must first be communicated to the unit which at the time is responsible for the application. Appropriate officials will thoroughly examine the investigator's concerns, frequently with the help of the initial reviewers or other experts, and, if shortcomings are found to have occurred, every effort will be made to rectify them in a timely manner.

If the principal investigator (PI) disagrees with the resolution of his/her concerns by the responsible Institute staff, an appeal, jointly signed by the PI and applicant organization, may be sent to the designated Institute Appeals Officer whose name and address appears below. The appeal must include documentation of the original dispute, previous communications and interactions with staff in relation to the dispute, and a clear statement of the reasons for disagreeing with the resulting decision. To allow for a complete and independent examination of the appeal—which will frequently entail consultation with scientific or other experts—the application will be withdrawn from the regular review process until the appeal is resolved. An amended application submitted during consideration of the appeal will inactivate the original application and the accompanying appeal. The Institute Director will render the final decision on the appeal and communicate it to the applicant.

How to Use the Appeals System

Communications Before the Initial Review

After being notified about the assignment of an application to the initial review group and the awarding Institute, the principal investigator may direct his/her serious concerns about the assignment of the application to the ADAMHA Grants Referral and Review Officer, 5600 Fishers Lane, Room 13–103, Rockville, Maryland 20857. Concerns about the pending review of the application should be directed to the Executive Secretary of the assigned initial review group.

Communications After the Initial Review

After having received the summary statement, the Principal Investigator may direct his/her questions about the review to the Executive Secretary, who will respond or refer the communication to the appropriate person for response. Communications may be submitted at any time, including after National Advisory Council review, but investigators are encouraged to communicate their concerns as early as possible.

Appeals

After having received the reply to a communication, and if the principal investigator disagrees with the decision, he/she *and* the applicant organization may appeal by submitting the necessary documentation to the appropriate Institute Appeals Officer:

NIAAA

Deputy Director, National Institute on Alcohol Abuse and Alcoholism, Room 16–105

NIDA

Executive Officer, National Institute on Drug Abuse, Room 10–15

NIMH

Associate Director for Extramural Programs, National Institute of Mental Health, Room 17C–26.

All of the above are located in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Effective Date

This appeals system is effective upon issuance of this notice for applications assigned to September 1985 National Advisory Councils.

Donald Ian Macdonald, M.D.,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 85–16538 Filed 7–10–85; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Cooperative Agreements; Studies of the Effects of Exposure to Toxic Waste Sites on Reproductive Outcomes; Program Announcement and Availability of Funds; Fiscal Year 1985

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1985 for competitive applications for cooperative agreements for collaborative studies of the effects of exposure to toxic waste sites on reproductive outcomes in the following 3 areas: (1) Population-based surveillance programs and surveillance-based etiological research; (2) depressed birth weight and exposure to toxic waste sites; and (3) early pregnancy detection and reproductive loss. Eligibility requirements for a cooperative agreement under (1) above differ from those under (2) and (3).

Specific requirement for each area are described in the section on eligibility of this announcement.

Background

The period from pre-conception through gestation and birth is a period of very high risk for the infant-to-be. It is a period when the developing embryo and fetus are vulnerable to a multitude of infectious, chemical, or physical agents. Potential adverse reproductive outcomes include spontaneous abortion, low birth weight, congenital malformations, developmental disabilities, and infant death. Adverse reproductive outcomes are a major public health problem in the United States.

Adverse outcomes such as congenital malformations, when considered collectively, may occur in 5 percent of all livebirths and are one of the leading causes of infant mortality. The incidence of low birth weight varies by racial group but overall affects 7 percent of all births. The impact of these outcomes on hospital admissions, physician care, and long-term care are enormous. More important are the social and personal impacts of having a child who has a congenital malformation or who is at high risk at birth.

Although there is considerable concern regarding risks of adverse reproductive outcomes due to human exposure to hazardous substances released from toxic waste disposal sites, there is little scientific knowledge regarding such risks. The need is great to develop acceptable epidemiologic and surveillance techniques and to apply the epidemiologic methods necessary to examine these outcomes and exposures and their association. CDC solicits applications for cooperative agreements directed towards surveillance and research of the effects of exposure to toxic wastes on reproductive outcome. Some possible approaches for research that could be supported under this program are described below.

The goal of this effort is to develop and apply appropriate methodology to assess relationships between adverse reproductive outcomes and environmental exposures, thereby leading to eventual prevention of adverse reproductive outcomes related to toxic waste sites.

Authority

Section 104(i) of Pub. L. 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (commonly known as the Superfund Act).

Areas of Research Interests

A. Population-Based Surveillance Programs and Surveillance-Based Etiological Research

1. Background

Interest in reproductive surveillance in the U.S. began in the 1960's following the thalidomide episode. The need to monitor reproductive outcomes has become more evident in recent years with increased awareness of how little is known about the causes of adverse outcome and with increased public concern about the effects of chemicals to which they are exposed, particularly in toxic wastes.

2. Purpose

The purpose of this cooperative agreement is to support development of surveillance and epidemiologic capabilities at the State and local level. These surveillance systems should be used to help identify unusual rates or trends of selected adverse outcomes (to be identified in a protocol) and evaluate possible association of adverse outcomes with exposures to toxic wastes.

The agrements may also support epidemiologic studies of the association of adverse reproductive outcomes (identified through surveillance systems) and exposures to toxic waste sites.

3. Objectives

a. Develop State and local health department capacity to conduct adverse reproductive health outcome surveillance programs and associated etiologic research.

b. Develop and improve methods of studying the relationship between environmental factors and poor reproductive outcomes.

c. Develop useful epidemiologic data on adverse outcomes and environmental exposures that can be shared among State and Federal health and environmental protection officials. These data will be used to determine possible environmental etiologies.

d. Conduct etiologic research, based on data from surveillance programs, of associations between adverse reproductive outcomes and exposure to toxic wastes.

4. Cooperative Activities

a. *Recipient Activities.* (1) Develop population-based surveillance of adverse reproductive outcomes. By definition, adverse reproductive outcomes include birth defects at a minimum. Applicants are encouraged to develop surveillance of low birth weight, infant mortality, and other adverse outcomes.

(2) Develop surveillance of a population which includes at least 20,000 births per year. The geographical area to be studied may be a metropolitan area or specific area within a State that has unusual exposures or opportunities for exposure. The prime consideration is that it be population-based. Surveillance of an entire State is encouraged.

(3) Develop detailed methods and protocol for the collection of data on adverse reproductive outcomes.

(4) Develop methods for the identification of cases which will be as complete as possible. To accomplish this, intensive case identification will need to be employed. Vital records as the sole source of case identification will not be acceptable. Using multiple existing data systems is encouraged, particularly hospital records.

(5) Develop a method of information collection which will include, at a minimum, zip code and county of mother's residence at time of delivery, date of birth, hospital of birth, sex, race, birth weight, gestational age, and diagnoses, along with parental demographic factors such as age, race, parity, occupation, and education.

(6) Document that the proposed activity includes provision for conducting followup studies of unusual events. This followup includes the ability to conduct interviews with parents.

(7) Place emphasis on the analysis of the data and its relationship to exposure to toxic wastes. Consideration will be given to proposals which specifically develop etiologic research based on surveillance data.

(8) Consult with CDC before releasing the receipient's surveillance information to a third party while the project is in progress.

(9) Prepare, present, and publish reports of project findings, as appropriate.

b. *CDC Activities.* (1) Provide consultation for the development and implementation of the study protocol. This may include provision of background surveillance data generated through the CDC's Birth Defects Monitoring Program.

(2) Assist with the review of the conduct of the study, as outlined in the protocol.

(3) Provide consultation with regard to data collection and management.

(4) Provide technical consultation in the review of the analysis of information gathered.

(5) Consult with the recipient before releasing the recipient's surveillance information to a third party while the project is in progress.

(6) Review reports of research findings being submitted for publication.

(7) Provide technical assistance to project management through evaluations of the quality of performance by various program activity components and staff members.

B. Selected Adverse Reproductive Outcomes and Exposure to Toxic Waste Sites

Each of the areas presented below focuses research on reproductive outcomes potentially influenced by exposure to toxic wastes and includes the integration of outcome and exposure data. Applications for research projects based upon the following will be solicited from applicants that have access to the kinds of reproductive outcome information described in A. above.

1. Depressed Birth Weight and Exposure to Toxic Waste Sites

a. *Background.* Low and very low birth weight infants are common in the United States. Low birth weight (less than 2,500 grams or 5 lbs. 8 oxs.) occurs in approximately 6 percent of white births and 14 percent of black births. Very low birth weight (less than 1,500 grams or 3 lbs. 5 ozs.) occurs in approximately 0.9 percent of white births and 2.5 percent of black births. These rates will produce in a typical year, with approximately 3,5 million births, an expected number of low birth weight infants of well over 200,000.

Low and very low birth weight have concerned health care providers and health scientists for many years. Birth weight was of central interest in the 1960 Surgeon General's Conference on Maternal and Infant Health. Reasons for this concern include the high correlations of birth weight with such problems as infant mortality, congenital malformations, developmental delay, mental retardation, cerebral palsy, and other neuromotor problems. Also, infants suffering from instrauterine growth retardation, as well as infants born early but at the appropriate weight for gestational age, suffer different but significantly elevated rates of morbidity and mortality.

Concern over environmental toxic exposures and their possible relationship to low birth weight has grown. In animals, many substances that cause malformations or kill embryos also cause depressed birth weights These substances include solvents, insecticides, pesticides, fungicides, and metals.

The vulnerable fetus requires the proper environment to grow normally. Toxic agents may affect this environment and interfere with growth, resulting in depression of birth weight. The fetus also depends on the placenta for transport of nutrients, detoxification of fetal waste, and general maintenance of the fetal environment. Thus, the placenta is a possible target for toxins. Animal studies have demonstrated placental injury can result in low birth weight.

The association between adverse reproductive outcomes in humans and environmental contamination seems highly plausible. However, research in this area is relatively new and methodologies are not well formulated. Also, most investigations have been carried out in the wake of a community crisis situation. The many confounding factors such as low socio-economic status, race, maternal age and education, and others have made interpreting the rates of low birth weight difficult, resulting in inconclusive studies and disillusioned communities.

b. *Purpose.* The purpose of this cooperative agreement is to develop and analyze the distribution of birth weight and toxic wastes by utilizing geocoded data sets to be developed by the recipient.

c. *Objective.* The objective of this cooperative agreement is to research the geographic association between birth weight distributions and toxic wastes.

d. *Cooperative Activities.* (1) *Recipient Activities.* (a) Develop a research protocol which may include a scope of work to address the following: (i) Computer files of all births in a State or other geopolitically defined population unit from within a recent 5-year period including birth weight, gestational age, and a selected list of demographic variables, such as maternal age, race, parity, parental occupation, and education; (ii) computer files on toxic wastes sites and quantified potential for toxic waste site exposure for the geopolitical unit from which the births come; and (iii) sufficient geocode information in the birth and exposure files to allow them to be linked by the recipient.

(b) Provide data analysis.

(c) Consult with CDC before releasing any results of the research to a third party while the effort is in progress.

(d) Publish final results of research.

(2) *CDC Activities.* (a) Assist in the development of a research protocol.

(b) Assist in data analyses.

(c) Assist the recipient in the preparation, presentation, and publication of research findings.

(d) Consult with the recipient before releasing any results of research to a third party while the effort is in progress.

(e) Provide technical assistance to project management through evaluations of the quality of performance by various program activity components and staff members.

2. Early Pregnancy Detection and Reproductive Loss

a. *Background.* A persistent problem in the scientific and regulatory world is the rate of early fetal loss and its relationship to toxic substance exposure. In several recent cases, it has not been possible to prove or disprove a suspected toxic substance effect on fertility (the actual production of live offspring) and fecundity (the ability to produce live offspring). Examples include exposure to 2,4,5–T in Alsea, Oregon, and exposure of log cabin dwellers to pentachlorophenol.

The problem of determining the impact of toxic substances on fertility and fecundity is complicated. Approximately 10 percent of married couples are infertile, with the wife and husband contributing about equally to this figure. The female may have anatomical or biochemical abnormalities reducing her ability to conceive or maintain pregnancy, or she may be in post-contraceptive period where hormonal re-equilibration is occurring. Relative infertility or age extremes may also be important even where fecundity is proven. Frequency of intercourse or number of children already born may also change relative fertility.

An important area to explore concerns average fetal loss rate, which is often expressed as losses per month of pregnancy. Fecundity rates rise with increasing age to a peak of 25 percent for women in their mid-twenties and then fall again. With adjustment of this figure for an infertility rate of 10 percent per couple, it has been estimated that 60–65 percent of conceptions fail to proceed to completion. In spite of severe limits on the early detection of pregnancy (before 8 weeks developmental age), life table estimates and later recorded pregnancy losses are consistent with significant early losses.

Small studies such as the classical work of Hertig show that prior to the expected menstrual period as many as 50 percent of fertilized ova are morphologically defective. In spite of the small number of specimens involved in

the Hertig study, both the expected fecundity of 15–25 percent and the morphology of these conceptions are consistent in suggesting that 50 percent or more of the total spontaneous abortions occur before the time of the first missed menstrual period and that 65–85 percent of these are chromosomally abnormal. Later pregnancy losses account for approximately 20 percent of fetal losses.

Some studies using vital statistics and retrospective case control methods have examined the effect on fecundity of factors such as race, time since last pregnancy, prior fetal deaths, smoking, gravidity, and alcohol use.

None of these figures have been precisely determined because of methodological problems in collecting vital statistics and other data on fetal death. Recall biases in case control pregnancy studies are a persistent problem. The most severe problems relate to the earliest phase of pregnancy, when conception and fetal loss may not cause even minimal symptoms in the woman.

The main source of difficulty has been a reliable noninvasive method for uniquely determining a positive pregnancy early in fetal development. A radioimmunassay (RIA) antibody method was developed in 1976 which measures the unique carboxy terminal portion of beta-human chorionic gonadotropin in urinary concentrates. This method has no cross-reactivity with luteinizing hormone. Levels as low as 1 nanogram/ml can be detected. This corresponds to approximately 9 days developmental age, the approximate time of implementation.

Early fetal loss is a public health concern, relative to toxic waste sites, well suited to epidemiologic investigation. There is substantial evidence that early fetal loss is not a rare event and that it affects a large segment of the population. Using the RIA methodology for detecting early pregnancy, it should be possible to determine rates of early fetal loss. The methods developed will make possible prospective studies of rates in populations exposed, and not exposed, to a toxic waste site.

b. *Purpose.* The purpose of this cooperative agreement is to develop the appropriate methodology for research on early reproductive loss and to design and conduct epidemiologic studies of early fetal loss among residents of areas in proximity to toxic waste sites.

c. *Objectives.* (1) Determine the incidence of early fetal loss occurring before the first missed menstrual period in a population of healthy women.

(2) Determine the feasibility of conducting field studies of early fetal loss.

(3) Research the early fetal loss among residents of an area in proximity to a toxic waste site.

(4) Select a priority toxic waste site and conduct a prospective study of early fetal loss.

(5) Measure the association of early fetal loss and exposure to toxic waste sites.

d. *Cooperative Activities.* (1) Recipient Activities. (a) Develop a research protocol for the study of healthy women, including: (i) Methods for identification of study participants, (ii) provisions for recruiting and maintaining study participants, (iii) provisions for training study personnel in collecting and processing specimens and collecting and recording data, and (iv) monitoring data for accuracy and reliability.

(b) Develop laboratory capabilities necessary to conduct the research including: (i) Methods for sample preparation and transportation, (ii) laboratory procedures for determining the presence of a conceptus, (iii) reporting procedures, (iv) interpreting laboratory results and (v) laboratory quality control methods.

(c) Collarborate with CDC in determining the feasibility of conducting a filed study of early reproductive loss using the methodologies developed during the research, which would include developing the field study protocol (if appropriate), identifying the toxic waste site for investigation, and assessing the potential exposure to hazardous chemicals.

(d) Collaborate with CDC in the preparation, presentation, and publication of study findings.

(e) Consult with CDC before releasing research information to a third party while the study is in progress.

(2) *CDC Activities.* (a) Assist in developing the protocol for the study of health women which may include: (i) Sample size determinations, (ii) describing initial data analysis methods, (iii) providing assistance for developing quality control methods and statistical methods for ascertaining the presence of a fetus, and (iv) arranging for the review of the protocol by appropriate consultants.

(b) Assist in data analysis activities related to the design and conduct of the research and interpretation of the results.

(c) Assist in determining the feasibility of conducting a field study of early reproductive loss using the experience and methodologies acquired from the research on healthy women.

(d) Assist the recipient in the design of a field study.

(e) Assist in the preparation, presentation, and publication of study findings.

(f) Consult with the recipient before releasing research information to a third party while the study is in progress.

(g) Provide technical assistance to project management through evaluations of the quality of performance by various program activity components and staff members.

Eligibility

A. Eligible applicants for a cooperative agreement on the surveillance program and surveillance-based etiological research (A. above) are:

1. All duly constituted State and local public health agencies that are officially recognized as such, including State, local, county, city-county, district, and territorial health departments.

2. all universities with formal agreements for working with State or local health departments for carrying out the surveillance and surveillance-based research.

B. Eligible applicants for a cooperative agreement on (a) depressed birth weight and exposure to toxic waste sites and (d) early pregnancy detection and reproductive loss (B. 1. and 2. above) are all public and private non-profit organizations including State, territorial, and local public health agencies, hospitals, universities, and other public and private not-for-profit agencies.

Scheduling and Reporting

Recipients will submit program progress reports on a quarterly basis. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports and required 90 days after the end of a project period.

Availability of Funds

It is anticipated that approximately $1 million to $1.2 million will be available in Fiscal Year 1985 to fund studies. While the project awards will be funded as outlined in the Methods and Criteria for Review Section, we anticipate funding at least three projects described in "A." above, and at least one project described in "B." above. Individual project awards are expected to range in the first fiscal year as follows:

Population-based Surveillance Programs—$150,000 to $300,000;

Depressed Birth Weight and Exposure to Toxic Waste Sites—$50,000 to $75,000;

Early Pregnancy Detection and Reproductive Loss—$150,000 to $200,000.

Cooperative agreements are usually funded for 12 months. We estimate the project periods to range between 3 to 5 years. Continuation awards within the project period will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change. Funds will not be awarded for the purchase or lease of land or buildings or for major renovations or the construction of a facility.

Methods and Criteria for Review of the Applications

Review of the applications will be conducted in accordance with PHS Grants Administration Manual Chapter PHS 1-507, Objective Review of Grant Applications. An ad hoc committee will be convened to determine the scientific and program merit of the applications received under the Request for Application. There are three separate areas of research to be evaluated. Each application will be evaluated according to the area under which it is submitted; therefore, each must be complete, since evaluation will be conducted and ranked for funding based upon the following factors:

A. Statement that demonstrates the applicant's understanding of the problem and the purpose of the cooperative agreement.

B. The size, qualifications, and time allocations of the proposed staff, and the approach to be used to carry out their responsibilities. Other resources, such as facilities, office space, necessary equipment, and support staff available for the performance of the project will be considered.

C. Proposed schedule (written time frames) for accomplishing the activities of the proposal, including dates the protocol will be completed and in turn implemented.

D. Details on how the applicant will develop and implement the study. This includes specific measurable and obtainable objectives for major outcomes and activities. Special attention will be given to how the applicant will assess associations between the adverse reproductive outcomes and the toxic waste site(s).

E. A description of how the project will be administered and evaluated.

F. The severity of the problem, estimated number of people affected, originality in approach, and methods to problem resolution.

G. The degree to which the project can be expected to yield or demonstrate results that will be useful and desirable for other locales having similar problems.

H. The plans for publishing results, summary documents, and news releases.

I. Biographical sketches for all key project staff.

Application Information

The original and two copies of the application must be submitted on or before 4:30 p.m. (e.d.t.) on August 15, 1985, to:

Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305

Applications shall be considered as meeting the deadline if they are either:

A. Received at the address on or before the deadline date; or,

B. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applications which do not meet the criteria in A. or B. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Information on application procedures, copies of application forms, and other material may be obtained from Mrs. Betty Feeley, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305, or by calling (404) 262-6575 or FTS 236-6575. Technical assistance may be obtained from Lowell E. Sever, Deputy Chief, Birth Defects Branch, Chronic Diseases Division, Center for Environmental Health, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 452-4084 or FTS 236-4084.

Applications are not subject to the review requirements of the National Health Planning and Resource Development Act of 1974, as amended, or to Intergovernmental review pursuant to Executive Order 12372.

Dated: July 3, 1985.

Robert L. Foster,

Assistant Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85-16541 Filed 7-10-85; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 85F-0302]

The Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyethyloxazoline as a component of adhesives.

FOR FURTHER INFORMATION CONTACT: Mary J. Stephens, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B3869) has been filed by The Dow Chemical Co., Midland, MI 48674, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of polyethyloxazoline as a component of adhesives.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c), as published in the Federal Register of April 26, 1985 (50 FR 16636).

Dated: July 5, 1985.

John M. Taylor,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-16424 Filed 7-10-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83P-0430]

Grated Cheese Deviating From Identity Standard; Extension of Temporary Marketing Permit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the expiration date of a temporary permit to market test grated cheeses containing powdered cellulose as an anticaking agent is being extended. This

extension will allow the permit holder to continue experimental market testing of the product while the agency takes action on the permit holder's petition to amend the standard of identity for grated cheeses.

DATE: The new expiration date of the permit will be either the effective date of the final rule for any proposal to amend the standard of identity for grated cheeses which may result from the petition, or 30 days after termination of such proposal.

FOR FURTHER INFORMATION CONTACT: Johnnie G. Nichols, Center for Food Safety and Applied Nutrition (HFF–215), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202–485–0101.

SUPPLEMENTAL INFORMATION: A temporary permit was issued under the provisions of 21 CFR 130.17 to the Kroger Co. doing business as Pace Dairy Foods, 2700 Valley High Drive NW., Rochester, MN 55901, to market test grated cheeses containing powdered cellulose as an anticaking agent. The permit was issued in order to facilitate market testing of foods that deviate from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of issuance of the temporary permit to Pace Dairy Foods was published in the **Federal Register** of January 26, 1984 (49 FR 3270). The expiration date of the permit is July 25, 1985.

Pace Dairy Foods requested that the temporary permit be extended so the market test period can continue while agency action on a petition to amend the grated cheeses standard proceeds. Pace Dairy Foods submitted the petition at the same time the application for extension was submitted. FDA concludes that it is in the interest of consumers to issue the extension. FDA is inviting interested persons to participate in the market test under the conditions that apply to Pace Dairy Foods, including the labeling requirements and the amounts of test product to be distributed, except that the designated area of distribution shall not apply.

Any interested person who wishes to participate in the market test must notify, in writing, the Deputy Director, Division of Food Technology (HFF–211), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW., Washington, DC 20204. The notification must include the amount of test product to be distributed, the area of distribution, and labeling that will be used for the test product.

Therefore, under the provisions of § 130.17(i) (21 CFR 130.17(i)), FDA is extending the expiration date of the premit such that the permit expires either on the effective date of a final rule for any proposal to amend the standard of identity for grated cheeses which may result from the petition, or 30 days after termination of such proposal. All other conditions and terms of this permit remain the same.

Dated: July 5, 1985.

John M. Taylor,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–16422– Filed 7–1085; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85N–0179]

Recommendations To Minimize Diagnostic Nuclear Medicine Exposure to the Embryo, Fetus, and Infant; Availability of Draft Recommendations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of draft recommendations to minimize diagnostic nuclear medicine exposure to the embryo, fetus, and breastfeeding infant. The draft recommendations, prepare by FDA's Center for Devices and Radiological Health (CDRH), include the agency's rationale for the recommendations as well as the endorsement of the recommendations by several professional organizations. The draft recommendations are being published in a pamphlet that is being made available to interested persons.

DATE: Comments by September 1,1985.

ADDRESS: Requests for single copies of the draft recommendations should be sent to Phyllis Segal, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Phyllis Segal, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2436.

SUPPLEMENTARY INFORMATION: FDA is making available draft recommendations entitled "Embryo, Fetus, Infant * * * Recommendations to Minimize Diagnostic Nuclear Medicine Exposure." These recommendations, prepared by CDRH's Office of Training and Assistance, are directed to nuclear medicine physicians, attending physicians, technologists, patients, nuclear medicine educators, members of professional societies, and other who can influence decisions regarding the performance of nuclear medicine procedures.

The recommendations, when they are made final, will be made part of CDRH's radiation recommendations series. This series was established to provide guidance to those involved in the radiological process on appropriate principles to reduce radiation exposure. To give the public an opportunity to participate in development of these recommendations, FDA is making available the draft recommendations.

FDA invites and encourages interested persons to submit data and comments relating to diagnostic nuclear medicine exposure of the embryo, fetus, and breastfeeding infant. Single copies of the draft recommendations are available from the contact person at the address given above.

Interested persons may, on or before September 9, 1985, submit to the Dockets Management Branch (address above) written comments regarding the draft recommendations. Comments received after September 9, 1985, may be considered, depending on the stage of development of the final recommendations. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The draft recommendations and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m. Monday through Friday.

Dated: July 3, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–16425 Filed 7–10–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85F–0303]

Rhone-Poulenc, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Rhone-Poulenc, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of cerium stearate as a

stabilizer and/or processing aid in polyvinyl chloride homo- and copolymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B3872) has been filed by Rhone-Poulenc, Inc., P.O. Box 2009, 120 Jersey Ave., New Brunswick, NJ 08903, proposing that the food additive regulations be amended to provide for the safe use of cerium stearate as a stabilizer and/or processing aid in polyvinyl chloride homo- and copolymers intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: July 5, 1985.

John M. Taylor,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–16423 Filed 7–10–85; 8:45 am]

BILLING CODE 4160–01–M

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 summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Obstetrics-Gynecology Devices Panel

Date, time, and place. August 19 and 20, 9 a.m., Rm. 703A–727A, 200 Independence Avenue SW., Washington, DC.

Type of meeting and executive secretary. Open public hearing, August 19, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; open public hearing, August 20, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; Dr. Lillian Yin, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agency—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before August 5, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On August 19, the committee will discuss a premarket approval application for the Dilapan™ Osmotic Cervical Dilator. On August 20, the committee will discuss the September 11, 1984 Citizen's Petition from Woman Health International and the Empire State Consumer Association, Inc., on the safety of menstrual tampons and the association with toxic shock syndrome (TSS). Any comments or questions on the Citizen's Petition should be directed to Les S. Weinstein, 301–443–4874.

FDA public advisory committee meetings 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. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open 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.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. The guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentation of participants at a public hearing. Accordingly, all interested persons are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

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 the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice 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's regulations (21 CFR Part 14) on advisory committees.

Dated: July 3, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-16428 Filed 7-10-85; 8:45 am]

BILLING CODE 4160-01-M

Availability of Electronic Bulletin Board for Third Party Redistribution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the information contained within the electronic bulletin board is available to any organization, public or private, for redistribution. The text of all documents on the electronic bulletin board is in the public domain and can be read, stored, and redistributed, both electronically and in hard copy.

FOR FURTHER INFORMATION CONTACT: Carolyn Laubach, Office of Public Affairs (HFW-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3285.

SUPPLEMENTARY INFORMATION: The electronic bulletin board is maintained by FDA's Office of Public Affairs and is available by subscription through the computer firm ITT-Dialcom. Started in January 1983, the system enables the public to access up-to-date FDA news via communicating word processor or computer system. Currently available on the electronic bulletin board are news releases (both in English and Spanish), recalls, drug and device approvals, the FDA Drug Bulletin, selected stories from the FDA Consumer, summaries of FDA **Federal Register** items, speeches delivered by the Commissioner and Deputy Commissioner of Food and Drugs, and congressional testimony delivered by FDA officials. All documents on the electronic bulletin board are also available in hard copy through various FDA offices, but the electronic bulletin board allows subscribers faster access to the information. Items on the electronic bulletin board may be updated or changed as new information becomes available.

For information on subscribing to FDA's electronic bulletin board, contact Linda Reid, ITT-Dialcom, 600 Maryland Avenue, SW., Suite 455, Washington, D.C. 20024, 202-488-0550.

Dated: July 3, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-16426 Filed 7-10-85; 8:45 am]

BILLING CODE 4160-01-M

Public Workshop; Multivitamin Preparations for Parenteral Use

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming public workshop to discuss "Multivitamin Preparations for Parenteral Use."

DATE: The workshop will be held on August 21, 8:30 a.m. to 5 p.m.

ADDRESS: The workshop will be held in Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

FOR FURTHER INFORMATION CONTACT: A.T. Gregoire, Center for Drugs and Biologics (HFN-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1869.

SUPPLEMENTARY INFORMATION: FDA's Center for Drugs and Biologics, Division of Metabolism and Endocrine Drug Products, in conjunction with the American Medical Association's Division of Personal and Public Health Policy, will sponsor an invitational workshop on "Multivitamin Preparations for Parenteral Use." The workshop will be open to the public.

Requests for information on the workshop should be directed to A.T. Gregoire (address above).

Dated: July 3, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-16427 Filed 7-10-85; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

National Advisory Council on Migrant Health; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of August 1985:

Name: National Advisory Council on Migrant Health.

Date and Time: August 8-10, 1985, 8:30 a.m.

Place: Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

The entire meeting is open.

Purpose: The Council is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Resources and Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 329 of the Public Health Service Act.

Agenda: The agenda items include: (1) Review the Council's recommendations of April 1985 and the Secretary's response; (2) Program update of Administration/Clinical Perspectives; (3) Resource allocations; (4) Alternative service model review.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Billy Sandlin, Executive Secretary, National Advisory Council on Migrant Health, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 7A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1153.

Agenda items are subject to change as priorities dictate.

Dated: July 8, 1985.

Jackie E. Baum,

Advisory Committee Management Officer HRSA.

[FR Doc. 85-16485 Filed 7-10-85; 8:45 am]

BILLING CODE 4160-15-M

Application Announcement for Cooperative Agreements With Statewide Organizations for Development of Programs for Planning and Development of Comprehensive Primary Care Services in Areas That Lack Adequate Health Services and Health Manpower

AGENCY: Health Resources and Services Administration, Public Health Service, HHS.

ACTION: Notice.

The Health Resources and Services Administration announces that applications are being accepted from qualified Statewide organizations for the development of programs for cooperative agreements to provide assistance in the planning and development of comprehensive primary health care services in areas that lack adequate health manpower or have populations lacking access to primary care services. It is expected that

approximately $3 million will be available for these agreements, which will be entered into under the authority of section 333(g) of the Public Health Service Act.

In order to qualify for a cooperative agreement, an applicant must be a State or a State agency or another Statewide public or nonprofit entity that operates solely within one State, and must satisfy the Secretary that it is able to perform each of the following functions:

1. Analyze the use of health services and health professions personnel in defined health service delivery areas;

2. Determine the need for appropriate health resources in such areas; and cooperate with and assist the Federal Government in the recruitment selection and retention of National Health Service Corps and other health professionals to meet identified need;

3. Determine the extent to which such areas will have a financial base to support the provision of services by such providers and personnel, and the extent to which additional financial resources are needed;

4. Determine the types of inpatient and other health services that should be provided to meet the primary care needs of such areas;

5. Based on the determination made under number 4 and approved by the Secretary, assist in the development of health service delivery centers and in the management of service providers;

6. Participate with the Public Health Service in the planning and development of facilities (whether or not Federally funded) for the delivery of primary health care; and

7. Assist in establishing the governing bodies of centers for the delivery of primary health care, and assist such bodies in defining and carrying out their responsibilities.

In carrying out the functions defined above, applicants will be expected to perform at least the following specific activities as part of their responsibilities under a cooperative agreement:

1. Serve as a clearinghouse for persons seeking employment in the health services, and for health service delivery sites seeking such personnel;

2. Monitor the activities of National Health Service Corps scholarship recipients who practice in the State under the Private Practice Option, and make appropriate reports (including recommended actions) to the Public Health Service;

3. Coordinate the development of comprehensive plans for the delivery of health services to medically underserved populations; and

4. Provide technical assistance to health service providers, specifically including Private Practice Option practitioners and community health centers.

Applicants will be evaluated on the basis of their relative ability, as determined by the Secretary, to perform the functions and specific activities listed above.

In conducting this evaluation the Secretary will also consider:

- The experience of the applicant in the delivery of primary health care services or the operation of facilities involved in actual patient care.
- The ability of the applicant to integrate existing State and local resources with Federal assistance programs.
- Evidence that the applicant will be able to enter into a formal Memorandum of Agreement with an organization representing a majority of Federally funded Community Health Centers within the State.

Federal responsibilities under the cooperative agreements, in addition to the usual monitoring and technical assistance provided under grants, will include the following:

1. To the extent possible, exercise responsibility for final authority on the award of Federal grants, Federal health personnel placement, and overall program management of Federal resources in the context of fulfilling the State program as developed under the agreement;

2. The detail or assignment of Federal personnel to the Statewide organization;

3. The recruitment and assignment of National Health Service Corps personnel in accordance with the program developed under the cooperative agreement; and

4. Participation in the development of, and approval of Statewide plans at various stages during their development.

Applications may be made by completing the standard PHS Grant Application (form PHS–5161). This application form calls for a program narrative giving a full description of the proposed cooperative agreement, including current and proposed activities, and a budget justification. A competitive review of applications will be the basis for selecting successful proposals for cooperative agreements with consideration being given to those applicants who indicate that they can achieve the objectives of the cooperative agreement with cost-effective expenditure of funds. Applicants may wish to include in their plans for accomplishing their functions under the cooperative agreement additional information to assist in the review of the application such as qualifications of applicants' personnel, formal agreements between the applicant and State primary care associations, indications of health services management and/or delivery strengths of the applicant including any previous experience of the applicant in these areas, and, if the applicant is not a State or State agency, indications of the ability of the applicant to work with and coordinate the project's activities with State and other public and private entities on a Statewide basis, which could include any past experience or acomplishments in this regard, and letters of support from Statewide or other organizations which attest to the applicant's ability to perform these functions.

Requests for application materials and questions regarding this announcement should be directed to: Mr. Waddel Avery, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 7A–08, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1440.

To receive consideration for financial assistance under these cooperative agreements, applications must be either: (1) Received (if hand-delivered) at the above address on or before July 25, 1985, or (2) post-marked on or before July 25, 1985, and received at the above address in time for processing.

These cooperative agreements are subject to the provisions of Executive Order 12372, as implemented by 45 CFR Part 100, which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available by DHHS will contain a listing of States which have chosen to set up such a review system and will provide the point of contact in such States for that review. At the latest, States should receive applications at the same time they are due in BHCDA.

The National Health Service Corps program is listed as No. 13.258 in the OMB *Catalog of Federal Domestic Assistance.*

Dated: July 9, 1985.

John Kelso,

Acting Administrator.

[FR Doc. 85–16592 Filed 7–10–85; 8:45 am]

BILLING CODE 4160–16–M

Social Security Administration

Grenada; Finding Regarding Foreign Social Insurance or Pension System

AGENCY: Social Security Administration, HHS.

ACTION: Notice of finding regarding foreign social insurance or pension system—Grenada.

Finding

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for 6 consecutive months. This prohibition does not apply to such an individual where one of the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through (t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that (subject to certain residency requirements contained in section U.S. 202(t)(2)(11)) the prohibition against payment shall not apply to any individual who is a citizen of a country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and which:

(a) pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those beneifts, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Secretary of Health and Human Services has delegated the authority to make such a finding to the Commissioner of Social Security. The Commissioner has redelegated that authority to the Director of the International Policy Staff. Under that authority the Director of the International Policy Staff has approved a finding that Grenada, beginning April 4, 1983, has a social insurance system of general application which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) Permits United States citizens who are not citizens of Grenada to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside Grenada.

Accordingly, it is hereby determined and found that Grenada has in effect, beginning April 4, 1983, a social insurance system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

FOR FURTHER INFORMATION CONTACT: Joseph J Rausch, Room 1104, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-6123.

(Catalog of Federal Domestic Assistance Programs No. 13.802 Social Security Retirement Insurance; 13.805 Social Security—Survivors Insurance)

Dated: June 17, 1985.

Elizabeth K. Singleton,

Director, International Policy Staff.

[FR Doc. 85-16489 Filed 7-10-85; 8:45 am]

BILLING CODE 4190-11-M

Dominican Republic; Finding Regarding Foreign Social Insurance or Pension System

AGENCY: Social Security Administration, HHS.

ACTION: Notice of finding regarding foreign social insurance or pension system—Dominican Republic.

Finding

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for 6 consecutive months. This prohibition does not apply to such an individual where one of the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through (t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that (subject to certain residency requirements contained in section 202(t)(11)) the prohibition against payment shall not apply to any individual who is a citizen of a country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and which:

(a) pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Secretary of Health and Human Services has delegated the authority to make such a finding to the Commissioner of Social Security. The Commissioner has redelegated that authority to the Director of the International Policy Staff. Under that authority the Director of the International Policy Staff has approved a finding that the Dominican Republic, beginning November 23, 1984, has a social insurance system of general application which:

(a) pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) permits United States citizens who are not citizens of the Dominican Republic to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside the Dominican Republic.

Accordingly, it is hereby determined and found that the Dominican Republic has in effect, beginning November 23, 1983, a social insurance system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

This revises our previous finding (published May 14, 1969 at 34 FR 7665), that the Dominican Republic does not have in effect a social insurance or pension system which meets the requirements of section 202(t)(2) of the Social Security Act.

FOR FURTHER INFORMATION CONTACT: Roy G. Hatch, Room 1104, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-6122.

(Catalog of Federal Domestic Assistance Programs No. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivors Insurance)

Dated: June 17, 1985.

Elizabeth K. Singleton,

Director, International Policy Staff.

[FR Doc. 85-16490 Filed 7-10-85; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-85-801]

Designating Order of Succession

AGENCY: Office of the Secretary, HUD.

ACTION: Designation Order of Succession.

SUMMARY: This designation lists the order of officials to serve as Acting Secretary of Housing and Urban Development.

EFFECTIVE DATE: July 2, 1985.

FOR FURTHER INFORMATION CONTACT: David D. White, Assistant General Counsel for Administrative Law, Room 10254, Department of Housing and Urban Development 451 7th Street, SW., Washington, D.C. 20410 (202) 755-7137 (This is not a toll-free number).

Designation: During any period when, by reason of absence, disability, or vacancy in office, the Secretary of Housing and Urban Development is not available to exercise the powers and perform the duties of the Secretary, appointees to the positions listed below are authorized to act as Secretary and exercise all the powers, functions, and duties assigned to or vested in the Secretary. However, no official shall act as Secretary 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. Under Secretary.
2. General Counsel.
3. Assistant Secretary for Housing—Federal Housing Commissioner.
4. Assistant Secretary for Community Planning and Development.
5. Assistant Secretary for Public and Indian Housing.
6. Assistant Secretary for Policy Development and Research.
7. Assistant Secretary for Administration.
8. Assistant Secretary for Legislation and Congressional Relations.
9. Assistant Secretary for Fair Housing and Equal Opportunity.

If a civil defense emergency is declared or proclaimed by the President or by Concurrent Resolution of the Congress in accordance with section 301 of the Federal Civil Defense Act of 1950 (64 Stat. 1251, 12 U.S.C. App. 2291) and none of the officials named above is able to act, appointees to the positions listed below are authorized to act as Secretary, and exercise all powers, functions, and duties assigned to or vested in the Secretary. However, no official shall act as Secretary 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. President, Government National Mortgage Association.
2. President, Solar Energy and Energy Conservation Bank.
3. Deputy Under Secretary for Field Coordination.
4. Deputy Under Secretary for Intergovernmental Relations.
5. Regional Administrator—Regional Housing Commissioner, Region I (Boston).
6. Regional Administrator—Regional Housing Commissioner, Region II (New York).
7. Regional Administrator—Regional Housing Commissioner, Region III (Philadelphia).
8. Regional Administrator—Regional Housing Commissioner, Region IV (Atlanta).
9. Regional Administrator—Regional Housing Commissioner, Region V (Chicago).
10. Regional Administrator—Regional Housing Commissioner, Region VI (Fort Worth)
11. Regional Administrator—Regional Housing Commissioner, Region VII (Kansas City).
12. Regional Administrator—Regional Housing Commissioner, Region VIII (Denver).
13. Regional Administrator—Regional Housing Commissioner, Region IX (San Francisco).
14. Regional Administrator—Regional Housing Commissioner, Region X (Seattle).

This designation supersedes the designation effective February 18, 1982 (47 FR 8249) published February 25, 1982.

Authority: Executive Order 11274, 31 FR 5243, 3 CFR; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Executive Order 11490, 34 FR 17567.

Effective Date: This order is effective July 2, 1985.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 85-16545 Filed 7-10-85; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. N-85-1541]

Notice of 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 Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals 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 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, 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: Mortgagee Questionnaire and Case File Review (Loan Origination Monitoring)
Office: Housing
Form Number: HUD-9080A and 9080B
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 1,400
Status: Extension
Contact: William Heyman, HUD, (202) 755-6830, Robert Fishman, OMB, (202) 395-6880

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: June 25, 1985.

Proposal: Procurement Policies and Procedures Handbook (2210.3 REV.2)
Office: Administration
Form Number: HUD-441, 441.1, 442, 661, 661.1, 662, 663, and 770
Frequency of Submission: On Occasion, Monthly, and Quarterly
Affected Public: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations
Estimated Burden Hours: 148,352
Status: Revision
Contact: Gladys Gines, HUD, (202) 755-5294, Robert Fishman, OMB, (202) 395-6880

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: June 25, 1985.

Proposal: Report on Tenants Accounts Receivable
Office: Public and Indian Housing
Form Number: HUD–52295
Frequency of Submission: Quarterly
Affected Public: Non-Profit Institutions
Estimated Burden Hours: 2,380
Status: Revision
Contact: Joanne Farmer, HUD (202) 426–1872, Robert Fishman, OMB (202) 395–6880

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: May 28, 1985.

Proposal: Annual Contributions for Operating Subsidies—Performance Funding System, Determination of Operating Subsidy
Office: Public and Indian Housing
Form Number: None
Frequency of Submission: Annually
Affected Public: State or Local Governments
Estimated Burden Hours: 46,800
Status: Revision
Contact: John Comerford, HUD (202) 426–1872, Robert Fishman, OMB (202) 395–6880

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: May 28, 1985.

Dennis F. Geer

Director, Office of Information Policies and Systems.

[FR Doc. 85–16542 Filed 7–10–85; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review

June 28, 1985.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and to the Office of Management and Budget reviewing official at 202–395–7340.

Title: 25 CFR Part 11, Law and Order on Indian Reservations, Domestic Relations—Marriage and Divorce Decrees.

Abstract: Courts of Indian Offenses have jurisdiction over domestic relations, including issuance of marriage licenses and divorce decrees. The general information collected on a marriage license application or a petition for dissolution is essential to enable the court to issue the proper documents. Respondents are persons who are seeking a marriage license or who want to petition for divorce.

Frequency: On occasion.

Description of Respondents: Persons seeking marriage decrees or divorce proceedings.

Annual Responses: 300.

Annual Burden Hours: 125.

Bureau Clearance Officer: Cathie Bacon, (202) 343–3574.

John W. Fritz,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 85–16524 Filed 7–10–85; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[M–59847]

Conveyance and Order Providing for Opening of Public Lands; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance and order providing for opening of public lands in Lewis and Clark County, Montana.

SUMMARY: This order will open the lands reconveyed to the United States in an exchange under the Act of October 21, 1976, 43 U.S.C. 1701, et seq., to the operation of the public land laws. All minerals in the offered lands were reserved to the private party in sections 27, 29, 31, 32, 33, and 35, T. 14 N., R. 4 W., PMM. The United States has always owned all of the minerals in section 28 of the offered land. The valuable minerals were reserved to the U.S. on all lands patented to the private parties.

DATE: At 9 a.m. on August 19, 1985, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The segregation of those parcels of public land that were subsequently transferred to private parties terminated on issuance of the patents on April 24, 1984, and February 15, 1985. The two Notices of Realty Action creating the segregation were published in the **Federal Register** on February 9, 1984 (49 FR 4995) and on December 12, 1984 (49 FR 48391).

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone: (405) 657–6082.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716), the following described land, with a reservation to the United States of specified mineral deposits determined to be valuable or prospectively valuable, was conveyed by 42 separate patents to private parties:

Patent serial No.	Land description (Principal Meridian, Montana)
Phase I:	
M–60291	T. 1 S., R. 11 W., sec. 17, lot 5.
M–60292	T. 2 S., R. 16 W., sec. 35, W½SW¼.
M–60293	T. 5 S., R. 9 W., sec. 9, SW¼SE¼.
M–60294	T. 4 S., R. 1 W., sec. 3, lot 1.
M–60295	T. 1 S., R. 11 W., sec. 5, lot 2.
M–60296	T. 11 S., R. 6 W., sec. 35, NW¼NE¼.
M–60297	T. 1 N., R. 14 W., sec. 20, W½W½; sec. 30, N½NE¼, SW¼NE¼, E½NW¼, NE¼SW¼, NW¼SE¼.
M–60298	T. 1 N., R. 14 W., sec. 20, SE¼NW¼, NE¼SW¼.
M–60299	T. 3 S., R. 16 W., sec. 10, NE¼NE¼.
M–60300	T. 13 S., R. 1 W., sec. 5, SW¼SW¼; sec. 6, lot 3.
	T. 13 S., R. 2 W., sec. 2, SE¼SE¼.
M–60301	T. 8 N., R. 9 W., sec. 12, NE¼SE¼.
M–60302	T. 14 S., R. 5 W., sec. 29, lot 6.
	Aggregating 1,006.97 acres.
Phase II:	
M–63885	T. 6 N., R. 3 W., sec. 2, lots 13, 14, 15, 16, N½N½NW¼SE¼.
M–63887	T. 3 N., R. 1 E., sec. 27, SW¼NW¼.
M–63886	T. 1 S., R. 9 E., sec. 8, SE¼SE¼, NW¼SW¼.
	T. 1 S., R. 10 E., sec. 30, N½SE¼, SE¼SE¼.
M–63889	T. 2 N., R. 8 E., sec. 6, NW¼NW¼; sec. 20, SE¼NW¼.
M–63890	T. 3 S., R. 9 E., sec. 30, lots 3, 4, E½SW¼.
M–63891	T. 2 S., R. 8 E., sec. 30, NE¼NW¼.
M–63892	T. 3 S., R. 8 E., sec. 22, W½.
M–63893	T. 4 N., R. 9 E., sec. 6, lot 3.
M–63894	T. 9 N., R. 2 E., sec. 20, SW¼NW¼NE¼, NW¼SW¼NE¼, N½SE¼NW¼, SW¼SE¼NW¼.
M–63895	T. 2 S., R. 7 E., sec. 20, NE¼NE¼.
M–63896	T. 2 S., R. 11 E., sec. 14, W½SE¼.
M–63897	T. 2 S., R. 12 E., sec. 10, SE¼NW¼.
M–63898	T. 2 S., R. 11 E., sec. 21, SW¼SW¼.
M–63899	T. 3 S., R. 11 E., sec. 13, SW¼NW¼.
M–63900	T. 1 N., R. 8 E., sec. 34, SE¼NE¼.
	T. 1 S., R. 10 E., sec. 18, lot 4, sec. 20, S½SE¼.
M–63901	T. 1 S., R. 11 E., sec. 2, lot 1; sec. 22, NW¼NW¼, sec. 24, E½SE¼.
	T. 1 S., R. 12 E., sec. 20, N½N½, SE¼NW¼.
	T. 1 N., R. 12 E., sec. 22, S½SW¼.
M–63902	T. 3 S., R. 8 E., sec. 20, SW¼SW¼.
M–63903	T. 2 S., R. 8 E., sec. 34, SE¼.
M–63904	T. 5 S., R. 9 E., sec. 32, W½NW¼.
M–63905	T. 7 S., R. 7 E., sec. 2, lot 4.
M–63906	T. 2 S., R. 2 E., sec. 17, lot 5; sec.18, NE¼SE¼; sec. 22, NE¼SE¼.
M–63908	T. 2 N., R. 11 E., sec. 6, lot 4, SE¼SW¼, SW¼SE¼.
M–63909	T. 1 S., R. 9 E., sec. 2, lot 3.
	T. 1 N., R. 10 E., sec. 32, N½SW¼.
M–63910	T. 1 S., R. 9 E., sec. 2, lot 4.
	T. 1 N., R. 10 E., sec. 32, S½SW¼.
M–63911	T. 2 S., R. 11 E., sec. 10, NE¼SW¼.
M–63912	T. 1 S., R. 10 E., sec. 20, N½SE¼.
M–63913	T. 1 N., R. 12 E., sec. 32, SW¼SW¼.
M–63914	T. 1 N., R. 10 E., sec. 20, N½NE¼.
M–63915	T. 4 S., R. 8 E., sec. 26, N½SW¼.
M–63916	T. 4 S., R. 8 E., sec. 26, S½NW¼.
Aggregating 2,974.43 acres.	

The names of the patentees are available at the Montana State Office at the above address.

2. In exchange for the above selected land, the United States acquired the surface estate of the following described land in Lewis and Clark County, Montana:

Principal Meridian, Montana

T. 14 N., R. 4 W.,
Sec. 27, All;
Sec. 28, All, except four certain tracts of land totalling 106.36 acres;
Sec. 29, two particular tracts of land lying in the E½SE¼ totalling 6.69 acres;
Sec. 31, lots 1, 2, 3, 4, E½, E½W½;
Sec. 32, N½, SW¼, except a certain tract of land containing 1.96 acres; and
Sec. 33, All, except three certain tracts of land totalling 74.79 acres.
Sec. 35, All.

containing 3,524.22 acres.

At 9 a.m. August 19, 1985, the above described lands that were conveyed to the United States will be open to the operation of the public land laws.

Dated: July 2, 1985.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 85-16530 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-DN-M

[OR-36647]

Realty Action; Exchange of Public Land in Klamath County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Exchange of Public Lands (OR-36647).

On November 15, 1983, Klamath County filed a proposal with the Lakeview District, BLM to exchange 160 acres of county owned land for 110 acres of public land located in Klamath County, Oregon. The proposal has been accepted by the Bureau of Land Management.

The following described public 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:)

Willamette Meridian

T. 40S., R.14E.,
Sec. 6: SE¼SE¼.
T.39S., R.11E.,
Sec. 19: lots 6, 9, SE¼SW¼.

Containing 110 acres.

The following described private land has been determined to be suitable for acquisition by the Federal Government:

T.40S., R.10E.,
Sec. 12 E½SW¼,
Sec. 13 E½NW¼.

Containing 160 acres.

The purpose of the exchange is to acquire non-federal land for use in Federal Programs and to dispose of the Lorella and Harpold dumps.

The exchange is consistent with the Bureau planning system, will provide improved and more efficient land management and the public interest will be well served by making the exchange.

The volume of the lands have not been determined, however, upon completion of the final appraisal the acreage will be adjusted or money will be used to equalize the values.

The exchange will include both surface and mineral estates.

The publicationof this notice in the **Federal Register** shall segregate the applied for public lands from all forms of appropriation under the public land laws including the mining laws for a period of two years.

There will be reserved to the United States in the applied for lands a right-of-way for ditches and canals constructed by the authority of the United States (43 U.S.C. 945).

Other terms and conditions of the exchange.

T.40S., R.14E. W.M.,
Sec. 6 SE¼SE¼.

1. A reservation for an existing right-of-way issued to Bureau of Reclamation for an irrigation ditch OR-2085.

2. A permanent exclusive easement to United States for an access road, right of way width being 15 ft. on each side of the centerline.

3. A reservation to the United States for a stock driveway.

T.39S., R.11E. W.M.,
Sec. 19, lots 6, 9, SE¼W¼.

1. A permanent exclusive easement to the United States for an access road, right-of-way width being 15 feet on each side of centerline.

Information concerning the exchange including the environmental analysis is available for review at the Bureau of Land Management Klamath Falls Resource Area Office, 1939 South Sixth Street, Klamath Falls, Oregon 97601.

For a period of 45 days from the date of first publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Lakeview District P.O. Box 151, Lakeview, Or. 97630. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: June 26, 1985.

Jerry Asher,

District Manager.

[FR Doc. 85-16523 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-33-M

[A-20229, A-20630, A-20631, A-20632]

Realty Action; Direct and Competitive Sales of Public Lands in Cochise County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Direct and Competitive Sale of Public Lands in Cochise County, Arizona.

SUMMARY: The following lands have been examined and identified as suitable for disposal under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, U.S.C. 1713) at no less than the appraised fair market value.

