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Monday
March 17, 1986

Briefings on How To Use the Federal Register—
For information on briefings in Denver, CO, and Dallas, TX, see announcement on the inside cover of this issue.

Selected Subjects

Administrative Practice and Procedure
Forest Service

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Bridges
Coast Guard

Claims
Agriculture Department

Coal Mining
Surface Mining Reclamation and Enforcement Office

Communications Common Carriers
Federal Communications Commission

Dairy Products
Agriculture Department

Endangered and Threatened Species
Fish and Wildlife Service

Food Grades and Standards
Food and Drug Administration

Grant Programs—Housing and Community Development
Farmers Home Administration

Hazardous Materials Transportation
Research and Special Programs Administration

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Selected Subjects

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Hazardous Waste
Environmental Protection Agency

Radio
Federal Communications Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Trade Practices
Federal Trade Commission

Utilities
Securities and Exchange Commission

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

DENVER, CO

WHEN: March 24; at 9 am.

WHERE: Room 239,
Federal Building,
1961 Stout Street, Denver, CO.

RESERVATIONS: Elizabeth Stout,
Denver Federal Information Center.
303-236-7181,
for reservations

DALLAS, TX

WHEN: April 23; at 1:30 pm.

WHERE: Room 7A23,
Earl Cabell Federal Building,
1100 Commerce Street, Dallas, TX.

RESERVATIONS: local numbers:
Dallas 214-767-8585
Ft. Worth 817-334-3624
Austin 512-472-5494
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3

Debt Collection; Federal Claims Collection

AGENCY: Office of the Secretary, USDA.
ACTION: Final rule.

SUMMARY: The United States Department of Agriculture (USDA) is publishing final regulations to implement the salary offset provisions of the Debt Collection Act of 1982 (Pub. L. 97-365, enacted on October 25, 1982). Notice of proposed rulemaking was published in the **Federal Register** on September 25, 1985 (50 FR 38821).

Based upon the comments received on the proposed regulations, USDA is clarifying three examples contained in the definition of "Debt".

EFFECTIVE DATE: These regulations are effective April 16, 1986.

FOR FURTHER INFORMATION CONTACT: Frank Padalino, Office of Personnel, U.S. Department of Agriculture, Room 307-W, Washington, DC 20250, (202) 447-6905.

SUPPLEMENTARY INFORMATION: On September 25, 1985, the USDA published proposed rules for offsetting the Federal pay of employees indebted to the U.S. Government. The supplementary information contained in the notice of proposed rulemaking set forth the basis and purpose of the proposed rule. The USDA is adopting the proposed rule as a final rule with only minor technical changes. A summary of the comments received follows:

Section 3.52(b)(2)—Comment:

Add the phrase, "resulting from his or her negligent, willful, or unauthorized acts," after the word "losses". This comment suggests that debt should be defined broadly. The suggested language has been included in the final regulation. However, the word "illegal" has been added to broaden the description of acts, and the phrase has been added after the word "liable" for clarity.

Section 3.52(b)(2)(iv)—Comment:

The definition should be expanded to include "using" in addition to "authorizing the use of" Government owned or leased equipment, facilities, supplies, and services for other than official or approved purposes. This comment appropriately notes an oversight in the proposed regulation. The suggested change has been adopted in the final regulation.

Section 3.52(b)(2)(v)—Comment:

The definition should be changed to, "Lost, stolen, damaged, or destroyed Government property." The existing example implies that employee debt resulting from damage to Government property is limited to damage to Government vehicles. This comment calls attention to the restrictive language in paragraph (v). To broaden the focus of this paragraph, the suggested change has been adopted in the final regulation.

In addition, one comment from a USDA agency addressed internal procedures as they apply to the conduct of a hearing. This will be dealt with in USDA's internal procedures.

Finally, one commentor suggested the proposed rule be adopted as written.

The proposed rule provided that it would not apply to any case where collection of a debt by salary offset is explicitly provided for by another statute. As the Comptroller General has noted in 64 Comp. Gen. 142 (1984), such statutes include 5 U.S.C. 5512(a) (setoff against accountable officers), 5 U.S.C. 5513 (setoff to recoup disallowed payments), 5 U.S.C. 5522(a)(1) (setoff to recoup advance payments for evacuations), 5 U.S.C. 5705 (1) and (2) (setoff to recoup travel advances), and 5 U.S.C. 5724(f) (setoff to recoup travel and transportation advances in connection with permanent changes of station). The final rule adopts this provision. Thus, the rule does not apply to setoffs occurring under these and other similar authorities.

Regulatory Impact

USDA has reviewed this final rule in accordance with Executive Order No. 12291 and has determined that it is not a major rule. The Secretary has determined that this action will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprise in domestic or export markets. It is anticipated that the final rule will enable USDA to increase collections by approximately $5 million, representing money that is already owed and overdue. It will have an impact on only a small percentage of Federal employees; those who are delinquent in repaying their debts to the Department of Agriculture.

Under the circumstances explained above, the Secretary has determined that this action will not have a significant impact on a substantial number of small entities. This rule sets procedures for salary offset and does not affect the environment.

List of Subjects in 7 CFR Part 3

Salary offset, Claims, Debt management.

Accordingly, USDA adds a new Subpart C to Part 3 of Title 7 of the Code of Federal Regulations to read as follows:

Subpart C—Salary Offset

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3.51 Scope.
3.52 Definitions.
3.53 Coordinating offset with another federal agency.
3.54 Determination of indebtedness.
3.55 Notice requirements before offset.
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3.58 Hearings.
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3.61 Written agreement to repay debt as alternative to salary offset.
3.62 Procedures for salary offset: when deductions may begin.
3.63 Procedures for salary offset: types of collection.
3.64 Procedures for salary offset: methods of collection.
3.65 Procedures for salary offset: imposition of interest, penalties and administrative costs.

Sec.
3.66 Non-waiver of rights.
3.67 Refunds.
3.68 Agency regulations.

Authority: 5 U.S.C. 5514; 5 CFR Part 550, Subpart K.

Subpart C—Salary Offset

§ 3.51 Scope.

(a) The provisions of this subpart set forth the Department's procedures for the collection of a Federal employee's pay by salary offset to satisfy certain valid and past due debts owed the government.

(b) These regulations apply to:

(1) Current employees of the Department and other agencies who owe debts to the Department; and

(2) Current employees of the Department who owe debts to other agencies.

(c) These regulations do not apply to debts or claims arising under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.); the Social Security Act (42 U.S.C. 301 et seq.); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

(d) These regulations identify the types of salary offset available to the Department, as well as certain rights provided to the employee, which include a written notice before deductions begin, the opportunity to petition for a hearing and to receive a written decision if a hearing is granted. These employee rights do not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

(e) These regulations do not preclude an employee from:

(1) Requesting waiver of a salary overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716;

(2) Requesting waiver of any other type of debt, if waiver is available by statute; or

(3) Questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office.

(f) Nothing in these regulations precludes the compromise, suspension or termination of collection actions where appropriate under the Department's regulations contained elsewhere.

§ 3.52 Definitions.

(a) "Agency" means:

(1) An Executive Agency as defined by section 105 of title 5 U.S.C., the U.S. Postal Service, the U.S. Postal Rate Commission; and

(2) A Military Department as defined by section 102 of title 5, U.S.C.

(b) "Debt" means:

(1) An amount owed to the United States from sources which include, but are not limited to, insured or guaranteed loans, fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice).

(2) An amount owed to the United States by an employee for pecuniary losses where the employee has been determined to be liable due to his or her negligent, willful, unauthorized or illegal acts, including but not limited to:

(i) Theft, misuse, or loss of Government funds;

(ii) False claims for services and travel;

(iii) Illegal, unauthorized obligations and expenditures of Government appropriations;

(iv) Using or authorizing the use of Government owned or leased equipment, facilities, supplies, and services for other than official or approved purposes;

(v) Lost, stolen, damaged, or destroyed Government property;

(vi) Erroneous entries on accounting records or reports; and

(vii) Deliberate failure to provide physical security and control procedures for accountable officers, if such failure is determined to be the approximate cause for a loss of Government funds.

(c) "Department" or "USDA" means the United States Department of Agriculture.

(d) "Disposable Pay" means any pay due an employee that remains after required deductions for Federal, State and Local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs; premiums for life and health insurance benefits; and such other deductions required by law to be withheld.

(e) "Employee" means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces.

(f) "Hearing official" means an administrative law judge of the Department or some other individual not under the control of the Secretary.

(g) "Salary Offset" means a deduction of a debt by deduction(s) from the disposable pay of an employee without his or her consent.

(h) "Secretary" means the Secretary of the U.S. Department of Agriculture or his or her designee.

(i) "Waiver" means the cancellation, remission, forgiveness, or non-recovery of a debt owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, 5 U.S.C. 8346(b) or any other law.

§ 3.53 Coordinating offset with another federal agency.

(a) *When USDA is owed the debt.* When USDA is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until USDA provides the agency with a written certification that the debtor owes USDA a debt (including the amount and basis of the debt and the due date of the payment) and that USDA has complied with these regulations.

(b) *When another agency is owed the debt.* The Department may use salary offset against one of its employees who is indebted to another agency, if requested to do so by that agency. Such a request must be accompanied by a certification by the requesting agency that the person owes the debt (including the amount and basis of the debt and the due date of the payment) and that the agency has complied with its regulations required by 5 U.S.C. 5514 and 5 CFR Part 550, Subpart K.

§ 3.54 Determination of indebtedness.

(a) In determining that an employee is indebted to USDA and that 4 CFR Parts 101 through 105 have been satisfied and that salary offset is appropriate, the Secretary will review the debt to make sure that it is valid and past due.

(b) If the Secretary determines that any of the requirements of paragraph (a) of this section have not been met, no determination of indebtedness shall be made and salary offset will not proceed until the Secretary is assured that the requirements have been met.

§ 3.55 Notice requirements before offset.

Except as provided in § 3.51(d), salary offset will not be made unless the Secretary first provides the employee with a minimum of 30 calendar days written notice. This Notice of Intent to Offset Salary (Notice of Intent) will state:

(a) That the Secretary has reviewed the records relating to the debt and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(b) The Secretary's intention to collect the debt by means of deduction from the employee's current disposable pay until the debt and all accumulated interest are paid in full;

(c) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(d) An explanation of the Department's requirements concerning interest, penalties and administrative costs; unless such payments are waived in accordance with 31 U.S.C. 3717 and § 3.34;

(e) The employee's right to inspect and copy Department records relating to the debt;

(f) The employee's right to enter into a written agreement with the Secretary for a repayment schedule differing from that proposed by the Secretary, so long as the terms of the repayment schedule proposed by the employee are agreeable to the Secretary;

(g) The right to a hearing conducted by a hearing official on the Secretary's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period, so long as a petition is filed by the employee as prescribed by the Secretary;

(h) That the timely filing of a petition for hearing will stay the collection proceedings;

(i) That a final decision on the hearing will be issued at the earliest practical date, but not later than 60 calendar days after the filing of the petition requesting the hearing, unless the employee requests, and the hearing officer grants, a delay in the proceedings;

(j) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(1) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, 5 CFR Part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or any other applicable statutory authority;

(k) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(l) That amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee, unless there are applicable contractual or statutory provisions to the contrary;

(m) The method and time period for requesting a hearing; and

(n) The name and address of an official of USDA to whom communications should be directed.

§ 3.56 Request for a hearing.

(a) Except as provided in paragraph (c) of this section, an employee must file a petition for a hearing, that is received by the Secretary not later than 30 calendar days from the date of the Department's notice described in §3.55, if an employee wants a hearing concerning:

(1) The existence or amount of the debt; or

(2) The Secretary's proposed offset schedule (including percentage).

(b) The petition must be signed by the employee and should identify and explain with reasonable specificity and brevity the facts, evidence and witnesses which the employee believes support his or her position. If the employee objects to the percentage of disposable pay to be deducted from each check, the petition should state the objection and the reasons for it.

(c) If the employee files a petition for hearing later than the 30 calendar days as described in paragraph (a) of this section, the hearing officer may accept the request if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the filing deadline (unless the employee has actual notice of the filing deadline).

§ 3.57 Result if employee fails to meet deadlines.

An employee will not granted a hearing and will have his or her disposable pay offset in accordance with the Secretary's offset schedule if the employee:

(a) Fails to file a petition for a hearing as prescribed in §3.56; or

(b) Is scheduled to appear and fails to appear at the hearing.

§ 3.58 Hearings

(a) If an employee timely files a petition for a hearing under § 3.56, the Secretary shall select the time, date, and location for the hearing.

(b) (1) Hearings shall be conducted by an appropriately designated hearing official; and

(2) Rules of evidence shall not be adhered to, but the hearing official shall consider all evidence that he or she determines to be relevant to the debt that is the subject of the hearing and weigh it accordingly, given all of the facts and circumstances surrounding the debt.

(c) USDA will have the burden of going forward to prove the existence of the the debt.

(d) The employee requesting the hearing shall bear the ultimate burden of proof.

(e) The evidence presented by the employee must prove that no debt exists or cast sufficient doubt such that reasonable minds could differ as to the existence of the debt.

§ 3.59 Written decision following a hearing.

Written decisions provided after a hearing will include:

(a) A statement of the facts presented at the hearing to support the nature and origin of the alleged debt and those presented to refute the debt;

(b) The hearing officer's analysis, findings and conclusions, considering all of the evidence presented and the respective burdens of the parties, in light of the hearing;

(c) The amount and validity of the alledged debt determined as a result of the hearing; and

(d) There payment schedule (including percentage of disposable pay), if applicable.

(e) The determination of the amount of the debt at this hearing is the final agency action on this matter.

§ 3.60 Review of departmental record related to the debt.

(a) *Notification by employee.* An employee who intends to inspect or copy Departmental records related to the debt must send a letter to the Secretary stating his or her intention. The letter must be received by the Secretary within 30 calendar days of the date of the Notice of Intent.

(b) *Secretary's response.* In response to the timely notice submitted by the debtor as described in paragraph (a) of this section, the Secretary will notify the employee of the location and time when the employee may inspect and copy Departmental records related to the debt.

§ 3.61 Written agreement to repay debt as alternative to salary offset.

(a) *Notification by employee.* The employee may propose, in response to a Notice of Intent, a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to do this must submit a proposed written agreement to repay the debt which is received by the Secretary within 30 calendar days of the date of the Notice of Intent.

(b) *Secretary's response.* The Secretary will notify the employee whether the employee's prosposed written agreement for repayment is acceptable. The Secretary may accept a repayment agreement instead of proceeding by offset. In making this determination, the Secretary will balance the Department's interest in collecting the debt against hardship to the employee. If the debt is delinquent and the employee has not disputed its

existence or amount, the Secretary will accept a repayment agreement, instead of offset, for good cause such as, if the employee is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 3.62 Procedures for salary offset: when deduction may begin.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Secretary's Notice of Intent to collect from the employee's current pay.

(b) If the employee filed a petition for a hearing with the Secretary before the expiration of the period provided for in § 3.56 then deductions will begin after the hearing officer has provided the employee with a hearing, and a final written decision has been rendered in favor of the Secretary.

(c) If an employee retires or resigns before collection of the amount of the indebtedness is completed, the remaining indebtedness will be collected according to the procedures for administrative offset (see Subpart B of this part).

§ 3.63 Procedures for salary offset: types of collection.

A debt will be collected in a lump-sum or in installments. Collection will be by lump-sum collection unless the employee is financially unable to pay in one lump-sum, or if the amount of the debt exceeds 15 percent of disposable pay for an ordinary pay period. In these cases, deduction will be by installments, as set forth in § 3.64.

§ 3.64 Procedures for salary offset: methods of collection.

(a) *General.* A debt will be collected by deductions at officially-established pay intervals from an employee's current pay account, unless the employee and the Secretary agree to alternative arrangements for repayment under § 3.61.

(b) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in no more than three years. Installment payments of less than $25 per pay period or $50 a month will be accepted only in the most unusual circumstances.

(c) *Sources of deductions.* The Department will make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay.

§ 3.65 Procedures for salary offset: imposition of interest, penalties and administrative costs.

Interest, penalties and administrative costs will be charged in accordance with 4 CFR 102.13.

§ 3.66 Nonwaiver of rights.

So long as there are no statutory or contractual provisions to the contrary, no employee payment (or all or portion of a debt) collected under these regulations will be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514.

§ 3.67 Refunds

The Department will refund promptly to the appropriate individual amounts offset under these regulations when:

(a) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(b) The Department is directed by an administrative or judicial order to refund deducted from the employee's current pay.

§ 3.68 Agency regulations.

The Head of each USDA agency is delegated the authority to act for the Secretary under these regulations and may issue regulations or policies not inconsistent with Office of Personnel Management regulations (5 CFR Part 550, Subpart K) and regulations in this subpart governing the collection of a debt by salary offset.

Done this 24th day of February 1986, at Washington, DC.

Frank W. Naylor,

Acting Secretary of Agriculture.

[FR Doc. 86-5714 Filed 3-14-86; 8:45 am]

BILLING CODE 3410-96-M

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7 CFR Part 6

Section 22 Dairy Import Quota for Uruguay

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulations (7 CFR 6.20–6.33) governing the importation under license of certain dairy products which are subject to quantitative limitations proclaimed under the authority of section 22 of the Agriculture Adjustment Act of 1933, as amended, in order to implement Presidential Proclamation No. 5425 of January 6, 1986, which modified such quantitative limitations to allow the importation of 551, 150 pounds of Italian-type cheese in original loaves from Uruguay. A special application period for the 1986 quota year is being established for importers who desire to receive import licenses for the importation of cheese from Uruguay.

EFFECTIVE DATE: March 17, 1986. Comments on this interim rule must be received on or before May 16, 1986, in order to be assured of consideration.

ADDRESS: Mail comments to: Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Room 6616 South Building, Department of Agriculture, Washington, DC 20250.

Copies of all written comments received will be available for examination by interested persons in Room 6622 of the South Building, Department of Agriculture (14th and Independence Avenue SW.), Washington, DC during regular business hours (8:15–4:45 weekdays).

FOR FURTHER INFORMATION CONTACT: Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Rm. 6616 South Building, Department of Agriculture, Washington, DC 20250 or telephone at (202) 447–5270.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major" since this interim rule will not have any of the significant effects specified in those documents.

Furthermore, to the extent, if any, that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) apply to this interim rule, the Administrator, Foreign Agricultural Service (FAS), hereby certifies that this interim rule will not have a significant economic impact on a substantial number of small entities. The interim rule will enhance the capability of both large and small firms to import certain cheese from Uruguay. The public is invited to comment on the impact of this interim rule on small entities, and the Administrator, FAS, will review this determination in light of those comments.

An evaluation of the impact of this rule on the environment was made and, based on this evaluation, it has been

determined that this action is not a major Federal action and will have no foreseeable adverse effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this interim rule.

Presidential Proclamation No. 4708 of December 11, 1979, and Presidential Proclamation No. 4811 of December 30, 1980, established quantitative limitations on imports of certain dairy articles in accordance with section 701 of the Trade Agreements Act of 1979 (Pub. L. 96–39) and section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624). Pursuant to those proclamations, the Department of Agriculture issued regulations providing that the dairy articles subject to such quantitative restrictions could be entered into the United States only by or for the account of a person or firm to which a license has been issued by or under the authority of the Secretary of Agriculture and only in accordance with the terms of such license.

Presidential Proclamation No. 5425 of January 6, 1986, modified such quantitative limitations to permit imports of up to 551,150 pounds of Italian-type cheese in original loaves from Uruguay. The purpose of this interim rule is to amend the regulations governing the importation of dairy articles subject to quotas in order to implement Presidential Proclamation No. 5425. This interim rule will amend Appenix 2 "Articles subject to the historical and supplementary licensing provisions of Import Regulation 1, Revision 7, and respective annual import quotas for each quota year" to 7 CFR Part 6, Subpart—Section 22 Import Quotas, by adding Uruguay to the list of countries from which Italian-type cheese in original loaves may be imported in the United States. The quantity which may be imported annually from Uruguay is 551,150 pounds.

The Department will issue supplementary import licenses authorizing the importation of such cheese from Uruguay to qualified importers. The application period for import licenses for the 1986 quota year was the period from August 1, 1985, through November 1, 1985. However, since there has been no opportunity for importers to apply for supplementary import licenses for cheese imported from Uruguay, it has been determined to provide for a special application period for such licenses.

Importers who desire to receive supplementary import licenses for the importation of Italian-type cheese in original loaves from Uruguay during the 1986 quota year must submit their application in writing to: Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Room 6616, South Building, U.S. Department of Agriculture, Washington, DC 20250 no later than March 31, 1986.

Eligibility to receive such licenses and the allocation of such licenses will be determined in accordance with established rules and procedures. Applications for the issuance of licenses to import such cheese from Uruguay during the 1987 quota year may be submitted beginning August 1, 1986.

Since the 1986 quota year has already begun, it is important that licenses to import the specified quantity of cheese from Uruguay be issued as quickly as possible so that importers will have sufficient time to import such cheese during the 1986 quota year. Accordingly, it has been determined that this interim rule shall become effective on [March 17, 1986]. However, comments from interested persons are requested. Comments must be received by [May 16, 1986] in order to be assured of consideration. After the comments have been received and reviewed, a final rule will be published setting forth any changes which may be necessary in these regulations.

List of Subjects in 7 CFR Part 6

Section 22, Import quotas, Dairy products.

Interim Rule

PART 6—[AMENDED]

Accordingly, 7 CFR Part 6, Subpart—Section 22 Import Quotas, is amended as follows:

1. The authority citation for 7 CFR Part 6, Subpart—Section 22 Import Quotas, is revised to read as follows and the authority citations following all the sections throughout the subpart are removed.

Authority: Section 3, Pub. L. 80–697, 62 Stat. 1248, as amended (7 U.S.C. 624); Secs. 701, 703, Pub. L. 96–39, 93 Stat. 268, 272 (19 U.S.C. 1202 note); Part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202); Sec. 501, Pub. L. 82–137, 65 Stat. 290, as amended (31 U.S.C. 9701).

Appendix 2—Articles Subject to the Historical and Supplementary Licensing Provisions of Import Regulation 1, Revision 7, and Respective Annual Import Quotas for Each Quota Year [Amended]

2. Group IV(a) of Appendix 2—Articles subject to the historical and supplementary licensing provisions of Import Regulation 1, Revision 7, and respective annual import quotas for each quota year is amended by adding the following new line immediately after the line beginning with "Argentina":

Uruguay	250,000	551,150

Signed this 5th of March 1986.

Thomas O. Kay,

Administrator, Foreign Agricultural Service.

[FR Doc. 86–5805 Filed 3–12–86; 3:24 pm]

BILLING CODE 3410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 86–AWA–3]

Change of Using Agency for Restricted Areas R–2901A—R–2901I Avon Park, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The using agency for Restricted Areas R–2901A through R–2901I Avon Park, FL, is being changed at the request of the Department of the Air Force. The using agency will be the Commander, MacDill Air Force Base, FL.

EFFECTIVE DATE: 0901 UTC, May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald C. Montague, Airspace and Aeronautical Information Requirements Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426–3128.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations changes the using agency for Restricted Areas R–2901A through R–2901I from the "56th TFW, MacDill AFB, FL" to the "Commander, MacDill AFB, FL" at the request of the Department of the Air Force. Because this action is a minor amendment in which the public would not be particularly interested, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Section 73.29 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

PART 73—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.29 [Amended]

2. Section 73.29 is amended as follows:

R-2901A Through R-2901I Avon Park, FL [Amended]

By removing the words "56th TFW, MacDill AFB, FL" and by substituting the words "Commander, MacDill AFB, FL"

Issued in Washington, DC, on March 7, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-5689 Filed 3-14-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 85-AWA-51]

Establishment of Jet Routes—Expanded East Coast Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes three new Jet Routes in several southeastern states: South Carolina, North Carolina, Georgia and Virgina. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace between New England and Florida. This amendment is a portion of the Expanded East Coast Plan (EECP) to make optimum use of limited airspace along the east coast corridor. This action reduces enroute and terminal delays in the Boston, MA, New York, NY, Miami, FL, Chicago, IL, and Atlanta, GA, areas; saves fuel and reduces controller workload. The EECP is being implemented in segments until completed.

EFFECTIVE DATE: 0901 G.m.t., May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On January 21, 1986, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish new Jet Routes J-208, J-209 and J-210 located in South Carolina, North Carolina, Georgia and Virignia (51 FR 2721). Also, on February 28, 1986, a supplemental notice was published to correct mistakes noted in the Jet Route descriptions (51 FR 7083). This action alleviates congestion along the coastal corridors between New York and Florida. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes and those proposed in the supplemental notice, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations establishes three new Jet Routes in several states which include South Carolina, North Carolina, Georgia and Virginia. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace between New England and Florida.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes

Adoption of the Amendment

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

1. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-208 [New]

From Athens, GA, via Liberty, NC; to Hopewell, VA.

J-209 [New]

From Greenwood, SC, via Tar River, NC; to Norfork, VA.

J-210 [New]

From INT Savannah, GA, 266° and Vance, SC, 221° radials; Vance; to Wilmington, NC.

Issued in Washington DC, on March 10, 1986.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-5688 Filed 3-14-86; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 250

[Release No. 35-24044; File No. S7-22-85]

Public Utility Holding Companies; Exemption for Affiliated Persons of Investment Bankers and Commercial Banking Institutions To Serve as Officers or Directors, Competitive Bidding Rule

AGENCY: Securties and Exchange Commission.

ACTION: Adoption of rule revision and rule amendment.

SUMMARY: The Commission is adopting a rule revision that would allow a limited number of persons affiliated with investment bankers and commercial bankers to serve as officers or directors of public utility holding companies and their subsidiaries under certain conditions. This action is intended to simplify and expand the exemptions now available under the existing rule. The Commission is also adopting a rule amendment to minimize potential conflicts of interest that may arise after an affiliated person of an investment banker has served as a director of a holding company or its subsidiary.

EFFECTIVE DATE: April 16, 1986.

FOR FURTHER INFORMATION CONTACT: Elizabeth K. Norsworthy, Chief, Office of Regulatory Policy, (202-272-2048), or Denis R. Molleur, Esq., Office of Public Utility Regulation, (202-272-2073), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

After the effective date, questions should be directed to the Office of Public Utility Regulation, (202) 272-7676, Division of Investment Management, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting a revision of rule 70 [17 CFR 250.70] under section 17(c) [15 U.S.C. 79q(c)] of the Public Utility Holding Company Act of 1935 [15 U.S.C. 79 *et seq.*] ("Act") to permit a limited number of persons affiliated with investment bankers or commercial banking institutions (hereinafter collectively referred to as "banking institutions") to serve as directors or officers of public utility holding companies and their subsidiaries (hereinafter collectively referred to as "system companies"). The purpose of the rule revision is to simplify the structure of the existing rule and to give system companies more flexibility in the selection of their officers and directors. The Commission is also adopting an amendment to rule 50 [17 CFR 250.50] under sections 6, 7(c), and 12(d) [15 U.S.C. 79(f), 79g(c), and 79*l*(d)] of the Act, the rule that governs competitive bidding procedures, to address potential conflicts of interest that may arise shortly after an affiliated person of an investment banker has served as a director of a system company.

The Commission initially proposed the rule 70 revision and rule 50 amendment in May of 1985.[1] Based upon comments received on that proposal, a revised version of the rule revision and rule amendments was published for public comments in November.[2] Since the proposing releases discussed the legislative history of section 17(c), the administrative history of rule 70 and the Commission's reasons for revising rule 70 and amending rule 50, this release focuses upon the commentators' reaction to the revised proposal and certain technical changes that have been made in that proposal.

Discussion

A. Rule 70

1. Limitations on Directors of System Companies Who Are Affiliated With Banking Institutions

a. Percentage limitations. The final rule allows a holding company to have up to 75% of its directors affiliated with commercial banking institutions and investment bankers. The entire 75% may be affiliated with commercial banking institutions that have their principal places of business located within the state or states served by the holding company system or up to 25% may be affiliated with investment bankers wherever located or with commercial banking institutions that have their principal places of business located outside the state or states served by the system. Under the final rule, a subsidiary company also may have up to 75% of its directors affiliated with commercial banking institutions and investment bankers. The entire 75% may be affiliated with commercial banking institutions that have their principal places of business located within the state or states served by the subsidiary or up to 25% may be affiliated with investment bankers wherever located or with commercial banking institutions that have their principal places of business located outside the state or states served by the subsidiary.

If application of these percentage limitations results in a fractional number of .5 or more, that fraction may be rounded up to arrive at the number of affiliations that are allowed under the revised rule. For example, if 75% of a holding company's board of directors equals 13.5 persons and 25% equals 4.5 persons, up to 14 directors could be affiliated with banking institutions. All 14 directors could be afiliated with commercial banking institutions that have their principal places of business located within the state or states served by the holding company system. Alternatively, up to 5 of the 14 directors could be affiliated with commercial banking institutions that have their principal places of business located outside of the state or states served by the system or with investment bankers wherever located.

Under the reproposal, no more than 25% of a system company's directors could be affiliated with investment bankers or with commercial banking institutions that have their principal places of business located outside the state or states served by the system. However, up to 75% of the board could be affiliated with local commercial banking institutions, provided that the total number of director affiliated with investment bankers or commercial banking institutions did not exceed 75% of the board. The reproposal specified that in the case of a holding company, a commercial bank would be considered local if the bank's principal place of business is located within the state or states served by the system; in the case of a subsidiary company, a bank would be considered local if the bank's principal place of business is located within the state or states served by the subsidiary.

Two commentators pointed out that these provisions could be read to prevent subsidiary companies from having any directors affiliated with commercial banks that have their principal place of business located within the state or states served by the system but outside the state or states served by the subsidiary company. Since that was not the Commission's intent, the final version of the rule has been redrafted.

b. Limitations on system company directors serving as officers of banking institutions. The final rule allows the directors of subsidiary companies who are affiliated with commercial banking institutions that have their principal places of business located within the state or states served by the subsidiary to serve as officers of those local banks as long as they are not also serving as

[1] Holding Company Act Release No. 23693 (May 14, 1985) [50 FR 21080].

[2] Holding Company Act Release No. 23915 (November 21, 1985) [50 FR 49354].

officers of the subsidiary company. However, any holding company directors who are affiliated with banking institutions may not serve as officers of those institutions. These provisions of the revised rule are adopted essentially as reproposed.

Several commentators urged the Commission to also allow the outside directors of holding companies to serve as officers of local commercial banking institutions. They argued that the potential for abuse is remote and, in many instances, an officer of a local bank could make a substantial contribution in serving as a holding company outside director. However, it is the holding company that is primarily responsible for system-wide financing decisions. To avoid domination of a holding company system by banking institutions, the purpose expressed by Congress in enacting section 17(c), the Commission continues to believe that rule 70 should permit the directors of holding companies to be affiliated with commercial banking institutions only as outside directors.

2. Limitations on Officers of System Companies Who Are Affiliated With Banking Institutions

As in the reproposal, the final rule allows an officer of a holding company or subsidiary company to serve as a director of a commercial banking institution provided that the system company officer does not also serve as an officer or employee of that commercial bank and provided that no more than one other officer of the system company serves as a director of that bank.

Although one commentator asked the Commission to permit at least three officers from the same system company to serve as outside directors of the same commercial banking institution, the Commission continues to believe that no more than two officers from the same system company should serve as outside directors of the same commercial bank, again to avoid any potential for the bank to unduly influence the operations of the system company.

3. Elimination of the Federal Energy Regulatory Commission ("FERC") Exemption

The final rule's exemptive provisions described above replace, *inter alia*, an exemptive paragraph of the existing rule that permits any person affiliated with a banking institution to serve as an officer or director of a system company if authorized by FERC. In the proposing release, the Commission requested specific comment on whether the FERC exemption should be retained in the final version of the rule.

A few commentators believed that the FERC exemption should be retained in the interest of comity and consistent Federal regulation, but cited no instances of need for such an exemptive provision. The Commission continues to believe that a separate FERC exemption is unnecessary given the generous percentage limitations described above.

4. Grandfather Clause

The final rule provides that a system company officer's or director's affiliation with a banking institution that exists on the day before the effective date of the revised rule will not disqualify that individual from continuing to serve as an officer or director or from serving successive terms in that capacity. At the request of commentators, the provision has been redrafted to make it clear that an individual's affiliation with a banking institution that exists on the day before the revised rule becomes effective will not disqualify that person from election or appointment to successive terms. The proposal has also been redrafted to make it clear that the only banking affiliations of a system company officer or director that are grandfathered are those affiliations that have been permitted under the existing rule; any other affiliations acquired after the revised rule's effective date will have to comply with the revised rule's provisions.

5. Definitions

a. *Director.* As in the reproposal, the final version of rule 70 defines a director as "any director of a corporation or any individual who performs similar functions in connection with a corporation, partnership, trust, voting trust or other company." An "advisory director" who is not entitled to vote on issued presented to the board for consideration would not be considered a director for purposes of applying the revised rule's provisions.

b. Officer. The final rule defines an officer as "a chairman of the board of directors, chief executive officer, president, vice president, treasurer, secretary, comptroller, and any individual who performs similar functions." At the suggestion of one commentator, the reproposal has been redrafted to exclude the chairman of a system company's finance committee or executive committee from the difinition so that outside directors who are selected to act as chairmen of those committees would not be treated as officers under the revised rule. The reproposed definition has also been redrafted so that a system company's chief executive officer would explicitly be included in the definition of officer under the final rule.

c. *Commercial banking institutions.* As recommended by two commentators, the final version of the definition of "commercial banking institution" excludes Federal Reserve banks, which were inadvertently included in the reproposal, because such banks are not primarily engaged in commercial banking activities. The definition has also been revised to explicitly exclude savings banks, as well as savings and loan associations. As pointed out by one commentator, in some areas of the country, savings institutions are organized and known as savings banks, not as savings and loan associations.

One commentator urged the Commission to treat a bank-holding company and each of its bank subsidiaries as separate commercial banking institutions for purposes of the rule. The Commission continues to believe, however, that a bank-holding company system should be treated as a single commercial banking institution to avoid the potential for domination of a public utility holding company system by any one bank holding company system.

Similarly, the Commission continues to believe that the revised rule should not retain the existing rule's exemption for system company officers and directors who are affiliated with small commercial banks. Two commentators suggested that commercial banks having combined capital and surplus not in excess of $10 million should be excluded from the definition of commercial banking institution. One commentator suggested excluding commercial banks that have combined capital and surplus not in excess of $25 million. However, the Commission believes that a separate exclusion for small banks is not needed, given the revised rule's generous percentage limitations.

B. Rule 50

As amended, the final version of rule 50 would incorporate the same conflict of interest provision that was proposed, that is, any proposal which is received from an investment banker within twelve months after an affiliated person of that investment banker has served as a director of the applicant or declarant or of any company within the same holding company system will not be considered an independent proposal. The amended rule, however, makes no other changes with regard to competitive bidding procedures as set forth in the rule and as modified by the

Commission's 1982 Statement of Policy [3] and subsequent administrative positions thereunder. As recommended by the commentators, the Commission believes that it is more appropriate to address all aspects of rule 50 in the context of a separate rule-making proceeding.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the revision of rule 70 and the amendment to rule 50 will not have a significant economic impact on a substantial number of small entities. The Commission did not receive any comments concerning the Chairman's certification.

Statutory Basis

The final revision of rule 70 is adopted by the Commission pursuant to the authority granted the Commission in sections 17(c) and 20(a) [15 U.S.C. 79q(c) and 79t(a)] of the Act. The amendment to rule 50 is adopted pursuant to the authority granted the Commission in sections 6(c), 7, 12(d) and 20(a) [15 U.S.C. 79f(c), 79g, 79*l*(d) and 79t(a)] of the Act.

List of Subjects in 17 CFR Part 250

Confidential business information, Electric utilities, Holding companies, Natural gas, Reporting and recordkeeping requirements, Securities, Public utility holding companies, Officers and directors of registered holding companies and their subsidiaries, Competitive bidding requirement, Securities, Utilities.