Parcel	Serial No.	Legal description	Acres	Appraised value
		Gila & Salt River Meridian		
A	A-20630	T. 12 S., R. 23 E., section 8: SW¼SW¼	40	$4,000
B	A-20632	T. 13 S., R. 24 E., section 31: Lots 6,11	81.01	8,900
C	A-20631	T. 13 S., R. 24 E., section 30: Lots 5,6	81.49	9,400
D	A-20229	T. 23 S., R. 20 E., section 1: SW¼SW¼	40	40,000

Parcel A is being offered to Tri-W Ranch by direct sale at the appraised fair market value. No other bids or bidders will be considered. Parcel B is being offered to Marcellus DuBois by direct sale at the appraised fair market value. No other bids or bidders will be considered. Parcels C & D are being offered at competitive sale.

The land has not been used for and is not required for any Federal purpose. The parcels are difficult and uneconomic to manage as public land. Disposal would best serve the public interest. The disposal would be consistent with the Bureau's planning recommendations.

All minerals, except oil and gas will be offered for conveyance. The mineral interests being offered have no known mineral value. A bid on the parcel will also constitute application for conveyance of those mineral interests offered under the authority of Section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)). Purchasers of the affected parcels will be required to submit a non-returnable filing fee in the amount of $50.00 to cover the processing costs of conveying the available mineral interests. Failure to do so will result in disqualification.

The patents issued as the result of the sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for a right-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945), for oil and gas resources, and for oil and gas lease A-11080 affecting parcels B and C.. The patents issued for parcels C & D will be subject to continued grazing by the current lessees until February 28, 1990 in accordance with the terms of the existing leases and the fees for this grazing will coincide with the Federal grazing fee.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of a patent or 270 days from the date of the publication, whichever occurs first.

Sale Procedures

The designated bidders on parcels A and B will be required to submit payment of at least 20 percent of the fair market value by cash, certified or cashier check, or money order to the BLM at 425 E. 4th Street, Safford, Arizona 85546 on September 13, 1985.

The balance of the appraised fair market value will be due within 180 days, payable in the same form at the same location. Failure to submit the remainder of the payment within 180 days of receipt of the decision notice accepting the bid deposit will result in cancellation of the sale offering and forefeiture of the deposit.

Parcels C and D will be sold competitively through the acceptance of sealed bids. Sealed bids may be submitted to the Safford District Office, 425 E. 4th Street, Safford, Arizona 85546. Sealed bids sent by mail will only be considered if received prior to 1:00 p.m., Thursday, September 12, 1985. Bids may be made by a principal or duly qualified agent.

Sealed bids, accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth (20%) of the amount of the bid must be in a separate sealed envelope, within the transmittal envelope. The sealed envelopes must be marked in the lower lefthand corner, "Sealed Bid, Parcel ___, Public Land Sale A-20631 or A-20229, Sale to be held September 13, 1985." All sealed bids will be opened at 1:00 p.m. on the day of sale.

The remainder due must be paid within 180 days from the date of sale. Failure to submit the full bid price prior to, but not including the 180th day following the day of sale, shall result in cancellation of the sale and forfeiture of the deposit.

If no bids are received on the date of sale, the lands will be available for over-the-counter purchase for the next six months beginning September 16, 1985.

DATE: For a period of 45 days from the date of this notice in the **Federal Register**, interested parties may submit comments to the District Manager at the above address. Any adverse comments will be evaluated by the State Director who may sustain, vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: Detailed information concerning reservations, conditions, terms, appraised price, bidding procedures and other items may be obtained from the Safford District Office or by calling (602) 428-4040 during the office hours 7:45 to 4:15 MST.

Dated: July 3, 1985.

Vernon L. Saline,

Acting District Manager.

[FR Doc. 85-16528 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-32-M

Realty Action; Exchange of Public Lands in Mendocino, Sonoma, and Trinity Counties, CA

The following described public 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:

T. 4 N., R. 3 E., Humboldt Meridian
Sec. 7, lot 2.
T. 3 S., R. 6 E., Humboldt Meridian
Sec. 33 NW¼NW¼.
T. 5 S., R. 2 E., Humboldt Meridian
Sec. 26 SE¼NE¼;
Sec. 27 SW¼SW¼.
Sec. 28 lots 2, 3, 4, 5;
Sec. 34 NW¼NW¼
T. 9 N., R. 13 W., MDM.
Sec. 9 NE¼NE¼.
T. 10 N., R. 10 W., MDM.
Sec. 32 SE¼NE¼, SW¼SE¼, E½SE¼.
T. 13 N., R. 13 W., MDM.
Sec. 2 lot 1, S½NE¼, SE¼NW¼, E½SW¼, NW¼SE¼;
Sec. 13 NE¼SW¼.
T. 13 N., R. 14 W., MDM.
Sec. 28 E½NW¼.
T. 13 N., R. 15 W., MDM
Sec. 10, SW¼SE¼.
T. 13 N., R. 16 W., MDM.
Sec. 9 NE¼SW¼.
T 14 N., R. 13 W., MDM.
Sec. 18 N½SE¼.
T. 14 N., R. 14 W., MDM.
Sec. 3 lot 3, SE¼SW¼;
Sec. 24 N½NE¼.
T. 14 N., R. 16 W., MDM.
Sec. 10 NW¼NE¼;
Sec. 24 N½SW¼.
Sec. 31 NW¼SE¼.
T. 15 N., R. 14 W., MDM.
Sec. 34 S½SW¼.
T. 16 N., R. 12 W., MDM
Sec. 10 lots 1, 2;
Sec. 11 SW¼NE¼.
T. 16 N., R. 13 W., MDM.
Sec. 4 lot 2.
T. 17 N., R. 12 W., MDM.
Sec. 14 NE¼SW¼;
Sec. 15 SE¼SE¼.
T. 17 N., R. 14 W., MDM.
Sec. 10 lots 7, 8; Sec. 11 lot 7.
T. 19 N., R. 14 W., MDM.
Sec. 23 SE¼NW¼.
T. 21 N., R. 14 W., MDM.
Sec. 4 lots 1, 2, S½NE¼, SW¼NW¼, N½SW¼, E½SE¼;
Sec. 5 lot 1, SE¼NE¼;
Sec. 6 lots 2, 3, 4, 5, 6, 7, SE¼NW¼, E½SW¼, SW¼SE¼.
T. 21 N., R. 15 W., MDM.
Sec. 1 E½ lot 2 in the NE¼.
T. 21 N., R. 16 W., MDM.
Sec. 11 lot 3.
T. 22 N., R. 14 W., MDM.
Sec. 5, lot 7, 14, NW¼Sw¼;
Sec. 6 lots 4, 13, 14, 16, 17, NE¼SE¼, SW¼SE¼;
Sec. 17 SW¼NW¼;
Sec. 18 lots 1, 2, 3, 4, 5, 6, 8, SW¼SE¼, S½NE¼;
Sec. 27 S½SW¼;
Sec. 28 S½SE¼;
Sec. 33 NW¼NE¼;
Sec. 34 N½NW¼, SE¼NW¼.
T. 22 N., R. 15 W., MDM.
Sec. 1 lots 5, 7, 8, 9;
Sec. 13 lots 1, 2, 7, 8, 9, 10, 15, 16;
Sec. 24 lots 2, 3, 4.
T. 23 N., R. 14 W.,
Sec. 30 lots 3, N½ lot 5.
T. 23 N., R. 15 W.,
Sec. 3 SW¼SE¼;
Sec. 10 lots 1, 2;
Sec. 21 SE¼Sw¼,
Sec. 28 W½NE¼.
T. 23 N., R. 16 W.,
Sec. 3 lot 4, SW¼NW¼;
Sec. 4 lot 1, 3, 12, SE¼SE¼;

Sec. 9 E½NW¼, NE¼NE¼.
T. 23 N., R. 17 W., MDM.
Sec. 12 NE¼NW¼.
T. 24 N., R. 15 W., MDM.
Sec. 9 SE¼NE¼;
Sec. 10 W½NW¼, NW¼SW¼;
Sec. 30 SE¼SE¼.
T. 24 N., R. 18 W., MDM.
Sec. 2 SW¼SW¼
T. 24 N., R. 19 W., MDM.
Sec. 2 lots 3, 4.

Comprising 5513.22 acres of public land.

In exchange for these lands, the United States will acquire the following described lands in Lake County from Valley Health Care Corporation:
T. 13 N., R. 6 W., MDM.
Sec. 11 SE¼NE¼, E½SW¼, SW¼SW¼, SE¼.
Sec. 12 lots 1, 2, 4, SW¼NE¼, SE¼NE¼, SE¼NW¼, SW¼SW¼, E½SW¼, W½SE¼.
Sec. 13 lots 1, 2, 3, 4, W½E½, E½NW¼, NW¼NW¼;
Sec. 14 N½N½, S½NW¼, N½SW¼, SE¼SW¼;
Sec. 15 S½SE¼NE¼, SW¼NE¼, NW¼NW¼NE¼, NW¼NW¼, S½NW¼, N½S½, SW¼SE¼;
Sec. 16 NE¼, E½NW¼, SW¼NW¼, N½S½;
Sec. 17 E½SE¼.

Comprising 2370.02 acres of private land.

The purpose of the exchange is to acquire the non-Federal Lands along Cache Creek, a highly significant habitat for Bald Eagles and Tule Elk, both sensitive and endangered species. The exchange is consistent with the Bureau's planning recommendations The public interest will be well served by making this exchange.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. The reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Those rights for a perpetual road right-of-way as have been granted to Coastal Mining Company under Serial CA 10277.

3. Reserving to the United States a road right-of-way 25 feet in width across T. 23 N., R. 16 W., MDM, Sec. 4 lot 3 for the full use as a road by the United States of America, its licensees and permittees, including the right of access and use for and by the people of the United States, generally, to lands owned, administered, or controlled by the United States (CA 8333).

4. Reserving to Wanda Mehtonen, for a two year period following notification, a grazing lease (GL 5606) subject to the same terms and conditions as currently in affect. Lands affected by the lease include: T. 13 N., R. 13 W., MDM, Sec. 2 S½NE¼, SE¼NW¼, E½SW¼, NW¼SE¼, lot 1.

5. Minerals of known value shall be reserved to the United States together with the right to prospect for, mine, and remove the minerals. A more detailed description incorporated in the patent document is available for review in this office.

Publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b) any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange is available for review at the Ukiah District, 555 Leslie Street, Ukiah, CA 95482.

For a period of 45 days, interested parties may submit comments to the District Manager, Ukiah District Office, P.O. Box 940, Ukiah, CA 95482.

Any adverse comments will be evaluated by the California State Director, who may vacate or modify this realty action and issue a final determination. In the absence of a vacation or modification, this realty action will become the final determination of the Bureau.

For further information contact: Cathie Dokken, (707) 462-3873.

Dated: July 2, 1985.

Van W. Manning,

District Manager.

[FR Doc. 85-16521 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Sale of Public Lands in Socorro County, NM

The following described parcels of land have been examined and identified as 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) (FLPMA) at no less than the appraised fair market value shown. The parcels are isolated, difficult and uneconomical to manage as part of the public lands, and are not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning efforts, and the public interest will be served by offering this land for sale.

Sale Method

Parcels 1 through 7 will be offered for sale using competitive bidding procedures (43 CFR 2711.3-1). On parcels 8 through 12 the bidding will be modified to allow bids from designated bidders only (43 CFR 2711.3-2). Parcels 13 through 31 will be offered as direct sales to the current occupants of the lands (43 CFR 2711.3-3).

Parcel No.	Serial No.	Legal description	Acreage	Appraised value	Method of sale
1	NM 57057	T. 1 S., R. 1 W., Sec. 23, Lot 37	4.57	$4,575	Competitive.
2	NM 59332	T. 2 S., R. 1 W., Sec. 2, Portion of Lot 35	Approx. 9	$1,500 per acre	Do.
3	NM 59333	T. 4 S., R. 1 E., Sec. 32, Portion of Lot 18	Approx. 1	$2,000 per acre	Do.
4	NM 59334	T. 4 S., R. 1 E., Sec. 32, Portion of Lot 18	Approx. 12	$1,240 per acre	Do.
5	NM 59336	T. 4 S., R. 1 E., Sec. 32, Portion of Lot 18	Approx. 6	$1,500 per acre	Do.
6	NM 59347	T. 4 S., R. 1 E., Sec. 32, Portion of Lot 18	Approx. 8	$1,315 per acre	Do.
7	NM 61177	T. 2 S., R. 1 W., Sec. 11, Portion of Lot 25	Approx. 4	$1,500 per acre	Do.
8	NM 58262	T. 1 S., R. 1 W., Sec. 13, Portion of Lot 7 and Lot 8	Approx. 11.18	$1,000 per acre	Modified Competitive.
9	NM 58264	T. 1 S., R. 1 W., Sec. 24, Lot 15	8.49	$1,200 per acre	Do.
10	NM 58265	T. 1S., R. 1 W., Sec. 24, Lot 17	5.03	$1,000 per acre	Do.
11	NM 58263	T. 1 S., R. 1 W., Sec. 24, Lot 19	0.61	$1,000 per acre	Do.
12	NM 57056	T. 1 S., R. 1 W., Sec. 26, Lot 14	0.51	$510	Do.
13	NM 59349	T. 1 S., R. 1 W., Sec. 13 Portion of Lot 7	Approx. 4	$1,000 per acre	Direct.
14	NM 58282	T. 2 S., R. 1 W., Sec. 1, Lot 25 and Portion of Lot 58	Approx. 1	$2.50 per acre	Do.
15	NM 58278	T. 2 S., R. 1 W., Sec. 2, Lot 33	0.25	$50	Do.
16	NM 59329	T. 2 S., R. 1 W., Sec. 2, Portion of Tract 40	Approx. 0.50	$2,000 per acre	Do.
17	NM 57066	T. 2 S., R. 1 W., Sec. 2, Portion of Lot 74	Approx. 0.03	$50	Do.

Parcel No.	Serial No.	Legal description	Acreage	Appraised value	Method of sale
18	NM 57065	T. 2 S., R. 1 W., Sec. 2, Lots 37, 38, 50, 52, 55, 56, 62, Portions of Lot 35, 74 and Tract 40; Sec. 11, Lot 23 and Portion of Lot 49.	Approx. 7	$2.50 per acre	Do.
19	NM 59328	T. 2 S., R. 1 W., Sec. 11, Portion of Lot 41	Approx. 0.03	$50	Do.
20	NM 59323	T. 2 S., R. 1 W., Sec. 11, Portion of Lot 49	Approx. 0.20	$50	Do.
21	NM 58264	T. 2 S., R. 1 W., Sec. 12, Portion of Lots 23 and 41	Approx. 0.50	$2.50 per acre	Do.
22	NM 58261	T. 2 S., R. 1 W., Sec. 12, Portion of Lots 23, 24, 41, 43	Approx. 2	$2.50 per acre	Do.
23	NM 58268	T. 2 S., R. 1 W., Sec. 12, Portion of Lot 36	Approx. 0.50	$2.50 per acre	Do.
24	NM 58273	T. 2 S., R. 1 W., Sec. 13, Portion of Lot 43	Approx. 0.30	$2.50 per acre	Do.
25	NM 58271	T. 2 S., R. 1 W., Sec. 13, Lot 49	0.70	$2.50 per acre	Do.
26	NM 58269	T. 2 S., R. 1 W., Sec. 13, Portion of Lot 64	Approx. 0.55	$2.50 per acre	Do.
27	NM 58272	T. 2 S., R. 1 W., Sec. 13, Lot 50 Sec. 24, Lot 12	0.40	$2.50 per acre	Do.
28	NM 58266	T. 2 S., R. 1 W., Sec. 1, Portion of Lot 58, Sec. 2, Portion of Lot 74, Sec. 12, Lot 26 and Portion of Lot 24. T. 4 S., R. 1 E., Sec. 32, Portion of Lot 18	Approx. 4	$2.50 per acre	Do.
29	NM 59330	T. 2 S., R. 1 W., Sec. 24, Lot 11 and Portion of Lot 17	Approx. 20	$50	Do.
30	NM 59330	T. 4 S., R. 1 E., Sec. 32, Portion of Lot 18	Approx. 1	$2.50 per acre	Do.
31	NM 59331	T. 4 S., R. 1 E., Sec. 32, Portion of Lot 18	Approx. 0.18	$50	Do.

Sale Procedures

All bidders must be 18 years of age or over and U.S. Citizens, and corporations be subject to the laws of any state or of the United States. Bids must be made by the principal or his duly qualified agent.

Sealed bids for parcels 1 through 12 will be considered only if received in the Socorro Resource Area Office, 198 Neel Avenue, SW, Socorro, New Mexico 87801, before 10:00 A.M. on September 13, 1985, the date of the opening. Bids of less than fair market value will be rejected as required by FLPMA.

Each sealed bid must be accompanied by postal money order, bank draft or cashier's check made payable to the Bureau of Land Management, for not less than 10 percent or more than 30 percent of the amount of the bid. The sealed bid envelope must be marked in the lower left-handed corner as follows:

"Public Sale Bid Parcel , _____
Serial No. , _____
Sale Held (date) ". _____

The highest qualifying bid for each parcel will establish the sale price for the parcel. If two or more enevelopes are received containing valid bids of the same amount for the same parcel, the determination of which is to be considered the highest designated bid will be by supplemental biddings. In such a case the hight bidders will be allowed to submit oral or sealed bids as designated by the Authorized Officer.

The successful bidder will be required to pay the remainder of the sale price prior to expiration of 180 days from the date of the sale. Failure to submit the full sale price within the above specified time limit will result in cancellation of the sale of the specific parcel and the deposit will 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. Parcels not sold on the day of the Sale will be offered for sale every first Tuesday of each month, same time and place, on a competitive sealed bid basis until sold, or until January 14, 1986.

Parcels 8 through 12 will be offered as modified competitive sales to the designated bidders who are the known accessible landowners. Only bids from the following designated bidders will be accepted on parcels 8 through 12:

Parcel 8.—L.P. and Doris Williams and Tom and Martha Stribling, c/o Stribling and Associates, 1913 San Mateo, NE., Albuquerque, NM 87110; Tom and Martha Stribling, c/o Stribling and Associates, 1913 San Mateo, NE., Albuquerque, NM 87110; John Harris, P.O. Box 151, Socorro, NM 87801; John L. and Bonnie Harris, P.O. Box 151, Soccorro, NM 87801.

Parcel 9.—Tom and Martha Stribling, c/o Stribling and Associates; T.H. McEvaian, Jr. and Elizabeth McEvaian, P.O. Box 2148, Santa Fe, NM 87501; Romie and Louise Price, General Delivery, Aragon, NM 87820.

Parcel 10.—Tom and Martha Stribling, c/o Stribling and Associates; T.H. McEvaian, Jr. and Elizabeth McEvaian

Parcel 11.—L.P. and Doris Williams and Tom and Martha Stribling, c/o Stribling and Associates; Tom and Martha Stribling, c/o Stribling and Associates; Joseph M. Tafoya, 1421 Adams NE, Albuquerque, NM 87110.

Parcel 12.—Frank and Dorothy Jacobs, P.O. Box 857, Eagar, AZ 85925; Manuel Jaramillo, P.O. Box 16, Polvadera, NM 87828.

Parcels 13 through 31 will be offered directly to the listed occupants not less than 60 days from date of this notice. If unsold, they will be offered for sale by the competitive procedure.

Parcel 13.—John Harris, P.O. Box 151, Socorro, NM 87801.

Parcel 14.—County of Socorro, P.O. Box I, Socorro, NM 87801.

Parcel 15.—Constancio Sanchez, P.O. Box 1791, Socorro, NM 87801.

Parcel 16.—Samuel James Zimmerly, 301 Claifornia St., Socorro, NM 87801.

Parcel 17.—Leonard and Johnie Scarborough, P.O. Box 42, Socorro, NM 87801.

Parcel 18.—County of Socorro, P.O. Box I, Socorro, NM 87801.

Parcel 19.—Levertt Glen and Deltie Colton Gathings, Rt. 1, Box 73, Socorro, NM 87801.

Parcel 20.—Earl and Emerlinda DeBrine, P.O. Box 46, Socorro, NM 87801.

Parcel 21.—Dan Kloss, General Delivery, Lemitar, NM 87823.

Parcel 22.—Middle Rio Grande Conservancy District, P.O. Box 581, Albuquerque, NM 87103.

Parcel 23.—County of Socorro, P.O. Box I, Socorro, NM 87801.

Parcel 24.—County of Socorro, P.O. Box I, Socorro, NM 87801.

Parcel 25.—Mrs. Florence L. Scott, c/o Mr. Earl Downing, 2030 Thomas Drive, Las Cruces, NM 88001.

Parcel 26.—Middle Rio Grande Conservancy District, P.O. Box 581, Albuquerque, NM 87102

Parcel 27.—Howard C. Ehlert, Box 206, Dexter, NM 80230.

Parcel 28.—New Mexico State Highway Department, Box 1149, Santa Fe, NM 87501.

Parcel 29.—Middle Rio Grande Conservancy District, P.O. Box 581, Albuquerque, NM 87103.

Parcel 30.—Atchison, Topeka and Santa Fe Railway Company, 900 Polk St., Amarillo, TX 79171.

Parcel 31.—Archdiocese of Santa Fe, 202 Morningside Dr. SE, Albuquerque, NM 87108.

Terms and Conditions

Terms and conditions applicable to the sale are:

1. The patents, when and if issued, will contain a reservation to the United States for ditches and canals.

2. All minerals will be reserved to the United States together with the right to prospect for, mine and remove the minerals.

3. All patents will be issued subject to valid existing rights.

4. Parcels 8–14, 21–24, and 26–30 lie within a 100-year floodplain and the patents will contain land use restrictions as required by Executive Order 11988.

5. On Parcel 3, the patent will be issued subject to those rights for water facilities as have been granted to San Antonio Mutual Domestic Water Consumers Association by right-of-way New Mexico 52223 under the Act of October 21, 1976 (43 U.S.C. 1761).

Supplementary Information: A field examination has revealed that Parcels 3–6 are encumbered by unauthorized electric power lines. Additional information concerning the land, terms and conditions of sale, and bidding instruction may be obtained from the Socorro Resource Area Office at the above address, or by calling Jon Hertz, Bernie Creager, or Lois Bell, (505)835–0412. For a period of 45 days from date of this notice, interested parties may submit comments regarding the proposed action to the Socorro Resource Area Manager.

Comments must reference specific parcel numbers. Adverse comments received on specific parcels will not affect the sale of any other parcel. 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 the Department of the Interior.

Upon publication in the **Federal Register** the land described above will be segregated from appropriation under the public land laws, including the mining laws. The segregative effect of this notice of realty action shall terminate upon issuance of patent or other document of conveyance to such land, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of publication, whichever occurs first.

The BLM may accept or reject any or all offers, or withdraw any land or interest in land for sale, if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with FLPMA or another applicable law.

Harlen Smith,

Area Manager.

[FR Doc. 85–16531 Filed 7–10–85; 8:45 am]

BILLING CODE 4310-FB-M

[M-65552]

Realty Action; Competitive Sale of Public Land in Bowman County, ND

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Competitive Sale.

SUMMARY: The following described lands have been examined and identified as suitable for 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 of $3,600.00:

Fifth Principal Meridian, North Dakota

T.130N., R.104W.,
Section 6: Lot 1.
Containing 40.10 acres.

The lands described are hereby segregated from appropriation under public land laws, including mining laws, pending disposition of this action.

This tract is located 8½ air miles southwest of Rhame, North Dakota. There is legal access; however, there is no established road on the legal access route. The land is a small isolated tract and is unusable by the general public. It does not contain significant resource values that would justify retention. It is difficult and uneconomical to manage as part of the public land system and not suitable for management by another federal agency.

The proposed sale is consistent with the Bureau's planning system. Since the land has low resource value, the transfer of the tract into private ownership will benefit the public interest and provide for more efficient land management.

Terms and Conditions

1. Reservation of all minerals to the United States together with the right to explore, prospect for, mine and remove same under applicable law and regulations;

2. Reservation of right-of-way for ditches or canals to the United States pursuant to with 43 U.S.C. 945;

3. All valid and existing rights and reservations of record.

Location, Date and Time

The land will be offered for sale by a combination of sealed and oral bidding. Sale date is August 30, 1985, at 10 a.m. in the Gate City Community Room, 204 Sims Street, Dickinson, North Dakota.

If the parcel is not sold at this sale, it will be offered for sale over the counter until sold or until the sale is cancelled.

Comment Period: 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, 204 Sims Street, P.O. Box 1229, Dickinson, North Dakota 58602.

Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a decision for the Department of Interior. Parties adversely affected by the decision have the right to appeal to the Interior Board of Land Appeals. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

FOR FURTHER INFORMATION: Detailed information concerning this sale, including planning documents, the environmental assessment and land report is available for review at the Dickinson District Office.

SUPPLEMENTARY INFORMATION: Bidder Qualifications: The bidder must be a United States citizen, or in the case of a corporation, subject to the laws of any state or the United States. A state, state instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of holding and conveying lands interests therein under the laws of the State of North Dakota.

Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $3,600.00.

Method of Bidding: The land will be sold by a combination of sealed and oral bids. Bids delivered or sent by mail will be considered only if received by the Bureau of Land Management, Dickinson District Office, Box 1229, 204 Sims Street, Dickinson, North Dakota 58602 prior to 10 a.m. on August 30, 1985. Each sealed bid must be accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Department of Interior, Bureau of Land Management for not less than one-fifth of the amount bid. The sealed bid envelope must be marked in the lower left-hand corner as follows:

Public land sale M–65552.
Date August 30, 1985.

If two or more envelopes contain valid bids of the same amount are received and not subsequently raised by an oral bid, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids if no oral bid is received to raise the tie bid. The highest qualifying bid shall then be publicly declared. A sealed bid of at least the fair market value must be

submitted prior to the sale date in order to be considered eligible for oral bidding.

Final Details

Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price prior to the expiration of 30 days from the date of the sale. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited.

All bids will either be returned, accepted or rejected within 60 days of the sale date.

Dated: June 27, 1985.

William F. Krech,

Acting District Manager.

[FR Doc. 85-16532 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-DN-M

[U-55647]

Realty Action; Sale of Public Lands in Washington County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) public land described as Lot 3, sec. 31, T. 43 S., R. 14 W., SLB&M Utah, containing 44.98 acres is proposed for sale by competitive bidding at no less than the appraised fair market value of $9,000.00. The land described is hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of the sale is to dispose of public land that is difficult and uneconomical to manage by a government agency.

DATES: Comments should be submitted to the address listed below by September 3, 1985. The sale will be held on September 18, 1985 at 10:00 a.m.

ADDRESS: Detailed information concerning the sale, including bidding procedures, is available at the Dixie Resource Area Office, 225 North Bluff, St. George, Utah 84770 (801) 673-4654. The sale will be held at the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for the surface estate only. Minerals will remain with the United States Government.

2. 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, 1890, 26 Stat. 391, 43 U.S.C. 945.

3. The title transfer will be subject to valid existing rights including Oil and Gas Lease No. U-40068 and Pipeline Right-of-Way No. U-37858.

4. Title transfer will be subject to the restriction that no permanent structures (except flood control devices) will be placed in the floodplain.

5. If the tract of public land is not sold pursuant to this notice, it will remain available for sale on a continuing basis until sold or until withdrawn from the market.

Any comments or objections received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any objections, this realty action notice will be the final determination of the Department of the Interior.

Dated: July 3, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85-16529 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-DQ-M

[NM 29247-(OK)]

Proposed Reinstatement of Termination Oil and Gas Lease; New Mexico

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Under the provisions of PL 97-451, Hawkins Oil and Gas, Inc., petitioned for reinstatement of oil and gas lease NM 29247-(Okla.) covering the following described lands located in Dewey County, Oklahoma:

T. 17 N., R. 15 W., I.M., Oklahoma,
Sec. 5: The remaining portion of Lot 5 and riparian rights to the remaining portion of Lot 5, further described by metes and bounds.

Containing 17.60 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rental and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, February 1, 1985.

Dated: July 1, 1985.

Tessie R. Anchondo,

Chief, Adjudication Section.

[FR Doc. 85-16533 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-FB-M

[NM 46287-(OK)]

Proposed Reinstatement of Termination Oil and Gas Lease; New Mexico

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Under the provisions of Pub. L. 97-451, Ratliff Exploration Company and Mustang Production Company, petitioned for reinstatement of oil and gas lease NM 46287-(OK) covering the following described lands located in Major County, Oklahoma:

T. 21 N., R. 14 W., I.M., Oklahoma,
Sec. 3, S½SW¼.

Containing 80.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $10.00 per acre per year and royalties shall be at the rate of 16⅔ percent, computed on a sliding scale 4 percentage points greater than the competitive royalty schedule attached to the lease. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, October 1, 1984.

Dated: July 1, 1985.

Tessie R. Anchondo,

Chief, Adjudication Section.

[FR Doc. 85-16534 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-FB-M

[AZ 950]

Filing of Plats of Survey; Arizona

July 2, 1985.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A supplemental plat, showing amended lottings created by the segregation of Mineral Surveys No. 2597 and No. 4038, in Section 3, T. 4 N., R. 1 E., Gila and Salt River Meridian, Arizona, was accepted May 9, 1985, and was officially filed May 10, 1985.

This supplemental plat was prepared at the request of the Bureau of Land Management, Indian Project Office.

A plat representing a dependent resurvey of the boundaries of Section 28, T. 12 N., R. 24 E., Gila and Salt River Meridian, Arizona, was accepted June 21, 1985, and was officially filed June 24, 1985.

This survey was executed at the request of the Bureau of Land Management, Arizona State Office, Division of Operations.

A supplemental plat, showing a subdivision of original lots 1 and 3, Section 31, T. 19 N., R. 21 W., Gila and Salt River Meridian, Arizona, was accepted April 4, 1985, and was officially filed April 5, 1985.

This supplemental plat was prepared at the request of the Bureau of Land Management, Arizona State Office, Phoenix District Office.

A plat representing a dependent resurvey of the north boundary of the Papago Indian Reservation, a portion of the Santa Cruz Guide Meridian, east boundary, and a portion of the subdivisional lines; and a survey of subdivisions in Sections 22, 23 and 24, T. 15 S., R. 12 E., Gila and Salt River Meridian, Arizona, was accepted May 22, 1985, and was officially filed May 24, 1985.

This survey was executed at the request of the Bureau of Indian Affairs, Phoenix Office.

A plat representing a dependent resurvey of portions of M.S. 1400, DOCO lode and M.S. 1406, GEORGIA lode, and a metes-and-bounds survey of Tract 37, in unsurveyed T. 23 S., R. 16 E., Gila and Salt River Meridian, Arizona, was accepted April 10, 1985, and was officially filed April 10, 1985.

This survey was executed at the request of Region Three, U.S. Forest Service, Coronado National Forest.

A supplemental plat showing new lottings in Sections 32 and 33, T. 5 S., R. 18 E., Gila and Salt River Meridian, Arizona, was accepted June 10, 1985, and was officially filed June 18, 1985.

A supplemental plat showing new lottings in Sections 22, 23, 24 and 27, T. 5 S., R. 18 E., Gila and Salt River Meridian, Arizona, was accepted June 10, 1985, and was officially filed June 18, 1985.

These supplemental plats were prepared at the request of the Bureau of Land Management, Lands and Minerals Operations, and Arizona State Land Department.

A supplemental plat showing new lottings created by the cancellation of unpatented lodes of M.S. 3784 in Sections 19, 29 and 30, T. 16 S., R. 31 E., Gila and Salt River Meridian, Arizona, was accepted May 21, 1985, and was officially filed May 23, 1985.

This supplemental plat was prepared at the request of the Bureau of Land Management, Safford District Office.

2. These plats will immediately become the basic records for describing the lands for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

James P. Kelley,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-16432 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-32-M

[OR 37643, 37644, 27645, OR 38646 and 37647]

Realty Action; Direct and Modified Competitive Sale of Public Land in Malheur County, OR; and Exchange of Public Land in Malheur County, OR; Sale Procedures

The following lands are suitable for sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719, at no less than the appraised fair market value:

Parcel No.	Serial No.	Legal Description—Willamett Meridian	Acreage	Minimum Bid Deposit (percent)	Bidding procedure
1	OR-37643	T. 30 S., R. 45 E., sec. 30: SE¼NE¼	40.00	20	Direct sale.
2	OR-37645	T. 30 S., R. 44 E., sec. 26: S½S½	160.00	20	Modified competitive—three designated bidders.
3	OR-37646	T. 30 S., R. 46 E., sec. 2: Lot 2	39.59	20	Direct sale.
4	OR-37647	T. 30 S., R. 45 E., sec. 2: S½S½ and NE¼SE¼	200.00	20	Do.

The above described land(s) are hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale or exchange under the above cited statutes.

The sale will be held on September 18, 1985, at the Bureau of Land Management, Vale District Office, 100 Oregon Street (P.O. Box 700), Vale, Oregon 97918. These parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another Federal agency. No significant resource values will be affected by this disposal. The sale is consistent with BLM's planning for the land involved and the public interest will be served by offering this land for sale.

Bidder Qualifications

Bidders must be U.S. citizens, 18 years of age or more; a state or state instrumentality authorized to hold property; or a corporation authorized to own real estate in the state in which the land is located.

Direct Sale Procedures

Direct sale procedures are being used for parcels no. 1, 3 and 4, since a competitive sale is not appropriate and the public interest would best be served by the direct sale because this method will recognize the needs and historical uses of the adjoining landowners, who will be able to incorporate the tracts into their ranching operations or county governmental who have met governmental needs.

Parcel no. 1 (OR 37643) is being offered to Mr. Gerald Raburn, parcel no. 3 (OR 37646) is being offered to Malheur County, Oregon, and parcel no. 4 (OR 37647) is being offered to Jeff Anderson Estate c/o Jim Anderson, using direct sale procedures authorized under 43 CFR 2711.3-3. The land will be sold at fair market value to these parties, without competitive bidding. They are required to render a minimum deposit of 20 percent of the purchase price by September 18, 1985, and the balance within 180 days of the sale date. If the deposit is not submitted or the full purchase price not rendered within 180 days of the sale date, the preference right is cancelled, the deposit will be forfeited, and the parcel will be sold through competitive bidding procedures.

Modified Bidding Procedures

Modified bidding procedures are being used for parcel no. 2 (OR 37645) to recognize the needs and historical uses of adjoining landowners. This procedure is authorized under 43 CFR 2711.3–2. Bidding for this parcel will be restricted to the adjoining landowners; Gerald and Judith Raburn, James Matteri, Owen and David Barrett—Barrett Bros. Land and Cattle.

Sale bidding will be limited to sealed bids and must be for at least the appraised fair market value. Sealed written bids, mailed or delivered, must be received by the Bureau of Land Management, at the aforementioned address prior to 10:00 A.M., Wednesday, September 18, 1985.

Each written bid must be accompanied by a certified check, postal money order, bank draft or cashier's check made payable to Department of the Interior—BLM for not less than 20 percent of the amount of the bid. The sealed envelope must be marked in the lower left hand corner, "Bid for Public Land Sale OR 37645, Sale Parcel Number 2, Malheur County, Oregon, September 18, 1985". Bids will be opened and publicly declared at the sale. If two or more envelopes containing valid high bids of the same amount are received, the tied high bidders will be notified through certified mail to submit supplemental sealed bids within 30 days. The balance of the purchase price will be due within 180 days of the sale date. Failure to submit the balance of the sale price will result in forfeiture of the bid deposit, and the sale parcel will be offered to the second highest designated bidder.

Terms and Conditions of the Sale

The terms, conditions, and reservations applicable to the sale are as follows:

1. The mineral interests being offered for conveyance have no known mineral value. A bid will also constitute an application for conveyance of the mineral estate, with the exception for geothermal resources on parcels 1, 2, 3, and 4; oil and gas on parcel 3 and rock quarry material, sand and gravel, on parcel 4, which will be reserved to the United States in accordance with section 209 of the Federal Land Policy and Management Act 43 U.S.C. 1719. All qualified bidders must include with their bid deposit a non refundable $50.00 filing fee for the conveyance of the mineral estate.

2. Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

3. Patents will be issued subject to all valid existing rights and reservations of records.

4. 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.

5. The Sale parcels will be subject to:

a. Such rights for public road purposes as Malheur County, or its successors in interest may have pursuant to a road right-of-way R.S. 2477 (43 U.S.C. 932) on parcel 1.

b. Such rights for public road purposes as State of Oregon, or its successors in interest may have pursuant to a highway right-of-way, TD 029016. Title 23 U.S.C. sections 107 and 317.

c. The rights of prior permittees or lessees to use so much of the surface of said land as is required for oil and gas operations, without compensation to the patentee for damages resulting from proper oil and gas operations for the duration of oil and gas lease OR 24818 (parcel 3) and any authorized extension of that lease. Section 29 of the Act of February 24, 1920, 41 Stat. 449, 30 U.S.C. 186 and the Act of March 4, 1933, 47 Stat. 1570, 30 U.S.C. 124.

d. Such rights for electric power transmission line and telephone line purposes as Continental Telephone and Idaho Power, or its successors in interest may have, pursuant to right-of-way OR 14691 (parcels 1 and 4) and OR–01149 (parcel 3) respectively. Act of October 21, 1976, 90 Stat. 2776, 43 U.S.C. 1761.

Unsold Parcels

If any of the parcels identified in this Notice are not sold on September 18, 1985, the parcels will be offered to the public, using competitive sale procedures 43 CFR 2711.3–1, until sold, exchanged, or withdrawn from the market. Sealed bids will be solicited at the BLM, Vale District Office, during regular business hours. All bids received will be opened the first Wednesday of each month, beginning on October 2, 1985. To be considered, bids must be received by 10:00 A.M. on the day of the bid opening.

Exchange Procedures

The following described land has been examined and 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 or by direct sale under sections 206 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719, at no less than the appraised fair market value:

Willamette Meridian, Oregon

T. 30 S., R. 45 E.,
Sec. 30: NE¼NE¼.

The area described contains 40 acres of public land.

In exchange for this land, the United States would acquire the following described land from Gerald Raburn:

Willamette Meridian, Oregon

T. 30 S., R. 45 E.,
Sec. 27: NW¼NW¼.

The area described contains 40 acres of private land.

It is intended to consummate land exchange proposal OR 37644 for this land. If, however, the exchange cannot be consummated by September 18, 1985, the authorized officer reserves the option to combine the land, or a portion thereof, with sale parcel no. 1 (OR 37643) identified in the sale procedures above to be sold directly to Gerald Raburn.

The purpose of the exchange is to facilitate the resource management program of the Bureau of Land Management and to enhance the range management potential for the area. The Federal land to be exchanged is a hard to manage parcel completely surrounded by private lands.

This proposal is consistent with Bureau planning for the lands involved and has been discussed with State and local officials. The public interest will be well served by making this exchange. The comparative values of the lands exchanged are approximately equal and the acreage will be adjusted and/or a cash payment to the United States will be used to equalize the values upon completion of the finished appraisal of the lands. Any monetary adjustments made will be for no more than 25% of the appraised value of Federal lands involved.

Publication of this notice segregates the public land from the operation of the public land laws including the mining laws, but not from exchange or sale under the above cited statutes for a period of 2 years from the date of first publication.

Terms and Conditions of the Exchange

The terms, conditions, and reservation applicable to the exchange are as follows:

1. A reservation to the United States of a right-of-way for ditches or canals under 43 U.S.C. 945.

2. Patents will be issued subject to all valid existing rights and reservations of record.

3. All mineral interest will be exchanged.

4. Such rights for public road purposes as Malheur County, or its successors in interest may have pursuant to a road right-of-way R.S. 2477 (43 U.S.C. 932).

5. Such rights for telephone line purposes as Continental Telephone, or its successors in interest may have, pursuant to right-of-way OR-14691. Act of October 21, 1976, 90 Stat. 2776, 43 U.S.C. 1761.

Comments

Further information concerning the sales and the exchange, including the environmental analysis and land report, is available for review at the Vale District Office at the above address. For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Vale District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional delegation will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of adverse comments 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 changes.

Dated: July 2, 1985.

David Lodzinski,

District Manager.

[FR Doc. 85-16431 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-33-M

[OR 38262 (WA)]

Realty Action; Direct and Competitive Sale of Public Land in Chelan County, WA

The following lands are suitable for sale under section 203 (and 209) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (and 1719), at no less than the appraised fair market value.

Serial and Parcel No.	Legal description	Acreage	Estimated value	Minimum bid deposit percent	Bidding procedure
OR 38262 (WA) T. 26 N., R. 20 E., W. M., Sec. 29:					
No. 1	Lot 2	4.53	125	100	Competitive
No. 2	Lot 3	6.04	3,000	30	Direct
No. 3	Lot 5	7.44	125	100	Competitive
No. 4	Lot 6	11.86	500	30	Direct
No. 5	Lot 7	11.65	3,000	30	Do.
No. 6	Lot 8	3.64	2,000	30	Do.

The sale will be held on September 18, 1985, at the Bureau of Land Management, Spokane District Office, E. 4217 Main Avenue, Spokane, WA 99202. These isolated parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another Federal agency. No significant resource values will be affected by this disposal. The sale is consistent with BLM's planning for the land involved and the public interest will be served by offering this land for sale.

Sale brochures containing pertinent data on the land offered for sale are available upon request from the District Manager at the above address.

The above described land(s) are hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above cited statute.

Bidder Qualifications

Bidders must be U.S. citizens, 18 years of age or more; a state or state instrumentality authorized to hold property; or a corporation authorized to own real estate in the state in which the land is located.

Competitive Bidding Procedures

Parcels No. 1 and 3 will be offered using competitive bidding procedures (43 CFR 2711.3-1). Sealed written bids, delivered or mailed, must be received by the Bureau of Land Management at the aforementioned address prior to 10:00 a.m., Wednesday, September 18, 1985.

A separate written bid must be submitted for each parcel desired. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to the Department of the Interior—BLM for at least the percent indicated in the above listing and shall be enclosed in a sealed envelope clearly marked, in the lower left hand corner, "Bid for Public Land Sale OR 38262 (WA), Sale Parcel Number _____, Chelan County, Washington, September 18, 1985." The written sealed bids will be opened and declared at the sale. If two or more envelopes containing valid high bids of the same amount are received, the designated tied high bidders will be notified through certified mail to submit supplemental sealed bids within 30 days. The balance of the purchase price must be paid within 180 days or the deposit will be forfeited and the parcel will be reoffered to the public until sold or withdrawn from the market.

Direct Sale Procedures

Direct sale procedures are being used to resolve long standing title and survey problems of adjacent landowners.

The parcels identified by Nos. 2, 4, 5, & 6 are being offered using direct sale procedures authorized under 43 CFR 2711.3-3. The land will be sold at fair market value without competitive bidding. The prospective purchasers are required to render a minimum deposit of 30 percent of the purchase price by September 18, 1985, and the balance within 180 days of the sale date. If the deposit is not submitted or the full purchase price not rendered within 180 days of the sale date, the preference right is cancelled, the deposit will be forfeited, and the parcel will be sold through competitive bidding procedures.

Terms and Conditions of the Sale

The terms, conditions, and reservations applicable to the sale are as follows:

1. All minerals in the lands will be reserved to the United States in accordance with section 209 of the Federal Land Policy and Management Act of 1976.

2. Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

3. Patents will be issued subject to all valid existing rights and reservations of records.

4. 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.

5. The Sale parcel will be subject to:

a. Such rights for public road purposes as Chelan County, WA, or its sucessors in interest may have pursuant to a road right-of-way R.S. 2477 (43 U.S.C. 932).

Unsold parcels

If any of the parcels identified in this Notice are not sold on September 18, 1985, the parcels will be offered to the public, using competitive sale procedures 43 CFR 2711.3-1, until sold or withdrawn from the market. Sealed bids will be solicited at the BLM, Spokane

District Office, during regular business hours. All bids received will be opened the first Wednesday of each month, beginning on October 2, 1985. To be considered, bids must be received by 10:00 a.m. on the day of the bid opening.

Comments

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Spokane District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional delegation will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. Interested parties should continue to check with the District Office to keep themselves advised of changes.

Dated: July 2, 1985.

Joseph K. Buesing,

District Manager.

[FR Doc. 85-16433 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-33-M

[OR 38065]

Realty Action; Modified Competitive Sale of Public Land in Lane County, OR

The following lands are suitable for sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719, at no less than the appraised fair market value.

Serial and parcel No.	Legal description	Acreage	Value	Minimum bid deposit (percent)	Bidding procedure
OR 38065:					
A	T. 16 S., R. 3 W., W.M., Sec. 9: Lot 3, 4, 5	11.99	$2,400	30	Modified competitive.
B	T. 21 S., R. 1 W., W.M., Sec. 31: Lot 1 of Tract 38	0.04	100	30	Do.

The above described lands are hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above cited statute.

The sale will be held on September 18, 1985, at the Bureau of Land Management, Eugene District Office, 1255 Pearl Street (P.O. Box 10226), Eugene, Oregon 97401. These isolated parcels are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal agency. No significant resource values will be affected by this disposal. The sale is consistent with BLM's planning for the land involved and the public interest will be served by offering this land for sale.

Sale brochures containing pertinent data on the land offered for sale are available upon request from the District Manager at the above address.

Bidder Qualifications

Bidders must be U.S. citizens, 18 years of age or more; a state or state instrumentality authorized to hold property; or a corporation authorized to own real estate in the state in which the land is located.

Modified Bidding Procedures

Modified bidding procedures are being used to recognize the needs and historical use of the adjoining landowners. Preference to meet the high selling bid is authorized under 43 CFR 2711.3-2.

The parcels are being offered for sale through modified competitive bidding and the following designated bidders have a preference right to meet the high bid for the respective parcel, as follows:

Parcel A: William E. Stevenson and/or Mary Jean Stevenson; Eldon W. Townsend and/or Suzanne Townsend

Parcel B: Bohemia Inc.; Oregon, Pacific and Eastern Railway Co.; Weyerhaeuser Company

Sale bidding will be limited to sealed bids and must be for at least the appraised fair market value. Sealed written bids, mailed or delivered, must be received by the Bureau of Land Management, at the aforementioned address, prior to 10:00 a.m., Wednesday, September 18, 1985.

Each written sealed bid must be accompanied by a certified check, postal money order, bank draft or cashier's check made payable to Department of Interior—BLM for not less than 30 percent of the amount of the bid. The sealed envelope must be marked in the lower left-hand corner "Bid for Public Land Sale OR 38065, Sale Parcel Number ____, Lane County, Oregon, September 18, 1985".

The designated bidder will be notified through certified mail that they have 30 days to meet the high bid. Failure to meet the high bid within the 30 days following the sale, shall constitute a waiver of their preference rights. The balance of the purchase price will be due within 180 days of the sale date. Failure to pay the balance will result in forfeiture of the bid deposit and the parcel will be reoffered.

If the designated bidder fails to submit a bid, the sale parcel will be awarded to the party submitting the high bid.

Terms and Conditions of the Sale

The terms, conditions, and reservations applicable to the sale are as follows:

Parcel A

1a. All minerals in the lands will be reserved to the United States in accordance with section 209 of the Federal Land Policy and Management Act of 1976.

Parcel B

1b. The mineral interests being offered for conveyance have no known mineral value. A bid will also 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 (43 U.S.C. 1719). All qualified bidders must include with their bid deposit a non-refundable $50.00 filing fee for the conveyance of the mineral estate.

Parcels A and B

2. Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

3. Patents will be issued subject to all valid existing rights and reservations of records.

4. 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.

5. The Sale parcels will be subject to:

a. The rights of prior permittees or lessees to use so much of the surface of said land as is required for oil and gas operations, without compensation to the patentee for damages resulting from proper oil and gas operations for the duration of oil and gas leases OR 13396 (Parcel A) and OR 20748 (Parcel B) and any authorized extension of those leases. Section 29 of the Act of February 25, 1920, 41 Stat. 449, 30 U.S.C. 186 and the Act of March 4, 1933, 47 Stat. 1570, 30 U.S.C. 124.

Unsold Parcels

If any of the parcels identified in this Notice are not sold on September 18, 1985, the parcels will be offered to the public, using competitive sale procedures (43 CFR 2711.3–1), until sold or withdrawn from the market. Sealed bids will be solicited at the BLM, Eugene District Office, during regular business hours. All bids received will be opened the first wednesday of each month, beginning on November 6, 1985. To be considered, bids must be received by 10:00 a.m. on the day of the bid opening.

Comments

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Eugene District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional delegation will be evaluated by the State Director who may sustain, vacate, or modify this realty action and issue a final determination. In the absense of adverse comments this realty action will become the final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of changes.

Dated: July 2, 1985.

Melvin D. Clausen,

District Manager.

[FR Doc. 85–16434 Filed 7–10–85; 8:45 am]

BILLING CODE 4310-33-M

[M 60157; M 63953 through M 64004; M 64203 through M 64212; and M 65724]

Conveyance and Order Providing for Opening of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance and Order Providing for Opening of Public Lands in Beaverhead, Gallatin, Jefferson, Lewis and Clark, Madison and Park Counties, Montana.

SUMMARY: This order will open lands reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701, et seq. (FLPMA), to the operation of the public land laws. It also informs the public and interested state and local governmental officials of the issuance of the conveyance documents. Except for one 115 acre tract in which the government reserved only oil, gas and geothermal, no minerals were transferred by either party in the exchange.

DATE: At 9 a.m. on August 12, 1985, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law.

ADDRESS: For further information contact: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone (406) 657–6082.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716) the following described surface estate was conveyed out of Federal ownership:

Principal Meridian

T. 4 N., R. 6 E.,
Sec. 30, NE¼NE¼.
T. 8 N., R. 3 W.,
Sec. 5, lots 10, 16 and 21.
T. 9 N., R. 3 W.,
Sec. 21, NE¼SE¼.
T. 6 N., R. 4 W.,
Sec. 32, E½SW¼SE¼.
T. 10 N., R. 5 W.,
Sec. 13, lots 19, 20, 21, 22, 23 and 24;
Sec. 24, lots 15 and 16.
T. 11 N., R. 5 W.,
Sec. 2, lot 8;
Sec. 24, lots 15 and 16.
T. 1 N., R. 15 W.,
Sec. 28, N½NW¼, SW¼NW¼ and NW¼SW¼.
T. 3 S., R. 1 W.,
Sec. 19, lots 11, 12, and E½SE¼.
T. 4 S., R. 1 W.,
Sec. 20, N½NE¼ and NE¼NW¼;
Sec. 26, SW¼NE¼ and NE¼NW¼.
T. 6 S., R. 1 W.,
Sec. 12, NE¼SW¼.
T. 7 S., R. 1 W.,
Sec. 18, lots 1, 3, 4 and NE¼NW¼.
T. 2 S., R. 2 W.,
Sec. 19, NE¼NE¼;
Sec. 29, lot 5.
T. 6 S., R. 2 W.,
Sec. 10, E½NE¼ and S½SW¼.
T. 13 S., R. 2 W.,
Sec. 12, lot 10.
T. 14 S., R. 2 W.,
Sec. 18, SE¼NE¼.
T. 6 S., R. 3 W.,
Sec. 1, lots 1 through 4, S½N½, N½SW¼ and SE¼;
Sec. 2, lots 1, 3, 4, S½N½ and S½;
Sec. 14, N½NE¼, NW¼, N½SW¼, W½SW¼SW¼, SE¼SW¼ and SE¼;
Sec. 16, S½SW¼SW¼ and SE¼SE¼S W¼;
Sec. 24, lot 1, W½NE¼, SE¼NE¼ and E½NW¼.
T. 14 S., R. 3 W.,
Sec. 22, SW¼SE¼.
T. 4 S., R. 4 W.,
Sec. 29, lot 2.
T. 5 S., R. 4 W.,
Sec. 5, SE¼NW¼;
Sec. 34, SW¼NW¼.
T. 7 S., R. 4 W.,
Sec. 18, lots 1, 4, E½NW¼ and SE¼SW¼.
T. 9 S., R. 6 W.,
Sec. 12, SW¼NE¼ and NE¼SE¼.
T. 11 S., R. 6 W.,
Sec. 33, NW¼NE¼.
T. 14 S., R. 6 W.,
Sec. 35, NE¼ and S½NW¼.
T. 8 S., R. 7 W.,
Sec. 28, SW¼NE¼, SE¼NW¼, NE¼SW¼ and N½SE¼;
Sec. 29, W½NW¼.
T. 11 S., R. 7 W.,
Sec. 33, SE¼NW¼.
T. 12 S., R. 7 W.,
Sec. 5, SE¼NE¼.
T. 9 S., R. 8 W.,
Sec. 7, SE¼SW¼;
Sec. 18, lot 4.
T. 14 S., R. 8 W.,
Sec. 18, lot 4.
T. 2 S., R. 9 W.,
Sec. 29, SE¼SW¼;
SEc. 32, NE¼NW¼.
T. 7 S., R. 9 W.,
Sec. 17, NW¼SW¼;
Sec. 18, NE¼SE¼;
Sec. 21, NE¼NE¼;
Sec. 22, N½, NE¼SW¼ and NW¼SE¼;
Sec. 23, NW¼NW¼.
T. 9 S., R. 9 W.,
Sec. 34, S½N½.
T. 10 S., R. 9 W.,
Sec. 2, NW¼SW¼;
Sec. 3, lot 1 and SE¼SE¼.
T. 11 S., R. 9 W.,
Sec. 14, S½SE¼.
T. 14 S., R. 9 W.,
Sec. 13, SE¼NW¼ and NE¼SW¼.
T. 6 S., R. 10 W.,
Sec. 29, lot 6.
T. 7 S., R. 10 W.,
Sec. 11, NW¼NE¼, SE¼NW¼, NW¼SE¼ and SE¼SE¼;
Sec. 13, N½SW¼.
T. 6 S., R. 11 W.,
Sec. 19, lot 3;
Sec. 30, SE¼SE¼;
Sec. 31, NE¼NE¼.
T. 9 S., R. 11 W.,
Sec. 32, NE¼SE¼;
Sec. 33, N½SW¼.
T. 10 S., R. 11 W.,
Sec. 2, lot 3, SE¼NW¼ and NE¼SW¼;
Sec. 10, W½NW¼.
T. 14 S., R. 11 W.,
Sec. 7, NE¼SW¼ and NW¼SE¼;
Sec. 30, SE¼NE¼.
T. 6 S., R. 12 W.,
Sec. 25, SE¼SE¼.
T. 7 S., R. 12 W.,
Sec. 5, SW¼.
T. 10 S., R. 12 W.,
Sec. 25, SE¼SE¼.
T. 11 S., R. 12 W.,
Sec. 23, E½NE¼;
Sec. 24, SW¼NW¼ and NW¼SW¼;
Sec. 26, SW¼NW¼;
Sec. 27, SE¼NE¼ and NE¼SE¼.
T. 8 S., R. 13 W.,
Sec. 14, SE¼NE¼.
T. 10 S., R. 14 W.,
Sec. 17, lots 1, 2, S½NE¼, SE¼NW¼, NE¼SW¼ and SW¼SW¼;
Sec. 18, E½NE¼ and NE¼SE¼.
T. 11 S., R. 14 W.,

Sec. 13, SE¼SW¼;
Sec. 24, NW¼NE¼.
T. 6 S., R. 15 W.,
Sec. 29, S½SW¼.
Sec. 10
T. 10 S., R. 15 W.,
Sec. 25, SE¼NE¼ and NE¼SE¼.
T. 1 S., R. 16 W.,
Sec. 1, lot 1.
T. 2 S., R. 16 W.,
Sec. 3, lot 3;
Sec. 24, lot 1.
T. 1 S., R. 1 E.,
Sec. 22, SW¼SW¼.
T. 4 S., R. 1 E.,
Sec. 6, lot 2.
T. 5 S., R. 1 E.,
Sec. 34, NE¼NW¼.
T. 7 S., R. 1 E.,
Sec. 8, NW¼.
T. 8 S., R. 1 E.,
Sec. 8, SW¼SE¼;
Sec. 22, SW¼NE¼.
T. 8 S., R. 6 E.,
Sec. 18, lot 1, NE¼NE¼ and NE¼NW¼.
T. 12 S., R. 2 E.,
Sec. 35, lots 6 and 7.
T. 2 S., R. 8 E.,
Sec. 4, NW¼NW¼ and E½SW¼.

Aggregating 8,179.77 acres.

2. In exchange for the above selected lands, the United States acquired the surface estate only (minerals being reserved by the grantor) in the following described lands in Beaverhead County, Montana:

Principal Meridian

T. 14 S., R. 4 W.,
Sec. 18, lot 4 and SE¼SW¼;
Sec. 19, lots 3 and 4, E½SW¼, W½SE¼ and SE¼SE¼;
Sec. 20, S½SW¼ and SW¼SE¼;
Sec. 28, N½NW¼ and SE¼NW¼;
Sec. 29, lots 1, 2, 3 and 4, S½NW¼ and N½SW¼;
Sec. 30, lot 1;
Sec. 31, SE¼.
T. 14 S., R. 5 W.,
Sec. 11, E½SE¼;
Sec. 12, NW¼SW¼;
Sec. 13, E½NW¼, SW¼NW¼ and S½;
Sec. 14, E½NE¼ and SE¼;
Sec. 22, E½NE¼;
Sec. 23, W½NE¼; SE¼NE¼; NW¼ and E½SE¼;
Sec. 24, N½NE¼; SW¼NE¼; N½SE¼ NE¼, W½, NW¼SE¼ and S½SE¼;
Sec. 25, SW¼NW¼ and NW¼SW¼;
Sec. 26, lots 1 and 2, S½NE¼ and NE¼SE¼;
Sec. 34, NW¼.

3. The United States also acquired the surface estate only (minerals already reserved by the U.S.) in the following described lands in Beaverhead County, Montana:

Principal Meridian

T. 14 S., R. 4 W.,
Sec. 28, lots 1 and 2, SW¼NW¼ and N½SW¼;
Sec. 29, lots 5, 6, and 7, SW¼NE¼ and W½SE¼;
Sec. 30, SE¼NE¼ and SE¼;
Sec. 31, lot 1, NE¼ and E½NW¼;
Sec. 32, all;
Sec. 33, Lot 3, SW¼NW¼ and W½SW¼.
T. 15 S., R. 14 W.,
Sec. 4, NW¼NW¼;
Sec. 5, N½ and N½S½.
T. 14 S., R. 5 W.,
Sec. 12, E½SW¼ and SW¼SE¼;
Sec. 13, NE¼NE¼ and W½NE¼;
Sec. 22, SE¼ excepting therefrom any portion lying northwesterly of the county road;
Sec. 23, SW¼ and W½SE¼;
Sec. 27, lots 1, 6 and 7, SE¼NE¼, E½SW¼ and SE¼;
Sec. 34, E½ and E½SW¼.
T. 15 S., R. 5 W.,
Sec. 4, S½SE¼;
Sec. 9, lot 3 and NE¼;
Sec. 10, lot 1 and NW¼.

The surface acreage of paragraphs 2 and 3 aggregates 7,532.45 acres.

4. The value of the Federal public land was appraised at $1,035,743.20 and the non-Federal land was appraised at $1,031,000. An equalization payment of $4,743.20 was paid to the United States.

5. At 9 a.m. on August 12, 1985, the lands described in paragraphs 2 and 3 above that were conveyed to the United States will be open to the operation of the public land laws. The minerals in paragraph 3 have been and continue to be open to the mineral leasing laws and the mining laws.

Dated: June 28, 1985.

James Binando,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 85-16469 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-DN-M

Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey.

SUMMARY: Plats of survey of the lands described below accepted April 22, 1985, and June 4, 1985, were officially filed in the Montana State Office effective 8 a.m. on June 18, 1985.

Principal Meridian, Montana

T. 23 N., R. 15 E.

This plat representing the dependent resurvey of a portion of the east boundary of Township 23 North, Range 14 East, a portion of the south boundary, and subdivisional lines, and a portion of the adjusted original meanders of the Missouri River, and the survey of the subdivision of sections 30 and 31, Township 23 North, Range 15 East, Principal Meridian, Montana, was accepted April 22, 1985. The area described is in Fergus County.

Principal Meridian, Montana

T. 24 N., R. 13 E.

This plat, in two sheets, representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines and a portion of the adjusted original meander lines of the Missouri River, and the survey of the subdivision of sections 2, 10, 13, 15, 22, 24, and 25, Township 24 North, Range 13 East, Principal Meridian, Montana, was accepted April 22, 1985. The area described is in Chouteau County.

Principal Meridian, Montana

T. 24 N., R. 14 E.

This plat representing the dependent resurvey of a portion of the west boundary of Township 24 North, Range 15 East, a portion of the south and east boundaries, and a portion of the subdivisional lines, and the survey of the subdivision of sections 18, 19, 25, 29, 30, 32, 33, 34, and 35, Township 24 North, Range 14 East, Principal Meridian Montana, was accepted April 22, 1985. The area described is in Chouteau County.

Principal Meridian, Montana

T. 25 N., R. 10 E.

This plat representing the dependent resurvey of a portion of the west boundary and subdivisional lines, the survey of the subdivision of Section 18, and the dependent resurvey of a metes and bounds description of a warranty deed (Parcel A), in lots 3, 6, and 9, of section 18, Township 25 North, Range 10 East, Principal Meridian Montana, was accepted April 22, 1985. The area described is in Chouteau County.

Principal Meridian, Montana

T. 25 N., R. 12 E.

This plat representing the dependent resurvey of a portion of the Third Auxiliary Guide Meridian East, and a portion of the subdivisional lines, and the survey of the subdivision of sections 1, 2, 9, 10, 11, and 14, Township 25 North, Range 12 East, Principal Meridian, Montana, was accepted April 22, 1985. The area described is in Chouteau County.

Principal Meridian, Montana

T. 25 N., R. 13 E.

This plat representing the dependent resurvey of a portion of the 6th Standard Parallel North, a portion of the subdivisional lines, and a portion of the adjusted original meander lines of the Missouri River, and the survey of the subdivision of sections 4, 5, 28, 33, and 34, Township 25 North, Range 13 East, Principal Meridian, Montana, was

accepted April 22, 1985. The area described is in Chouteau County.

Principal Meridian, Montana

T. 26 N., R. 12 E.

This plat, in three sheets, representing the dependent resurvey of a portion of the 3rd Auxiliary Guide Meridian East, the south, west, and north boundaries, the subdivisional lines, and the adjusted original meander lines of the Missouri River, the survey of the present meanders of an island in section 3, a portion of the present meanders, the division of accretion line, and an informative traverse of the present shore line of Buck Island in sectaion 5; and the subdivision of sections 1, 3, 4, 5, 6, 11, 12, 13, 25, and 35, Township 26 North, Range 12 East, Principal Meridian, Montana, was accepted April 22, 1985. The area described is in Chouteau County.

Principal Meridian, Montana

T. 26 N., R. 13 E.

This plat, in two sheets, representing the dependent resurvey of a portion of the south and north boundaries, a portion of the subdivisional lines, and a portion of the adjusted original meander lines of the Missouri River, and the survey of the subdivision of sections 5, 8, 17, 18, 29, 30, 31, and 32, Township 26 North, Range 13 East, Principal Meridian, Montana, was accepted April 22, 1985. The area described is in Chouteau County.

Principal Meridian, Montana

T. 30 N., R. 37 E.

This supplemental plat showing the return of the Vandalia Townsite to an aliquot part of section 15, Township 30 North, Range 37 East, Principal Meridian, Montana, was accepted June 4, 1985. The area described is in Valley County.

These surveys were executed at the request of the Lewistown District Office for the administrative needs of the Bureau.

EFFECTIVE DATE: June 18, 1985.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: June 20, 1985.

Peggy J. Davidson,

Chief, Branch of Records.

[FR Doc. 85-16470 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-DN-M

Colorado; Grand Junction District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of Grand Junction District Grazing Advisory Board.

SUMMARY: Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Grand Junction District Grazing Advisory Board will be held on Wednesday and Thursday, August 14 and 15, 1985. On August 14 the meeting will convene at 8:30 a.m. at the Bureau of Land Management Office, 50629 Highway 6 and 24, Glenwood Springs, Colorado. Attendees will then tour several prescribed burn sites. On August 15 the meeting will begin at 9:00 a.m. in the conference room of the office mentioned above.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include (1) election of officers, (2) minutes of the previous meeting, (3) status of the Grand Junction Resource Area Resource Management Plan, (4) update on allotment management plans in the Glenwood Springs Resource Area, (5) discussion of the Omnibus Rangelands Legislation, (6) current status of project work, (7) fiscal year 86 range improvement program, (8) proposed new advisory board projects, (9) public presentations, and (10) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:00 and 3:30 p.m., on August 15 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81506, by August 12, 1985. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Persons wishing to make the tour on August 14 should furnish their own 4 wheel drive transportation, food, and drink.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 243-6552.

Dated: July 2, 1985.

Dick Freel,

Associate District Manager, Grand Junction District.

[FR Doc. 85-16467 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-JB-M

Moab District Advisory Council; Meeting and Field Trip

July 5, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Council will conduct an office meeting on August 14, followed by a field trip on August 15.

SUPPLEMENTARY INFORMATION: The August 14 meeting will begin at 9:00 a.m. at the Moab District Office, 82 East Dogwood, Moab, Utah, according to the following schedule:

August 14, 1985

9:00 a.m. to 12:00 noon—Status Reports: BLM/FS Interchange program; Wilderness Draft EIS; Interim Management Protection actions

12:00 noon to 1:00 p.m.—Lunch

1:00 p.m. to 3:30 p.m.—Status Reports: Grazing fee study; Planning efforts; Hovenweep proposal; Oil and gas update; Law enforcement; Davis Canyon Park expansion; Trough Springs Road; Energy Fuels Exchange; Land sales

3:30 p.m. to 3:45 p.m.—Public comment

3:45 p.m. to 5:00 p.m.—Old or new business; Council Resolutions as appropriate

5:00 p.m.—Adjourn

6:00 p.m.—No-host dinner at Sundowner Restaurant, Moab

The August 15 Field Trip will convene at the Moab District Office, 82 E. Dogwood, Moab at 8:00 a.m., and leave for a field trip to discuss the following: Colorado River Scenicway, Oil and Gas development, Seismic (geophysical) activity, Wilderness Study Areas, Wildlife, Wild and Scenic Rivers, new business.

All Advisory Council meetings are open to interested members of the public. Persons interested in participating in the field trip will be required to furnish their own transportation and lunch.

For a Detailed Agenda and/or Further Information Contact: Mary Plumb, Public Affairs Officer, Bureau of Land Management, 82 East Dogwood (P.O. Box 970), Moab, Utah 84532. Telephone: 801-259-6111.

Kenneth V. Rhea,

Acting Moab District Manager.

[FR Doc. 85-16514 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Sale of Public Lands in Lassen County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described public land located in Lassen County, California, has been examined, and through the development of land use planning decisions based on public input, resource considerations, regulations, and Bureau policies, it has been determined that the proposed sale of these parcels is consistent with section 203 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976. (43 U.S.C. 1713). The sale land is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal Department or agency. Each parcel will be separately offered for sale at the Bureau of Land Management's Susanville District Office, 705 Hall St., Susanville, California 96130, on September 23, 1985 at no less than the appraised fair market value, through modified competitive bidding. Sale will be by sealed bid only. The Bureau of Land Management solicits and will accept bids on these lands; and may accept or reject any and all bids, or withdraw any land from sale at any time, if in the opinion of the authorized officer, completion of the sale would not be in the best interest of the United States. The authorized officer may withdraw these lands from sale if he determines that they will be needed for an exchange.

The lands will not be offered for sale until 60 days after the date of this notice.

Unsold parcels will be reoffered competitively on February 23, 1986 at the Susanville District Office, by sealed bid.

The lands offered for sale are as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

Parcel No.	Case No.	Legal description	Acres	Appraised fair market value
(1)	CA 15806	T.31 N., R. 15 E., Sec. 2, Lots 2 & 3, SW¼NE¼, SE¼NW¼, E½SW¼, SW¼SW¼, SE¼	436.56	$146,450
(2)	CA 15807	T.31 N., R.15 E., Sec. 11, N½, N½SW¼, N½SE¼	480.0	161,600
(3)	CA 15808	T.31 N., R.15E., Sec. 1, SW¼; Sec. 12, NW¼NE¼, NW¼, NW¼SW¼	400.0	140,000
(4)	CA 15809	T.31 N., R.15 E., Sec. 21, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, SE¼	480.0	168,000
(5)	CA 17107	T.31 N., R.15 E., Sec. 22, N½N½	160.0	54,100
(6)	CA 17108	T.31 N., R.15 E., Sec. 14, NE¼SW¼, S½SW¼; Sec. 23, NW¼	280.0	98,000
(7)	CA 17109	T.31 N., R.15 E., Sec. 23, S½	320.0	112,000
(8)	CA 17110	T.31 N., R.15 E., Sec. 26, SE¼SE¼; Sec. 35, NE¼, SE¼SW¼, NE¼SE¼, S½SE¼	360.0	126,000
(9)	CA 17111	T.30 N., R.15 E., Sec. 4, Lots 1,2,3,4, and 5	117.64	41,175
Total	3,034.20			

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public lands laws including the mining laws. The segregative effect will end upon issuance of a patent or 270 days from the date of publication, whichever occurs first.

Detailed information concerning the sale, including the environmental analysis, mineral report and land report are available for review at the Susanville District Office at the above address.

Bidding Procedures

All parcels will be sold by modified competitive bidding procedures described in this notice. The minimum acceptable bid for any parcel is the appraised fair market value, as shown on the above table. The modified competitive bidding procedures include designation of bidders with preference rights for each parcel. The designated bidders will be (1) any person owning land that is adjacent to (i.e., shares a common boundary with) the parcel, and (2) any individual who had a Desert Lant Entry Application on the lands described herein, and said application was denied by the BLM through an Initial classification Decision dated July 5, 1983. The general public is also invited to bid on these parcels. After bidding has closed on September 23, 1985, the designated bidders described above shall be given the right to meet the highest bid. If no bids are received for a parcel, the designated bidders shall have the right to meet the appraised fair market value. Refusal or failure of a designated bidder to meet the highest bid (or approaised value if no bids are received) within 30 days of the declaration of an apparent high bidder, or of notificaton of a designated bidder, shall constitute a waiver of the designated bidder's preference right. Unsold parcels will be re-offered by competitive sale on February 24, 1986 with no preference rights provided for the designated bidders described above.

Upon disqualification of an apparent high bidder, the next high bid will be declared if it meets or exceeds the minimum high bid. Bids will only be considered if they are made for at least the fair market value of the land, and bids must include all of the land in the parcel.

All bidders must be United States citizens; corporations must be authorized to own real property in the State of California. A State, State instrumentality or political subdivision must be authorized to hold property.

The parcels described in this notice will be offered for sale by sealed bids only. The sealed bids will be opened at 10:00 a.m. on September 24, 1985 at the Bureau of Land Management, Susanville District Office, 705 Hall Street., Susanville, California 96130. Sealed bids will be considered only if received at the above address prior to 4:30 p.m. on September 23, 1985, the closing date of the sale. Each sealed bid must include a certified check, postal money order, bank draft, or cashier's check made payable to the "Department of Interior—BLM", for not less than one-tenth (10%) of the total bid. The sealed bid envelopes must be marked on the front lower left corner, "Sealed Bid, 1985 Land Sale, Parcel Number ——". The sealed bids will be opened and publicly declared on September 24, 1985. If two or more qualified sealed bids for the same amount are received, then the apparent successful bidder will be determined by a drawing.

Designated perference right bidders who wish to meet the high bid on a parcel must submit ten percent (10%) of that high bid within thirty (30) days of the declaration of an apparent high bidder. Failure by a designated bidder to submit ten percent (10%) of the high bid shall constitute a waiver of that designated bidder's preference right. If two or more designated bidders want to meet the high bid on the same parcel, they will be given 15 days to come to a mutual agreement on disposal of the parcel. That agreement must be

submitted in writing to the District Manager, Susanville, for his approval. If no acceptable agreement can be reached within the allowed 15 days time period, the designated preference right bidders shall be allowed to continue bidding to determine the high bidder.

If no adjoining landowners, or former Desert Land Entry applicants exercise their preference right to meet the high bid on a parcel, then the successful high bidder shall be given notice of this fact, and shall be required to submit the remaninder of the full purchase price within 180 days of the date of receipt of notification. Failure to submit the balance of the full bid within the 180 day time limit shall result in cancellation of the sale, and the bidder's deposit will be forfeited. The next high bid will then be declared, if it meets or exceeds the minimum bid.

The mineral estate will also be sold to the successful bidder, under Section 209 of FLPMA (43 U.S.C. 1719). A bid will also constitute an application for conveyance of all the mineral interests on the parcel. These mineral interests have no known mineral value. The declared high bidder will be require to deposit immediately a $50.00 non-refundable filing fee, in accordance with 43 CFR 2720.1-2(c), and the mineral estate will be sold simultaneously with the surface estate. Failure to deposit the $50.00 filing fee, when required, will result in disqualification as the high bidder.

Sale Terms and Conditions Are As Follows

A. *Reservations to the United States*—There will be excepted from these land patents and reserved to the United States the following:

All Parcels—A right-of-way for ditches and canals will be reserved to the United States under the Act of August 30, 1890 (43 U.S.C. 945).

Parcel #1 (CA 15806): Patent for this parcel will contain the following covenant to restrict development in the floodplain: "Pursuant to the authority contained in Section 3(d) of Executive Order 11988 of May 24, 1977, and Section 208 of the Act of October 21, 1976 (43 U.S.C. 1718), this patent is subject to a restriction which constitutes a covenant running with the land, that the portion of the land lying within the 100-year floodplain may be used only for agricultural purposes or for park and nonintensive open space recreation purposes, but not for dwellings or buildings."

Parcel #4 (CA 15809): Patent for this parcel will contain the same floodplain covenant described above, for Parcel #1.

Parcel #5 (CA 17107): Patent for this parcel will contain the same floodplain covenant described above, for Parcel # 1.

Patent for this parcel will also contain the following reservation of a right-of-way for public access and use: "a road right-of-way over and across a 30 foot strip of land measured parallel and adjacent to the south boundary of the N½N½ of Section 22, T. 31 N., R. 15 E., M.D.M., for public access and use of the people of the United States generally, under Section 208 of the Act of October 21, 1976 (43 U.S.C. 1718.)"

Parcel #6 (CA 17108): Patent for this parcel will contain a reservation for road right-of-way over and across a 30 foot strip of land measured parallel and adjacent to the west boundary of the NW¼ of Section 23, T. 31 N., R. 15 E., M.D.M., for public access and use of the people of the United States generally, under Section 208 of the Act of October 21, 1976 (43 U.S.C. 1718).

Parcel #9 (CA 17111): Patent for this parcel will contain a reservation for right-of-way for fence, reserved in perpetuity by the United States Bureau of Land Management, number S-1519, under the authority of 44 L.D. 513.

B. *Rights of Third Parties*—The land patents for these parcels will be subject to all valid existing rights, including the following:

Parcel #1 (CA 15806): A right-of-way for highway purposes granted to the State of California, number S-5035, under the Act of August 27, 1958.

A right-of-way for telephone line purposes granted to Citizens Utilities Co. of California, number S-035335, under the Act of March 4, 1911.

Parcel #2 (CA 15807): A right-of-way for highway purposes granted to the State of California, number S-5035, under the Act of August 27, 1958.

A right-of-way for highway purposes granted to the State of California, number S-4473, under the Act of August 27, 1958.

A right-of-way for telephone line purposes granted to Citizens Utilities Co. of California, number S-035335, under the Act of March 4, 1911.

Parcel #3 (CA 15807): A right-of-way for highway purposes granted to Doyce P. Goodman, number CA 12429, under the Act of October 21, 1976.

Parcel #5 (CA 17107): A right-of-way for highway purposes granted to the State of California, number S-4473, under the Act of August 27, 1958.

A right-of-way for telephone line purposes granted to Citizens Utilities Co. of California, number S-035335, under the Act of March 4, 1911.

A right-of-way for diversion dike and access road purposes granted to James P. Luman, number CA-12388, under the Act of October 21, 1976.

Parcel #6 (CA 17108): A right-of-way for diversion dike and access road purposes granted to James P. Luman, number CA-12388, under the Act of October 21, 1976.

Parcel #9 (CA 17111): A right-of-way for railroad purposes granted to the Nevada-California-Oregon Railway, number S-3381, under the Act of March 3, 1875.

DATE: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Susanville.

ADDRESS: Comments should be sent to: District Manager, Bureau of Land Management, 705 Hall street, P.O. Box 1090, Susanville, California 96130. Objections will be reviewed by the California State Director of the Bureau of Land Management, who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become a final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Peter Humm, Susanville District Office, at (916) 257-5381, or Jacqueline Gratton, Eagle Lake Resource Area Office at (916) 257-5381.

Dated: July 5, 1985.

C. Rex. Cleary,

Susanville District Manager.

[FR Doc. 85-16513 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-40-M

[CA 7562 WR, CA 7568 WR]

California; Proposed Continuation of Withdrawals

July 3, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation, Mid-pacific Region, Proposes that two land withdrawals aggregating approximately 37 acres for the Folsom Dam Unit of the Central Valley Project continue for an additional 50 years. The lands will remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments should be received by October 9, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office,

2800 Cottage Way (Room E–2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Sonia I. Santillan, California State Office, (916) 484–4431.

The Bureau of Reclamation proposes that two existing land withdrawals be continued for a period of 50 years, pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The withdrawals are described as follows:

Mount Diablo Meridian

CA 7562 WR

Secretarial Order dated November 16, 1932

T. 10 N., R. 8 E.,
Sec. 20 W½SW¼NW¼.
The area described contains approximately 20.00 acres in El Dorado County.

CA 7568 WR

Bureau of land Management Order of March 5, 1952

T. 10 N., R. 7 E.,
Sec. 25, Lot 3;
Sec. 35, Lot 1.
The areas described aggregate approximately 16.5 acres in Sacramento County.

The purpose of the withdrawals is to protect lands around the Folsom Dam Unit of the Central Valley Project. The withdrawals segregate the lands from operation of the public land laws generally, including the mining laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the California State Office.

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 withdrawals will be continued and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.**

The existing withdrawals will continue until such final determination is made.

Sharon N. Janis,

Chief, Branch of lands and Minerals Operations.

[FR Doc. 85–16522 Filed 7–10–85; 8:45 am]

BILLING CODE 4310–84–M

New Mexico; Filing of Plat of Survey

June 27, 1985.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on June 27, 1985.

The dependent resurvey of a portion of the subdivisional lines, the subdivision of sections 10 and 15, and the survey of lots 7 and 8 in section 15, and a portion of the meanders of the San Juan River, in Township 30 North, Range 8 West, New Mexico Principal Meridian, New Mexico.

This survey was requested by District Manager, Albuquerque District, Bureau of Land Management.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85–16518 Filed 7–10–85; 8:45 am]

BILLING CODE 4310–FB–M

[N–41005]

Non-Competitive Sale of Public Lands in Clark County, NE

Public Law 96–586, enacted December 23, 1980, authorizes and directs the sale of certain public lands in and around Las Vegas, Nevada. The following described lands have been determined to be suitable for sale utilizing non-competitive procedures, at not less than fair market value. The lands will not be offered for sale until 60 days after the date of this notice.

Mount Diablo Meridian

T. 22 S., R. 60 E.,
Section 1, SE¼NW¼SW¼SW¼, SW¼ NE¼SW¼SW¼, E½SW¼SW¼SW¼, W½SE¼SW¼SW¼.
Aggregating 15 acres, more or less.

This parcel of land, situated in the Las Vegas Valley, has potential for urban-suburban, commercial, and industrial development. Transfer of this land from federal ownership will facilitate local land use planning and enhance its compatibility with adjoining private land uses. The parcel herein described will be offered, initially, on a non-competitive, direct sale basis to the Las Vegas Valley Water District. The Water District has requested sale of the land to accommodate a 15 million dollar water reservoir system to service the southern Las Vegas Valley. When considering an investment of this magnitude, sale of the parcel would be more desirous than a right-of-way and would provide better control of the land. The sale of this parcel would be in the public interest.

In the event of a sale, conveyance of the available mineral interest will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The Las Vegas Valley Water District will be required to pay a $50.00 non-returnable filing fee for conveyance of the available mineral interest.

If the Water District chooses not to proceed with a non-competitive sale, the land may be sold utilizing competitive bidding procedures. Specific sale information and procedures will be made available to the public prior to the sale.

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 oil and gas, sodium and potassium leasable mineral deposits, shall be reserved, together with the right to prospect for, mine and remove the minerals. A more detailed description of the reservation, which will be incorporated in the patent document, is available for review at the Las Vegas District Office, 4765 W. Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126.

and will be subject to:

1. An easement for streets, roads and public utilities being 50 feet wide along the south side in favor of Clark County.

2. Any development in the defined area of a 100 year flood plain will be subject to review and regulations by the Clark County Department of Public Works, Flood Control Division for flood control and storm water management.

Upon publication of this notice in the **Federal Register**, the land will be segregated from all forms of appropriation under the public land laws, including the general mining laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 26569, Las Vegas, Nevada 89126. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In

the absence of any objections, this realty action will become the final determination of the Department of Interior. BLM may accept or reject any or all offers, or withdraw any plan or any interest in land from the sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Pub. L. 96–586, Pub. L. 94–579 or other applicable laws.

Dated: July 3, 1985.

William T. Combs,

Acting District Manager, Las Vegas, NV.

[FR Doc. 85–16547 Filed 7–10–85; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Receipt of Application for Permit

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*)

Applicants: County of San Mateo, CA and City of South San Francisco, CA.

The applicants request an amendment to Permit number PRT 2–9818 ("the permit") which authorizes the incidental take of mission blue butterflies (*Plebejus icaridoides missionensis*), San Bruno elfin butterflies (*Callooplhyrs mossii bayensis*) and San Francisco garter snakes (*Thamnophis sirtalis tetrataeni*) on San Bruno Mountain, California, pursuant to a multi-party agreement ("the Agreement") which implements the San Bruno Mountain Area Habitat Conservation Plan ("the HCP"). The permit was issued on March 4, 1983, under the authority of section 10(a)(1)(B) and 10(a)(2) of the Endangered Species Act of 1973 ("the Act"), as amended.

In 1982, Congress amended the Act by enacting the "incidental take" permit exemption stating that the applicant for such a permit must submit a conservation plan that meets certain specific criteria set forth in the Act. Pursuant to that provision, the San Bruno HCP was developed to minimize and mitigate the impact development on San Bruno Mountain would have on the endangered species and 33 other species of concern by permanently preserving the species, habitat through transfer of private lands to the public; providing funding through the limited development which would be allowed; improving existing habitat and reclaiming former habitat; and continually monitoring and researching various aspects of the Mountain's ecology. The HCP was based in part on information generated from a biological study done by Thomas Reid Associates on the mission blue butterfly and the callippe silverspot butterfly (*Speyeria callippe Callippee*).

A basic element of the Permit is the agreement which legally binds all parties to carry out the elements of the HCP. In addition, the Agreement creates a funding mechanism that is able to support the monitoring, research, enhancement and other conservation techniques provided for the HCP for permanent habitat conservation. The Agreement establishes a permanent institutional structure to insure uniform protection and conservation of the habitat throughout the Mountain despite the division of the habitat by the overlapping jurisdictions and the complex pattern of the private and public ownership.

The permittees of Permit PRT 2–9818 are the County of San Mateo, and the cities of Brisbane, Dale City and South San Francisco.

Section IX of the Agreement sets forth the ways in which the Agreement may be amended. In this case, the applicants have requested an amendment pursuant to the provisions of Section IX.B of the Agreement, which allows for amendments:

(a) Upon the prior written agreement of the fee title owners of the land directly affected; (b) after a noticed public hearing held by the local agency having regulatory land use authority (notice to be given pursuant to California Government Code Section 65854 and 65854.5, or any successor statutes), and (c) upon written approval of the jurisdiction with local land use authority, the County of San Mateo (only with respect to impacts on Conserved Habitat) and the U.S. Fish and Wildlife Service, and (d) supported by a biological study demonstrating that the amendment does not conflict with the primary purpose of the HCP to provide for the indefinite, long-term perpetuation of the Mission Blue, Callippee Silverspot and other Species of Concern, and (e) will be considered an amendment to the Section 10(a) Permit, subject to any other procedural requirements of federal law or regulation which may be applicable to amendment of such a permit.

Section IX.B further provides that amendments in planned administrative parcels, which are parcels whose development plans are incorporated into the HCP, may be approved only at three calendar year intervals. Pursuant to this provision, amendments proposed by June 30, 1985, are to be considered and approved or disapproved by December 31, 1985. Approval of such amendments require the consent of only those entities cited in Section IX.B.

The applicants have requested the amendment in order to perform work to remedy landslide hazards and to protect against possible landslides and earth movement above the Terrabay project on the South Slope Development parcel on San Bruno Mountain (Parcel 2–04 in the HCP). This amendment (referred to as the "South Slope Geotechnical" amendment) would allow temporary disturbance to an additional 25 acres of conserved habitat of the mission blue butterfly within the South Slope (Parcel 2–04), County Park (Parcel 2–05), and Juncus Ravine (Parcel 2–08) Parcels. Mitigation for the amendment would include a developer-funded program to control exotic plant species in an area of good quality butterfly habitat located elswhere on San Bruno Mountain.

The County of San Mateo has submitted several documents in support of the application for the amendment, including (1) the January 1985 supplemental Environmental Impact Report/Environmental Assessment (EIR/EA) that analyzes the amendment and supplements the 1982 EIR/EA prepared with respect to the original permit, (2) the June 1985 Addendum to the January 1985 Supplemental EIR/EA that discusses the cumulative impacts of the South Slope Geotechnical amendment and two other proposed amendments concerning Rio Verde Heights and the County Park, and (3) a Biological study of all three amendments. Separate supplements to the original EIR/EA are being prepared for the Rio Verde Heights and County Park amendments.

Copies of the South Slope Geotechnical amendment application are on file at the following locations and are available for inspection by the public during normal business hours: Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 611, Arlington, Virginia 22201 (703/235–1903); U.S. Fish and Wildlife Service, Region 1, Office of Federal Assistance; Lloyd 500 Building, Suite 550, 500 N.E. Multnomah Street, Portland, Oregon 97232 (503/231–6134); U.S. Fish and Wildlife Service, Sacramento Office of Endangered Species, 2800 Cottage Way, Room #1823, Sacramento, California 95825 (916/484–4935); and County of San Mateo, Office of the Board of Supervisors, 401 Marshall, San Mateo, California 94003 (415/363–4127). Copies of the January 1985 Supplemental EIR/EA, the Addendum to the Supplemental EIR/EA, and the Biological Study on the three amendments are also available for inspection at the above addresses. In addition, copies of the original HCP, EIR/EA, and Agreement are available.

Interested persons may comment on this application by submitting written data, views or arguments to the Chief, Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 611, Arlington, VA 22201 within 30 days of the date of this publication. Please refer to the Permit number when submitting comments.

Dated: July 8, 1985.

R. K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 85-16501 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-55-M

Tetlin National Wildlife Refuge Draft Comprehensive Conservation Plan, Environmental Impact Statement and Wilderness Review, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service has prepared for public review a draft Comprehensive Conservation Plan, Environmental Impact Statement (CCP/EIS), and Wilderness Review for the Tetlin National Wildlife Refuge, Alaska, pursuant to sections 304(g)(1) and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), section 3(d) of the Wilderness Act of 1964, and section 102(2)(C) of the National Environmental Policy Act of 1969. The draft CCP/EIS describes four alternative strategies for long-term management of the 700,000-acre refuge. The plan also reviews these lands as to their suitability under each management alternative for possible addition to the National Wilderness Preservation System.

DATES: Comments on the draft CCP/EIS must be submitted on or before November 5, 1985, to receive consideration by the Regional Director.

ADDRESS: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503 (Attn: William Knauer).

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503, telephone (907) 786-3399.

A draft CCP/EIS has been prepared for general distribution. Copies of the draft comprehensive plan will be sent to all persons and organizations on the mailing list and to villages who participated in either the scoping, alternative open houses or workshops, and/or public review process. Copies of the draft CCP/EIS have been sent to all agencies that participated in the public review process and to agencies and persons who have already requested copies. Those wishing to receive a copy of the draft may obtain one by contacting Mr. Knauer. Copies of the draft CCP/EIS are also available for review at the above location, at the Tetlin National Wildlife Refuge Office, Tok, Alaska, and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge Management, 18th and C Streets, NW, Department of the Interior, Washington, D.C. 20240

U.S. Fish and Wildlife Service, Wildlife Resources, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, OR 97232

U.S. Fish and Wildlife Service, Wildlife Resources, 500 Gold Avenue SW, Room 1306, Albuquerque, NM 87103

U.S. Fish and Wildlife Service, Wildlife Resources, Federal Building, Fort Snelling, Twin Cities, MN 55111

U.S. Fish and Wildlife Service, Wildlife Resources, Richard B. Russell Federal Building, 75 Spring Street, Atlanta, GA 30303

U.S. Fish and Wildlife Service, Wildlife Resources, One Gateway Center, Suite 700, Newton Corner, MA 02158

U.S. Fish and Wildlife Service, Wildlife Resources, 134 Union Boulevard, Lakewood, CO 80225

SUPPLEMENTARY INFORMATION: The draft CCP/EIS for the Tetlin National Wildlife Refuge was developed by the U.S. Fish and Wildlife Service, Department of the Interior, to fulfill the requirements of section 304 of ANILCA relating to preparation of comprehensive conservation plans and the requirements of section 1317(a) of ANILCA and section 3(d) of the Wilderness Act relating to general wilderness suitability review of non-wilderness refuge lands.

Major issues addressed by the plan include fish and wildlife populations and habitats, trapping, recreational use and development, access and transportation, and wilderness management. The draft CCP/EIS addresses four alternatives for long-range management of the refuge including one that would continue current management (the non-action alternative). The other three alternatives cover a broad spectrum of management emphasis ranging from maximum to minimum use of refuge resources. A preferred alternative, representing an intermediate or balanced approach to management of the refuge, is identified.

The plan also addresses the general wilderness suitability of 700,000 acres of non-wilderness refuge lands under each management alternative. This complies with section 1317(a) of ANILCA which requires the Secretary of the Interior to review, in accordance with section 3(d) of the Wilderness Act, all non-wilderness refuge lands in Alaska as to their suitability for preservation as wilderness and report his recommendations to the President by 1985.

The Notice of Intent to prepare the CCP/EIS and Wilderness Review was published in the October 5, 1982, **Federal Register.** Other government agencies and the general public contributed to the development of this draft CCP/EIS and wilderness review.

Dated: July 1, 1985.

Robert E. Gilmore,

Regional Director.

[FR Doc. 85-16252 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Documents; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 6032, Block 519, Matagorda Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Port O'Connor, Texas.

DATE: The subject DOCD was deemed submitted on July 1, 1985.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is

considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 2, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-16525 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Louisiana

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 072, Block 12, South Pelto Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cocodrie, Louisiana.

DATE: The subject DOCD was deemed submitted on July 1, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Emile H. Simoneaux; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0872.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 2, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-16526 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Texas

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that TXP Operating Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 3484 and 6238, Blocks A-557 and A-556, respectively, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from on onshore base located at Ingleside, Texas.

DATE: The subject DOCD was deemed submitted on June 28, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 2, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-16527 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Kerr-McGee Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document.

SUMMARY: This Notice announces that Kerr-McGee Corporation, Unit Operator of the Ship Shoal Block 32 Federal Unit Agreement No. 14-08-001-2891, submitted on June 26, 1985, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the Ship Shoal Block 32 Federal unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd. Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Managment Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 5, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-16540 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Columbia Island Marina; Public Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and subject of a forthcoming public meeting to be held by the National Park Service. The meeting will discuss a proposed change to the intersection at the entrance of the Columbia Island Marina on the George Washington Memorial Parkway. The proposal calls for installation of curbs and plantings to close the cross over from the northbound lanes of the parkway and make the existing median strip continuous through this section of the parkway. New signs would direct visitors approaching Columbia Island Marina in the northbound lanes to use I-395 South to Boundary Channel Drive, up that drive to the parkway, and then down the southbound lanes to the existing marina entrance. Visitors leaving the marina to go North would follow a similar route. In 1984 there were 19 accidents in this section of the parkway, and the National Park Service has determined that this intersection should be improved.

DATES: Change proposed to be effective in the fall of 1985; public meeting will be held July 17, 1985; comments must be received on or before August 17, 1985.

ADDRESSES: The public meeting will be held at the Columbia Island Marina on the George Washington Memorial Parkway July 17, 1985 at 7:00 p.m. Send comments to Superintendent, George Washington Memorial Parkway, c/o Turkey Run Park, McLean, Virginia 22101.

FOR FURTHER INFORMATION CONTACT: John F. Byrne (Superintendent) 703-285-2600.

John F. Byrne,

Superintendent, George Washington Memorial Parkway.

[FR Doc. 85-16548 Filed 7-10-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL BOUNDARY AND WATER COMMISSION

IBWC Interceptors: San Diego County, CA; Finding of No Significant Impact

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the United States Section Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981 (46 FR 44083) *to be codified* in 22 CFR Part 1103; the United States Section hereby gives notice that an environmental impact statement will not be prepared for the construction, operation, and maintenance of the IBWC Interceptors adjacent to the international boundary in San Diego County, California.

FOR FURTHER INFORMATION CONTACT: George R. Baumli, Principal Engineer, Investigations and Planning Division; United States Section, International Boundary and Water Commission, United States and Mexico; The Commons, Building C, Suite 310; 4171 North Mesa; El Paso, Texas 79902. Telephone: (915) 541-7304, FTS 572-7304.

Proposed Action

The United States Section, International Boundary and Water Commission (U.S. Section) proposes to construct, operate, and maintain a system to intercept, divert, and dispose of fugitive raw sewage flows originating from Tijuana that enter the United States through Canyon del Sol and two easterly drains. The sewage interceptor system will be designed to intercept fugitive raw sewage flows from Canyon del Sol, Silva Drain, and Stewart's Drain and convey them to Mexico's pumping plant or to the San Diego Metro System (Location map attached).

Alternatives Considered

Three alternatives were considered:

Preferred Alternative: The proposed action, as described hereinbefore, is the U.S. Section's preferred alternative. Needed right-of-way is owned by the U.S. Government.

No Action: The no action alternative will result in continued fugitive flows of raw sewage down Canyon del Sol and two drains to the lower Tijuana River Valley.

Gravity Return of Sewage Flows This alternative requires that right-of-way on privately owned land be acquired to take advantage of the natural contours of the area. An agreement could not be reached with the land owner for the needed right-of-way.

Environmental Assessment

The U.S. Section completed a draft environmental assessment and distributed it for review on June 28, 1985.

Findings of the Environmental Assessment

The tentative finding of the draft environmental assessment is that the proposed action does not constitute a major federal action which would cause a significant local, regional, or national adverse impact on the environment.

The following facts are the basis for this finding:

1. The proposed action would capture and dispose of fugitive sewage flows from Tijuana that enter the United States through Canyon del Sol and two small drains and return them to the Tijuana sewage disposal system or to the San Diego Metro Sewage System thus preventing pollution of the lower Tijuana River valley from that source of pollution.

2. Construction activities would have a minimal impact on the plants and animals in the area which has been highly disturbed due to both natural and human occurrences.

3. The proposed action and alternatives would not affect any endangered species in the area or habitat critical to the continued existence of these species.

4. No properties listed or eligible for listing on the National Register of Historic Places or any known archeological sites would be affected by the proposed action and alternatives.

5. The proposed action and gravity flow alternative would have no adverse effect on listed properties on the National Registry of Natural Landmarks in San Diego County. Continued pollution of the Tijuana River Estuary would continue from Canyon del Sol and two small drains under the no action alternative.

On the basis of the draft environmental assessment, a finding of no significant impact is proposed. An environmental impact statement will not be prepared unless additional information which may afect this decision is brought to our attention within thirty (30) days of the date of this Notice.

The draft Finding of No Significant Impact (FONSI) and draft Environmental Assessment (EA) have been sent to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the draft FONSI and draft EA are available to fill single copy requests at the above address.

Dated: June 28, 1985.
Darcy Alan Frownfelter,
Legal Advisor.
[FR Doc. 85-16536 Filed 7-10-85; 8:45 am]
BILLING CODE 4710-03-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection: The proposed information collection is for use by the Commission in connection with investigation No. 332-213, The Competitive Position of U.S. and European Community pork in the U.S. and Third Country Markets, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

Summary of proposal:

(1) Number of forms submitted: one.

(2) Title of form: The competitive Position of U.S. and European Community Pork in the U.S. and Third Country Markets—Questionnaire for U.S. Purchasers.

(3) Type of requests: new.

(4) Frequency of use: nonrecurring.

(5) Description of respondents: Firms in the United States that purchase U.S. and imported pork.

(6) Estimated number of respondents: 50.

(7) Estimated total number of hours to complete the forms: 880.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional information or comment: Copies of the proposed form and supporting documents may be obtained from David E. Ludwick (202) 724-1763. Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Francine Picoult, Desk Office for the U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Ms. Picoult's telephone number is (202) 395-7231. Copies of any comments should be provided to Charles Ervin (U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436).

By order of the Commission.
Issued: July 3, 1985.
Kenneth R. Mason,
Secretary.

[FR Doc. 85-16451 Filed 7-10-85; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 701-TA-223 (Final)]

Agricultural Tillage Tools From Brazil

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-223 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of agricultural tillage tools, provided for in item 666.00 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil. Commerce will make its final subsidy determination in this investigation on or before August 19, 1985, and the Commission will make its final injury determination by October 7, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: June 10, 1985.

FOR FURTHER INFORMATION CONTACT: Stephen Vastagh (202-523-0283), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Brazil of agricultural tillage tools. The investigation was requested in a petition filed on September 28, 1984, by Ingersoll Products Corp. of Chicago, IL, Empire Plow Co. of Cleveland, OH, and Nichols Tillage Tools of Sterling, CO. In response to that petition, the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of imports of the subject merchandise (FR 49 37856, November 12, 1984).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commision's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on August 26,

1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on September 10, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on August 26, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on August 30, 1985 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is September 5, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on September 17, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before September 17, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirement of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

By order of the Commission.

Issued: July 5, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16454 Filed 7-10-85; 8:45 am]

BILLING CODE 7020-02-M

[332-216]

Competitive Assessment of the U.S. Forging Industry

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation and the scheduling of a hearing.

EFFECTIVE DATE: June 28, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Rapkins (202-523-0436), Minerals and Metals Division, U.S. International Trade Commission, Washington, D.C. 20436.

Background and scope of investigation: The Commission instituted investigation No. 332-216, following receipt on May 21, 1985, of a letter from the United States Trade Representative (USTR), requesting, at the direction of the President that the Commission conduct an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) concerning the competitive position of the U.S. forging industry in domestic and world markets.

In accordance with the request, the Commission will examine the competitive position of the U.S. forging industry in domestic and world markets. As requested by USTR, the study will include an overview of the U.S. forging industry, together with a detailed analysis of selected key products which are important to the U.S. forging industry and representative of major segments of the entire forging industry in terms of manufacturing process, import competition, marketing, and financial condition.

In conducting its investigation, the Commission, at the request of USTR, will cover the following points: (1) Current profile of the U.S. and foreign forging industries; (2) conditions of competition between U.S. and foreign forgers; (3) factors affecting the future competitive posture of domestic and foreign forging operations; and (4) the implications of the U.S. competitive position on the forging industry itself, related industries, and the U.S. economy as a whole.

Public hearing and prehearing briefs: A public hearing in connection with this investigation will be held in the Commission Hearing Room, 701 E Street, NW, Washington, DC 20436, beginning at 10:00 a.m. on January 20, 1986. All persons shall have the right to appear by counsel or in person, to present information and to be heard. Persons wishing to appear at the public hearing should file requests to appear and should file prehearing briefs (original and 14 copies) with the Secretary, U.S. International Trade Commission, 701 E Street, NW, Washington, D.C. 20436, not later than noon, January 13, 1986.

Written submissions: In lieu of or in addition to appearance at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitting party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be submitted at the earliest possible date, but no later than January 13, 1986. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724-0002.

Issued: July 1, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16449 Filed 7-10-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-205 (Final)]

Carbon Steel Wire Rod From the German Democratic Republic

AGENCY: United States International Trade Commission.

ACTION: Rescheduling of the hearing to be held in connection with the subject investigation.

SUMMARY: The Commission hereby announces the rescheduling of the hearing to be held in connection with the subject investigation from 10:00 a.m. on July 11, 1985, to 10:00 a.m. on August 8, 1985.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, August. 15, 1984.)

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Ann Reed (202-523-0255), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 1985, the Commission instituted the subject investigation and scheduled a hearing to be held in connection therewith for June 5, 1985 (50 FR 13290, April 3, 1985). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from May 20, 1985, to July 1, 1985. The Commission, therefore, revised its schedule in the investigation to conform with Commerce's new schedule, and reschedules its hearing for July 11, 1985.

On June 11, 1985, the Department of Commerce again extended the date for its final determination—to July 25, 1985. The Commission, therefore, is again revising its schedule in the investigation to conform with Commerce's new schedule. The Commission's hearing to be held in connection with the subject investigation has been rescheduled to begin at 10:00 a.m. on August 8, 1985. As provided in section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)), the Commission must make its final determination in antidumping investigations within 45 days of Commerce's final determination, or in this case by September 9, 1985.

Staff Report.

A public version of the prehearing staff report in this investigation was placed in the public record on June 28, 1985, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21)

Hearing.

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on August 8, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on July 31, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on August 1, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is August 1, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, August. 15, 1984)).

Written submissions.

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on August 14, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before August 14, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, August 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, August 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, August 15, 1984).

Issued: July 3, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16453 Filed 7-10-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-215]

Certain Double-Sided Floppy Disk Drives and Components Thereof; Decision To Review Initial Determination Schedule for Filing of Written Submissions on Violation and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to review the administrative law judge's initial determination awarding temporary relief under section 337 of the Tariff Act of 1930 in the above-captioned investigation.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53, 210.54, and 210.56 of the Commission's Rules of Practice and Procedure (49 FR 46123 (Nov. 23, 1984); to be codified at 19 CFR 210.53, 210.54, and 210.56).

FOR FURTHER INFORMATION CONTACT: Marcia H. Sundeen, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0480.

SUMMARY: On May 30, 1985, the administrative law judge issued an

initial determination (ID) granting complainant's motion for temporary relief under subsections (e) and (f) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337 (e) and (f)). Respondents and the Commission investigative attorney filed petitions for review of the ID Pursuant To §210.54(a) of the Commission's rules.

Having examined the record, including the petitions for review and the response thereto, the Commission has concluded that the ID warrants review. Specifically the Commission will review the ID *except* for the issues of: (1) invalidity of U.S. Letters Patent No. 4,151,573 by reason of anticipation under 35 U.S.C. 102(g), obviousness under 35 U.S.C. 103, or misjoinder of inventors; (2) efficient and economic operation, and (3) importation and sale.

The Commission's review will focus particularly on the following issues.

(1) The definition of domestic industry in this investigation in light of, *inter alia*, the decisions in *Certain Personal Computers*, Inv. No. 337–TA–140, 224 U.S.P.Q. 270 (1984) and *Schaper Manufacturing Co. v. U.S. International Trade Commission*, 717 F.2d 1368 (Fed. Cir. 1983).

(2) The reason to believe standard of patent infringement in the temporary relief phase of an investigation.

(3) The appropriateness of temporary relief, including balancing of complainant's probability of success on the merits; immediate and substantial harm to the domestic industry in the absence of temporary relief; harm, if any, to the respondents if temporary relief is awarded; and, the effect, if any, that the issuance of temporary relief would have on the public interest.

SUPPLEMENTARY INFORMATION: If the Commission finds that there is reason to believe that a violation of section 337 has occurred, it may issue (1) an order which could result in the temporary exclusion of the subject articles from entry into the United States and/or (2) temporary cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of temporary relief, if any, which should be ordered.

The Commission must balance the following factors in order to determine if temporary relief should be awarded: (1) Complainant's probability of success on the merits; (2) immediate and substantial harm to the domestic industry in the absence of requested temporary relief; (3) harm, if any, to the respondents if the requested temporary relief is granted; and (4) the effect, if any, that the issuance of the requested temporary relief would have on the public interest. If the Commission concludes that temporary relief is appropriate, it must also consider the effect that a temporary exclusion order would have upon: (1) The public health and welfare; (2) competitive conditions in the U.S. economy; (3) the U.S. production of articles which are like or indirectly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that there is a reason to believe that a violation of section 337 has occurred and orders temporary relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond which should be imposed.

Written submissions and Commission hearing: The Commission does not intend to hold a public hearing. The parties to the investigation and interested Government agencies are encouraged to file written submissions on the issues under review, and the issues of remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit a proposed temporary remedial order for the Commission's consideration. Persons other than the parties and Government agencies may file written submission addressing the issues of remedy, the public interest, and bonding.

Written submissions on the issues under review and on remedy, the public interest, and bonding must be filed not later than the close of business on July 17, 1985. Reply submission on the issues under review and on remedy, the public interest, and bonding must be filed not later than July 24, 1985.

ADDITIONAL INFORMATION: Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the administrative law judge. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

Notice of this investigation was published in the **Federal Register** of January 30, 1985 (50 FR 4276).