Text of Rule Revision and Rule Amendment

Part 250 of Chapter II, Title 17 of the Code of Federal Regulations is amended as set forth below.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. The authority citation for Part 250 is amended by adding the following citations:

Authority: Secs. 3, 20, 49 Stat. 810, 833; 15 U.S.C. 79 c, 79t, unless otherwise noted. Section 250.50 also issued under Secs. 6, 7, 12, 49 Stat. 814, 815, 823; 15 U.S.C. 79f, 79g, 79l, 79t. Section 250.70 also issued under Sec. 17, 49 Stat. 830; 15 U.S.C. 79q.

2. By revising § 250.70 to read as follows:

[3] *See* Holding Company Act Release No. 22623 (Sept. 2, 1982) [47 FR 24768].

§ 250.70 Exemptions from section 17(c) of the Act.

Notwithstanding the prohibitions contained in section 17(c) of the Act,

(a) A registered holding company may have up to 75% of the members of its board of directors comprised of affiliated persons of commercial banking institutions that have their principal places of business located within the state or states served by the holding company system, *Provided,* that:

(1) Those affiliated persons do not also serve as officers or employees of those local commercial banking institutions; and

(2) No more than one director or 25% of the members of the board of directors of the holding company, whichever is greater, is affiliated with the same local commercial banking institution.

(b) A registered holding company may have up to 25% of the members of its board of directors comprised of affiliated persons of commercial banking institutions that have their principal places of business located outside the state or states served by the holding company system or investment bankers wherever located, *Provided,* that:

(1) Those affiliated persons do not also serve as officers or employees of those banking institutions;

(2) No more than one director or 10% of the members of the board of directors, whichever is greater, is affiliated with any one investment banker or with any one commercial banking institution;

(3) The total number of directors who are affiliated with investment bankers or commercial banking institutions does not exceed 75% of the members of the board of directors; and

(4) Where an affiliated person of an investment banker serves as a director of any company within a holding company system, the investment banker:

(i) Has not acted as a managing underwriter for the distribution of securities issued by any company in the holding company system for at least twelve months prior to the director's appointment or election to the board; and

(ii) Does not act as a managing underwriter for the distribution of securities issued by any company in the holding company system while the director serves on the board.

(c) A subsidiary company of a registered holding company may have up to 75% of the members of its board of directors comprised of affiliated persons of commercial banking institutions that have their principal places of business located within the state or states served by the subsidiary company, *Provided,* that:

(1) Those affiliated persons either do not serve as officers or employees of those local commercial banking institutions or, alternatively, do not serve as officers or employees of the subsidiary company; and

(2) No more than one director or 25% of the members of the board of directors of the subsidiary company, whichever is greater, is affiliated with the same local commercial banking institution.

(d) A subsidiary company of a registered holding company may have up to 25% of the members of its board of directors comprised of affiliated persons of commercial banking institutions that have their principal places of business located outside the state or states served by the subsidiary company or investment bankers wherever located, *Provided,* that:

(1) Those affiliated persons do not also serve as officers or employees of those banking institutions;

(2) No more than one director or 10% of the members of the board of directors, whichever is greater, is affiliated with any one investment banker or with any one commercial banking institution;

(3) The total number of directors who are affiliated with investment bankers or commercial banking institutions does not exceed 75% of the members of the board of directors; and

(4) Where an affiliated person of an investment banker serves as a director of any company within a holding company system, the investment banker:

(i) Has not acted as a managing underwriter for the distribution of securities issued by any company in the holding company system for at least twelve months prior to the director's appointment or election to the board; and

(ii) Does not act as a managing underwriter for the distribution of securities issued by any company in the holding company system while the director serves on the board.

(e) An officer of a holding company may serve as a director of a commercial banking institution, *Provided,* that:

(1) The officer of the holding company does not also serve as an officer or employee of that commercial banking institution; and

(2) No more than one other officer of the holding company serves as a director of that commercial banking institution.

(f) An officer of a subsidiary company may serve as a director of a commercial banking institution, *Provided,* that:

(1) The officer of the subsidiary company does not also serve as an officer or employee of that commercial banking institution; and

(2) No more than one other officer of the subsidiary company serves as a director of that commercial banking institution.

(g) A person serving as an officer or director of a holding company or subsidiary company on April 15, 1986, shall not be disqualified from continuing to serve or from serving successive terms in that capacity solely because of an affiliation with a commercial banking institution or investment banker which existed on that date.

(h) As used in section 17(c) of the Act and in this rule:

(1) An "affiliated person" of a commercial banking institution or investment banker means an officer, director, partner, appointee or representative of that commercial banking institution or investment banker, as well as any person that directly or indirectly owns or holds with power to vote 5 percent or more of the outstanding voting securities of that commercial banking institution or investment banker.

(2) A "commercial banking institution" means any person:

(i) That engages directly or indirectly in the business of a bank, trust company, bank-holding company, banking association or firm; and

(ii) Any enterprise in which such person owns 20 percent or more of the equity interest.

The term excludes any person that derived 15% or less of its gross revenues from commercial banking and investment banking activities during the fiscal year immediately preceding an affiliated person's appointment or election to the board of directors, or appointment as officer, of a registered holding company or subsidiary company thereof. The term also excludes any Federal Reserve Bank, savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, or similar institution, or any receiver, conservator, liquidator, liquidating agent, or similar official or person thereof or therefor.

(3) An "investment banker" means any person:

(i) That engages directly or indirectly in the business of underwriting or dealing in securities that are not exempted from registration under the Securities Act of 1933 by section 3 of that Act; and

(ii) Any enterprise in which such person owns 20 percent or more of the equity interest.

The term excludes any person that derived 15% or less of its gross revenues from commercial banking and investment banking activities during the fiscal year immediately preceding an affiliated person's appointment or election to the board of directors of a registered holding company unless those revenues were derived from acting as a managing underwriter for the distribution of securities issued by any company in such holding company system.

(4) A person's gross revenues from its own commercial and investment banking activities and from its ratable share of the commercial banking and investment banking activities of enterprises in which it owns 20 percent or more of the equity interest should be considered in determining the degree to which the person is engaged in such activities.

(5) A "director" means any director of a corporation or any individual who performs similar functions in connection with a corporation, partnership, trust, voting trust or other company.

(6) An "officer" means a chairman of the board of directors, chief executive officer, president, vice president, treasurer, secretary, and comptroller, or any individual who performs similar functions in connection with a corporation, partnership, trust, voting trust, or other company.

(7) A "managing underwriter" means an underwriter (or underwriters) who, by contract or otherwise, deals with the issuer, organizes the selling efforts, receives some benefit directly or indirectly in which all other underwriters similarly situated do not share in proportion to their respective interests in the underwriting, or represents any other underwriters in such matters as maintaining the records of the distribution, arranging the allotments of securities offered or arranging for appropriate stabilization activities, if any.

3. By redesignating paragraph (b) as paragraph (b)(1), adding paragraph (b)(2), and removing the authority cite from the end of § 250.50 to read as follows:

§ 250.50 Requirement of public invitation of proposals for the purchase or underwriting of securities.

* * * * *

(b)(1) *Public invitation of proposals.*

* * *

(2) Any proposal which is received from an investment banker as defined in rule 70(h)(3) [17 CFR 250.70(h)(3)] within twelve months after an affiliated person of that investment banker has served as a director of the applicant or declarant or of any company within the same holding company system will not be considered an independent proposal.

* * * * *

By the Commission.

Dated: March 6, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-5541 Filed 3-14-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520, 556, and 558

Animal Drugs, Feeds, and Related Products; Morantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Pfizer, Inc., providing for a revised tolerance for residues of morantel tartrate in food derived from treated cattle and for use of the drug in dairy cattle of breeding age.

EFFECTIVE DATE: March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed supplemental NADA 92-444 providing for use of Rumatel® (morantel tartrate) Type A Article for making Type C cattle feed, and supplemental NADA 93-903 providing for use of Rumatel® and Nematel™ Boluses for treating cattle. The drugs are used for removal and control of mature gastrointestinal nematode infections. The supplements provide for a revised tolerance for residues of morantel tartrate in food derived from treated cattle and for use of the drug in dairy cattle of breeding age.

The supplements are approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug

Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25) as published in the **Federal Register** of April 26, 1985 (50 FR 16636), and has determined that:

1. For the action providing for safe concentrations for total residues of morantel tartrate in the uncooked edible tissue of cattle and in milk, under 21 CFR 25.24(d)(1)(i), that the action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

2. For the action providing for use in dairy cattle of breeding age, that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment as provided in 21 CFR 25.31a(a), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 556

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 520, 556, and 558 are amended as follows:

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

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

§ 520.1450a [Amended]

2. In § 520.1450a *Morantel tartrate bolus* in paragraph (d)(3) by removing "Not for use in dairy animals of breeding age."

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR Part 556 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

4. By revising § 556.425 to read as follows:

§ 556.425 Morantel tartrate.

The marker residue selected to monitor for total residues of morantel tartrate in cattle is *N*-methyl-1,3-propanediamine (MAPA). The target tissue selected is liver. Residue concentrations are determined by measuring the morantel residues convertible to MAPA. A tolerance for MAPA is established in cattle of 0.70 part per million in liver. A marker residue concentration of 0.70 part per million in liver corresponds to a concentration for total residues of morantel tartrate of 2.40 parts per million in liver. The safe concentrations for total residues of morantel tartrate in the uncooked edible tissues of cattle are 1.20 parts per million in muscle, 2.40 parts per million in liver, 3.60 parts per million in kidney, and 4.80 parts per million in fat. A tolerance for the marker residue of morantel tartrate in milk is not needed. The safe concentration for total residues of morantel tartrate in milk is 0.40 part per million. "Tolerance" in this section refers to a concentration of a marker residue selected to monitor for total residues of the drug in the target animal. "Safe concentrations" refer to the concentrations of total residues considered safe in edible tissues and milk.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

5. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.360 [Amended]

6. In § 558.360 *Morantel tartrate* in paragraph (d)(3) by removing "Not for use in dairy cattle of breeding age."

Dated: March 11, 1986.

Marvin A. Norcross,

Acting Associate Director for New Animal Drug Evaluation.

[FR Doc. 86–5701 Filed 3–14–86; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 558

[Docket No. 77N–0076]

New Animal Drugs For Use in Animal Feeds; Definitions and General Considerations; Revised Procedures Re Medicated Feed Applications

Correction

In FR Doc. 86–4316 beginning on page 7382 in the issue of Monday, March 3, 1986, make the following corrections:

1. On page 7392, § 558.4(d), in the table, in the last column, the sixth line should read, "80–120/70–130". The eighth line should read, "80–115/70–130".

2. On page 7393 in the table, Category I, in the last line, the third column," 2.4%" should read "2.5%".

3. On page 7393, in the table, Category II, in the sixteenth line, transfer "0.00625%" to the third column from the fourth column. Likewise in the seventeenth line, transfer "0.025%" to the third column from the fourth.

In the eleventh line from the bottom of the page, transfer "0.01% (Combined)" to the third column from the fourth column. In the tenth line from the bottom, transfer "0.02% (Combined)" to the third column from the fourth column.

4. On page 7394, in the table, Category II, in the last line in the fourth column, "< 7% 90–110" should read "> 7% 90–110".

5. On page 7395, in amendatory instruction 29, in the fifth line, "redesignating" should read "redesignated". In the sixth line, "redesignated" should read "redesignating".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8074]

Income Taxes; Stock Acquisitions and Target Corporation Assets; Section 338 International Aspects

Correction

In FR Doc. 86–2951 beginning on page 5163 in the issue of Wednesday, February 12, 1986, make the following correction to § 1.338–5T(j)(7)(iii).

On page 5188, in the third column, paragraph (iii), fifth line, the date should read "February 12, 1986".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 785

Requirements for Permits for Special Categories of Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior

ACTION: Final rule; technical amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is amending regulatory cross-references contained in the final regulations concerning requirements for permits for special categories of surface mining and reclamation operations subject to the provisions of the Surface Mining and Reclamation Act of 1977. In a May 24, 1983 **Federal Register** document, 30 CFR Part 826 was removed and the provisions thereof moved to new §§ 816.107 and 817.107. Paragraphs (b) and (c) of 30 CFR 785.15 continue to reference 30 CFR 826.12. The paragraphs are corrected in this rulemaking to cite the proper section references.

EFFECTIVE DATE: March 17, 1986.

FOR FURTHER INFORMATION CONTRACT: Ralph Blumer, Regulatory Development and Issues Management, Office of the Director, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240, (202) 343-5981.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Amendment
III. Procedural Matters

I. Background

OSMRE published final rules relating to backfilling and grading requirements for surface and underground mining activities on May 24, 1983 (48 FR 23356). Part 826 governing mining of steep slopes, was removed and those requirements were moved to Parts 816 and 817 as new §§ 816.107 and 817.107. Paragraphs (b) and (c) of 30 CFR 785.15 contains references to 30 CFR 826.12. This rulemaking will correct this reference. The correction is considered a technical amendment and no change in meaning or application is intended. The main purpose of this technical amendment is to assure that 30 CFR Chapter VII, due for update in July 1986 is accurate.

II. Discussion of Amendment

This amendment is to correct section references in 30 CFR 785.15(b) and (c) to correspond with the redesignation and/or removal of 30 CFR Part 826.

III. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

OSMRE has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the rule is procedural and has no economic effect on the public. The Department has also determined that this document will not have a significant economic effect on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act.

National Environmental Policy Act

This rulemaking is not a major Federal action, but a procedural rule covered under previous rulemakings. Therefore, an environmental assessment is not required for this rulemaking, which is covered under the environmental assessment and environmental impact statements prepared for the previous rulemakings.

Federal Paperwork Reduction Act

It has been determined that the information collection requirements do not change due to the corrections of this rulemaking, and therefore, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and does not require clearance by the Office of Management and Budget.

List of Subjects in 30 CFR Part 785

Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

Accordingly, the Office of Surface Mining Reclamation and Enforcement is amending 30 CFR Part 785 as set forth herein.

Dated: March 7, 1986.

James E. Cason,

Deputy Assistant Secretary for Land and Minerals Management.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

1. The authority citation for Part 785 continues to read as follows:

Authority: Secs. 102, 201, 501(b), 503, 504, 506, 507, 508, 509, 510, 511, 513, 514, 515, 516, 517, 519, 527, 529, 701, and 711, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1257, 1259, 1260, 1261, 1263, 1264, 1265, 1266; 1267, 1269, 1277, 1279, 1291, 1301), unless otherwise noted.

§ 785.15 [Amended]

2. Paragraphs (b) and (c) of § 785.15 are amended by removing the words "30 CFR Part 826.12" and adding in their place the words "§§ 816.107 or 817.107 of this chapter."

[FR Doc. 86-5741 Filed 3-14-86; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 914

Approval of Permanent Program Amendments From the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of amendments to the Indiana Permanent Regulatory Program (hereinafter referred to as the Indiana program) received by OSMRE pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On September 4, 1985, Indiana submitted amendments to its program to establish a program for the training, examination and certification of blasters.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director, OSMRE, has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving these amendments. The Federal rules at 30 CFR Part 914 which codify decisions concerning the Indiana program are being amended to implement this action.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269-2600.

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background on the Indiana State Program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26,

1982 Federal Register (47 FR 32071–32108). Subsequent actions concerning the Indiana program are described in 30 CFR 914.15 and 30 CFR 914.16.

II. Discussion of Proposed Amendment

On September 4, 1985, the Indiana Department of Natural Resources submitted to OSMRE pursuant to 30 CFR 732.17, a proposed State program amendment for approval. The amendment establishes a program for the training, examination and certification of blasters.

On March 4, 1983, OSMRE issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Part 850 (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of a State program or within 12 months after the publication date of OSMRE's rules at 30 CFR Part 850, whichever is later. In the case of Indiana's program, the applicable date was 12 months after publication of OSMRE's rules or March 4, 1984. However, Indiana requested and received a twelve-month extension to March 4, 1985, and an additional six-month extension to September 4, 1985. (May 14, 1984, 49 FR 20285 and April 5, 1985, 50 FR 13566).

OSMRE published a notice in the Federal Register on November 15, 1985, announcing receipt of the proposed program amendments submitted on September 4, 1985, and procedures for the public comment period and for requesting a public hearing on the substantive adequacy of the proposed amendment (50 FR 47229). The public comment period ended December 16, 1985. There was no request for a public hearing and the hearing scheduled for December 10, 1985, was not held.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the program amendment establishing a blaster training, examination and certification program submitted by Indiana on September 4, 1985, meets the requirements of SMCRA and 30 CFR Chapter VII. Although the blaster examination itself will be resubmitted at a later date to address identified deficiencies, the program on the whole is consistent with the Federal requirements. The examination is confidential and not subject to public comment; therefore, approval of the program will not be delayed pending resubmission of the examination. Only those areas of particular interest are discussed below in the specific findings. Discussion on only those provisions for which findings are made does not imply any deficiency in any provision not discussed.

1. The Indiana definition of "certified blaster" added to 310 IAC 12–1–3 means a person with at least 12 months blasting experience who has completed an approved training course and successfully passed the blaster certification exam and who holds a valid certificate issued by the State. The Director finds that this definition is more specific than the Federal definition of "blaster" at 30 CFR 850.5 but not less effective. The Federal rule defines "blaster" as a person directly responsible for the use of explosives who is certified under 30 CFR Part 850.

2. The amended Indiana rules 310 IAC 12–5–33 and 12–5–99 contain requirements found in the Federal counterpart rules at 30 CFR 816.61 and 817.61, general requirements for use of explosives for surface and underground mines, except for the requirement at 30 CFR 816.61(c)(2) and 817.61(c)(2) that certificates of blaster certification be carried by the blaster or be on file at the permit site. The Indiana counterpart for the Federal requirement is contained in 310 IAC 12–8–7(e) which is discussed below under Finding 9. Indiana rules 30 IAC 12–5–33 and 12–5–99 contain general requirements for use of explosives found in the Federal rules and also require that each person responsible for blasters shall possess a valid certification and that decisions concerning blast specifications shall be made by a certified blaster. The Director finds the Indiana rules no less effective than the Federal rules.

3. Indiana has added 310 IAC 12 Rule 8 to cover training, examination and certification of blasters. Indiana rule 310 IAC 12–8–1 establishes the scope of the rule, similar to 30 CFR 850.1 The Director finds this section no less effective than 30 CFR 850.1.

4. Indiana has added 310 IAC 12–8–2 to explain the objective of 310 IAC 12–8–1 through 12–8–9 to establish the blaster certification program. Although there is no Federal counterpart, the Director finds this explanatory rule consistent with the requirements in 30 CFR Part 850.

5. Indiana rule 310 IAC 12–8–3 establishes requirements for blaster training. It contains requirements similar to the Federal counterparts in 30 CFR 850.13, including a listing of topics to be included in the training courses. The Indiana rule also contains, in paragraph (d), requirements for training of persons who are assigned to a blasting crew or who assist in explosives use. Although there is no Federal counterpart rule, the Director finds these requirements to be consistent with the Federal requirements for blaster training. The Director, therefore, finds the Indiana rules no less effective than the Federal rules.

6. Indiana rule 310 IAC 12–8–4 establishes requirements for applications for a certification. Although there is no Federal counterpart, the rule establishes practical information for applying for certification and is consistent with Federal requirements. The Director finds the rule no less effective than the Federal rules.

7. Indiana rule 310 IAC 12–8–5 establishes requirements for written examinations and for practical experience that are similar to the Federal rules at 30 CFR 850.14. The Indiana rule contains additional practical information on examination notices, grades and other topics of interest to candidates. The Director, therefore, finds the rules no less effective than the Federal rules.

8. Indiana rule 310 IAC 12–8–6, comity registration, allows, under certain circumstances, persons holding a valid blaster certification in another state to be certified in Indiana without examination, if the other state has an approved blaster certfication program. In the preamble to the Federal rules on blaster certification, OSMRE endorsed the concept of State reciprocity saying that this "should be facilitated by the State program review and approval process, under which all States with approved programs must conform with the rules adopted today and the Act." (48 FR 9488, March 3, 1983). Therefore, the Director finds this section of the Indiana rules no less effective than the Federal rules.

9. Indiana rule 310 IAC 12–8–7 establishes requirements for certification. The rule sets the period of certification at 3 years and covers practical information for issuance of certification and replacement certificates. The rules contain requirements similar to those of 30 CFR 850.15 (a), (d) and (e) and also contains the requirement of 30 CFR 816.61(c)(2) and 817.61(c)(2) that blasters shall maintain their blaster certificates at the mine site. The Director, therefore, finds the rules no less effective than the Federal rules.

10. Indiana rule 310 IAC 12–8–8 contains requirements for renewal of blaster certificates provided for in 30

CFR 850.15(c). The Indiana rule provides requirements for and practical information on renewing certificates every three years. Federal rule 30 CFR 850.15(c), although it does not establish specific requirements, provides for recertification of blasters. The Director, therefore, finds the Indiana rules no less effective than the Federal rules.

11. Indiana rule 310 IAC 12–8–9 establishes provisions for revocation of certification, for hearings on revocations and for reissue of revoked certifications. The rules are consistent with the Federal provisions for revocation at 30 CFR 850.15(b), and, therefore, the Director finds them no less effective.

12. OSMRE has completed a review of the course material proposed for use in Indiana's training courses and has reviewed copies of representative examinations to be used to satisfy the written examination requirement. OSMRE has found the course material to satisfactorily comply with State and Federal program requirements. However, the examination was found to be inadequate in that some of the questions were found to be too simple so that the examination did not adequately judge knowledge of the topics covered. Also, the mix of questions needs to be improved so that all topics are adequately covered. Indiana is currently working to address these deficiencies and will submit revised examination samples for OSMRE review in the near future. Upon completion of OSMRE's review, Indiana will be notified of the adequacy of the examination and, if appropriate, that Indiana can begin implementing its blaster certification program.

The Director finds that the Indiana regulatory provisions for training, examination and certification of blasters are no less effective than the requirements established in the Federal rules.

IV. Public Comments

No public comments were received on the amendments.

V. Director's Decision

The Director, based on the above findings, is approving the Indiana regulatory amendments as submitted on September 4, 1985, under the provisions of 30 CFR 732.17. The Federal rules at 30 CFR Part 914 are being amended to implement this decision.

VI. Procedural Matters

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 OSMRE 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.

List of Subjects in 30 CFR Part 914

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

Dated: March 10, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

PART 914—INDIANA

30 CFR Part 914 is amended as follows:

1. The authority citation for Part 914 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 914.15 is amended by adding a new paragraph (j) as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(j) The following amendments submitted by the Indiana Department of Natural Resources to OSMRE on September 4, 1985, are approved effective March 17, 1986: Indiana's blaster training, examination and certification program as contained in the Indiana regulations at 310 IAC 12–1–3, 310 IAC 12–5–33, 310 IAC 12–5–99, 310 IAC 12–8–1, 310 IAC 12–8–2, 310 IAC 12–8–3, 310 IAC 12–8–4, 310 IAC 12–8–5, 310 IAC 12–8–6, 310 IAC 12–8–7, 310 IAC 12–8–8, 310 IAC 12–8–9 and in the blaster training program.

3. 30 CFR 914.16 is amended by removing and reserving paragraph (a) as follows:

§ 914.16 Required program amendments.

* * * * *

(a) [Reserved]

* * * * *

[FR Doc. 86–5692 Filed 3–14–86; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 917

Approval of Permanent Program Amendments From the Commonwealth of Kentucky Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of program amendments submitted by Kentucky as modifications to the State's permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments were submitted on September 16, 1985 and modified on December 10, 1985. The amendments pertain to liability insurance requirements.

After providing for public comment and conducting a thorough review of the program amendments, the Direcor has determined that the amendments on liability insurance requirements meet the requirements of SMCRA and the Federal regulations and is approving these amendments. The Federal rules at 30 CFR Part 917 codifying decisions concerning the Kentucky program are being amended to implement this action.

This final rule is being made effective immediately to expedite the State program amendments process and encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: March 17, 1986.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Telephone: (606) 233–7327.

SUPPLEMENTARY INFORMATION:

I. Background

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSMRE. The Kentucky program was conditionally approved by the Secretary of the Interior 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, revisions, modifications, and amendments to the proposed permanent program submission, as well as 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.** Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 30 CFR 917.15, 30 CFR 917.16 and 30 CFR 917.17.

II. Submission of Program Amendments

On September 16, 1985, Kentucky submitted amendments to its regulations pertaining to general hydrology requirements and liability insurance requirements. On October 25, 1985, OSMRE published a notice in the **Federal Register** (50 FR 43413) announcing receipt of the amendments and inviting public comment on their adequacy. The public hearing scheduled for November 19, 1985, was not held because no one requested an opportunity to testify.

On December 10, 1985, Kentucky submitted modifications to the liability insurance amendments. On January 21, 1986, OSMRE reopened the comment period for these amendments for a period of fifteen days ending February 5, 1986 (51 FR 2731). On February 7, 1986, Kentucky submitted modifications to the amendments pertaining to general hydrology requirements. The comment period for those modifications will be reopened by a separate **Federal Register** notice. This final rule therefore, pertains only to the liability insurance amendments.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the program amendments pertaining to liability insurance requirements submitted on September 16, 1985, including modifications submitted on December 10, 1985, meet the requirements of SMCRA and 30 CFR Chapter VII. Only these provisions of particular interest are discussed below. Any provisions not specifically discussed are found to be no less stringent than SMCRA and no less effective than the Federal rules.

1. Kentucky is deleting the incorporation of Reclamation Advisory Memorandum (RAM) #64, "Certification of Liability Insurance Update, June 10, 1983," from its list of RAM's incorporated by reference at 405 KAR 7:015 Section 1. The RAM is deleted in accordance with changes to the liability insurance requirements in 405 KAR 10:030 which are discussed below under Finding 2. The Director finds this deletion consistent with the Federal rules.

2. Kentucky has amended paragraph (1) of 405 KAR 10:030 section 4 to require the applicant to submit, as part of the permit application at the time of bond submission, a certificate of liability insurance. Since 405 KAR 10:010 section 2(2) requires submission of bond after permit approval but before the permit is issued, the certificate of liability insurance would likewise be issued after permit approval but before permit issuance. The Federal rule at 30 CFR 800.60(a) requires submission of the certificate of liability insurance as part of the permit application.

Since Kentucky would still require that the applicant obtain and submit proof of the necessary liability insurance before any permit is issued and before initiation of any coal mining operation, and since this proof, when submitted, must be included in the permit application, the Director finds that the revised State rule provides protection that is no less stringent than that required by section 507(f) of SMCRA and that it is no less effective than the corresponding Federal regulations. The Director notes also that the Kentucky regulatory change does not affect the public's right to comment. The Kentucky rules require minimum liability coverage for bodily injury and property damage which the operator must meet to be in full compliance. The public's ability to comment on the adequacy of the minimum amounts established in the regulations is not hampered by the absence of the certificate in the permit application.

Kentucky has also amended section 4, paragraph (1) to require coverage for bodily injury and property damage of $300,000 for each occurrence and $500,000 aggregate. This is the same minimum coverage required by 30 CFR 800.60(a) and therefore the Director finds it no less effective than the Federal rule.

Other changes are made to paragraph 1 and to paragraph 2 of section 4 which clarify the rule or reflect language in 30 CFR 800.60. The Director finds the amended Kentucky rule no less effective than the Federal rule.

IV. Public Comments

OSMRE solicited comments from the Environmental Protection Agency (EPA) and received its concurrence on the amendments.

No comments were received in response to OSMRE's request for comments from the public.

V. Director's Decision

The Director, based on the above findings, is approving the Kentucky program amendments pertaining to liability insurance as submitted on September 16, 1985, including modifications submitted December 10, 1985. The Federal rules at 30 CFR Part 917 are being amended to implement the Director's decisions.

VI. 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 OSMRE 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 OSMRE 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 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.

List of Subjects in 30 CFR Part 917

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

Dated: March 10, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

PART 917—KENTUCKY

30 CFR Part 917 is amended as follows:

1. The authority citation for Part 917 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 917.15 is amended by adding a new paragraph (p) as follows:

§ 917.15 Approval of regulatory program amendments.

* * * * *

(p) The following amendments submitted to OSMRE on September 16, 1985, including modifications submitted December 10, 1985, are approved effective March 17, 1986: revisions to the Kentucky Administrative Regulations in 405 KAR 7:015 and 405 KAR 10:030.

[FR Doc. 86–5693 Filed 3–14–86; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 211

Administration; Appeal of Decisions Concerning the National Forest System; U.S. Postal Service Postmarks; Time of Filing Determinations

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for comments.

SUMMARY: This rule makes a technical change in the present Forest Service administrative appeal procedures to make explicit that legible United States Postal Service (USPS) postmarks take precedence in determining time of filing. The change is necessary to achieve consistent interpretation. Public comments are invited and will be considered in promulgating a final rule.

EFFECTIVE DATE: March 17, 1986.

ADDRESS: Send comments on this interim rule to Chief (1570), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Larry H.ll, Acting Staff Assistant, National Forest System (202) 382–9349.

SUPPLEMENTARY INFORMATION:

Background

Paragraph (c)(4) of 36 CFR 211.18 states that "Postmarks, other evidence of mailing, or, if not mailed, time of receipt will determine time of filing." Some Forest Service officials and appellants have been misinterpreting this provision to mean that other evidence of mailing could take precedence over legible USPS postmarks. The use of a USPS postmark as evidence of timeliness is a commonly used standard. This postmark provides tangible, unbiased evidence by an official Agency of the United States Government as to timeliness. Not to give precedence to this type of evidence ignores not only common practice but also the Agency's historical procedure of interpreting timeliness of appeals. Giving precedence to other evidence of mailing over a legible USPS postmark results in inconsistence and subjective practices.

This amendment to Forest Service appeal procedures makes clear that when officials determine timeliness under 36 CFR 211.18(c)(4), legible USPS postmarks shall take precedence over "other evidence of mailing." Only where the USPS postmark is illegible or missing will "other evidence of mailing" be used to determine timeliness.

In addition to this change, other minor word changes are made in paragraph (c)(4) to conform to principles of effective writing and to achieve precision of expression.

This action is basically a technical clarification of the rule and does not represent a change in Agency policy or intended procedures. Because of the need to achieve consistency in Agency interpretation, it is necessary to issue this amendment as an interim rule effective upon publication. All comments received on the rule will be considered in issuing a final rule.

Regulatory Impact

Because of its technical nature, it has been determined that this interim rule is exempt from review procedures required by E.O. 12291. The rule will have no effect on the Nation's economy, or substantial numbers of individuals or businesses, or on the quality of the human environment. The final rule does not contain an information collection or recordkeeping requirement as defined in the Paperwork Reduction Act of 1980.

List of Subjects in 36 CFR Part 211

Administrative practice and procedure, National Forests.

Therefore, for the reasons set forth above, Subpart B—Appeal of Decisions Concerning the National Forest System, of Part 211—Administration of Title 36 of the Code of Federal Regulations is amended as follows:

PART 211—ADMINISTRATION

Subpart B—Appeal of Decisions Concerning the National Forest System

1. Move the authority citation appearing at the end of Subpart B, to occur at the beginning of the Subpart. The authority citation continues to read as follows:

Authority: 30 Stat. 35, as amended, 50 Stat. 526 (16 U.S.C. 551, 7 U.S.C. 1011 (f), 5 U.S.C. 301)).

2. Revise paragraph (c)(4) of § 211.18 to read as follows:

§ 211.18 Appeal of decisions of forest officers.

* * * * *

(c) * * *

(4) When determining time of filing, Reviewing Officers shall give precedence to United States Postal Service (USPS) postmarks over other evidence of timely filing. Filing is defined as either to mail or to deliver the appropriate documents. If documents are delivered by means other than the USPS, date of receipt determines time of filing. If the date of mailing cannot be determined from a legible USPS postmark, the Reviewing Officer may accept other evidence of timely filing. Weekends or Federal holidays are included in computing the time allowed for filing, but when the filing time would expire on a weekend or holiday, the filing time is extended to the end of the next business day.

* * * * *

Dated: March 5, 1986.

Peter C. Myers,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 86–5715 Filed 3–14–86; 8:45 am]

BILLING CODE 3410–11–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 78–72; Phase I; FCC 86–89]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: The Commission's access charges rules require the National

Exchange Carrier Association to bill and collect carrier common line charges. The Report and Order modifies those rules to require exchange carriers to bill and collect carrier common line charges. This action is taken to eliminate unnecessary rules and regulations.

EFFECTIVE DATE: April 7, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kent Nilsson (202) 632–6363.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 69

Access charges, Communications, Common carriers, Reporting and recordkeeping requirements, Telephone.

Report and Order

In the matter of MTS and WATS Market Structure; CC Docket No. 78–72, Phase I.

Adopted: February 24, 1986.

Released: February 28, 1986.

By the Commission.

1. On March 27, 1985, the National Exchange Carrier Association ("NECA") filed a petition for rulemaking to amend §§ 69.601(b) and 69.604 of the Commission's rules to permit exchange carriers to bill and collect carrier common line access charges. Section 69.604(a) of our rules presently requires that NECA bill and collect carrier common line charges.[1] In response to petitions filed by NECA, we waived this requirement for the first two "access years," [2] and pursuant to these waivers, exchange carriers, not NECA, have been billing and collecting carrier common line charges since May 1984, when the access charge tariffs first became effective. The NECA rulemaking petition sought, in effect, to make the billing and collection procedure authorized by these waivers a permanent part of the access charge rules. After receiving comments that overwhelmingly supported the NECA proposal, we issued a Notice of Proposed Rulemaking on October 17, 1985, that sought comments on amending those rules in accordance with the NECA request.[3]

2. Comments were filed by the Ameritech Operating Companies ("Ameritech"), BellSouth Corporation on behalf of South Central Bell Telephone Company and the Southern Bell Telephone Company (collectively, "BellSouth"), Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, and the Pacific Northwest Bell Telephone Company (collectively, "US West"), NYNEX Telephone Companies ("NYNEX"), Pacific Bell Telephone Company and the Nevada Bell Telephone Company ("Pacific"), Southwestern Bell Telephone Company ("Southwestern"), and the United States Telephone Association ("USTA"). Reply comments were filed by the GTE Telephone Operating Companies ("GTE"). Without exception, the initial comments supported the NECA proposal. In general, the comments noted: (1) That resources would be wasted if NECA were to expend resources for billing and collection that replicated existing exchange carrier billing and collection functions; and (2) that the advent of optional alternative carrier common line tariffs could conceivably lead to the anomalous result that NECA would be billing and the collecting carrier common line charges for some exchange carriers but not for others.

3. In a reply that exceeded the scope of comments that had been filed by other parties,[4] GTE contended that we should retain our billing and collection rules [5] to accomodate concerns that GTE has concerning the continued "viability of the NTS pool" should we permit alternative plans for recovery of non-traffic-sensitive costs filed by number of exchange carriers to go into effect.[6] GTE, however, did not provide a convincing explanation as to how the "viability" of the NECA pooling process would be adversely affected by altering the rules concerning which entity (*i.e.*, NECA or the exchange carrier) bills and collects the carrier common line charge. The obligation of each exchange carrier to the NECA pool is not altered by the change in the rules proposed. Furthermore, GTE does not respond to the arguments uniformly made in the first-round comments that requiring NECA to bill and collect carrier common line charges would be extremely burdensome on NECA and carriers with little or no gain in the pooling process. Indeed, GTE appears to agree with these contentions at certain parts of its reply. For example, it states that, with a per minute NTS recovery mechanism, it is "impossible for NECA to serve as the central billing agent.[7] In brief, GTE's reply comments do not contain any probative evidence or argument that would support a conclusion that the present billing and collection rules should be retained. On balance, we conclude that the record more than adequately supports the need to eliminate the requirement that NECA bill and collect carrier common line charges.

4. Accordingly, it is ordered, pursuant to sections 1, 4(i)–(j), and 201–205 of the Communications Act of 1934, 47 U.S.C. 151, 154(i)–(j), 201–205 (1984), that the rules of the Federal Communications Commission are modified as set forth in Appendix A, effective April 7, 1986.

5. It is further ordered That the Secretary shall cause this Report and Order to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Rules Amendments

Part 69 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 69—ACCESS CHARGES

1. The authority citation for Part 69 continues to read:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403, unless otherwise noted.

2. Section 69.601 is amended by revising paragraph (b) to read as follows:

§ 69.601 Exchange carrier association.

* * *

(b) All telephone companies that participate in the distribution of Carrier Common Line revenues shall be deemed to be members of such Association.