Copies of the nonconfidential version of the administrative law judge's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Issued: July 2, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–16450 Filed 7–10–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–58 (Final)]

Hot-Rolled Carbon Steel Plate From Romania

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On June 21, 1985, and June 27, 1985, respectively, the Commission received letters from the United States Steel Corp. and counsel for Republic Steel Corp., Inland Steel Co., Jones & Laughlin Steel, Inc., National Steel Corp., and Cyclops Corp., the original petitioners in investigation No. 731–TA–58 (Final), which withdrew their petitions in this investigation. Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), investigation No. 731–TA–58 (Final) is terminated and the public hearing scheduled for July 30, 1985, is cancelled.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Eninger (202–523–0312), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

Authority: This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published

pursuant to § 207.40 of the Commission's rules (19 CFR 207.40).

Issued: July 3, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16452 Filed 7-10-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 104-TAA-26]

Sugar Content of Certain Articles From Australia

AGENCY: United States International Trade Commission.

ACTION: The Commission hereby reschedules the time at which its public hearing in connection with the subject review investigation of an outstanding countervailing duty order is to begin, from 10:00 a.m. to 2:00 p.m. on July 18, 1985.

EFFECTIVE DATE: July 5, 1985.

FOR FURTHER INFORMATION CONTACT: Ilene Hersher (202-523-4616), Office of Investigation, U.S. International Trade Commission, Washington, DC 20436.

SUPPLEMANTARY INFORMATION: The Commission instituted this review investigation of an outstanding countervailing duty order effective May 9, 1985, and scheduled a hearing to be held in connection therewith beginning at 10:00 a.m. on July 18, 1985 (50 FR 23086, May 30, 1985). However, because the hearing on July 17, 1985, in connection with investigation No. 22-48 will extend beyond the one day originally scheduled for that investigation, the Commission is rescheduling the time at which the hearing on investigation No. 104-TAA-26 will begin, from 10:00 a.m. to 2:00 p.m. on July 18, 1985, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, DC.

Issued: July 8, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16455 Filed 7-10-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-19 (Sub-108X)]

The Baltimore and Ohio Railroad Co., Abandonment Exemption in Cabell County, WV

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon is .41-mile line of railroad from point of switch 612+98.7 to Valuation Station 591+40.2 near Guyandotte, Cabell County, WV.

Applicant has certified: (1) That no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective August 10, 1985, (unless stayed pending reconsideration). Petitions to stay must be filed by July 21, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must filed by July 31, 1985 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A Copy of any petition filed with the Commission should be sent to applicant's representative:

Lawrence H. Richmond, 100 North Charles St., Baltimore, MD 21201

Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44202

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: June 28, 1985.

By the Commission, Heber P. Hardy, Director, Officer of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-16462 Filed 7-10-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. MC-C-10963]

Armstrong World Industires, Inc., Transportation Within Texas; Petition for Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of a petition for declaratory order.

SUMMARY: Armstrong World Industries, Inc., seeks a declaratory order proceeding to determine whether the transportation of carpet from a warehouse at Arlington, TX, to customers at other points in Texas is interstate or intrastate in nature. The carpet is stored temporarily at the warehouse after an initial movement from Dalton, GA.

Any interested party may file a comment in this proceeding.

DATES: Comments are due August 12, 1985.

ADDRESS: Sent an original and 10 copies of comments to: No. MC-C-10963, Room 2203, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

Send one copy of comments to petitioner's representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210.

FOR FURTHER INFORMATION CONTACT:

Paul W. Schach, (202) 275-7885

Howell I. Sporn, (202) 275-7691

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Bldg., Washington, D.C. 20423, or call 289-4357 (D.C. metropoliatan arrea) or toll free (800) 424-5403.

Dated: July 5, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85-16461 Filed 7-10-85; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL SCIENCE FOUNDATION

Committee Management; AD Hoc Panel On Oceanographic Facilities; Establishment

The Ad Hoc Panel on Oceanographic Facilities is being established in accord with the Federal Advisory Committee Act Pub. L. 92-463) and GSA's implementing regulation. Establishment of the Ad Hoc Panel is necessary, and is in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable law.

Name of Committee: Ad Hoc Panel on Oceanographic Facilities.

Purpose: To provide advice on the disposition of proposals and recommendations affecting the composition and disposition of the academic research fleet.

Effective Date of Establishment and Duration: This establishment is effective upon filing the charter with the NSF standing committees of Congress. The Panel will operate for four months from the date of establishment.

Membership: The membership of this Panel shall be fairly balanced in terms of the points of view represented and the Panel's function. The panel will consist of about seven persons selected from the ocean sciences community. Due consideration will be given to achieving membership that reasonably represents public, private, and academic communities, women and minority scholars, the handicapped, and different geographical regions of the country.

Operation: The Panel will operate under with provisions of the Federal Advisory Committee Act, Foundation policy and procedures, GSA Interim Regulations on Federal Advisory Committee Management, and other directives and instructions issued in implementation of the Act.

M. Rebecca Winkler,

Committee Management Officer.

July 8, 1985.

[FR Doc. 85-16442 Filed 7-10-85; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Commonwealth Edison Co. (Zion Nuclear Power Station, Unit 1) and all Light-Water Reactors; Director's Decision Under 10 CFR 2.206

[Docket No. 50-295]

Introduction

On March 6, 1985, Zinovy V. Reytblatt (Petitioner) submitted a letter pursuant to 10 CFR 2.206 to the Director of the Office of Nuclear Reactor Regulation seeking an immediate postponement of all containment leak rate tests performed for light-water reactors pursuant to the Commission's regulations in this area, specifically, 10 CFR Part 50, Appendix J. The primary concern raised by the Petitioner was the alleged use of incorrect weighting coefficients in the air mass equation used for determining actual containment leak rates. Specifically, Petitioner alleges that incorrect weighting coefficients were utilized in determining the containment leak rate for the Zion Station, Unit 1.

On March 8, 1985, Petitioner submitted a second letter to the Director of the Office of Nuclear Reactor Regulation alleging that certain computer software developed by Volumetrics, Inc. and utilized at a number of nuclear facilities, including the Zion Unit 1, to determine containment leak rates, does not function correctly and consequently may lead to incorrect determinations of containment leak rates. Petitioner requested that actions be taken to ban the use of the software in question until it has been "debugged" and revalidated.

On April 22, 1985, I acknowledged receipt of both the March 6 and March 8, 1985 letters from the Petitioner and informed the Petitioner that both letters would be considered together as a Petition pursuant to 10 CFR 2.206 and that appropriate action would be taken on the issues raised in the Petition within a reasonable time. I also have considered a subsequent letter from the Petitioner dated April 30, 1985 in reaching my decision. My decision in this matter follows.

Discussion

The Petitioner has been involved in the technical issues associated with containment leak rate testing methodologies for a number of years. Petitioner's activities have been focused upon (1) criticizing the current methods used to assure adequate containment leak rates and (2) suggesting what Petitioner would consider to be improved methods to perform containment leak rate tests. The NRC Staff has also been active in reviewing the adequacy of the Commission's regulations regarding containment leak rate testing. Leak rate testing of light-water reactor containments is a substantial undertaking. While the Commission's present requirements for leak rate testing continue to provide reasonable assurance that the public health and safety is adequately protected, these requirements are now over 11 years old and a substantial base of experience exists to apply in seeking improvements to the regulations. In fact, one modification to 10 CFR Part 50, Appendix J, in the area of Type B tests was made.

See 45 FR 2330 (1980) and 45 FR 62789 (1980). The NRC Staff has underway the review of leak rate testing requirements with a view to see whether other modifications to these requirements are appropriate. Petitioner is well aware of these activities and has participated in them over the years, including participation in the activities of Working Group ANS-56.8 of the Standards Committee of the American Nuclear Society, the entity carrying out a detailed review and examination of methodologies appropriate for adequate containment leak rate testing. The Petitioner has also presented his concerns with respect to containment leak rate testing directly to the NRC Staff on many occasions in the past in both written and oral form. Indeed, I have issued twice before Director's Decisions pursuant to 10 CFR 2.206 dealing with Petitioner's concerns in this area.[1] Consequently, both the nuclear industry and the NRC Staff have long had the benefit of Petitioner's views with respect to containment leak rate testing.[2]

The current Petition raises essentially three issues. First, the Petition alleges that the equation used to calculate containment air mass at any given time is wrong. This issue has been raised by the Petitioner in the past and, in fact, was the subject of an earlier Director's Decision issued by this office.[3] As noted in my earlier Decision, the equation used in the standard of the American Nuclear Society (ANS) and the American National Standards Institute (ANSI) [4] for calculation of containment air mass is not "wrong" as alleged by the Petitioner. The manner in which the mean containment temperature is calculated for use in the equation, however, is important. In this regard, ANSI-ANS 56.8-1981 does not prescribe how to calculate the mean containment temperature. Either a mass-weighted mean temperature or a volume-weighted mean temperature would be acceptable if the leak rate testing is properly conducted to assure stable conditions and the test data are properly evalutated. In essence, the equation is correct, but inadequately defines the temperature term by allowing the assumption of a uniform density throughout the containment. The density may not, however, be uniform because the temperature may not be uniform. Hence it is important to assure that the test is conducted under stable conditions. Within the range of temperature variations experienced at

[1] Commonwealth Edison Company (LaSalle County Station, Units 1 and 2) and All Light-Water Reactors, DD-84-6, 19 NRC 891 (1984); Commonwealth Edison Company (Zion Nuclear Power Station, Unit 1), DD-85-2, 21 NRC 270 (January 23, 1985).

[2] It should be noted that the Commission has placed leak rate testing for water-cooled power reactors on its Regulatory Agenda. *See* 50 FR 16154 et seq. (April 29, 1985).

[3] *See* DD-84-6, *supra*, at 894.

[4] ANSI/ANS 56.8-1981, "Containment System Leakage Testing Requirements".

tests conducted at nuclear facilities, the difference in leak rates using the assumption of uniform density has no safety significance. Consequently, while this is an area where improvement may be made, such an improvement would be more correct technically but would produce no meaningful change in the conduct of containment leak rate tests.

The second issue raised by the Petitioner concerns the use of the so-called weighting coefficients in determining containment leak rates and the allegation that such weighting coefficients may be manipulated to reach an acceptable result. This issue is also the subject of my earlier Decision.[5] As noted in my earlier Decision, a properly conducted leak rate test would not contain the types of deficiencies alleged by the Petitioner such as the use of unjustified weighting coefficients. Such manipulation of data would be a violation of the Commission's regulations and would subject licensees to NRC enforcement action. In addition, to ensure compliance with the Commission's requirements regarding leak rate testing, NRC inspectors regularly observe the tests conducted by licensees and documents the results of their observations in Inspection Reports.

The third issue raised by the Petitioner concerns alleged inadequacies in certain software used to conduct containment leak rate testing. The Petitioner alleges that the Volumetrics computer program for processing leak rate test data does not perform addition and/or division correctly which consequently may lead to underestimating leak rates to the degree that such leak rates would appear to be within normal limits. The Petitioners suggests that such may be the case with respect to Zion Unit 1 leak rate testing, and suggests that other facilities may be employing the same defective software. Petitioner further alleges that the Volumetrics computer program has a "fraudulent" option which permits doubling of the weighting coefficients and that this "fraudulent" option has been used during the November 1983 Zion test and possibly also in the July 1984 Zion test.

The Volumetrics computer program (software) was used in conducting the November/December 1984 containment integrated leak rate test (CILRT) at the Detroit Edison Company's Fermi Unit 2 plant. NRC inspectors, as a matter of course, independently verify CILRT results. In the case of the Fermi Unit 2 test, the NRC inspectors found that the Volumetrics computer program produced acceptable results. There was no evidence of any manipulation of subvolume weighting coefficients to bias the data. Specific data sets from this test have also been checked for alleged inadequacies in the Volumetrics software, and it has been determined that the Volumetrics computer program correctly processes the data. Consequently, the staff has not found it necessary to review the Volumetric software itself. Also, contrary to statements made by the Petitioner, the Volumetrics software has never been used for the integrated leak rate testing of the Zion containments. Again, the staff has independently verified that the computer program used in the Zion tests produced correct results.

While the Petition raises three general concerns, Petitioner makes a number of allegations which are specific to the Zion Unit 1 facility. Particularly, the Petitioner contends that the July 1984 containment leak rate test for Zion Unit 1 was performed in violation of regulatory requirements. The Petitioner argues that the July 1984 containment leak rate test at Zion Unit 1 may have used the Volumetrics software permitting doubling of weighting coefficients and incorrect addition and/or subtraction. Further, the Petitioner argues that meaningless "verification" tests were performed during the Zion Unit 1 test on July 29, 1984. The Petitioner alleges that a verification test failed and that, following the failure, the reasons for the failure were not analyzed. Instead, an "unlawfully short test" with the same incorrect weight coefficients used earlier was performed and "successfully" verified. Petitioner questions this approach as no repair was done between tests and containment conditions for both tests were identical. The Petitioner further argues that, based on his analysis of certain data sets for the Zion Unit 1 test of July 1984, and upon his use of supposedly more realistic weight coefficients, he has concluded that the Zion Unit 1 containment leak rates are in excess of regulatory limits.

As stated above, the Volumetrics software was not used in the Zion tests. Nevertheless, the Petitioner presented a data set of nine temperature readings for a particular subvolume to show that the Volumetrics computer program does not correctly calculate the average containment temperature. The Petitioner, however, mistakenly included the readings of two channels of temperature sensors (numbers 4 and 14) that had been declared "out-of-service" through the course of the test. In fact, the computer program in use (not the Volumetrics program) was averaging, correctly, the readings of the seven "in-service" channels.

With regard to the Petitioner's allegations concerning the validity of the verification test for the July 1984 Zion CILRT test, the Petitioner alleges that no attempt was made to analyze the cause of the inability to initially meet the test acceptance criterion. In fact, after conducting the verification tests, the licensee did speculate on the cause and proceeded to take corrective action. It was thought that the verification test equipment may have been leaking during the CILRT (which would not have occurred during the subsequent verification test with the equipment in use) since the imposed leak rate was almost identical to the measured (composite) leak rate. The licensee made adjustments to the verification test equipment and proceeded to conduct a second CILRT. The test was discontinued after 10 hours since the results were substantially the same as those obtained during the first CILRT. A second verification test was then conducted using a larger imposed leak rate (1.1 L_t versus 0.82 L_t), which is permissible. This resulted in a composite leak rate greater than 0.1 weight percent per day. Since the accuracy of measuring leak rates much less than 0.1 weight percent per day is considered poor, conducting a verification test having a composite leak rate greater than 0.1 weight percent per day improves the accuracy of the test. The NRC's Inspection Report [6] reviewed the circumstances of the verification test related above. The report concludes that the test did confirm the acceptability of the CILRT.

Conclusion

Petitioner sought immediate suspension of all containment leak rate testing and immediate initiation of actions to ban the use of Volumetrics software until it is debugged and revalidated. For the reasons stated in this Decision, the Petitioner's request for relief is denied. As provided by 10 CFR 2.206(c), a copy of this Decision will be filed with the Secretary for the Commission's review.

[5] *Ibid.* at 894–895.

[6] Letter to C. Reed, Vice President, Commonwealth Edison Company, from J. Keppler, Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, dated September 7, 1984, transmitting Inspection Report No. 50–295/84–11; 50–304/84–11.

Dated at Bethesda, Maryland, this 3rd day of July 1985.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-16493 Filed 7-10-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Co. of New York, Inc. (Indian Point Nuclear Generating Unit No. 2) Rescission of Order

I

In September of 1979, the Union of Concerned Scientists (UCS) filed a petition with the Commission pursuant to 10 CFR 2.206 requesting, among other things, that Indian Point Units 2 and 3 be shut down. The Director of the Office of Nuclear Reactor Regulation denied that part of the petition relating to the requested shutdown of the two Indian Point units. *Consolidated Edison Company of New York, Inc.* (Indian Point, Units 1 and 2), *Power Authority of the State of New York* (Indian Point, Unit 3), DD-80-5, 11 NRC 351 (1980). However, the Director imposed by Order certain interim requirements upon the Indian Point Units while an NRC Task Force determined what design changes should be made to further reduce the probability and/or consequences of a severe reactor accident. *Id.* at 370.

The Commission decided, in its discretion, to commence a special investigatory proceeding concerning the Indian Point plants in which one of the issues to be addressed was the risk reduction afforded by the requirements imposed by the Director in 1980. *Consolidated Edison Company of New York, Inc.* (Indian Point, Unit No. 2), *Power Authority of the State of New York* (Indian Point, Unit No. 3) CLI-81-1, 13 NRC 1 (1981). After hearing testimony on this issue the Licensing Board designated to preside over the proceeding concluded that the Director's Order resulted in some small positive benefits which was not amenable to quantification. *Consolidated Edison Company of New York, Inc.* (Indian Point, Unit No. 2), *Power Authority of the State of New York* (Indian Point, Unit No. 3), LBP-83-68, 18 NRC 811, 816 (1983).

The Commission, after reviewing the Licensing Board's recommendations, concluded that because the risk reduction effect of these measures is not sufficient to be termed substantial, the Director's measures should be rescinded unless they are required to fulfill generic requirements applicable to similar types of reactors, or are required to meet other license requirements for the Indian Point units. *Consolidated Edison Company of New York* (Indian Point, Unit No. 2), *Power Authority of the State of New York* (Indian Point, Unit No. 3) CLI-85-06—NRC— (1985) slip op at 26. This document implements the Commission's directive that these Orders be rescinded.

II

Some of the requirements in Appendix A of the February 11, 1980 Order can be rescinded in full. Other items have been completed and the action is irreversible. In the case of the completed items, no further action is required. Items in these categories are:

Rescind	Complete
A.1	A.6
A.2	A.7
A.3	B.2
B.1	C.1
B.6	C.2
C.6	C.3
D.1.b	C.4
D.2	C.5
D.3	E.1.a
E.1.c	E.1.b
E.1.d	E.1.f
E.1.e	E.1.g
F.4	E.1.h
	E.1.i
	E.2
	F.1
	F.3
	F.5

Eight of the Order requirements are generic issues. In some cases, the specific Order requirement is rescinded when compliance with the generic issue is confirmed. These eight items and resolutions are:

1. Item A.4: The requirements for shift manning are set forth in 10 CFR 50.54. Therefore, the Order is rescinded for this item.

2. Item A.5: LPI/RHR check valve operability. Valve operability and leakage requirements are set forth in the NRC generic letter dated February 23, 1980. These requirements were imposed on most licensees other than the Indian Point licensees by Orders issued during April 1981. The requirements of the generic letter set forth the staff's final position on this generic matter. Accordingly, the licensee shall follow the Order Item A.5 until Technical Specifications implementing the generic letter have been submitted to and approved by the NRC. Upon such approval the Order is rescinded with respect to this item.

3. Item B.3: Requirements for notification for emergency action levels are set forth in 10 CFR 50.72. Therefore, the Order is rescinded with respect to this item.

4. Item B.4: Requirements for containment purge and vent operations in accordance with the staff's generic position on this matter are set forth in the NRC Safety Evaluation Report dated September 29, 1983. Consistent with the actions taken generically with respect to other licensees, the SER calls for the submission of additional Technical Specifications. The licensee shall follow Order Item B.4 until Technical Specifications implementing the SER requirements have been submitted to and approved by the NRC. Upon such approval the Order is rescinded with respect to this item.

5. Item B.5: Personnel training for the following items shall be in conformance with the requirements in NUREG-0737. The requirements for these items are contained in an Order dated July 10, 1981. Similar Orders were issued generically to other licensees.

- Containment and Degraded Core Sampling
- Degraded Core—Training
- Emergency Power for Pressurizer Heaters and Decay Heat Removal
- Containment Isolation
- Containment Purge/Purge Valve Operation
- Subcooling Meter Operation
- In-plant Area Radioiodine Monitors

Training requirements for the following four items shall conform to the training requirements of 10 CFR 50 Appendix E:

- Technical Support Center
- Onsite Operational Support Center
- Near-Site Emergency Operations Center
- Emergency Preparedness Plan

There are no generic requirements with respect to Surveillance Testing of non-ESF Filtration System Training.

For these reasons the Order is rescinded with respect to the above items.

6. Item B.7: Reactor operator qualifications shall conform to the requirements in NUREG-0737. This item is contained in an Order dated July 10, 1981. Similar Orders were issued generically to other licensees. Accordingly, this item is rescinded.

7. & 8. Item D.1.a: Emergency Preparedness manning levels and Item F.2: Meteorological acceptance criteria shall be in conformance with NUREG-0737, Supplement 1. Items D.1.a and F.2 are contained in an Order dated June 12, 1984, as supplemented March 11, 1985. Similar Orders were issued generically to other licensees. Accordingly, these items are rescinded.

III

Accordingly, pursuant to the Commissioners Decision CLI-85-06 the requirements of the February 11, 1980

Order are rescinded in accordance with the terms set forth herein.

This rescission is effective upon issuance.

Dated in Bethesda, Maryland, this 5th day of July, 1985.

Darrell G. Eisenhut,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-16494 Filed 7-10-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-286]

Power Authority of the State of New York (Indian Point Nuclear Generating Unit No. 3); Rescission of Order

I

In September of 1979, the Union of Concerned Scientists (UCS) filed a petition with the Commission pursuant to 10 CFR 2.206 requesting, among other things, that Indian Point Units 2 and 3 be shut down. The Director of the Office of Nuclear Reactor Regulation denied that part of the petition relating to the requested shutdown of the two Indian Point units. *Consolidated Edison Company of New York, Inc.* (Indian Point, Units 1 and 2), *Power Authority of the State of New York* (Indian Point, Unit 3), DD-80-5, 11 NRC 351 (1980). However, the Director imposed by Order certain interim requirements upon the Indian Point Units while an NRC Task Force determined what design changes should be made to further reduce the probability and/or consequences of a servere reactor accident. Id. at 370.

The Commission decided, in its discretion, to commerce a special investigatory proceeding concerning the Indian Point plants in which one of the issues to be addressed was the risk reduction afforded by the requirements imposed by the Director in 1980. *Consolidated Edison Company of New York, Inc.* (Indian Point, Units No. 2), *Power Authority (of the State of New York* (Indian Point, Unit No. 3) CLI-81-1, 13 NRC 1 (1981). After hearing testimony on this issue the Licensing Board designated to preside over the proceeding concluded that the Director's Order resulted in some small positive benefit which was not amenable to quantification. *Consolidated Edison Company of New York, Inc.* (Indian Point, Units No. 2), *Power Authority of the State of New York* (Indian Point, Unit No. 3), LBP-83-68, 18 NRC 811, 816 (1983).

The Commission, after reviewing the Licensing Board's recommendations, concluded that because the risk reduction effect of these measures is not sufficient to be termed substantial, the Director's measures should be rescinded unless they are required to fulfill generic requirements applicable to similar types of reactors, or are required to meet other license requirements for the Indian Point units. *Consolidated Edison Company of New York, Inc.* (Indian Point, Units No. 2), *Power Authority (of the State of New York* (Indian Point, Unit No. 3) CLI-85-06—NRC— (1985) slip op at 26. This document implements the Commission's directive that these Orders be rescinded.

II

Some of the requirements in Appendix A of the February 11, 1980 Order can be rescinded in full. Other items have been completed and the action is irreversible. In the case of the completed items, no further action is required. Items in these categories are:

Rescind	Complete
A.1	A.6
A.2	A.7
A.3	B.2
B.1	C.1
B.6	C.2
C.6	C.3
D.1.b	C.4
D.2	C.5
D.3	E.1.a
E.1.c	E.1.b
E.1.d	E.1.f
E.1.e	E.1.g
F.4	E.1.h
	E.1.i
	E.2
	F.1
	F.3
	F.5

Eight of the Order requirements are generic issues. In some cases, the specific Order requirement is rescinded when compliance with the generic issue is confirmed. These eight items and resolutions are:

1. Item A.4: The requirements for shift manning are set forth in 10 CFR 50.54. Therefore, the Order is rescinded for this item.

2. Item A.5: LPI/RHR check valve operability. Valve operability and leakage requirements are set forth in the NRC generic letter dated February 23, 1980. These requirements were imposed on most licensees other than the Indian Point licensees by Orders issued during April, 1981. The requirements of the generic letter set forth the staff's final position on this generic matter. Accordingly, the licensee shall follow the Order Item A.5 until Technical Specifications implementing the generic letter have been submitted to and approved by the NRC. Upon such approval the Order is rescinded with respect to this item.

3. Item B.3: Requirements for notification for emergency action levels are set forth in 10 CFR 50.72. Therefore, the Order is rescinded with respect to this item.

4. Item B.4: Requirements for containment purge and vent operations in accordance with the staff's generic position on this matter are set forth in the NRC Safety Evaluation Report dated December 17, 1984. Consistent with the actions taken generically with respect to other licensees, the SER calls for the submission of additional Technical Specifications. The licensee shall follow Order Item B.4 until Technical Specifications implementing the SER requirements have been submitted to and approved by the NRC. Upon such approval the Order is rescinded with respect to this item.

5. Item B.5: Personnel training for the following items shall be in conformance with the requirements in NUREG-0737. The requirements for these items are contained in an Order dated July 10, 1981. Similar Orders were issued generically to other licensees.

- Containment and Degraded Core Sampling
- Degraded Core—Training
- Emergency Power for Pressurizer Heaters and Decay Heat Removal
- Containment Isolation
- Containment Purge/Purge Valve Operation
- Subcooling Meter Operation
- In-Plant Area Radioiodine Monitors

Training requirements for the following four items shall conform to the training requirements of 10 CFR 50 Appendix E.

- Technical Support Center
- Onsite Operational Support Center
- Near-Site Emergency Operations Center
- Emergency Preparedness Plan

There are no generic requirements with respect to Surveillance Testing of non-ESF Filtration System Training. For these reasons the Order is rescinded with respect to the above items.

6. Item B.7: Reactor operator qualifications shall conform to the requirements in NUREG-0737. This item is contained in an Order dated July 10, 1981. Similar Orders were issued generically to other licensees. Accordingly, this item is rescinded.

7. & 8. Item D.1.a: Emergency Preparedness manning levels and Item F.2: Meteorological acceptance criteria shall be in conformance with NUREG-0737, Supplement 1. Items D.1.a and F.2 are contained in an Order dated February 21, 1984. Similar Orders were

issued generically to other licensees. Accordingly, these items are rescinded.

III

Accordingly, pursuant to the Commissioners Decision CLI–85–06 the requirements of the February 11, 1980 Order are rescinded in accordance with the terms set forth herein.

This rescission is effective upon issuance.

Dated in Bethesda, Maryland, this 5th day of July, 1985.

Darrell G. Eisenhut,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85–16495 Filed 7–10–85; 8:45 am]

BILLING CODE 7590–01–M

SYNTHETIC FUELS CORPORATION

Comprehensive Strategy Report

AGENCY: Synthetic Fuels Corporation.

ACTION: Public availability of the Corporation's Comprehensive Strategy Report to the Congress.

SUMMARY: Notice is hereby given of the public availability of the Comprehensive Strategy report submitted by the United States Synthetic Fuels Corporation to the Congress.

EFFECTIVE DATE: June 28, 1985.

FOR FURTHER INFORMATION CONTACT: Karen Hutchinson, Director—Media Relations, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822–6455.

FOR COPIES OF THE REPORT CONTACT: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street NW., Washington, D.C. 20586, (202) 822–6460.

Synthetic Fuels Corporation.

March Coleman,

Assistant General Counsel—Corporate & Litigation.

July 8, 1985.

[FR Doc. 85–16484 Filed 7–10–85; 8:45 am]

BILLING CODE 0000–00–M

DEPARTMENT OF TRANSPORTATION

Arrow Air, Inc., Enforcement Proceeding; Assignment of Proceeding

[Docket 43223]

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications with respect to this proceeding should be addressed to him at U.S. Department of Transportation, Office of Hearings, M–50, Room 9400A, Nassif Bldg., 400 7th Street SW., Washington, D.C. 20590, telephone (202) 426–5560.

Dated Washington, D.C., July 5, 1985.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 85–16421 Filed 7–10–85; 8:45 am]

BILLING CODE 4910–62–M

VETERANS ADMINISTRATION

Veterans Administration Wage Committee; Availability of Annual Report

Under section 10(d) of Public Law 92–463 (Federal Advisory Committee Act) notice is hereby given that the Annual Report of the Veterans Administration Wage Committee for calendar year 1984 has been issued.

The report summarizes activities of the Committee on matters related to wage surveys and pay schedules for Federal prevailing rate employees. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications, Reading Room, LM 133, Madison Building, Washington, DC 20540

and

Veterans Administration, Office of the Committee Secretary, VA Wage Committee, Room 1108, 810 Vermont Avenue NW., Washington, DC 20420.

Dated: July 2, 1985.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Managment Officer.

[FR Doc. 85–16437 Filed 7–10–85; 8:45 am]

BILLING CODE 8320–01–M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant of Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on August 5, 1985, at 10:00 a.m., the St. Louis Veterans Administration Regional Office Station Committee on Educational Allowances shall at Room 4034, 1520 Market Street, St. Louis, Missouri 63103, conduct a hearing to determine whether the approval of Three Way Auto Industries, Inc., 2800 Lucas and Hunt Road, St. Louis, Missouri 63121, under the Emergency Veterans' Job Training Act (PL 98–77) shall be reinstated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: July 3, 1985.

D. R. Ramsey,

Director, VA Regional Office.

[FR Doc. 85–16516 Filed 7–10–85; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 133
Thursday, July 11, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

July 5, 1985.

The Federal Communications Commission previously announced on July 1, 1985 its intention to hold an open meeting on *Notice of Inquiry on tender offers and proxy contests involving publicly traded corporate licensees* on Monday, July 8, 1985, at 1919 M Street, NW., Washington, D.C.

This open meeting has now been rescheduled for Tuesday, July 9, 1985, at 10:30 A.M., in Room 856, at 1919 M Street, NW., Washington, D.C. This meeting may be continued the following work day to allow the Commission to complete appropriate action. The prompt and orderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

Additional information may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-16561 Filed 7-9-85; 11:20 am]

BILLING CODE 6712-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

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 Monday, July 15, 1985, 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)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) 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:

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13 of the Federal Deposit Insurance Act.

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 550—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: July 8, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-16573 Filed 7-9-85; 11:38 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

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 Monday, July 15, 1985, 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 consent to purchase assets and assume liabilities:

Mountain Industrial Bank, Montrose, Colorado, an insured State member industrial bank, for consent to purchase certain assets of and assume the liability to pay deposits made in Mountain Credit, Montrose, Colorado, a noninsured general partnership.

Applications for consent to transfer assets in consideration of the assumption of deposit liabilities:

Northern Michigan Bank, Escanaba, Michigan, Northern Michigan Bank of Marquette, Marquette, Michigan, and Northern Michigan Bank of Kingsford, Kingsford, Michigan, insured State nonmember banks, for consent to transfer certain assets to Northern Michigan Bank F.S.B., Escanaba, Michigan, a non-FDIC-insured institution in organization, in consideration of the assumption of the liability to pay deposits made in Northern Michigan Bank, Northern Michigan Bank of Marquette, and Northern Michigan Bank of Kingsford.

Memorandum and resolution regarding delegations of authority to the General Counsel.

Memorandum re: Revisions to Appendix E of the delegations of authority to the Division of Liquidation.

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.

Discussion Agenda:

Memorandum and resolution regarding liquidation rights of repurchase agreement participants in bank insolvencies.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—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: July 8, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–16574 Filed 7–9–85; 11:38 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:25 a.m. on Saturday, July 6, 1985, 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 The First National Bank of Jacksonville, Jacksonville, Alabama, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Friday, July 5, 1985; (2) accept the bid for the transaction submitted by AmSouth Bank of Jacksonville, Jacksonville, Alabama, a newly-chartered State nonmember bank; (3) approve the applications of AmSouth Bank of Jacksonville, Jacksonville, Alabama, for Federal deposit insurance, for consent to purchase certain assets of and assume the liability to pay deposits made in The First National Bank of Jacksonville, Jacksonville, Alabama, for consent to establish the three branches of The First National Bank of Jacksonville as branches of the resultant bank, and for consent to exercise limited trust powers; 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 facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting 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)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated July 8, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–16575 Filed 7–9–85; 11:31 am]

BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION

[Federal Register No. 85–16142]

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, July 9, 1985, 10:00 a.m.

THIS MEETING WAS CONTINUED TO: Wednesday, July 10, 1985, at 10:30 a.m., to complete the agenda.

* * * * *

DATE AND TIME: Tuesday, July 16, 1985, 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.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 85–16595 Filed 7–9–85; 2:39 pm]

BILLING CODE 6715–01–M

6

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Tuesday, July 16, 1985.

PLACE: 1776 G Street, NW., Washington, D.C. 20456, Filene Board Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Actions Under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (9)(B).
3. Special Assistance Under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Reports to the Board. Closed pursuant to exemptions (8) and (9)(A)(ii).
5. Personnel Actions. Closed pursuant to exemptions (2) and (6).
6. Consideration of the Expenditure Budgets for the Operating Fund, Insurance Fund, and the Central Liquidity Facility for FY 1986. Closed pursuant to exemption (2).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 85–16593 Filed 7–9–85; 2:10 pm]

BILLING CODE 7535–01–M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b)

STATUS: Open.

TIME AND DATE: July 17–18, 1985, 9:00 a.m.

PLACE: Council Officer, 850 SW. Broadway, Suite 1100, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Continuation of Staff Presentation of the Draft 1985 Power Plan and Council Consideration of Entering Rulemaking on the Draft.
- Adoption of Charter for Mainstem Passage Advisory Committee.
- Council Business.

Public comment will follow each item.

Note.—Depending upon action taken at the Council's July 10–11 meeting in Missoula, Montana, this July 17–18 meeting may be cancelled. If so, the Council will publicly announce such cancellation at the earliest practicable time. In addition, the Council office will be able to indicate the status of the July 17–18 meeting after July 12.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong, (503) 222–5161, or toll-free 1–800–222–3355 (Montana, Idaho or Washington) or 1–800–452–2324.

Rick Applegate,

Executive Assistant.

[FR Doc. 85–16255 Filed 7–8–85; 4:41 pm]

BILLING CODE 0000–00–M

Federal Register

Thursday
July 11, 1985

Part II

Department of Labor

Office of the Secretary

29 CFR Part 70

Freedom of Information Act; Technical Amendments; Final Rule

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 70

Freedom of Information Act; Technical Amendments

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of final rulemaking; technical amendments.

SUMMARY: This document amends certain sections of Department of Labor's regulations relating to the Freedom of Information Act in order to update the names of offices, titles and addresses within the regulation and to conform them to a recent reorganization within the Department.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Sofia P. Petters, Counsel for Administrative Legal Services, Office of the Solicitor, U.S. Department of Labor, Room N-2428, 200 Constitution Avenue, NW., Washington, D.C. 20210; telephone (202) 523-8188.

SUPPLEMENTARY INFORMATION: The Department of Labor amends its regulations in order to update the names of the offices maintained by the component agencies of the Department, and to update the titles and addresses of the responsible officials at various agencies. These changes appear in the amendments to §§ 70.35(e) and 70.36.

The Department is also amending § 70.75 and adding a new section, to be known as § 70.78. These changes reflect a recent reorganization within the Department. In that reorganization the Secretary of Labor assigned authority for the Employee Retirement Income Security Act of 1974 (ERISA) Program to the Administration of the Office of Pension and Welfare Benefit Programs (OPWBP), making OPWBP a separate agency of the Department of Labor. These changes were effected by the Secretary of Labor's Order 1-84, which was signed on January 20, 1984 and published in the **Federal Register** on February 3, 1984 at 49 FR 4269.

On May 3, 1984, the Secretary of Labor's Order 3-84 (49 FR 20578, May 15, 1984) established in the Department an Office of Labor-Management Standards (OLMS), formerly the Office of Labor-Management Standards Enforcement, under the supervision of the Assistant Secretary for Labor-Management Standards.

Finally, a nomenclature change is being made regarding the United States Government Manual.

Publication in Final

The Department has determined that these amendments need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA, 5 U.S.C. 553) since this rulemaking merely reflects agency organization, procedure, or practice. It is thus exempt from notice and comment by virtue of section 553(b)(A) of the APA (5 U.S.C. 553(b)(A)).

Effective Date

This document will become effective upon publication pursuant to 5 U.S.C. 553(d). The undersigned has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. This determination is based upon the fact that the rule is technical and non-substantive, and merely reflects agency organization, practice and procedure.

Executive Order 12291

This rule is not classified as a "rule" under Executive Order 12291 on Federal Regulation, because it is a regulation relating to agency organization, management or personnel. See section 1(a)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under section 553(b) of the APA, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601) pertaining to regulatory flexibility analysis do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

This final rule is not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since it does not contain any new collection of information requirement.

List of Subjects in 29 CFR Part 70

Freedom of information.

Accordingly, Part 70 of Subtitle A of Title 29 of the *Code of Federal Regulations* is amended as follows:

PART 70—EXAMINATION AND COPYING OF DEPARTMENT OF LABOR RECORDS

1. The authority citation for Part 70 continues to read as follows:

Authority: (5 U.S.C. 301, 552, as amended by Pub. L. 93-502), 88 Stat. 1561; (29 U.S.C. 9 (b)); Reorganization Plan No. 6 of 1950, 64 Stat. 1263 (5 U.S.C. Appendix).

§ 70.5 [Amended]

2. Section 70.5(b) is amended, in two places, by removing the words "Government Organization Manual" and inserting in their place the words "United States Government Manual."

3. In § 70.35, paragraph (e) is revised to read as follows:

§ 70.35 Where information may be obtained.

* * * * *

(e) Offices in Washington D.C., are maintained by the following component agencies of the Department of Labor. Field offices are maintained by some of these, as listed in the United States Government Manual (see § 70.5(b)).

(1) Office of the Secretary of Labor.
(2) Office of the Solicitor of Labor.
(3) Office of the Assistant Secretary for Administration and Management.
(4) Office of Information and Public Affairs.
(5) Office of the Inspector General.
(6) Bureau of International Affairs.
(7) Bureau of Labor Management Relations and Cooperative Programs.
(8) Bureau of Labor Statistics.
(9) Employment Standards Administration.
(10) Employment and Training Administration.
(11) Mine Safety and Health Administration.
(12) Occupational Safety and Health Administration.
(13) Office of Labor Management Standards.
(14) Office of Pension and Welfare Benefit Programs.
(15) Office of Assistant Secretary for Veterans' Employment and Training.
(16) Employees' Compensation Appeals Board.
(17) Wage Appeals Board.
(18) Benefits Review Board.
(19) Board of Contract Appeals.
(20) Office of Administrative Law Judges.

The heads of the foregoing agencies shall make available for inspection and copying in accordance with the provisions of the part, records in their custody or in the custody of component units within their organizations, either directly or through their authorized representative in particular offices and locations."

4. Section 70.36 is revised to read as follows:

§ 70.36 Titles and addresses of the responsible officials of various agencies.

(a)(1) The titles of the responsible officials of the various independent agencies in the Department of Labor are listed below. Unless otherwise specified, the mailing addresses of the officials shall be:

U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210
Secretary of Labor, *Attention:* Assistant Secretary for Administration and Management (OASAM)
Deputy Solicitor, Office of the Solicitor
Assistant Secretary for Administration and Management (OASAM)
Deputy Assistant Secretary for Administration and Management (OASAM)
Director, Office of Personnel Management Services, National Capital Service Center (OASAM)
Director, Office of Procurement Services, National Capital Service Center (OASAM)
Deputy Director, National Capital Service Center (OASAM)
Director, Women's Bureau
Chairperson, Employee Compensation Appeals Board
Deputy Assistant Secretary for Policy
Director, Office of Information and Public Affairs
Director, Information, Privacy and Management Information Systems, Office of the Inspector General
Associate Deputy Under Secretary for International Affairs
Deputy Under Secretary for Labor-Management Relations and Cooperative Programs
Commissioner, Bureau of Labor Statistics
Deputy Under Secretary for Employment Standards
Director, Office of Workers' Compensation Programs, Employment Standards Administration (ESA)
Associate Director for Federal Employees' Compensation, ESA
Associate Director for Longshore and Harbor Workers' Compensation, ESA
Associate Director for Coal Mine Workers' Compensation, ESA
Administrator, Wage and Hour Division, ESA
Director, Office of Federal Contract Compliance Programs, ESA
Director, Office of Management, Administration and Planning, ESA
Director, Division of Personnel and Organization Management, ESA
Director, Office of State Liaison and Legislative Analysis, ESA
Director, Office of Information and Consumer Affairs, ESA
ESA Equal Employment Opportunity Coordinator, ESA
Director, Office of Equal Employment Opportunity, Occupational Safety and Health Administration (OSHA)
Director, Office of Management Accountability and Performance, OSHA
Director, Office of Information and Consumer Affairs, OSHA
Director, Directorate of Federal-State Operations, OSHA
Director, Office of Training and Education, OSHA
Director, Directorate of Policy, OSHA
Director, Directorate of Administrative Programs, OSHA
Director, Office of Personnel Management, OSHA
Director, Office of Administrative Services, OSHA
Director, Office of Management Data Systems, OSHA
Director, Office of Management Systems and Organization, OSHA
Director, Office of Program Budgeting, Planning and Financial Management, OSHA
Director, Directorate of Field Operations, OSHA
Director, Directorate of Technical Support, OSHA
Director, Directorate of Safety Standards Programs, OSHA
Director, Directorate of Health Standards Programs, OSHA
Deputy Assistant Secretary for Labor Management Standards
Assistant Administrator for Program Services, Office of Pension and Welfare Benefit Programs
Director, Office of Veterans' Reemployment Rights
Deputy Assistant Secretary for Veterans' Employment and Training

The mailing address for the responsible officials for the Employment and Training Administration is:

Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213
Administrator, Office of Financial Control and Management Systems, Room 5000
Director, Office of Acquisition and Assistance, Room 5006 or
Chief, Planning Policy Control and Review Group, Room 5006
Director, Office of Personnel and Administrative Services, Room 5100
Director, Office of Information Resources Management, Room 5000
Administrator, Office of Program and Fiscal Integrity, Room 8400
Administrator, Office of Job Training Programs, Room 6100
Director, Office of Employment and Training Programs, Room 6402
Director, Office of Special Targeted Programs, Room 6122
Director, Office of Job Corps, Room 6414
Director, Bureau of Apprenticeship Training, Room 6308
Administrator, Office of Strategic Planning and Policy Development, Room 8000
Administrator, Office of Regional Management, Room 7000
Administrator, Office of Employment Security, Room 6000
Director, Unemployment Insurance Service, Room 7112
Director, U.S. Employment Service, Room 8100
Director, Office of Trade Adjustment Assistance, Room 6434

The mailing address for responsible officials in the Mine Safety and Health Administration is:

4015 Wilson Boulevard, Arlington, Virginia 22203
Deputy Assistant Secretary
Chief, Office of Congressional and Legislative Affairs
Director, Office of Information and Public Affairs
Administrator for Coal Mine Safety and Health
Chief, Office of Technical Compliance and Investigation
Administrator for Metal and Nonmetal Mine Safety and Health
Director, Office of Assessments
Director, Office of Standards, Regulations and Variances
Director of Program Planning and Evaluation
Director of Administration and Management
Director of Educational Policy and Development

The mailing address for the Office of Administrative Law Judges and the Benefits Review Board is:

1111 20th Street, NW., Washington, D.C. 20036
Chief, Office of Administrative Law Judges, Suite 701
Chair, Benefits Review Board, Suite 757

(2) The titles of the responsible officials in the field offices of the various independent agencies are listed below. Unless otherwise specified, the mailing addresses for these officials by regions, shall be:

Region I: J.F.K. Building, Government Center, Boston, Massachusetts 02203
Region II: 1515 Broadway, New York, New York 10036
Region III: 3535 Market Street, Philadelphia, Pennsylvania 19104
Region IV: 1371 Peachtree Street, NE., Atlanta, Georgia 30367
Region V: 230 South Dearborn Street, Chicago, Illinois 60604
Region VI: 555 Griffin Square Building, Griffin and Young Streets, Dallas, Texas 75202
Region VII: Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106
Region VIII: Federal Office Building, 1961 Stout Street, Denver, Colorado 80294
Region IX: Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102
Region X: 909 First Avenue, Seattle, Washington 98174
Regional Administrator for Administration and Management
Regional Personnel Officer, OASAM
Regional Administrator for Information and Public Affairs
Regional Administrator for Employment Standards Administration
Assistant Regional Administrator for Wage and Hour, ESA
Assistant Regional Administrator for Federal Contract Compliance Programs, ESA
Assistant Regional Administrator for Workers' Compensation Programs, ESA
Executive Assistant to the Regional Administrator, ESA
State Liaison Advisor, ESA

Office of Workers' Compensation Programs, Deputy Commissioner

J.F.K. Building, Government Center, Boston, Massachusetts 02203
1515 Broadway, New York, New York 10036
3535 Market Street, Philadelphia, Pennsylvania 19104
Penn Traffic Building, 319 Washington Street, Johnstown, Pennsylvania 15901 (BLBA only)

South Main Towers, 116 South Main Street, Wilkes-Barre, Pennsylvania 18701 (BLBA only)
218 South Maple Avenue, Greensburg, Pennsylvania 15601 (BLBA only)
31 Hopkins Plaza, Baltimore, Maryland 21201 (LHWCA only)
200 Granby Mall, Norfolk, Virginia 23502 (LHWCA only)
P.O. Box 3696, Charleston, West Virginia 25335 (BLBA only)
666 11th Street N.W., Washington, D.C. 20211 (FECA only)
334 Main Street, Pikeville, Kentucky 41501 (BLBA only)
311 West Monroe, Jacksonville, Florida 32202 (LHWCA only)
400 West Bay Street, Jacksonville, Florida 32202 (FECA only)
230 South Dearborn Street, Chicago, Illinois 60604
1240 East 9th Street, Cleveland, Ohio 44199 (FECA only)
121 East State Street, Columbus, Ohio 43215 (BLBA only)
555 Griffin Square Building, Dallas, Texas 75202
500 Camp Street, New Orleans, Louisiana 70130
2320 LaBranch Street, Houston, Texas 77004 (LHWCA only)
601 Rosenberg Avenue, Galveston, Texas 77553 (LHWCA only)
911 Walnut Street, Kansas City, Missouri 64106 (FECA only)
1961 Stout Street, Denver, Colorado 80294 (FECA only)
P.O. Box 25346, Denver, Colorado 80225 (BLBA only)
450 Golden Gate Avenue, San Francisco, California 94102
P.O. Box 3327, Terminal Island, California 90731 (LHWCA only)
300 Ala Moana Boulevard, Honolulu, Hawaii 96813
909 1st Avenue, Seattle, Washington 98174
Regional Administrator, Employment and Training Administration (ETA)
Regional Director, Job Corps, ETA
Director, Regional Bureau of Apprenticeship and Training, ETA

District Manager for Coal Mine Safety and Health

Penn Place, Room 3128, 20 N. Pennsylvania Avenue, Wilkes-Barre, Pennsylvania 18701
4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213
5012 Mountaineer Mall, Morgantown, West Virginia 26505
P.O. Box 112, Mt. Hope, West Virginia 25880
P.O. Box 560, Norton, Virginia 24273
218 High Street, Pikeville, Kentucky 41501
P.O. Box 572, Barbourville, Kentucky 40906
501 Busseron Street, Vicennes, Indiana 47591
P.O. Box 25367 OFC, Denver, Colorado 80225
P.O. Box 473, Madisonville, Kentucky 42431

District Manager for Metal and Nonmetal Mine Safety and Health

228 Federal Building, Duluth, Minnesota 55802
P.O. Box 927, Vicennes, Indiana 47591
4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213
U.S. Post Office and Courthouse, P.O. Box 1894, Albany, New York 12201-1874
P.O. Box 25367 OFC, Denver, Colorado 80225
307 W. 200 South, Suite 3003, Salt Lake City, Utah 84101
1100 Commerce Street, Room 4C50, Dallas, Texas 75242
P.O. Box 1156, Rolla, Missouri 65401
228 W. Valley Avenue, Room 102, Birmingham, Alabama 35209
301 W. Cumberland Avenue, Room 223, Knoxville, Tennessee 37902
620 Central Avenue, Building 7 AFC, Alameda, California 94501-3898
3221 N. 16th Street, Suite 300, Phoenix, Arizona 85016
117-107th Avenue, NE, Room 100, Bellevue, Washington 98004

Regional Administrator, Occupational Safety and Health Administration

Area Director, OSHA

400-2 Totten Pond Road, 2nd Floor, Waltham, Massachusetts 02154
1550 Main Street, Room 532, Springfield, Massachusetts 01103-1493
Federal Building, Room 334, 55 Pleasant Street, Concord, New Hampshire 03301
40 Western Avenue, Room 121, Augusta, Maine 04330
380 Westminster Mall, Room 243, Providence, Rhode Island 02903
450 Main Street, Room 508, Hartford, Connecticut 06103
90 Church Street, Room 1405, New York, New York 10007
100 South Clinton Street, Room 1267, Syracuse, New York 13260
990 Westbury Road, Westbury, New York 11590
220 Delaware Avenue, Suite 509, Buffalo, New York 14202
136-21 Roosevelt Avenue, 3rd Floor, Flushing, New York 11354
U.S. Courthouse & Federal Office Building, Room 555, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918
Leo W. O'Brien Federal Building, Room 132, Clinton Avenue & North Pearl Street, Albany, New York 12207
2101 Ferry Avenue, Room 403, Camden, New Jersey 08104
Teterboro Airport Professional Building, Room 206, 377 Route 17, Hasbrouck Heights, New Jersey 07604
2 East Blackwell Street, Dover, New Jersey 07801
Belle Mead GSA Depot Building T3, Belle Mead, New Jersey 08502
U.S. Custom House, Room 242, Second & Chestnut Street, Philadelphia, Pennsylvania 19106
Federal Office Building, Room 3007, 844 King Street, Wilmington, Delaware 19801
Federal Building, Room 2238, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15522
Rathrock Building, Fourth Floor, 121 West 10th Street, Erie, Pennsylvania 16501
Federal Building, Room 1110, Charles Center, 31 Hopkins Plaza, Baltimore, Maryland 21201
Penn Place, Room 2005, 20 North Pennsylvania Avenue, Wilkes-Barre, Pennsylvania 18701
Federal Building, Room 6226, 400 North 8th Street, P.O. Box 10186, Richmond, Virginia 23240
850 N. 5th Street, Allentown, Pennsylvania 18102
Building 10, Suite 33, LaVista Perimeter Office Park, Tucker, Georgia 30084
550 Eagan Street, Room 206, Charleston, West Virginia 25301
1600 Drayton Street, Savannah, Georgia 31401
Progress Plaza, 49 North Progress Street, Harrisburg, Pennsylvania 17109
Todd Mall, 2047 Canyon Road, Birmingham, Alabama 35216
951 Government Street, Suite 502, Mobile, Alabama 36604
700 Twiggs Street, Room 624, Tampa, Florida 33602
1835 Assembly Street, Room 1468, Columbia, South Carolina 29201
1720 West End Avenue., Suite 302, Nashville, Tennessee 37203
Federal Building, Suite 1445, 100 West Capitol Street, Jackson, Mississippi 39269
Federal Building, Room 127, 330 W. Broadway, Frankfort, Kentucky 40601
Federal Building, Room 302, 299 East Broward Boulevard, Fort Lauderdale, Florida 33301
Federal Office Building, Room 406, 310 New Bern Avenue, Raleigh, North Carolina 27601
Art Museum Plaza, Suite 17, 2747 Art Museum Drive, Jacksonville, Florida 32207
1400 Torrence Avenue, 2nd Floor, Calumet City, Illinois 60409
6000 West Touhy Avenue, Niles, Illinois 60648
United States Post Office & Courthouse, Room 422, 46 East Ohio Street, Indianapolis, Indiana 46204
344 Smoke Tree Business Park, North Aurora, Illinois 60542
2618 North Ballard Road, Appleton, Wisconsin 54915
Federal Office Building, Room 4028, 550 Main Street, Cincinnati, Ohio 45202
Federal Building, U.S. Courthouse, 500 Barstow Street, Room B-9, Eau Claire, Wisconsin 54701
Federal Office Building, Room 899, 1240 East 9th Street, Cleveland, Ohio 44199
Henry S. Reuss Building, 310 West Wisconsin Avenue, Suite 1180, Milwaukee, Wisconsin 53203
Federal Office Building, Room 634, 200 North High Street, Columbus, Ohio 43215
2934 Fish Hatchery Road, Suite 220, Madison, Wisconsin 53713
Federal Office Building, Room 734, 234 North Summit Street, Toledo, Ohio 43604
1425 West Pioneer Drive, Irving, Texas 75061
110 South 4th Street, Minneapolis, Minnesota 55401
Western Bank Building, Room 1407, 505 Marquette Avenue, N.W., Albuquerque, New Mexico 87102
3024 West Lake Street, Peoria, Illinois 61615
Government Plaza, Room 300, 400 Mann Street, Corpus Christi, Texas 78408
218A Main Street, Belleville, Illinois 62220
611 East 6th Street, Room 303, Austin, Texas 78701
231 West LaFayette, Room 628, Detroit, Michigan 48226
Hoover Annex, Suite 200, 2156 Wooddale Boulevard, Baton Rouge, Louisiana 70806
Federal Building, Room 421, 1205 Texas Avenue, Lubbock, Texas 79401

210 Walnut Street, Room 815, Des Moines, Iowa 50309
2320 LaBranch Street, Room 1103, Houston, Texas 77004
Overland-Wolf Building, Room 100, 6910 Pacific Street, Omaha, Nebraska 68106
Savers Building, Suite 828, 320 West Capitol Avenue, Little Rock, Arkansas 72201
4300 Goodfellow Boulevard-Building 105E, St. Louis, Missouri 63120
50 Penn Place, Suite 502, Oklahoma City, Oklahoma 73118
216 North Waco, Suite B, Wichita, Kansas 67202
1150 Grand Avenue, 6th Floor, Room 606, Kansas City, Missouri 64106
Petroleum Building, Suite 210, 2812 1st Avenue North, Billings, Montana 59101
P.O. Box 15200, 1781 South 300 West, Salt Lake City, Utah 84115
1220 Southwest 3rd Street, Room 640, Portland, Oregon 97204
701 C Street, Box 29, Anchorage, Alaska 99513
121–107th Street, N.E., Bellevue, Washington 98004
1315 West Idaho Street, Boise, Idaho 83702
Federal Building, Room 348, P.O. Box 2439, Bismarck, North Dakota 58501
300 Ala Moana Boulevard, Suite 5122, P.O. Box 50072, Honolulu, Hawaii 96850
1960 Addison Street, Suite 290, Berkeley, California 94704
Tremont Center, 1st Floor, 333 West Colfax, Denver, Colorado 80204
400 Oceangate, Suite 530, Long Beach, California 90802
U.S. Post Office Building, Room 505, 350 South Main Street, Salt Lake City, Utah 84101
1050 East William Street, Suite 402, Carson City, Nevada 89701
1555 Times Drive, Des Plaines, Illinois 60018
Amerco Towers, Suite 300, 2721 North Central Avenue, Phoenix, Arizona 85004
U.S. Post Office Building, Room 108, 5th & Walnut Streets, Cincinnati, Ohio 45202

Office of Labor Management Standards, Area Administrator or District Director

Area Administrator, New Studio Building, Room 211, 110 Tremont Street, Boston, Massachusetts 02108
District Director, Federal Building, Room 1310, 111 W. Huron Street, Buffalo, New York 14202
Area Administrator, Room 537, 26 Federal Plaza, New York, New York 10278
District Director, Room 210, 134 Evergreen Place, East Orange, New Jersey 07018
District Director, Federal Office Building, Room 650, Hato Rey, Puerto Rico 00918
Area Administrator, Federal Office Building, Room 804, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222
Area Administrator, Riddell Building, Room 558, 1730 K Street, NW., Washington, D.C. 20006
Area Administrator, James A. Byrne Courthouse, Room 7401, 601 Market Street, Philadelphia, Pennsylvania 19106
Area Administrator, Room 205, 1371 Peachtree Street NE., Atlanta, Georgia 30367
District Director, Washington Square Building, Suite 504, 111 NW 183rd Street, Miami, Florida 33169
District Director, Fort Wright Executive Building, Suite 210, 1885 Dixie Highway, Fort Wright, Kentucky 41011–2664
District Director, Room 716, 1808 West End Building, Nashville, Tennessee 37203
Area Administrator, 175 W. Jackson Boulevard, Suite 1201A, Chicago, Illinois 60404–2773
Area Administrator, Federal Office Building, Room 821, 1240 E. Ninth Street, Cleveland, Ohio 44199
Area Administrator, Federal Building and U.S. Courthouse, Room 630, 231 W. Lafayette Street, Detroit, Michigan 48226
District Director, Butler Square Building, Room 505C, 100 N.Sixth Street, Minneapolis, Minnesota 55403
Area Administrator, 555 Griffin Square Building, Room 707, Griffin and Young Streets, Dallas, Texas 75202
District Director, Federal Office Building, Room 940, 600 South Maestri Place, New Orleans, Louisiana 70130
Area Administrator, Federal Office Building, Room 3000, Kansas City, Missouri 64106
District Director, Room 570, 210 Tucker Boulevard, St. Louis, Missouri 63101
District Director, Federal Office Building, Room 1523, 1961 Stout Street, Denver, Colorado 80294
Area Administrator, 3660 Wilshire Boulevard, 7th Floor, Los Angeles, California 90012
District Director, 300 Ala Moana, Room 5115, P.O. Box 50204, Honolulu, Hawaii 96850
Area Administrator, 211 Main Street, Room 317, San Francisco, California 94105–1977
District Director, Federal Office Building, Room 3135, 909 First Avenue, Seattle, Washington 98174

Office of Pension and Welfare Benefit Programs, Area Administrator

1365 Peachtree Street, NE., Suite 540, Atlanta, Georgia 30367
New Studio Building, Room 211, 110 Tremont Street, Boston, Massachusetts 02108
Federal Building, Room 1310, 111 W. Huron Street, Buffalo, New York 14202
175 W. Jackson Boulevard, Suite 1201A, Chicago, Illinois 60604
Federal Office Building, Room 821, 1240 E. Ninth Street, Cleveland, Ohio 44199
555 Griffin Square Building, Room 707, Griffin & Young Streets, Dallas, Texas 75202
Federal Office Building, Room 1523, 1961 Stout Street, Denver, Colorado 80294
Federal Building & U.S. Courthouse, Room 630, 231 W. Lafayette Street, Detroit, Michigan 48226
134 Evergreen Place, Room 210, East Orange, New Jersey 07018
Ft. Wright Executive Building, Second Floor, 1885 Dixie Highway, Ft. Wright, Kentucky 41011–2664
Federal Office Building, Room 650, Carlos Chardon Street, Hato Rey, Puerto Rico 00918
300 Ala Moana, Room 5115, P.O. Box 50204, Honolulu, Hawaii 96850
Federal Office Building, Room 3000, 911 Walnut Street, Kansas City, Missouri 64106
3660 Wilshire Boulevard, 7th Floor, Los Angeles, California 90010
Washington Square Building, Suite 504, 111 NW 183rd Street, Miami, Florida 33169
Butler Square Building, Room 510 West, 100 N. Sixth Street, Minneapolis, Minnesota 55403
1808 West End Building, Room 716, Nashville, Tennessee 37203
Federal Office Building, Room 940, 600 South Street, New Orleans, Louisiana 70130
26 Federal Plaza, Room 537, New York, New York 10278
James A. Byrne Courthouse, Room 7401, 601 Market Street, Philadelphia, Pennsylvania 19106
Federal Office Building, Room 804, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222
210 Tucker Boulevard, Room 570, St. Louis, Missouri 63101
211 Main Street, Room 317, San Francisco, California 94105–1977
Federal Office Building, Room 3135, 909 First Avenue, Seattle, Washington 98174
Riddell Building, Room 558, 1730 K Street, NW., Washington, D.C. 20006

Regional Directors, Veterans' Employment and Training Service

Region I

506 JFK Federal Building, Government Center, Boston, Massachusetts 02203

Region III

U.S. Customs House, Room 240, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106

Region IV

1371 Peachtree Street, NE., Room 716, Atlanta, Georgia 30367

Region V

230 South Dearborn, Room 1064, Chicago, Illinois 60604

Region VI

525 S. Griffin Federal Building, Room 204, Griffin and Young Streets, Dallas, Texas 75202

Region VII

Federal Building, Room 800, 911 Walnut Street, Kansas City, Missouri 64106

Region IX

450 Golden Gate Avenue, Room 9411, San Francisco, California 94102

§ 70.43 [Amended]

5. Section 70.43(b) is amended by removing the words " 'U.S. Government Organization Manual' " and inserting in their place the words " 'United States Government Manual' ".

6. Section 70.75 is revised to read as follows:

§ 70.75 Office of Labor-Management Standards.

(a) The following documents are in the custody of the Office of Labor-Management Standards at the address indicated below, and the right of inspection and copying provided in this Part 70 may be exercised at such offices:

(1) Data and information contained in any report or other document filed pursuant to Sections 201, 202, 203, 211, and 301 of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 524–528, 530, 79 Stat. 888; 29 U.S.C. 431–433, 441, 461).

(2) Data and information contained in any report or other document filed pursuant to the reporting requirements of Part 208 of this title, which are the regulations implementing the standards of conduct provisions of the Civil Service Reform Act of 1978, 5 U.S.C. 7120, and the Foreign Service Act of 1980, 22 U.S.C. 4117. The reporting requirements are found in Part 208 of this title, § 208.3.

Address: U.S. Department of Labor, Office of Labor-Management Standards, Public Documents Room N–5626, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(b) Upon request of the Governor of a State for copies of any reports or documents filed pursuant to Sections 201, 202, 203, 211 of the Labor-Management Reporting and Disclosure Act 1959 (73 Stat. 524–528, 79 Stat. 888; 29 U.S.C. 431–441), or for information contained therein, which have been filed by any person whose principal place of business or headquarters is in such State, the Office of Labor-Management Standards shall:

(1) Make available without payment of a charge to the State agency designated by law or by such Governor, such requested copies of information and data, or:

(2) Require the person who filed such reports and documents, to furnish such copies or information and data directly to the state agency thus designated.

7. A new § 70.78, entitled *Pension and welfare benefit programs*, is added to Part 70 to read as follows:

§ 70.78 Pension and welfare benefit programs.

The following documents are in the custody of the Office at the address indicated below, and the right of inspection and copying provided in this Part 70 may be exercised at such offices:

(a) Copies of the description of welfare or pension benefit plans, amendments or modifications thereto and entire or individual pages of annual financial reports thereon, filed pursuant to section 8(b) of the Welfare and Pension Plans Disclosure Act (72 Stat. 1002, 29 U.S.C. 307).

(b) Copies of plan descriptions, annual reports, statements and other documents filed pursuant to the Employment Retirement Income Security Act, Title 1, part 1, except that information described in section 105(a) and 105(c) with respect to a participant may be disclosed only to the extent that information respecting that participants benefits under Title II of the Social Security Act may be disclosed under such Act.

Address: U.S. Department of Labor, Office of Pension and Welfare Benefit Programs, Public Documents Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 2nd day of July, 1985.

William E. Brock,

Secretary of Labor.

[FR Doc. 85–16459 Filed 7–10–85; 8:45 am]

BILLING CODE 4510-23-M

federal register

Thursday
July 11, 1985

Part III

Department of Education

Rehabilitation Long-Term Training Program; Final Funding Priority for Fiscal Year 1985; Notice

DEPARTMENT OF EDUCATION

Rehabilitation Long-Term Training Program; Final Funding Priority for Fiscal Year 1985

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary issues a funding priority for long-term training grants in the field of Rehabilitation Counseling in order to ensure effective use of program funds and direct funds to an area of the identified need during Fiscal Year 1985. The Secretary will reserve funds for applications meeting this priority.

EFFECTIVE DATE: This priority will take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this final funding priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: James W. Moss, Office of Developmental Programs, Rehabilitation Services Administration. Telephone: (202) 732–1286.

SUPPLEMENTARY INFORMATION: Grants for the Rehabilitation Training Program are authorized by Title III, Section 304 of the Rehabilitation Act of 1973, as amended. Program regulations for the Rehabilitation Long-Term Training Program are established at 34 CFR Part 386. The purpose of the Rehabilitation Long-Term Training Program is to support projects designed for training personnel to be available for employment in public and private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped. Applicants are notified that the Secretary will be collecting data to enable him, in accordance with the Rehabilitation Amendments of 1984 (Pub. L. 98–221), to target more closely awards made in future years to areas of personnel shortages.

Summary of Comments and Responses

No comments were received in response to the Notice of Proposed Funding Priority published in the **Federal Register** on April 30, 1985 at 50 FR 18388, and no changes to the proposed priority have been made.

Eligible Applicants

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

Final Priority

In accordance with the Education Department General Administrative Regulations (EDGAR) atg 34 CFR 75.105(c)(3)(i), the Secretary will give an absolute preference to applications submitted in the field of rehabilitation counseling in Fiscal Year 1985 in response to the designated priority. An absolute priority is one which permits the Secretary to select only those applications that address the priority.

Applications submitted in the field of rehabilitation counseling must address the master's degree level training of rehabilitation counseling personnel. The proposed training curriculum must include placement content that will expose students to the direct involvement of business and industry in providing rehabilitation services to severely physically and mentally disabled individuals. The placement component should include coursework to enable the student's acquisition of skills and knowledge in the areas of: job development/job analysis/job modification/job restructuring; workmen's compensation; forecasting labor market trends; the applicability of sections 503 and 504 of the Rehabilitation Act and their implications for placement of disabled individuals; and effective consultation with employers and potential employers to identify employment opportunities for disabled individuals, to assist in the removal of barriers to the employment of disabled individuals, and to educate or train about various disabilities and any vocational implications of those disabilities. Practicum training must include placement activities that involve students directly in business and industry settings.

(29 U.S.C. 774)

(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training Program)

Dated: July 8, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85–16492 Filed 7–10–85; 8:45 am]

BILLING CODE 4000–01–M

Federal Register

Thursday
July 11, 1985

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

West Virginia Permanent Regulatory and Abandoned Mine Land Reclamation Programs; Final and Proposed Rules

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

Amendment to the West Virginia Permanent Regulatory and Abandoned Mine Land Reclamation Programs Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval, with certain exceptions, of a proposed amendment submitted by the State of West Virginia as a modification to its permanent regulatory program, hereinafter referred to as the West Virginia program, which the Secretary of the Interior conditionally approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and its abandoned mine land reclamation program, which the Secretary also approved under SMCRA. The amendment consists of legislation which reconstitutes the Reclamation Division of the Department of Natural Resources as part of the Division of Mines and Minerals in the newly created Department of Energy, and which recodifies Article Six of Chapter 20 of the Code of West Virginia, known as the West Virginia Surface Coal Mining and Reclamation Act (WV SCMRA), as Article Three of Chapter 22A and Article Four of Chapter 22 of the West Virginia Energy Act (WVEA). The legislation also recodifies Article 6C of Chapter 20, known as the Abandoned Mine Lands and Reclamation Act, as Article Three of Chapter 22 of the WVEA.

In addition, the legislation establishes special permitting requirements and reclamation standards for surface mines two acres or smaller in size, requires coordination with the Commissioner of Labor in permit issuance, establishes a pilot program for the cultivation of grapes on reclaimed mine lands, and raises the base salaries of reclamation inspectors and supervisors.

After the Governor of West Virginia submitted the amendment materials on May 20, 1985, OSM published a notice in the May 29, 1985 **Federal Register** announcing receipt of the proposed amendment and inviting public comment on its adequacy (50 FR 21861–21862).

After considering all comments received during the public comment period ending June 28, 1985, and the testimony received at the public hearing held in June 18, 1985, and after conducting a thorough review of the proposed amendment, the Director has determined that, with certain exceptions, the submission meets the requirements of SMCRA and the Federal regulations, and is approving it subject to certain reservations. The Federal rules at 30 CFR Part 948 codifying decisions concerning the West Virginia program are being amended to implement this action.

This final rule is being made effective July 11, 1985, to correspond with the effective date of the WVEA, to expedite the State program amendment process and to encourage States to conform their programs to Federal standards in accordance with SMCRA without undue delay.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background

On March 3, 1980, West Virginia submitted its proposed permanent regulatory program, which the Secretary of the Interior approved in part and disapproved in part on October 22, 1980, following a review in accordance with 30 CFR Part 732 (45 FR 69249–69271). On December 19, 1980, West Virginia resubmitted its proposed program, which the Secretary conditionally approved on January 21, 1981. Information concerning the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and an explanation of the initial conditions of approval of the West Virginia program, can be found in the January 21, 1981 **Federal Register** (46 FR 5915–5956).

II. Submission of Amendment

On April 12, 1985, the West Virginia Legislature adopted the Enrolled Committee Substitute for House Bill 1850, known as the West Virginia Energy Act, which provides for the creation of a State Department of Energy. This Act contains three chapters: 22, 22A and 22B. Of the six articles in Chapter 22, Article One (general provisions concerning the Department of Energy), Article Three (the abandoned mine land reclamation program), and Article Four (the Reclamation Board of Review) concern aspects of the West Virginia programs approved under SMCRA. Chapter 22A establishes safety and reclamation standards and other regulations governing mines and the exploration for and extraction of minerals other than oil and gas. Article Three of this chapter incorporates most provisions of the now-repealed WV SCMRA; the other articles affect the West Virginia programs only in an ancillary fashion. Chapter 22B governs the oil and gas industry and does not impact the West Virginia programs.

On April 24, 1985, the Governor notified the Secretary of the proposed reorganization, the basic purpose of which is to consolidate into one department all the administrative, regulatory and other governmental functions relating to exploration for and the extraction, use and conservation of mineral resources within the State. The Reclamation Division of the Department of Natural Resources, the current regulatory authority for the West Virginia programs governing coal exploration, surface coal mining and reclamation operations and abandoned mine land reclamation, will be incorporated into the newly created Department of Energy, which the Act designates as the new regulatory authority. Although the Reclamation Division will become part of the Division of Mines and Minerals and some administrative changes will occur, the Governor has assured the Secretary that the West Virginia program approved on January 21, 1981, will remain functionally unaltered (Administrative Record Nos. WV 640 and WV 641).

On May 3, 1985, the Governor signed the West Virginia Energy Act into law. On May 10, 1985, he informed the Secretary of that action, and requested that the Secretary approve the transfer of the permanent program authority currently vested in the Department of Natural Resources to the Department of Energy as of July 11, 1985. The Governor's letter stated that he would then require the preparation of additional amendments which, if approved by OSM, would change other portions of the West Virginia program as necessary to conform operations under the Department of Energy to Federal requirements (Administrative Record No. WV 641).

On May 20, 1985, the Governor provided OSM with a copy of the West Virginia Energy Act, an indexed listing of the statute sections, a comparison of existing and revised statutory provisions, and a letter stating that the West Virginia Energy Act contains no substantive changes from the WV

SCMRA which would significantly alter the procedures and performance of the approved regulatory program, and that the functions and responsibilities of the reclamation program would remain intact (Administrative Record No. WV 642). On May 28, 1985, West Virginia submitted a letter from the Governor's Legal Counsel to clarify certain provisions of the WVEA (Administrative Record No. WV 643).

The May 29, 1985 **Federal Register** (50 FR 21861–21862) announced receipt of these materials and requested public comment on their adequacy. In response to several requests, OSM held a public hearing on June 18, 1985, and prepared a transcript (Administrative Record No. WV 665). The public comment period closed on June 28, 1965.

III. Director's Findings

In accordance with SMCRA and 30 CFR 732.17, the Director finds that, with certain exceptions, the proposed amendment, as submitted by West Virginia on May 20, 1985, and as clarified by other materials, meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below. The Federal regulations at 30 CFR 732.17(h)(9) provide that the applicable criteria for approval or disapproval of State programs set forth in 30 CFR 732.15 shall be utilized by the Director in approving or disapproving State program amendments. The Federal regulations at 30 CFR 732.15(a) provide that the State's laws and regulations must be in accordance with the provisions of SMCRA and consistent with the requirements of the Secretary's regulations. The Federal regulations at 30 CFR 730.5 define "consistent with" and "in accordance with" to mean, with regard to SMCRA, that the State laws and regulations are no less stringent than, meet the minimum requirements of and include all applicable provisions of SMCRA. With regard to the Secretary's regulations, State laws and regulations must be no less effective than the Federal regulations in meeting the requirements of SMCRA.

The Director's review of the proposed amendment concentrated on those provisions of the WVEA which were substantively modified from the WV SCMRA or which were the subject of prior conditions of program approval or court decisions. The Director may require further changes in the future as a result of his ongoing review of the West Virginia program in light of Federal regulatory changes, court decisions and oversight evaluations.

1. General—Permanent Regulatory Program

After reviewing the WVEA and additional amendment materials, the Director has determined that the reorganization required by the WVEA complies with the requirements of SMCRA and the Federal regulations. The WVEA transfers the Reclamation Division from the Department of Natural Resources to the Department of Energy, abolishes the Reclamation Commission, and assigns the powers, duties, functions and responsibilities formerly vested in the Commission and the Director of the Department of Natural Resources to the Commissioner of the Department of Energy. Section 22–1–16 designates the Department of Energy as the lead regulatory agency for all purposes of Federal legislation. Except as discussed under other findings in this section, the WVEA incorporates all provisions of the current law (WV SCMRA) unchanged, except for certain nonsubstantive wording changes and the nomenclature and codification alterations necessitated by the reorganization. In addition, section 22–1–15 provides that all rules and regulations in effect on the effective date of the WVEA which pertain to provisions of the WVEA will remain in effect until changed or superseded by the Commissioner of the Department of Energy.

WVEA section 22–1–14 provides that all appropriations, funds, supplies, equipment, records and other materials pertaining to duties and functions transferred to the Department of Energy shall also be transferred. Also, section 22–1–21 requires that all Department of Natural Resources and Department of Mines employees whose functions and duties are transferred to the Department of Energy be employed in comparable positions within that department. In addition, the Governor has assured the Secretary that the staffing and funding levels of the West Virginia program will be maintained (Administrative Record Nos. WV 640 and 641). Although the WVEA does not specifically provide that all memoranda of understanding with other agencies involved in the West Virginia program will be transferred, the Director interprets the Governor's statement that all program functions and duties will remain unaltered to mean that all such memoranda will continue in force until renegotiated by the Commissioner and approved by OSM.

Therefore, the Director finds that, except as discussed below, the newly designated regulatory authority has the capability to implement, administer and enforce the approved program as required by the Federal regulations at 30 CFR 732.15(b) and section 503(a) of SMCRA.

2. General—Abandoned Mine Land Reclamation Program

Article Three of Chapter 22 of the WVEA makes no substantive changes in the West Virginia abandoned mine land reclamation program. WVEA section 22–3–2 authorizes the Commissioner to maintain program approval and to receive funds from the U.S. Department of the Interior; section 22–3–9(e) requires that all departments, boards, commissions and agencies of the State cooperate with the Commissioner to implement and administer the program. WVEA section 22–1–14 provides that all appropriations, funds, supplies, equipment, records and other materials pertaining to duties and functions transferred to the Department of Energy shall also be transferred. Also, section 22–1–21 requires that all Department of Natural Resources employees whose functions and duties are transferred to the Department of Energy be employed in comparable positions within that department. The Governor has committed the State to maintain staffing levels and to retain all program functions and duties unaltered except for administrative changes related to the reorganization (Administrative Record Nos. WV 640, 641 and 642).

Therefore, the Director finds that the Department of Energy has the capability and authority to implement the approved abandoned mine land reclamation program as required by section 405(b) of SMCRA and the Federal regulations at 30 CFR 884.13(a).

3. Definition of "Commissioner"/ Delegation of Authority

Sections 517 and 521 of SMCRA provide inspection and enforcement authority to both the Secretary and his authorized representatives, but the WVEA is unclear as to whether the Commissioner's representatives have similar authority.

Both WVEA sections 22–1–3(a)(1) and 22A–3–3(i) define "Commissioner" as "the Commissioner of the Department of Energy," in contrast to the corresponding definition of "Director" in WV SCMRA, which includes authorized inspectors and other personnel in the line of command, and the definition of "Commissioner" in the other minerals section at WVEA sections 22A–4–2(c), which includes authorized agents. Sections 22A–3–16 (a) and (c) of WVEA authorize reclamation inspectors to issue and release imminent harm

cessation orders, but the language of sections 22A–3–16(b) appears to reserve the abatement, modification and vacation of such orders, as well as the imposition of affirmative obligations in such orders, to the Commissioner. Section 22A–3–17(a) provides that the Commissioner "may cause" a notice of violation to be issued, but that he "shall order" the cessation of operations which fail to abate violations, thus indicating some authority to delegate the issuance of notices, but not the issuance of failure-to-abate cessation orders. In addition, section 22A–3–23(b) provides that the Commissioner shall conduct bond release inspections. Also, the language of section 22A–3–17(b) appears to limit the applicability of that subsection to the Commissioner.

On May 28, 1985, West Virginia submitted a legal opinion from the Governor's Legal Counsel stating that WVEA section 22–1–5 grants the Commissioner broad power of substitution and delegation of authority, including the powers to delegate authority granted to him by the WVEA to department personnel who must have such authority. The term "Commissioner" would thus include any agent named by him to act in his place (Administrative Record No. WV 643).

To be no less stringent than sections 517 and 521 of SMCRA, which provide inspection and enforcement authority to both the Secretary and his authorized representatives, the State's inspectors must have similar authority. The WVEA provides that all regulations promulgated under WV SCMRA (which provided inspectors with the requisite authority) remain in effect, and the Governor has assured the Secretary that the program will continue functionally unaltered. The Director interprets the legal opinion, the Governor's letters and the existing regulations as a commitment by the State to fully and immediately delegate all necessary authority, and is approving this amendment on that basis.

4. Definition of "Surface-Mining Operations"

The definition of "surface-mining operations" in WVEA section 22A–3–3(w) is the counterpart to the definition of "surface coal mining operations" in section 701(28) of SMCRA. The definition of "surface-mining operations" reads, in part:

> Such activities include excavation for the purpose of obtaining coal, including, but not limited to, such common methods as contour, strip, auger, mountaintop removal, boxcut, openpit and area mining; the uses of explosives and blasting; reclamation in situ distillation or retorting, leaching or other chemical or physical processing; and the cleaning concentrating, or other processing or preparation, and loading of coal for commercial purposes at or near the mine site; . . .

The definition apparently omits a semicolon needed between the words "reclamation" and "in situ", and a comma needed between the words "cleaning" and "concentrating". According to the legal opinion submitted by West Virginia on May 28, 1985, the two clerical errors were not present in the bill presented to the West Virginia Legislature, but appeared later when the bill was printed. The Governor's Legal Counsel has stated that, because the meaning was so clear in the prior legislation (WV SCMRA) and in the legislative history, the punctuation marks would, without question, be implied by the courts for a clear reading of the subsection. Therefore, the Director finds that the portion of the definition found at WVEA section 22A–3–3(w)(1) is no less stringent than that portion of the definition of "surface coal mining operations" at section 701(28)(A) of SMCRA.

The definition of "surface-mining operations" in WVEA section 22A–3–3(w)(2) provides that permanent facilities not within the area being mined and not directly involved in the excavation, loading, storage or processing of coal shall not be subject to the West Virginia surface mining statute. The definition provides that "such facilities include, but are not limited to, offices, garages, bathhouses, parking areas, and maintenance and supply areas." *In re: Permanent Surface Mining Regulation Litigation II* (Civil Action No. 79–1144), the U.S. District Court for the District of Columbia ruled on July 6, 1984, that, under the definition of "surface coal mining operations" in section 701(28) of SMCRA, all "support" facilities resulting from or incident to surface coal mining activities, such as offices or storage areas, must be regulated regardless of their proximity to the mine.

Therefore, the Director finds that the proviso of WVEA section 22A–3–3(w)(2) which exempts certain support facilities from regulation is inconsistent with section 701(28)(B) of SMCRA, and, under a separate notice appearing in today's **Federal Register**, he is proposing to preempt and supersede this portion of the statute.

5. Special Requirements for Mines Not Exceeding Two Acres

WVEA Section 22A–3–26 provides that certain operations are not subject to the WVEA, including "the extraction of coal for commercial purposes where the surface mining operation affects two acres or less: Provided, That the entity conducting or planning to conduct said operation complies with the provisions of section ten-a [sic] of this article." The exemption of operations two acres or smaller in size is similar to the exemption found in Section 528(2) of SMCRA, although West Virginia establishes separate requirements for such operations in accordance with the provisions of Section 22A–3–9a rather than exempting them altogether. Under the previously approved State program, including the regulations still in effect, West Virginia did not exempt or provide special treatment for such mines.

The Federal rule of 30 CFR 700.11(b) further defines the exemption provided by SMCRA as applying "where the surface coal mining and reclamation operation, together with any related operations, has or will have an affected area of two acres or less." The Federal rule also prescribes criteria for determining when access or haul roads are to be included in the affected area, and criteria for determining when operations shall be deemed to be "related" for purposes of the exemption. WVEA Section 22A–3–9a(e) contains criteria for determining when operations are to be considered related for purposes of the two-acre provisions. These criteria are similar to those in the Federal regulations at 30 CFR 700.11(b)(2), but the WVEA does not specify if, how or when these criteria are to be used. The West Virginia statute also does not specify that segments of access and haul roads used by more than one operation must be included in the affected area of each operation for purposes of determining the affected area, as is required by 30 CFR 700.11(b)(1). Nor does the State define or explain the phrase "under common ownership or control, directly or indirectly" in a manner no less effective than 30 CFR 700.11(b)(2) (ii) and (iii).

Moreover, since WVEA Section 22–1–15 provides that all rules and regulations in effect on the effective date of the WVEA will continue in effect until changed by the Commissioner, and since these rules contain no provisions exempting or separately regulating such operations, the Director finds that the provisions of WVEA Sections 22A–3–9a and 22A–3–26(d) cannot take effect until the Commissioner develops, obtains OSM approval of, and promulgates regulations which establish an eligibility test and criteria no less effective than the Federal regulations at 30 CFR 700.11(b).

In addition, WVEA Section 22A-3-9a(a)(8) requires a minimum bond of $5,000 per acre to assure regrading and revegetation of all disturbed areas. The bond provision is not, in itself, inconsistent with SMCRA and the Federal regulations. However, this portion of the WVEA specifies that the bond shall be posted for a maximum of two acres, *exclusive of roadways and temporary spoil placement.* To the extent that the language of WVEA Section 22A-3-9a(8) could be interpreted as allowing operatons affecting in excess of two acres to qualify for the special requirements, the Director finds that this provision is inconsistent with Section 528(2) of SMCRA and is less effective than 30 CFR 700.11(b) and the definition of "affected area" at 30 CFR 701.5. Under a separate notice appearing in today's **Federal Register**, he is proposing to preempt and supersede this portion of the statute.

6. Final Bond Release Requirements

Section 519(c)(3) of SMCRA prohibits final release of an operator's performance bond until the period for operator responsibility has expired and all reclamation requirements of SMCRA, including revegetation, are fully met. WVEA Section 22A-3-23(c)(3) similarly provides that the final portion of the bond may be released when the operator has successfully completed all surface mining and reclamation activities and the period of operator responsibility has expired, provided that revegetation has been established on the regraded mined lands in accordance with the approved plan. However, WVEA Section 22A-3-23(c)(3) contains an additional proviso which would authorize final bond release even if revegetation has not been established in accordance with the reclamation plan, if the quality of the untreated postmining water discharges equals or exceeds that of the premining discharges.

Therefore, the Director finds WVEA Section 22A-3-23(c)(3) inconsistent with Section 519(c)(3) of SMCRA. Under a separate notice appearing in today's **Federal Register**, he is proposing to preempt and supersede the proviso that final bond release may be made where the quality of untreated postmining water discharged is better than or equal to that of the premining discharges.

7. Variance from Performance Standards

WVEA Section 22A-3-12 sets forth the general environmental protection performance standards for surface-mining operations. WVEA Section 22A-3-12(e) authorizes the Commissioner to allow variances from the general performance standards. Section 515(e) of SMCRA authorizes the regulatory authority to grant variances from approximate original contour (AOC) requirements for alternative postmining land uses, provided certain conditions are met. Further, SMCRA requires that the regulatory authority promulgate specific regulations and establish procedures to govern the granting of such variances. However, the variance provision in WVEA Section 22A-3-12(e) is a general variance applicable to all performance standards and is not limited to variances from AOC for the purposes set forth in Section 515(e) of SMCRA, nor does it require that the Commissioner promulgate regulations and establish procedures governing the granting of such variances, in accordance with Sections 515 (e)(1) and (e)(5) of SMCRA.

Therefore, the Director finds that WVEA Section 22A-3-12(e) is inconsistent with Section 515(e) of SMCRA, and, under a separate notice in today's **Federal Register**, he proposing to preempt and supersede this subsection.

8. Operator Liability Limits

Section 521(a)(1) of SMCRA provides that a citizen shall be allowed to accompany an inspector during any inspection resulting from a complaint which the citizen filed. On January 12, 1984, the Director set aside that portion of the West Virginia statute which provided that neither the permittee nor his authorized agents or employees could be held civilly liable for any injury sustained by a citizen accompanying an inspector onto the mine site, except for willful and deliberate acts (49 FR 1489-1490). As discussed in Finding 27 of the November 16, 1983 **Federal Register** notice (48 FR 52042-52043) this provision is not in accordance with Section 521(a)(1) of SMCRA in that it could act as a constraint on citizens desiring to exercise their right to enter the mine site. Ordinary tort law principles are sufficient to determine whether a citizen injured on the mine site may hold the operator liable for such injury.

WVEA Section 22A-3-15(g) incorporates language identical to that previously set aside. Accordingly, the Director finds WVEA Section 22A-3-15(g) to be less stringent than Section 521(a)(1) of SMCRA. By a separate notice appearing in today's **Federal Register**, he is proposing to preempt and supersede the language limiting operator liability.

9. Conflict of Interest Requirements

Section 517(g) of SMCRA prohibits any employee of the State regulatory authority performing any function or duty under SMCRA from having a direct or indirect financial interest in any coal mining operation. The Federal regulations at 30 CFR Part 705 implement the financial interest restrictions of Section 517(g) of SMCRA and apply directly to all covered State employees. WVEA Section 22A-3-37(a) prohibits employees of the Reclamation Board of Review and the Division of Mines and Minerals who perform any function or duty under Article Three of Chapter 22A from having a direct or indirect financial interest in any surface-mining operation. This prohibition does not apply to the Commissioner, Deputy Commissioner or other employees of the Department of Energy who perform functions or duties under Article Three, nor would it apply to any employee performing a function or duty under SMCRA not included in Article Three. The conflict-of-interest provisions of the WVEA would thus not apply to employees performing duties exclusively associated with the abandoned mine land reclamation program under Article Three of Chapter 22.

However, because SMCRA Section 517(g) and 30 CFR Part 705 apply directly to employees of the State regulatory authority, the Director finds that these officials and other employees of the Department of Energy not expressly included in the conflict-of-interest provisions of WVEA section 22A-3-37(a) are directly covered by the Federal law and regulations. Furthermore, employees of the Division of Mines and Minerals and the Reclamation Board of Review who perform functions or duties under SMCRA other than those under Article Three of Chapter 22A of the WVEA are also directly covered by the Federal law and regulations. Therefore, the Director finds that the West Virginia statute is not inconsistent with SMCRA. Upon identification of the Department of Energy employees performing functions or duties under SMCRA, the Director will require submission of conflict-of-interest statements from all employees not covered by the State law.

10. Permit Issuance to Persons in Violation of Federal Laws or Environmental Laws in Other States

Section 510(c) of SMCRA prohibits issuance of a permit where the violation schedule submitted by the applicant or other information available to the regulator authority indicates that any surface coal mining operation owned or controlled by the applicant is currently in violation of SMCRA or any other Federal or State law or regulation

pertaining to air or water environmental protection, until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department or agency which has jurisdiction over the violation. Furthermore, Section 510(c) of SMCRA prohibits issuance of a permit to an applicant after a finding by the regulatory authority that the applicant, or the operator, controls or has controlled mining operations with a demonstrated pattern of willful violations of SMCRA of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of SMCRA.

WVEA section 22A-3-18(c) prohibits the issuance of a permit where information available to the Department indicates that any surface-mining operation located in West Virginia, owned or controlled by the applicant, is in violation of Article Three of Chapter 22A of the WVEA or other environmental laws or regulations. Furthermore, under certain conditions, this section prohibits permit issuance to any applicant after a finding by the Commissioner that the applicant or operator controls or has controlled mining operations with a demonstrated pattern of willful violations of Article Three. Section 510(c) of SMCRA does not limit these conditions to violations or patterns of violations of State law, nor does it limit the violations and patterns of violations considered to those occurring at operations located within the State. Therefore, the Director finds that WVEA section 22A-3-18(c) is inconsistent with SMCRA Section 510(c), and he is proposing, under a separate notice appearing in today's **Federal Register**, to preempt and supersede the limiting language.

11. Demonstration Vineyards, Coordination with Commissioner of Labor in Permit Issuance, and Base Salary Increases

WVEA section 22A-3-13 establishes a pilot program for the growing of grapes on reclaimed areas, sections 22A-3-8(g) and 22A-3-20(a) require the Commissioner to coordinate with the Commissioner of Labor in issuing permits, and section 22A-3-5 increases the base salaries of surface-mining reclamation inspectors and supervisors.

These provisions have no Federal counterparts and the Director finds that they are not inconsistent with SMCRA or less effective than the Federal regulations, provided no Federal funds are spent for activities related to the pilot grape-growing program and the Commissioner of Labor coordination process.

12. Technical Amendments Needed

The WVEA contains a number of apparent typographical errors, most of which do not create any ambiguity in meaning. However, the Director finds that, to clarify meanings and avoid misinterpretation, West Virginia must amend its statute to correct the following errors:

a. WVEA section 22A-1-1: The Division of Mines and Minerals is created under §22-1-7, not §22-1-6.

b. WVEA section 22A-3-9a: This section uses the term "director" when "commissioner" is apparently intended.

c. WVEA section 22A-3-9a(a)(6): The reclamation plan requirements are contained in Section 10, not 11.

d. WVEA section 22A-3-9a(a)(7): The insurance requirements are contained in Section 9, not 10.

e. WVEA Section 22A-3-9a(d): This subsection is unclear and must be reworded to clarify its meaning and to be consistent with section 22-1-15, which reserves the authority to promulgate rules and regulations to the Commissioner.

f. WVEA Section 22A-3-26(d): The requirements for operations two acres or smaller in size are contained in Section 9a, not 10a.

g. WVEA Section 22A-3-3(w)(1): The punctuation omissions in the definition of "surface-mining operations," as discussed in Finding 4, need to be corrected.

h. WVEA Section 22A-3-17(d) deals primarily with civil penalty assessment and collection procedures. To avoid confusion and to clarify that the appeal rights and procedures of Section 22A-3-17 (d)(3) apply to all orders of the Commissioner, and that the temporary relief provisions of Section 22A-3-17(d)(4) apply to all enforcement actions but not to civil penalty assessments, West Virginia must recodify both Section 22A-3-17 (d)(3) and (d)(4) as separate subsections.

13. Alternative Bonding System

WVEA Section 22A-3-11(c)(2) provides that the Commissioner may approve an alternative bonding system under certain conditions. Section 509(c) of SMCRA and 30 CFR 800.11(e) provide that the Secretary, acting through OSM, may approve, as part of a State or Federal program, an alternative bonding system if it will achieve certain objectives and purposes. The Secretary has already approved an alternative bonding system as part of the West Virginia program (Finding 18.1, 46 FR 5926, January 21, 1981). Therefore, the Director finds that the Commissioner may not implement any other alternative bonding system or amend the existing system until the proposal has been reviewed and approved by the Director.

WVEA Section 22A-3-11(g) provides that all special reclamation taxes collected as part of West Virginia's alternative bonding system shall be deposited in the special reclamation fund for use in reclaiming bond forfeiture sites where the site-specific bond proves insufficient. However, it also authorizes the Commissioner to "expend such amounts as are reasonably necessary to implement and administer the provisions of this chapter and chapters twenty-two-a and twenty-two-b of this code". This provision would allow expenditures from the fund for general administrative purposes not related to reclamation on forfeited sites, and for expenses associated with noncoal programs. The Secretary originally approved West Virginia's alternative bonding system on the condition that it obtain an actuarial study showing that the bond fund will always contain sufficient money to meet all anticipated needs. On October 29, 1982, West Virginia submitted the required study (Administrative Record No. WV 456), and, after reviewing the study, the Secretary removed this condition of approval on March 1, 1983.

However, this study did not consider the impact on the fund of authorizing expenditures for general administrative purposes or for non-coal programs.

Since WVEA Section 22-3-11(g) expands the range of allowable administrative expenditures, the Director, in accordance with Section 509(c) of SMCRA and 30 CFR 800.11(e), is requiring that West Virginia submit a new analysis demonstrating that the special reclamation fund can withstand all authorized administrative cost withdrawals without hampering the State's ability to reclaim all bond forfeiture sites in accordance with their approved reclamation plans in a timely manner.

14. NPDES Program

WVEA Section 22A-3-40 transfers all permitting, enforcement and rulemaking authority for surface-mining operations under the National Pollutant Discharge Elimination System (NPDES) from the Division of Water Resources within the Department of Natural Resources to the Department of Energy. Approval of this transfer can be granted only by the Administrator of the U.S. Environmental Protection Agency. The Director's approval of the WVEA shall not be

construed as approving the transfer of any NPDES authority or functions.

IV. Public Comment

The Director solicited public comment on the proposed amendment in the May 29, 1985 Federal Register. (50 FR 21661–21662). The Director received eleven written comments prior to the close of the comment period on June 28, 1985. In addition, eleven statements were presented at the public hearing held on June 18, 1985, in Charleston, West Virginia. A complete list of the commenters and a copy of the transcript of the hearing can be found in the West Virginia Administrative Record (Administrative Record Nos. WV 665 and WV 666).

Pursuant to Section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were also solicited from various Federal agencies, with comments received from the Advisory Council on Historic Preservation, the Soil Conservation Service of the U.S. Department of Agriculture, the Corps of Engineers of the U.S. Department of the Army, and the Mine Safety and Health Administration of the U.S. Department of Labor.

The following is a summary of all comments received on the proposed program amendment and the Director's response to those comments.

Federal Agency Comments

1. The Advisory Council on Historic Preservation stated that the likelihood exists that implementation of the State program will result in adverse effects upon properties included in or eligible for the National Register of Historic Places. However, since the Council did not identify any specific provisions of the State program which could create these adverse effects, the Director is unable to address the Council's concerns. The WVEA does not alter any of the previously approved provisions concerning historic and cultural resources.

2. The Soil Conservation Service commented on several provisions pertaining to requirements for oil and gas operations. Since OSM does not regulate the oil and gas industry and is not reviewing or approving those portions of the WVEA concerning oil and gas, the Director cannot address these concerns.

3. The Mine Safety and Health Administration (MSHA) stated that SMCRA section 515(b)(12) requires that all mining activities within 500 feet of an active or abandoned underground mine be "jointly approved by the regulatory authorities concerned with surface mine regulations and the health and safety of mining" and that previous interpretations of this statement included MSHA. However, MSHA noted that WVEA § 22A–3–12(b)(13) requires only that the Commissioner approve such activities.

Although the WVEA requires only the approval of the Commissioner, the State's regulations (§ 6B.07(f)) also require MSHA's approval of surface activities conducted within 500 feet of an underground mine not totally abandoned. This provision is no less stringent than SMCRA § 515(b)(12) and is no less effective than 30 CFR 816.79(b) since the Federal regulations require MSHA approval only of activities conducted within 500 feet of *active* underground mines.

4. MSHA also expressed concern that, contrary to the cited Federal regulations, the WVEA does not require MSHA approval of (a) blasting (30 CFR 780.13(c)), (b) diversion of water into underground mine workings, within 500 feet of active or abandoned underground mines (30 CFR 816.41(i) and 817.41(h)) and (c) disposal of coal mine waste in underground mine workings (30 CFR 816.71(j), 817.71(j), 816.81(f) and 817.81(f)).

All of the required provisions are contained in the approved State regulations in the following sections: (a) 4C.05(f); (b) 6B.04(a)(5), 7B.04(f)(5) and 8B.04(d)(5); and (c) D.05.i. However, the Federal regulations at 30 CFR 780.13(c) do not require MSHA approval blasting within 500 feet of an abandoned underground mine.

Public Comments

1. Several commenters expressed concern that the Commissioner and other individuals who perform functions and duties under SMCRA, would not be subject to the restrictions on financial interests contained in the Federal law and regulations. The Director has determined that all employees of the State regulatory authority performing any function or duty under SMCRA will be subject to the financial interest restrictions of SMCRA section 517(g) and 30 CFR Part 705, as discussed in Finding 9 above.

2. Several commenters addressed the lack of civil service protection for certain employees of the Department. In addition, several commenters stated concern over the removal of the Reclamation Division from the Department of Natural Resources (DNR). They felt that the purpose of DNR traditionally has been the exploration, conservation, development, protection, enjoyment and use of the natural resources of the State. The commenters stated that a program charged with the protection and regulation of these areas was now being placed in an agency charged with the promotion of economic development. Other commenters felt that the transfer of the Reclamation Division to the Department of Energy would weaken protection of environmental resources and fish and wildlife, since the Reclamation Division would no longer be able to obtain comments from the Water Resources and Fish and Wildlife divisions of DNR.

While the Director has reviewed the concerns expressed by the various commenters, the Federal law contains no requirement that civil service protection be provided to employees of the State regulatory authority or that a particular agency be designated as the regulatory authority. Moreover, the West Virginia program does provide for notification of various appropriate Federal and State agencies of an applicant's intent to mine a particular tract of land (WVEA section 22A–3–20). All interested agencies, including the Water Resources and the Fish and Wildlife divisions of DNR, will thus have the opportunity to comment on all mining permit applications.

3. Several commenters stated that provisions of WVEA section 22A–3–9a, establishing special standards for operations two acres or smaller in size, were inconsistent with the requirements of Federal law. Specifically, they expressed concern that the provisions excluded haul roads and spoil storage sites from the calculation of the area of the operation, that they allowed lesser permitting and bonding standards, and that they do not address the potential for several two-acre sites to be mined by the same operator in the same area. The Director has addressed these concerns in Finding 5 above.

4. Several commenters stated that the definition of surface-mining operations as contained in WVEA section 22A–3–3–(w) is inconsistent with Federal law and recent court decisions concerning the phrase "at or near the mine site". The Director has addressed these concerns in Finding 4 above.

5. One commenter stated that the exemption of existing structures and facilities from design criteria if such structures meet the performance standards is contrary to the Federal regulations which provide this exemption only for structures existing on the date of approval of the State program. The commenter suggested that the language of WVEA section 22A–3–29(b) seems to exempt structures constructed between the date of approval of the State program (January 21, 1981) and the effective date of the

WVEA (July 11, 1985). The Director finds that this situation will not exist, since section 2.44 of the West Virginia regulations defines "existing structure" as "a structure or facility . . . for which construction began prior to January 18, 1981," a definition which the Secretary has found to be no less effective than the corresponding Federal definition.

6. One commenter stated that under the WV SCMRA, the Director, as head of the DNR, had powers delegated to him by provisions of State law other than those contained in the surface mining law. The Director was thus empowered to take certain actions which the Commissioner could not require under the authority provided him by the WVEA.

While it may be true that the Director of DNR has broader powers than those provided to the Commissioner by the WVEA, the approval of the West Virginia program was not based upon the authority to require actions which are over and above those required by SMCRA. The approval of the West Virginia program on January 21, 1981, was based upon the authority provided by WV SCMRA, which authority was found to be no less stringent than that required by SMCRA. Similarly, the WVEA provides the Commissioner with the authority needed to implement and enforce the provisions of the West Virginia program.

7. Several commenters stated that, if the Director conditionally approved the amendment, he should require correction of all deficiencies prior to July 11, 1985, the effective date of the WVEA. The commenters stated that the West Virginia Legislature can be called into special session on three days notice and that this would allow sufficient time for correction of all deficiencies prior to the effective WVEA's date. The commenters also requested that, if the Director does not require that all corrections be made prior to the effective date, he should do so as soon after that date as possible.

As discussed in the "Director's Findings" section above, the Director is proposing to preempt and supersede certain provisions found inconsistent with the Federal law and less effective than the Federal regulations, and he is requiring additional amendments to other issues.

8. Several commenters expressed concern with WVEA section 22–1–19, which, in effect, repeals existing law effective July 11, 1985, and section 22–1–20 which provides that the reorganization shall take effect upon issuance of a proclamation by the Governor that the necessary Federal approvals have been received. The commenters stated that OSM may not grant approval of the amendment prior to July 11, and that a period of time would thus exist during which the State would not have a legally effective surface mining law. The Director's approval of this amendment will prevent this situation from occurring.

9. One commenter expressed concern with the number of typographical, technical and clerical errors and inconsistencies contained in the WVEA. The commenter provided only one specific example of these errors, dealing with provisions concerning the salary levels of reclamation inspectors and supervisors. The Director has attempted to identify all such errors in his review, requiring correction of those which appear to create ambiguities in meaning, as discussed in Finding 12 above.

10. One commenter objected to the concentration of authority in the Commissioner, a concern relating to the difference between the definition of "Commissioner" contained in the WVEA and the corresponding definition of "Director" contained in the now repealed WV SCMRA. The Director has addressed this concern in Finding 3 above.

11. One commenter stated that WVEA section 22A–1A–6 provides that the Director of the Division of Mines and Minerals shall take an oath of office prescribed by Section Five, Article Twelve of the West Virginia Constitution, although the correct citation is Section Five, Article Four. The Director's review found that WVEA section 22–1–9 contains a similar requirement with the correct citation.

V. Director's Decision

The Director, based on the above findings, is approving the May 20, 1985 amendment to the West Virginia program, with the exception of those provisions which he has determined to be inconsistent with SMCRA or the Federal regulations. In addition, as indicated in the findings, a number of program amendments will be required. The Director has notified West Virginia, pursuant to 30 CFR 732.17, that certain required program amendments will be necessary. The Federal rules at 30 CFR Part 948 are being amended to implement this decision. The Director is also reorganizing 30 CFR Part 948 for purposes of clarity and administrative convenience.

Further, for those provisions which the Director has determined to be inconsistent with SMCRA or the Federal regulations, OSM is giving notice, under Section 505 to SMCRA and 30 CFR 730.11(a), of that determination and is proposing to preempt and supersede those specific provisions. A separate notice to that effect is being published in the **Federal Register** today; it provides a 30-day period for public comment.

Effect of Director's Decision

Section 503 of SMCRA establishes that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, the Secretary's regulations at 30 CFR 732.17(a) require that any alteration of an approved State program must be submitted to OSM as a program amendment. Thus, any changes to the program are not enforceable by the State until approved by the Director. The Federal regulations at 30 CFR 732.17(g) clearly prohibit any unilateral changes to approved State programs. In his oversight of the State program, the Director will recognize only the statutes and regulations approved by him, and will require the enforcement by the State of only such provisions. Therefore, the provisions that the Director is approving today will take effect on the specified date for purposes of the West Virginia program. Those provisions the Director has not approved today may not be implemented in any manner until such time as the Director approves them.

VI. 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 will 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 will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* The 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 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 8, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 948—WEST VIRGINIA

30 CFR Part 948 is amended as follows:

1. The authority citation for Part 948 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 948.10 is revised to read as follows:

§ 948.10 State regulatory program approval.

The West Virginia State program, as submitted on March 3, 1980, as clarified on July 16, 1980, and as resubmitted on December 19, 1980, is conditionally approved, effective January 21, 1981. Beginning on that date and continuing until July 11, 1985, the Department of Natural Resources was deemed the regulatory authority in West Virginia for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Beginning on July 11, 1985, the Department of Energy shall be deemed the regulatory authority, pursuant to the program transfer provisions of the Enrolled Committee Substitute for House Bill 1850 as signed by the Governor of West Virginia on May 3, 1985.

Copies of the conditionally approved program, as amended, are available at:

(a) Office of Surface Mining, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

(b) Office of Surface Mining, 1100 "L" Street NW., Room 5124, Washington, D.C. 20240. Telephone: (202) 343–4855.

(c) West Virginia Department of Energy, Division of Mines and Minerals, 1615 Washington Street, East Charleston, West Virginia 25305. Telephone: (304) 348–3267.

3. 30 CFR 948.12 is amended by revising the section heading and paragraph (a) and by adding paragraphs (c), (d), (e), (f) and (g) to read as follows:

§ 948.12 State program provisions found inconsistent with Federal law and less effective than Federal regulations.

(a) Section 22A–3–15(g) of the Code of West Virginia is found inconsistent with Section 521(a)(1) of SMCRA to the extent that it states: *"Provided,* That except for deliberate and willful acts, the permittee, his authorized agent or employees, and the inspector whom such person is accompanying, shall not be held civilly liable for any injury to such person during the inspection trip."