3. Section 69.604 is revised in its entirety to read as follows:

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[1] Section 69.604(a) of the Commission's rules, 47 CFR 69.604(a) (1984).

[2] In the Matter of MTS and WATS Market Structure (CC Docket No. 78–72, Phase I) Order Granting Waiver, FCC 84–189 (released May 2, 1984); In the Matter of MTS and WATS Market Structure (CC Docket No. 78–72, Phase I) Order Granting Waiver, CC 27–18 (released February 22, 1985). The first waiver expired on June 1, 1985, and the second waiver will expire on June 1, 1986.

[3] Notice of Proposed Rulemaking in CC Docket No. 78–72, Phase I ("Notice"), FCC 85–552 (released October 17, 1985). *See* Appendix A, *infra*, for the text of the proposed revisions to Part 69 of our rules.

[4] *See* § 1.415(c)–(d) of the Commission's rules, 47 CFR 1.415(c)–(d) (1984).

[5] GTE Reply Comments at 2.

[6] *Id.* at 5–6. *See* §§ 1.401, 1.411 of the Commission's rules, 47 CFR 1.401, 1.411 (1984).

[7] GTE Reply Comments at 3. GTE is apparently proposing in a different proceeding that we amend our rules to provide that the entire carrier common line revenue requirement be recovered from interexchange carriers on a flat-rate basis. If we were to adopt such amendments in a rulemaking proceeding, we could consider at that time whether the billing and collection arrangements suggested by GTE are appropriate.

§ 69.604 Billing and collection of access charges.

(a) Telephone companies shall bill and collect all access charges.

(b) All access charges shall be billed monthly.

[FR Doc. 86-5485 Filed 3-14-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 85-23]

Amendment of the Commission's Rules To Implement the Final Acts of the World Administrative Radio Conference, Geneva, 1979

AGENCY: Federal Communications Commission.

ACTION: Final rules; Order.

SUMMARY: The amateur rules were recently amended in the Report and Order in PR Docket No. 85-23 to complete implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979. This document further amends those rules in order to incorporate other rule changes made in the interim in PR Docket No. 85-104, and to correct typographical errors.

EFFECTIVE DATE: These rule changes are effective 0002 UTC March 1, 1986.

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

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 47 CFR Part 97

Amateur radio, Frequencies, Emissions, Radio.

Order

In the Matter of Amendment of Part 97 of the Commission's Rules to Implement the Final Acts of the World Administrative Radio Conference, Geneva, 1979; PR Docket No. 85-23.

Adopted: February 26, 1986.
Released: February 28, 1986.

1. In the *Report and Order* in this proceeding, 51 FR 2712, January 21, 1986, the Commission adopted rules to complete implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979, in the Amateur Radio Service. Subsequently, by *Report and Order* in PR Docket No. 85-104, 51 FR 3785, January 30, 1986, the Commission amended the amateur rules to permit telephony operation in the 7075-7100 kHz frequency band in the Caribbean Insular Areas. The rules adopted in PR Docket No. 85-23 which completely revised the amateur frequency and emissions tables did not include the later rule changes adopted in PR Docket No. 85-104. However, the rule amendments in PR Docket No. 85-23 become effective March 1, 1986, after the rule amendments in PR Docket No. 85-104, which become effective February 28, 1986.

2. By this Order the rules adopted in the *Report and Order* in this proceeding are editorially amended to correctly set forth the status of amateur telephony communications in the 7075-7100 kHz band as modified by the later document in PR Docket. No. 85-104.

3. This item also corrects a typographical error in the Appendix to the *Report and Order* in PR Docket No. 85-23 in the table in new § 97.7(b).

4. This action is taken pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154(i) and 303(r)) and § 0.231(d) of the Commission's rules (47 CFR 0.231(d)). Because these rule amendments which clarify our rules are non-substantive, the notice and comment provisions as well as the effective date requirements of the Administrative Procedure Act are inapplicable.

5. Therefore, it is ordered That the rule amendments set forth in the attached Appendix are adopted effective 0002 UTC March 1, 1986.

6. For further information about this document contact John J. Borkowski, (202) 632-4964.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations, as amended by the *Report and Order* in PR Docket No. 85-23, 51 FR 2712, January 21, 1986, is further amended as follows:

1. The authority citation for Part 97 continues to read:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154,303.

2. The 40 meter band entry in paragraph (b) of § 97.7 is revised to read:

§ 97.7 Frequency privileges.

* * * * *

(b) *Technician class:* * * *

Meter band	Terrestrial location of the amateur radio station			Limitations (see para. (g))
	ITU region 1	ITU region 2	ITU region 3	
	Kilohertz			
40	7050-7075	7100-7150	7050-7075	1, 3, 32

3. The 7075-7100 kHz entry in paragraph (a) and paragraph (d)(2) of § 97.61 are revised to read:

§ 97.61 Authorized emissions.

(a) *Kilohertz.*

Frequency band (kHz)	Emissions	Limitations (see paragraph (d))
7075-7100	A1A, F1B	1, 2

(d) *Limitations:*

(1) * * *

(2) Amateur stations located in Regions 1 and 3, and amateur stations located within Region 2 which are west of 130 degrees West longitude or south of 20 degrees North latitude may also use A3E, F3E, G3E, H3E, J3E and R3E emissions.

[FR Doc. 86-5488 Filed 3-14-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 60339-6039]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) issues this notice to close the commercial fishery for king mackerel from the Gulf of Mexico migratory group in the fishery conservation zone (FCZ). The Director, Southeast Region, NMFS (Regional Director), has determined that the commercial allocation of 1.66 million pounds has been exceeded. This action will ensure that the commercial allocation for king mackerel from the Gulf migratory group is not further exceeded during the current fishing year for this group.

EFFECTIVE DATE: Closure is effective at 2400 hours local time, March 12, 1986, through June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813–893–3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FPM) was developed by the Gulf of Mexico and South Atlantic Fishery Management Councils under the authority of the Magnuson Fishery Conservation and Management Act, and is implemented by regulations appearing at 50 CFR Part 642. Amendment 1 to the FMP went into effect on September 22, 1985 (50 FR 34840, August 28, 1985). An emergency rule amending these regulations became effective on March 6, 1986).

Amendment 1 established separate allocations for the Gulf and Atlantic migratory groups of king mackerel. The emergency rule implemented a total allowable catch of 5.20 million pounds for the Gulf migratory group of king mackerel to protect this fishery which has been depleted to the point nearing collapse. The emergency rule at § 642.21(f) further specified the commercial allocation for the Gulf migratory group of king mackerel for the current fishing year—through June 30, 1986—as 1.66 million pounds.

The Secretary is required under § 642.22 to close any segment of the king or Spanish mackerel fishery when its annual allocation or quota has been harvested, by publishing a notice in the **Federal Register.** The Regional Director has determined, based on the most recently reported catch figures, that the commercial allocation for the Gulf migratory group of king mackerel has been harvested. Hence, commercial fishing for king mackerel from the Gulf migratory group must cease at 2400 hours local time, March 12, 1986.

The closure will remain in effect until the end of the current fishing year for the Gulf migratory group of king mackerel (June 30, 1986), or until the emergency regulations lapse, whichever occurs first.

During the period of the closure, the purchase, barter, trade, and sale of Gulf migratory group king mackerel taken from the FCZ, including the sale of fish harvested by persons fishing under the bag limit, is prohibited. (This prohibition does not apply to trade in king mackerel harvested, landed, and bartered, traded or sold prior to the closure and held in cold storage by dealers and processors.) In addition, vessels permitted under § 642.4 are prohibited from fishing under the recreational bag limit during the period of the closure. Finally, fishing with purse seines for Gulf migratory group king mackerel is prohibited during the period of the closure.

This action is required by 50 CFR 642.22, and complies with the procedures of Executive Order 12291.

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

List of Subjects in 50 CFR Part 642

Fisheries, Fishing.

Dated: March 12, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

[FR Doc. 86–5836 Filed 3–12–86; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 51, No. 51
Monday, March 17, 1986

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

Farmers Home Administration

7 CFR Parts 1901, 1924, and 1944

Planning and Performing Construction and Other Development

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise its regulation for planning and performing construction and other development work. The revision proposes a change in the basic structure of FmHA's Minimum Property Standards (MPS), revision of the use of insured warranties for new construction financed by FmHA under the Single Family Housing program, and the addition of classifications for Multi-Family residential rehabilitation work. Other editorial changes are also included.

The proposed "development standards" action implements the Agency's authority to determine and prescribe the standards for adequate housing under section 509 (a) of the Housing Act of 1949.

The circumstance requiring this action is enactment of the Housing and Urban Rural Recovery Act of 1983, Pub. L. 98–181, which mandates FmHA to revise its housing standards. The intended effect is to comply with Pub. L. 98–181 and provide safe, sanitary and decent housing for eligible families in rural areas.

The intended effect of the action to revise procedures pertaining to the use of insured 10-year warranties is to clarify criteria for the acceptability determination of warranty companies.

The addition of classifications for Multi-Family residential rehabilitation is to assure that buildings rehabilitated or repaired will meet appropriate levels of quality or performance comparable to those levels prescribed by the Secretary of HUD.

DATE: Comments must be received on or before May 16, 1986.

ADDRESS: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the above address.

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Joyce M. Halasz, Loan Specialist, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5346, South Agriculture Building, Washington, DC 20250, Telephone: 202–382–1489.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291 and has been classified as "nonmajor." This action will result in an annual effect on the economy of less than $100 million and will neither result in a major increase in cost or prices, not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that it does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Evinronmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

The FmHA programs and projects which are affected by this instruction are subject to intergovernmental consultation in the manner delineated in 7 CFR Part 1940, Subpart J, "Intergovernmental Review of Farmers Home Administration Programs and Activities."

The Catalog of Federal Domestic Assistance titles and numbers affect are:

Emergency Loans—10.404;
Farm Labor Housing Loans and Grants—10.405;
Farm Ownership Loans—10.407;
Very Low and Low Income Housing Loans—10.410;
Rural Housing Site Loans—10.411;
Rural Rental Housing Loans—10.415;
Soil and Water Loans—10.416;
Very Low Income Housing Repair Loans and Grants—10.417; and
Rural Self-Help Housing Technical Assistance—10.420.

1. General

The Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, amends section 509 (a) and section 515 of the Housing Act of 1949 and requires FmHA to revise its minimum property standards. The proposed regulation contains the requirements under which residential buildings shall be constructed in accordance with: (1) The minimum standards prescribed by the Secretary of Agriculture, or (2) the minimum standards prescribed by the Secretary of Housing and Urban Development (HUD), or (3) the minimum standards contained in any of the voluntary national model building codes, or (4) in the case of manufactured housing, the standards prescribed under Title VI of the Housing and Community Development Act of 1974.

The proposed regulation also contains the requirements under which, except for substantial rehabilitation, existing buildings shall be rehabiliated or repaired to meet appropriate levels of quality or performance comparable to those levels prescribed by the Secretary of HUD, but the rehabilitation or repair work, or the remainder of the property shall not be required to comply with new construction standards.

The thermal performance standards prescribed in Exhibit D of Subpart A of Part 1924 are consistent with the

standards pursuant to section 526 of the National Housing Act and, therefore, are not revised in this action.

2. Discussion

(i) The proposed minimum development standards prescribed by the Secretary of Agriculture are the standards contained in: (1) State adopted building codes which are based on or comparable to one of the voluntary model building codes, or (2) the voluntary model building code identified by FmHA as being the most prevalent and appropriate in the state. The minimum standards prescribed by the Secretary of HUD are the standards contained in (1) 24 CFR Part 200, Subpart S, §§ 200.926 and 200.926 a-e for One and Two-Family Dwellings, or (2) 24 CFR Part 200, Subpart S §§ 200.929(b)(2), 200.925a, 200.925b, 200.925c and Appendix A to Part 200 for Multi-Family Housing. The voluntary national model building codes are: (1) One and Two-Family Dwelling Code published by the Council of American Building Officials (CABO), (2) Basic Building Code published by the Building Officials and Code Administrators (BOCA), (3) Standard Building Code published by the Southern Standard Building Code Congress International (SBCCI), and (4) Uniform Buildings Code published by the International Conference of Building Officials (ICBO). The minimum standards for mobile/manufactured housing are contained in the HUD Manufactured Home Construction and Safety Standards (MHCSS) and the requirements contained in the proposed Exhibit J of Subpart A of Part 1924. Rural rental housing and related facilites being substantially rehabilitated are required to comply with the standards for new construction. Rural rental housing and related facilities being moderately rehabilitated are required to comply with applicable and existing laws, ordinances, codes, and regulations related to health, safety and welfare, and should conform to FmHA quality and performance criteria for moderate rehabilitation.

(ii) Section 1924.5(d)(1) describes the use of FmHA Manual of Acceptable Practices (MAP) Vol. 4930.1. FmHA believes the information contained in the manual is beneficial in clarifying construction techniques and practices.

(iii) Section 1924.5(d)(1)(i) describes the procedure and criteria used for selecting a set of standards for a proposed project. The project applicant or recipient of a Rural Housing conditional commitment, as defined in Subpart A of 1944, has the authority to make the selection. The regulation offers alternative minimum standards for development work as mandated by the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, which are identified as "development standards." The inclusion of the various standards and codes in the term "development standards" simplifies references made in other regulations.

(iv) Section 1924.5(d)(1)(i)(E)(1) describes the criteria for determining the standards to be prescribed by the Secretary of Agriculture. The minimum standards are requirements contained in a building code that is adopted by a state and is: (1) Directly based on one of the voluntary national model building codes, or (2) determined by the Administrator to be equivalent to one of the voluntary national model building codes, or, in areas where such a code does not exist, are the requirements contained in the voluntary national model building code that is determined by the FmHA State Director to be the most prevalent and appropriate for the area. FmHA believes this criteria eliminates the confusion and difficulties often encountered when a facility is required to comply with more than one set of minimum standards, and utilizes standards that are most appropriate for the area's building conditions and likely to be most familiar to the local designers and builders.

(v) Section 1924.5(d)(1)(ii) refers to Guide 2, "FmHA Design Guide," for planning development work. The information contained in the guide is beneficial in providing good planning ideas for liveability and marketability and other elements to consider when determining property value. This guide will be available in any FmHA office.

(vi) Section 1924.5(d)(1)(iii) requirs the construction of new residential properties for permanent occupancy to comply with § 1924.5(d)(1) and the development standards, as discussed in sections (iii) and (iv) above.

(vii) Section 1924.5(d)(1)(iv) redefines the minimum standards for the rehabilitation of existing buildings. Substantial rehabilitation is required to comply with § 1924.5(d)(1) and the development standards, as discussed in sections (iii) and (iv) above. Moderate rehabilitation is required to comply with § 1924.5(d)(1) and should meet the criteria contained in the referenced Guide 3, "Quality and Performance Criteria for Moderate Rehabilitation." The information contained in the guide is beneficial for planning and performing moderate rehabilitation work and will be available in any FmHA office. Exhibit K of Subpart A of Part 1924 is added to define the various classifications of rehabilitation work.

(viii) Section 1924.5(d)(1)(v) redefines the minimum standards, as discussed in sections (iii) and (iv) above, for housing repairs.

(ix) Section 1924.5(d)(1)(vi) redefines the minimum standards, as discussed in sections (iii) and (iv) above, for farm labor housing.

(x) Section 1924.5(d)(vii) relocates criteria for the design and location of farm buildings.

(xi) Section 1924.5(d)(2) requires the identification of the applicable development standards to be on the drawings and specifications for proposed development work that must comply with those standards prescribed in § 1924.5(d)(1). This requirement is necessary to eliminate confusion on which minimum standards to reference and enforce during the project review process.

(xii) Section 1924.5(f)(1)(iii) requires that the drawings and specifications for development work must comply with applicable development standards, as prescribed in § 1924.5(d)(1), be certified by a qualified individual as to their conformity to the standards identified on the documents as prescribed in § 1924.5(d)(2). The regulation includes general criteria necessary for an individual to be qualified to certify documents, and also identifies the minimum amount of information that must be included in the certification statement. This certification requirement is necessary for the Agency to be assured that the proposed development work will conform to the applicable development standards.

(xiii) The implementation of other development standards to replace FmHA's present Minimum Property Standards (MPS) will necessitate amendments to several Parts of Chapter XVIII, Title 7, Code of Federal Regulations. These amendments will consist of conforming changes and cross references in numerous FmHA loan making and loan servicing regulations since development standards are relied on in several FmHA decision making processes. All FmHA regulations that refer to MPS will be amended to reference the applicable development standard. These changes will be addressed in the final rule publication, but are not included in this proposed rule since these changes are only administrative in nature.

3. Alternatives and Expected Effects

(i) Minimum Standards Prescribed by the Secretary of Agriculture:

Alternative No. 1: Retain the Minimum Property Standards (MPS), Volumes 4900.1 and 4910.1 that were in effect on September 1, 1981.

The retention of the standards, which are most familiar to the Agency, would require a major effort for continued maintenance of the many items contained within the standards. The standards, by name and format, are very similar to those prescribed by the Secretary of HUD and, therefore, likely to cause confusion to the public. Portions of these standards are inconsistent with the policy to deregulate standards on liveability and marketability.

Alternative No. 2: Adopt the Minimum Property Standards (MPS) prescribed by the Secretary of HUD.

Adoption of these standards would require Agency field staff to become highly familiar with multiple standards that would include the local building codes which are approved by HUD and used in conjunction with HUD MPS. Also, the Agency would be dependent upon HUD for maintenance of the standards. Since most local building codes are based upon a voluntary national model building code, it is unlikely that an MPS/local building code combination would be used in lieu of a voluntary national model building code.

Alternative No. 3: Adopt one of the voluntary national model building codes for nationwide use.

The adoption of one building code would minimize the impact on the Agency's field staff. The Agency would depend on the publisher for maintenance of the code. None of the codes, however, have been determined to satisfactorily address the building conditions in every area of the Nation. Also, conflicts in the standards between this code and locally adopted codes could exist, or develop in the future.

Alternative No. 4: Adopt all local building codes.

The adoption of all local building codes would minimize the impact on developers and builders. However, it would require agency field staff to become highly familiar with the many local codes and would be extremely difficult to manage at the state and national level. The adequacy of the local building codes would not be known without a major effort to evaluate and compare each code with national standards and policies.

Alternative No. 5: Publish a new set of minimum property standards.

The publication of a new set of minimum property standards would require a major agency effort. The time and effort to familiarize the public and field staff with the standards and to maintain their application to current practice would be significant. Also a large percentage of any new standards developed would be duplication of standards currently in existence.

Alternative No. 6: Adopt state building codes that are based upon or comparable to one of the voluntary national model building codes.

The adoption of these codes, which are already being enforced by most jurisdictions, would minimize the impact on developers and builders. Also, field staff would need to become familiar with only one new code in each state.

Alternative No. 6 was selected for prescribing a set of Minimum Standards for adequate housing.

(ii) Minimum Standards for Moderate Rehabilitation

Alternative No. 1: Adopt the standards prescribed by the Secretary of HUD.

The adoption of HUD standards, which are basically in the form of guidelines for local jurisdictions to develop their own standards, would require Agency field staff to become highly familiar with the contents and implementation of those standards in addition to the local codes in existence. The effort necessary for local jurisdictions to develop prescriptive standards based upon these guidelines would be very time consuming and difficult for FmHA to monitor.

Alternative No. 2: Publish a new set of minimum prescriptive standards.

The publication of minimum standards for moderate rehabilitation would likely be a manor agency effort due primarily to the extreme difficulty in addressing the many conditions that could exist in such work. Complete and accurate prescriptive standards would likely be quite extensive. Conflicts are also likely to occur with existing local codes.

Alternative No. 3: Adopt the appropriate sections of State Building Codes that are based upon or equivalent to the Voluntary National Model Building Codes.

The adoption of the code sections which pertain to moderate rehabilitation would be infeasible because of the incompatibility of terminology with FmHA loan making procedures. Also, the information necessary to determine rehabilitation classification, as defined in the model codes, would not be available at the time of loan application processing.

Alternative No. 4: Publish a new set of optional performance standards.

The publication of a new set of optional performance standards for moderate rehabilitation would require minimal agency effort. The optional performance standards would be a guide for use by FmHA in evaluating rehabilitation proposals and used by design consultants in planning development work. The optional criteria would be less stringent than those for new construction. The standards would address performance rather than finite specifications to accommodate flexibility and avoid oversights.

Alternative No. 4 was selected for prescribing a set of Minimum Standards for moderate rehabilitation of residential properties.

(iii) Identification of Applicable Minimum Standards

Alternative No. 1: Maintain existing regulations which do not include requirements for identifying the minimum standards to be applied for a specific proposal or project.

Specific proposals and projects will be required to comply with any of several different sets of minimum standards. If the applicable standards are not identified, the Agency would not know which standards to reference and enforce during the review process. This would likely create delays and the potential for imposing inconsistent and inappropriate design requirements.

Alternative No. 2: Amend regulations to require the identification of the applicable minimum standards on the drawings and specifications for a specific proposal or project.

Compliance with this requirement would result in a clearer understanding for all parties involved throughout the application processing of which minimum standards are applicable. Also, the drawings and specifications could be prepared and reviewed in a more orderly and consistent process.

Alternative No. 2 was selected for the identification of applicable minimum standards.

(iv) Certification of Drawings and Specifications

Alternative No. 1: Maintain existing regulations which do not include requirements for certifying drawings and specifications for their compliance with applicable minimum standards.

Specific proposals and projects will be required to comply with any of several different sets of minimum standards. Agency field staff would need to become highly proficient in the various alternative standards to make

comprehensive and accurate reviews of the drawings and specifications. Extensive training would be necessary to prepare the staff for the increased complexity of this task.

Alternative No. 2: Amend regulations to require the certification of drawings and specifications for compliance with applicable minimum standards.

Compliance with this requirement would result in a decreased burden on agency field staff to be highly proficient in the various alternative standards. The burden would be transferred to a qualified individual who is already highly skilled and knowledgeable of the standards being applied. The Agency's acceptance of the drawings and specifications would be based primarily on this certification.

Alternative No. 2 was selected for the certification of drawings and specifications.

4. Insured 10-years Warranty Revisions

Present regulations authorize FmHA field personnel to accept interim construction inspections accepted by a warranty company approved by the National Office. Shortly after that final rule was published, several warranty companies requested approval, resulting in our awarness of additional variations in the types of plans offered and in the types of companies issuing them. That action invalidated the conditions set forth by the existing regulation and, therefore, new conditions were needed to be able to accept those warranty plans.

The additional information needed was provided to the field by Administrative Notice, to be incorporated into the instruction in the next revision. In addition, it was detemined that State Directors should have the authority to review a warranty company's qualifications and determine its acceptability.

To accomplish these objectives FmHA proposes revisions to the present regulation which include: Adding Exhibit L, "Insured 10-year Home Warranty Plan Requirements," to Subpart A of Part 1924, to facilitate acceptability determinations of insured 10-year home warranty plans at the State Office level.

Exhibit L consolidates warranty plan information currently found in several different places in the existing regulation and incorporates information previously provided to the field by Administrative Notice. It provides the reasons a formal determination of acceptability is needed, the different types of warranty companies, warranty plan features required for a determination of acceptability and the procedures for requesting a determination.

It also outlines the review and acceptance authority for state plans and insured warranty companies by FmHA State Directors and for risk retention groups, because of their different structure and multi-state authority, by the National Office. Information is also provided clarifying field responsibilities in monitoring warranty performance.

The reason for this action is to improve procedure and to clarify guidelines for the acceptability determination of warranty companies. Also, as a result of this action a cost effective savings is anticipated in the more timely review of warranty plans at the State level.

List of Subjects

7 CFR Part 1901

Civil rights, Compliance reviews, Fair housing, Minority groups.

7 CFR Part 1924

Agriculture, Claims, Construction complaints, Construction defects, Construction management, Construction and repair, Energy conservation, Housing, Loan Programs-Agriculture, Loan Programs-Housing and Community Development, Low- and Moderate-Income Housing.

7 CFR Part 1944

Home improvement loan program-Housing and Community development, Low- and moderate-income housing-Rental, Mortgages, Rural housing, Subsidies.

Therefore, FmHA proposes to amend Chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1901—PROGRAM RELATED INSTRUCTIONS

1. The authority citation for Part 1901 is added to read as follows and all other authority citations throughout Part 1901 are removed.

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Subpart E Exhibit C is revised to read as follows:

Exhibit C—FmHA Financed Contract

To: Area Director, Office of Federal Contract Compliance Program, U.S. Department of Labor (DOL) (Insert address for your DOL area, from Exhibit E, FmHA Instruction 1901-E)

We submit the following information relative to a construction contract in excess of $10,000:

1. Contractor's name: _____
Address: _____
Telephone No.: _____
Employer's identification No.: _____
2. Contract for:—$_____
Starting Date: _____
Completion Date: _____
Contract No.: _____
City: _____
DOL Region: _____

3. The authority citation for Part 1924 is revised to read as follows and all authorities are removed:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

4. Subpart A is revised to read as follows:

PART 1924—CONSTRUCTION AND REPAIR

Subpart A—Planning and Performing Construction and Other Development

Sec.

1924.1 Purpose.
1924.2 [Reserved]
1924.3 Authorities and responsibilities.
1924.4 Definitions.
1924.5 Planning development work.
1924.6 Performing development work.
1924.7 [Reserved]
1924.8 Development work for modular/panelized housing units.
1924.9 Inspection of development work.
1924.10 Making changes in the development plan.
1924.11 District Director's review of incomplete development.
1924.12 [Reserved]
1924.13 Supplemental requirements for more complex construction.
1924.14—1924.50 [Reserved]
Exhibit A—Breakdown of dwelling costs for estimating partial payments.
Exhibit B—Requirements for modular/panelized housing units.
Exhibit C—List of required drawings and specifications.
Exhibit D—Thermal performance construction standards.
Exhibit E—Preconstruction conference.
Exhibit F—Payment bond.
Exhibit G—Performance bond.
Exhibit H—Prohibition of lead-based paints.
Exhibit I—Guidelines for seasonal farm labor housing.
Exhibit J—[Reserved]
Exhibit K—Classifications for Multi-family Residential Rehabilitation work.
Exhibit L—Insured 10-Year Home Warranty Plan Requirements.

Subpart A—Planning and Performing Construction and Other Development

§ 1924.1 Purpose.

This subpart prescribes the basic Farmers Home Administration (FmHA) policies, methods, and responsibilities in the planning and performing of construction and other development work for insured Rural Housing (RH), insured Farm Ownership (FO), Soil and Water (SW), single unit Labor Housing (LH), Recreation (RL), and Emergency (EM) loans for individuals. It also

provides supplemental requirements for Rural Rental Housing (RRH) loans, Rural Cooperative Housing (RCH) loans, multiunit (LH) loans and grants, and Rural Housing Site (RHS) loans.

§ 1924.2 [Reserved]

§ 1924.3 Authorities and responsibilities.

The County Supervisor and District Director are authorized to redelegate, in writing, any authority delegated to them in this subpart to the Assistant County Supervisor and Assistant District Director, respectively, when determined to be qualified. FmHA Construction Inspectors, District Loan Assistants, and County Office Assistants are authorized to perform duties under this subpart as authorized in their job descriptions.

§ 1924.4 Definitions.

(a) *Construction.* Such work as erecting, repairing, remodeling, relocating, adding to or salvaging any building or structure, and the installation or repair of, or addition to, heating and electrical systems, water systems, sewage disposal systems, walks, steps, driveways, and landscaping.

(b) *Contract documents.* The borrower-contractor agreement, the conditions of the contract (general, supplementary, and other), the drawings, specifications, warranty information, all addenda issued before executing the contract, all approved modifications thereto, and any other items stipulated as being included in the contract documents.

(c) *Contractor.* The individual or organization with whom the borrower enters into a contract for construction or land development, or both.

(d) *County Supervisor and District Director.* In Alaska, for the purpose of this subpart, "County Supervisor" and "District Director" also mean "Assistant Area Loan Specialist" and "Area Loan Specialist," respectively. The terms also include other qualified staff who may be delegated responsibilities under this subpart in accordance with the provisions of Subpart F of Part 2006 (available in any FmHA office).

(e) *Date of commencement of work.* The date established in a "Notice to Proceed" or, in the absence of such notice, the date of the contract or other date as may be established in it or by the parties to it.

(f) *Date of substantial completion.* The date certified by the Project Architect/Engineer or County Supervisor when it is possible, in accordance with any contract documents and applicable State or local codes and ordinances, and the FmHA approved drawings and specifications, to permit safe and convenient occupancy and/or use of the buildings or other development.

(g) *Development.* Construction and land development.

(h) *Development standards.* Any of the following codes and standards:

(1) A standard adopted by FmHA for each state in accordance with §1924.5(d)(1)(i)(E) of this subpart.

(2) *Voluntary national model building codes (model codes).* Nationally recognized codes which address the health and safety aspects of buildings and related structures. They include:

(i) CABO One and Two family Dwelling Code, published by the Council of American Building Officials; supplemented by the Electrical Code for One and Two Family Dwellings, NFPA 70A, published by the National Fire Protection Association.

(ii) BOCA Basic/National Building Code, published by the Building Officials and Code Administrators International, Inc.

(iii) Standard Building Code, supplemented by the Standard Mechanical Code and Standard Plumbing Code, all published by the Southern Building Code Congress International, Inc., and supplemented by the National Electrical Code published by the National Fire Protection Association.

(iv) Uniform Building Code, supplemented by the Uniform Mechanical Code and Uniform Plumbing Code, all published by the International Conference of Building Officials; and supplemented by the National Electrical Code published by the National Fire Protection Association.

(3) *Minimum Property Standards (MPS).* The Department of Housing and Urban Development (HUD) Minimum Property Standards (MPS). They include:

(i) MPS for One and Two Family Dwellings, HUD Handbook 4900.1 [24 CFR Part 200, Subpart S, § 200.929(b)(1)]

(ii) MPS for Multi-family Housing, HUD Handbook 4910.1 [24 CFR Part 200, Subpart S, § 200.929(b)(2)].

(i) *Identity of interest.* Identity of interest will be construed as existing between the applicant (the party of the first part) and general contractors, architects, engineers, attorneys, subcontractors, material suppliers, or equipment lessons (parties of the second part) under any of the following conditions:

(1) When there is any financial interest of the party of the first part in the party of the second part. The providing of normal professional services by architects, engineers, attorneys or accountants with a client-professional relationship shall not constitute an identity of interest.

(2) When one or more of the officers, directors, stockholders or partners of the party of the first part is also an officer, director, stockholder, or partner of the party of the second part.

(3) When any officer, director, stockholder or partner of the party of the first part has any financial interest whatsoever in the party of the second part.

(4) When the party of the second part advances any funds to the party of the first part.

(5) When the party of the second part provides and pays on behalf of the party of the first part the cost of any legal services, architectural services or engineering services other than those of a surveyor, general superintendent, or engineer employed by a general contractor in connection with obligations under the construction contract.

(6) When the party of the second part takes stock or any interst in the party of the first part as part of the consideration to be paid them.

(7) When there exist or come into being any side deals, agreements, contracts or undertakings entered into thereby altering, amending, or cancelling any of the required closing documents except as approved by FmHA.

(j) *Land development.* Includes items such as terracing, clearing, leveling, fencing, drainage and irrigation systems, ponds, forestation, permanent pastures, perennial hay crops, basic soil amendments, pollution abatement and control measures, and other items of land improvement which conserve or permanently enhance productivity. Also, land development for structures includes the applicable items above, and items such as rough and finish grading, retaining walls, water supply and waste disposal facilities, streets, curbs and gutters, sidewalks, entrancewalks, driveways, parking areas, landscaping and other related structures.

(k) *Mechanic's and materialmen's liens.* A lien on real property in favor of persons supplying labor and/or materials for the construction for the value of labor and/or materials supplied by them. In some jurisdictions, a mechanic's lien also exists for the value of professional services.

(l) *Mobile/manufactured housing.* Housing, constructed of one or more factory-built sections, which includes the plumbing, heating and electrical systems contained therein, which is built to comply with the Federal Mobile Home Construction and Safety Standards, and which is designed to be

used with or without a permanent foundation.

(m) *Modular/panelized housing.* Housing, constructed of one or more factory-built sections, which, when completed, meets or exceeds the requirements of one or more of the recognized development standards for site-built housing, and which is designed to be permanently connected to a site-built foundation.

(n) *Project representative.* The architect's or owner's representative at the construction site who assists in the administration of the construction contract. When required by FmHA, a full-time project representative shall be employed.

(o) *Technical services.* Applicants are responsible for obtaining the services necessary to plan projects including analysis of project design requirements, creation and development of the project design, preparation of drawings, specifications and bidding requirements, and general administration of the construction contract.

(1) Architectural services. The services of a professionally qualified person or organization, duly licensed and qualified in accordance with State law to perform architectural services.

(2) Engineering services. The services of a professionally qualified person or organization, duly licensed and qualified in accordance with State law to perform engineering services.

(p) *Warranty.* A legally enforceable assurance provided by the builder (warrantor) to the owner and the FmHA indicating that the work done and materials supplied conform to those specified in the contract documents and applicable regulations. For the period of the warranty, the warrantor agrees to repair defective workmanship and repair or replace any defective materials at the expense of the warrantor.

§ 1924.5 Planning development work.

(a) *Extent of development.* For an FO loan, the plans for development will include the items necessary to put the farm in a livable and operable condition consistent with the planned farm and home operations. For other types of loans, the plans will include those items essential to achieve the objectives of the loan or grant as specified in the applicable regulation.

(b) *Funds for development work.* The total cash cost of all planned development will be shown on Form FmHA 1924–1, "Development Plan," except Form FmHA 1924–1 may be omitted when (1) all development is to be done by the contract method, (2) adequate cost estimates are included in the docket, and (3) the work, including all landscaping, repairs, and site development work, is completely described on the drawings, in the specifications, or in the contract documents. Sufficient funds to pay for the total cash cost of all planned development must be provided at or before loan closing. Funds to be provided may include loan proceeds, any cash to be funished by the borrower, proceeds from cost sharing programs such as Agricultural Stabilization and Conservation Service (ASCS) and Great Plains programs or proceeds from the sale of property in accordance with paragraph (g) of this section.

(c) *Scheduling of development work.* (1) All construction work included in the development plan for RH loans will be scheduled for completion as quickly as practicable and no later than 9 months from the date of loan closing, except for Mutual Self-Help housing where work may be scheduled for completion within a period of 15 months.

(2) Development for Farm Program loans will be scheduled for completion as quickly as practicable and no later than 15 months from the date of loan closing unless more time is needed to establish land development practices in the area.

(d) *Construction.* (1) All new buildings to be constructed and all alterations and repairs to buildings will be planned to conform with good construction practices. The FmHA Manual of Acceptable Practices (MAP) Vol. 4930.1 (available in any FmHA Office), provides suggestions and illustrative clarifications of design and construction methods which are generally satisfactory in most areas. All improvements to the property will conform to applicable laws, ordinances, codes, and regulations related to the safety and sanitation of buildings, Thermal Performance Construction Standards contained in Exhibit D of this subpart and, when required, to certain other development standards described below.

(i) The development standard applicable to a proposal will be selected by the loan applicant or recipient of an RH Conditional Commitment in accordance with the following. The standard selected must:

(A) Relate to the type(s) of building proposed.

(B) Meet or exceed any applicable local or state laws, ordinances, codes and regulations.

(C) Include all referenced codes and standards.

(D) Exclude inapplicable administrative requirements.

(E) Be the current edition(s) of:

(*1*) The development standard adopted by FmHA for use in the state (identified in a State Supplement to this section) in which the development is proposed, in accordance with the following:

(*i*) The adopted development standard shall be the state code(s), if determined by the State Director to be based on one of the model codes defined in § 1924.4(h)(2) of this subpart, or

(*ii*) The adopted development standard shall be the state code(s), if determined by the Administrator to be acceptable, or

(*iii*) The adopted development standard in a state that does not have a code in compliance with paragraph (d)(1)(i)(E)(*1*) (*i*) or (*ii*) shall be the model code defined in § 1924.4(h)(2) that is determined by the State Director to be most prevalent and appropriate for the state, or

(*2*) One of the codes or standards defined in § 1924.4(h) (2) or (3) of this subpart.

(ii) Guide 2, "FmHA Design Guide" of this subpart (available in any FmHA office), includes guidelines for the evaluation of the design features which are not fully addressed in the development standards.

(iii) In new housing, all design, materials and construction will meet or exceed the applicable development standard as provided in paragraph (d)(1)(i) of this section.

(iv) For multifamily residential rehabilitation, as defined in Exhibit K of this Subpart, all substantial rehabilitation work of existing buildings will meet or exceed the applicable development standard. All moderate rehabilitation work should comply with Guide 3, "Quality and Performance Criteria for Moderate Rehabilitation," of this subpart (available in any FmHA office).

(v) The design and construction of housing repairs made with FmHA loan or grant funds will, as near as possible, comply with the applicable development standard.

(vi) Farm labor housing design and construction will comply with the following:

(A) Family projects, where the length of occupancy will be:

(*1*) Year-round, will meet or exceed the applicable development standard.

(*2*) Less than 12 months, but more than 6 months, will be in substantial conformance with the applicable development standard and constructed to facilitate conversion to year-round occupancy standards.

(*3*) Six months or less, may be less than the applicable development

standard but should be constructed in accordance with Exhibit I of this subpart.

(B) Dormitory and other nonfamily type projects, where the length of occupancy will be:

(*1*) More than 6 months, will be in substantial conformance with the applicable development standard and will at least meet or exceed the requirements of the Department of Labor, Bureau of Employment Security (29 CFR 1910.140).

(*2*) Six months or less, will comply with § 1924.5(d)(vi)(A)(3).

(vii) Farm service buildings should be designed and constructed for adaptation to the local area. In designing and locating farm service buildings, consideration will be given to practices recommended by Agriculture Colleges, the Extension Service (ES), Soil Conservation Service (SCS), and other reliable sources.

(2) Adequate drawings, specifications, and estimates will be provided to fully describe the work. Technical data, tests, or engineering evaluations may be required to support the design of the development. The "List of Required Drawings and Specifications," Exhibit C of this subpart, describes the drawings and specifications that are required to be included in the application for building construction, and § 1804.74 of Subpart D of Part 1804 of this chapter (Exhibit A of FmHA Instruction 424.5) describes the drawings that should be included for development of building sites. The specific development standard being used, [if required under paragraph (d)(1) of this section] will be identified on all drawings and specifications.

(3) Whenever possible, the borrower will pay with personal funds any charges made for technical services in connection with the borrower's proposed development. However, most of technical services may be included in the loan as prescribed in the program loan making regulations.

(e) *Land development.* (1) In planning land development, consideration will be given to the practices, including energy conservation measures, recommended by Agricultural Colleges, ES, SCS, or other reliable sources. All land and water development will conform to applicable laws, ordinances, zoning and other applicable regulations including those related to soil and water conservation and pollution abatement. The County Supervisor or District Director also will encourage the applicant to use any cost-sharing and planning assistance that may be available through Agricultural Conservation Programs.

(2) Site and subdivision planning and development should also be guided by the requirements of Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5).

(3) Adequate plans and descriptive material will be provided to fully describe the work.

(i) Plans for land leveling, irrigation, or drainage should include a map of the area to be improved showing the existing conditions with respect to soil, topography, elevations, depth of topsoil, kind of subsoil, and natural drainage, together with the proposed land development.

(ii) When land development consists of, or includes, the conservation and use of water for irrigation or domestic purposes, the information submitted to the County Supervisor will include a statement as to the source of the water supply, right to the use of the water, and the adequacy and quality of the supply.

(f) *Responsibilities for planning development.* Planning construction and land development and obtaining technical services in connection with drawings, specifications, and cost estimates are the sole responsibility of the applicant, with such assistance from the County Supervisor or District Director (whichever is the appropriate loan processing and servicing officer for the type of loan involved), as may be necessary to be sure that the development is properly planned in order to protect FmHA's security.

(1) *Responsibility of the applicant.* (i) The applicant will arrange for obtaining any required technical services from qualified technicians, tradespeople, and recognized plan services, and the applicant will furnish the FmHA sufficient information to describe fully the planned development and the manner in which it will be accomplished.

(ii) When items of construction or land development require drawings and specifications, they will be sufficiently complete to avoid any misunderstanding as to extent, kind, and quality of work to be performed. The applicant will provide the FmHA with one copy of the drawings and specifications. Approval will be indicated by the applicant and acceptance for the purposes of the loan indicated by the County Supervisor or District Director on all sheets of the drawings and at the end of the specifications, and both instruments will be a part of the loan docket. After the loan is closed, the borrower will retain a conformed copy of the approved drawings and specifications, and provide another conformed copy to the contractor. After the work is completed and materials and labor claims have been paid, the County or District Office approved copy may be returned to the borrower. Items not requiring drawings and specifications may be described in narrative form.

(iii) FmHA will accept drawings and specifications only after the documents have been certified in writing as being in conformance with the applicable development standard, if required under paragraph (d)(1) of this section, by a licensed architect, professional engineer authorized building official or other competent code authority. A building permit is not an acceptable certification document.

The following format is suggested for this certification and contains the minimum repesentation acceptable to FmHA:

> Being (*a licensed architect, professional engineer, etc.*) in the State of _____, we are qualified to evaluate the technical sufficiency of construction documents for residential properties."
>
> We have examined the drawings and specifications dated _____, prepared by (*name of firm or individual*, and related to the development of the (*project name and location*).
>
> Based upon this examination, to the best of our knowledge and belief, these documents conform to (*name of development standard*), designated as the development standard for this project.
>
> We further certify that we have no financial interest in or with the borrower or contractor other than in the practice of our profession.

FmHA reserves the right to determine whether or not the certified statement is satisfactory.

(2) *Responsibility of the County Supervisor or District Director.* In accordance with program regulations for loans and grants they are required to process, the County Supervisor or District Director for the sole benefit of FmHA will:

(i) Visit each farm or site on which the development is proposed. For an FO loan, the County Supervisor and the applicant will determine the items of development necessary to put the farm in a livable and operable condition at the outset. Prepare Form FmHA 1924–1, when applicable in accordance with the Forms Manual Insert (FMI) for the form, after a complete understanding has been reached between the applicant and the County Supervisor regarding the development to be accomplished, including the dates each item of

development will be started and completed.

(ii) Notify the loan or grant applicant in writing immediately if, after reviewing the preliminary proposal and inspecting the site, the proposal is not acceptable. If the proposal is acceptable, an understanding will be reached with the applicant concerning the starting date for each item of development.

(iii) Discuss with the applicant the FmHA requirements with respect to good construction and land development practices.

(iv) Advise the applicant regarding drawings, specifications, cost estimates, and other related material which the applicant must submit to the FmHA for review before the loan can be developed. Advise the applicant of the information necessity in the drawings, how the cost estimates should be prepared, the number of sets of drawings, specifications, and cost estimates required, and the necessary for furnishing such information promptly. Advise the applicant that FmHA will provide appropriate specification forms, Form FmHA 1924–2, "Description of Materials." And Form FmHA 1924–3, "Service Building Specifications." The applicant may, however, use other properly prepared specifications.

(v) Advise the applicant regarding publications, plans, planning aids, engineering data, and other technical advice and assistance available through local, State, and Federal agencies, and private individuals and organizations.

(vi) Review the information furnished by the applicant to determine the completeness of the plans, adequacy of the cost estimates, suitability and soundness of the proposed development.

(vii) When appropriate, offer suggestions as to how drawings and specifications might be altered to improve the facility and better serve the needs of the applicant. The County Supervisor or District Director may assist the applicant in making revisions to the drawings. When appropriate, the contract documents will be forwarded to the State architect/engineer for review. For revisions that require technical determinations which FmHA is not able to make, the applicant will be requested to obtain additional technical assistance.

(viii) Provide the applicant with a written list of changes required in the contract documents. The applicant will submit two complete revised (as requested) sets of contract documents, for approval. On one set, the County Supervisor or District Director will indicate acceptance on each sheet of the drawings, and on the cover of the specifications and all other contract documents. At least the date and the initials of the approval official must be shown. On projects where a consulting architect or engineer has been retained, this acceptance will be indicated only after the State Director has given written authorization. The marked set of documents shall be available at the job site at all times for review by FmHA. The second set will become part of the loan docket.

(ix) Review the proposed method of doing the work and determine whether the work can be performed satisfactorily under the proposed method.

(x) Instruct the applicant not to incur any debts prior to loan closing for materials or labor or make any expenditures for such purposes with the expectation of being reimbursed from loan funds.

(xi) Instruct the applicant not to commence any construction nor cause any supplies or materials to be delivered to the construction site prior to loan closing.

(xii) Under certain conditions prescribed in Exhibit H of this subpart, provide the applicant with a copy of the leaflet, "Lead-Based Paint Hazards, Symptoms, Treatment, and Techniques for Eliminating Hazards," which is available in FmHA County Offices, and the warning sheet, "Caution Note on Lead-Based Paint Hazard," which is Attachment 1 of Exhibit H.

(g) *Surplus structures and use or sale of timber, sand, or stone.* In planning the development, the applicant and the County Supervisor or District Director should, when practicable, plan to use salvage from old buildings, timber, sand, gravel, or stone from the property. The borrower may sell surplus buildings, timber, sand, gravel, or stone that is not to be used in performing planned development and use net proceeds to pay costs of performing planned development work. In such a case:

(1) An agreement will be recorded in the narrative of Form FmHA 1924–1 which as a minimum will:

(i) Identify the property to be sold, the estimated net proceeds to be received, and the approximate date by which the property will be sold.

(ii) Provide that the borrower will deposit the net proceeds in the supervised bank account and apply any funds remaining after the development is complete as an extra payment on the loan.

(2) The agreement will be considered by the Government as modifying the mortgage contract to the extent of authorizing and requiring the Government to release the identified property subject to the conditions stated in the agreement without payment or other consideration at the time of release, regardless of whether or not the mortgage specifically refers to Form 1924–1 or the agreement to release.

(3) If the FmHA loan will be secured by a junior lien, all prior lienholders must give written consent to the proposed sale and the use of the net proceeds before the loan is approved.

(4) Releases requested by the borrower or the buyer will processed in accordance with applicable release procedures in Subpart A or Subpart C of Part 1965 of this chapter, as appropriate.

(h) *Review prior to performing development work.* For the sole benefit of FmHA, prior to beginning development work, the County Supervisor or District Director will review planned development with the borrower. Adequacy of the drawings and specifications as well as the estimates will be checked to make sure the work can be completed within the time limits previously agreed upon and with available funds. Items and quantities of any materials the borrower has agreed to furnish will be checked and dates by which each item of development should be started will be checked in order that the work may be completed on schedule. If any changes in the plans and specifications are proposed, they should be within the general scope of the work as originally planned. Changes must be approved and processed in accordance with § 1924.10 of this subpart. The appropriate procedure for performing development should be explained to the borrower. Copies of FmHA forms that will be used during the period of construction should be given to the borrower. The borrower should be advised as of the purpose of each form and at what period during construction each form will be used.

(i) *Time of starting development work.* Development work will be started as soon as feasible after the loan is closed. Except in cases in which advance commitments are made in accordance with Subpart A of Part 1944 of this chapter or according § 1924.13(e)(1)(vi)(A) or § 1924.13(e)(2)(ix) (A) of this subpart, no commitments with respect to performing planned development will be made by the County Supervisor, District Director, or the applicant before the loan is closed. The applicant will be instructed that before the loan is closed, debts should not be incurred for labor or materials, or expenditures made for such purposes, with the expectation of being reimbursed from loan funds except as provided in Subpart A of Part 1943 of this chapter and Subparts A and

E of Part 1944 of this chapter. However, with the prior approval of the National Office, a State Supplement may be issued authorizing County Supervisors to permit applicants to commence welldrilling operations prior to loan closing, provided (1) it is necessary in the area to provide the water supply prior to loan closing, (2) the applicant agrees in writing to pay with personal funds all costs incurred if a satisfactory water supply is not obtained, (3) any contractors and suppliers understand and agree that loan funds may not be available to make the payment, (4) such action will not result under applicable State law in the giving of priority to mechanics and materialmen's liens over the later recorded FmHA mortgage, and (5) FmHA does not guarantee that the cost will be paid.

§ 1924.6 Performing development work.

All construction work will performed by one, or a combination, of the following methods: Contract, borrower, mutual self-help, or owner-builder. All development work must be performed by a person, firm, or organization qualified to provide the service.

(a) *Contract method.* This method of development will be used for all major construction except in cases where it is clearly not possible to obtain a contract at a reasonable or competitive cost. Work under this method is performed in accordance with a written contract. (Conditional commitment construction is not covered under this paragraph).

(1) *Forms used.* Form FmHA 1924–6, "Construction Contract," should be used. However, other contract documents acceptable to the loan approval official and containing the requirements of Subpart E of Part 1901 of this chapter, may be used provided they are customarily used in the area and protect the interest of the borrower and the Government with respect to compliance with items such as the drawings, specifications, payments for work, inspections, completion, nondiscrimination in construction work and acceptance of the work. If needed, the Office of the General Counsel (OGC) will be consulted. The United States (including FmHA) will not become a party to a construction contract or incur any liability under it. Form FmHA 1924–19, "Builder's Warranty," or an insured 10-year home warranty as described in Exhibit L of this subpart, and normal trade warranties on items of equipment will issued to the borrower by the contractor at the completion of:

(i) New Building construction,

(ii) Dwelling rehabilitation by the contract method,

(iii) All cases of newly completed and previously unoccupied dwellings, or

(iv) Construction under conditional commitments issued to builders and sellers.

(2) *Contract provisions.* Contracts will have a listing of attachments and the provisions of the contract will include:

(i) The contract sum.

(ii) The dates for starting and completing the work.

(iii) The amount of liquidated damages to be charged.

(iv) The amount, method, and frequency of payment.

(v) Whether or not surety bonds will be provided.

(vi) The requirement that changes or additions must have prior written approval of FmHA.

(3) *Surety requirements.* (i) Unless an exception is granted in accordance with paragraph (a)(3)(iii) of this section or when interim financing will be used, surety that guarantees both payment and performance in the amount of the contract will be furnished when one or more of the following conditions exist:

(A) The contract exceeds $100,000.

(B) The loan approval official determines that a surety bond appears advisable to protect the borrower against default of the contractor.

(C) The applicant requests a surety bond.

(D) The contract provides for partial payments in excess of the amount of 60 percent of the value of the work in place.

(E) The contract provides for partial payments for materials suitably stored on the site.

(ii) If surety bonds are required the construction contract must indicate that the contractor will furnish properly executed surety bonds prior to the start of any work. Exhibits F and G of this subpart as revised by OGC if necessary to comply with local or State Statutory requirements will be used as the forms of payment bond and performance bond to be provided. Unless noncorporate surety is provided, the surety bonds may only be obtained from a corporate bonding company listed on the current Department of the Treasury Circular 570 (published annually in the Federal Register), as holding a certificate of authority as an acceptable surety on Federal bonds and as legally doing business in the State where the land is located. Noncorporate sureties are not recommended and the State Director will be responsible for determining the acceptability of the individual or individuals proposed as sureties on the bonds. The State Director must determine that an individual or individuals proposed as sureties must have cash or other liquid assets easily convertible to cash in an amount at least equal to 25 percent more than the contract amount in order to be acceptable. The individual(s) will pledge such liquid assets in an amount equal to the contract amount. Fees charged for noncorporate sureties may not exceed fees charged by corporate sureties on bonds of equal amount, and in no case may surety be provided by the applicant or any person or organization with an identity of interest in the applicant's operation. The United States (including FmHA) will incur no liability related in any way to a performance or payment bond provided in connection with a construction contract. FmHA will be named as a co-obligee in the performance and payment bonds unless prohibited by State law.

(iii) When an experienced and reliable contractor cannot obtain payment and performance bonds meeting the surety requirements of paragraph (a)(3)(ii) of this section, the State Director may entertain a request from the applicant for an exception to the surety requirements. The applicant's request must specifically state why the proposed contractor is unable to obtain payment and performance bonds meeting the surety requirements, and why it is financially advantageous for the applicant to award the contract to the proposed contractor without the required bonds. If the applicant's request is reasonable and justified, and if the proposed contractor is reliable and experienced in the construction of projects of similar size, design, scope, and complexity, the State Director may grant an exception to the the surety requirements for loans or grants within the State Director's approval authority and accept one or a combination of the following:

(A) An unconditional and irrevocable letter of credit issued by a lending institution which has been reviewed and approved by OGC. In such cases, the construction contract must indicate that the contractor will furnish a properly executed letter of credit from a lending institution accepable to FmHA prior to the start of any work. The letter of credit must remain in effect until the date of final acceptance of work by the owner and FmHA. In addition, the letter of credit must stipulate that the lending institution, upon written notification by FmHA of the contractor's failure to perform under the terms of the contract, will advance funds up to the amount of the contract (including all FmHA approved contract change orders) to satisfy all prior debts incurred by the contractor in performing the contract

and all funds necessary to complete the work. *Payments may be made to the contractor in accordance with paragraph (a)(12)(i)(C) of this section as if full surety bonds were being provided.*

(B) If a letter of credit satisfying the conditions of paragraph (a)(3)(iii)(A) cannot be obtained, the State Director may accept a deposit in the amount of the contract, into an interest or non-interest bearing supervised bank account. In such cases the construction contract must indicate that the contractor will furnish the required deposit prior to the start of any work and that the funds shall remain on deposit until final acceptance of work by the owner and FmHA. Payments may be made to the contractor in accordance with paragraph (a)(12)(i)(C) of this section as if full surety bonds were being provided.

(C) When the provisions of paragraph (a)(3)(iii) (A) or (B) of this section can be met except that a surety bond, a letter of credit, and/or deposits are not obtainable in full amount of the contract, the State Director may accept an amount less then the full amount of the contract provided all of the following conditions are met:

(*1*) The contractor provides a surety bond, a letter of credit, or deposits in the greatest amount possible, and provides documentation indicating the reasons why amounts exceeding the proposed amount cannot be provided.

(*2*) The applicant agrees to the amount of the surety bond, letter of credit, or deposits proposed, and the State Director determines that the applicant has the financial capability to withstand any financial loss due to default of the contractor.

(*3*) In the opinion of the State Director, the proposed amount and the method of payment will provide adequate protection for the borrower and the Government against default of the contractor.

(*4*) The contract provides for partial payments not to exceed 90 percent of the value of the work in place for that portion of the total contract which is guaranteed by an acceptable surety bond, letter of credit, or deposits, and partial payments not to exceed 60 percent of the value of the work in place for that portion of the total contract which is not guaranteed by surety, letter of credit, or deposits.

Example:

Contractor has a surety bond which guarantees payment and performance in an amount of $150,000 which represents 75 percent of the total contract amount of $200,000. The contractor's first request for payment appears thus:

• value of work in place is $10,000	
• payment for work guaranteed by surety=75 percent x $10,000 x 90 percent=	$6,750
• payment for work guaranteed by surety=25 percent x $10,000 x 60 percent=	$1,500
Authorized payment=	$8,250

(Each partial payment shall reflect values for work guaranteed by surety, letter of credit, or deposits, and work not so guaranteed.)

(iv) In cases where the contractor does not obtain payment and performance bonds in accordance with the surety requirements of paragraph (a)(3)(ii) of this section, or where an exception to the surety requirements is granted by the State Director, the following steps will be taken to protect the borrower and the government against latent obligations and/or defects in connection with the construction:

(A) The contractor will furnish a properly executed corporate latent defects bond or a maintenance bond in the amount of 10 percent of the construction contract; or

(B) An unconditional and irrevocable letter of credit in the amount of 10 percent of the construction contract issued by a lending institution which has been reviewed and approved by OGC; or

(C) A cash deposit into an interest or non-interest bearing supervised bank account in the amount of 10 percent of the construction contract;

(D) The period of protection against latent obligations and/or defects shall be one year from the date of final acceptance of work by the owner and FmHA;

(E) Final payment shall not be rendered to the contractor until the provisions of paragraphs (a)(3)(iv) (A), (B) or (C) of this section have been met;

(F) The contract will contain a clause indicating that the contractor agrees to provide surety or guarantee acceptable to the owner and FmHA against latent obligations and/or defects in connection with the construction.

(4) *Equal Opportunity.* Section 1901.205 of Subpart E of Part 1901 of this chapter applies to all loans or grants involving construction contracts and subcontracts in excess of $10,000.

(5) *Labor Provisions.* The provisions of Subpart D of Part 1901 of this chapter concerning wage and labor requirements will apply when the contract involves either LH grant assistance, or 9 or more units in a project being assisted under the HUD Section 8 housing assistance payment program for new construction.

(6) *Historical and archaeological preservation.* The provisions of Subpart F of Part 1901 of this chapter concerning the protection of historical and archaeological properties will apply to all construction financed in whole or in part by FmHA loans and grants. These provisions have special applicability to development in areas designated by SCS as Resource Conservation and Development (RC&D) areas. (See Part 1942, Subpart I of this chapter.)

(7) *Air and water acts.* Under executive Order 11738, all loans or grants involving construction contracts for more than $100,000 must meet all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Water Pollution Control Act (33 U.S.C. 1813). The contract should contain provisions obligating the contractor as a condition for the award of the contract as follows:

(i) To notify the owner of the receipt of any communication from EPA indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

(ii) To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities as of the date of contract award.

(iii) To include or cause to be included the above criteria and requirements of paragraphs (a)(7) (i) and (ii) of this section in every nonexempt subcontract, and that the contractor will take such action as the Government may direct as a means of enforcing such provisions.

(8) *Architectural barriers.* In accordance with the Architectural Barriers Act of 1968, (Pub. L. 90–480) as implemented by the General Services Administration regulations (41 CFR 101–19.6) and section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112) as implemented by 7 CFR, Parts 15 and 15b, all facilities financed with FmHA loans and grants and which are accessible to the public or in which physically handicapped persons may be employed or reside must be developed in compliance with this Act. Copies of the Act may be obtained from the Executive Director, Architectural and Transportation Barriers Compliance Board, Washington, DC 20201.

(9) *National Environmental Policy Act.* The provisions of Subpart G of Part 1940 of this chapter concerning environmental requirements will apply to all loans and grants including those being assisted under the HUD section 8

housing assistance payment program for new construction.

(10) Obtaining bids and selecting a contractor.

(i) The applicant may select a contractor and negotiate a contract or contact several contractors and request each to submit a bid. For complex construction projects, refer also to § 1924.13(e) of this subpart.

(ii) When a price has already been negotiated by an applicant and a contractor, the County Supervisor, District Director or other appropriate FmHA official will review the proposed contract. If the contractor is qualified to perform the development and provide a warranty of the work and the price compares favorably with the cost of similar construction in the area, further negotiation is unnecessary. If the FmHA official determines the price is too high or otherwise unreasonable, the applicant will be requested to negotiate further with the contractor. If a reasonable price cannot be negotiated or if the contractor is not qualified, the applicant will be requested to obtain competitive bids.

(iii) When an applicant has a proposed development plan and no contractor in mind, competitive bidding will be encouraged. The applicant should obtain bids from as many qualified contractors, dealers or tradespeople as feasible depending on the method and type of construction.

(iv) If the award of the contract is by competitive bidding, Form FmHA 1924–5, "Invitation for Bid (Construction Contract)," or another similar invitation bid form containing the requirements of Subpart E of Part 1901 of this chapter, may be used. All contractors from whom bids are requested should be informed of all conditions of the contract including the time and place of opening bids. Conditions shall not be established which would give preference to a specific bidder or type of bidder. When applicable, copies of Forms FmHA 1924-6 and FmHA 400–6, "Compliance Statement," also should be provided to the prospective bidders.

(11) *Awarding the contract.* The borrower, with the assistance of the County Supervisor or District Director, will consider the amount of the bids or proposals, and all conditions which were listed in the "Invitation for Bid." On the basis of these considerations, the borrower will select and notify the lowest responsible bidder.

(i) Before work commences, there will be a preconstruction conference between the borrower(s), contractor, architect/engineer (if applicable), and the County Supervisor, District Director, or other FmHA employee having a knowledge of contracts and construction practices. During this discussion, a mutual understanding will be reached on the items shown in Exhibit E of this subpart.

(ii) A brief summary of the items covered should be entered in the running case record.

(iii) The contract will then be prepared and executed and copies distributed in accordance with the FMI for Form FmHA 1924–6.

(iv) After a borrower/contractor's contract or subcontract in excess of $10,000 is received in the FmHA County or District Office, the responsible FmHA official will send within 10 calendar days of the date of the contract or subcontract, a report similar in form and content to Exhibit C of Subpart E of Part 1901 of this chapter to the Area Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, at the applicable address listed in Exhibit E, Subpart E of Part 1901 of this chapter. The report must contain, at least, the following information: contractor's name, address and telephone number; employer's identification number; amount, starting date and planned completion date of the contract; contract number; and city and DOL region of the contract site. The information for this report should be obtained from the contractor when the contract is awarded.

(12) *Payments for work done by the contract method.* (i) Payments will be made in accordance with one of the following methods unless prohibited by State statute, in which case the State Director shall issue a state supplement to this section:

(A) The "One Lump-Sum" payment method will be used when the payment will be made in one lump-sum for the whole contract.

(B) The "Partial payments not to exceed 60 percent of the value of the work in place" payment method will be used when the contractor does not provide surety bond, a letter of credit, or deposits.

(C) The "Partial payments in the amount of 90 percent of the value of the work in place and of the value of the materials suitably stored at the site" payment method will be used when the contractor provides a surety bond equal to the total contract amount.

(D) The "Partial payments which reflect the portions of the contract amount which is guaranteed" method will be used when the contractor provides surety bonds, a letter of credit, or deposits less than the total amount of the contract in accordance with the provisions of paragraph (a)(3)(iii)(C) of this section.

(ii) When Form FmHA 1924–6 is used, the appropriate payment clause will be checked and the other payment clauses not used will be effectively crossed out.

(iii) When a contract form other than Form FmHA 1924–6 is used, the payment clause must conform with paragraph (a)(12)(i) of this section and the appropriate clause as set forth in Form FmHA 1924–6.

(iv) The borrower and FmHA must take precautionary measures to see that all payments made to the contractor are properly applied against bills for materials and labor procured under the contract. Prior to making any partial payment on any contract where a surety bond is not used, the contractor will be required to furnish the borrower and the FmHA with a statement showing the total amount owed to date for materials and labor procured under the contract. The contractor also may be required to submit evidence showing that previous partial payments were applied properly. When the borrower and the County Supervisor or District Director have reason to believe that partial payments may be applied properly, checks may be made jointly to the contractor and persons who furnished materials and labor in connection with the contract.

(v) When partial payments are requested by the contractor and approved by the owner, the amount of the partial payment will be determined by either of the following methods:

(A) Based upon the percentage completed as shown on a recently completed and properly executed Form FmHA 1924–12, "Inspection Report," or

(B) Based upon an application for payment containing an estimate of the value of work in place which has been prepared by the contractor and accepted by the borrower and FmHA. When the contract provides for partial payments for materials satisfactorily stored at the site, the application for payment may include these items. Prior to receiving the first partial payment, the contractor should be required to submit a list of major subcontractors and suppliers and a schedule of prices or values of the suppliers and a schedule of prices or values of the various phases of the work aggregating the total sum of the contract such as excavation, foundations, framing, roofing, siding, mill work, painting, plumbing, heating, electric wiring, etc., made out in such form as agreed upon by the borrower, FmHA, and the contractor. In applying for payments, the contractor should submit a statement based upon this schedule. See Exhibit A of this subpart for guidance in reviewing the contractor's schedule of prices, and also guidance in

computing the value of the work in place.

(vi) Final payment. (A) Final payment of the amount due on the contract or disbursal of the FmHA loan funds where an interim loan was used will be made only upon completion of the entire contract, final inspection by FmHA, acceptance of the work by FmHA and the borrower, issuance of any and all final permits and approvals for the use and occupancy of the structure by any applicable state and local governmental authorities, and compliance by the contractor with all terms and conditions of the contract. In the event the work of construction is delayed or interrupted by reason of fire, flood, unusually stormy weather, war, riot, strike, an order, requisition or regulation of any governmental body (excluding delays related to possible defects in the contractor's performance and excluding delays caused by the necessity of securing building permits or any required inspection procedures connected therewith) or other contingencies reasonably unforeseeable and beyond the reasonable control of the contractor, then with the written consent of FmHA, the date of completion of the work may be extended by the period of such delay, provided that the contractor shall give the owner and FmHA written notice within 72 hours of the occurrence of the event causing the delay or interruption.

(B) Prior to making final payment on the contract when a surety bond is not used or disbursing the FmHA loan funds when an interim loan was used, FmHA will be provided with a Form FmHA 1924–9, "Certificate of Contractor's Release," and Form 1924–10, "Release by Claimants," executed by all persons who furnished materials or labor in connection with the contract. The borrower should furnish the contractor with a copy of the "Release by Claimants" form at the beginning of the work in order that the contractor may obtain these releases as the work progresses.

(*1*) If such releases cannot be obtained, the funds may be disbursed provided all the following can be met:

(*i*) Release statements to the extent possible are obtained;

(*ii*) The interests of FmHA can be adequately protected and its security position is not impaired;

(*iii*) Adequate provisions are made for handling the unpaid account by witholding or escrowing sufficient funds to pay any such claims or obtaining a release bond;

(*2*) The State Director may issue a State Supplement which will:

(*i*) Not require the use of Form FmHA 1924–10, if, under existing State statutes, the furnishing of labor and materials gives no right to a lien against the property, or

(*ii*) Provide an alternative method to protect against mechanic's and materialmen's liens. In this case, the use of Form FmHA 1924–10 is optional.

(b) *Borrower method.* The borrower method means performance of work by or under the direction of the borrower, using one or more of the ways specified in this subsection. Development work may be performed by the borrower method only when it is not practicable to do the work by the contract method; the borrower possesses or arranges through an approved self-help plan for the necessary skill and managerial ability to complete the work satisfactorily; such work will not interfere seriously with the borrower's farming operation or work schedule, and the County Office caseload will permit a County Supervisor to properly advise the borrower and inspect the work.

(1) *Ways of performing the work.* The borrower will:

(i) Purchase the material and equipment and do the work.

(ii) Utilize lump-sum agreements for (A) minor items or minor portions of items of development, the total cost of which does not exceed $5,000 per agreement, such as labor, material, or labor and material for small service buildings, repair jobs, or land development; or (B) material and equipment which involve a single trade and will be installed by the seller, such as the purchase and installation of heating facilities, electric wiring, wells, painting, liming, or sodding. All agreements will be in writing, however, the County Supervisor may make an exception to this requirement when the agreement involves a relatively small amount.

(2) *Acceptance and storage of material on site.* The County Supervisor will advise the borrower that the acceptance of material as delivered to the site and the proper storage of material will be the borrower's responsibility.

(3) *Payment for work done by the borrower method.* (i) *Payments for labor.* Before the County Supervisor countersigns checks for labor, the borrower must submit a completed Form FmHA 1924–11, "Statement of Labor Performed," for each hired worker performing labor during the pay period. Ordinarily, checks for labor will be made payable to the workers involved. However, under justifiable circumstances, when the borrower has paid for labor with personal funds and has obtained signatures of the workers on Form FmHA 1924–11 as having received payment, the County Supervisor may countersign a check made payable to the borrower for reimbursement of these expenditures. Under no circumstances will the County Supervisor permit loan funds or funds withdrawn from the supervised bank account to be used to pay the borrower for the borrower's own labor or labor performed by any member of the borrower's household.

(ii) *Payments for equipment, materials or lump-sum agreements.* (A) Before countersigning checks for equipment or materials, the County Supervisor must normally have an invoice from the seller convering the equipment or materials to be purchased. When an invoice is not available at the time the check is issued, and itemized statement of the equipment or materials to be purchased may be substituted until a paid invoice from the seller is submitted, at which time the itemized statement may be destroyed.

(B) When an invoice is available at the time the check is drawn the check will include a reference to the invoice number, the invoice date if unnumbered and, if necessary, the purpose of the expenditure.

(C) The check number and date of payment will be indicated on the appropriate Form FmHA 1924–11, invoice, itemized statement of equipment or materials and/or lump-sum agreement.

(D) Ordinarily, checks for equipment or materials will be made payable to the seller. Under justifiable circumstances, when the borrower has paid for equipment or materrials with personal funds and furnished a paid invoice, the County Supervisor may countersign a check made payable to the borrower for reimbursement of these expenses.

(E) When an invoice includes equipment or materials for more than one item of development, the appropriate part of the cost to be charged against each item of development will be indicated on the invoice by the borrower, with the assistance of the County Supervisor.

(F) Payment made under lump-sum agreements will be made only when all items of equipment and materials have been furnished, labor has been performed as agreed upon, and the work has been accepted by the borrower and FmHA.

(G) Each paid Form FmHA 1924–11, invoice, itemized statement of equipment or material and/or lump-sum agreement will be given to the borrower as provided for in Exhibit A to FmHA

Instruction 2033–A (available in any FmHA office).

(c) *Mutual self-help method.* The mutual self-help method is performance of work by a group of families by mutual labor under the direction of a construction supervisor, as described in Exhibit E of Subpart A of Part 1944 of this chapter. The ways of doing the work, buying materials, and contracting for special services are like those used for the borrower method. Materials can be bought jointly by the group of families, but payments will be made individually by each family. In the case of RH loans to families being assisted by Self-Help Technical Assistance (TA) grants in accordance with Subpart I of Part 1933 of this chapter, the County Supervisor may countersign checks for materials and necessary contract work made payable directly to the TA grantee, provided the District Director determines that:

(1) The grantee acts in the same capacity as a construction manager in the group purchase of material and services.

(2) The grantee has an adequate bookkeeping system approved by the District Director to assure that funds in each RH account are properly distributed and maintained.

(3) The grantee receives no compensation in the way of profit or overhead for this service and all discounts and rebates received in connection with the purchase of materials or services are passed on to the participating families.

(4) The grantee has a record-keeping system which shows that the costs of the materials and services were prorated to each borrower's account in relation to the actual material and service used by each borrower.

(d) *Owner-builder method.* This method of construction applies only to RRH loans made under Subpart E of Part 1944 of this chapter. Regulations governing this method are found at § 1924.13(e)(2) of this subpart.

§ 1924.7 [Reserved]

§ 1924.8 Development work for modular/panelized housing units.

(a) Exhibit B of this subpart applies to all loans involving modular/panelized housing units.

(b) Complete drawings and specifications will be required as prescribed in Exhibit C of this subpart. Each set of drawings will contain the design of the foundation system required for the soil and slope conditions of the particular site on which the modular/panelized house is to be placed.

(c) The manufacturer will provide a certification (Exhibit B, Attachment 5 of this subpart), stating that the building has been built substantially in accordance with the drawings and specifications. The builder will also provide a certification that the onsite work complies with drawings, specifications, and the applicable development standard (Exhibit B, Attachment 5 of this subpart).

(d) Responsibility for field inspections will be in accordance with § 1924.9(a) of this subpart. Frequency and timing of inspections will be in accordance with § 1924.9(b) of this subpart, except that the Stage 2 inspection should be made during the time and in no case later than two working days after the crews commence work on the site and the house is being erected or placed on the foundation, to determine compliance with the accepted drawings and specifications.

(e) Periodic plant inspections may be performed by the FmHA employee responsible for such inspections in the area in which the manufacturing plant or material supply yard is located.

(1) Inspections will be made in the plants if the type construction method used could restrict adequate inspections on the building site.

(2) Plant inspections will be made as often as necessary. However, after initial inspection and acceptance of the building submitted, inspection should be made only when it appears advisable to ascertain the performance and continuing stability of accepted materials and construction.

(f) Only one contract will be accepted for the completed house on the site owned or to be bought by the borrower. The manufacturer of the house or the manufacturer's agent may be the prime contractor for delivery and erection of the house on the site or a builder may contract with the borrower for the complete house in place on the site. Such contracts should provide that payments will be made only for work in place on the borrower's site.

(g) Payments for modular/panelized units will be made in accordance with the terms of the contract and in compliance with § 1924.6(a)(12) of this subpart.

§ 1924.9 Inspection of development work.

The following policies will govern the inspection of all development work.