* * * * *

(c) Section 22A–3–3(w)(2) of the Code of West Virginia is found inconsistent with Section 701(28) of SMCRA to the extent that it states: *"Provided, however,* That permanent facilities not within the area being mined and not directly involved in the excavation, loading, storage, or processing of the coal shall not be subject to the provisions of this article. Such facilities include, but are not limited to, offices, garages, bathhouses, parking areas, and maintenance and supply areas."

(d) Section 22A–3–9a(a)(8) of the Code of West Virginia is found less effective than 30 CFR 700.11(b) and the definition of "affected area" at 30 CFR 701.5 to the extent that the phrase "exclusive of roadways and temporary spoil placement" could be interpreted as excluding such areas when determining the size of the affected area.

(e) Section 22A–3–23(c)(3) of the Code of West Virginia is found inconsistent with Section 519(c)(3) of SMCRA to the extent that it states: *"Provided, however,* That such a release may be made where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site."

(f) Section 22A–3–12(e) of the Code of West Virginia is found inconsistent with Section 515(e) of SMCRA.

(g) Section 22A–3–18(c) is found inconsistent with Section 510(c) of SMCRA to the extent that it limits its applicability to surface-mining operations "located in the State of West Virginia" and to patterns of willful violations "of this article."

4. 30 CFR 948.15 is amended by redesignating existing paragraphs (a) and (b) as (e) and (f), respectively, adding paragraphs (a) through (d), which were previously summarized in 30 CFR 948.10, and adding paragraph (g) to read as follows:

§ 948.15 Approval of regulatory program amendments.

(a) West Virginia's coal refuse disposal regulations, as submitted to OSM on October 29, 1981, are approved effective May 11, 1982, subject to the conditions set forth in § 948.11. The revised regulations replace Section 10 of West Virginia's surface mining reclamation regulations contained in the State's conditionally approved program of January 21, 1981.

(b) The amendment to Section E.03 of the State's coal refuse disposal regulations, which was submitted to OSM on June 17, 1982, is approved effective September 10, 1982.

(c) The following amendments, as submitted to OSM on September 14, 1982, and October 29, 1982, are approved in part effective March 1, 1983: West Virginia's revised surface mining reclamation regulations promulgated on October 28, 1982, and an actuarial study regarding West Virginia's alternative bonding system.

(d) The following regulatory and statutory amendments submitted to OSM on February 16, April 29, June 15 and September 13, 1983, which were intended to satisfy the remaining conditions of approval on the West Virginia program, are approved effective July 15, 1983, to coincide with the date of expiration of the State's emergency regulations and are subject to the conditions set forth in § 948.11: West Virginia's revised surface mining reclamation regulations as filed with the West Virginia Secretary of State on February 3, 1983, and submitted on February 14, 1983, along with the notice that the Department of Natural Resources Technical Handbook of Standards and Specifications for Mining Operations will now serve as a technical guideline, rather than regulation; amendments to the West Virginia Surface Coal Mining and Reclamation Act as submitted on April 29, 1983; revisions to the West Virginia surface mining reclamation regulations as submitted on June 13, 1983; and further revisions to the State's surface mining reclamation regulations dated July 15, 1983, and submitted on September 13, 1983, concerning applicability, the inclusion of new bond release procedures for interim program permits, the deletion of the incidental mining requirements at Section 9 of its regulations and the correction of typographical and punctuation errors in its regulations.

(e) The following amendment submitted to OSM on January 12, 1984, as modified on June 18, 1984, is approved effective September 20, 1984: West Virginia's blaster certification program, as contained in the proposed West Virginia Administrative Regulations, Department of Mines, Chapter 22–4 Series ———, submitted to OSM on June 18, 1984, and all other items as submitted by West Virginia on January 12, 1984, and modified on June 18, 1984. This approval is contingent on promulgation of the above referenced proposed regulations.

(f) The following amendment submitted to OSM on November 20, 1984, is approved effective April 23, 1985: Amendments to West Virginia's blaster certification program, as contained in the proposed West Virginia Administrative Regulations, Department of Mines, Chapter 22–4 Series ———, Section 6.01(B) and Section 9, submitted to OSM on November 20, 1984. This approval is contingent upon the State's promulgation of the proposed regulations in the identical form submitted for OSM's review and approval.

(g) The following amendment, as submitted to OSM on May 20, 1985, and clarified on April 24, May 10, May 20, and May 28, 1985, is approved, with the exceptions listed in 30 CFR 948.12 (a), (c), (d), (e), (f), and (g), effective July 11, 1985: The Enrolled Committee Substitute for House Bill 1850, which revises the Code of West Virginia to provide for creation of a Department of Energy and the transfer of program authority from the Department of Natural Resources to the Department of Energy.

5. 30 CFR 948.16 is amended by adding paragraphs (b) and (c) to read as follows:

§ 948.16 Required program amendments.

* * * * *

(b) By October 11, 1985, West Virginia must submit an actuarial study or other comprehensive analysis demonstrating that sufficient money will be available in the special reclamation fund both to complete the approved reclamation plans for any areas which may be in default at any time and to cover all administrative costs allowed under section 22A–3–11(g) of the Code of West Virginia.

(c) By March 15, 1986, West Virginia must submit copies of statutory revisions to correct or otherwise eliminate certain errors in Chapter 22A of the Code of West Virginia as follows:

(1) Section 22A–1–1 must be revised to state that the Division of Mines and Minerals is created under section 22–1–7, not section 22–1–6.

(2) Section 22A–3–3(w)(1) must be revised to insert a semicolon between "reclamation" and "in situ" and a comma between "cleaning" and "concentrating".

(3) Section 22A–3–9a must be revised throughout to replace "director" with "commissioner" to maintain consistency with the West Virginia Energy Act as a whole and section 22–1–15 in particular.

(4) Section 22A–3–9a(a)(6) must be revised to state that the reclamation plan requirements are contained in Section 10, not Section 11.

(5) Section 22A–3–9a(a)(7) must be revised to state that the insurance requirements are contained in Section 9, not Section 10.

(6) Section 22A–3–9a(d) must be reworded to clarify its meaning.

(7) Section 22A–3–26(d) must be revised to state that the requirements for operations two acres or smaller in size are contained in Section 9a, not 10a.

(8) Section 22A–3–17(d)(3) must be recodified as a separate subsection to clarify that appeal rights and procedures apply to all notices, orders and decisions of the Commissioner, not just those relating to civil penalty assessments.

(9) Section 22A–3–17(d)(4) must be recodified as a separate subsection to clarify that temporary relief provisions apply to all enforcement actions and orders, but not to civil penalty assessments.

6. 30 CFR 948.20 is revised to read as follows:

§ 948.20 Approval of State abandoned mine land reclamation plan.

The West Virginia Abandoned Mine Reclamation Plan as submitted on October 29, 1980, and as amended December 12, 1980, is approved effective February 23, 1981. Copies of the approved plan are available at the following locations:

(a) West Virginia Department of Energy, Division of Mines and Minerals, 1615 Washington Street, East, Charleston, West Virginia 25305. Telephone (304) 348–3267.

(b) Office of Surface Mining, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

(c) Office of Surface Mining, 1100 L Street, NW., Room 5124, Washington, D.C. 20240. Telephone: (202) 343–4855.

7. 30 CFR 948.25 is added as follows:

§ 948.25 Approval of abandoned mine land reclamation plan amendments.

(a) The following amendment as submitted to OSM on May 20, 1985, and clarified on April 24, May 10, and May 20 and May 28, 1985, is approved: The Enrolled Committee Substitute for House Bill 1850, which revised the Code of West Virginia to provide for the creation of a Department of Energy and the transfer of program authority from the Department of Natural Resources to the Department of Energy.

[FR Doc. 85–16510 filed 7–10–85; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 948

Approval of Amendments and Removal of Conditions; West Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Secretary is announcing the approval in part and disapproval in part of certain amendments to the West Virginia permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the removal or modification of some of the conditions placed on his approval of the State's program. On March 30, 1984, October 30, 1984, and June 14, 1985, West Virginia submitted modifications to its surface mining reclamation and coal refuse disposal regulations. The amendments are intended to satisfy the remaining fifteen conditions of approval concerning auger mining, coal refuse disposal, blasting, transfer of wells, permit approval, revegetation, suspension or revocation of permits, stabilization of rills and gullies, subsidence, Mine Safety and Health Administration (MSHA) approval of permit applications and the exemption for coal extraction incident to government-financed highway or other construction. Also, the October 30th amendment contains revised civil penalty assessment procedures developed by the State to identify assessable and non-assessable violations and to satisfy concerns raised by OSM regarding the State's implementation of its approved civil penalty system.

After providing opportunity for public comment and conducting a thorough review of the program amendments in accordance with 30 CFR 732.17, the Secretary has decided to approve certain modifications contained in the amendments and to remove some of the conditions of approval. This decision is being made retroactive to August 27, 1984, to coincide with the promulgation of the State's surface mining reclamation and coal refuse disposal regulations.

EFFECTIVE DATE: August 27, 1984.

ADDRESSES: Copies of the amendments to the West Virginia program and all written comments received on the proposed amendments are available for public review and copying at the OSM Headquarters Office, the OSM Charleston Field Office and the office of the State regulatory authority at the

addresses listed below, Monday through Friday, 8:30 a.m. to 4:30 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 5124, Washington, D.C. 20240. Telephone: (202) 343-4855.

West Virginia Department of Energy, Division of Mines and Minerals, 1615 Washington Street, East, Charleston, West Virginia 25305. Telephone: (304) 348-3267.

FOR FURTHER INFORMATION CONTACT:

James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347-7158.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1980, the Secretary of the Interior received a proposed regulatory program from the State of West Virginia. On October 22, 1980, following a review of the proposed program in accordance with 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69249-69271).

West Virginia submitted a revised program proposal on December 19, 1980, and after a subsequent review, the Secretary conditionally approved the program on the correction of thirty-five minor deficiencies on January 21, 1981. Information concerning the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and an explanation of the initial conditions of approval of the West Virginia program can be found in the January 21, 1981, **Federal Register** (46 FR 5915-5956).

On October 29, 1981, West Virginia submitted revised coal refuse regulations to OSM as an amendment to its permanent regulatory program. The amendment was conditionally approved on May 11, 1982 (47 FR 20119-20122).

At West Virginia's request, on October 31, 1981, the Secretary extended the deadlines for meeting certain conditions of approval to November 1, 1982 (46 FR 54070-54071). Also, on May 27, 1982, the Secretary extended the deadline for meeting the conditions requiring legislative approval to May 1, 1983, and the deadline for the remaining conditions requiring regulatory changes to November 1, 1982 (47 FR 23156-23157).

On September 10, 1982, OSM determined that a modification submitted by West Virginia on June 17, 1982, concerning coal refuse disposal satisfied a portion of the condition imposed by the Secretary on May 11, 1982 (47 FR 39821-39822).

On September 14, 1982, and October 29, 1982, West Virginia submitted modifications to satisfy certain other conditions of its program. On March 1, 1983, the Secretary announced in the **Federal Register** that the modifications submitted by West Virginia satisfied eight of the conditions of approval, and the deadline for meeting all of the remaining conditions requiring regulatory changes was extended to May 1, 1983 (48 FR 8447-8451).

On February 16, April 29, June 15, and September 13, 1983, West Virginia submitted statutory and regulatory modifications to satisfy the remaining conditions of approval. On November 16, 1983, the Secretary approved some of these modifications removing twenty-three conditions, revising five existing conditions, disapproving two permanent program provisions and imposing ten new conditions (48 FR 52034-52054). West Virginia had until March 30, 1984, to submit modifications to resolve all of the remaining conditions of approval.

On January 12, 1984, the Secretary preempted and superseded that portion of West Virginia's surface mining law which provided that a permittee and his authorized agents and employees are not liable for any inquiry substained by a citizen accompanying the inspector onto a mine site (49 FR 1489-1490).

As set forth at 30 CFR 948.11(a), the West Virginia program currently contains the following deficiencies. All Federal regulatory citations throughout this notice reflect the most recent regulatory revisions, not those in effect at the time 30 CFR 948.11 was promulgated and amended. Citations of the State law do not reflect the recodification effected by enactment of the West Virginia Energy Act.

1. The program does not include provisions for augering on previously mined areas which are no less effective than 30 CFR 819.19(b) and in accordance with sections 102 and 515(b)(3) of SMCRA [Condition (1)];

2. The program contains coal refuse disposal regulations which require compliance with interim program regulations rather than with permanent program regulations [Condition (8)]; the State's coal refuse disposal regulations provide a waiver from stability requirements if site conditions indicate that failure will not occur [Condition (8)(ii)]; and the State's coal refuse disposal regulations fail to (A) require covering of coal mining waste banks with non-toxic and non-combustible material as required by 30 CFR 816.83(c)(4) and 817.83(c)(4), (B) specify construction criteria for subdrainage systems as required by §§ 816.83(d) and 817.83(d), (C) prohibit the use of impoundments on constructed fills as required by 30 CFR 816.83(c)(3) and 817.83(c)(3), and (iv) require the inspection of coal refuse piles as required by 30 CFR 816.83(d) and 817.83(d) [Condition (8)(iv)];

3. The State program does not provide that the maximum peak particle velocity shall not be exceeded at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area as required by 30 CFR 816.67(d)(2) and 817.67(d)(2) [Condition (14)];

4. The program does not include criteria for the transfer of wells as required by 30 CFR 816.41(g) and 817.41(g) [Condition (16)];

5. The program does not require that the permit applicant list any and all notices of violations of all State environmental protection laws and regulations during the three-year period prior to the date of application in accordance with section 510(c) of SMCRA [Condition (19)];

6. The State program does not provide a definition for the term "substantial legal and financial commitments in a surface coal mining operation" which is no less effective than 30 CFR 762.5 [Condition (36)];

7. The State program does not provide standards for permit approval or denial which are no less effective than 30 CFR 773.15 and in accordance with sections 510 (b), (c) and 522(e) of SMCRA, and it does not require certain permit conditions which are no less effective than those contained in 30 CFR 773.17 and in accordance with section 510 of SMCRA [Condition (37)];

8. The program does not include provisions to require that coal exploration applications contain a description of the important habitats of any threatened or endangered species and a description of cultural or historical resources listed or eligible for listing on the National Register of Historic Places which are no less effective than 30 CFR 772.12(b) and in accordance with section 512 of SMCRA, and it does not provide standards for the approval or disapproval of coal exploration applications which are no less effective than 30 CFR 772.12 and in accordance with section 512 (a) and (d) of SMCRA [Condition (38)];

9. The program does not provide for statistical sampling techniques for measuring the success of revegetation which are no less effective than 30 CFR 816.116(a) and 817.116(a) and in accordance with sections 508, 515 and 516 of SMCRA [Condition (39)];

10. The State program does not include provisions for the identification of renewable resource lands which are no less effective than 30 CFR 784.20 and in accordance with section 516(b) of SMCRA [Condition (40)];

11. The program does not include provisions for the suspension or revocation of permits which are the same or similar to 30 CFR 843.13(a)(3) and in accordance with section 521(a)(4) of SMCRA [Condition (41)];

12. The program does not include provisions for the stabilization of rills and gullies which are no less effective than 30 CFR 816.95(b) and 817.95(b) and in accordance with sections 515 and 516 of SMCRA [Condition (42)];

13. The State program does not include provisions to prohibit mining activities beneath or adjacent to bodies of water with a volume of 20 acre-feet or more which are no less effective than 30 CFR 817.121(d) and in accordance with sections 516 (b) and (c) and SMCRA [Condition (43)];

14. The program does not include provisions for MSHA approval of permit applications involving discharging of water into underground mines, mining within five hundred feet of an underground mine and blasting within five hundred feet of an underground mine which are no less effective than 30 CFR 816.41(i), 817.41(h), 816.79 and 780.13(c) [Condition (44)]; and

15. The State program does not include minimum criteria for the exemption of government-financed highway and other construction which are no less effective than 30 CFR Part 707 and in accordance with section 528(3) of SMCRA [Condition (45)].

Submission of Program Amendments

On March 30, 1984, West Virginia submitted an amendment to OSM which was intended to satisfy the remaining fifteen conditions of approval concerning auger mining, coal refuse disposal, blasting, transfer of wells, permit approval, revegetation, suspension or revocation of permits, stabilization of rills and gullies, subsidence, MSHA approval of permit applications, and the exemption for coal extraction incident to government-financed highway or other construction (Administrative Record No. WV 567).

On May 8, 1984, OSM announced in the **Federal Register** receipt of the amendment, and provided procedures for public comment and an opportunity for a public hearing (49 FR 19525–19527). The public hearing scheduled for May 28, 1984, was not held because no one requested it. The public comment period closed on June 7, 1984 (Administrative Record No. WV 570).

Following its review and opportunity for public comment, on August 21, 1984, OSM provided the State with a list of deficiencies found in the amendment. West Virginia was given an opportunity to submit proposed emergency rule changes, policy statements, clarifying legal opinions or other evidence providing that the State's proposed modifications were no less effective than the Federal requirements (Administrative Record No. WV 593).

On October 30, 1984, West Virginia submitted modifications to its initial amendment of March 30, 1984. The proposed amendment consists of revisions to the State's surface mining and coal refuse disposal regulations and modifications to its permit addendum form and its approval letter for coal exploration involving the removal of more than 250 tons. In addition, the State provided OSM with a copy of its revised civil penalty procedures which included a Code of Violations for use in determining assessable and non-assessable violations (Administrative Record No. WV 601).

West Virginia has not fully implemented the civil penalty system approved by the Secretary on November 16, 1983 (47 FR 52034–52054). As a result, the State has not conducted civil penalty assessment reviews of approximately 4,200 violations as of June 30, 1984. On June 7, 1984, OSM notified West Virginia of its concern regarding the State's failure to implement its approved civil penalty system. A meeting was held on June 29, 1984, to discuss the concerns raised in the June 7th letter and several meetings were held subsequent to the initial meeting which resulted in the State's submission of its revised civil penalty procedures (Administrative Record Nos. WV 588, 589, 590, 602, 603, and 604).

On November 23, 1984, OSM reopened the comment period to provide the public sufficient time to consider and comment on the modifications submitted by the State of West Virginia on October 30, 1984 (49 FR 46168–46169). The public hearing scheduled for December 17, 1984, was not held because no one requested one. The public comment period closed on December 24, 1984 (Administrative Record No. WV 609).

On June 14, 1985, West Virginia submitted final surface mining reclamation and coal refuse disposal regulations that were approved by the State Legislature on April 13, 1985, and signed by the Governor on May 2, 1985 (Administrative Record No. WV 647). According to the State, the proposed regulations were not significantly different from those submitted to OSM for review and approval on October 30, 1984. OSM has identified two differences between the proposed final regulations and the emergency regulations submitted to OSM on October 30, 1984. At Section 4C.05(f) of the final surface mining reclamation regulations, MSHA's approval is required prior to blasting within 500 feet of an underground mine not totally abandoned, whereas before the opportunity for denial by MSHA was limited to thirty days. Also, the proposed amendment contains final National Pollutant Discharge Elimination System (NPDES) requirements with revisions at section 10 of the surface mining reclamation regulations, which were recently approved by the U.S. Environmental Protection Agency (EPA). OSM did not solicit comments on Section 10 of the final surface mining reclamation regulations, because EPA has already provided the public an opportunity to comment on the State's NPDES requirements.

On June 19, 1985, OSM reopened the comment period to provide the public sufficient time to comment on the revised regulations submitted by the State on June 14, 1985 (50 FR 25428–25430). Also, the public was invited to comment on the proposal to make the decision on the proposed program amendments retroactive to August 27, 1984, to coincide with the promulgation of the State's surface mining reclamation and coal refuse disposal regulations. The public comment period closed on July 5, 1985 (Administrative Record No. WV 675).

Secretary's Findings

Set forth below, pursuant to 30 CFR 732.15 and 732.17 and SMCRA, are the Secretary's findings concerning recent modifications submitted by West Virginia to satisfy conditions and to amend its permanent regulatory program.

1. As discussed in Finding 22 of the November 16, 1983 **Federal Register** notice, section 6B.09(d)(2) of the State's regulations was found to be less effective than 30 CFR 819.19(b) and not in accordance with sections 102 and 515 of SMCRA. The State's rule, unlike 30 CFR 819.19(b), did not require that the applicant demonstrate in writing to the regulatory authority that (1) the volume

of all reasonably available spoil is insufficient to eliminate the highwall, (2) any remnants of the highwall remaining after the highwall has been reclaimed to the maximum extent technically practical shall be stable and shall not pose a hazard to the public health and safety or the environment, and (3) spoil placed on the outslope during previous mining operations shall not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazards to the public health and safety or to the environment. Also, West Virginia needed to define the term "substantially reaffect" in order to ensure that the State's definition is no less effective than the Federal definition of "adverse physical impact" at 30 CFR 701.5, as amended on September 16, 1983 (48 FR 41720–41735).

On January 3, 1985, OSM suspended its definition of adverse physical impact at 30 CFR 701.5. This action was taken as a result of an agreement by the parties approved in a December 3, 1984, District Court Order withdrawing certain issues from consideration in Round III of the present litigation on OSM's permanent program regulations (50 FR 257–258). Pending further action by OSM, no further action is required by the State to amend its definition of "substantially reaffect."

On March 30, 1984, the State submitted an amendment to section 6B.09(d)(2) of its regulations. The amendment satisfied most of OSM's initial concerns; however, it does not require the backfill to be designed by a qualified registered professional engineer nor does it require the backfill to be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability as required by 30 CFR 819.19(b) (1) and (3), as amended on April 28, 1983. On August 21, 1984, the State was advised of the deficiencies (Administrative Record No. WV 593).

On October 30, 1984, the State submitted a narrative showing that stable fills may be constructed by the haulback method on various slopes found within the State. However, the State did not address the requirement that the backfill be designed by a qualified registered professional engineer or that the backfill be graded to a slope which is compatible with the approved postmining land use. The State did not amend section 6B.09(d)(2) of its regulations submitted on June 14, 1985. Therefore, the Secretary finds that section 6B.09(d)(2) of the State's regulations is less effective than 30 CFR 819.09(b) (1) and (3), and that the adoption of the amendment by the State has failed to fully satisfy condition (1) of his approval of the West Virginia program at 30 CFR 948.11(a)(1).

2. As discussed in Finding 28 of the November 16, 1983 **Federal Register** notice, West Virginia's coal refuse regulations, as amended, were found to be inconsistent with several Federal coal refuse requirements. Specifically, the State provisions did not require (a) compliance with permanent program regulations rather than interim regulations; (b) compliance with stability standards even if site condition indicated that failure would not occur; and (c)(i) covering of coal mining waste banks with non-toxic and non-combustible material as required by 30 CFR 816.83(c)(4) and 817.83(c)(4), (ii) specific construction criteria for subdrainage systems as required by 30 CFR 816.83(a)(3) and 817.83(a)(3), (iii) the prohibition of the placement of permanent impoundments on constructed fills as required by 30 CFR 816.83(c)(3) and 817.83(c)(3), and (iv) the inspection of coal refuse piles as required by 30 CFR 816.83(d) and 817.83(d).

(a) As discussed in the November 16, 1983 **Federal Register** notice, section D.05(a)(1), D.06(1)(f), E.03(b)(1), E.07 and E.09(b)(5) of the State's coal refuse disposal regulations contained references to the State's interim regulations which had expired. The Secretary found that all references in the State's coal refuse disposal regulations must address applicable requirements of the State's permanent program regulations. On March 30, 1984, October 30, 1984, and June 14, 1985, the State submitted amendments to its coal refuse disposal regulations at section B.57, C.01(b)(3), D.05(a)(1)(a), D.05(a)(1)(e), D.05(a)(3), D.06(b)(1)(a), D.06(b)(1)(f), D.07(b), E.03(b)(1), E.04, E.05(a)(3), E.07, E.09(a) and E.09(b)(5). Since all references found in the State's coal refuse disposal regulations now cite permanent program requirements, the Secretary finds that the adoption of the amendment will satisfy this portion of condition (8) of his approval of the West Virginia program at 30 CFR 948.11(a)(8).

(b) Section D.05(f) of the State's coal refuse disposal regulations was found to be inconsistent with the Federal regulations. Section D.05(f) allowed the director to waiver the stability requirements if site conditions indicate that failure will not occur. The Federal regulations at 30 CFR 816.83 do not permit a waiver of the basic stability requirements. On March 30, 1984, the State submitted an amendment to its regulations at section D.05(f) which provides that where obvious site conditions indicate that failure will not occur, the director may waive the requirement for a stability analysis on non-impounding structures so long as the design requirements of section D.05(f)(2) are met. OSM advised the State that section D.05(f) needed to be clarified because if the design requirements of section D.05(f)(2) are to be met as indicated in section D.05(f), a stability analysis will be required to prove that the minimum static safety factor of 1.5 and the minimum seismic safety factor of 1.2 are met as required by section D.05(f)(2)(b). On October 30, 1984, and June 14, 1985, West Virginia submitted an amendment to its coal refuse disposal regulations. Section D.05(f) was amended to read, "Where obvious site conditions indicate that failure will not occur, the director may waive the requirement for a stability analysis on non-impounding structures so long as all other design requirements of section D.05(f)(2) are met." The State clarified that the words "all other" were added to ensure that all design requirements would be met with the exception of stability analysis. Since West Virginia provides for a waiver of stability analysis for non-impounding coal waste piles, the Secretary finds that section D.05(f) of the State's coal refuse disposal regulations is still less effective than the current Federal requirements at 30 CFR 816.83 and 817.83. Accordingly, the State has failed to satisfy condition (8)(ii) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(8)(ii).

(c)(i) Section D.07(f) of the State's coal refuse disposal regulations was found to be inconsistent with 30 CFR 816.83(c)(4) and 817.83(c)(4). Section D.07(f) only required a minimum cover of three feet of coarse refuse on coal refuse disposal areas prior to final soil covering, unless otherwise approved by the director. The Federal regulations at 30 CFR 816.83(c)(4) and 817.83(c)(4), however, require that coal refuse must be covered with four feet of non-toxic and non-combustible material, unless a lesser amount of cover material is allowed by the regulatory authority based on physical and chemical analysis. On March 30, 1984, October 30, 1984, and June 14, 1985, the State submitted revisions to its coal refuse diposal regulations. The State amended section D.07(f) to require the covering of fine refuse disposal areas with a minimum three-foot layer of coarse refuse prior to final covering in accordance with section D.07(g) of the "surface mining" regulations, unless otherwise approved

by the director. Since section D.07(g) is a requirement of the State's coal refuse disposal regulations, the State should delete the reference to its "surface mining" regulations the next time it amends its regulations. Also, the State added a new section D.07(g) which provides that at abandonment all coal refuse must be covered with a minimum of four feet of the best available non-toxic and noncombustible material in a manner that does not impede flow from subdrainage systems. The director may allow less than four feet of cover material where it can be demonstrated that the requirements of section 4F of the State's surface mining regulations can be met. Therefore, the Secretary finds that section D.07 (f) and (g) are no less effective than the current Federal requirements at 30 CFR 816.83(c)(4) and 817.83(c)(4), and that the adoption of the amendment will satisfy condition (8)(iv)(A) of his approval of the West Virginia program at 30 CFR 948.11(a)(8)(iv)(A).

(c)(ii) Section D.05(e) of the State's coal refuse disposal regulations was found to be inconsistent with 30 CFR 816.83(a)(3) and 817.83(a)(3). Section D.05(e) did not specify that underdrains must be constructed of nondegradable, non-acid or non-toxic forming rock such as gravel, limestone, sandstone, or other durable rock that will not slake in water and will be free of coal, clay or shale as required by 30 CFR 816.83(a)(3) and 817.83(a)(3) by reference to 30 CFR 816.71(f)(3) and 817.71(f)(3). The State submitted revisions to its coal refuse disposal regulations on March 30, 1984, October 30, 1984, and June 14, 1985. The State revised section D.05(e)(2) to require that subdrainage systems be constructed of durable rock consisting of non-degradable, non-acid or non-toxic forming rock such as natural sand or gravel, sandstone, or other durable rock that will not slake in water and will be free of coal, clay or shale. Therefore, the Secretary finds that section D.05(e)(2) of the State's coal refuse disposal regulations is no less effective than the current Federal requirements at 30 CFR 816.83(a)(3) and 817.83(a)(3), and that the adoption of the amendment will satisfy condition (8)(iv)(B) of his approval of the West Virginia program at 30 CFR 948.11(a)(8)(iv)(B).

(c)(iii) Section E.08(c)(3) of the State's coal refuse disposal regulations was found to be inconsistent with 30 CFR 816.71(c)(3) and 817.71(c)(3) in that section E.08(c)(3) of the State's regulations provided that the director could authorize the impoundment of water on fills. On March 30, 1984, October 30, 1984, and June 14, 1985, the State submitted revisions to its coal refuse disposal regulations. The State amended section D.07(a) of its regulations to provide that no impoundment exceeding 10,000 cubic feet of water shall remain upon constructed fills upon abandonment. Impoundments remaining upon abandonment must meet the requirements of section 4B.05(e) of the surface mining regulations. Since West Virginia limits the size of impoundments that can remain on constructed fills to 10,000 cubic feet and because such impoundments must comply with the requirements of section 4B.05(e) of the State's surface mining regulations, the Secretary finds that section D.07(a) of the State's coal refuse disposal regulations is no less effective than 30 CFR 816.83(c)(3) and 817.83(c)(3). Accordingly, the adoption of the amendment will satisfy condition (8)(iv)(C) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(8)(iv)(C).

(c)(iv) The Secretary found that section E.08(d) of the State's coal refuse disposal regulations did not require inspection of coal refuse areas as required by 30 CFR 816.83(d) and 817.83(d). On March 30, 1984, West Virginia submitted a revision to section E.08(d)(2) of its coal refuse disposal regulations. Section E.08(d) was amended to state that inspections may include such observations and tests as may be necessary to evaluate the potential hazard to human life and property, to ensure that all organic material and topsoil have been removed and that proper construction and maintenance are occurring in accordance with the approved plans and specifications. Also, inspections may cease when the coal refuse disposal area has been properly abandoned in accordance with section D.07, or at such later time as the director may require.

OSM notified the State on August 21, 1984, that section E.08(d)(2), unlike 30 CFR 816.83, provides that a person certified by the U.S. Mine Safety and Health Administration (MSHA) and designated by the operator could inspect both impounding and non-impounding coal refuse piles. The Federal requirements at 30 CFR 816.49(a)(10) and 816.83(d) provide that a qualified registered professional engineer or other qualified specialist under the direction of the professional engineer shall inspect impounding and non-impounding refuse piles. On October 30, 1984, and June 14, 1985, the State submitted revisions to its definition of "qualified person" at section B.53 to clarify that the coal refuse embankment and impoundment inspector certified by MSHA would inspect both impounding and non-impounding structures under the supervision of the operator's engineer. The Secretary finds that the revision to the definition of qualified person at section B.53 is no less effective than 30 CFR 816.49(a)(10) and 816.83(d).

In response to other OSM concerns, West Virginia stated in its submittal of October 30, 1984, that OSM requires inspections to be made during placement and compaction of mine waste materials. The State requires that inspections be held every seven days for impoundments and quarterly for non-impounding areas. MSHA regulations at 30 CFR 77.216-3 also require inspections every seven days for impounding structures. The recent amendments to section E.08(d)(2) of the coal refuse disposal regulations require that, "Inspections may include such observations and tests necessary to ensure . . . that proper construction and maintenance are occurring in accordance with the approved plans and specifications." In the State's opinion, this covers the Federal requirement because it provides the engineer with inspection options. His observations and tests must provide him enough basis to certify construction and may or may not include inspection of refuse placement. The Federal regulations at 30 CFR 816.83(d) and 817.83(d) require quarterly inspection of non-impounding coal refuse piles throughout construction and during critical construction periods. Also, regular inspections by the engineer or specialist must be conducted during the placement and compaction of mine waste materials. Although neither section E.08(d)(2) nor section E.08(d)(3)(c) define the critical construction periods, the State's regulations at sections E.08(a), E.08(c)(1), E.09(b)(5) and E.09(b)(6) require inspections during each major portion of the construction sequence and are thus no less effective than the Federal requirements. However, the Federal rules do not provide the engineer or specialist with inspection options. The Federal regulations at 30 CFR 816.83(d)(1) and 817.83(d)(1) require that regular inspections be conducted during the placement and compaction of coal mine waste materials. The inspector's construction certification must include inspection of coal refuse placement and compaction. Therefore, the Secretary finds that section E.08(d)(2) of the State's coal refuse disposal regulations is less effective than 30 CFR 816.83(d)(1) and 817.83(d)(1).

Section E.08(d)(2) of the State's coal refuse disposal regulations requires

weekly inspections of coal refuse impoundments by a qualified person until construction has been completed and certified. Section E.08(d)(3)(c) also requires that an engineer certify coal refuse impoundments and non-impounding coal refuse areas during construction, upon construction and annually thereafter until final bond release. The Federal regulations at 30 CFR 816.84(b)(1), 817.84(b)(1), 816.49(a)(10) and 817.49(a)(10) require that inspections of coal refuse impoundments be made regularly during construction, upon construction and at least annually thereafter until removal of the structure or release of the performance bond. In addition to the Federal inspection requirements, coal refuse impoundments subject to 30 CFR 77.216 must be examined in accordance with 30 CFR 77.216–3, and all other coal refuse impoundments must be examined at least quarterly by a qualified person as required by 30 CFR 816.49(a)(11) and 817.49(a)(11). Although sections E.08(d)(2) and E.08(d)(3)(c) of the State's coal refuse disposal regulations do not provide for the examination of coal refuse impoundments and disposal areas after construction, section E.08(d)(2) does provide that inspections may terminate when the coal refuse disposal area has been properly abandoned or at such later time as the director may require. West Virginia clarified that the term coal refuse disposal area, as used in this context, includes both coal refuse impoundments and non-impounding coal refuse areas (Administrative Record No. WV 630). Therefore, the Secretary interprets the State's regulations as requiring weekly inspections of all coal refuse impoundments and quarterly inspections of non-impounding coal refuse areas by a qualified person until abandonment. In addition, section E.08(d)(3)(c) requires that an engineer certify all coal refuse impoundments and non-impounding coal refuse areas during construction and annually thereafter until final bond release. Therefore, the Secretary finds that, except as discussed above, the State inspection frequently requirements for coal refuse impoundments and non-impounding coal refuse areas at sections E.08(d)(2) and E.08(d)(3)(c) are no less effective than the Federal inspections and examination requirements at 30 CFR 816.83(d), 817.83(d), 816.84(b)(1), 817.84(b)(1), 816.49(a) (10) and (11) and 817.49(a) (10) and (11).

Section E.08(d)(1) provides that inspection reports shall be maintained at or near the mine office nearest the minesite. The Federal requirements at 30 CFR 816.83(d)(4), 817.83(d)(4), 816.49(a)(10) and 817.49(a)(10) require that each inspection report be maintained at or near the minesite, and 30 CFR 77.216–3 requires that the report be available at the mine. Since the mine office is generally at or near the minesite and the Secretary is not aware of any problems experienced by interested persons during oversight in reviewing inspection reports, the Secretary finds that section E.08(d)(1) of the State's coal refuse disposal regulations is no less effective than 30 CFR 816.83(d)(4), 817.83(d)(4), 816.49(a)(10) and 817.49(a)(10).

On August 21, 1984, OSM notified the State that neither section E.08(d)(3)(a) nor section E.08(d)(3)(c) requires the registered professional engineer to provide promptly after each inspection a certified report to the regulatory authority which includes appearances of instability, structural weakness and other hazardous conditions as required by 30 CFR 816.83(d)(2) and 817.83 (d)(2). On October 30, 1984, the State responded to OSM's concern by stating that, "Nowhere does 30 CFR 816.83(d) nor 816.83(d)(2) state specifically that a report shall be required after each appearance of instability, just that instability be documented in each inspection report. If the instability constitutes a condition dangerous to human life, property or the environment, section E.08(d) requires that the director be informed immediately." The Secretary wishes to clarify that the Federal provisions require the submission of a certified report promptly after each inspection, not after each appearance of instability. Section E.08(d)(3)(a) does require that a report must be submitted every thirty days for coal refuse structures if requested by the director. Also, section E.08(d)(3)(c) requires the submission of an engineer's certification for each major portion of the construction sequence. However, that requirement does not consider the possibility that two or more inspections might be required during any single "major portion of the construction sequence." Since the State's coal refuse disposal regulations also require weekly inspections of all coal refuse impoundments and quarterly inspections of all non-impounding coal refuse areas until abandonment, certified reports must be filed promptly after each of these inspections in order to satisfy the Federal requirements. Therefore, the Secretary finds that section E.08(d)(3)(a) and section E.08(d)(3)(c) of the State's coal refuse disposal regulations are less effective than 30 CFR 816.49(a)(10), 817.49(a)(10), 816.83(d)(2) and 817.83 (d)(2) in that the engineer is not required to provide the regulatory authority with a certified report promptly after each inspection of coal refuse impoundments or non-impounding coal refuse areas.

On August 21, 1984, OSM informed West Virginia that section E.08(d) of the State's coal refuse disposal regulations does not require the certified report on the drainage systems and protective filters to include color photographs as provided by 30 CFR 816.83(d)(3) and 817.83(d)(3). The State subsequently amended its regulations at section E.08(d)(3)(a) to require that the underdrains and protective filters must be supported by color photographs. Therefore, the Secretary finds that section E.08(d)(3)(a) of the State's coal refuse disposal regulations is no less effective than 30 CFR 816.83(d)(3) and 817.83(d)(3) with respect to the requirement that the reports include photographs.

As discussed above, the Secretary finds that the adoption of the amendments by the State to its coal refuse disposal regulatons has failed to fully satisfy condition (8)(iv)(iv) at 30 CFR 948.11(a)(8) (iv)(iv) concerning the inspection of coal refuse areas and impoundments.

(d) In summary, the Secretary finds that the adoption of amendments to the State's coal refuse disposal regulations has satisfied conditions (8), (8)(iv)(A), (8)(iv)(B), (8)(iv)(C) and portions of (8))(iv)(iv), but it has failed to satisfy condition (8)(ii) concerning the waiver of stability requirements and that part of (8)(iv)(iv) regarding the inspection of coal refuse placement and compaction, and the filing of certified reports promptly after each inspection of coal refuse impoundments or non-impounding coal refuse areas.

3. As discussed in Finding 23 of the November 16, 1983 **Federal Register** notice, the Secretary found section 4C.05(h) of the State's regulations to be less effective than 30 CFR 816.67(d)(2) and 817.(d)(2).

Section 4C.05(h) of the State's regulations provided that the peak particle velocity shall not be exceeded at the "nearest" protected structure, while 30 CFR 816.67(d)(2) requires that the maximum peak particle velocity shall not be exceeded at the location of "any" dwelling, public building, etc., outside the permit area. The Secretary was concerned that ground motion resulting from a blast, depending on topography, location and other factors, might be in compliance at the nearest protected structures but be excessive at a more distant structure. Also, the State

needed to define or otherwise explain the meaning of the term "protected structure" in order to ensure the protection of structures listed in 30 CFR 816.67(d)(2) and 817.67(d)(2).

On March 30, 1984, October 30, 1984, and June 14, 1985, the State submitted revisions to its surface mining regulations at sections 4C.05(h) and 4C.05(j). Section 4C.05(h) was revised to identify the maximum peak particle velocities allowable at "any" protected structure. The State also added section 4C.05(j) to clarify that protected structures include any dwellings, public buildings, schools, churches, or community or institutional buildings outside the permit area in addition to those identified in § 2.105, unless they are owned by the permittee. Therefore, the Secretary finds that sections 4C.05(h) and 4C.05(j) of the State's regulations are no less effective than 30 CFR 816.67(d)(2) and 817.67(d)(2) in that they provide that the maximum peak particle velocity shall not be exceeded at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area. Accordingly, the adoption of the amendments by the State will satisfy condition (16) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(16).

4. As discussed in Finding 24 of the November 16, 1983 **Federal Register** notice, sections 6B.02, 7B.02, and 8B.02 of the State's regulations were found to be less effective than 30 CFR 816.41(g) and 817.41(g). Although the State regulations provided that wells could be transferred to another party for further use, the regulations did not establish the criteria needed to approve such transfers.

On March 30, 1984, the State submitted an amendment to section 6B.02 of its surface mining reclamation regulations. Revised section 6B.02 provided that a well may be transferred to another party for further use after it has fulfilled its intended purpose if approved by the director. OSM notified the State that section 20–6–13(b)(10)(A) of the West Virginia Surface Coal Mining and Reclamation Act (WV SCMRA) and sections 6B.02, 7B.02 and 8B.02 of the State's regulations still did not require that all monitoring and exploratory wells be sealed prior to bond release if not being transferred for further use, that well transfers comply with all State and local laws, and that the permittee remain responsible for the proper management of the well until bond release as provided by 30 CFR 816.41(g) and 817.41(g).

On October 30, 1984, and June 14, 1985, the State resubmitted revisions to sections 6B.02, 7B.02 and 8B.02 of its regulations. The revised regulations provide that, prior to sealing, all drilled holes shall be managed to ensure the safety of people, livestock and wildlife; however, before final bond release, exploratory or monitoring wells must either be sealed in a safe and environmentally sound manner or, with the prior approval of the director, be transferred to another party for further use. The conditions of the transfer must comply with State and local laws, regulations, and other requirements. The revised provisions incorporate the three criteria of 30 CFR 816.41(g) and 817.41(g) governing the transfer of wells. Although not specifically stated, since a permittee cannot transfer or seal exploratory or monitoring wells until the time of final bond release, the State provisions effectively require that the permittee remain responsible for the proper management of the well until bond release. Therefore, the Secretary finds that sections 6B.02, 7B.02 and 8B.02 of the State's regulations are no less effective than 30 CFR 816.41(g) and 817.41(g), and that the adoption of the amendments by the State will satisfy condition (16) of his approval of the West Virginia program at 30 CFR 948.11(a)(16).

5. As discussed in Finding 25 of the November 16, 1983 **Federal Register** notice, the Secretary found that section 3F.01 was less effective than 30 CFR 778.14(c) and not in accordance with section 510(c) of SMCRA. Section 3F.01 required a listing of each violation received by the applicant for any West Virginia environmental protection law or regulation or for those of any other State if the applicant had not operated in West Virginia for the past three years. Applicants with a history of operating in West Virginia for more than three years would only be required to provide information regarding violations of West Virginia and Federal laws and regulations. Since violations of other State laws and regulations would not be listed by applicants who have operated in the State for more than three years, the Secretary found that the director would not have all the information needed to make the decision concerning permit issuance required by section 3F.02 of the State's regulations.

The State submitted revisions to its regulations at section 3F.01 on March 30, 1984, October 30, 1984, and June 14, 1985. Section 3F.01, as amended, requires that the applicant list each violation notice received in connection with any surface coal mining operation during the three-year period before the application date for violations of any environmental law, rule or regulation of any State and of regulations enacted pursuant to Federal law pertaining to air or water environmental protection. On September 28, 1983, OSM revised 30 CFR 778.14(c) to require that an applicant list all notices of violations and bond forfeitures issued to a subsidiary, affiliate, or person controlled by or under common control with the applicant. Although the applicant is required to list any and all notices of violations of all State and Federal environmental protection laws and regulations during the three-year period prior to the date of application, section 3F.01 does not require this information for subsidiaries, affiliates, and persons controlled or under common control with the applicant as required by revised 30 CFR 778.14(c). Therefore, the Secretary finds that revised section 3F.01 of the State's regulations is less effective than 30 CFR 778.14(c) and is less stringent than section 510(c) of SMCRA. Accordingly, the adoption of this amendment by the State will fail to fully satisfy condition (19) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(19).

6. As discussed in Finding 29 of the November 16, 1983 **Federal Register** notice, the Secretary found that section 2.109 of the State's regulations was less effective than 30 CFR 762.5. Section 2.109 defined substantial legal and financial commitments in a surface coal mining operation to mean that significant investments and legal commitments had been made in activities and facilities such as power plants, railroads, coal handling, preparation, extraction or storage facilities and other capital-intensive activities. However, the Federal regulations at 30 CFR 762.5 provide that substantial legal and financial commitments in a surface coal mining operation means significant investments that have been made on the basis of a long-term contract in power plants, railroads, coal handling, preparation, extraction or storage facilities and other capital-intensive activities. West Virginia did not require that significant investments be based on long-term coal contracts.

On March 30, 1984, October 30, 1984, and June 14, 1985, West Virginia submitted revisions to its regulations at section 2.109. The revised provisions require that significant investments and legal commitments be made on the basis of a long-term coal contract. Therefore, the Secretary finds that section 2.109 of the State's regulations is no less effective than 30 CFR 762.5, and that the adoption of this amendment by the State will satisfy condition (36) of his

approval of the West Virginia program at 30 CFR 948.11(a)(36).

7. As discussed in Finding 30 of the November 16, 1983 **Federal Register** notice, the Secretary found that the West Virginia program did not provide standards for permit approval or denial which are no less effective than 30 CFR 773.15 and in accordance with sections 510 (b), (c) and 522(e) of SMCRA, and which require certain permit conditions which are no less effective than those contained in 30 CFR 773.17 and in accordance with section 510 of SMCRA.

On March 30, 1984, the State submitted revisions to its program which included the "Addendum to Permit" form. The addendum contained standards for permit approval and established permit conditions to be met by the applicant. OSM notified the State on August 21, 1984, that the proposed permit addendum still did not contain the findings concerning existing structures, experimental practices, mountaintop removal, steep slope mining and prime farmland required by 30 CFR 773.15(c) (6) and (8), nor did it contain conditions regarding compliance with applicable performance standards, right of entry, inspection of alleged violations reported by a private person, and compliance, modification or abandonment of existing structures as required by 30 CFR 773.17 (b), (c), (d) and (f). Also, the State did not require written findings for significant revisions to permits.

On October 30, 1984, the State submitted revisions to the permit addendum dated September 1984 to satisfy the deficiencies mentioned above. Provided that this form is used as an integral part of the permit approval process, the Secretary finds that the proposed addendum provides standards for permit approval or denial which are no less effective than those in revised 30 CFR 773.15(c). The Secretary also finds that the proposed addendum contains permit conditions which are no less effective than those contained in 30 CFR 773.17. Accordingly, the adoption of the amendment by the State and the submission of a legal opinion to OSM stating that the substantive requirements which are set forth only in the proposed permit addendum are legally enforceable under State law will satisfy condition (37) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(37).

8. As discussed in Finding 31 of the November 16, 1983 **Federal Register** notice, the Secretary found that the West Virginia program did not require coal exploration applications to contain a description of the important habitats of any threatened or endangered species and a description of cultural or historical resources listed or eligible for listing on the National Register of Historic Places as required by 30 CFR 772.12(b) (8), (9) and (12) and section 512 of SMCRA, nor did it provide standards for the approval of coal exploration applications as required by 30 CFR 772.12(d) and sections 512 (a) and (d) of SMCRA.

On March 30, 1984, the State submitted revisions to its coal exploration regulations at sections 5A.02 and 5A.03 which would require coal exploration applications to contain descriptions of cultural or historical resources, threatened or endangered species and archeological sites. The Federal regulations were amended at 30 CFR 772.12(b)(9) to only require that coal exploration applications contain a description of threatened or endangered species. However, 30 CFR 772.12(b)(12) requires the submission of a map showing the location of critical habitats of any endangered or threatened species. The State's mapping requirements at section 5A.02 do not contain a similar provision and will have to be amended.

On August 27, 1984, OSM notified the State that revised section 5A.03 does not require, prior to approval of a notice of intent to prospect, the director to find in writing that the applicant has demonstrated that the exploration and reclamation described in the application (1) will not jeopardize the continued existence of an endangered or threatened species listed pursuant to section 4 of the Endangered Species Act of 1973 or result in the adverse modification of the critical habitats of those species, and (2) will not adversely affect any cultural or historic resources listed on the National Register of Historic Places, pursuant to the National Historic Preservation Act, unless the proposed exploration has been approved by both the regulatory authority and the agency with jurisdiction over such matters, as required by 30 CFR 772.12(d)(2) (ii) and (iii). Also, section 5A.03 does not require that each approval issued by the regulatory authority contain the terms and conditions necessary to ensure that exploration and reclamation activities will be conducted in compliance with WV SCMRA and section 5 of the regulations as provided by 30 CFR 772.12(d)(3). The terms and conditions of approval should at least contain the three conditions set forth at 30 CFR 772.12(d)(2).

On October 30, 1984, the State submitted an approval document for all notices of intent to prospect for more than 250 tons of coal. The State intends to use this document whenever it approves exploration activities involving the removal of more than 250 tons of coal. The Secretary finds that the "Notice of Intent to Prospect Approval Greater than 250 Tons" document contains provisions requiring adherence to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and the National Register of Historic Places, pursuant to the National Historic Preservation Act, as amended (16 U.S.C. 470 *et seq.*, 1976 Supp. V) which are no less effective than 30 CFR 772.12(d)(2) and which are in accordance with section 512 of SMCRA. This document also provides standards for the approval or disapproval of coal exploration applications which are no less effective than 30 CFR 772.12(d)(3) and which are in accordance with sections 512 (a) and (d) of SMCRA. However, prior to adoption, the State must provide OSM a legal opinion stating that the substantive requirements which the State intends to set forth in its approval document are legally enforceable under State law. As discussed above, although section 5A.02 of the State's regulations is no less effective than existing 30 CFR 772.12(b) in that coal exploration applications must contain descriptions of endangered or threatened species, cultural or historical resources and known archeological resources within the proposed exploration area, section 5A.02 does not require the submission of a map showing the location of critical habitats of any endangered or threatened species as required by 30 CFR 772.12(b)(12). Accordingly, the adoption of the amendments by the State will not fully satisfy condition (38) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(38).

9. As discussed in Finding 32 of the November 16, 1983 **Federal Register** notice, the Secretary found that Section 4F.08 of the State's regulations did not require evaluating the success of revegetation on the basis of statistically valid sampling techniques, as required by 30 CFR 816.116(a) and 817.116(a). On March 30, 1984, the State submitted a revision to section 4F.08(g) of its regulations which provided that standards for success must be based on statistically valid sampling techniques to evaluate ground cover and stocking. The State also submitted a revised chapter to its Technical Handbook concerning revegetation. On August 21, 1984, OSM identified several areas of concern regarding revegetation to which the State responded on October 30, 1984.

In regard to OSM's concern that the valid sampling techniques mentioned in section 4F.08(g) must be those contained

in Chapter 20 of the Technical Handbook, the State amended section 4F.08(g) to require that standards for success be based on statistically valid sampling techniques found in the Handbook. However, the Handbook provides that, if through field observations (ocular estimate) it is determined that the site has adequate vegetation (more than 70 percent cover) or has less than adequate vegetation (less than 70 percent cover), no statistically valid sampling technique need be used. Only in those instances where the ground cover appears questionable or where the site contains areas of questionable cover is the determination of success to be based on quantitative data that is collected in a statistically sound manner. The Federal regulations at 30 CFR 816.116 and 817.116 require the collection of objective data that can, when necessary, be analyzed statistically. As proposed, West Virginia plans to continue to use the ocular method for determining success rates, even though the State has established numerical ground cover standards based on specific postmining land uses. The State informed OSM that the seventy (70) percent cover requirement found in the Handbook will be changed to ninety (90) percent. Once the Handbook is revised, the State will still only require the use of a valid statistical sampling method when ground cover is 90 percent. When the cover is less or more than 90 percent, the State will determine the success rate through field observations. Therefore, the Secretary finds that the portion of the State's Technical Handbook which allows the use of the ocular method for determining success is less effective than 30 CFR 816.116 and 817.116 which only allow valid statistical sampling techniques for this purpose. Furthermore, if the State intends to impose requirements by referencing the Technical Handbook in its regulations, the State must provide OSM with a legal opinion stating that the revegetation requirements contained in the Technical Handbook are legally enforceable under State law.

OSM notified the State that while sections 4F.08(d) and 4F.08(g) require the evaluation of ground cover and stocking, they do not require productivity measurement when determining success, as is required by 30 CFR 816/817.116 (a)(2), (b)(1) and (b)(2). The State responded that past experience with the soils and climate of the State indicate that the standard which is set forth by regulations will be met at the end of the five-year responsibility period, and that that is productivity. The Federal regulations at 30 CFR 816/817.116(b) (1) and (2) require that the success standards and measurement of revegetation for sites with grazing or pasture postmining land uses include both ground cover and productivity (production), and that those sites with a cropland postmining land use include crop production. The State's comment equates ground cover with production. However, the State has failed to submit quantitative data, research reports or other documents that support the contention that production standards, as required by the Federal rules, will in all instances be attained at the end of the responsibility period. To be no less effective than the Federal rules, the State's rules must require a production determination for those land uses where a production success standard is required by the Federal regulations. Therefore, the Secretary finds that section 4F.08(d) and 4F.08(g) of the State's regulations are less effective than 30 CFR 816/817.116 (a)(2), (b)(1) and (b)(2) in that they do not establish productivity success standards or productivity measurements when determining the success of revegetation efforts.