(a) *Responsibility for inspection.* The County Supervisor or District Director, accompanied by the borrower when practicable, will make final inspection of all development work and periodic inspections as appropriate to protect the security interest of the government. In this respect, inspections other than final inspections, may be conducted by other qualified persons as authorized in paragraph (b)(3) of this section and in § 1944.17(a)(2)(iv) of Subpart A of Part 1944 of this chapter, and as authorized under other agreements executed by, or authorized by, the National Office. The borrower will be responsible for making inspections necessary to protect the borrower's interest. FmHA's inspections are not to assure the borrower that the house is built in accordance with the plans and specifications. The inspections create or imply no duty or obligation to the particular borrower. FmHA inspections are for the dual purposes of determining that FmHA has adequate security for its loan and enabling FmHA to determine that FmHA is working toward achieving the statutory goal of providing adequate housing. If difficult technical problems are encountered, the County Supervisor or District Director should request the assistance of the State Office or a qualified technician from SCS or the State University Cooperative Extension Service.

(b) *Frequency of inspections.* The County Supervisor or District Director will inspect development work as frequently as necessary to assure that construction and land development conforms with the drawings and specifications. The final inspection will be made at the earliest possible date after completion of the planned development. When several major items of development are involved, final inspection will be made upon completion of each item.

(1) For new buildings and additions to existing buildings inspections will be made at the following stages of construction and at such other stages of construction as determined by the County Supervisor or District Director except as modified by paragraph (b)(3) of this section.

(i) *Stage 1.* Customarily, the initial inspection in construction cases is made just prior to or during the placement of concrete footings or monolithic footings and floor slabs. At this point, foundation excavations are complete, forms or trenches and steel are ready for concrete placement and the subsurface installation is roughed in. However, when it is not practicable to make the initial inspection prior to or during the placement of concrete, the County Supervisor or District Director will make the initial inspection as soon as possible after the placement of concrete and before any backfill is in place.

(ii) *Stage 2.* The Stage 2 inspection will be made when the building is

enclosed, structural members are still exposed, roughing in for heating, plumbing and electrical work is in place and visible, and wall insulation and vapor barriers are installed. Customarily, this is prior to installation of brick veneer or any interior finish which would include lath, wallboard and finish flooring.

(iii) *Stage 3.* The final inspection will be made when all on-site and off-site development has been completed and the structure is ready for occupancy or its intended use.

(2) For rehabilitation of existing buildings, inspections will be made in accordance with paragraphs (b)(1) (ii) and (iii) of this section, and at such other stages of construction to assure that construction is being performed in a professional manner and in accordance with the FmHA approved drawings and specifications.

(3) For new construction when the structure will be covered by an insured 10-year warranty plan as described in Exhibit L of this subpart, only the final inspection is required. For this exception to apply:

(i) The insurer's construction inspector must provide FmHA with any available copies of inspection reports showing percentage of completion immediately after the inspections are completed. To make partial payments when copies of inspection reports are not available, the responsible FmHA official will make the inspections or will be guided by the provisions of §1924.6(a)(12)(v)(B) of this subpart. If further assurance is deemed necessary to justify partial payments, the FmHA official may make onsite inspections or require additional information.

(ii) The insurer must provide an insured 10-year warranty policy (or a binder if the policy is not available) before final payment is made to the builder.

(4) Arrangements should be made to have the borrower join the County Supervisor or the District Director in making periodic inspections as often as necessary to provide a mutual understanding with regard to the progress and performance of the work.

(5) The borrower should make enough periodic visits to the site to be familiar with the progress and performance of the work, in order to protect the borrower's interest. If the borrower observes or otherwise becomes aware of any fault or defect in the work or nonconformance with the contract documents, the borrower should give prompt written notice thereof to the contractor with a copy to the County Supervisor or District Director responsible for servicing the type of loan or grant involved.

(6) The borrower should, when practicable, join the County Supervisor or District Director in making all final inspections.

(7) When irrigation equipment and materials are to be purchased and installed, a performance test under actual operating conditions by the person or firm making the installation should be required before final acceptance is made. The test should be conducted in the presence of the borrower, a qualified technician, and, when practicable, the County Supervisor or District Director. If the FmHA official is not present at the performance test, he or she should request the technician to furnish a report as to whether or not the installation meets the requirements of the plans and specifications.

(8) For irrigation and drainage construction or any dwelling construction where part or all of the work will be buried or backfilled, interim inspections should be made at such stages of construction that compliance with plans and specifications can be determined.

(c) *Recording inspections and correction of deficiencies.* All periodic and final inspections made by the County Supervisor or District Director will be recorded on Form FmHA 1924–12 in accordance with the FMI. The County Supervisor or District Director will be responsible for following up on the correction of deficiencies reported on Form FmHA 1924–12. When an architect/engineer is providing services on a project, the District Director should notify the architect/engineer immediately of any fault or defect observed in the work or of any nonconformance with the contract document. If the borrower or the contractor refuses to correct the deficiencies, the District Director will report the facts to the State Director who will determine the action to be taken. No inspection will be recorded as a final inspection until all deficiencies or nonconforming conditions have been corrected.

(d) *Warranty period.* Form FmHA 1924–19 or an acceptable insurd 10 year warranty on RH loans for new construction will be provided by the contractor and/or warrantor. If the warranty is not an insured 10-year warranty, a completed Form FmHA 1924–19, with warranty protection for 1 year, must be provided by the builder upon final acceptance of the work by the owner and the FmHA. If an insured 10-year warranty is provided, the requirements of Exhibit L of this subpart apply, and a copy of the warranty policy or a binder must have been received by FmHA prior to disbursement of the final payment to the builder.

If, for some reason, the policy cannot be issued, the contractor wil be required to execute Form FmHA 1924–19 and the case will be forwarded to the State Director for consideration of debarment under the provisions of Subpart F of Part 1924 of this chapter. The County Supervisor will assist the borrower to the extent necessary under the provisions of the warranty and Subpart F of Part 1924 of this chapter and will take the following action prior to the expiration of the first year of the warranty period:

(1) As soon as the warranty has been executed, the follow-up date for sending Form FmHA 1924–21, "Notice of Expiration of First Year of Warranty," which will be used for the 1 year warranty or the first year of the insured 10-year warranty, will be posted to the "Servicing and Supervision" section of the Management System card.

(2) Form FmHA 1924–21 is provided for use in notifying the borrower of the expiration date of the first year of the warranty. This letter will be mailed to the borrower early in the second month preceding the expiration date of the first year of the warranty period.

(3) If the County Supervisor or District Director does not hear from the borrower within 30 days, it can reasonably be assumed that no complaint exists or that any complaint has been satisfied unless information to the contrary has been received.

(4) If the borrower notifies FmHA that any complaint has not been satisfied, an onsite inspection shall be made as early as possible, but not later than 1 month preceding the expiration date of the first year of the warranty. The results of the inspection visit wil be recorded on Form FmHA 1924–12. If the borrower has complaints the case should be handled in accordance with the provisions of Subpart F of Part 1924 of this chapter, or as otherwise provided in this subpart.

(e) *Acceptance by responsible public authority.* When local (city, county, State, or other public authority) codes and ordinances require inspections, final acceptance by the local authority having jurisdiction wil be required prior to final inspection or acceptance by FmHA.

(f) *Acceptance by project architect.* If architectural services pursuant to § 1924.13(a) of this subpart have been obtained. Final acceptance by the project architect pursuant to § 1924.13(a)(5)(v) of this subpart will be required prior to acceptance by FmHA.

§ 1924.10 Making changes in the development plan.

Changes in the planned development may be made at the request of the borrower in accordance with this section.

(a) *Authority of the County Supervisor.* The County Supervisor is authorized to approve changes in the planned development involving loans and grants within the County Supervisor's approval authority provided:

(1) The change is for an authorized purpose and within the scope of the orginal proposal.

(2) Sufficient funds are deposited in the borrower's supervised bank account or with the interim lender, as appropriate, to cover the contemplated changes when the change involves additional funds to be furnished by the borrower.

(3) The change will not adversely affect the soundness of the operation or FmHA's security. If uncertain as to the probable effect the change would have on the soundness of the operation or FmHA security, the County Supervisor will obtain advice from the District Director on whether to approve the change.

(4) If a surety bond has been provided on the full amount of the construction contract, the aggregate amount of all contract change orders on Form FmHA 1924–7, "Contract Change Order," or other acceptable form will not exceed 20 percent of the original contract amount. Change orders for contracts on which a surety bond has been provided which increases the original contract amount by more than 20 percent may only be approved if additional surety is provided in the full revised amount of the contract. For purposes of this paragraph, letters of credit and deposits are not considered surety.

(5) Change orders for contracts on which letters of credit or deposits have been provided on the full amount of the contract which will increase the original contract amount are approved only if additional letters of credit or deposits are provided in the full revised amount of the contract.

(b) *Authority of the District Director.* The District Director is authorized to approve changes in the development planned with RRH, RCH, and RHS loans and LH loans and grants within the District Director's approval authority, provided the conditions in § 1924.10(a) have been met. For such loans in excess of the District Director's approval authority, the borrower's request with the District Director's recommendation will be forwarded to the State Director for consideration.

(c) *Recording changes in the planned development.* (1) Changes should be accomplished only after FmHA written approval. Changes will not be included in payment requests until approved by the borrower; the contractor, if applicable; the architect/engineer, if applicable; and the FmHA loan approval official. Examples of changes requiring documentation are:

(i) Any changes in labor and materials and their respective costs.

(ii) Changes in facility design.

(iii) Any decrease or increase in unit-price on final measurements that are different from those shown in the bidding schedule.

(iv) Any increase or decrease in the time to complete the project.

(2) All changes shall be recorded in chronological order as follows:

(i) Contract method. Changes shall be numbered in sequence as they occur using Form FmHA 1924–7 with necessary attachments.

(ii) Borrower method. An increase or decrease in the cash cost, extension of time, transfer of funds between items, or an addition or deletion of items of development, will be summarized on the front of Form FmHA 1924–1 by striking through the original figures on items and writing in the changes. Changes made in the "Development Plan," in the working drawings, or in the plans and specifications will be dated and initialed by all parties.

(iii) Mutual self-help method. [See paragraph (c)(2)(ii) of this section.]

(iv) Owner-builder method. [See paragraph (c)(2)(i) of this section.]

§ 1924.11 District Director's review of incomplete development.

During monthly District Office work organization meetings and during regular visits to the County Office, the District Director will review the progress that is being made in completing development financed with loans within the District Director's and County Supervisor's responsibility.

(a) Once each year the District Director will make a comprehensive review of all development work not completed within the time scheduled. For incomplete development financed with loan or grant funds within the responsibility of the District Director, the District Director will take the necessary actions to assure that the borrower or grantee completes the planned development. For incomplete development financed with loan or grant funds within the responsibility of the County Supervisor, the District Director will give the necessary direction to the County Supervisior to assure completion of the work. In connection with these responsibilities, the District Director will consider:

(1) The current farm and home operations with respect to the need for the development as originally planned.

(2) Revisions to the development plan.

(3) Funds remaining in the supervised bank account.

(4) Need for additional funds.

(5) Personal funds that could be furnished by the borrower.

(6) Estimated completion dates.

(7) The borrower's attitude with respect to completing the development.

(b) After a complete review of the status of development in both the District and County Offices has been made, the District Director will make a written report to the State Director which will include observations and recommendations regarding incomplete development. The report may be included in the District Director's regular report, and will include:

(1) The number of cases in which borrowers have not completed their development within 9, 15 or 24 months when authorized, and also the number of cases in which funds have been exhausted and the work is incomplete.

(2) The number of borrowers who have not completed their development within 3 years from the loan closing, and indicate the action that was taken in each such case.

(c) If the borrower has not completed development work within 3 years after the date of loan closing and the District Director has determined that the borrower cannot or will not complete the development, the District Director will so indicate on Form FmHA 1924–1 and request the State Director to withdrawn, for application on the loan, any unused development funds remaining in the borrower's supervised bank account, if the borrower will not sign a check for a refund to the loan account.

§ 1924.12 [Reserved]

§ 1924.13 Supplemental requirements for more complex construction.

This section includes additional provisions that apply to planning and conduct of construction work on all multiple family housing projects and other projects that are more extensive in scope and more complex in nature than individual housing units or farm buildings. This section will apply in addition to all other requirements contained elsewhere in this subpart.

(a) *Architectural services.* Complete architectural services, as defined in § 1924–4(o)(1) of this subpart are recommended on all projects. They are

required for projects involving an LH grant and for all loans for RRH, RCH, and LH projects consisting of more than 4 units unless prior consent to making an exception to the requirements for complete architectural services is obtained from the National Office. If the applicant or contractor is an architect or organization with architectural capability, the applicant must, nevertheless, hire an independent qualified architect or architectural firm to inspect the construction work and perform other needed services during the construction and warranty phases. See Guide 4, Attachment 1, "Attachment to AIA Document—Standard Form of Agreement Between Owner and Architect" for further information (Guide 4 is available in any FmHA office). (Revised 2–5–86)

(1) *Exception.* Any request for National Office consent to an exception being made for complete architectural services should include the proposed drawings and specifications, method of providing specific services, the comments and recommendations of the FmHA State Architect, and any other pertinent information. The State Director must determine that any services for which an exception is requested can be performed by qualified State or District Office staff members.

(2) *Selecting the architect.* The applicant is responsible for selecting the architect. The District Director with the advice of the State architect/engineer should discuss with the applicant the selection of the architect for the job as early as possible to assist in the site selection and participate in early consultations regarding project scope and design.

(3) *Architectural fees.* Fees for architectural services shall not exceed the fee ordinarily charged by the profession for similar work when FmHA financing is not involved.

The fee should cover only the architectural services rendered by the architect. Fees for special services rendered by architects, such as the packaging of the loan application or additional non-architectural services, will not be authorized to be paid with loan funds.

(4) *Agreement between borrower and architect.* The borrower and the architect will execute a written agreement. The agreement must provide:

(i) The services listed in paragraph (a)(5) of this section.

(ii) The amount of the fee and how it will be determined and paid.

(iii) That the agreement and any amendments to the agreement shall not be in full force and effect until approved in writing by the State Director or the State Director's delegate, and it will contain the following provision:

The Farmers Home Administration, as potential lender or insurer of funds to defray the costs of this agreement and without liability for any payments thereunder, hereby approves the form, content and the execution of this agreement.

Date ———,

———,

FmHA Approval Official.

———,

Title.

(5) *Specific services.* Architectural services will include six consecutive phases as follows:

(i) *Schematic design phase.* The architect will:

(A) Consult with the applicant to obtain available information pertinent to the project requirements.

(B) Consult with FmHA State architect/engineer about FmHA requirements and procedures.

(C) Assist in preparing the project design after analyzing engineering and survey data on the site selected by applicant.

(D) Prepare schematic design studies consisting of drawings and other documents illustrating the scale and relationship of project components for the applicant's approval.

(E) Submit estimates of current development costs based on current area, volume, or other unit costs.

(F) When the applicant and FmHA have accepted the schematic design studies and estimated development costs, the project architect may be authorized to proceed with the next phase.

(ii) *Design development phase.* The architect will:

(A) Prepare the design development exhibits from the accepted schematic design studies for approval by the applicant. These exhibits should consist of drawings and other documents to fix and describe the size and character of the entire project as to structural, mechanical, and electrical systems, materials, and other essentials as appropriate.

(B) Submit a further statement of probable construction cost.

(C) Obtain applicant and FmHA approval of drawings, specifications, and authorization to proceed with next phase.

(iii) *Construction documents phase.* The architect will:

(A) Prepare the working drawings and specifications from the approved design development drawings and set forth in detail the requirements for the construction of the entire project in accordance with applicable regulations and codes; for example, necessary bidding information, assistance in preparing bidding forms, conditions of the construction contract, and the form of agreement between applicant/owner and contractor.

(B) Submit a final and more comprehensive statement of probable development cost. It should show a breakdown of the estimated total development cost of the project and the various trades in enough detail for an adequate review.

(C) Obtain the acceptance of the applicant and FmHA for contract documents, including approval of the final drawings and specifications and authorization to proceed.

(D) Discuss with the applicant various items as they develop.

(iv) *Bidding or negotiation phase.* The architect will, as appropriate, for a bidded or negotiated contract:

(A) Assist in review and selection of bidders and submission of contract documents to selected bidders.

(B) Assist in the interpretation of drawings and specifications, and other contract documents.

(C) Receive and tabulate all bids.

(D) Review the bids and the negotiated proposals and assist in the award and preparation of construction contracts.

(v) *Contruction phase.* This phase includes the administration of the construction contract. It will commence with award of the construction contract and end when the borrower makes final payment to the contractor. The architect will:

(A) Advise and consult with the borrower (or the borrower's representative) and issue the borrower's instructions to the contractor.

(B) Prepare change orders.

(C) Keep construction accounts and work as the general administrator of the project during construction.

(D) Interpret the contract documents and have the authority to reject all work and materials which do not comply.

(E) Review and approve shop drawings, samples, and other submissions of the contractor for conformance with design concept and for compliance with the contract documents.

(F) Conduct periodic inspections of all phases of construction to determine compliance with the contract documents and certify as to the amount of work that is in place and materials suitably stored on site for partial payment estimates. These inspections will be augmented, when necessary, by inspections performed by structural,

mechanical and electrical representatives. Periodic inspections should be made as frequently as is necessary to verify that the work conforms with the intent of the contract documents and that a high quality of workmanship is maintained. The State Director may require a full-time project representative on projects with a total development cost of $750,000 or more, when in the opinion of the State Director there is a need for such representative, and the State Director states the reasons for such need to the borrower.

(G) Determine, based on the inspections, the dates of substantial completion and final completion; receive on the borrower's behalf all written guarantees and related documents assembed by the contractor; and issue a final certificate for payment.

(vi) *Warranty phase.* The architect will advise and consult with the borrower, as the borrower's representative, about items to be corrected within the warrantly period. The architect will accompying the FmHA representative during the inspection required one month prior to expiration of the warranty period.

(b) *Other professional services.* The State Director, on the recommendation of the State architect/engineer, may request that additional professional services be provided.

(1) Professional services would typically include soils engineering, structural engineering, civil engineering, surveying, land planning, or professional cost estimation or certifiction. Fees for these services may be paid directly by the borrower or by the architect as reimbursable expenses.

(2) When a project repersentatiave is utilized, unless otherwise agreed, the representative will be provided by the consulting architect/engineer. Prior to the preconstruction conference, the architect/engineer will submit a resume of qualifications of the project representative to the applicant and to FmHA for acceptance in writing. If the applicant provided the project representative, the applicant must submit a resume of the representative's qualifications to the project architect/engineer and FmHA for acceptance in writing, prior to the preconstruction conference. The project representative will attend the preconstruction conference where duties and responsibilities will be fully discussed. The project representative will work under the general surpervision of the architect/engineer. The project representative will maintain a daily diary in accordance with the following:

(i) The diary shall be maintained in a hard-bound book.

(ii) The diary shall have all numered and all entries in ink.

(iii) All entries shall be on daily basis, beginning with the date and weather conditions.

(iv) Daily entries shall include daily work performed, number of men and equipment used in the performance of the work, and all signficant happenings during the day.

(v) The diary shall be made available to FmHA personnel and will be reviewed during project inspections.

(vi) The project representative's diary will become the property of the owner after the project is accepted and final payments are made.

(c) *Drawings.* The type and kinds of drawings should be in accordance with Exhibit C of this subpart and Subpart D of Part 1944 of this chapter.

(1) The drawings must be clear, accurate, and with adequate dimensions and should be of sufficient scale for estimating purposes.

(2) Construction sections and large-scale details sufficient for accurate bidding and for the purpose of correlating all parts of the work should be part of the general drawings. This is particularly important where the size of a project makes necessary the preparation of the general drawings at a scale of ⅛ inch equals 1 foot or less.

(3) Mechanical and electrical work should be shown on separate plans.

(4) Schedules should be provided for doors, windows, finishes, electrical fixtures, finish hardware, and any other specialty items necessary to clarify drawings.

(d) *Specifications.* Trade-type specifications (specifications divided into sections for various trades) should be used. The specifications should be complete, clear, and concise, with adequate description of the various classes of work shown under the proper sections and headings.

(e) *Methods of administering construction.* Projects involving a total development cost of less than $100,000 which do not include an LH grant may, with the approval of the State Director, follow the contract procedure in Section 1924.6(a) of this subpart without modification. Construction of all other projects, however, will be administered by the contract method or owner-builder method as set forth in this section.

(1) *Contract method.* This method of development will be used for all complex construction except in cases where owner-builder method is authorized. Development under this method is done in accordance with Section 1924.6(a) of this subpart except as modified by this paragraph. All construction work will be completed under one written construction contract. Guide I, "Contract Documents" of this subpart (available in any FmHA office) is provided to assist FmHA personnel and applicants in assembling and reviewing contract documents for more complex construction such as that administered under this section.

(i) *Competitive bidding methods.* (A) All construction contracts must be awarded on the basis of competitive bidding unless an exception is granted in accordance with paragraph (e)(1)(vii) of this section thereby permitting contract negotiation. The applicant's architect should prepare the bidding documents. Public notice must be given inviting all interested bidders to submit a bid. Prospective bidders may be contacted asking for their bids; however, public notice is necessary so that all local contractors have the opportunity to submit bids.

(B) A bid bond is required from each bidder in the amount of 5 percent of the bid price as assurance that the bidder will, upon acceptance of the bid, execute the required contract documents within the time specified.

(C) The construction contract will be awarded based on the contract cost, and all conditions listed in the "Invitation to Bid."

(D) If advertising does not provide a satisfactory bid in the opinion of the applicant and FmHA, the applicant shall reject all bids and will then be free to negotiate with bidders or anyone else to obtain a satisfactory contract. The following conditions must be met:

(*1*) The State Director determines that the original competitive bid process was handled in a satisfactory manner and that there is no advantage to advertising for competitive bid again.

(*2*) If appropriate, the applicant provides a copy of a duly authorized resolution by its governing body requesting FmHA to permit awarding the construciton contract without formal bidding.

(*3*) The applicant is permitted by State law, local law and/or organizational by-laws to negotiate a construction contract.

(*4*) The proposed contractor is experienced in construction of similar size, scope, and complexity, and is recognized as a reliable builder. The State Director must determine that there is no conflict of interest in the award of the contract to the proposed contractor.

(E) If there is no agreement by FmHA and the applicant as to the construction cost, the State Director will cease any further action on the preapplication and inform the applicant of the right to

appeal in accordance with Subpart B of Part 1900 of this chapter.

(ii) *Contract documents.* Contract documents will conform with recognized professional practices as prescribed in this paragraph. Such contract documents will contain substantially the following:

Item I Invitation for Bids (Form FmHA 1924–5)
Item II Information for Bidders
Item III Bid
Item IV Bid Bond
Item V Agreement (Construction Contract)
Item IV Compliance Statement (Form FmHA 400–6)
Item VII General Conditions
Item VIII Supplemental General Conditions
Item IX Payment Bond (Exhibit F of this subpart)
Item X Performance Bond (Exhibit G of this subpart)
Item XI Notice of Award
Item XII Notice to Proceed
Item XIII Drawings and Specifications
Item XIV Addenda
Item XV Contract Change Order (Form FmHA 1924–7)
Item XVI Labor Standards Provisions [Exhibit A to Subpart D of Part 1901 of this chapter, where applicable]
Item XVII Monthly Employment Utilization Report (Form CC–257)
Item XVIII Partial Payment Estimate (Form FmHA 1924–18)
Item XIX Builder's Warranty (Form FmHA 1924–19)

(A) Substitution of term "architect" for "engineer" will be necessary on some of the forms. Other modifications may be necessary in some cases to conform with the nature and extent of the project. All such contract documents and related items will be approved by the State Director, with the assistance of OGC prior to the release of invitations to bid.

(B) Items listed as I through IV and item XI above may be omitted when an exception to the competitive bidding requirement is granted in accordance with paragraph (e)(1)(vii) of this section, thereby permitting a negotiated contract.

(C) All negotiated contracts shall include a provision to the effect that the borrower, USDA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific Federal loan program for the purpose of making audit, examination, excerpts, and transcriptions.

(D) Liquidation damages *will* be included in all contracts. The liquidated damage amount must be reasonable and represent the best estimate possible of how much interest or other costs will accrue on the loan, and also represent any loss of rent or other income which would result from a delay in the completion of the project beyond the estimated completion date.

(E) All contracts shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act prohibits anyone from inducing any person in connection with the construction to give up any part of the compensation to which the person is otherwise entitled.

(F) All contracts will contain a certification by the applicant indicating that there is not now nor will there be an identity of interest between the applicant and any of the following: contractor, architect, engineer, attorney, subcontractors, material suppliers, equipment lessors, or any of their members, directors, officers, stockholders, partners, or beneficiaries unless specifically identified to FmHA in writing prior to the award of the contract. All contracts must also indicate that when any identity of interest exists or comes into being, the contractor agrees to provide certification as to the actual cost of the work performed under the construction contract and to have all construction records audited by an independent Certified Public Accountant (CPA) or Licensed Public Accountant (LPA) (licensed prior to December 31, 1970) who will provide an unqualified opinion as to the actual cost of construction.

(G) All contracts on any form other than Form FmHA 1924–6, must contain the language of clause (D) of Form FmHA 1924–6, which is available in all FmHA offices. The language of clause (D) of Form FmHA 1924–6 sets forth the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity required by Executive Order 11246, the Equal Opportunity clause published at 41 CFR 60–1.4 (a) and (b), and the Standard Federal Equal Employment Opportunity Construction Contract Specifications required by Executive Order 11246. For contract forms other than Form FmHA 1924–6, Form AD 767, "Equal Employment Opportunity Contract Compliance Notices," which can be obtained from the Finance Office, should be attached and made a part of the contract.

(H) All contracts will contain a provision that they are not in full force and effect until they have been approved by the State Director or the State Director's delegate, in writing. Therefore, before loan closing or before the start of construction, whichever occurs first, the State Director or the State Director's delegate will approve the contract form, content, and execution by including the following paragraph at the end of the contract:

The Farmers Home Administration, as potential lender or insurer of funds to defray the costs of this contract, and without liability for any payments thereunder, hereby approves the form, content, and execution of this contract.

Date ——,

———,

FmHA Approval Official.

———,

Title.

(I) The requirements of § 1924.6(a)(11)(iv) of this subpart apply to all contracts or subcontracts in excess of $10,000.

(iii) *Surety.* When multiple advances of loan or grant funds are utilized, surety that guarantees both payment and performance in the full amount of the contract will be provided in accordance with § 1924.6(a)(3)(ii) of this subpart. Exceptions to the surety requirements shall be governed by the following:

(A) In accordance with the guidance and recommendations of OMB Circulars A–102 and A–110, exceptions to the surety requirements of § 1924.6(a)(3)(ii) of this subpart will not be granted for nonprofit organization or public body applicants.

(B) For loans or grants to applicants other than non-profit organizations or public bodies that are within the State Director's approval authority, the State Director may, upon request of the borrower or grantee, grant exceptions to the surety requirements in accordance with the provisions of § 1924.6(a)(3)(iii) of this subpart. Before granting such an exception, however, the State Director should be provided the following information from the proposed contractor in order to fully evaluate the experience and capabilities of the contractor:

(*1*) A resume indicating the contractor's history, ability, and experience.

(*2*) A current, dated, and signed financial statement indicating the payment status of the contractor's accounts and any contingent liabilities that may exist.

(*3*) A credit report (obtained at no expense to FmHA) attesting to the contractor's credit standing.

(*4*) A listing of trade references that could be contacted to substantiate the contractor's experience and good standing.

(5) Statements from owners for whom the contractor has done similar work, indicating the scope of the work and the owner's evaluation of the contractor's performance.

(C) For loans or grants to applicants other than nonprofit organization or public bodies that are in excess of the State Director's approval authority, the State Director may request National Office authorization to grant one of the exceptions to the surety requirements as indicated in § 1924.6(a)(3)(iii) of this subpart. The following information must be submitted with the request to the National Office:

(1) An explanation of why interim financing is not available.

(2) An explanation of why the proposed contractor cannot obtain surety bonds meeting the requirements of § 1924.6(a)(3)(ii) of this subpart.

(3) The information listed in paragraph (e)(1)(iii)(B) of this section.

(4) The drawings and specifications for the proposed project, together with the comments of the State architect/engineer.

(5) The applicant's written request for an exception.

(6) An explanation of why the requirements of § 1924.6(a)(3)(iii) (A) or (B) of this subpart cannot be met in those cases where the State Director requests authorization to grant an exception as indicated in § 1924.6(a)(3)(iii)(C) of this subpart. When such a request is made, the documentation required of the contractor under that provision must also be forwarded.

(7) The State Director's recommendation.

(D) Adequate steps will be taken to protect the interests of the borrower and the government in accordance with the payment provisions of § 1924.6(a)(12)(i) of this subpart and any alternative as outlined in § 1924.6(a)(3)(iii)(C) of this subpart.

(iv) *Contract cost breakdown.* In any case where the loan approval official feels its appropriate, and prior to the award or approval of any contract in which there is an identity of interest as defined in § 1924.4(i) of this subpart, the contractor and any subcontractor, material supplier, or equipment lessor sharing an identity of interest must provide the applicant and FmHA with a trade-item cost breakdown of the proposed contract amount for evaluation. The cost of any surety as required by § 1944.222 (k) and (l) of Subpart E of Part 1944 of this chapter and § 1924.6(a)(3) of this subpart, or cost certification fee will be included in the proposed contract amount. Form FmHA 1924–13, "Estimate and Certificate of Actual Cost" which is available in all FmHA offices, may be used for this purpose.

(v) *Cost certification.* Whenever the State Director determines it appropriate, and in all situations where there is an identity of interest as defined in § 1924.4(i) of this subpart, the borrower, contractor and any subcontractor, material supplier or equipment lessor having an identity of interest must each provide certification using Form FmHA 1924–13 as to the actual cost of the work performed in connection with the construction contract. All construction records must also be audited by an independent CPA, or by an LPA licensed on or before December 31, 1970, except for owner-builders not required to provide cost certification who must follow the instructions provided in § 1924.13(e)(2)(viii) of this subpart.

(A) Instructions specifically addressing the functions and responsibilities of the CPA or LPA are set forth in the FmHA handbook, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees" (available in any FmHA District Office), which must be provided to the CPA or LPA. The objectives of the audit are to determine whether the project costs incurred are eligible under the terms of the contract and in accordance with FmHA policies, rules and regulations. It is not required that the CPA or LPA provide an opinion on any other financial statement such as a balance sheet or operating statement.

(B) In all cases, the CPA or LPA is expected to render an opinion. FmHA perfers an unqualified opinion concerning the cost certification. If other than an unqualified opinion is expressed, or if any deviations from generally accepted accounting principles are noted, the reasons must be fully explained in the audit report. Qualifying statements may render the certification unacceptable or may require evaluation before a decision can be made. The State Director will determine the acceptability of any qualifying opinions. If the State Director determines it necessary, guidance may be obtained from the National Office or from the OGC.

(C) Prior to the start of construction, the borrower, contractor and any subcontractor, material supplier, or equipment lessor sharing an identity of interest must submit the accounting system that the borrower, contractor, subcontractor, material supplier, or equipment lessor and/or the CPA or LPA proposes to set up and use in maintaining a running record of the actual cost. In order to be acceptable, it must allow for a trade-item basis comparison of the actual cost as compared to the estimated cost submitted in accordance with paragraph (e)(1)(iv) of this section.

(D) The CPA or LPA will audit the books, accounts, and records of the borrower and the contractor (and any subcontractor, material supplier, or equipment lessor sharing an identity of interest) concerning the work performed, services rendered, and materials supplied in connection with the construction contract to the extent necessary to assure that the amounts claimed as costs are necessary and reasonable, and present fairly the actual costs incurred. Upon completion of construction and prior to final payment, the CPA or LPA will provide an opinion concering the actual cost. The CPA or LPA must also certify that the examination has been made in accordance with generally accepted auditing standards and accordingly, included such tests of the accounting records and such other auditing procedures as considered necessary, that to the best of the CPA or LPA's knowledge and belief the actual cost of construction performed under the contract is accuate and correct as represented, and that the CPA or LPA has no identity of interest with the borrower, contractor, architect, engineer, attorney, subcontractors, material suppliers or equipment lessors. FmHA reserves the right to determine, upon receipt, whether or not the certified statement of cost is satisfactory to FmHA.

(E) If the auditor is able to express an unqualified opinion the following format is suggested for the certification:

We have examined the "Estimate and Certificate of Actual Cost," (Form FmHA 1924–13) related to the development of the *(project name and case number)*.

Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The certificate of actual cost has been prepared on the bais of accounting and reporting practices prescribed by the Farmers Home Administration and conforms with generally accepted accounting principles. Other financial statements such as a balance sheet or operating statement have not been prepared. This report is intended solely for filing with FmHA and is not intended for any other purpose.

In our opinion, the accompanying form FmHA 1924–13 referred to above, presents fairly the actual cost in the amount of $———, of the *project name.*

Amount paid and to be paid are shown as of the close of business ——, 19—.

We certify that we have no financial interest in or with the borrower, contractor, architect, engineer, attorney, subcontractors, material suppliers or equipment lessors, other than in the practice of our profession.

(F) Prior to final payment to anyone required to cost certify, a trade-item breakdown showing the actual cost compared to the estimated cost must be provided to the owner and FmHA. Form FmHA 1924–13 is the form of comparative breakdown that should be used, and contains the certifications required of the applicant and contractor prior to final payment. The amount for builder's general overhead and builder's profit shall not exceed the percentage represented on the estimate of cost breakdown provided in accordance with paragraph (e)(1)(iv) of this section for any contractor, subcontractor, material supplier or equipment lessor having or sharing an identity of interest with the applicant. Contract change orders will be processed to adjust the contract amount downward prior to final payment to the contractor, if necessary, to assure that the fees shown in the certificate of actual cost do not exceed the percentages represented in the contract cost breakdown.

(vi) *Method of payments.* Partial payments may be requested in accordance with the terms of the FmHA approved construction contract on Form FmHA 1924–18, "Partial Payment Estimate," or other professionally recognized form that contains the architect's certification, approval of the owner, and conditional acceptance of FmHA as shown on the reverse of Form FmHA 1924–18.

(A) If interim financing is available at reasonable rates and terms for the construction period, such financing shall be obtained. Exhibit D of Subpart E of Part 1944 of this chapter shall be used to inform the interim lender that FmHA will not close its loan until the project is substantially complete, ready for occupancy, evidence is furnished indicating that all bills have been paid or will be paid at loan closing for work completed on the project, all inspections have been completed and all required approvals have been obtained from municipal and governmental authorities having jurisdiction over the project. Upon presentation of proper partial payment estimates approved by the applicant and accepted by FmHA, the interim lender may advance construction fund in accordance with the payment terms of the contract. It is suggested that partial payments not exceed 90 percent of the value of work in place and materials suitably stored on site.

(B) When interim financing is not available, payments will be made in accordance with § 1924.6(a)(12) of this subpart.

(vii) *Exception to competitive bidding.* (A) *For profit applicants.* When State and local laws permit, an applicant other than a nonprofit organization or public body may negotiate a construction contract provided the State Director grants an exception and documentation shows that:

(*1*) The contract price is competitive with other projects similar in construction and design being built in the area under contracts whcih have been competitively bid.

(*2*) The proposed contractor is experienced in construction of similar size, scope, and complexity, and is recognized as a reliable builder.

(*3*) The proposed development work meets all requirements of this subpart.

(*4*) The requirements of paragraphs (e)(1) (ii), (iii), (iv), and (v) of this section are met.

(B) In considering an exception to competitive bidding for the applicants indicated above, the following additional steps will be taken in all cases.

(*1*) If after a full review of the case documents by the appropriate members of the State Office staff the State Director determines that the requirements have been met and the costs are reasonable, an exception to competitive bidding will be granted.

(*2*) If after the full review by the State Office staff the State Director determines that the negotiated contract price is not competitive with other similar projects in construction and design being build in the area, then the applicant will be requested to competitively bid the construction of the project in accordance with paragraph (e)(1)(i) of this section.

(*3*) If there is no agreement by FmHA and the applicant as to the construction cost, the State Director will cease any further action on the preapplication and inform the applicant of the right to appeal in accordance with Subpart B of Part 1900 of this chapter.

(C) Any requests for exceptions to competitive bidding that are not covered in this section may be submitted to the National Office for consideration.

(viii) *Exception to contract mthod—public body.* With the approval of the National Office, the State Director may grant to a public body an exception to the requirement for using contract method construction under the following circumstances;

(A) The loan or grant is for repair or rehabilitation of existing facilities and it is not practicable to perform all work by the contract method.

(B) The applicant has the managerial ability and qualified employees necessary to complete the work successfully.

(C) The applicant submits a written request to the District Director indicating:

(*1*) The scope of work and construction timetable;

(*2*) What phases of work can be contracted and what cannot;

(*3*) Why is it not practicable to contract all phases;

(*4*) Management ability and employee qualifications for performing the work;

(*5*) Proposed method of fund control and frequency of payments;

(*6*) How changes in scope of work and construction timetable will be approved; and,

(*7*) Proposed method of certifying progress and requesting payments.

(D) The request, recommendations of the District Director, appropriate members of the State Office staff and the State Director and the application file will be sent to the National Office.

(2) *Owner-builder method.* This method of development is used only when requested by profit or limited profit RRH applicants when the applicant or any of its controlling principals (such as stockholders, members, partners other than limited partners, directors, or officers), are general contractors by profession, and will serve as the builder of the project without a written construction contract. The State Director may make an exception to the contract method of construction and authorize proceeding by the owner-builder method of construction in accordance with the provisions of this section if the amount of the loan(s) does not exceed the State Director's approval authority. For projects over the State Director's authority, prior written consent of the National Office is required. In such cases, the drawings, specifications, cost estimates, copy of the State Architect/Engineer's review and detailed information on the applicant's qualifications will be submitted to the National Office along with the State Director's recommendations.

(i) The applicant's request to construct a project by the owner-builder method of construction shall be in the form of a letter giving specific and detailed

information concerning the owner-builder's proposal, and the qualifications and past experience of the owner-builder. The following information must be included with the request:

(A) A résumé indicating the owner-builder's history, ability, and experience.

(B) Dated and signed financial statements (including balance sheets and statements of income and expense) from current and prior years indicating the payment status of the owner-builder's accounts and any contingent liabilities that may exist.

(C) A written, dated, and signed statement agreeing to provide any funds necessary in excess of the applicant's contribution and the loan amount to complete the project.

(D) A credit report (obtained at no expense to FmHA) attesting to the owner-builder's credit standing.

(E) A listing of trade references that could be contacted to substantiate the owner-builder's experience and good standing.

(F) Statements from other persons for whom the owner-builder has done similar work, indicating the scope of the work and that person's evaluation of the owner-builder's performance.

(G) A current, dated and signed trade-item cost breakdown of the estimated total development cost of the project which has been prepared by the owner-builder. Form FmHA 1924–13 will be used for this purpose. If cost certification or cost estimation services are required by FmHA, the cost of such services may be included in the total development cost of the project. Any subcontractor, material supplier or equipment lessor sharing an identity of interest with the applicant/owner-builder as defined in § 1924.4(i) of this subpart must also provide a trade-item cost breakdown of the proposed amount.

(H) An example of the ledger-type accounting system that the owner-builder and/or the owner-builder's CPA or LPA proposes to set up and use in maintaining a running record of the actual cost of the project. In order to be acceptable, it must allow for a trade item basis comparison of the actual cost as compared to the estimated cost submitted in accordance with paragraph (e)(2)(i)(G) of this section.

(I) A written, dated, and signed statement agreeing to permit U.S. Department of Agriculture, the Comptroller General of the United States, or any of their duly authorized representatives, to have access to any books, documents, papers, and records which are directly pertinent to the specific Federal program for the purpose of making audit, examination, excerpts and transcriptions.

(ii) In order to grant an exception to the contract method of construction and proceed with the owner-builder method of construction, the State Director must determine that the following conditions exist:

(A) The applicant or at least one of its principals is a fully qualified and licensed (if necessary under applicable local law) builder by profession, has adequate experience in constructing the type of units proposed as well as projects of similar size, scope, and complexity and will be able to complete the work in accordance with the FmHA approved drawings and specifications.

(B) Based upon the information presented in the applicant's financial statements, the applicant is presently able and is likely to continue to be able to provide any funds necessary in excess of the applicant's contribution and the loan amount to complete the project.

(C) The total development cost of the project does not exceed that which is typical for similar type projects in the area. When the State Director determines it advisable, the State Director may require independent cost estimation by a professionally recognized cost estimation firm to help substantiate the total development cost of this project. The total development cost recognized by FmHA for each individual case will be determined by the Multiple Family Housing Coordinator with the advice of the State Architect.

(D) The owner-builder has provided sufficient information on all contracts or subcontracts in excess of $10,000 to permit compliance with § 1924.6(a)(11)(iv) of this subpart.

(iii) In addition to the requirements for the State Director to authorize the owner/builder method of construction as indicated in § 1924.13(e)(2) (i) and (ii) of this subpart, the following additional steps will be taken by the State Director.

(A) If, after a full review of the case documents by the appropriate members of the State Office staff, the State Director determines that the requirements have been met and the construction cost is reasonable, an exception to competitive bidding will be granted.

(B) If, after the full review by the State Office staff, the State Director determines that the construction cost is not competitive with other similar projects in construction and design being built in the area, the applicant will be requested to competitively bid the construction of the project in accordance with paragraph (e)(1)(i) of this section.

(C) If there is no agreement by FmHA and the applicant as to contruction cost and the applicant is not agreeable to any of the aforementioned alternatives, the State Director will cease any further action on the preapplication and inform the applicant of the right to appeal, in accordance with Subpart B of Part 1900 of this chapter.

(iv) The development cost of the project may include a typical allowance for general overhead and a builder's profit. These amounts may be determined by local investigation and also from HUD data for the area. The applicant/owner-builder and any subcontractors, material suppliers and equipment lessors having or sharing an identity of interest with the applicant/owner-builder may not be permitted a builder's profit or general overhead which exceed the percentage represented on their cost breakdown.

(v) Under no circumstances will loan funds be used to pay the applicant or its stockholders, members, directors or officers, directly or indirectly, any profit from the construction of the project except a typical builder's fee for performing the services that would normally be performed by a general contractor under the contract methods of construction. Discounts and rebates given the owner-builder in advance must be deducted before the invoices are paid. If discounts or rebates are given after the invoices are paid, the funds must be returned to the supervised bank account or applied on the interim construction loan, as appropriate.

(vi) The plans and specifications must be specific and complete so that there is a clear understanding as to how the facility will be constructed and the materials that will be used.

(vii) When architectural services are required by § 1924.13(a) during the construction and warranty phases they must be provided by an architect who has no identity of interest with the applicant/owner-builder. The services to be rendered during the construction and warranty phases include, but are not limited to inspections, changes in the scope of project or work to be done, administration of construction accounts, rejection of work and materials not conforming to the FmHA approved drawings and specifications, and other appropriate service listed in § 1924.13(a)(5) (v) and (vi) of this subpart.

(viii) The applicant/owner-builder and any subcontractor, material supplier or equipment lessor sharing an identity

of interest as defined in § 1924.4 (i) of this subpart must each provide certification as to the actual cost of the work performed in connection with the construction of the project of Form FmHA 1924–13 prior to final payment. For all such projects involving a total development cost of more than $350,000, and any other project where the State Director determines it appropriate, the applicant/owner-builder must provide an audit of all construction records by an independent CPA (or by an LPA licensed on or before December 31, 1970).

(A) Instructions specifically addressing the functions and responsibilities of the CPA or LPA are set forth in the FmHA handbook, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees," which must be provided to the CPA or LPA. The objectives of the audit are to determine whether the project costs incurred are eligible and in accordance with FmHA policies, rules and regulations. It is not required that the CPA or LPA provide an opinion on any other financial statement such as a balance sheet or operating statement.

(B) In all cases, the CPA or LPA is expected to render an opinion. FmHA prefers an unqualified opionion concerning the cost certification. If other than an unqualified opinion is expressed, or if any deviations from generally accepted accounting principles are noted, the reasons must be fully explained in the audit report. Qualifying statements may render the certifications unacceptable or may require evaluation before a decision can be made. The State Director will determine the acceptability of any qualifying opinions. If the State Director determines it necessary, guidance may be obtained from the National Office or from the OGC.

(C) The CPA or LPA will audit the books, accounts and records of the applicant/owner-builder (and any sub-contractor, material supplier or equipment lessor sharing an identity or interest) concerning the work performed, services rendered, and materials supplied in connection with the construction of the project to the extent necessary to assure that the amounts claimed as costs are necessary and reasonable, and present fairly the actual costs incurred. Upon completion of contruction and prior to final payment the CPA or LPA will provide an opinion concerning the actual cost. The CPA or LPA must also certify that examination has been made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as considered necessary, that to the best of the CPA or LPA's knowledge and belief the autual cost of construction performed under the contract is accurate and correct as represented, and that the CPA or LPA has no identity of interest with the applicant/owner-builder, architect, engineer, attorney, subcontractors, material suppliers or equipment lessors. FmHA reserves the right to determine, upon receipt, whether or not the certified statement of cost is satisfactory to FmHA.

(D) If the auditor is able to express an unqualified opinion, the following format is suggested for the certification:

We have examined the "Estate and Certificate of Actual Cost," (Form FmHA 1924–13) related to the development of (*project name and case number*).

Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The certificate of actual cost has been prepared on the basis of accounting and reporting practices prescribed by the Farmers Home Administration and conforms with generally accepted accounting principles. Other financial statements, such as a balance sheet or operating statement, have not been prepared. This report is intended solely for filing with FmHA and is not intended for any other purpose.

In our opinion, the accompanying Form FmHA 1924–13 referred to above, presents fairly the actual cost in the amount of $———, of the ——— project name———.

Amount paid and to be paid are shown as of the close of business———, 19—.

We certify that we have no financial interest in or with applicant/owner/builder, architect, engineer, attorney, subcontractors, material suppliers or equipment lessors, other than in the practice of our profession.

(E) Prior to final payment to anyone required to cost certify, FmHA must be provided with a certification and trade-item breakdown showing the actual cost compared to the estimated cost furnished in accordance with paragraph (e)(2)(i)(G) of this section Form FmHA 1924–13 is the form of comparative breakdown that must be used, and contains the certification required of the applicant/owner-builder prior to final payment. The amount for builder's general overhead and builder's profit shall not exceed the percentage represented on the estimate of cost breakdown provided in accordance with paragraph (e)(2)(i) (G) of this section for the owner-builder or any contractor, subcontractor, material supplier or equipment lessor having or sharing an identity of interest with the applicant/owner-builder. Final payment of the owner-builder will be adjusted, if necessary, to assure that the amounts shown on the certificate of actual cost do not exceed the percentage represented on the cost breakdown.

(ix) Requests for payment for work performed by the owner-builder method, shall be submitted to the FmHA District Director for review and approval prior to each advance of funds in order to insure that funds are used for authorized purposes. Requests for payment shall be made on Form FmHA 1924–18 or other professionally recognized form containing the following certifications to FmHA:

I hereby certify to the Farmers Home Administration that I have carefully inspected the work and as a result of my inspection and to the best of my knowledge and belief, the quantities shown in this estimate are correct and have not been shown in previous estimates and the work has been performed in accordance with the contract documents.

———,
(Name of Architect).
By: ———,
(Title).

Approved by Owner's Representative:
By: ———,
(Title).

Accepted by FmHA Representative:
By: ———,
(Title).

The review and acceptance of partial payment estimates by FmHA does not attest to the correctness of the quantities shown or that the work has been performed in accordance with the plans and specifications.

(A) If interim financing is available to reasonable rates and terms for the construction period, such financing shall be obtained. Exhibit D of Subpart E of Part 1944 of this chapter shall be used to inform the interim lender that FmHA will not close its loan until the project is complete, ready for occupancy, evidence is furnished indicating that all bills have been paid for for work completed on the project, all inspections have been paid for work completed on the project, all

inspections have been completed and all required approvals have been obtained from any governmental authorities having jurisdication over the project. Upon presentation of proper partial payment estimates containing an estimate of the value of work in place which has been prepared and executed by the owner-builder, ceritified by the applicant's architect, and accepted by FmHA, the interim lender may advance construction funds in accordance with the provisions of this section. It is suggested that the partial payment not exceed 90 percent of the value of work in place and material suitably stored on site.

(B) If interm financing is not available, partial payments not to exceed 90 percent of the value of work in place and materials suitably stored on site may be made to the owner-builder for that portion of the estimated cost of development guaranteed by a letter of credit or deposits meeting the requirements of § 1924.6(a)(3)(iii) (A), (B) or (C) of this subpart. Partial payments may not exceed 60 percent of the value of work in place will be based upon an application for payment containing an estimate of the value of work in place which has been prepared and executed by the owner-builder, certified by the borrower's architect, and accepted by FmHA. Prior to receiving the first partial payment, the owner-builder must submit a schedule of prices or values of the various trades or phases of the work aggregating the total development cost of the project as required in § 1924.13(e)(2)(i) (G) and (H). Each application for payment must be based upon this schedule, and show the total amount owned and paid to date for materials and labor procured in connection with the project. With each application for payment, the owner-builder must also submit evidence showing how the requested the requested partial payment is to be applied, evidence showing that previous partial payments were properly applied, and a signed statement form the applicant's attorney, title insurance company, or local official in charge of recording documents certifying that the public records have been searched and that there are no liens of record. When the District Director has reason to believe that partial payments may not be applied properly, checks will be made payable to persons who furnish materials and labor for eligible purposes in connection with the project.

(x) Under no circumstances shall funds be released for final payment or to pay any items of the builder's profit until the project is 100 percent complete, ready for occupancy, and the owner-builder has completed and properly executed Form FmHA 1924–13 or complied with the cost certification procedures § 1924.13(e)(2)(viii) of this subpart.

§§ 1924.14—1924.50 [Reserved]

Exhibit A—Breakdown of Dwelling Costs for Estimating Partial Payments

	With slab on grade (percent)	With crawl space (percent)	With basement (percent)
1. Excavation	3	5	6
2. Footings, foundations, columns	8	8	11
3. Floor slab or framing	6	4	4
4. Subflooring	0	1	1
5. Wall framing, sheathing	7	7	6
6. Roof and ceiling framing, sheathing	6	6	5
7. Roofing	5	5	4
8. Siding, exterior trim, porches	7	7	6
9. Windows and exterior doors	9	9	8
10. Plumbing—roughed in	3	2	3
11. Sewage disposal	1	1	1
12. Heating—roughed in	1	1	1
13. Electrical—roughed in	2	2	2
14. Insulation	2	2	2
15. Dry wall or plaster	8	8	7
16. Basement or porch floor, steps	1	1	6
17. Heating—finished	3	3	3
18. Flooring	6	6	5
19. Interior carpentry, trim, doors	6	6	5
20. Cabinets and counter tops	1	1	1
21. Interior painting	4	4	3
22. Exterior painting	1	1	1
23. Plumbing—complete fixtures	4	4	3
24. Electrical—complete fixtures	1	1	1
25. Finish hardware	1	1	1
26. Gutters and downspouts	1	1	1
27. Grading, paving, landscaping	3	3	3
	100	100	100

Exhibit B—Requirements for Modular/ Panelized Housing Units

For the benefit of FmHA this Exhibit prescribes evaluation, acceptance, inspection and certification procedures for modular/panelized housing units proposed for use in Farmers Home Administration (FmHA) Rural Housing programs. It applies to proposed development packages provided either under a contract between an FmHA borrower and a single contractor or under a conditional commitment. This Exhibit also describes the use of background information available through the Department of Housing and Urban Development (HUD) for analysis of manufactured products. This Exhibit also applies to the evaluation of manufactured farm service buildings in paragraph XI, below. For the purpose of this Exhibit, County Supervisor and County Office also mean the District Director and District Office, respectively.

I. Applicable Standards and Manuals

A. The HUD Handbook 4950.1, Technical Suitability of Products Program Technical and Processing Procedures, must be followed by housing manufacturers to obtain acceptance of their products. Acceptance documents issued by HUD include: Structural Engineering Bulletins (SEB) on a national basis, Area Letters of Acceptance (ALA) which when accepted by all Area HUD Offices in a HUD region will, in essence, become Regional Letters of Acceptance (RLA), Truss Connector Bulletins (TCB): and, Mechanical Engineering Bulletins (MEB). These documents as well as the Use of Material Bulletins (UM) and Materials Release Bulletins (MR) are addendums to the HUD Minimum Property Standards (MPS).

B. All State FmHA Offices should maintain a close working relationship with each HUD office in their jurisdiction to assure coordination. Any deviations in structure, materials or design from HUD acceptance documents must comply with one of the other applicable development standards.

II. Modular Housing Units That Require Factory Inspections

Only those types which cannot be completely inspected on site are required to obtain acceptance from HUD. Those that receive acceptance will be periodically factory inspected by HUD, usually about every 6 months.

III. Panelized Housing Units That Do Not Require Factory Inspections

A. Housing completely assembled on the building site does not require HUD acceptance. This will include housing that is manufactured but is assembled on the site such as: precut pieces, log wall houses, trussed roof rafters or floor trusses; open panel walls, and other types that can be completely inspected on site.

B. Housing that is assembled in local materials dealers' yards for moving to local sites and to be purchased by an FmHA applicant, will be inspected during construction in the yard by the local FmHA County representative. These units must be constructed according to the applicable development standard and not transported out of the local FmHA County Office jurisdiction. The inspection must be recorded on Form FmHA 1924–12, "Inspection Report."

IV. Manufacturer's Actions Required for Submissions to FmHA Are Listed in Attachment 1 to This Exhibit B

V. State FmHA Office Actions When Manufacturing Facilities Are in its Jurisdiction. The State Office, Upon Receipt of Manufacturer's Submission, Must

A. Determine that the unit structural system has been accepted by HUD as appropriate under HUD Handbook 4950.1 requirements.

B. Review the thermal characteristics and approach of the calculations to determine actions to be taken in compliance with paragraph IV C of Exhibit D of this subpart.

C. Review the proposal for compliance with § 1924.5(d)(1) of this subpart.

D. Determine that the prerequisites for consideration of acceptance by FmHA are met. The prerequisites include all of the following:

1. A current acceptance document from HUD (SEB, RLA, LLA), except for Category III housing (modular/panelized housing that does not have to have a Structural Engineering Bulletin as prescribed in HUD Handbook 4950.1, which is available in any FmHA State Office). In Category III states, the state government requirements for manufactured housing must be followed.

2. A current HUD Factory Inspection Report, Form No. 2051m, or in the case of Category III states, a copy of the inspection report from the state government or accepted third party performing the factor inspection. Each report must be made by HUD or a HUD authorized agency, and must be no older than 6 months.

3. A letter from the manufacturer requesting a review for acceptance for loan consideration. Enclosed with the letter shall be all the information listed in Attachment 1 to this Exhibit B.

E. Issue acceptance letters to the manufacturer stating the conditions of acceptance in the format of Attachment 2 to this Exhibit B. The letter shall have an attachment listing all models accepted in the format of Attachment 3 to this Exhibit B. A copy of the acceptance letter and list of models shall be sent to each County Office in the State and, when requested by the manufacturer, to each other State FmHA Office in which the product is to be marketed.

F. After initial review of a submission, maintain a master file of accepted manufacturers and models and review the file twice yearly to determine the currency of the factory inspection reports and HUD or HUD or state government acceptance documents.

G. Notify manufacturers of overdue factory inspection reports, for acceptance of documents review and updating, using the format of Attachment 4 to this Exhibit B. Accompanying the notification will be a temporary acceptance sheet (Attachment 3 to this Exhibit B) indicating to the manufacturer that the company models have temporary acceptance for 60 days. If the manufacturer provides evidence that a review is being processed by HUD, a maximum of an additional 90 days may be granted. Otherwise, the acceptance shall terminate on the last extension date and it will be necessary for the manufacturer to resubmit as if it is for initial acceptance.

H. Distribute a list of added models, deleted models, or notice of deletion of any manufacturer's product to the County Offices and other State FmHA Offices as necessary.

I. Issue an initial supply of Manufacturer's and Builder's Certification forms (Attachment 5 to this Exhibit B) to each existing and newly accepted manufacturer. Manufacturers are to duplicate this form as necessary in their market areas.

(J) Resolved any problems with the manufacturer, as reported by the County Office. Action may include coordination, FmHA plant inspections or cancellation of Acceptance Letters when problems persist.

VI. County Office Action

A. When an application is received involving any of the manufacturer's products on the acceptance list, the County Office FmHA authorized personnel will:

1. Review the drawings and description of materials described in paragraphs A and B of Attachment 1 to this Exhibit B. The floor plans and elevations must be identifiable with the model listed in the acceptance list issued by the State Office.

2. Require a builder/dealer or the manufacturer to provide any drawings necessary to adapt the house to the site conditions where the house will be located.

3. Require site plan drawing such as illustrated in Attachments 1 and 2 to Exhibit C of this subpart.

4. Inspect and identify the model delivered against the manufacturer's certification and the accepted drawings and description of materials before the unit has been set on the foundation.

5. Require the builder/dealer to certify that the work for which the builder/dealer is responsible has been erected in compliance with the applicable development standard. This certification will be completed on a copy of Attachment 5 to this Exhibit B, and filed in County Office case file.

6. Observe any noncompliance with the applicable development standard or with paragraphs IV and V of this Exhibit B. In this respect:

a. Minor noncompliance will be resolved by the manufacturer through the builder/dealer. In cases where there is no builder/dealer, the County Office may resolve such issues with the manufacturer directly.

b. Noncompliance that cannot be resolved at the County Office level will be reported to the State Office.

7. Inspect manufactured housing according to § 1924.8(d) of this subpart.

8. Be aware that the Accepted List may include many models from which loan applicants may choose. No changes from accepted model designs are permitted. The model selected by an application should be apropriate to the needs of that particular family in accordance with FmHA Instruction 1944–A which is available in all FmHA offices.

VII. Noncompliance Issues

A. When minor issues are noted, the County Office will attempt to resolve them as described above. If they cannot be resolved locally, they will be referred to the State Office. When any issues cannot be resolved at State Office level, the National Office Program Support Staff (PSS) will be contacted for guidance.

B. The National Office PSS, coordinating with HUD, will take the appropriate actions to resolve the issues reported.

C. Manufacturers and builder/dealers must be aware that if the FmHA inspector finds any of the following conditions, the inspector may refuse to accept the construction until corrections have been made:

1. Evidence of noncompliance with any option of the method described in the HUD—SEB, RLA, or LLA.

2. Faulty shop fabrication, including surface defects.

3. Damage to shop fabricated items or materials due to transportation, improper storage, handling or assembly operation.

4. Unsatisfactory field or site workmanship.

VIII. Actions by Other State FmHA Offices.

When a State Office receives a copy of the Accepted List from the State Office in which a manufacturing plant is located, it will:

A. Maintain a file, by manufacturer, of each acceptance list models.

B. Provide copies of the acceptance list of models to each County Office in the State.

C. Request a copy of the drawings, description of materials, and the thermal calculations to determine compliance with the thermal requirements for the county in which the house is to be located according to Exhibit D of this subpart.

D. Check to see that County Offices within the State will act as prescribed in paragraph VI of this Exhibit B.

E. When two or more State Offices have different interpretations of the acceptability of a particular model, there must be an agreement between the States so that they will have the same requirements. If the States cannot agree, the National Office, PSS, shall be consulted for guidance.

IX. Subsequent Review

FmHA will make periodic reviews of houses, both site-built and houses manufactured offsite, to determine acceptability of the finished product. If, in the judgment of the FmHA, the product has failed to perform satisfactorily, acceptance may be withdrawn. The State Director will notify the manufacturer and/or the builder/dealer of the reasons for the withdrawal no later than the time of withdrawal. Negotiations for corrections will be carried out by the County Office with the assistance of the State Office or National Office, as necessary.

X. Materials and Products Acceptance—Material Release Bulletins, Use of Materials Bulletins, Manufacturer's Instructions.

A. The Materials Release (MR) and Use of Materials Bulletins (UM) provide for the national acceptance of specific nonstandard materials and products not covered in the current MPS.

B. When contractors or builders intend to use products or materials not listed as approved in the MPS, the FmHA personnel reviewing or concerned with the approval of construction in which the product is to be used, will require the contractor or builder to furnish a Materials Release Bulletin or Use of Materials Bulletin on the materials or products. If the product has been accepted, the supplier should be able to obtain the bulletin for the contractor or builder from the manufacturer. These bulletines describe the product or materials limitations to use, method of installing or applying, approved type of fasteners, if used, etc. and will provide the contractor with instructions as to proper installation or application.

C. When FmHA personnel are unfamiliar with any materials or products which have been accepted in the MPS, they will request the contractor or builder to furnish the manufacturer's instructions to assure that the materials or products are properly installed or applied. Any questions on any product that cannot be resolved in the County Office should be referred to the State Office. When the question cannot be resolved at the State Office level, the National Office PSS should be consulted for guidance.

XI. Manufactured Farm Service Buildings

A. When a loan application is received that involves a manufactured building or special equipment that cannot be completely inspected on the site, the local State Land Grant University recommendations should be requested.

B. When the County Office questions the advisability of making a loan on a manufactured building, the State Office should also be consulted.

C. The State Office should review and make recommendations to the County Office. If doubt still exists, the National Office, PSS, should be consulted for guidance.

Attachment 1—Required Information for Acceptance of Modular/Panelized Housing Units

The manufacturer or sponsor of modular/panelized-housing units wishing to participate in the Farmers Home Administration (FmHA), Rural Housing programs shall submit to the FmHA State Director having jurisdiction over the State in which the proposed housing is to be manufactured, two complete sets of the information listed below for evaluation. Submissions not including all the information requested will be returned to the manufacturer or sponsor.

A. *Statements.*

1. Name and location of organization, including titles and names of its principal officers.

2. A brief description of plant facilities.

3. Extent of intended market distribution, including a list of any other States in which units will be marketed.

4. The method of quality control during site installation.

5. A copy of the applicable current HUD Structural Engineering Bulletin (SEB), Regional Letter of Acceptance (RLA), or Area Letter of Acceptance (ALA).

6. A current factory inspection report made within 6 months by HUD or HUD authorized agency.

7. Name and address of any third party inspection agency.

8. Location of nearest assembled product for inspection.

9. Field manuals for site installation and/or set-up procedures.

10. Specifications or descriptions of materials using either Form FmHA 1924-2, (HUD-FHA Form 2005), "Description of Materials," including sizes, species and grade of all building and finishing materials. All blanks should be filled and additional sheets may be attached as well as equipment manufacturer's brochures. Use an asterisk (*) to denote all items of onsite construction that will be provided by the builder-dealer. The builder-dealer must complete a form for the builder-dealer's portion of the work. Use N/A in any blank which is not applicable.

11. Names and addresses of other public and private agencies which have rendered or been asked to render a technical suitability or acceptance determination with respect to the products or structural methods employed.

12. Written certification that construction drawings and specifications conform with the applicable development standard.

13. Any other pertinent information.

14. An index of all documents submitted.

B. *Working Drawings.* For emphasis as to the details required for modular/panelized housing proposals, the following items are listed in addition to and in more detail than the requirements in Exhibit C of this subpart. In some cases, the drawing presentation sheets may be required to be reduced to 200 mm by 266 mm (8 x 10½ inches) sheet size:

1. Foundation and/or Basement Plan. This plan shall include anchorage details, exterior and interior dimensions, typical footings, wall thickness, pilaster sizes and locations, column or pier sizes and locations and girders required to support the structures. Show location of all equipment (furance, water heater, laundry tubs, sump, etc.) floor drains, electrical outlets, electrical entrance panels, and all doors and windows or crawl space vents with all sizes indicated.

2. Floor Plans of all levels. Show square footage of each habitable room with square footage of each area of natural light and ventilation. In addition, a design sketch scaled properly to illustrate a typical furniture arrangement for all habitable levels is required to

indicate intended occupancy functions of the design. A window and door schedule should also be provided indicating glazed size, sash, size, and thermal conductance of each type.

3. All exterior elevations including openings and sizes; wall finish materials, flashing, finish grades intended, depth of footings when known, finish floor, ceiling heights, roof slope, location of downspouts, gutters, vents for both structural spaces and for equipment. Indicate construction joint locations and details of connections between sections, modules or components.

4. Building cross sections showing size and spaces of all framing members from lowest member (bottom of footing) to highest point of roof (ridge) plus:

a. Type of material and method of application of all covering materials, such as, subflooring, combination subflooring and underlayment, sheathing and interior and exterior finishes;

(b) Complete details including computations of trussed rafter systems with the architect/engineer's stamp of those responsible for the design.

(c) Details of insulation and vapor barrier installation and attic ventilation. If the thermal characteristics to be provided are determined according to the optional method for overall structure performance allowed in Exhibit D of this subpart, the submission and complete engineering calculations with all details of construction shall be sent to Administrator, Attn. PSS, FmHA, Washington, DC 20250, for analysis as prescribed in paragraph IV C of Exhibit D of this subpart.

(d) Special details as necessary to show any special features of construction including method of fabricating, erection, joining, and finishing of all elements; and

(e) Details and sections of stairways including all critical dimensions, such as, rise, run, and headroom.

5. Interior elevations of kitchen cabinets and bathroom elevations with schedule of all shelf, counter top and drawer footage. Indicate whether kitchen cabinets are to be custom made for each model or made for any model by a cabinet manufacturing company.

6. Plumbing schematics, including pipe materials, sizes and plumbing code compliance.

7. Heating plan, including heat loss of each room, is needed for heating systems, sizings and capacities, forced air, electric baseboard, or electric space heaters and, if applicable, heat gain. For forced air systems, include supply and return duct layout and location of appropriate diffusers.

8. Electrical plan, including circuit chart or diagram.

9. Any other pertinent facts or drawings that will better explain why and how certain unusual materials or structural methods are employed.

John Dough Manufacturing Company,
3444 Residence Avenue, Elkton, Indiana 00051

Dear Sirs: Although the documents submitted to this office have only received a cursory review, they appear to be in substantial compliance to qualify your firm for the type of acceptance indicated on the attached list.

The acceptance being issued is subject to this letter of conditions, compliance with HUD Handbook 4950.1, Technical Suitability of Products Program Technical and Processing Procedures, compliance with Farmers Home Administration (FmHA) Thermal Performance Construction Standards, and compliance with the conditions set forth in the HUD acceptance document, if applicable, whose number appears on the acceptance.

The manufacturer and the authorized builder-dealer bear the responsibility of complying with the above exhibits submitted and the applicable development standard.

The manufacturer and/or builder-dealer also shall:

1. Provide positive identification of the modular unit by model, date of manufacture and factory in which the unit was manufactured.

2. Furnish with each home to be financed by FmHA in (State), a written certificate (Attachment 5 to this Exhibit B) endorsed by the builder-dealer certifying that all requirements have been satisfied.

3. Furnish the local FmHA County Supervisor with a complete set of drawings including site plans, description of materials, structural engineering bulletins when applicable in the State, and documentation relating to the manufacture, transportation, erection, and installation for each model of modular-panelized housing to be financed in the county. Electrical, plumbing and heating plans must be furnished for each model in addition to the basic drawings. Floor plans and elevation drawings may vary from those listed in Attachment 1 of Exhibit B to FmHA Instruction 1924–A to reflect each of the manufacturer's models provided they are in compliance with the applicable development standard and the FmHA Thermal Performance Construction Standards and provided they have been accepted and listed in this state's approval of manufactured structures. No field alterations to the accepted models will be allowed.

4. Furnish, when required by the County Supervisor, foundation drawings (including special foundation design considerations when the unit is to be erected in seismic zones 1, 2 or 3) adapting the modular home to any unusual site conditions needing information additional to that furnished by the standard drawings.

5. Furnish the County Office with a copy of inspection reports of the manufacturing facilities immediately after the inspection reports have been completed.

6. Allow FmHA personnel to inspect the plant facilities at any time and furnish all FmHA State Offices, where acceptance has been obtained, with a copy of any Farmers Home Administration Inspection Reports of the firm's manufacturing facilities immediately after the inspection reports have been completed.

7. In the event there are major changes to the submitted drawings obtain approval under the HUD Technical Suitability of Products Program and submit verification of this approval to the County Office for FmHA State Acceptance Listing. Any modular home shipped with major changes incorporated and not having such changes on file at the County Office may be rejected.

(Each State can add state and local requirements appropriate to this letter of conditions)

This acceptance may be subject to corrective action when deficiencies are noted in the product, field inspections, manufacturing facilities, or when there is noncompliance with the provisions of the HUD Technical Suitability of Products Program.

The inclusion of these models on the acceptance list is based only on the material and structural aspects of the manufactured units. Final determination of acceptability rests with FmHA personnel. Other factors relating to the property in its entirety such as appraisal, location, sustained market acceptance, architectural planning and appeal, thermal qualities, mechanical and electrical equipment, etc., must be considered in the final determination.

Your cooperation in this acceptance program is appreciated.

Sincerely,

State Director.

Attachment 3

Date_____ File No. _____

ACCEPTANCE OF MODULAR/PANELIZED HOUSING UNITS

(Based on HUD Handbook 4950.1)

Manufacturer:

_____

_____

_____

_____

Acceptance Document _____

Type of Acceptance:

____ Regular

____ Temporary, Expires_____

Plant Locations: _____

Date of Latest Plans Reviewed_____

Date of Latest Factory Inspection _____

Acceptance Document Review Date _____

FmHA THERMAL PERFORMANCE CONSTRUCTION STANDARDS, EXHIBIT D, 1924–A

State Office Review (Exh. D, IV, C, 1, a or b)	National Office Review (Exh. D, IV, C, 2)
Maximum Winter Degree Days for State____	Walls R____Glazing/Gross Wall Area Ratio____%
Ceilings R____Glazing____Pane(s)	Floor R____Glazing____Pane(s)
Insulated Door____Wood & Storm____	Insulated Door____Wood & Storm____

Models Accepted:

Attachment 4

John Dough Manufacturing Company,
3444 Residence Drive, Elktown, Indiana 00051

Dear Sirs: As set forth in acceptance letters issued by this office, acceptance of modular/panelized homes in this state is based on HUD's Technical Suitability of Products Program and the conditions stated in the acceptance letter. Your file has been reviewed and the following has been noted

_____ An inspection report of your plant facilities is overdue. Inspections are required twice yearly. The last inspection report on file at this office is dated _____

_____ Your Structural Engineering Bulletin No. ____ dated _____ has not been reviewed by HUD. Reviews are generally required every three years. Temporary acceptance will be considered when you provide evidence that the review documents have been submitted to HUD.

_____ The drawings being used for the construction of your homes are not listed in your Structual Engineering Bulletins. Drawings used in the field should be those upon which the Structural Engineering Bulletin was issued.

_____ There have been ____ revisions to the development standards since _____, the date of the last drawings we have on file for your homes. It is recommended that you review the revisions to ascertain whether your drawings need to be updated.

Please submit a written response and appropriate documents for the above items within ____ days, or your product will be removed from the acceptance list until your firm can again qualify. If you have any problems furnishing the above within the time stated, please contact this office

We look forward to receiving the materials indicated so that your firm's listing may be continued.

Sincerely,

State Director.

Attachment 5—Certification by Manufacturer

Delivery location of structure or component—

This is to certify that Model _____ Serial Number _____ Manufactured _____ 19____ in our _____ plant and being sold to (name of builder-dealer or borrower) has been manufactured in accordance with drawings and specifications on file in the FmHA State Office and that the construction complies with applicable development standards except as modified by HUD Acceptance Document (SEB, RLA, LLA) No. _____ dated _____, and in compliance with the FmHA Thermal Performance Construction Standards.

Date _____

Signature of Authorized Official

Title

Certification by Builder/Dealer

_____ Certifies that the foundations and other on-site work has been constructed in accordance with the drawings and specifications and the above structure or component has been erected, installed or applied in compliance with the applicable development standards.

It is understood that the manufacturer's certification does not relieve the builder/dealer of responsibility under the terms of the builder's warranty required by the National Housing Act.

Date _____

Signature of Authorized Official

Title

Exhibit C—List of Required Drawings and Specifications

This exhibit applies to all new buildings to be constructed, including all single family housing and related facilities and, as applicable, farm housing and farm service buildings.