Section 4F.08(g) of the State's regulations inaccurately states that "standards for success shall be based on statistically valid sampling techniques" and that "the success standard is ninety percent (90%) statistical confidence." Success standards are independent of sampling techniques and statistical theory. Statistics and sampling techniques apply only to the data collection and analysis methods used to determine whether the success standards have been met. The 90% statistical confidence interval is the level of probability that the vegetation has achieved the success standard. Statistical confidence intervals are not success standards. In addition, the State fails to require that data be analyzed using a one-sided test with a 0.10 alpha error. It is thus less effective than 30 CFR 816/817.116(a)(2) in that the State rule would permit use of a two-sided test. Therefore, for the reasons discussed above, the Secretary finds that section 4F.08(g) of the State's regulations is less effective than 30 CFR 816/817.116 (a) and (b).

OSM advised the State that the Federal regulations at 30 CFR 816/817.116(a)(2) require that standards for success include criteria representative of unmined lands in the area being reclaimed. Since revegetation must equal the ground cover prior to mining, West Virginia must provide OSM data and other information which support the standards for perennials, forest land and/or wildlife and commercial woodland as set forth in sections 4F.08 (d), (e) and (f). The State standards appear to be based on previous Federal standards which only establish minimum requirements. The States were to consider these minimum requirements in developing their own standards which were to be based on local climatological, geographic and soil conditions. OSM requested that West Virginia verify that the success standards set forth in sections 4F.08 (d), (e) and (f) are representative of premining conditions and are based on local agricultural or reforestation practices. The State provided OSM letters from the Wildlife Resources and Forestry Divisions of the Department of Natural Resources and the U.S. Soil Conservation Service. These agencies endorsed the proposed success standards for perennials, forest land and/or wildlife and commercial woodland on a statewide basis. OSM recognizes the technical expertise of these agencies; however, there is some concern that a statewide standard may not be appropriate for all sites and species in the State. Section 515(b)(19) of SMCRA requires the establishment of a vegetative cover at least equal in extent of cover of the natural vegetation of unmined lands in the area. Standards for success should be equal to the ground cover, production or stocking of the natural vegetation of the area prior to mining. OSM will monitor the use of the Statewide standards during oversight to determine if more site-specific standards will need to be developed by the State.

In summary, the Secretary finds that section 4F.08 of the State's regulations, as amended on June 14, 1985, is less effective than 30 CFR 816/817.116 in that it does not (a) require the use of a statistically valid sampling technique to evaluate the success of revegetation in all instances, (b) establish productivity standards for grazing land, pasture land or crop land and require productivity measurements on such sites, and (c) require the use of a 90 percent statistical confidence interval (i.e., a one-sided test with a 0.10 alpha error) in data analysis and in the design of sampling techniques. Therefore, the adoption of the proposed amendment by the State will not fully satisfy condition (39) of the Secretary's approval at 30 CFR 948.11(a)(39).

10. As discussed in Finding 33 of the November 16, 1983 **Federal Register** notice, the Secretary found that section 7C.03(a)(1) of the State's regulations did not provide for the identification of the

existence of renewable resource lands as required by 30 CFR 784.20.

The State submitted revisions to its regulations at section 7C.03(a)(1) on March 30, 1984, October 30, 1984, and June 14, 1985. Revised section 7C.03(a)(1) requires the submission of a subsidence control plan which includes a survey that identifies structures and renewable resource lands and an evaluation of whether subsidence could cause material damage or diminution of value or use of such structures or renewable resource lands. Therefore, the Secretary finds that section 7C.03(a)(1) of the State's regulations is no less effective than 30 CFR 784.20 and is in accordance with section 516(b) of SMCRA. Accordingly, the adoption of the amendment by the State will satisfy condition (40) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(40).

11. As discussed in Finding 34 of the November 16, 1983 **Federal Register** notice, the Secretary found that section 14A.03(a)(3) of the State's regulations did not contain provisions for the suspension or revocation of permits which are the same as or similar to those found at 30 CFR 843.13(a)(3).

On March 30, 1984, the State submitted an amendment to section 14A.03(a)(3). Revised section 14A.03(a)(3) provides that the director shall promptly review the history of violations of any permittee who has been cited for violations of the same or related requirements of the law, the regulations or the permit during three or more inspections of the permit area within any 12-month period. After such review, the director shall determine whether or not a pattern of violations exists. Although the provisions of section 14A.03(a)(3) are no less effective than those of 30 CFR 843.13(a)(3), section 14A.03(b) provides in part that, taking into account exceptional factors present in a case, the director may decline to issue a show cause order or may vacate an outstanding show cause order. On August 21, 1984, OSM notified the State that it must explain what exceptional factors the director may consider which would allow him to decline to issue or vacate a show cause order as provided by section 14A.03(b). OSM stated that West Virginia must at least clarify by policy that the director will not decline to issue or vacate a show cause order once a pattern of violations occurs and the violations are caused willfully or through unwarranted failure to comply.

On October 30, 1984, West Virginia informed OSM that it will adopt a policy clarifying what exceptional factors may cause the director to decline to issue or vacate a show cause order. According to the State, the director may vacate a show cause order if one or more of the following exceptional factors can be adequately demonstrated: (1) Acts of God (to include strike-related situations), (2) administrative error, such as improperly issued notices of violation or cessation orders, or improperly issued show cause orders, and (3) circumstances deemed beyond the operator's control so long as adequate remedial efforts are diligently underway. Along with the previously mentioned factors, the director may decline to issue a show cause order if, after a documented investigation, the nature of the violations and the rapidity of abatement is such that adequate compliance is being essentially maintained.

The Federal regulation at 30 CFR 843.13(a)(1) requires that the director issue an order to a permittee requiring him or her to show cause why his or her permit and right to mine under the Act should not be suspended or revoked, if the director determines that a pattern of violations exists or has existed, and that the violations were caused by the permittee willfully or through unwarranted failure to comply. Furthermore, 30 CFR 843.5 defines "unwarranted failure to comply" as the failure of a permittee to prevent the occurrence of any violation of his or her permit or any requirement of the Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit of the Act due to indifference, lack of diligence, or lack of reasonable care. "Willful violation" means an intentional act or omission which violates the Act, the regulations, the applicable program, or any permit condition required by the Act. Section 14A.03(a)(3), like 30 CFR 843.13, requires that the director promptly review the history of violations of any permittee who has been cited for violations of the same or related requirements of the law, the regulations or the permit during three or more inspections of the permit area within any 12-month period. If, after such review, the director determines that a pattern of violations exists or has existed and that the violations were caused by the permittee willfully or through unwarranted failure to comply with the Act, the regulations or the permit conditions, the director must issue a show cause order as provided by section 14A.03(a)(1).

Given the State's existing show cause requirements, it appears that the provisions for vacating or terminating show cause orders are unnecessary. The exceptional factors involving acts of God and administrative error should be given adequate consideration during the show cause proceedings themselves. Most likely, violations such as those mentioned above will not be committed willfully or through unwarranted failure to comply with the law, the regulations or permit conditions. Therefore, under the State's existing requirements, those types of violations would not be counted toward a pattern of violations. The other exceptional factors, involving circumstances beyond the operator's control and violations with such rapid abatement that adequate compliance is being maintained, are inconsistent with both the Federal requirements and the West Virginia program. On considering these factors, the State would only be concerned with the speed at which an operator abates a violation and not with whether the violation was caused willfully or through unwarranted failure to comply. Therefore, the Secretary finds that the provisions of section 14A.03(b) of the State's regulations, as amended on June 14, 1985, and the proposed policy statement of October 30, 1984, particularly exceptional factors involving circumstances beyond the operator's control and rapid abatement of violations that ensure adequate compliance, are less effective than those of 30 CFR 843.13 and are less stringent than those of section 521(a)(4) of SMCRA. Accordingly, the adoption of the amendment by West Virginia has failed to fully satisfy condition (41) of the Secretary's approval of the State's program at 30 CFR 948.11(a)(41).

12. As discussed in Finding 35 of the November 16, 1983 **Federal Register** notice, the Secretary found that the State's regulations at sections 6B.09(c), 7B.11(e) and 8B.09(d) did not contain provisions concerning the stabilization of rills and gullies, as required by 30 CFR 816/817.95(b).

On March 30, 1984, October 30, 1984, and June 14, 1985, the State submitted revisions to its regulations at section 4F.01(g) which include provisions for rill and gully stabilization. The Secretary finds that section 4F.01(g) of the State's regulations is no less effective than 30 CFR 816.95(b) and 817.95(b) and is in accordance with sections 515 and 516 of SMCRA. Accordingly, the adoption of the amendment by the State will satisfy condition (42) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(42).

13. As discussed in Finding 36 of the November 16, 1983 **Federal Register** notice, the Secretary found that section 7C.02(d) of the State's regulations did not prohibit underground mining activities beneath bodies of water with

a volume of 20 acre-feet or larger as required by 30 CFR 817.121(d).

On March 30, 1984, the State submitted revisions to its regulations at section 7C.02(d) which provide that, "underground mining activities shall not be conducted beneath or adjacent to public buildings and facilities, churches, schools, hospitals, or impoundments with a storage capacity of, or bodies of water containing, twenty (20) acre-feet or more, unless the director finds that material damage will not occur. The director may, if necessary to minimize the potential for damage, limit the percent of coal extraction underneath or adjacent to such features or facilities. If subsidence causes material damage to such features or facilities, the director may suspend mining under or adjacent to such features or facilities until the subsidence control plan is modified." On August 21, 1984, OSM notified the State that section 7C.02(d), as amended, still does not require operators to demonstrate that mining activities underneath or adjacent to certain areas will not "reduce the reasonably foreseeable use of those features or facilities" as provided by 30 CFR 817.121(d).

On October 30, 1984, and June 14, 1985, West Virginia submitted an amendment to section 7C.02(d) which provides that underground mining activities shall not be conducted beneath or adjacent to public buildings and facilities . . ., unless the director finds that mining will not cause material damage or reduce the foreseeable use. Therefore, the Secretary finds that section 7C.02(d) of the State's regulations is no less effective than 30 CFR 817.121(d) and is in accordance with sections 516 (b) and (c) of SMCRA. Accordingly, the adoption of the amendment by the State will satisfy condition (43) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(43).

14. As discussed in Finding 38 of the November 16, 1983 **Federal Register** notice, the Secretary found that sections 6B.04(e)(5), 8B.04(d)(5), 7B.04(f)(5), 6B.07(f), and 4C.05(f) of the State's regulations were less effective than 30 CFR 816.41(i), 817.41(h), 816.79, and 780.13(c) because they only gave the Mine Safety and Health Administration (MSHA) thirty days to review permit applications for discharging water into underground mines, mining within five hundred feet of an underground mine, and blasting within five hundred feet of an underground mine. The State considered a failure by MSHA to disapprove an application within thirty days as meaning that MSHA approved the proposed mining activity.

On March 30, 1984, West Virginia advised OSM that it was not planning to amend its regulations, but that it was seeking a memorandum of understanding with MSHA to correct the problem to both the State's and MSHA's satisfaction. The State described the proposed procedures that it was negotiating with MSHA concerning approval/denial of permit applications. Also, the State explained that its regulations do not mean automatic approval within 30 days of notification to MSHA, but that MSHA must respond within 30 days of notification. Corrections within that timeframe would allow for a resubmission of the revised plan with 30 days for review. On May 30, 1984, MSHA notified OSM that it did not concur with the proposed modifications to the West Virginia program. MSHA's primary concern was that the proposed regulations only gave them a 30-day time limit for review. As an organization dealing with safety, MSHA felt that a thorough review was much more important than a timely one (Administrative Record No. WV 574).

On July 10, 1984, officials from the West Virginia Department of Natural Resources, the West Virginia Department of Mines, MSHA and OSM met to discuss the West Virginia program amendment. At that meeting, West Virginia agreed to amend its regulations so as not to limit MSHA's review of permit applications to 30 days (Administrative Record No. WV 590). On August 21, 1984, OSM notified West Virginia that sections 6B.04(e)(5), 8B.04(d)(5), 7B.04(f)(5), 6B.07(f) and 4C.05(f) of the State's regulations were less effective than 30 CFR 816.41(i), 817.41(h), 816.79 and 780.13(c), respectively, in regard to MSHA approval of blasting or mining within 500 feet of an active underground mine and of allowing discharges into an underground mine.

On October 30, 1984, West Virginia submitted revisions to its regulations. Section 6B.07(f), as amended, prohibits mining within five hundred (500) feet of an underground mine not totally abandoned without the approval MSHA. Section 6B.04(e)(5), 8B.04(d)(5) and 7B.04(f)(5) were revised to prohibit discharging surface water into underground mine workings without MSHA approval. The Secretary finds that sections 6B.04(e)(5), 8B.04(d)(5), 7B.04(f)(5) and 6B.07(f) of the State's regulations are no less effective than 30 CFR 816.41(i), 817.41(h) and 816.79, respectively. However, West Virginia failed to amend section 4C.05(f) of its surface mining regulations, which provides that "No blasting within five hundred (500) feet of an underground mine not totally abandoned shall be permitted except with the concurrence of the West Virginia Department of Mines, the operator of the underground mine, and notification of MSHA with opportunity for denial within thirty (30) days."

On June 14, 1985, the State submitted revisions to its surface mining reclamation regulations at section 4C.05(f). Although the State's emergency regulations put a 30-day limit of MSHA's concurrence, the State's final regulations as approved by the State Legislature on April 13, 1985, and filed with the Secretary of State on June 13, 1985, specifically require prior concurrence of MSHA before blasting can be conducted within 500 feet of an underground mine not totally abandoned. Furthermore, the State advised OSM that it has been requiring MSHA approval prior to allowing blasting within 500 feet of an underground mine not totally abandoned (Administrative Record No. WV 634). Therefore, because section 4C.05(f) of the State's final regulations does not limit MSHA's concurrence to 30 days, the Secretary finds that section 4C.05(f) is no less effective then existing 30 CFR 780.13(c). Accordingly, the adoption of the amendment by the State will fully satisfy condition (44) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(44).

15. As discussed in Finding 39 of the November 16, 1983 **Federal Register** notice, the Secretary found that the State regulations governing government-financed construction were less effective than those of 30 CFR Part 707. West Virginia eliminated provisions for incidental mining from its regulations at section 9, and, in so doing, deleted standards for coal extraction incident to government-financed highway or other construction.

On March 30, 1984, October 30, 1984, and June 14, 1985, West Virginia submitted revisions to its regulations at section 9C. The Secretary finds that section 9C of the State's regulations is no less effective than 30 CFR Part 707 and is in accordance with section 528(3) of SMCRA. Therefore, the adoption of the amendment by the State will satisfy condition (45) of the Secretary's approval of the West Virginia program at 30 CFR 948.11(a)(45).

16. As discussed in Finding 26 of the November 16, 1983 **Federal Register** notice, the Secretary found that the State's incidental mining requirements at section 9 of the State's regulations and section 20–6–31 of WV SCMRA

were inadequate. Because West Virginia deleted section 9 from its regulations, the State deleted the means for implementing section 20-6-31 of WV SCMRA. The Secretary found that condition (20) of the State's program could be removed because West Virginia no longer allowed incidental coal mining.

On March 30, 1984, October 30, 1984, and June 14, 1985, West Virginia submitted revisions to its regulations at section 9. Section 9, as amended, contains special permitting requirements and performance standards for incidental coal mining operations in the State. The introduction to section 9 clarifies that the requirements apply to all incidental operations in accordance with section 20-6-31 of WV SCMRA which are less than two acres in size. Projects with incidental coal removal affecting more than two acres must comply with sections 3, 4 and 6 of the State's surface mining regulations. Since incidental mining operations affecting between two and five acres must comply with the State's permanent program requirements, the Secretary finds that section 9 of the State's regulations and section 20-6-31 of WV SCMRA are no less stringent than subsections 528 (2) and (3) of SMCRA.

17. On March 30, 1984, October 30, 1984, and June 14, 1985, West Virginia submitted revisions to its requirements for an approved person at section 3E of its surface mining reclamation regulations. On August 10, 1983, the West Virginia Association of Land Surveyors obtained an injunction preventing the State from enforcing section 3E.01 of the State's regulations, which limits the persons who may be approved to perform the functions set out in Chapter 20, Article 6, sections, 10(a)(13) and 13(b)(10) of the Code of West Virginia, as amended, to registered professional engineers. The preliminary injunction was scheduled to expire on October 9, 1983; however, on October 7, 1983, Judge Herman Canady extended the expiration date to March 15, 1984. The West Virginia Legislature approved amendments to section 3E effective March 10, 1984, which allow licensed land surveyors to achieve approved person status. On March 12, 1984, OSM advised the State that section 507(b)(14) of SMCRA was amended to give licensed land surveyors the authority to prepare and certify cross sections, maps or plans. The final Federal rule implementing the amendment was published in the **Federal Register** on April 24, 1985, and authorizes qualified registered professional land surveyors to prepare and certify the cross sections, maps and plans required in applications for surface coal mining and reclamation permission any State which authorizes land surveyors to prepare and certify such documents (50 FR 16194-16200). Although the amendment and the revised rule provide that licensed land surveyors can prepare and certify maps, plans and cross sections for sedimentation ponds and impoundments that do not meet the size criteria of 30 CFR 77.216(a), the construction of sedimentation ponds and impoundments, regardless of size, still has to be certified by a registered professional engineer as required by 30 CFR 816.46(b)(3) and 817.46(b)(3) and section 515(b)(10)(B)(ii) of SMCRA.

On March 30, 1984, West Virginia advised OSM that, in the State's opinion, the amendment to section 507(b)(14) of SMCRA allows licensed land surveyors/approved persons to certify the construction of sediment control structures, not just the designs. On August 21, 1984, OSM notified the State that section 3E.01 is deficient in that it does not require sedimentation ponds and impoundments to be certified upon construction by a registered professional engineer as provided by 30 CFR 816/817.46(b)(3) and section 515(b)(10)(B)(ii) of SMCRA. The State did not submit any revisions to its regulations at section 3E.01 on October 30, 1984, or June 14, 1985. Since section 3E.01 provides that for the purposes of section 13(b)(10) of the Act, an approved person shall be a licensed land surveyor, the Secretary finds that section 3E.01 is less effective than 30 CFR 816/817.46(b)(3) and is less stringent than section 515(b)(10)(B)(ii) of SMCRA. Accordingly, the Secretary is disapproving that portion of section 3E.01 of the State's surface mining reclamation regulations which provides for the certification of siltation structures upon construction by persons other than a qualified registered professional engineer.

18. On December 13, 1984, OSM sought further clarification from the West Virginia Department of Natural Resources concerning revisions to section 4B.05(c) of the State's surface mining reclamation regulations that were submitted on October 30, 1984. Revised section 4B.05(c) provided for quarterly examinations of impoundments, but it did not require annual inspections of impoundments by a registered professional engineer as provided by 30 CFR 816/817.49(a)(10) (Administrative Record No. WV 617). Earlier discussions with the State indicated that the State would amend former section 4B.05(c) to require the inspection of an approved structure by a registered professional engineer at least annually. In addition, the amendment would require quarterly examinations of non-MSHA type impoundments by a qualified person designated by the director. This person was to be a State inspector (Administrative Record No. WV 594). On December 19, 1984, the State informed OSM that a subsequent review of section 4B.05(c) indicates that this particular rule is intended to cover all forms of mandated inspections concerning drainage systems, including impoundments. On January 21, 1985, West Virginia issued a policy statement providing that "Where impoundments are involved, at least one quarterly inspection per year as mandated by section 4B.05(c) must be conducted by a person approved under the provisions of section 3E of the regulations." Section 2.59 of the State's regulations defines an impoundment to mean a closed basin constructed for the retention of water, sediment or waste (Administrative Record Nos. WV 617 and WV 633). Therefore, the Secretary finds that, except as discussed in Finding 17 above, sections 2.59 and 4B.05(c) of the State's regulations, as clarified by the policy statement of January 21, 1985, are no less effective than 30 CFR 816.49(a) (10) and (11) and 817.49(a) (10) and (11).

19. Sections 1.02 (a) and (c) of the State's surface mining reclamation regulations are less effective than the Federal regulations at 30 CFR 784.20 in that they do not require the submission of subsidence control plans with all permanent program permit applications for existing underground mining operations. Such operators need only submit an acknowledgement letter to make the permit application or permit complete. West Virginia explained that because existing operators acknowledged the applicability of the permanent program performance standards to their operations, it was not necessary to require the submission of subsidence control plans, especially since the State lacked criteria to evaluate the viability of such plans. OSM informed the State that sections 1.02 (a) and (c) are less effective than the Federal requirements, and the approval of the State's regulations on November 16, 1983, was made without any knowledge of the fact that those provisions supposedly waived the requirement for the submission of subsidence control plans by existing operations. The State has assured OSM that all applications filed after August 15, 1983, contain subsidence control plans as required by section 7C.03 of the State's regulations.

On January 11, 1985, the State published an interpretive rule in the *West Virginia Register* to clarify the requirements of section 7C.03. The rule is intended to provide the operator more guidance as to what the subsidence control plan must include in order to comply with the requirements of section 7C.03. The interpretive rule took effect on May 19, 1985 (Administrative Record Nos. WV 629 and 635). In addition, the State plans to review all outstanding underground coal mining permits. Those permits which are determined by the State to have inadequate subsidence control plans will be revised according to a schedule developed by the State. OSM will assist the State to ensure that this problem is resolved as expeditiously as possible. However, because sections 1.02 (a) and (c) of the State's proposed surface mining regulations do not require the submission of subsidence control plans, the Secretary finds that portions of sections 1.02 (a) and (c) are less effective than 30 CFR 784.20. Accordingly, the Secretary is disapproving section 1.02(a) of West Virginia's regulations to the extent that it provides,

> Such acknowledgement shall be deemed sufficient to make the permit or application complete for any new permit requirements contained in these regulations and shall become a part of the permit;

and section 1.02(c) of West Virginia's regulations to the extent that it provides,

> Such acknowledgement shall be deemed sufficient to make the application complete for any new permit requirements contained in these regulations and shall become a part of the permit.

20. On June 7, 1984, OSM notified the State of its concern regarding the State's problems in implementing its approved civil penalty system. Review of State records indicated that only a few notices of violations (DR-15) were considered for civil penalty assessment, and that no violations cited on inspection reports (DR-6) were considered for civil penalty purposes since the system was approved on November 16, 1983. On June 29, 1984, OSM and State officials met to discuss the State's problems in implementing its civil penalty system (Administrative Record No. WV 588). At that meeting, the State agreed to review all enforcement actions taken between November 16, 1983, and June 29, 1984. The violations would be reviewed using a Code of Violations that the State was developing. The Code, which was to list the 236 most commonly cited violations, would be revised to determine assessable and non-assessable violations and to account for repetitive violations. Several meetings were held subsequently between OSM and the State to discuss proposed revisions to the Code of Violations (Administrative Record Nos. WV 589, 602, 603 and 604).

On October 30, 1984, the State submitted revisions to its civil penalty program. The revisions include the Code of Violations, a description of the proposed tracking system for enforcement actions, a revised surface mine inspection report (DR-6) and inspector civil penalty worksheet (DR-24A) which is to be completed by the inspector for every violation cited. The DR-6, in addition to reporting routine inspection activities, will be used for reporting enforcement actions (non-assessable violations). It will allow enforcement actions to be tracked and documented in the same manner as a DR-15 notice of violation. The DR-24A will indicate whether a violation is assessable or non-assessable. If the violation is assessable, the DR-24A will assist the assessment officer in determining the civil penalty amount to be assessed.

As previously discussed, the Code of Violations sets forth the most commonly cited violations and differentiates between assessable and non-assessable violations. The assessable violations are to be reported as notices of violations or cessation orders on the DR-15 and the non-assessable violations will be reported as enforcement actions on the DR-6. To be classified as non-assessable (a) the violation cannot cause or have the potential to cause adverse environmental impact or pose a threat to public health or safety, (b) there can be no history of repeat violations (i.e., two enforcement actions or notices of violation indicating noncompliance with the same performance standard during the preceding twelve months) of the same standard and no pattern of violations (i.e., three same or similar notices of violation within the preceding twelve months) of any type, and (c) only violations designated in the Code of Violations as non-assessable may be reported in this way. If a violation is not designated non-assessable in the Code, an inspector will not be able to consider it as non-assessable even if it otherwise meets the criteria set forth in the Code. OSM has advised the State that the State may amend the Code to include additional non-assessable violations, but only with OSM's approval. The proposed Code of Violations contains 89 non-assessable and 147 assessable violations. Because some non-assessable violations could have the potential to cause adverse environmental impacts under certain circumstances, the Code contains provisions allowing the State to assess any of the 89 non-assessable violations should be circumstances require an assessment.

Under the proposed program, the maximum abatement time allowed to complete remedial measures for non-assessable enforcement actions is fifteen days. If an enforcement action cannot be abated within fifteen days, the Code requires that it must be modified to either a notice of violation (upon demonstration of good faith by the operator) or a cessation order. Abatement periods specified in notices of violation issued to extend enforcement actions cannot exceed 75 days, hence the maximum abatement period for each violation will not exceed 90 days. The State will include all DR-6's (enforcement actions) and DR-15's (notices of violations) in an operator's history of violations, even if the DR-15 is issued to extend a DR-6 enforcement action. Because DR-6 enforcement actions cannot cause or have the potential to cause adverse environmental impact or threaten public health or safety, and because they must be abated within fifteen days, these violations are classified as non-assessable and will not be considered in determining a pattern of violations. Only three same or similar violations which result in notices of violation within the preceding twelve months will be considered in determining whether a pattern of violations exists for a particular operation. Although enforcement actions are not considered in determining patterns of violations, this difference does not render the proposed State system less effective than the Federal requirements. Since enforcement actions must either be abated within fifteen days or modified to a notice of violation or a cessation order, any enforcement action that is not abated will be included in a pattern of violations determination. Under the proposed system, an enforcement action cannot be issued when there is a history of repeat violations which, as defined by the State, is two enforcement actions or notices of violation indicating noncompliance with the same performance standard during the preceding twelve months. Failure of an operator to abate two enforcement actions of the same performance standard within a twelve-month period will require the State to issue notices of violation during the remainder of the twelve-month period for those same types of violations which would otherwise be considered non-assessable

enforcement actions. All such notices of violation issued in lieu of enforcement actions will be included in a pattern of violations determination. Once the State determines that an operation has a pattern of violations of any kind, the proposed amendment prohibits the State inspector from issuing enforcement actions for any violations that may be committed while the pattern of violations exists. Violations which occur under these circumstances will be cited on DR-15's as notices of violation and will be considered in pattern of violations determinations.

The State also submitted a revision to section 14B.01(b) of its regulations which provides for discretionary waivers of civil penalties if the proposed assessment is less than one thousand dollars. State inspectors have been advised that in the event that he or she feels that a penalty of less than $1,000 should be assessed, justification for such action must be included in the DR-24A for consideration by the assessment officer. In addition, the State also developed a policy, to be implemented upon the Secretary's approval, which will further clarify section 14B.01(b) of the State's regulations. The policy provides that any proposed civil penalty assessment which is less than $1,000 and has an operator negligence rating of three or above as indicated in section 5 of Form DR-24A must be assessed. These provisions are no less effective than 30 CFR 845.12(c).

Therefore, the Secretary finds that the proposed State enforcement and civil penalty procedures are no less effective than the Federal requirements at 30 CFR 843.12, 843.13, 845.11 and 845.12 and are the same as or similar to those of sections 518 and 521(a) of SMCRA.

Disposition of Public Comments

Public comments on the revised West Virginia program were solicited by OSM on three different occasions. Comments were requested by publication of notices in the **Federal Register** on May 8, 1984, November 23, 1984, and June 19, 1985 (49 FR 19525-19527, 49 FR 46168-46169 and 50 FR 25428-25430). The following is a summary of comments received on the proposed program amendments and the Secretary's response to those comments.

All comments on the regulations are addressed using the revised State regulations submitted on June 14, 1985 (Administrative Record No. WV 647) as the basis for the comparative analysis with the Federal requirements.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were solicited from various Federal agencies on the proposed amendments to the State permanent program. Of those agencies invited to comment, comments were received from the following Federal agencies: U.S. Department of Agriculture, Soil Conservation Service, Forest Service; U.S. Department of the Army, Corps of Engineers; U.S. Department of Labor, Mine Safety and Health Administration; U.S. Environmental Protection Agency; U.S. Department of the Interior, National Park Service, Fish and Wildlife Service; and the Advisory Council on Historic Preservation.

1. In response to section 30.01 of the State's regulations, which requires that the director transmit a copy of the complete permit application to the Federal, State or local agencies with jurisdiction over the potentially affected park or historic place so that the agency may approve or disapprove the proposed operations, the National Park Service (NPS) wanted OSM and the State of West Virginia to know that all future correspondence regarding the State's permanent program and its interaction with units of the national park system should be sent to its Denver office. The Secretary has provided this information to the State.

2. On April 25, 1984, OSM reinitiated formal consultation with the U.S. Fish and Wildlife Service (FWS) concerning the proposed amendments to the West Virginia program to satisfy the remaining fifteen conditions of approval. On June 4, 1984, the FWS stated that the proposed modifications of March 30, 1984, by West Virginia do not affect the biological opinions of January 5, 1981, and April 4, 1983, concerning the State's regulatory program (Administrative Record No. WV 577). The FWS also stated that all of the comments made in its April 4, 1983, letter appear to remain valid, as none of the recommended changes were made by OSM.

On November 9, 1984, OSM requested that the FWS reconsider its biological opinion issued under Section 7 of the Endangered Species Act in view of the proposed modifications submitted by the State on October 30, 1984. Also, OSM provided the FWS a copy of the Secretary's response to their comments of April 4, 1983, which appeared in the **Federal Register** on November 16, 1983 (48 FR 52046-52050), and requested that they reconsider their comments in view of the Secretary's response (Administrative Record No. WV 606). On December 20, 1984, the FWS notified OSM that based on their review, it remains their biological opinion that the granting of primacy to West Virginia under its amended regulatory program is not likely to jeopardize the continued existence of endangered or threatened species or adversely modify their critical habitats. The opinion was rendered with the understanding that OSM would continue its oversight program to ensure that West Virginia's program adequately protects endangered and threatened species. The FWS also reviewed the responses to their earlier comments as discussed in the **Federal Register** of November 16, 1983. The FWS concluded that, "although not all of our recommended changes were made in the State program, it is clear that OSM gave our recommendations careful consideration" (Administrative Record No. WV 625).

Since the revised regulations submitted by the State on June 14, 1985, did not contain any changes to the provisions for threatened or endangered species, it was not necessary to request a biological opinion on those modifications.

3. On May 4, 1984, the Secretary requested the concurrence of the U.S. Environmental Protection Agency (EPA) on the West Virginia program amendment of March 30, 1984. On July 2, 1984, EPA concurred with the proposed modifications to the West Virginia program (Administrative Record No. WV 586).

On December 4, 1984, OSM requested that EPA reconsider its decision of July 2, 1984, because of the revisions submitted by the State on October 30, 1984, to its initial amendment of March 30, 1984. On January 25, EPA concurred with the modifications submitted by West Virginia on October 30, 1984. EPA concluded that the West Virginia program demonstrates the legal authority, administrative capability, and technical conformity to the Federal regulations necessary to maintain water quality standards promulgated under the authority of the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*) and the Clean Air Act, as amended (42 U.S.C. 1837 *et seq.*) EPA's concurrence was given in fulfillment of the requirements of section 503(b)(1) and (2) of SMCRA (Administrative Record No. WV 632).

4. EPA stated that minesoil classifications required by the State should be in keeping with traditional soil classification systems and methods. The Secretary concurs with this comment. Nothing in Sections 4F.02 and 4F.06 of the State's surface mining reclamation regulation indicates that the State will accept anything less than traditional soil classification systems and methods.

5. EPA stated that reference is made in Sections 4F.02 and 4F.06 of the State's regulations to the EPA manual used for minesoil and overburden analysis. EPA stated that some procedures in the

reference manual are better than others and refinements are continually under development. EPA feels that West Virginia should continue to revise and update such methodology. The EPA Manual 600/2–78–054, Field and Laboratory Methods Applicable to Overburdens and Minesoils, was one of several technical publications relied upon by OSM for developing the Federal requirements at 30 CFR 780/784.22, geologic information. West Virginia requires that sample collection, preparation and analyses by the applicant be conducted in accordance with standard procedures outlined in the EPA Manual or other methods approved by the director. The Secretary agrees with EPA that the methodology cited in the regulations regarding overburden analysis should be continually reviewed and updated by the State as the procedures are revised. To OSM's knowlege, the State is using the most current procedures for overburden analysis. If advised by EPA, OSM will provide the State additional information to update its existing methodology and clarify which procedures in the referenced manual EPA feels are better than others.

6. EPA stated that section 4F.10 should specify years rather than growing seasons. Section 4F.10 provides that upon expiration of five (5) growing seasons following the date of the last augmented seeding or planting and upon request by the operator for final release, a final vegetation evaluation shall be made by the inspector. Since section 2.51 of the State's regulations defines growing season to mean one (1) year, it is unnecessary to specify years rather than growing seasons in section 4F.10.

7. EPA stated that section 4H.07(a)(1) is actually not a sentence, and because it is ambiguous, it may be open to several interpretations. EPA also stated that incremental bonding is acceptable when the full bond for any parcel is escrowed and not applied to any other parcel to be subsequently opened. According to EPA, section 4H.07(a)(2) does not seem to say this. Furthermore, each parcel should be fully bonded and that bond not released or applied elsewhere until all the conditions of reclamation are met. On October 1, 1984, Judge Flannery remanded the Federal incremental bonding requirements at 30 CFR 800.11(b). Judge Flannery found that the Federal rule contradicts the statute and the legislative history to the extent that it allows the bond to be posted for an area less than the entire area to be mined within the initial permit term [See *In Re: Permanent Surface Mining Regulation Litigation (II)*, Civil Action No. 79–1144 (D.D.C. 1984)]. On February 21, 1985, OSM suspended its incremental bonding requirements at 30 CFR 800.11(b) to comply with the court order. For this reason, the Secretary cannot approve specific incremental bonding standards, and as a part of regulatory reform, the States are being asked to amend their programs to delete incremental bonding requirements.

8. The Advisory Council on Historic Preservation (ACHP) stated that the likelihood exists that implementation of the State program will result in adverse effects upon properties included in or eligible for the National Register of Historic Places. The ACHP went on to say that before approving this undertaking, OSM is required to take into account its effects on historic properties and to afford the ACHP a reasonable opportunity to comment in accordance with the National Historic Preservation Act (16 U.S.C. Sec. 470). In order to comply with section 106 of the National Historic Preservation Act, OSM, in its program approval process, must obtain State assurance that any authorization of surface mining reclamation and exploration activities will take into account effects on historic properties listed or eligible for listing on the National Register of Historic Places. Sections 20–6–18(b) (4), 19, 20 and 22(d)(2) of WV SCMRA and sections 3H.01, 3M.02, 30.01, 30.05 and 5A.02(h) of the State's regulations provide protection for historic properties listed or eligible for listing on the National Register of Historic Places from the effects of coal exploration and surface coal mining reclamation activities. Furthermore, as discussed in Findings 7 and 8, the use of the proposed permit addendum and the coal exploration approval document to allow for the removal of more than 250 tons of coal will ensure the protection of cultural or historical resources and known archeological sites in the State, provided that they are demonstrated to be legally enforceable under State law. OSM will continue to monitor the State's enforcement of these provisions to ensure the protection of historic, cultural and archeological resources in the State.

9. The West Virginia Highlands Conservancy (WVHC) stated that the provisions of the West Virginia regulations at section 14A.03(b) which allows the Director to vacate a show cause order for "exceptional factors" is inconsisent with 30 CFR 843.13. The WVHC also stated that the proposed policy submitted by the State in response to condition 41 does not adequately clarify when special dispensation is available, and is not necessary since West Virginia authorities already have the necessary flexibility to deal with exceptional circumstances during the show cause proceedings. The Secretary concurs with these comments. See Finding 11 for futher discussion of this issue.

10. In regard to the State's submittal letter of October 29, 1984, the U.S. Forest Service (USFS) inquired what rating is above three—a two or a four. The Secretary assumes that the comment is in regard to the State's proposed policy that will provide that any proposed civil penalty assessment which is less than $1,000 and has an operator negligence rating of three or above must be assessed. The rating factors for negligence are contained in Section 14B.02 of the State's regulations. The proposed penalty rating for negligence is 0–8. The rating above three would be four.

11. The USFS stated the State's response to condition 1 does not address appropriate handling of "deep soil swale" situations or the handling of situations where anticipated "rock bench" actually is a soft disaggregating shale or fire clay. The USFS concluded that either provides a more unstable situations than that which is directly addressed in the discussion. As discussed in Finding 1, the Secretary concluded that the proposed narrative does not satisfy the initial condition, and the State must amend its program to require that the backfill of auger mining operations involving remined areas be designed by a qualified registered professional engineer.

12. The USFS stated that section E.05(a)(3)(b) of the State's coal refuse regulations is ambiguous in that placement of layers for compaction shall be approximately parallel with the proposed finish grade and shall be deposited in uniform horizontal layers. According to the USFS, construction cannot abide by both stipulations. The requirement concerns the downslope placement of fill material when used in the construction of diversion ditches. The Secretary agrees that depending on the grade not all material may be deposited in true horizontal layers, but the proposed language is necessary and does not render the requirement meaningless.

13. The USFS commented that section E.08(d)(3)(a) should be rephrased to read, "color photos will not provide support for structures of any type." Section E.08(d)(3)(a) currently provides that the underdrains and protective filters must be supported by color photographs. Section E.08(d)(3)(a) is no less effective than 30 CFR 816/

817.83(d)(3) which require the certified report on the drainage system and protective filters to include color photographs. However, the State will have to provide OSM further clarification later regarding the size, number and when such photographs should be taken of the underdrains and protective filters. A discussion of this issue is contained in Finding 2(c)(iv).

14. The USFS stated that the reporting requirements at section E.08(d)(3)(c) should also include a statement of maximum depth and concurrent relevant elevations of any impounded waters over the past year. The reporting requirements of section E.08(d)(3)(c) for impounding and non-impounding coal refuse piles are no less effective than the Federal requirements at 30 CFR 816/817.49(a)(10) and 816/817.83(d)(2).

15. The USFS stated that the inspection of sediment control structures or diversions constructed prior to the construction of an embankment foundation cannot be inspected at the same time as construction of an embankment foundation. According to the USFS, the only appropriate time to inspect the construction of any structure is during its construction—not during the later work on some other items. At issue was whether or not the State's coal refuse regulations require inspections at each critical construction period. As discussed in Finding 2(c)(iv), the State's regulations require inspections at each major portion of the construction sequence, but they do not require inspection during the placement and compaction of coal waste materials.

16. The USFS stated that neither the Federal nor the State regulations address the question of where the records will be kept between the time when the operation ceases and final bond release. As discussed in Finding 2(c)(iv), the Secretary concluded that section E.08(d)(1) is no less effective than 30 CFR 816/817.83(d)(4) and 816/817.49(a)(10) since the inspection reports will be maintained at or near the mine office nearest the minesite. Under the State's requirements, the inspection reports will be kept at or near the mine office nearest the minesite until final bond release.

17. The USFS stated that section 4F.08(g) only addresses valid sampling techniques directed toward cover and stocking. Productivity, unless specifically redefined for the limited case, involves more than cover or stocking whether taken separately or in combination. As discussed in Finding 9, the Secretary concurs with this comment.

18. The USFS stated that neither the OSM comment of August 21, 1984, concerning section 4F.08(d), the State's reply, nor section 4F.08(e) and (f) make it clear as to what standards are desired or required for legumes or perennial grasses. OSM's comment, which was primarily editorial, sought clarification from the State regarding Section 4F.08(d). OSM simply felt that section 4F.08(d) should be retitled "Standards for Grazing Lands or Pasture Lands" so that the standards for legumes and perennial grasses required in section 4F.08(d) would not appear to conflict with the standards for legumes and perennial grasses required in sections 4F.08(e) and (f). The State chose not to retitle this section. As discussed in Finding 9, section 4F.08(d) is less effective than 30 CFR 816/817.116(b)(1).

19. The USFS stated that the State indicated that section 7A.03(b) was revised, but the revision discussed in the August 1984 errata sheet does not conform with the current language of that section. The State has made changes to its regulations at sections 7A.03(a) and 7A.03(b). The State replaced the commas which separated the two sections with periods.

20. The USFS stated that the State did not reply to OSM's proposed condition comment of August 21, 1984. According to the USFS, since section 10 of the State's regulations is still reserved, OSM's comment is still valid. When initially proposed, section 10 of the State's regulations contained the coal refuse disposal requirements. The State later promulgated its coal refuse standards as separate regulations. Section 10 of the State's surface mining reclamation regulations, as submitted on June 14, 1985, contains NPDES requirements. The OSM comment that the USFS mentions concerns the certification of impoundments by a registered professional engineer. See Finding 17 for a discussion of this issue.

21. The USFS stated that under types of enforcement actions, there is ambiguity between Item 1d and Item 3a concerning what is to be done when a DR-6 enforcement action is not corrected within the specified 15-day period. Item 1d provides that DR-6 enforcement actions not remedied within 15 days must be modified to either a cessation order or a notice of violation upon demonstration of good faith by the operator. Item 3a merely reconfirms that a cessation order will be issued for failure of an operator to abate a DR-6 enforcement action within 15 days unless extended. See Finding 20 for further discussion of this issue.

22. The Federal Mine Safety and Health Administration (MSHA) objected to the State's requirements at sections 4C.05(f), 6B.04(e), 6B.07(f), 7B.04(f)(5) and 8B.04(d)(5) which only allow MSHA 30 days to review permit applications for discharging water into underground mines, mining within five hundred feet of an underground mine and blasting within five hundred feet of an underground mine. As explained in Finding 14, West Virginia revised its regulations on October 30, 1984, and June 14, 1985, so as not to limit MSHA's review of permit applications to 30 days.

23. MSHA stated that, while section 7C.02(d) provides that underground mining activities shall not be conducted beneath or adjacent to impoundments with a storage capacity of 20 acre feet or more unless the director finds that material damage will not occur, the operator should be aware that MSHA also has regulations concerning this subject at 30 CFR 75.1716. OSM has advised the State of MSHA's requirement. The State is aware that there are other State and Federal requirements which must be complied with before mining can be conducted beneath or adjacent to impoundments. The State revised section 7C.02(d) to be no less effective than OSM's requirements at 30 CFR 817.121(d). See Finding 13 for a discussion of this issue.

24. MSHA stated that the State's coal refuse disposal regulations only mention MSHA approval under Section E.11, Burning Refuse Piles. MSHA concluded that this could be misleading to the operator because MSHA also has requirements governing coal refuse disposal at 30 CFR 77.214 through 77.217. Section E.11 requires the approval of MSHA and the director before extinguishing coal refuse fires. The State is not trying to mislead the operator. The State requires MSHA's approval for extinguishing coal refuse fires because OSM's regulations at 30 CFR 817.87 contain a similar requirement. The State's regulations do not have to contain or reference all Federal regulations governing coal refuse disposal. The State regulations contain OSM's requirements because, with program approval, the Department of Natural Resources was designated as the primary regulatory authority in West Virginia.

25. MSHA stated that the West Virginia regulations at section D.05(d)(a)(1) provide that precipitation values may be obtained from Technical Paper 40, U.S. National Weather Service. MSHA recommends the use of the probable maximum precipitation (PMP) values contained in Hydrometeorological Report No. 51, U.S. Department of Commerce. PMP is defined as the theoretically greatest amount of precipitation for a given

duration that is physically possible over a particular drainage basin at a certain time of year. According to MSHA, PMP values are somewhat higher in the Hydrometeorological Report No. 51.

OSM's requirements at 30 CFR 816/817.49(a)(2) provide that the design of impoundments must be certified by a qualified registered professional engineer using current, prudent engineering practices and any design criteria established by the regulatory authority. OSM's regulations do not specify what technical publication must be used to obtain PMP values. Since current engineering practices must be used in designing impoundments, it is intended that the most current PMP values should also be used. The Secretary agrees that the State should use the most current technical publications to obtain PMP estimates.

According to the National Weather Service, the most current PMP estimates are contained in Hydrometeorological Report No. 51, which contains all seasonal PMP values for 6-hour to 72-hour durations, Hydrometeorological Report No. 52, which instructs the user on how to apply the PMP data, and Hydrometeorological Report No. 53, which contains seasonal variations of PMP estimates for ten-square-mile areas of the United States east of the 105th meridian. According to the National Weather Service, the PMP estimates contained in Hydrometeorological Report No. 51 are precise for only the western third of the State that parallels the Ohio River. Due to orographic effects, the PMP values for the remaining two-thirds of the State are not exact and should be further refined by the user when applied.

26. MSHA stated that its guidelines are more stringent than West Virginia's design requirements at section D.05(d)(a)(1). MSHA recommends more severe design storms in the following cases:

	MSHA recommends	WV regulations
I. "Large" Low Hazard Impoundments (i.e. >40' deep or >1000 A.F.	½ PMP	$P_{100} + .40\ (PMP - P_{100})$
II. "Small" Moderate Hazard (i.e. <40' or <1000 A.F.	½ PMP	$P_{100} + .40\ (PMP - P_{100})$
III. "Large" Moderate Hazard (i.e. >40 ft. or >1000 A.F.	PMP	$P_{100} + .40\ (PMP - P_{100})$

MSHA concluded that in West Virginia, the quantity $P_{100} + .40\ (PMP - P_{100})$ is generally a little less than 0.5 PMP. The only significant difference is Case III in which MSHA's criteria are more stringent. West Virginia's design requirements for impoundments incorporate most of the standards set forth in Technical Release No. 60 published by the U.S. Soil Conservation Service. As explained in the State's coal refuse disposal regulations at section D.05(b), West Virginia classifies impoundments on the basis of the potential loss that would result due to a failure. Class A impoundments are located in rural or agricultural areas where failure may damage farm buildings, agricultural land or secondary highways. Failure of the structure would cause only loss of the structure and loss of property use, such as related roads, but with little damage to adjacent property. Any impoundments exceeding 25 feet in height measured at the downstream toe or with a 200 acre-feet or larger storage volume or having a watershed exceeding 500 acres cannot be a Class A structure. Class B impoundments are located in predominately rural agricultural areas where failure may damage isolated homes, primary highways or minor railroads or cause interruption of relatively important public utilities. Failure of the structure may cause great damage to property and project operations. Class C impoundments are located where failure may cause loss of life, serious damage to homes, industrial and commercial buildings, important public utilities, primary highways, or main railroads. This classification must be used if a failure might cause loss of human life. Section D.05(d)(a)(1) requires that Class A impoundments be designed for a minimum of $P_{100} + 0.12\ (PMP - P_{100})$ inches of rainfall in six hours plus three feet of freeboard. Class B impoundments be designed for a minimum of $P_{100} + 0.40\ (PMP - P_{100})$ inches of rainfall in six hours plus three feet of freeboard and Class C impoundments be designed for the probable maximum precipitation of the appropriate duration. Case I appears to describe a Class A structure. However, in West Virginia, no impoundment exceeding twenty-five feet in height or 200 acre-feet of storage volume or having a watershed that exceeds 500 acres can be classified as a Class A structure. Therefore, all three examples are representative of Class B structures.

As explained by MSHA, the State's design requirements for Class B structures are fairly consistent with theirs for large low hazard impoundments (Case I) and small, moderate hazard impoundments (Case II). However, their criteria for large moderate hazard impoundments (Case III) are more stringent than the State's standards. MSHA requires such structures to be designed for the probable maximum precipitation event of the appropriate duration, whereas the State requires them to be designed for a minimum of $P_{100} + 0.40\ (PMP - P_{100})$, inches of rainfall in six hours plus three feet of freeboard. The Federal regulations at 30 CFR 77.216 require MSHA's approval when the proposed structure can impound water, sediment, or slurry to an elevation of five feet or more above the upstream toe of the structure and can have a storage volume of twenty-acre feet or more; or impound water, sediment or slurry to an elevation of twenty feet or more above the upstream toe of the structure; or present a hazard to coal miners as determined by MSHA. Since the large, moderate hazard impoundments described in Case III would impound water to an elevation greater than or equal to forty feet or have a storage volume greater than or equal to 1,000 acre-feet, the operator would have to submit the plans for the design and construction of such structures to MSHA for approval as required by 30 CFR 77.216(b).

Furthermore, section 4B.05(a)(8) of the State's surface mining reclamation regulations requires that any sediment control structure which impounds water to an elevation of five feet or more above the upstream toe of the structure and can have a storage volume of twenty acre-feet or more, or which impounds water to an elevation of twenty feet or more above the upstream toe of the structure, must be constructed, inspected and abandoned in accordance with 30 CFR 77.216. Coal refuse impoundments, however, are not required to comply with 30 CFR 77.216. Although the State's design requirements for large moderate hazard coal refuse impoundments, i.e. >40 feet or >1,000 acre-feet, are less stringent than MSHA's requirements, plans for a structure of that size would have to be reviewed and approved by MSHA, and it would have to be designed and constructed in accordance with MSHA standards regardless of the State's requirements at section D.05(d)(a)(1). Also, section D.05(b)(1)(c) provides that an impoundment must be classified as a Class C impoundment if failure would cause possible loss of life. As mentioned, Class C impoundments must be designed for the probable maximum precipitation of the appropriate duration. Most likely a coal refuse impoundment of the size described above would cause probable loss of life and would, by the State's own requirements, have to be designed for

the probable maximum precipitation event.

Secretary's Decision

The West Virginia permanent regulatory program is hereby amended to indicate: the approval, with certain exceptions, of the March 30, 1984, October 30, 1984, and June 14, 1985, amendments as set forth herein, the disapproval of portions of sections 1.02 (a) and (c) and 3E.01 of West Virginia's surface mining reclamation regulations as set forth in 30 CFR 948.12, and the removal of the conditions of approval placed on the West Virginia program as set forth at 30 CFR 948.11(a)(8), (8)(iv)(A), (8)(iv)(B), (8)(iv)(C), (14), (16), (36), (37), (40), (42), (43), (44) and (45). The Secretary will take appropriate steps under 30 CFR Part 733 to terminate the State program if provisions correcting the deficiencies are not made by the date specified in 30 CFR Part 948. The approval of the amendments, the disapprovals and the removal of conditions are being made retroactive to August 27, 1984, to concide with West Virginia's adoption of its surface mining reclamation and coal refuse disposal regulations. Retroactive approval is necessary to ensure no adverse effect on State enforcement actions taken since that date, and to ensure that no one will be unreasonably injured as a result of detrimental reliance on a later effective date because the State has been enforcing these regulations since August 27, 1984.

Additional Information

1. Compliance With the National Environmental Policy Act

The Secretary has determined that pursuant to the 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 will 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 will not impose any new requirements; rather it will ensure that existing requirements established by SMCRA and the Federal rules will 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.

4. Environmental Protection Agency (EPA) Concurrence

On July 2, 1984, and January 25, 1985, the EPA transmitted its written concurrence on the West Virginia program amendments submitted on March 30, and October 30, 1984, as they related to air or water quality standards under the authority of the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*) and the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*) (Administrative Record Nos. WV 586 and WV 632). Since the revised regulations submitted by West Virginia on June 14, 1985, did not involve changes to proposed air and water quality standards that EPA had not already reviewed, it was not necessary to obtain EPA concurrence on those revisions.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 948 is amended as set forth herein.

Dated: July 8, 1985.

Leona A. Power,

Acting Assistant Secretary, Land and Minerals Management.

PART 948—WEST VIRGINIA

30 CFR Part 948 is amended as follows:

1. The authority citation for Part 948 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 948.11 is amended by removing and reserving paragraphs (a)(14), (16), (36), (37), (40), (42), (43), (44) and (45) and by revising paragraphs (a)(1), (8), (19), (38), (39) and (41) to read as follows:

§ 948.11 Conditions of State regulatory program approval.

(a) * * *

(1) Steps will be taken to terminate the approval found in § 948.10 unless West Virginia submits to the Secretary, by January 11, 1986, copies of regulations or other program amendments which include provisions for augering on previously mined areas which are no less effective than 30 CFR 819.19(b) (1) and (3) and which are no less stringent than sections 102 and 515 SMCRA.