I. General

The documents recommended in this Exhibit correspond with the list of Exhibits required in Chapter 3 of the Department of Housing and Urban Development (HUD) "Architectural Handbook for Building Single-Family Dwellings" No. 4145.2. This exhibit may be used as a public handout and shall be used as a guide for drawings and specifications to be submitted in support of any type of application involving construction of major new buildings or extensive rehabilitation, alterations or additions to existing buildings. Descriptions of work for minor alterations or repairs need pertain only to work to be done and may be in narrative form when acceptable to the County Supervisor. Complete and accurate drawings and specifications are necessary.

A. To detemine the acceptability of the proposed development,

B. To determine compliance with the applicable standards and codes,

C. To perpare a cost estimate, and

D. To provide a basis for inspections and the builder's warranty.

II. Drawings for a Specific Structure

Drawing for individual single dwellings shall provide at least the following:

A. *Plot Plan.* Refer to Example Plot Plan No. 1, Attachment 1 to this Exhibit C. Ratio: 1:240 (1" = 20') (at scale, 1" = 20' or 1/16" = 1'0" minium):

1. Lot and block number.

2. Dimensions of plot and north point.

3. Dimensions of front, rear, and side yard.

4. Location and dimensions of garage, carport, and other accessory buildings.

5. Location and sizes of walks, driveways, and approaches.

6. Location and sizes of steps, terraces, porches, fences, and retaining walls.

7. Location and dimensions of easements and established setback requirements, if any.

8. Elevations at the following points: (a) First floor of dwelling and floor of garage, carport and other accessory building; (b) finish curb or crown of street at points of extension of lot lines; (c) finish grade elevation at each principal corner of structure; (d) finish grade at bottom of drainage swales at extension of each side of structure as feasible.

9. The following additional elevations, as applicable, if the topography of the site or the design of the structure is such that special grading, drainage or foundations may be necessary. Examples are irregular or steeply sloping sites, filled areas on sites, or multi-level structure designs; (a) Finish and existing grade elevations at each corner of the plot; (b) existing and finishi grade at each principal corner of dwelling; (c) finish grade at both sides of abrupt changes of grade such as retaining walls, slopes, etc.; (d) other elevations that may be necessary to show grading and drainage.

10. Indication of type and approximate location of drainage swales.

11. When an individual water supply and/or sewage system is proposed, drawings, specifications and other items prescribed in Paragraph V of this Exhibit.

B. *Floor Plans:*

1. Scale, 1:50 (¼" = 1'0").

2. Floor plan of each floor and basement, if any. Show typical furniture locations to suggest intended use of each habitable space.

3. Plan of all attached terraces and porches, and of garage or carport.

4. If dwelling is of crawl-space type, a separate foundation plan. Slab-type foundation may be shown on sections.

5. Direction, size and spacing of all floor and ceiling framing members, girders, columns or piers.

6. Location of all partitions and indication of door sizes, and direction of door swing.

7. Location and size of all permanently installed construction and equipment such as kitchen cabinets, closets, storage shelving, plumbing fixtures, water heaters, etc. Details of kitchen cabinets may be on separate drawing.

8. Location and symbols of all electrical equipment, including switches, outlets, fixtures, etc.

9. Heating system on separate drawing, or when it may be shown clearly it may be part of the floor or basement plan showing: (a) Layout of

system; (b) location and size of ducts, piping, registers, radiators, etc.; (c) location of heating unit and room thermostat; (d) total calculated heat loss of dwelling including heat loss through all vertical surfaces, ceiling and floor. When a duct or piped distribution system is used, calculated heat loss of each heated space is required.

10. Cooling system, on separate drawings or, as part of heating plan, floor or basement plan showing: (a) Layout of system; (b) location and size of ducts, registers, compressors, coils, etc.; (c) heat gain calculations, including estimated heat gain for each space conditioned; (d) model number and Btu capacity of equipment or units in accordance with applicable Air Conditioning and Refrigeration Institute (ARI) or American Socity of Refrigerating Engineers (ASRE) Standard; (e) Btu capacity and total Kilowatt (KW) input at stated local design conditions; (f) if room or zone conditioners are used, provide location, size and installation details.

C. *Exterior Elevations:*

1. Scale, 1:50 (¼"=1'0"). Elevations, other than main elevation, which contain no special details may be drawn at 1:100 (⅛"=1'0").

2. Front, rear and both side elevations, and elevations of any interior courts.

3. Windows and doors—indicate size unless separately scheduled or shown on floor plan.

4. Wall finish materials where more than one type is used.

5. Depth of wall footings, foundations, or piers, if stepped or at more than one level.

6. Finish floor lines.

7. Finish grade lines at buildings.

D. *Details and Sections:*

1. Section through exterior wall showing all details of construction from footings to highest point of road. Where more than one type of wall material is used, show each type. Scale, 1:25 (⅜"=1'0") minimum.

2. Section through any portion of dwelling where rooms are situated various levels or where finished attic is proposed, Scale, 1:50 (¼"=1'0") minimum.

3. Section through stair wells, landings, and stairs, including headroom clearances and surrounding framing. Scale, 1:50 (¼"=1'0") minimum.

4. Details of roof trusses if proposed, including connections and stress or test data with seal of architect or engineer responsible. Scale of connections, 1:25 (⅜" = 1'0") minimum.

5. Elevation and section through fireplace. Scale, 1:25 (⅜" = 1'0") minimum.

6. Elevations and section through kitchen cabinets, indicating shelving. Scale, 1:50 (¼" = 1'0") minimum.

7. Sections and details of all critical construction points, fastening systems, anchorage methods, special structural items or special millwork. Scale as necessary to provide information, 1:25 (⅜" = 1'0") minimum.

III. Master Drawings for Group Structures

Drawings for a group of structures (such as for several conditional commitments) may be submitted in lieu of drawings for each individual property when a number of applications are simultaneously submitted involving repetition of the same type structure.

A. *Master plot plan* shall include the following:

1. Scale which will provide the following information in a clear and legible manner.

2. North point.

3. Location and width of streets and rights-of-way.

4. Location and dimensions of all easements.

5. Dimensions of each lot.

6. Location of each dwelling on lot with basic dimensions.

7. Dimensions of front, rear and side yard.

8. Location and dimensions of garages, carports, or other accessory buildings.

9. Identification of each lot by number and indication of basic plan and elevation type.

10. Location of walks, driveways, and other permanent improvements.

B. *Typical plot plan* for each basic type dwelling may be submitted in lieu of fully detailing each lot on master plot plan, when topography and lot arrangements present no individual planning or construction problems.

1. Information not shown on the typical plot plan shall be included on the master plot plan.

2. Typical plot plans shall not be used for corner lots, lots with irregular boundaries, lots involving pronounced topographic variations or other lots where individual detailing is necessary.

3. Location of dwelling on typical lot and full dimensions.

4. Location and dimensions of all typical improvements, such as garage, carport, accessory buildings, walks, drives, steps, porches, terraces, trees, shrubs, retaining walls, fences, etc.

C. *Grading* many be shown on separate grading plan or on the master plot plan. Scale shall be sufficiently large to provide the following information in clear and legible manner:

1. Contours of existing grade at intervals of not more than 1.524 m (5 feet). Intervals less than 1.524 m (5 feet) may be required when indicated by the character of the topography.

2. Location of house and accessory buildings on each lot.

3. Identification of each lot by number.

4. Elevations in accordance with individuals plot plan including bench mark and datum or, in lieu of finish grade elevations, contours of proposed finish grading may be submitted. Contour intervals selected shall be appropriate to the topography of the site.

5. Lot grading shall be shown by indicating protective slopes and approximate location of drainage swales.

6. Location of drainage outfall, if any drainage is not to a street.

D. *Floor Plans, Elevations Sections, and Details* shall be submitted for each basic plan. Alternate elevations to basic plan may be shown at scale, 1:100 (⅛"=1'0").

IV. Specifications

Form FmHA 1924–2, "Description of Materials," or other acceptable and comparable descriptions of all materials forms shall be submitted with the drawings. The forms shall be completed in accordance with the instructions of Form FmHA 1924–2 to describe the materials to be used in the construction.

A. Form FmHA 1924–2 may be reproduced provided size, format and printed text are identical to the current official form. When it is reproduced, the following deletions must be made:

1. All lines indicating FmHA form numbers or other Government agency initials and/or numbers, and

2. The United States Government Printing Office (GPO) imprint and reference number.

B. The material identification shall be in sufficient detail to fully describe the material, size, grade and when applicable, manufacturer's model or identification numbers. When necessary, additional sheets must be attached as well as manufacturers specification sheets for equipment and/or special materials, such as aluminum siding or carpeting.

V. Individual Water Supply and Sewage Disposal Systems

When an individual water and/or sewage disposal system is proposed, the following additional information must be submitted.

A. *Approval and recommendations of other authorities.*

1. A written opinion by the health authority having jurisdiction that the site is suitable and acceptable for the proposed system(s) and.

2. If available a soils report from the local USDA-Soil Conservation Service Office and any recommendations they may have.

3. Approval of appropriate envirnomental control authority.

4. A signature of the health authority on the plot plan indicating approval of design of the proposed system.

B. *Plot Plan.* Refer to Example Plot Plan No. 2 Attachment 2 to this Exhibit C.

1. Location and size of septic tank, distribution box, absorption field or bed, seepage pits and other essential parts of the sewage disposal system and distance to all individual wells and open streams or drainageways.

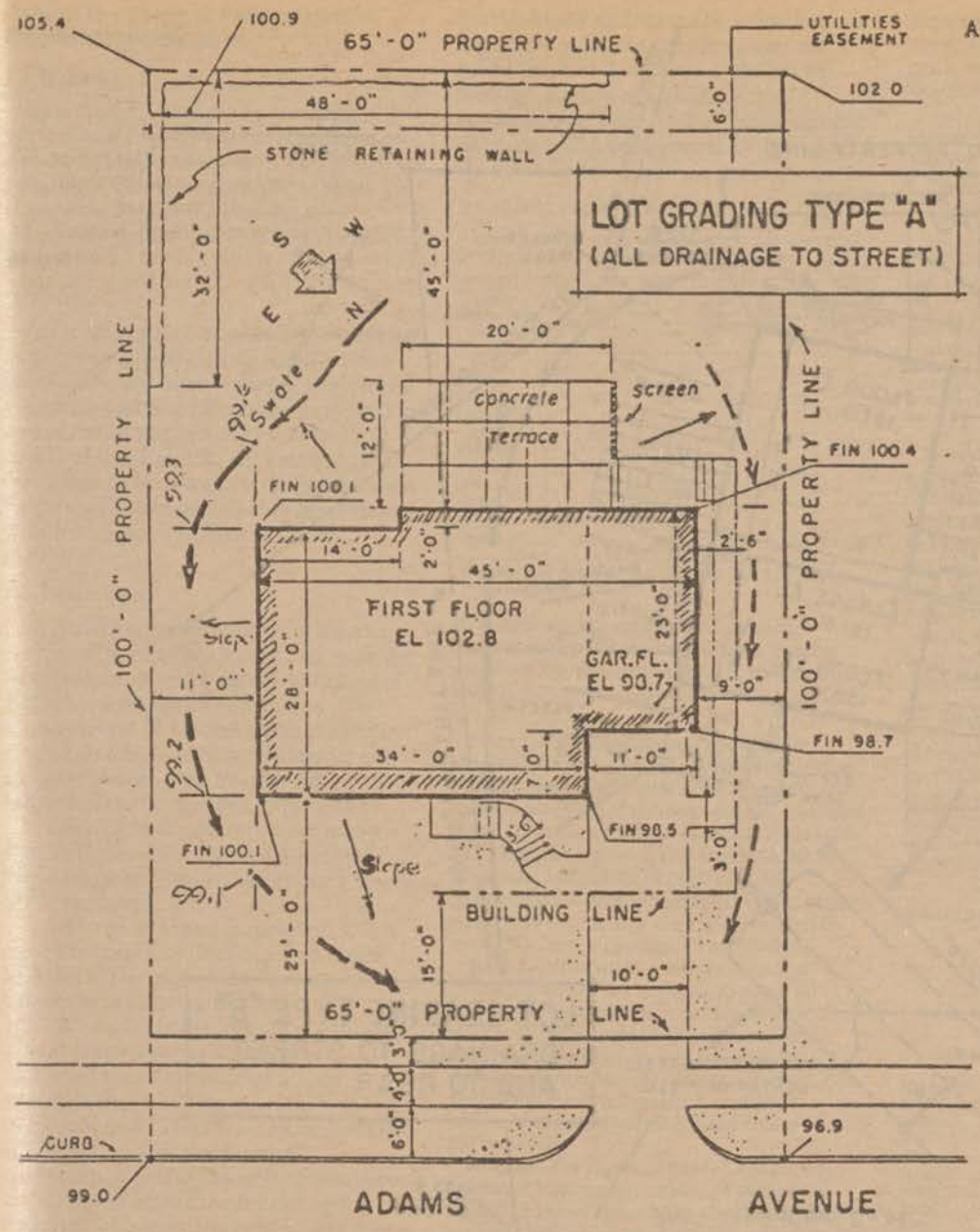
2. Location of well, service line and other essential parts of the water supply system and distance to other wells and/or sewage disposal system.

3. Exact location of individual systems (water or sewage) on adjacent properties and decription of system if available.

C. Construction details of all component parts of individual water supply and sewage disposal system shall clearly indicate material, equipment and construction. Extra sheets and drawings should be added as necessary to fully explain the proposed installation.

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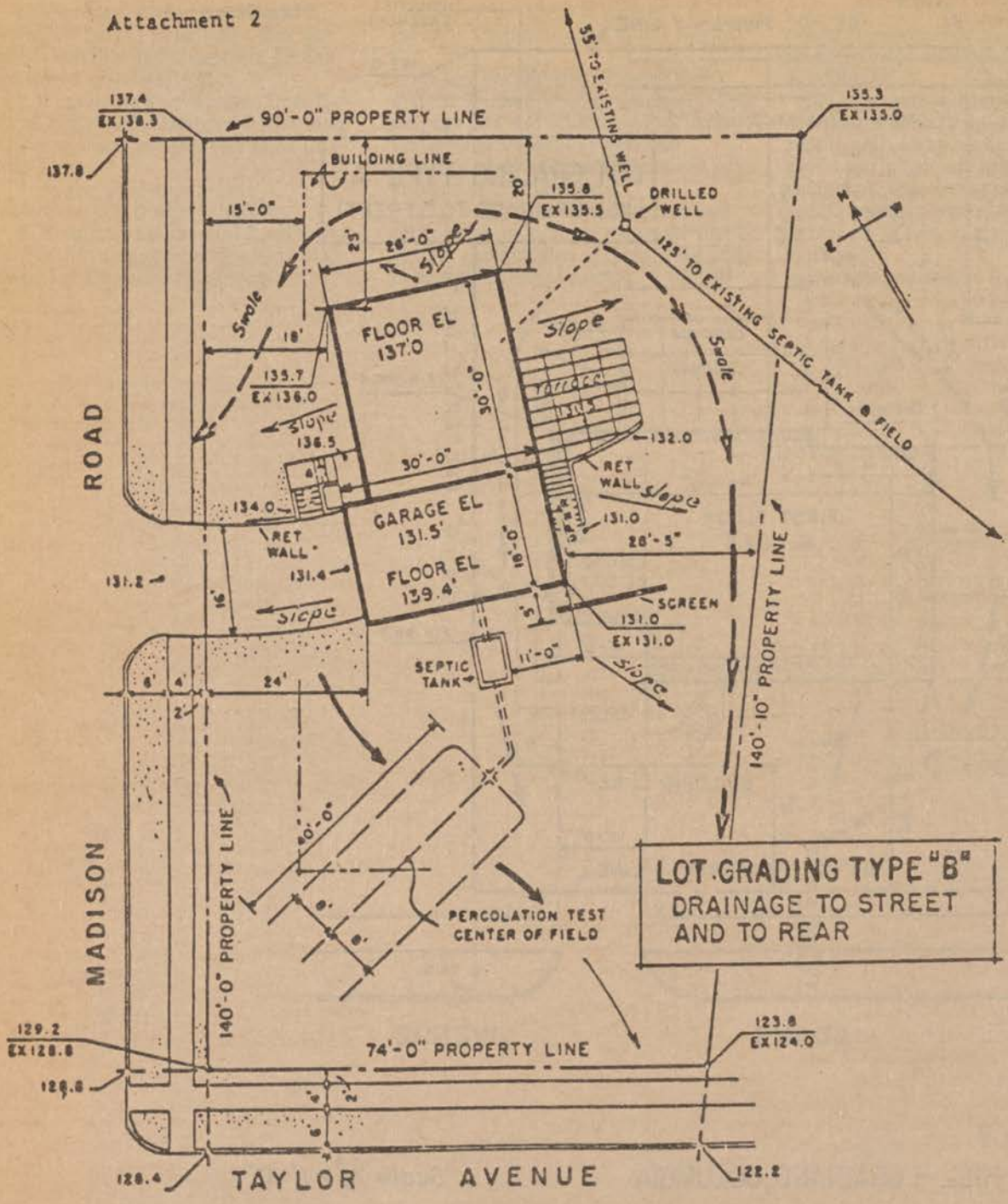
Attachment 1



Lot 4 Block 7
CHESTNUT HILL - BRAINARD, COLUMBIA

Scale 1/16" = 1'-0"

EXAMPLE PLOT PLAN No 1



LOT 29. BLK. 2 HEALTH AUTHORITY ----------
HOMESTEAD ADDITION, LINCOLN COUNTY, COLUMBIA

EXAMPLE PLOT PLAN NO. 2 *Scale 1" = 20'*

BILLING CODE 3410-07-C

Exhibit D—Thermal Performance Construction Standards

I. Purpose

This Exhibit prescribes thermal performance construction standards to be used in all housing loan and grant programs. These requirements shall supersede any of the development standards defined in § 1924.4(h) of this subpart.

II. Policy

All loan or grant application involving new construction and all applications for conditional commitments shall have drawings and specifications prepared to comply with paragraphs IV A or IV C and D of this Exhibit. All existing dwellings to be bought with FMHA loan funds shall be considered in accordance with paragraphs IV B or C of this Exhibit.

III. Definitions

A. *British thermal unit* (Btu) means the quantity of heat required to raise the temperature of one pound (.4535 Kg.) of water by one degree Fahrenheit. For example, one Btu is the amount of heat needed to raise the temperature of one pound of water from 59 degrees Fahrenheit to 60 degrees Fahrenheit.

B. *Glazing* is the material set into a sash or door when used as a natural light source and/or for occupant's views of the outdoors.

C. *"R" value*, thermal resistence, is a unit of measure of the ability to resist heat flow. The higher the R value, the higher the insulating ability.

D. *"U" value* is the overall coefficient of heat transmission and is the combined thermal value of all the materials in a building section. U is the reciprocal of R. Thus U=1/R or R=1/U or 1/C where C is the thermal conductance and is the unit of measure of the rate of heat flow for the actual thickness of a material one square foot in area at a temperature of one degree Fahrenheit. The lower the U value, the higher the insulating ability.

E. *Winter degree-day* is a unit based on temperature difference and time. For any one day, when the mean temperature is less than 65 degrees Fahrenheit (18.3 degrees Celsius), there are as many degree-days as the number of degrees difference between the mean temperature for the day and 65 degrees Fahrenheit. The daily mean temperature is computed as half the total of the daily maximum and daily minimum temperatures.

IV. Minimum Requirements

A. All dwellings, single family or multifamily, to be constructed with FmHA loans and/or grant funds and all repair, remodeling or renovation work performed on dwellings with FmHA loan/or grant funds shall be in conformance with the following, except as provided in paragraphs IV B 3 and IV D of this Exhibit:

NEW CONSTRUCTION

[Maximum U values for ceiling, wall and floor section or various construction]

Winter degree days (Note 1)	Ceilings (Note 2)	Walls	Floors (Note 3)	Glazing (Note 4)	Doors (Note 5)
1,000 or less	.05	.08	0.8	1.13	
1,001 to 2,500	.04	.07	0.7	.69	
2,501 to 4,500	.03	.05	0.5	.69	(1)
4,501 to 6,000	.03	.05	0.5	.47	(2)
6,001 or more	026	.05	.05	.47	(2)

[1] Storm door if hollow core door or if over 25% glass.
[2] Storm door.

(U values are not adjusted for framing. Values calculated for components may be rounded. For example, a total R Value of 18.88 concerts to a U value of .0529 rounded to .05)

Note 1.—Winter degree-days may be obtained from the ASHRAE Handbook; the "NAHB Insulation Manual for Homes Apartments"; local utilities; and the National Climatic Center, Federal Building, Asheville, NC. Manuals are available from NAHB RF, Rockville, MD 20850, or NMWIA, 382 Springfield Avenue, Summit, NJ 07901. Other sources of degree day data may be used if available from a recognized authority.

Note 2.—Insulation must be installed uniformly above the ceiling including all ceiling joists. In pitched roof construction, compression of insulation at the outside building walls is permitted to allow for a 1 inch ventilation space under the roof sheathing. For any loose fill insulation, a baffle must be provided. Raised trusses are not required.

Note 3.—For floors of heated spaces over unheated basements, unheated garages or unheated crawl spaces, the U value of floor section shall not exceed the value shown. A basement, crawl space, or garage shall be considered unheated unless it is provided with a positive heat supply to maintain a minimum temperature of 50 F. Positive heat supply is defined by ASHRAE as "heat supplied to a space by design or by heat losses occurring from energy-consuming systems or components associated with that space."

Where the walls of an unheated basement or crawl space are insulated in lieu of floor insulation, the total heat loss attributed to the floor from the heated area shall not exceed the heat loss calculated for floors with required insulation.

Insulation may be obtained from floors over heated basement areas or heated crawl spaces if foundation walls are insulated. The U value of the foundation wall section shall not exceed the value shown. This requirement shall include all foundation wall area, including header joist (band joist), to a point 50 percent of the distance from a finish grade to the basement floor level. Equivalent Uo configurations are acceptable.

MAXIMUM U VALUES OF THE FOUNDATION WALL SECTIONS OF HEATED BASEMENT NOT CONTAINING HABITABLE LIVING AREA OR HEATED CRAWL SPACE

Winter degree days (65 F base)	Maximum U value	Glazing [1]
2,500 or less	No requirement	1.13
2,501 to 4,500	0.17	1.13
4,501 or more	0.10	0.69

[1] Glazing in heated basement shall be limited to 5 percent of floor area unless alternative Uo combination is documented.

Note 4.—Sliding glass doors are considered as glazing. The glazing value is for glass only. Glazing shall be limited to 15 percent of the gross area of all exterior walls enclosing heated space, except when demonstrated that the winter daily solar heat gain exceeds the heat loss and the glass area is properly screened from summer solar heat gain.

Note 5.—1¾ inch metal-faced door systems with rigid insulation core and durable weatherstripping providing a "U" value equivalent to a wood door with storm door and an infiltration rate no greater than .50 cfm per foot of crack length tested according to ASTM E–283 at 1.567 psf of air pressure, may be substituted for a conventional door and storm door. All doors shall be weatherstripped. Any glazed areas must be double-glazed.

MINIMUM R VALUES OF PERIMETER INSULATION FOR SLABS-ON-GRADE

Winter degree-days (65 F base)	Mimimum R values [1]	
	Heated slab	Unheated slab
500 or less	2.8	
1000	3.5	
2000	4.0	2.5
3000	4.8	2.8
4000	5.5	3.5
5000	6.3	4.2
6000	7.0	4.8
7000	7.8	5.5
8000	8.5	6.2
9000	9.2	6.8
10000 or greater	10.0	7.5

[1] For increments between degree days shown, R values may be interpolated.

B. All existing dwellings to be purchased with RH loan and grant funds shall be insulated in accordance with the following:

EXISTING CONSTRUCTION—MAXIMUM U VALUES FOR CEILING, WALL AND FLOOR SECTION OR VARIOUS CONSTRUCTION

Winter degree days (note 1)	Ceilings	Walls (note 2)	Floors (note 3)	Glazing	Doors (note 5)
1,000 or less	.05		.08	1.13	
1,001 to 2,500	.04		.07	.69	

EXISTING CONSTRUCTION—MAXIMUM U VALUES FOR CEILING, WALL AND FLOOR SECTION OR VARIOUS CONSTRUCTION—Continued

Winter degree days (note 1)	Ceilings	Walls (note 2)	Floors (note 3)	Glazing	Doors (note 5)
2,501 to 4,500.	.03	.....	.05	.69	Storm door if hollow core door or if over 25% glass.
4,501 to 6,000.	.03	.....	.05	.69	Storm door.
6,001 or 7,000.	.026	.....	.05	.69	Do.
7,001 or more.	.026	.....	.05	.69	Do.

(U values are not adjusted for framing. Values calculated for components may be rounded. For example, a wall section with a total R Value of 18.88 converts to a U value of .0529 rounded to .05)

Note 1.—Winter degree days may be obtained from the ASHRAE Handbook; the "NAHB Insulation Manual for Homes Apartments;" local utilities; and the National Climatic Center, Federal Building, Asheville, NC. Manuals are available from NAHB RF, Rockville, MD 20850; or NMWIA, 382 Springfield Avenue, Summit, NJ 07901. Other sources of degree day data may be used if available from a recognized authority.

Note 2.—Walls shall be insulated as near to new construction standards as economically feasible. Any exterior wall framing exposed during repair or rehabilitation work shall have vapor barrier installed and be fully insulated.

Note 3.—For floors of heated spaces over unheated basements, unheated garages or unheated crawl speces the U value of floor section shall not exceed the value shown.

A basement, crawl space or garage shall be considered unheated unless it is provided with a positive heat supply to maintain a minimum temperature of 50 F. Positive heat supply is defined by ASHRAE as "heat supplied to a space by design or by heat losses occurring from energy-consuming systems or components associated with that space."

Where the walls of an unheated basement of crawl space are insulated in lieu of floor insulation, the total heat loss attributed to the floor from the heated area shall not exceed the heat loss calculated for floors with required insulation.

Insulation may be omitted from floors over heated basement areas or heated crawl spaces if foundation walls are insulated. The U value of foundation wall sections shall not exceed the value shown. This requirement shall include all foundation wall area, including header joist (band joist), to a point 50 percent of the distance from a finish grade to the basement floor level. Equivalent Uo configurations are acceptable.

MAXIMUM U VALUES OF THE FOUNDATION WALL SECTIONS OF HEATED BASEMENT NOT CONTAINING HABITABLE LIVING AREA OR HEATED CRAWL SAPCE

Winter degree-days (65°F base)	Maximum U value	Glazing [1]
2,500 or less	No requirement	1.13
2,501 to 4,500	0.17	1.13
4,501 or more	0.10	0.69

[1] Glazing in heated basement shall be limited to 5 percent of floor area unless alternative Uo combination is documented.

Note 4.—Slab edge insulation should be provided wherever practical in areas of 21,500 or more winter degree-days. Rigid insulation placed on the exterior face of the slab shall be protected by a durable and weather resistant material.

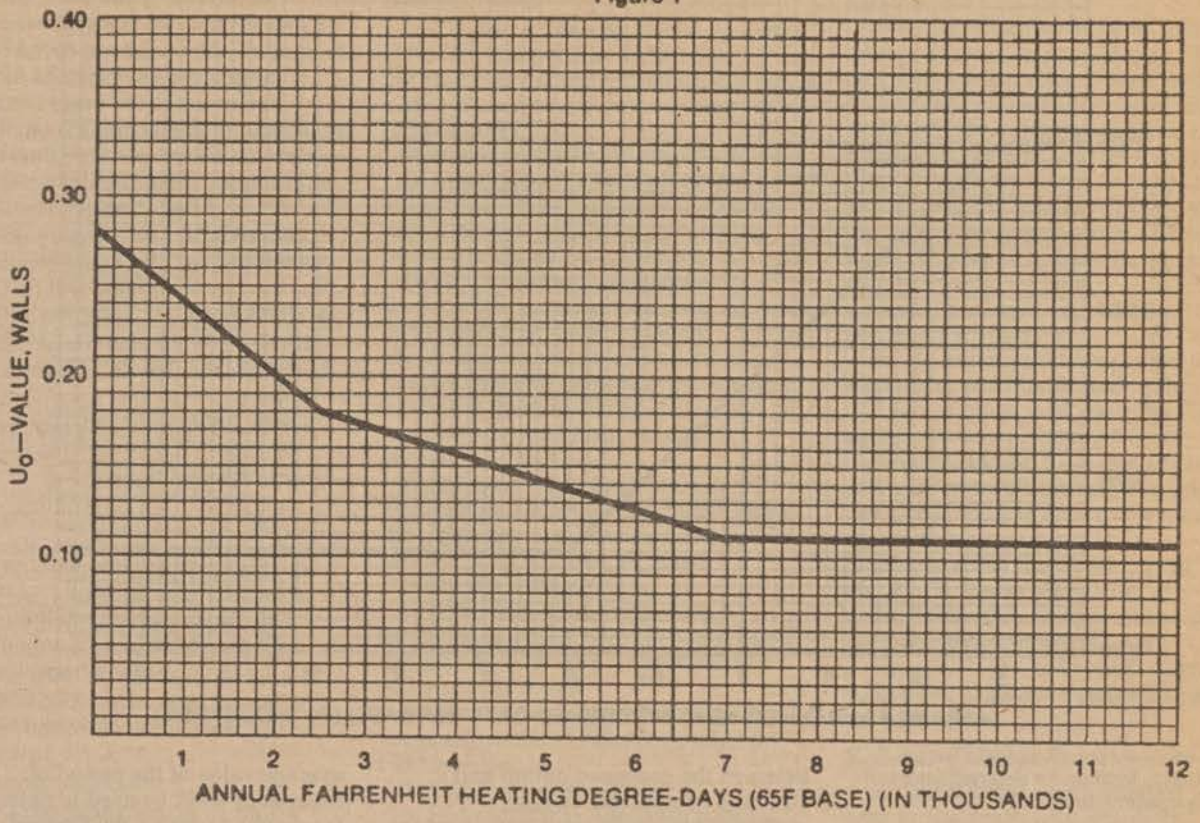
Note 5.—Storm doors are not required for double doors, sliding doors or others where installation would be economically infeasible. 1¾ inch metal faced door systems with rigid insulation core and durable weatherstripping providing a "U" value equivalent to a wood door with storm door and an infiltration rate no greater than 0.50 cfm per foot of crack length, tested according to ASTM E-283 at 1.567 psf of air pressure, may be substituted for a conventional door and storm door. All doors shall be weatherstripped.

C. *Optional Standards.* Housing design not in compliance with the requirements of paragraphs IV A or B of this Exhibit may be approved in accordance with the provisions of this paragraph. Requests for acceptance proposed under paragraph C 1 below, must be approved by the State Director. Requests for acceptance proposed under paragraph C 2 must be approved by the Administrator. All submissions of proposed options to the State Director of Administrator shall contain complete descriptions of materials, engineering data, test data when U values claimed are lower than the ASHRAE Handbook of Fundamentals, and calculations to document the validity of the proposal. All data and calculations will be based upon the current edition of the ASHRAE Handbook of Fundamentals or other universally accepted data sources.

1. *Overall "U" values for enveloped components.* The following requirements shall be used in determining acceptable options to the requirements of paragraphs IV A and IV B of this Exhibit.

a. Uo (gross wall)-Total exterior wall area (opaque wall and window and door) shall have a combined thermal transmittance value (Uo value) not to exceed the values shown in Figure 1. Equation 1 shall be used to determine acceptable combinations to meet the requirements of Figure 1.

Figure 1



Equation 1, formula for determining combinations (See Figure 1):

$$U_o = \frac{U_{wall}A_{wall} + U_{window}A_{window} + U_{door}A_{door}}{A_o}$$

where:

U_o = the average thermal transmittance of the gross wall area, Btu/h.ft ^{2}.F

A_o = the gross area of exterior walls, ft ^{2}

U_{wall} = the thermal transmittance of all elements of the opaque wall area, Btu/h.ft ^{2}.F

A_{wall} = opaque wall area, ft ^{2}

U_{window} = the thermal transmittance of the window area, Btu/h.ft^2.F

A_{window} = window area (including sash), ft^2

U_{door} = the thermal transmittance of the door area, Btu/h.ft^2.F

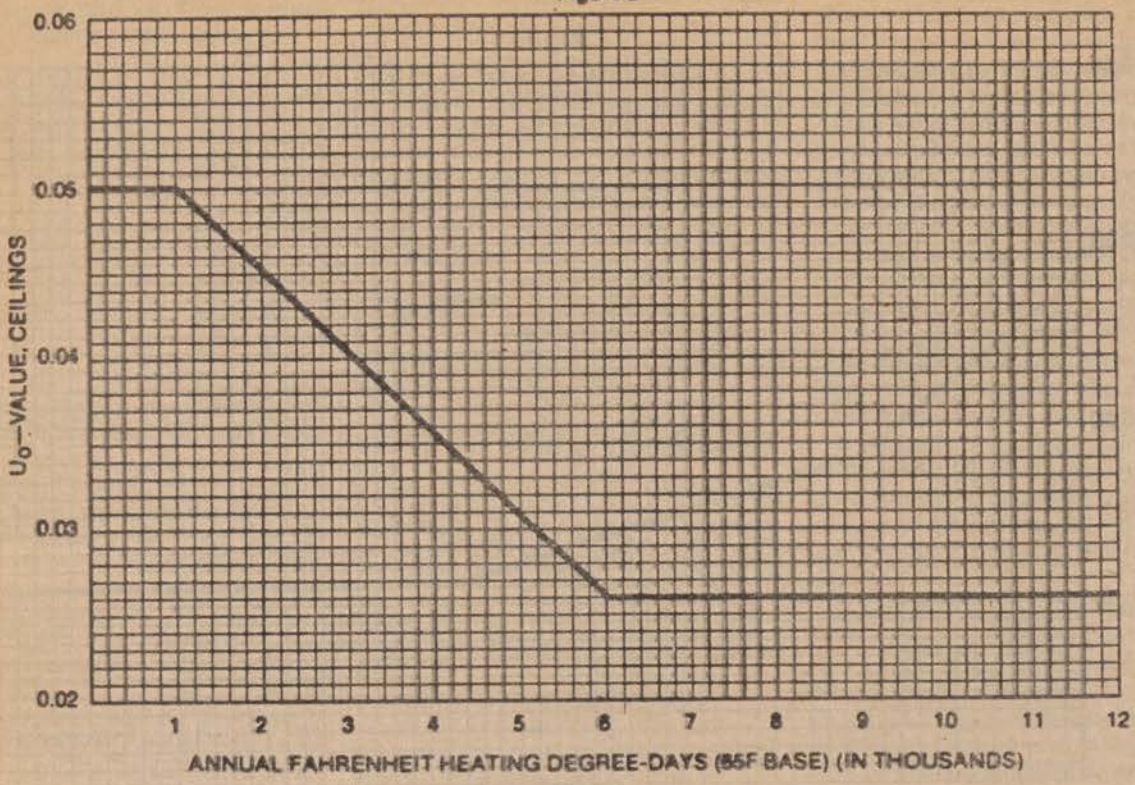
A_{door} = door area, ft^2

Note.—Where more than one type of wall, window and/or door is used, the U x A term for that exposure shall be expanded into its sub-elements as:

$U_{wall1}A_{wall1} + U_{wall2}A_{wall2}$ etc.

b. U_o (gross ceiling)—Total ceiling area (opaque ceiling and skylights) shall have a combined thermal transmittance value (U_o-value) not to exceed the values shown in Figure 2. Equation 2 shall be used to determine acceptable combinations to meet the requirements of Figure 2.

Figure 2



Equation 2, formula for determining roof/ceiling combinations:

$$U_o = \frac{U_{roof}A_{roof} + U_{skylight}A_{skylight} + U_{door}A_{door}}{A_o}$$

where:

U_o = the average thermal transmittance of the gross roof/ceiling area, Btu/h.ft ^{2}.F

A_o = the gross area of a roof/ceiling assembly, ft ^{2}

U_{roof} = the thermal transmittance of all elements of the opaque roof/ceiling area, Btu/h.ft ^{2}.F

A_{roof} = opaque roof/ceiling area, ft ^{2}

$U_{skylight}$ = the thermal transmittance of all skylight elements in the roof/ceiling assembly Btu/h.ft^2.F

$A_{skylight}$ = skylight area (including frame), ft^2

Note.—Where more than one type of roof/ceiling and/or skylight is used, the U x A term for that exposure shall be expanded into its sub-elements as:

$U_{roof1}A_{roof1} + U_{roof2}A_{roof2}$ etc.