* * * * *

(8) Steps will be taken to terminate the approval found in § 948.10 unless West Virginia submits to the Secretary, by January 11, 1986, copies of promulgated regulations or other program amendments which eliminate the waiver of stability analyses for non-impounding coal waste piles where site conditions indicate that failure will not occur, which require that regular inspections be conducted during the placement and compaction of coal mine waste materials as required by 30 CFR 816.83(d)(1) and 817.83(d)(1), and which require that the engineer provide the regulatory authority with a certified report promptly after each inspection of coal refuse impoundments and non-impounding coal refuse areas as required by 30 CFR 816.49(a)(10), 817.49(a)(10), 816.83(d)(2) and 817.83(d)(2).

* * * * *

(19) Steps will be taken to terminate the approval found in § 948.10 unless West Virginia submits to the Secretary, by January 11, 1986, copies of promulgated regulations or other program amendments which require that the applicant list in the permit application all violation notices received by that person, or by any subsidiary, affiliate or persons controlled by or under common control with the applicant, in connection with any surface coal mining and reclamation operation during the three-year period preceding the date of application as required by 30 CFR 778.14(c).

* * * * *

(38) Steps will be taken to terminate the approval found in § 948.10 unless West Virginia submits to the Secretary, by January 11, 1986, copies of promulgated regulations or other program amendments which require that coal exploration applications contain a map showing the location of critical habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) as required by 30 CFR 772.12(b)(12).

* * * * *

(39) Steps will be taken to terminate the approval found in § 948.10 unless West Virginia submits to the Secretary, by January 11, 1986, copies of promulgated regulations or other program amendments which (i) require the use of a statistically valid sampling technique to evaluate the success of

revegetation in all instances as required, (ii) establish productivity success standards and require productivity measurements when determining the success of revegetation efforts on grazing land, pasture land and crop land, and (iii) require the use of the 90 percent statistical confidence interval and a one-sided test with a 0.10 alpha error in data analysis and in the design of sampling techniques, all in a manner no less effective than 30 CFR 816.116 and 817.116.

* * * * *

(41) Steps will be taken to terminate the approval found in § 948.10 unless West Virginia submits to the Secretary, by January 11, 1986, copies of promulgated regulations or other program amendments which eliminate those provisions allowing the Director to decline to issue a show cause order or to vacate an outstanding show cause order due to exceptional factors beyond the operator's control.

3. 30 CFR 948.12 is amended by adding new paragraphs (h) and (i) to read as follows:

§ 948.12 State program provisions found inconsistent with Federal law or less effective than Federal regulations.

* * * * *

(h) Section 1.02(a) of West Virginia's surface mining reclamation regulations is found less effective than the Federal regulations at 30 CFR 784.20 to the extent that it provides that "Such acknowledgement shall be deemed complete for any new permit requirements contained in these regulations and shall become a part of the permit;" and section 1.02(c) of the West Virginia regulations is found less effective than the Federal regulations at 30 CFR 784.20 to the extent that it provides that "Such acknowledgement shall be deemed sufficient to make the application complete for any new permit requirements contained in these regulations and shall become a part of the permit."

(i) Section 3E.01 of West Virginia's surface mining reclamation regulations is found inconsistent with section 515(b)(10(B)(ii) of SMCRA and less effective than the Federal regulations to the extent that it provides that for the purposes of section 13(b)(10) of the Act (now § 22A–3–12(b)(10) of the West Virginia Energy Act) an approved person shall be a "licensed land surveyor."

4. 30 CFR 948.15 is amended by adding new paragraph (h) to read as follows:

§ 948.15 Approval of regulatory program amendments.

* * * * *

(h) The following amendments submitted to OSM on March 30, 1984, October 30, 1984, and June 14, 1985, are approved effective August 27, 1984, subject to the remaining conditions set forth in § 948.11: West Virginia's revised surface mining reclamation and coal refuse disposal regulations dated July 15, 1983, and July 22, 1981, respectively; the permit addendum and Chapter 20, Revegetation, of the Technical Handbook for Surface Mining; West Virginia's revised surface mining reclamation and coal refuse disposal regulations dated August 27, 1984; the addendum to a permit or significant revision to a permit; the coal exploration approval document; the State's revised civil penalty procedures, which include a Code of Violations for determining assessable and non-assessable violations; and West Virginia's final surface mining reclamation and coal refuse disposal regulations, which were approved by the West Virginia Legislature on April 13, 1985, and which took effect on June 13, 1985.

[FR Doc. 85–16509 Filed 7–10–84; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

30 CFR Part 948

West Virginia Permanent Regulatory Program; Proposal To Supersede Provisions of State Law

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: This document announces and seeks public comment on a proposed action by OSM to preempt and supersede certain provisions of Article Three of Chapter 22A of the Code of West Virginia, which article is part of the West Virginia Energy Act (WVEA). The provisions proposed for preemption and supersession involve the exclusion of support facilities from the definition of surface-mining operations, the establishment of special requirements for surface-mining operations two acres or smaller in size, final bond release requirements, the Commissioner's authority to grant variances from performance standards, limits on an operator's liability for injuries sustained by citizens accompanying inspectors, and the Commissioner's authority to issue permits to applicants in violation of Federal laws or the environmental laws of other States.

This action is being taken because the Director has initially determined that these provisions are inconsistent with the requirements of SMCRA. The Director's determination is based on the reasons cited in Findings 4, 5, 6, 7, 8 and 10 of the section entitled "Director's Findings" in a separate notice of final rulemaking pertaining to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program), which is also appearing in today's **Federal Register**.

DATES: Written comments or other information relevant to these actions not received by 4:00 p.m. on August 12, 1985 will not necessarily be considered in the decision process.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining, Charleston Field Office, Attn: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

Copies of the West Virginia program, proposed modifications, and the administrative record on the West Virginia program are available for public review and copying at the OSM offices and the State regulatory authority office listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, telephone: (304) 347–7158

Office of Surface Mining, 1100 "L" Street NW., Room 5124, Washington, D.C. 20240, telephone: (202) 343–4855

West Virginia Department of Energy, 1615 Washington Street, East Charleston, West Virginia 25305, telephone: (304) 348–3267

In addition, copies of the West Virginia program and proposed modifications are available for inspection and copying during regular business hours at the following locations:

Office of Surface Mining, Morgantown Area Office, 75 High Street, Room 229, Morgantown, West Virginia 26505, telephone: (304) 291–4001

Office of Surface Mining, Beckley Area Office, 119 Appalachian Drive, Beckley, West Virginia 25801, telephone: (304) 255–5265

FOR FURTHER INFORMATION CONTACT: Mr. James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301, telephone: (304) 347–7158

SUPPLEMENTARY INFORMATION:

I. Background

Detailed background on the actions proposed in this document can be found in a notice of final rulemaking pertaining to the West Virginia program which also appears in today's **Federal Register**.

II. Director's Findings and Proposed Actions

1. Support Facilities

Pursuant to section 505(b) of SMCRA and 30 CFR 730.11(a), the Director proposes to preempt and supersede specific wording in WVEA section 22A–3–3(w)(2), which is part of the definition of "surface-mining operations." The complete text reads as follows:

(2) The areas upon which the above activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land, the use of which is incidental to any such activities; all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage; and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities: Provided, That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal prospecting subject to section seven of this article: Provided, however, That permanent facilities not within the area being mined and not directly involved in the excavation, loading, storage, or processing of the coal shall not be subject to the provisions of this article. Such facilities include, but are not limited to, offices, garages, bathhouses, parking areas, and maintenance and supply areas.

The specific wording proposed for preemption and supersession is:

Provided, however, That permanent facilities not within the area being mined and not directly involved in the excavation, loading, storage, or processing of the coal shall not be subject to the provisions of this article. Such facilities include, but are not limited to, offices, garages, bathhouses, parking areas, and maintenance and supply areas.

The Director proposes to take this action because he has initially determined that this provision is inconsistent with section 701(28)(B) of SMCRA, based on the reasons cited in Finding 4 of the section entitled "Director's Findings" in a separate notice of final rulemaking pertaining to the West Virginia program, which is also being published in today's **Federal Register**.

2. Special Requirements for Mines Not Exceeding Two Acres

Pursuant to section 505(b) of SMCRA and 30 CFR 730.11(a), the Director proposes to preempt and supersede, in part, specific wording in WVEA section 22A–3–9a(a)(8), which sets bonding requirements for surface-mining operations affecting two acres or less. The complete text of WVEA section 22A–3–9a(a)(8), reads as follows:

(8) A bond, or cash or collateral securities or certificates of the same type, in the form as prescribed by the director and in the minimum amount of five thousand dollars per acre, for a maximum disturbance of two acres, exclusive of roadways and temporary spoil placement. The bond shall be payable to the state of West Virginia and conditioned that the applicant shall complete regarding to approximate

original contour and revegetation of all disturbed areas; and

The specific wording proposed for preemption and supersession is the phrase "exclusive of roadways and temporary spoil placement."

The Director proposes to take this action because, to the extent that this language could be interpreted as allowing operations affecting in excess of two acres to qualify for the special requirements, this provision is inconsistent with section 528(2) of SMCRA and is less effective than the definition of "affected area" at 30 CFR 701.5. The Director's determination is based on the reasons cited in Finding 5 of the section entitled "Director's Findings" in a separate notice of final rulemaking pertaining to the West Virginia program also appearing in today's **Federal Register.** The Director recognizes West Virginia's authority to establish whatever bonding requirements it chooses for operations affecting two acres or less; the proposed preemption and supersession would only prohibit the use of bonded area criteria to define the size of the affected area as well.

3. Final Bond Release Requirements

Pursuant to section 505(b) of SMCRA and 30 CFR 730.11(a), the Director proposes to preempt and supersede specific wording in WVEA section 22A-3-23(c)(3), which in certain circumstances would permit final bond release prior to attainment of revegetation in accordance with the approved reclamation plan. The complete text of WVEA section 22A-3-23(c)(3) reads as follows:

(3) When the operator has completed successfully all surface mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified in subdivision (20), subsection (b), section twelve of this article: Provided, That the revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan: Provided, however, That such a release may be made where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site.

The specific wording proposed for preemption and supersession is:

Provided, however, That such a release may be made where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site.

The Director is proposing to take this action because he has initially determined that this provision is inconsistent with section 519(c)(3) of SMCRA, based on the reasons cited in Finding 6 of the section entitled "Director's Findings" in a separate notice of final rulemaking pertaining to the West Virginia program also appearing in today's **Federal Register.**

4. Variances From Performance Standards

Pursuant to section 505(b) of SMCRA and 30 CFR 730.11(a), the Director proposes to preempt and supersede WVEA section 22A-3-12(e), which grants the Commissioner authority to allow variances from performance standards, in its entirety. The complete text proposed for preemption and supersession reads as follows:

(e) The commissioner may permit variances from the requirements of this section: Provided, That the watershed control of the area is improved: Provided, however, That complete backfilling with spoil material shall be required to completely cover the highwall, which material will maintain stability following mining and reclamation.

The Director is proposing to take this action because he has initially determined that this provision is inconsistent with section 515(e)(3) of SMCRA, based on the reasons cited in Finding 7 of the section entitled "Director's Findings" in a separate notice of final rulemaking pertaining to the West Virginia program also appearing to today's **Federal Register.**

5. Operator Liability Limits

Pursuant to Section 505(b) of SMCRA and 30 CFR 730.11(a), the Director proposes to preempt and supersede specific wording in WVEA section 22A-3-15(g), which limits operator liability for injuries suffered by citizens accompanying inspectors on inspections. The complete text of WVEA section 22A-3-15(g) reads as follows:

(g) Whenever on the basis of available information, including reliable information from any person, the commissioner has cause to believe that any person is in violation of this article, any permit condition or any regulation promulgated under this article, the commissioner shall immediately order state inspection of the surface-mining operation at which the alleged violation is occurring unless the information is available as a result of a prior State inspection. The commissioner shall notify any person who supplied such reliable information when the state inspection will be carried out. Such person may accompany the inspector during the inspection: Provided, That except for deliberate and willful acts, the permittee, his authorized agent or employees, and the inspector whom such person is accompanying, shall not be held civilly liable for any injury to such person during the inspection trip. Any such person accompanying an inspector on an inspection shall be responsible for supplying any safety equipment required for his use.

The specific wording proposed for preemption and supersession is:

Provided, That except for deliberate and willful acts, the permittee, his authorized agent or employees, and the inspector whom such person is accompanying, shall not be held civilly liable for any injury to such person during the insepction trip.

The Director is proposing to take this action because he has initially determined that this provision is inconsistent with section 521(a)(1) of SMCRA, based on the reasons cited in Finding 8 of the section entitled "Director's Findings" in a separate notice of final rulemaking pertaining to the West Virginia program also appearing in today's **Federal Register.** The Director previously set aside an identical provision in section 20-6-15(g) of the now-repealed WV SCMRA as being inconsistent with Section 521(a)(1) of SMCRA (49 FR 1489-1490 January 12, 1984).

6. Permit Issuance to Persons in Violation of Federal Laws or Environmental Laws in Other States

Pursuant to Section 505(b) of SMCRA and 30 CFR 730.11(a) the Director proposes to preempt and supersede specific wording in WVEA section 22A-3-18(c), which governs permit issuance to persons with violations. The complete text of WVEA section 22A-3-18(c) reads as follows:

(c) Where information available to the department indicates that any surface-mining operation located in the state of West Virginia, owned or controlled by the applicant, is currently in violation of this article or other environmental laws or regulations, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the commissioner or the department or agency which has jurisdiction over the violation, and no permit may be issued to any applicant after a finding by the commissioner, after an opportunity for hearing, that the applicant or the operator specified in the application controls or has controlled mining operations with a demonstrated pattern of willful violations of this article of such nature and duration with

such irreparable damage to the environment as to indicate an intent not to comply with the provisions of this article: Provided, That if the commissioner finds that the applicant is or has been affiliated with, or managed or controlled by, or is or has been under the common control of, other than as an employee, a person who has had a surface-mining permit revoked or bond or other security forfeited for failure to reclaim lands as required by the law of this State, he shall not issue a permit to the applicant: Provided, however, That subject to the discretion of the commissioner and based upon a petition for reinstatement, permits may be issued to any applicant if, after the revocation or forfeiture, the operator whose permit has been revoked or bond forfeited shall have paid into the special reclamation fund any additional sum of money determined by the commissioner to be adequate to reclaim the disturbed area, and the commissioner is satisfied that the petitioner will comply with this article.

The specific wording proposed for preemption and supersession is the phrase "located in the state of West Virginia" in the first clause, and the phrase "of this article" following "demonstrated pattern of willful violations".

The Director is proposing to take this action because he has initially determined that these phrases render the State law inconsistent with section 510(c) of SMCRA, based on the reasons cited in Finding 10 of the section entitled "Director's Findings" in a separate notice of final rulemaking pertaining to the West Virginia program also appearing in today's **Federal Register**.

The Director is now soliciting public comment on his proposal to preempt and supersede those portions of the WVEA which he has found to be inconsistent with SMCRA and less effective than the Federal regulations in a separate notice of final rulemaking also appearing in today's **Federal Register**. If no evidence is received demonstrating why these provisions should not be preempted and superseded, a final notice will be published to effect the supersession of these provisions of the WVEA by Federal law. This action, if taken, will require the State to operate and enforce the approved program as if the preempted and superseded provisions did not exist.

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:* The 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 948

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: July 8, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85–16511 Filed 7–10–85; 8:45 am]

BILLING CODE 4310-05-M

federal register

Thursday
July 11, 1985

Part V

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

July 1, 1985.

this report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of July 1, 1985, of 244 rescission proposals and 74 deferrals contained in the first ten special messages of FY 1985. These messages were transmitted to the Congress on October 1, October 31, and November 29, 1984; and January 4, February 6 (two special messages), March 1, March 22, May 16, and June 20, 1985.

Rescissions (Table A and Attachment A)

As of july 1, 1985, there were two rescission proposals pending before the Congress. Attachment A shows the history and status of the 244 rescissions proposed by the President in 1985.

Deferrals (Table B and Attachment B)

As of July 1, 1985, $4,569.2 million in 1985 budget authority was being deferred from obligation and $8.4 million in 1985 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1985.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals covered by this cumulative report are printed in the **Federal Register** listed below:

Vol. 49, FR p. 39464, Friday, October 5, 1984
Vol. 49, FR p. 44870, Friday, November 9, 1984
Vol. 49, FR p. 47804, Thursday, December 6, 1984
Vol. 50, FR p. 1420, Thursday, January 10, 1985
Vol. 50, FR p. 6582, Friday, February 15, 1985
Vol. 50, FR p. 6648, Friday, February 15, 1985
Vol. 50, FR p. 9410, Thursday, March 7, 1985
Vol. 50, FR p. 12504, Thursday, March 28, 1985
Vol. 50, FR p. 21014, Tuesday, May 21, 1985
Vol. 50, FR p. 26510, Wednesday, June 26, 1985

David A. Stockman,
Director, Office of Management and Budget.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1985 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$1,843.3
Accepted by the Congress	0
Rejected by the Congress	1,805.9 a/
Pending before the Congress	37.4

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TABLE B

STATUS OF 1985 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$15,323.3 b/
Routine Executive releases through July 1, 1985 (OMB/ Agency Releases of $11,047.1 million and cumulative adjustments of $301.5 million)	-10,745.6
Overturned by the Congress	0
Currently before the Congress	$ 4,577.6 c/

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a/ Rescission proposals transmitted with the FY 1986 Budget were released immediately following expiration of the 45-day clock on rescissions under the Impoundment Control Act. However, the proposals continue to be subject to Congressional action.

b/ This amount includes $170.0 million transmitted by the Comptroller General on June 24, 1985, for the General Services Administration.

c/ This amount includes $8.4 million in outlays for a Department of the Treasury deferral (D85-13).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
FUNDS APPROPRIATED TO THE PRESIDENT								
Appalachian Regional Development Programs	R85-1	99,000		2-6-85		99,000	4-25-85	
International Development Assistance Functional development assistance program	R85-2	5,168		2-6-85		5,168	4-25-85	
Peace Corps Peace Corps operating expenses	R85-3	1,231		2-6-85		1,231	4-25-85	
Overseas Private Investment Corporation Overseas Private Investment Corporation	R85-4	838		2-6-85		838	4-25-85	
DEPARTMENT OF AGRICULTURE								
Office of the Secretary Office of the Secretary	R85-5	114		2-6-85		114	4-25-85	
Departmental Administration Departmental Administration	R85-6	149		2-6-85		149	4-25-85	
Office of Governmental and Public Affairs Office of Governmental and Public Affairs	R85-7	497		2-6-85		497	4-25-85	
Office of the Inspector General Office of the Inspector General	R85-8	41		2-6-85		41	4-25-85	
Office of the General Counsel Office of the General Counsel	R85-9	24		2-6-85		24	4-25-85	
Agricultural Research Service Agricultural Research Service	R85-10	1,313		2-6-85		1,313	4-25-85	
Buildings and facilities	R85-11	16,950		2-6-85		16,950	4-25-85	
	R85-12	20,950		2-6-85		20,950	4-25-85	
Cooperative State Research Service Cooperative State Research Service	R85-13	151		2-6-85		151	4-25-85	
Extension Service Extension Service	R85-14	110		2-6-85		110	4-25-85	
National Agricultural Library National Agricultural Library	R85-15	11		2-6-85		11	4-25-85	
Statistical Reporting Service Salaries and expenses	R85-16	206		2-6-85		206	4-25-85	
Economic Research Service Salaries and expenses	R85-17	132		2-6-85		132	4-25-85	
World Agricultural Outlook Board World Agricultural Outlook Board	R85-18	32		2-6-85		32	4-25-85	
Foreign Agricultural Service Foreign Agricultural Service	R85-19	424		2-6-85		424	4-25-85	
Office of International Cooperation and Development Salaries and expenses	R85-20	52		2-6-85		52	4-25-85	
Scientific activities overseas (special foreign currency program)	R85-21	9		2-6-85		9	4-25-85	
Agricultural Stabilization and Conservation Service Salaries and expenses	R85-22	100		2-6-85		100	4-25-85	
Dairy indemnity program	R85-23	88		2-6-85		88	4-25-85	
Federal Crop Insurance Corporation Administrative and operating expenses	R85-24	1,906		2-6-85		1,906	4-25-85	
Commodity Credit Corporation Commodity Credit Corporation fund	R85-25	31		2-6-85		31	4-25-85	
Office of Rural Development Policy Salaries and expenses	R85-26	36		2-6-85		36	4-25-85	
Rural Electrification Administration Salaries and expenses	R85-27	288		2-6-85		288	4-25-85	
Reimbursement to the Rural Electrification and Telephone revolving fund	R85-28	215,964		2-6-85		215,964	4-25-85	
Purchase of Rural Telephone Bank capital stock	R85-29	30,000		2-6-85		30,000	4-25-85	

Attachment A - Status of Rescissions - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Farmers Home Administration								
Salaries and expenses	R85-30	1,315		2-6-85		1,315	4-25-85	
Soil Conservation Service								
Conservation operations	R85-31	5,174		2-6-85		5,174	4-25-85	
River basin surveys and investigations	R85-32	235		2-6-85		235	4-25-85	
Watershed planning	R85-33	133		2-6-85		133	4-25-85	
Watershed and flood prevention operations	R85-34	918		2-6-85		918	4-25-85	
Great plains conservation program	R85-35	126		2-6-85		126	4-25-85	
Resource conservation and development	R85-36	164		2-6-85		164	4-25-85	
Animal and Plant Health Inspection Service								
Salaries and expenses	R85-37	1,464		2-6-85		1,464	4-25-85	
Federal Grain Inspection Service								
Salaries and expenses	R85-38	94		2-6-85		94	4-25-85	
Agricultural Marketing Service								
Marketing services	R85-39	150		2-6-85		150	4-25-85	
Office of Transportation								
Office of Transportation	R85-40	18		2-6-85		18	4-25-85	
Food Safety and Inspection Service								
Salaries and expenses	R85-41	2,473		2-6-85		2,473	4-25-85	
Food and Nutrition Service								
Food stamp administration	R85-42	684		2-6-85		684	4-25-85	
Food stamp program	R85-43	8,762		2-6-85		8,762	4-25-85	
Human Nutrition Information Service								
Human Nutrition Information Service	R85-44	34		2-6-85		34	4-25-85	
Packers and Stockyards Administration								
Packers and Stockyards Administration	R85-45	117		2-6-85		117	4-25-85	
Agricultural Cooperative Service								
Salaries and expenses	R85-46	50		2-6-85		50	4-25-85	
Forest Service								
Forest research	R85-47	923		2-6-85		923	4-25-85	
State and private forestry	R85-48	463		2-6-85		463	4-25-85	
National forest system	R85-49	12,134		2-6-85		12,134	4-25-85	
Construction	R85-50	1,922		2-6-85		1,922	4-25-85	
Land acquisition	R85-51	68		2-6-85		68	4-25-85	
DEPARTMENT OF COMMERCE								
General Administration								
Salaries and expenses	R85-52	3,700		2-6-85		3,700	4-25-85	
	R85-53	499		2-6-85		499	4-25-85	
Economic Development Administration								
Salaries and expenses	R85-54	120		2-6-85		120	4-25-85	
Economic development assistance programs	R85-55	24,000		2-6-85		24,000	4-25-85	
	R85-56	179,000		2-6-85		179,000	4-25-85	
Bureau of the Census								
Salaries and expenses	R85-57	241		2-6-85		241	4-25-85	
Periodic censuses and programs	R85-58	791		2-6-85		791	4-25-85	
Economic and Statistical Analysis								
Salaries and expenses	R85-59	433		2-6-85		433	4-25-85	
International Trade Administration								
Operations and administration	R85-60	2,783		2-6-85		2,783	4-25-85	
	R85-60A	18,750		2-6-85		18,750	4-25-85	
Participation in United States expositions	R85-61	6		2-6-85		6	4-25-85	
Minority Business Development Agency								
Minority business development	R85-62	305		2-6-85		305	4-25-85	
United States Travel and Tourism Administration								
Salaries and expenses	R85-63	468		2-6-85		468	4-25-85	
	R85-63A	3,417		2-6-85		3,417	4-25-85	

Attachment A - Status of Rescissions - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
National Oceanic and Atmospheric Administration								
Operations, research, and facilities....	R85-64	4,140		2-6-85		4,140	4-25-85	
	R85-64A	100,200		2-6-85		100,200	4-25-85	
Fisheries loan fund.....	R85-65	1,550		2-6-85		1,550	4-25-85	
Patent and Trademark Office								
Salaries and expenses.....	R85-66	1,472		2-6-85		1,472	4-25-85	
National Bureau of Standards								
Scientific and technical research and services.....	R85-67	1,019		2-6-85		1,019	4-25-85	
National Telecommunications and Information Administration								
Salaries and expenses.....	R85-68	183		2-6-85		183	4-25-85	
Public telecommunications facilities, planning and construction.....	R85-69	32		2-6-85		32	4-25-85	
	R85-69A	9,968		2-6-85		9,968	4-25-85	
DEPARTMENT OF DEFENSE - CIVIL								
Corps of Engineers - Civil								
General investigations.....	R85-70	2,000		2-6-85		2,000	4-25-85	
Construction, general.....	R85-71	4,000		2-6-85		4,000	4-25-85	
Operation and maintenance, general.....	R85-72	8,000		2-6-85		8,000	4-25-85	
General expenses.....	R85-73	1,200		2-6-85		1,200	4-25-85	
Flood control, Mississippi River and tributaries.....	R85-74	1,000		2-6-85		1,000	4-25-85	
Revolving fund.....	R85-75	3,900		2-6-85		3,900	4-25-85	
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Special programs.....	R85-76	80,000		2-6-85		80,000	4-24-85	
Office of Bilingual Education and Minority Languages Affairs								
Grants to schools with substantial numbers of immigrants.....	R85-77	30,000		2-6-85		30,000	4-24-85	
Office of Postsecondary Education								
Higher education.....	R85-78	59,750		2-6-85		59,750	4-24-85	
Departmental Management								
Salaries and expenses.....	R85-79	4,189		2-6-85		4,189	4-24-85	
DEPARTMENT OF ENERGY								
Atomic Energy Defense Activities								
Atomic energy defense activities.....	R85-80	8,280		2-6-85		8,280	4-25-85	
Energy Programs								
General science and research activities.	R85-81	38		2-6-85		38	4-25-85	
Energy supply, research and development activities.....	R85-82	2,676		2-6-85		2,676	4-25-85	
Uranium supply and enrichment activities	R85-83	968		2-6-85		968	4-25-85	
Fossil energy research and development..	R85-84	3,276		2-6-85		3,276	4-25-85	
	R85-85	860		2-6-85		860	4-25-85	
Naval petroleum and oil shale reserves..	R85-86	181		2-6-85		181	4-25-85	
Energy conservation.....	R85-87	931		2-6-85		931	4-25-85	
Strategic petroleum reserve.....	R85-88	156		2-6-85		156	4-25-85	
Energy Information Administration.....	R85-89	846		2-6-85		846	4-25-85	
Emergency preparedness.....	R85-90	51		2-6-85		51	4-25-85	
Economic regulation.....	R85-91	156		2-6-85		156	4-25-85	
Federal Energy Regulatory Commission....	R85-92	204		2-6-85		204	4-25-85	
Alternate fuels production.....	R85-93	23		2-6-85		23	4-25-85	

Attachment A - Status of Rescissions - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Power Marketing Administration								
Operation and maintenance, Alaska Power Administration	R85-94	29		2-6-85		29	4-25-85	
Operation and maintenance, Southeastern Power Administration	R85-95	15		2-6-85		15	4-25-85	
	R85-243		23,402	5-16-85				
Operation and maintenance, Southwestern Power Administration	R85-96	243		2-6-85		243	4-25-85	
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	R85-97	432		2-6-85		432	4-25-85	
Departmental Administration								
Departmental administration	R85-98	2,786		2-6-85		2,786	4-25-85	
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Food and Drug Administration								
Salaries and expenses	R85-99	2,194		2-6-85		2,194	4-25-85	
Health Resources and Services Administration								
Health resources and services	R85-100	2,263		2-6-85		2,263	4-25-85	
Indian health	R85-101	161		2-6-85		161	4-25-85	
Centers for Disease Control								
Disease control	R85-102	2,261		2-6-85		2,261	4-25-85	
National Institutes of Health								
National Cancer Institute	R85-103	4,362		2-6-85		4,362	4-25-85	
National Heart, Lung and Blood Institute	R85-104	1,401		2-6-85		1,401	4-25-85	
National Institute of Dental Research	R85-105	166		2-6-85		166	4-25-85	
National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases	R85-106	1,171		2-6-85		1,171	4-25-85	
National Institute of Neurological and Communicative Disorders	R85-107	462		2-6-85		462	4-25-85	
National Institute of Allergy and Infectious Diseases	R85-108	428		2-6-85		428	4-25-85	
National Institute of General Medical Sciences	R85-109	211		2-6-85		211	4-25-85	
National Institute of Child Welfare and Human Development	R85-110	309		2-6-85		309	4-25-85	
National Eye Institute	R85-111	173		2-6-85		173	4-25-85	
National Institute of Environmental Health Sciences	R85-112	542		2-6-85		542	4-25-85	
National Institute on Aging	R85-113	196		2-6-85		196	4-25-85	
Research resources	R85-114	250		2-6-85		250	4-25-85	
John E. Fogarty International Center	R85-115	241		2-6-85		241	4-25-85	
National Library of Medicine	R85-116	354		2-6-85		354	4-25-85	
Office of the Director	R85-117	182		2-6-85		182	4-25-85	
Alcohol, Drug Abuse, and Mental Health Administration								
Alcohol, drug abuse, and mental health	R85-118	3,972		2-6-85		3,972	4-25-85	
Office of Assistant Secretary for Health								
Public health service management	R85-119	493		2-6-85		493	4-25-85	
Health Care Financing Administration								
Program management	R85-120	1,540		2-6-85		1,540	4-25-85	
Human Development Services								
Human development services	R85-121	1,334		2-6-85		1,334	4-25-85	
Family social services	R85-122	396		2-6-85		396	4-25-85	
Community services block grant	R85-123	34		2-6-85		34	4-25-85	
Departmental Management								
General departmental management	R85-124	1,246		2-6-85		1,246	4-25-85	
Office of the Inspector General	R85-125	496		2-6-85		496	4-25-85	

Attachment A - Status of Rescissions - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Public and Indian Housing Programs								
Payments for operation of low income housing projects	R85-126	253,138		2-6-85		253,138	4-25-85	
Management and Administration								
Salaries and expenses	R85-127	6,919		2-6-85		6,919	4-25-85	
DEPARTMENT OF INTERIOR								
Bureau of Land Management								
Management of lands and resources	R85-128	5,778		2-6-85		5,778	4-25-85	
Oregon and California grant lands	R85-129	679		2-6-85		679	4-25-85	
Working capital fund	R85-130	2,951		2-6-85		2,951	4-25-85	
Minerals Management Service								
Minerals and royalty management	R85-131	1,764		2-6-85		1,764	4-25-85	
Office of Surface Mining Reclamation and Enforcement								
Regulation and technology	R85-132	546		2-6-85		546	4-25-85	
Abandoned mine reclamation fund	R85-133	333		2-6-85		333	4-25-85	
	R85-133A	2,900		2-6-85		2,900	4-25-85	
Bureau of Reclamation								
Construction program	R85-134	2,571		2-6-85		2,571	4-25-85	
General investigations	R85-135	209		2-6-85		209	4-25-85	
Operation and maintenance	R85-136	1,540		2-6-85		1,540	4-25-85	
General administrative expenses	R85-137	1,468		2-6-85		1,468	4-25-85	
Geological Survey								
Surveys, investigations and research	R85-138	4,519		2-6-85		4,519	4-25-85	
Bureau of Mines								
Mines and minerals	R85-139	1,355		2-6-85		1,355	4-25-85	
United States Fish and Wildlife Service								
Resource management	R85-140	3,869		2-6-85		3,869	4-25-85	
Construction	R85-141	40		2-6-85		40	4-25-85	
National Park Service								
Operation of the national park system	R85-142	8,598		2-6-85		8,598	4-25-85	
National recreation and preservation	R85-143	94		2-6-85		94	4-25-85	
Construction	R85-144	397		2-6-85		397	4-25-85	
Land acquisition and state assistance	R85-145	52		2-6-85		52	4-25-85	
	R85-146	30,000		2-6-85		30,000	4-25-85	
Bureau of Indian Affairs								
Operation of Indian programs	R85-147	5,570		2-6-85		5,570	4-25-85	
Office of Territorial Affairs								
Administration of territories	R85-148	107		2-6-85		107	4-25-85	
DEPARTMENT OF JUSTICE								
General Administration								
Salaries and expenses	R85-149	166		2-6-85		166	4-25-85	
Working capital fund	R85-150	3,000		2-6-85		3,000	4-25-85	
Legal Activities								
Salaries and expenses, General Legal Activities	R85-151	470		2-6-85		470	4-25-85	
Salaries and expenses, Antitrust Division	R85-152	65		2-6-85		65	4-25-85	
Salaries and expenses, United States Attorneys and Marshals	R85-153	889		2-6-85		889	4-25-85	
Fees and expenses of witnesses	R85-154	309		2-6-85		309	4-25-85	
Salaries and expenses, Community Relations Service	R85-155	43		2-6-85		43	4-25-85	
Federal Bureau of Investigation								
Salaries and expenses	R85-156	3,505		2-6-85		3,505	4-25-85	

Attachment A - Status of Rescissions - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Drug Enforcement Administration								
Salaries and expenses	R85-157	876		2-6-85		876	4-25-85	
Immigration and Naturalization Service								
Salaries and expenses	R85-158	947		2-6-85		947	4-25-85	
Federal Prison System								
Salaries and expenses	R85-159	451		2-6-85		451	4-25-85	
National Institute of Corrections	R85-160	894		2-6-85		894	4-25-85	
Buildings and facilities	R85-161	13		2-6-85		13	4-25-85	
Office of Justice Programs								
Justice assistance	R85-162	2,031		2-6-85		2,031	4-25-85	
DEPARTMENT OF LABOR								
Employment and Training Administration								
Program administration	R85-163	218		2-6-85		218	4-25-85	
	R85-163A	1,703		2-6-85		1,703	4-25-85	
Training and employment services	R85-164	11,447		2-6-85		11,447	4-24-85	
	R85-164A	244,291		2-6-85		244,291	4-24-85	
Labor-Management Services Administration								
Salaries and expenses	R85-165	1,678		2-6-85		1,678	4-25-85	
Employment Standards Administration								
Salaries and expenses	R85-167	1,635		2-6-85		1,635	4-24-85	
	R85-167A	600		2-6-85		600	4-24-85	
Occupational Safety and Health Administration								
Salaries and expenses	R85-168	1,694		2-6-85		1,694	4-24-85	
Mine Safety and Health Administration								
Salaries and expenses	R85-169	1,776		2-6-85		1,776	4-24-85	
Bureau of Labor Statistics								
Salaries and expenses	R85-170	765		2-6-85		765	4-25-85	
	R85-170A	5,000		2-6-85		5,000	4-25-85	
Departmental Management								
Salaries and expenses	R85-171	728		2-6-85		728	4-24-85	
Inspector General salaries and expenses	R85-172	3,766		2-6-85		3,766	4-24-85	
Special foreign currency program	R85-173	20		2-6-85		20	4-24-85	
DEPARTMENT OF STATE								
Administration of Foreign Affairs								
Salaries and expenses	R85-174	2,432		2-6-85		2,432	4-25-85	
DEPARTMENT OF TRANSPORTATION								
Federal Highway Administration								
Motor carrier safety	R85-175	164		2-6-85		164	4-25-85	
National Highway Traffic Safety Administration								
Operations and research	R85-176	767		2-6-85		767	4-25-85	
Trust fund share of operations and research	R85-177	408		2-6-85		408	4-25-85	
Highway traffic safety grants	R85-178	250		2-6-85		250	4-25-85	
Federal Railroad Administration								
Office of the Administrator	R85-179	100		2-6-85		100	4-25-85	
Railroad research and development	R85-180	170		2-6-85		170	4-25-85	
Rail service assistance	R85-181	90		2-6-85		90	4-25-85	
Railroad safety	R85-182	140		2-6-85		140	4-25-85	
Northeast corridor improvement program	R85-183	200		2-6-85		200	4-25-85	
Urban Mass Transportation Administration								
Urban mass transportation fund, administrative expenses	R85-184	265		2-6-85		265	4-25-85	
Federal Aviation Administration								
Operations	R85-185	18,888		2-6-85		18,888	4-25-85	
Headquarters administration	R85-186	1,065		2-6-85		1,065	4-25-85	
Operation and maintenance, Washington metropolitan airports	R85-187	17		2-6-85		17	4-25-85	

Attachment A - Status of Rescissions - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Facilities and equipment (Airport and airway trust fund)	R85-188	10,000		2-6-85		10,000	4-25-85	
Coast Guard Operating expenses	R85-189	14,724		2-6-85		14,724	4-25-85	
Acquisition, construction and improvements	R85-190	500		2-6-85		500	4-25-85	
Reserve training	R85-191	441		2-6-85		441	4-25-85	
Research, development, test, and evaluation	R85-192	135		2-6-85		135	4-25-85	
Maritime Administration Operations and training	R85-193	888		2-6-85		888	4-25-85	
Office of the Inspector General Salaries and expenses	R85-194	300		2-6-85		300	4-25-85	
Office of the Secretary Salaries and expenses	R85-195	435		2-6-85		435	4-25-85	
Transportation planning, research and development	R85-196	65		2-6-85		65	4-25-85	
DEPARTMENT OF THE TREASURY								
Office of the Secretary Salaries and expenses	R85-197	969		2-6-85		969	4-25-85	
Office of Revenue Sharing Salaries and expenses	R85-198	90		2-6-85		90	4-25-85	
Federal Law Enforcement Training Center Salaries and expenses	R85-199	75		2-6-85		75	4-25-85	
Financial Management Service Salaries and expenses	R85-200	972		2-6-85		972	4-25-85	
Bureau of Alcohol, Tobacco and Firearms Salaries and expenses	R85-201	397		2-6-85		397	4-25-85	
United States Customs Service Salaries and expenses	R85-202	1,223		2-6-85		1,223	4-25-85	
Bureau of the Mint Salaries and expenses	R85-203	87		2-6-85		87	4-25-85	
Bureau of the Public Debt Administering the public debt	R85-204	52		2-6-85		52	4-25-85	
Internal Revenue Service Salaries and expenses	R85-205	198		2-6-85		198	4-25-85	
Processing tax returns and executive direction	R85-206	781		2-6-85		781	4-25-85	
Examinations and appeals	R85-207	1,588		2-6-85		1,588	4-25-85	
Investigation, collection, and taxpayer service	R85-208	1,633		2-6-85		1,633	4-25-85	
United States Secret Service Salaries and expenses	R85-209	1,465		2-6-85		1,465	4-25-85	
ENVIRONMENTAL PROTECTION AGENCY								
Salaries and expenses	R85-210	1,863		2-6-85		1,863	4-26-85	
Research and development	R85-211	4,125		2-6-85		4,125	4-26-85	
Abatement, control, and compliance	R85-212	7,413		2-6-85		7,413	4-26-85	
GENERAL SERVICES ADMINISTRATION								
Real Property Activities Federal buildings fund	R85-213	3,204		2-6-85		3,204	4-25-85	
Personal Property Activities Operating expenses	R85-214	300		2-6-85		300	4-25-85	
General supply fund	R85-215	30,848		2-6-85		30,848	4-25-85	
Office of Information Resources Management Operating expenses	R85-216	45		2-6-85		45	4-25-85	
Consumer information center fund	R85-217	63		2-6-85		63	4-25-85	

Attachment A - Status of Rescissions - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Federal telecommunications fund	R85-218	415		2-6-85		415	4-25-85	
Automatic data processing fund	R85-219	145		2-6-85		145	4-25-85	
Federal Property Resources Activities								
Operating expenses	R85-220	207		2-6-85		207	4-25-85	
Expenses, disposal of surplus real and related personal property	R85-221	1,832		2-6-85		1,832	4-25-85	
General Activities								
General management and administration, salaries and expenses	R85-222	403		2-6-85		403	4-25-85	
Office of the Inspector General	R85-223	35		2-6-85		35	4-25-85	
Allowances and staff for former Presidents	R85-224	19		2-6-85		19	4-25-85	
Working capital fund	R85-225	8		2-6-85		8	4-25-85	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and program management	R85-226	4,000		2-6-85		4,000	4-25-85	
OFFICE OF PERSONNEL MANAGEMENT								
Salaries and expenses	R85-227	1,161		2-6-85		1,161	4-25-85	
SMALL BUSINESS ADMINISTRATION								
Salaries and expenses	R85-228	3,781		2-6-85		3,781	4-25-85	
VETERANS ADMINISTRATION								
Medical care	R85-229	10,261		2-6-85		10,261	4-25-85	
Medical and prosthetic research	R85-230	323		2-6-85		323	4-25-85	
Medical administration and miscellaneous operating expenses	R85-231	2,109		2-6-85		2,109	4-25-85	
General operating expenses	R85-232	4,334		2-6-85		4,334	4-25-85	
Construction, minor projects	R85-233	377		2-6-85		377	4-25-85	
OTHER INDEPENDENT AGENCIES								
ACTION								
Operating expenses	R85-234	1,139		2-6-85		1,139	4-24-85	
Corporation for Public Broadcasting								
Public broadcasting fund	R85-244		14,000	5-16-85				
Federal Emergency Management Agency								
Salaries and expenses	R85-235	786		2-6-85		786	4-25-85	
Emergency management planning and assistance	R85-236	1,287		2-6-85		1,287	4-25-85	
National Archives and Records Administration								
Operating expenses	R85-237	166		2-6-85		166	4-25-85	
National Labor Relations Board								
Salaries and expenses	R85-238	1,070		2-6-85		1,070	4-24-85	
National Science Foundation								
Research and related activities	R85-239	2,002		2-6-85		2,002	4-25-85	
Nuclear Regulatory Commission								
Salaries and expenses	R85-240	4,329		2-6-85		4,329	4-25-85	
Tennessee Valley Authority								
Tennessee Valley Authority fund	R85-241	1,538		2-6-85		1,538	4-25-85	
United States Information Agency								
Salaries and expenses	R85-242	433		2-6-85		433	4-25-85	
Subtotal, rescissions		1,805,913	37,402			1,805,913		

Note: Rescission proposals transmitted with the FY 1986 Budget were released immediately following expiration of the 45 day clock on rescissions under the Impoundment Control Act. However, the proposals continue to be subject to Congressional action.

Attachment B - Status of Deferrals - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 7-1-85
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs..	D85-1	10,000		10-1-84					10,000
International Security Assistance									
Foreign military sales credit.....	D85-24	4,939,500		11-29-84	4,929,500				10,000
Economic support fund.....	D85-2	280,500		10-1-84					
	D85-2A		3,826,000	11-29-84					
	D85-2B		73,233	1-4-85	3,874,233				305,500
Military assistance.....	D85-3	18,500		10-1-84					
	D85-3A		782,770	11-29-84	778,950				22,320
International military education and training.....	D85-25	55,521		11-29-84	55,521				0
Peacekeeping operations.....	D85-38	7,000		1-4-85	7,000				0
Agency for International Development									
International disaster assistance.....	D85-73	110,000		6-20-85	35,000				75,000
Operating expenses, Agency for International Development.....	D85-74	1,300		6-20-85					1,300
African Development Foundation									
African Development Foundation.....	D85-40	2,287		2-6-85					2,287
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales.....	D85-4	9,704		10-1-84					
	D85-4A		3,471	3-1-85	5,000			5,000	13,175
Expenses, brush disposal.....	D85-5	55,850		10-1-84					
	D85-5A		22,063	3-1-85					77,913
Foreign Assistance Programs									
Expenses, Public Law 480, Foreign Assistance Programs, Agriculture.....	D85-72	167,200		6-20-85	20,000				147,200
Soil Conservation Service									
Watershed and flood prevention operations.....	D85-59	8,365		3-1-85					8,365
DEPARTMENT OF COMMERCE									
Patent and Trademark Office									
Salaries and expenses.....	D85-41	15,993		2-6-85					15,993
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, all services.....	D85-6	300,008		10-1-84					
	D85-6A		906,322	11-29-84	914,695			81,898	373,533
Family Housing									
Family housing, all services.....	D85-26	230,790		11-29-84	120,390				110,400
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation.....	D85-7	1,127		10-1-84					
	D85-7A		64	1-4-85	190			135	1,137
DEPARTMENT OF ENERGY									
Energy Programs									
Energy supply research and development.....D85-70		15,000		5-16-85					15,000
Uranium Supply and Enrichment Activities...	D85-65	90,000		3-22-85					90,000
Fossil energy research and development.....	D85-27	4,871		11-29-84					
	D85-27A		43,525	2-6-85	13,696				34,700
Fossil energy construction.....	D85-28	2,165		11-29-84					
	D85-28A		2,973	2-6-85					5,137

Attachment B - Status of Deferrals - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 7-1-85
Naval petroleum and oil shale reserves.....	D85-29	23		11-29-84					
	D85-29A		155,644	2-6-85					
	D85-29B		1	3-22-85					155,668
Energy conservation.....	D85-30	3,398		11-29-84					
	D85-30A		2,374	3-22-85					
	D85-30B		552	6-20-85					6,324
Strategic petroleum reserve.....	D85-31	401		11-29-84					
	D85-31A		270,337	2-6-85					270,738
SPR petroleum account.....	D85-42	827,028		2-6-85					827,028
Energy security reserve and alternative production.....	D85-32	852		11-29-84					
	D85-32A		297	2-6-85					
	D85-32B		89	3-22-85					1,238
Power Marketing Administration									
Southeastern Power Administration, Operation and maintenance.....	D85-16	12,467		10-31-84					
	D85-16A		3,494	2-6-85	1,216				14,745
Southwestern Power Administration, Operation and maintenance.....	D85-17	7,260		10-31-84					
	D85-17A		1,514	2-6-85					8,774
Western Area Power Administration, Construction, rehabilitation, operation and maintenance.....	D85-18	3,000		10-31-84					
	D85-18A		27,300	2-6-85					
	D85-18B		2,000	5-16-85					32,300
Departmental Administration									
Departmental administration.....	D85-43	8,501		2-6-85					8,501
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program).....	D85-8	424		10-1-84					
	D85-8A		590	1-4-85					1,013
Health Care Financing Administration									
Program management.....	D85-66	4,271		3-22-85					4,271
Social Security Administration									
Limitation on administrative expenses (construction).....	D85-9	15,488		10-1-84					
	D85-9A		224	3-1-85					15,712
Limitation on administrative expenses (information technology systems).....	D85-44	81,926		2-6-85					81,926
Limitation on administrative expenses.....	D85-67	9,176		3-22-85					9,176
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of water, Mineral Leasing Act of 1920, sec. 40 (d)..	D85-10	49		10-1-84					49
National Park Service									
Construction (trust fund).....	D85-45	38,172		2-6-85	38,172				0
Land Acquisition.....	D85-68	3,356		3-22-85					3,356
Bureau of Indian Affairs									
Construction.....	D85-33	8,918		11-29-84	893				8,025
DEPARTMENT OF JUSTICE									
General Administration									
Salaries and expenses.....	D85-46	3,890		2-6-85					3,890
Legal Activities									
Support of United States prisoners.....	D85-47	5,319		2-6-85					5,319
Federal Prison System									
Buildings and facilities.....	D85-19	44,534		10-31-84					44,534
Office of Justice Programs									
Justice assistance.....	D85-60	13,026		3-1-85					13,026

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As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 7-1-85
DEPARTMENT OF LABOR									
Employment and Training Administration									
Program administration	D85-61	162		3-1-85					162
State unemployment insurance and employment service operations	D85-34	3,767		11-29-84					
	D85-34A			3-1-85					3,767
	D85-62	37,000		3-1-85					37,000
Unemployment trust fund (veterans employment and training)	D85-63	119		3-1-85					119
Pension Benefit Guaranty Corporation									
Pension Benefit Guaranty Corporation	D85-64	228		3-1-85					228
Bureau of Labor Statistics 1]									
Salaries and expenses	D85-35	5,000		11-29-84	5,000				0
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D85-20	32,928		10-31-84					
	D85-20A		153	1-4-85	24,905			20,000	28,175
DEPARTMENT OF TRANSPORTATION									
Federal Highway Administration									
Limitation on general operating expenses	D85-48	2,155		2-6-85					2,155
Federal Railroad Administration									
Rail service assistance	D85-49	413		2-6-85					413
Northeast corridor improvement program	D85-50	30,000		2-6-85					30,000
Railroad rehabilitation and improvement financing funds	D85-51	7,200		2-6-85					7,200
Urban Mass Transportation Administration									
Research, training and human resources	R85-52	25,206		2-6-85					25,206
Federal Aviation Administration									
Construction, metropolitan Washington airports	D85-53	910		2-6-85					910
Facilities and equipment (airport and airway trust)	D85-11	537,205		10-1-84					
	D85-11A		652,957	1-4-85					
	D85-11B		93,731	2-6-85	163,000			163,000	1,283,894
Maritime Administration									
Operations and training	D85-54	8,500		2-6-85					8,500
Office of the Secretary									
Salaries and expenses	D85-55	800		2-6-85					800
Payments to air carriers	D85-69	14,741		3-22-85					14,741
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D85-12	55,400		10-1-84	32,458			31,395	54,337
	D85-13	19,900		10-1-84	11,536			33	8,397
GENERAL SERVICES ADMINISTRATION									
Federal Property Resources Activities									
National defense stockpile transaction fund	2)	170,000		6-24-85					170,000
OTHER INDEPENDENT AGENCIES									
Board for International Broadcasting									
Grants and expenses	D85-21	4,408		10-1-84	4,408				0
National Archives and Records Service									
Operating expenses	D85-36	4,700		11-29-84					4,700

Attachment B - Status of Deferrals - Fiscal Year 1985

As of July 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases[1]	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 7-1-85
National Science Foundation									
Science and engineering education activities	D85-56	31,450		2-6-85					31,450
Panama Canal Commission									
Operating expenses	D85-37	6,346		11-29-84	6,346				0
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	D85-14	14,300		10-1-84	5,000				9,300
Railroad Retirement Board									
Milwaukee railroad restructuring, administration	D85-15	108		10-1-84					
	D85-15A		7	2-6-85					115
Limitation on administration	D85-57	3,098		2-6-85					3,098
Limitation on Railroad Unemployment Insurance Administration fund	D85-58	502		2-6-85					502
Tennessee Valley Authority									
Tennessee Valley Authority fund	D85-71	9,000		5-16-85					9,000
U. S. Information Agency									
Salaries and expenses	D85-22	2,433		10-31-84					2,433
Salaries and expenses, special foreign currency program	D85-23	852		10-31-84					
	D85-23A		1,617	6-20-85					2,469
U.S. Institute of Peace									
U.S. Institute of Peace	D85-39	4,000		1-4-85					4,000
TOTAL, DEFERRALS		8,449,989	6,873,302		11,047,109	0		301,461	4,577,643

Notes: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D85-13) of outlays only.

1) The Bureau of Labor Statistics deferral of $5.0 million (D85-35) was released and the funds were proposed for rescission as part of R85-170A.
2) The General Services Administration deferral of $170.0 million was transmitted to Congress by the Comptroller General on June 24, 1985, under section 1015 (a) of the Impoundment Control Act.

[FR Doc. 85-16646 Filed 7-10-85; 8:45 am]

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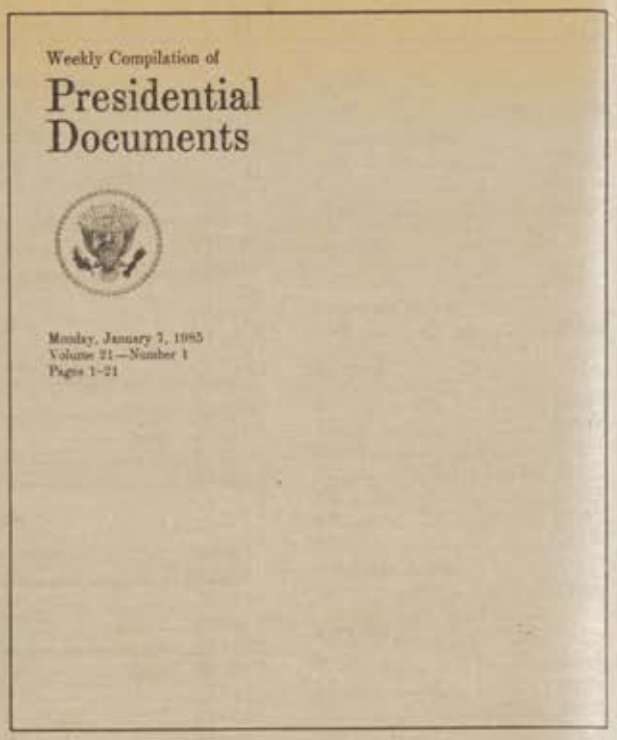
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