2. *Overall structure performance.* The following requirements shall be used in determining acceptance options to the requirements of paragraphs IV A and B of this Exhibit.

a. The methodology must be cost effective to the energy user, and must not adversely affect the structural capacity, durability or safety aspects of the structure.

b. All data and calculations must show valid performance comparisons between the proposed option and a structure comparable in size, configuration, orientation and occupant usage designed in accordance with paragraphs IV A or B. Structures may be considered for FmHA loan consideration which can be shown by accepted engineering practice to have energy consumption equal to or less than those which would be attained in a representative structure utilizing the requirements of paragraphs IV A or B.

3. *Special consideration for seasonally occupied farm labor housing.* The following sets forth the minimum acceptable options to the requirements of paragraphs IV A or B of this Exhibit for seasonally occupied housing serving as security for farm labor housing loans and grants.

a. When the period of occupancy does not encounter 500 or more heating degree-days (HDD) as determined by an average of the previous 10 years based upon local climatological data published by the National Oceanic and Atmospheric Administration, Environmental Data Service, the standards of paragraphs IV A or B will not apply.

b. When the period of use exceeds 500 heating degree-days (HDD), the 10-year average value of the period of occupancy shall be used to determine the degree to which the thermal insulation requirements of paragraphs IV A or B shall apply.

c. If mechanical cooling is provided and the period of occupancy encounters more than 700 cooling degree-days (CDD), as determined by an average of the previous 8 years based upon local climatological data published by the same source cited in paragraph IV C 3 a above, the thermal insulation requirements for 1,000 and less degree days as stated in paragraph IV A or B shall apply.

D. *Energy efficient construction practices.* This section prescribes those items of design and quality control which are necessary to guarantee the energy efficiency of homes built according to the standards of this Exhibit. Also included are recommendation for extra energy efficiency in dwellings.

1. *Infiltration.*

a. Requirements: All construction shall be performed in such a manner as to provide a building envelope free of excessive infiltration.

(i) Caulking and sealants. Exterior joints around windows and door frames,

between wall cavities and window or door frames, between wall and foundation, between wall and roof, between wall panels, at penetrations of utility services through walls, floors and roofs, and all other openings in the exterior envelope shall be caulked, gasketed, weatherstripped, or otherwise sealed. Caulking shall be silicone rubber base or butryl rubber base, conforming to Federal Specifications TT–S–1543 and TT–S–1657 respectively, or materials demonstrating equivalent performance in resilince and durability.

(ii) Windows shall comply with ANSI 134.1, NWMA 15–2; the air infiltration rate shall not exceed 0.5 ft 3/min per ft. of sash crack.

(iii) Sliding glass doors shall comply with ANSI 134.2, NWM 15–3; the air infiltration rate shall not exceed .5 ft 3/min per square ft. of door area.

(iv) All insulation placed in open cavity walls shall be installed so that all space behind electrical switches and receptacles, plumbing, ductwork and other obstructions in the cavity are insulated as completely as possible. Insulation shall be omitted on the side facing the conditioned area, however, the vapor barrier in walls must not be cut or destroyed.

b. Recommendations:

(i) Wrap outside corners of wall sheathing with 15 lb. asphalt impregnated building felt before siding application.

(ii) Utilize vestibules for entry doors, expecially those facing into the direction of winter wind.

(iii) Install plumbing, mechanical and electrical components in interior partitions as much as possible. All water piping should be insulated from freezing temperatures.

2. *Heating and/or Cooling Equipment.*

a. Requirements: All mechanical equipment for heating and/or cooling habitable space shall be designed to provide economy of operation.

(i) All space heating equipment (including fireplaces) requiring combustion air shall be sealed combustion types, or be located in a nonconditioned area (such as unheated basements) or adequate combustion air must be provided from outside the conditioned space.

(ii) All ductwork shall be designed and installed so as to minimize leakage. All metal to metal connections shall be mechanically joined and taped.

b. Recommendations:

(i) Whenever possible, locate ductwork inside of conditioned areas in dropped ceiling, interior partitions or other similar areas.

(ii) Locate outside cooling units in areas not subject to direct sunlight or heat buildup.

3. *Vapor Barrier.*

a. Requirements: Adequate vapor barriers must be provided adjacent to the interior finish material of the wall or other closed envelope components which do not have ventilation space on the nonconditioned side of the insulation.

(i) A vapor barrier at the inside of the wall or other closed envelope component must have a perm rating less than that of any other material in that component and in no case have a perm rating greater than one. All vapor barriers must be sealed around all openings in the interior surface. Vapor barriers are not required in ceilings and floors. Continuous vapor barriers on ceilings, walls, and floors require adequate moisture vapor control in the conditioned space.

(ii) All vapor producing or exhausting equipment shall be ducted to the outside and be equipped with dampers. The equipment includes rangehoods, bathroom exhaust fans, and clothes dryers. If a dwelling design proposes the use of windows to satisfy the kitchen and/or bathroom ventilation requirements of the development standards, the incorporation of dehumidification equipment should be considered in accordance with paragraph IV D 3 b. Exhaust of any equipment shall not terminate in an attic or crawl space.

V. General Design Recommendations

A. Orient homes with greatest glass area facing south with adequate overhangs to control solar gain during non-heating periods.

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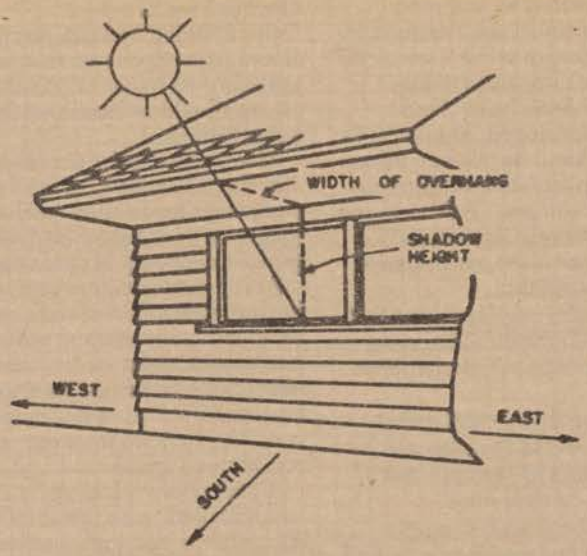
ROOF OVERHANGS

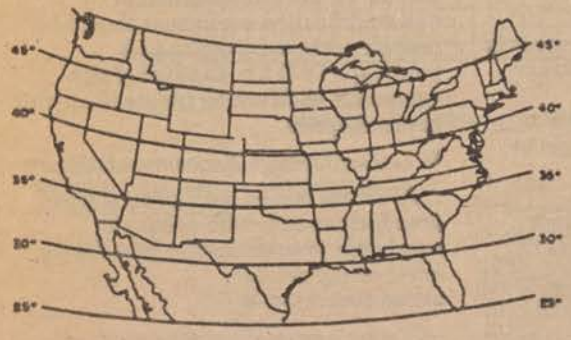
Roof overhangs, or extensions of the roof, over south walls are usually easy to incorporate into house designs. To determine the *width of overhang* needed to shade a south wall or window, follow this method:

(1) Consider the *latitude* of the geographical area in which your house is located. (See map below.) Latitude, together with season of the year, determines the angle at which the sun's rays strike the earth at different times of day.

(2) Measure on your plan or house the number of feet the south windows extend below the eave of the roof or horizontal overhang. This measurement is the *shadow height*.

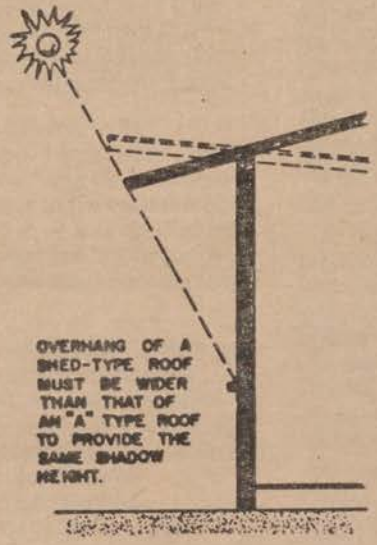
(3) Then for that specific latitude and shadow height, you will find, from the table given here, the exact width of overhang needed.





NORTH LATITUDE (DEGREES)	SHADOW HEIGHT (FEET) 3	4	5	6	7	8
	WIDTH OF OVERHANG (FEET)					
25	1.1	1.5	1.9	2.2	2.6	3.0
30	1.4	1.9	2.4	2.9	3.4	3.8
35	1.8	2.4	3.0	3.5	4.1	4.7
40	2.1	2.8	3.6	4.3	5.0	5.7
45	2.6	3.4	4.3	5.1	6.0	6.8
50	3.0	4.1	5.1	6.1	7.1	8.2

For example, in a latitude of 35° and for a shadow height of 5 feet, the width of overhang needed is 3 feet.



BILLING CODE 3410-07-C

B. Arrange plantings with evergreen wind buffers on north side and deciduous trees on south.

C. Wheneve possible orient entry door away from winter winds.

D. Design house with simple shape to minimize exterior wall area.

E. Minimize glass areas within constraints of required light and ventilation, applicable safety codes and other appropriate consideration.

F. Minimize the amount of paved surface adjacent to the structure where heat gain is not desirable.

VI. State Supplements

State supplements or policies will not be issued or adopted to either supplement or set requirements different from those of this Exhibit without the prior written approval of the National Office.

Exhibit E.—Preconstruction Conference

Prior to the signing of a construction contract, there shall be a discussion between the borrower(s), prospective contractor, architect (if applicable), and the County Supervisor or District Director, as applicable. During this discussion a mutual understanding should be reached on the following points:

1. The contract is between the borrower and the contractor and although FmHA is interested in the proper execution of the contract it will not become a party to the contract nor incur any responsibility or liability thereunder.

2. The contractor's obligation under the terms of the contract to do the work in accordance with the drawings and specifications.

3. Compliance with the provisions of Form FmHA 1924.6, "Construction Contract," or any other authorized contract form being used.

4. Any changes made to the drawings and/or specifications must be initialed and dated on all copies by the contractor, the borrower, and the County Supervisor.

5. FmHA will be consulted prior to any changes in the contract. Changes will be made only upon approval of FmHA. Form FmHA 1924–7, "Contract Change Order" must be executed by the borrower and contractor, and approved by FmHA. Any additional funds required must be provided by the owner.

6. The time for completion of construction and provisions for liquidated damages.

7. Consideration of the State laws regarding the rights of persons furnishing material, equipment, or labor to place a claim or lien against the property in cases in which their bills are not paid.

8. The use of Forms FmHA 1924–10, "Release by Claimants," and FmHA 1924–9, "Certificate of Contractor's Release".

9. The borrower's responsibility to make site visits as the work progresses. Periodic and final inspections will be made by an authorized FmHA employee or representative to protect the security interest of the Government. The borrower is responsible for making any inspections necessary to adequately protect the interest of the borrower.

10. The contractor's responsibility to notify FmHA that work is ready for inspection 2 working days prior to the date of the inspection.

11. The contractor's responsibility to provide a warranty upon completion of the work.

12. Any other pertinent information.

Exhibit F.—Payment Bond

Know all persons by these presents: that ——— (Name of Contractor) ——— (Address of Contractor) ———; a (Corporation, Parnership or Individual) ——— hereinafter called principal and ——— (Name of Surety) hereinafter called surety, are held and firmly bound unto ——— (Name of Owner) ——— (Address of Owner) hereinafter called owner and the United States of America acting through the Farmers Home Administration hereinafter referred to as Government, and unto all persons, firms, and corporations who or which may furnish labor, or who furnish materials to perform as described under the contract and to their successors and assigns in the total aggregate penal sum of ———, Dollars ($———) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such that whereas, the principal entered into a certain contract with the owner, dated the ——— day of ——— 19—, a copy of which is hereto attached and made a part hereof for the construction of:

Now, therefore, if the principal shall promptly make payment to all persons, firms, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery; equipment and tools, consumed or used in connection with the construction of such work, and for all labor cost incurred in such work including that by a subcontractor, and to any mechanic or materialman lienholder whether it acquires its lien by operation of State or Federal law; then this obligation shall be void, otherwise to remain in full force and effect.

Provided, that beneficiaries or claimants hereunder shall be limited to the subcontractors, and persons, firms, and corporations having a direct contract with the principal or its subcontractors.

Provided, further, that the said surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract or to the work or to the specifications.

Provide, further, that no suit or action shall be commenced hereunder by any claimant: (a) Unless claimant, other than one having a direct contract with the principal (or with the government in the event the government is performing the obligations of the owner), shall have given written notice to any two of the following: The principal, the owner, or the surety above named within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by register mail or certified mail, postage prepaid, in an envelope addressed to the principal, owner, or surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer. (b) After the expiration of *one* (1) year following the date of which principal ceased work on said contract, it being understood, however, that if any limitation embodied in the bond is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

Provided, further, that it is expressly agreed that this bond shall be deemed

amended authomatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the principal and the surety to the full and faithful performance of the Contract as so amended. The term "Amendment", wherever used in this bond and whether referring to this bond, the contract or the loan Documents shall include any alteration, addition, extension or modification of any character whatsoever.

Provided, further, that no final settlement between the owner or government and the contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

In witness whereof, this instrument is executed in ——— Number counterparts, each one of which shall be deemed an original, this the ——— day of ———.

Attest:

———,

(Principal) Secretary

———,

Witness as to Principal

(Address) ———.

Attest:

———,

Witness as to Surety

(Address) ———.

———,

Principal.

By ———,

(Address).

———,

Surety.

By ———,

Attorney-in-Fact.

(Address) ———.

Note.—Date of bond must not be prior to date of Contract.

If contractor is partnership, all partners should execute bond.

Important: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.

Exhibit G.—Performance Bond

Know all persons by these presents: that ——— (Name of Contractor) ——— (Address of Contractor) ———, hereinafter call principal, and (Corporation, Partnership, or Individual) ———(Name of Surety) ——— (Address of Surety) hereinafter called surety, are held and firmly bound unto ——— (Name of Owner) ———(Address of Owner) hereinafter called owner, and the United States of America acting through the Farmers Home Administration hereinafter referred to as the government in the total aggregate penal sum of ——— Dollars ($———) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such that whereas, the principal entered into a certain contract with the owner, dated the ——— day of ——— 19—, a copy of which is hereto attached and made a part hereof for the construction of:

Now, therefore, if the principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which it may be granted by the owner, or government, with or without notice to the surety and during the guaranty period and if the principal shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the owner and government from all costs and damages which may suffer by reason of failure to do so, and shall reimburse and repay the owner and government all outlay and expense which the owner and government may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect.

Provided, further, that the liability of the principal and surety hereunder to the government shall be subject to the same limitations and defenses as may be available to them against a claim hereunder by the owner, provided, however, that the government may, at its option, perform any obligations of the owner required by the contract.

Provided, further, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

Provided, further, that it is expressly agreed that the bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the principal and the surety to the full and faithful performance of the contract as so amended. The term "Amendment", wherever used in this bond, and whether referring to this bond, the Contract or the Loan Documents shall include any alteration, addition, extension, or modification of any character whatsoever.

Provided, further, that no final settlement between the owner or government and the principal shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The owner and government are the only beneficiaries hereunder.

In witness whereof, this instrument is executed in ——— Number counterparts, each one of which shall be deemed an original, this the ——— day of ———.

Attest:

———,

(Principal) Secretary.

———,

Witness as to Principal

(Address)———

Attest:

———,

Witness as to Surety

(Address)———.

———,

Principal.

By———,

(Address)———.

———,

Surety.

By———,

Attorney-in-Fact

(Address)———.

Exhibit H.—Prohibition of Lead-Based Paints

I. Purpose

This Exhibit prescribes the methods to be used to comply with the requirements of the Lead-Based Paint Poisoning Prevention Act, Pub. L. 91–695, as amended, (42 U.S.C. 4801 et seq.) and the amendment to Section 501(3) of Pub. L. 91–695 (42 U.S.C. 4841(3)) as amended by the National Consumer Health Information and Health Promotion Act of 1976, Pub. L. 94–317.

II. Policy

The Farmers Home Administration (FmHA) shall not permit the use of lead-based paint on applicable surfaces of any housing or buildings purchased,

repaired, or rehabilitated for human habitation with financial assistance provided by this agency. Paints used on applicable surfaces shall not contain more than 0.06 percent lead by weight calculated as lead metal in the total nonvolatile content of liquid paints or in the dried film of paint already applied.

III. Definitions

A. Housing and buildings mean any house, apartment, or structure intended for human habitation. This includes any institutional structure where persons reside, such as an orphanage, boarding school, dormitory, day care center or extended care facility, college housing, domestic or migratory labor housing, hospitals, group practice facilities, community facilities, and business or industrials facilities.

B. Applicable surfaces means all interior surfaces, whether accessible or not, and those exterior surfaces which are readily accessible to children under 7 years of age, such as stairs, decks, porches, railings, windows, and doors.

C. Lead-based paint means any paint containing more than .5 of 1 percentum lead by weight, or with respect to paint manufactured after June 22, 1977, lead-based paint containing more than six one-hundredths of 1 percentum lead by weight.

IV. Requirements

A. All new housing and buildings shall comply with paragraph II of this Exhibit H.

B. For all existing housing and buildings built *after* 1950, on which a loan is closed after July 19, 1978, FmHA rquires that the applicant, borrower or tenant be notified of the potential hazard of lead-based paints, of the symptoms and treatment of lead poisoning, and of the importance and availability of maintenance and removal techniques for eliminating such hazards. This will be accomplished by providing each borrower or tenant with a copy of Attachment 1 to this Exhibit H, "Lead-based Paint Hazards, Symptoms, Treatment and Techniques for Eliminating Hazards," available in any FmHA County Office. Copies of Attachment 1 may be obtained by the County Supervisor from the Finance Office, 1520 Market Street, St. Louis, MO. 63103.

C. For all existing housing or buildings built *before* 1950 on which a loan is closed after July 19, 1978, FmHA requires that the applicant, borrower, or tenant be notified as in paragraph IV B and a copy of Attachment 2 to this Exhibit H, "Caution Note on Lead-Based Paint Hazard," available in any FmHA County Office, shall be delivered to the hands of the borrower.

D. For all property transfers and inventory property sales, Attachments 1 and 2 to this Exhibit H shall be handed to the purchaser by the FmHA representative.

E. All inventory housing or buildings built before 1950 to be repaired, renovated, or rehabilitated shall have tests for lead content, and where found to be hazardous, shall have any interior lead-based paint removed entirely. Loss or cracked surfaces shall be cleaned down to the base surface before repainting with a paint containing not more than six one-hundredths of 1 percentum lead by weight in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied or both. Contracting officers shall include the following provision prohibiting the use of lead-based paint in all contracts and subcontracts for construction or rehabilitation of housing or buildings:

Lead-Based Paint Prohibition

No lead-based paint containing more than .5 of 1 percentum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both, or with respect to paint manufactured after June 22, 1977, no lead-based paint containing more than .06 of 1 percentum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both, shall be used in the construction or rehabilitation of residential structures under this contract or any subsequent subcontractors.

Authority: This amendment is made under provisions of 5 U.S.C. 301, 40 U.S.C. 486(c).

Done at ———, ———, this —— day of ———, 19—.

———

FmHA Representative.

V. Summary

Section 401 of the Lead-based Paint Poisoning Prevention Act as amended by the National Consumer Health Information and Health Promotion Act of 1976, Pub. L. 94–317, provides a requirement that each federal agency issue regulations and to take such other steps necessary to prohibit the use of lead-based paint on all applicable surfaces in Federal and Federally-assisted construction or rehabilitation of residential structures. The Lead-Based Paint Poisoning Act, Pub. L. 91–695, January 13, 1971, provides for grants to units of general local government in any State for the purpose of detecting and treating incidents of lead-based paint poisoning. Title II of this Act also provides for grants to the same units to identify those area of risk including testing to detect the presence of lead-based paint on surfaces of residential housing.

Attachment 1.—Lead-Based Paint Hazards, Symptoms, Treatment, and Techniques for Eliminating Hazards

Your Federal Government is acting to provide children better protection from poisoning by lead in paint, but there are precautions parents can and should take for child safety.

If you live in a house with old, peeling paint containing lead, your children may be quietly poisoning themselves.

By eating only a small number of lead paint chips a day, a young child can consume enough to poison himself or cause permanent brain damage. Lead poisoning, known as plumbism, kills about 200 children a year and causes the life-time institutionalization of 150 more who suffer severe mental retardation.

An estimated 600,000 children in metropolitan areas have elevated blood lead levels, however. And about 2.5 million children are exposed to the danger of being poisoned from lead paint.

The problem of lead paint poisoning came about because many years ago, lead-containing pigments were used extensively to give paint its colors. Anywhere from 10 percent to 50 percent of the actual paint, after it had dried on the wall, constituted a form of lead. As layer after layer of paint was applied, the walls become veritable lead mines. They also became sources of poison for your children.

The use of expensive lead became increasingly uneconomical. Shortly before World War II a substitute for lead pigments was developed, and the use of lead in paint gradually decreased thereafter. Since 1955, paint manufacturers have limited the lead in their interior paints to one percent.

Thus, any housing in this country built before the mid 1950's is a potential lead hazard. For the hazard to be real, two other ingredients are needed. One is poor maintenance which permits paint to peel and flake. The second is the presence of small children who might pick paint from the wall or floor and put it in their mouths. By eating a paint chip the size of a fingernail, a young child can swallow as much as 100 times more than his body can safely handle. Over a period of weeks or months, children can slowly poison themselves.

The most serious hazards are in cities where most of the housing was built before the 1950's and is now poorly maintained. This includes most of the ghetto areas of America. The Department of Housing and Urban Development estimates there are seven million of these old rundown houses.

Although most lead poisoning occurs in dilapidated houses, even a well-maintained house can be a hazard for small children. For example, if a child bangs a crib or toys against a wall and old paint chips off, it could contain lead. Even in the best of homes, a child can chew on a windowsill painted with lead paint.

Lead poisoning poses a particular hazard for children between the ages of 1 and 6 because of an eating abnormality called pica. This is a craving to eat things which are not food. Children with pica will eat anything within reach—cigarette butts, matches, dirt, newspapers, clay, plaster . . . and paint.

Pica is an old phenomenon, observed all over the world. The Romans many centuries ago named the condition "pica" after the magpie which picks up a wide variety of objects in its beak out of hunger or curiosity.

The dominant characteristic of pica is its compulsive hold on children. A mother can be hard put to prevent her child from eating nonfood substances.

Doctors know little about the causes of pica, and are a long way from finding a cure, if there is one. Studies have shown that up to 40 percent of children around one year old have pica. The tendency decreases as the child gets older, and averages around 20 percent for the entire age group of 1 to 6 years.

If a child does become poisoned by eating lead paint, medicines can be administered to remove the lead from the body. Medicines keep the mortality rate down from lead paint poisoning to 5 percent of the human victims. However, one out of four survivors of acute lead poisoning suffers permanent brain damage, and has learning difficulties, mental retardation, or epilepsy.

The only effective way to fight lead poisoning is to remove the child from contact with the source of lead. This can be accomplished in two ways:

1. Take the child away from the lead.
2. Take the lead away from the child.

Where housing is scarce, the first solution will in the long run only be a form of musical apartments. Whichever child moves into the residence with lead paint on the walls becomes "it."

Only the second solution deals with the problem in a permanent way. The obstacle here is money. Lead paint cannot just be painted over, because it would still be present in any paint chips which might flake off.

The only really permanent solutions are to remove all the old paint by blow torch, scraping, or other method, or to cover up old paint with wallboard or another covering.

Symptoms and Treatment

Here are some steps which parents can take to prevent their children from being poisoned by lead:

1. Never allow your child to eat paint or plaster.

2. Be alert for several of the symptoms listed below.

Symptoms of lead poisoning:

- decreased appetite
- irritability
- clumsiness
- unwillingness to play
- headache
- abdominal pain
- drowsiness
- vomiting

3. If your child has several of these symptoms or you suspect he or she may be eating paint, your child should be tested. Call your local health department to find out if your city has a lead poisoning prevention program. If it does, ask the program officers where to take your child for a blood-lead test.

If your community does not have a lead poisoning prevention program, take your child to a doctor or clinic and explain that you want to find out if he or she has lead poisoning. If the blood test shows your child has too much lead, make sure the doctor reports this to the local health department so it can test the paint in your home to find our whether it should be replaced or covered over. In many cities the landlord can be ordered by the city to remove or cover over dangerous paint.

Eliminating Hazards

To eliminate the lead hazard, you ought to take precautions. Remove all peeling plaster or paint from walls, or ceiling. Do as much as possible by brushing or scraping. When sanding is necessary, get lots of ventilation since breathing lead paint dust can also be dangerous. If the peeling is caused by moisture from a leaky pipe, fix it.

After all loose paint has been removed, cover the walls. It is important that the walls be scraped smooth of peeling paint and any grease is washed off because peeling paint or a greasy wall makes if difficult for any covering to stick to the wall. There are several ways to cover the walls: You can repaint them with an interior paint. A latex paint is appropriate. You can also cover then with wallpaper, contact paper, or paneling.

Remember that a child can chew right through a new coat of paint on edges like windowsills, banisters, and door edges. These should either be covered with contact paper or scraped and sanded down to the wood to remove the lead paint. Replaster any holes in the wall so they make a smooth surface, flat with the rest of the wall. This will make it harder for children to grab onto the plaster and pull off pieces to put into their mouths.

Lead poisoning from paint is a serious and difficult problem which a previous generation inadvertently created for our children. Once lead paint is on the walls, it is difficult and costly to remove. This is why a limit on the amount of lead in paint is so important, why you must use reasonable caution today, and why the Congress and FDA have taken action to protect the children of tomorrow.

Reminders

In carrying out these steps to prevent lead poisoning, you should bear these facts in mind to direct increased attention where it is needed:

- Although children get lead poisoning between the ages of 1 and 6, the most vulnerable are those around 1 or 2 years old. They should be watched with special care.
- The vast majority of lead poisonings occur during the summer months. Children should be carefully watched during the summer to prevent them from eating lead paint.
- The most likely place in an apartment to have high lead content is the windowsill, which is often painted with a different kind of paint than the walls. The windowsill is also one place where children can gnaw on the paint even if it is not peeling. Make sure to remove or cover any paint on the windowsill which might contain lead.

This information was adapted from DHEW Publication No. (FDA) 73-7016, a reprint from October 1972 FDA "Consumer" magazine.

USDA-Fm HA-PSS January 1978

Attachment 2

For all existing housing or buildings constructed before 1950, FmHA requires that the applicant, borrower or tenant be notified of a potential lead-based hazard by delivering to them a copy of the caution note provided below.

Caution Note on Lead-Based Paint Hazard

This House Was Constructed Before 1950

There is a possibility that it may contain some lead-based paint that was in use before 1950.

See Lead-Based Paint Hazards attachment for more information.

Caution Note on Lead-Based Paint Hazard

This House Was Constructed Before 1950

There is a possibility that it may contain some lead-based paint that was in use before 1950.

See Lead-Based Paint Hazards attachment for more information.

Caution Note on Lead-Based Paint Hazard

This House Was Constructed Before 1950

There is a possibility that it may contain some lead-based paint that was in use before 1950.

See Lead-Based Paint Hazards attachment for more information.

(Cut along lines) ———————————

Exhibit I.—Guidelines for Seasonal Farm Labor Housing

Section 100

General

This Exhibit sets forth the guidelines and minimum standards for planning and construction of new Labor Housing (LH) that will be occupied on a seasonal basis. Rehabilitation LH projects will be in substantial conformance with these guidelines and standards. A "seasonal basis" is defined as 6 months or less per year. Seasonal housing for the farm worker need not be convertible to year-round occupancy; however, the living units shall be designed for the intended type of tenant, the time of occupancy, the location, the specific site, and the planned method of operation. It is important that the design of the labor housing site and buildings will help to create a pleasing lifestyle which will promote human dignity and pride among its tenants.

Section 200

Codes and Regulations—Compliance is required with National, State and local codes or regualtions affecting design, construction, mechanical, electrical, fire prevention, sanitation, and site improvement.

Section 300

Planning

300–1 Complete architectural/engineering services in accordance with this subpart will be required if an LH grant is involved or the LH loan will involve more than four individual family units, or any number of group living units, or dormitory units accommodating 20 or more persons.

300–2 Building and site design shall provide for a safe, secure, economical, healthful, and attractive living facility and environment suited to the needs of the domestic farm laborer and his/her family.

300–3 At leat 5 percent of the individual family units in a project, or one unit, whichever is greater, and all common use facilities will be accessible to or adaptable for physically handicapped persons. This requirement may be modified if a recipient/borrower shows, through a market survey acceptable to FmHA, that a different percentage of accessible or adaptable units is more appropriate for a particular project and its service area.

Site Design

301–1 General—The site design shall be arranged to utilize and preserve the favorable features and characteristics of the property and to avoid or minimize the potential harmful effect of unfavorable features. Particular attention is directed to Section 1944.164(k), (1) and (m) of Subpart D of Part 1944 of this chapter with reference to compliance with Subpart G of Part 1901 of this chapter. Some of the features which must be considered are the topography, drainage, access, building orientation to sun and breezes; and advantageous features, such as vegetation, trees, good views, etc. or disadvantageous features, such as offensive odors, noxious plants, noise, dust, health hazards, etc.

301–2 Drainage—Surface and subsurface drainage systems shall be provided in accordance with the applicable development standard and Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5.)

301–3 Water and Sewage Disposal—Water supply and sewage disposal installations shall comply with Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5), the applicable development standard and all governing State and local department of health requirements. Where environmentally and economically feasible, the labor housing facility shall connect to public water and waste disposal systems.

301–4 Electrical—Adequate electrical service shall be provided for exterior and interior lighting and for the operation of equipment.

301–5 Vehicular Access and Parking.

301–5.1 Safe and convenient all-weather roads shall be provided to connect the site and its improvements to the off-site public road.

301–5.2 All weather drives and parking shall be provided for tenants, and for trucks and buses as needed within the site. Driveways, parking areas and walkway locations shall be in substantial conformance with the applicable development standard.

301–6 Walks.

301–6.1 Walks shall be provided for safe convenient access to all dwellings and for safe pedestrian circulation throughout the development between location, and facilities where major need for pedestrian access can be anticipated, such as, laundry, parking to dwelling units, common dining rooms and other.

301–6.2 Walkways shall be hard surface such as concrete, asphalt or stabilized gravel and shall be adequately drained.

301–7 Building Location.

301–7.1 Side and rear yards, and distances between buildings shall conform to the applicable development standard.

301–8 Garbage and Refuse.

301–8.1 Garbage and refuse containers for individual units are required and shall be stored on durable functional racks or shall be located in a central screened area with easily cleaned surfaces. Single containers for multiple units shall be screened and in locations designed to accommodate collection vehicle functions.

301–9 Fencing.

301–9.1 Fencing used in the site design for project privacy or building security shall be harmonious in appearance with other fences and surrounding facilities which fall within the same view.

301–10 Outdoor living.

301–10.1 All public areas where pedestrian use can be anticipated after sunset shall be adequately lighted for security purposes, such as walkways to common use facilities—launday, dining halls, building entrances, parking areas, etc.

301–11 Planting and Landscaping.

301–11.1 Planting and lawns or ground covers shall be provided as required to protect the site from erosion, control dust, for active and passive recreation areas, and provide a pleasant environment.

Building Design

302–1.1 Living Units Design.

302–1.1. *Individual Family Unit*—One family or extended family to a unit which shall contain adequate space for living, dining, kitchen, bath and bedrooms. Multifamily type units are required whenever possible for economy of site and building construction.

a. The minimum total net living unit size shall be 400 square feet. This size assumes occupancy of four persons. Units planned for additional occupants shall include an additional 60 square feet for living area per person.

b. A living/dining area shall be provided to accommodate a table and chairs with adequate dining and circulation space for the intended number of occupants. The living/dining area should be combined with the kitchen area.

c. The kitchen shall contain a sink, cooking range and refrigerator. A minimum free countertop area of six square feet is required. A minimum of 40 square feet of shelf area is required.

d. Each bathroom shall contain adequate space and circulation for a bathtub and/or shower, water closet and lavatory. Access to the bathroom shall not be through another bedroom in dwelling units containing more than one bedroom.

e. Bedroom areas separate from living areas are required. The design of the unit shall provide a minimum of 50 square feet of sleeping area per intended occupant including storage. Housing for families with children shall have a separate bedroom or sleeping area for the adult couples. A two foot by two foot shelf with a two foot long clothes hanging rod is required for each occupant.

302–1.2 *Group Living Unit*—A living unit designed for the occupancy of more than one family or for separate occupancy of male and/or female groups. Common bath spaces shall be contained in the same building. Group living units for families shall have separate bedrooms for each adult couple.

a. The design of the unit shall provide for a minimum of 620 square feet of total net living area for eight persons and an additional 60 square feet for each additional occupant.

Additional area shall be planned for a second bathroom when anticipated occupancy will exceed eight persons, or if it will be occupied by persons of both sexes.

b. The kitchen shall contain an adequate sink, cooking range, refrigerator, and space the size of which is commensurate with the needs of the group living unit. A minimum of free countertop area of eight square feet is required. A minimum of 50 square feet of shelf area is required.

c. Refer to paragraph 302–1.1 b for living/dining requirements.

d. Each bathroom shall contain adequate space and circulation for comfortable access to, and use of, fixtures which will include a bathtub and/or shower, water closet and lavatory. In no case shall minimum fixtures be less than that required per paragraph 302–1.3 c below.

e. Refer to paragraph 302–1.1 e for bedroom requirements.

302.1.3 *Dormitory Living Unit*—A building which provides common sleeping quarters for persons of the same sex and may or may not contain kitchen and/or dining facilities in the same building as the sleeping quarters.

a. The design of areas for sleeping purposes, using single beds, shall provide for not less than 72 square feet per occupant including storage.

b. The design of areas for sleeping purpose, using double bunk beds, shall provide for not less than 40 square feet per occupant. Triple bunk beds will not be allowed.

c. The design of each dormitory building must include a water closet and a bathtub or shower for each 12 occupants, and a lavatory for each 8 persons. Urinals may be substituted for men's water closets on the basis of one urinal for one water closet, up to maximum of one-third of the required water closets.

d. Adequate kitchen and dining facilities must be provided which may be in the dormitory building or detached at a distance of not more than 200 feet from the sleeping quarters. In either case, the space must contain adequate cooking ranges, refrigerators, sinks, countertop, food storage shelves, tables and chairs, circulation space. These facilities will comply with the requirements of the "Food Service Sanitation Ordinance and Code," Part V of the "Food Service Sanitation Manual," U.S. Public Health Service Publication 934 (1965).

302–2 Other Facilities.

302–2.1 *General*—Other facilities authorized by Subpart D of Part 1944 of this chapter, needed by farm workers may be provided in several ways: part of a living unit, located in the project, or, with the exception of laundry facilities, available nearby.

302–2.2 *Laundry Facilities*—Laundry facilities shall be required on-site. Drying yards shall be provided if dryer units are not provided. The design of washing facilities shall plan for a minimum rate of one washer for each 20 occupants. One drying unit may be provided for every two washers, if automatic dryers are customarily provided for rental housing in the community. Laundry facilities shall have adequate space for loading the units, circulation, and clothes folding.

302–2.3 *Office and Maintenance*—An office and maintenance space shall be provided or available, commensurate with the number of living units served, and shall meet the criteria of the FMHA Manual of Acceptable Practices. If necessary, the maintenance space shall have sufficient area to accommodate furniture storage.

302–2.4 *Child Care Center*—Where feasible, a child care center may be included to provide supervised activity and safety for children while the parents work. Supervisors and workers for such centers are sometimes enlisted on a volunteer basis and the cost borne by nonprofit associations or community organizations. Grants are sometimes available through Federal or State programs. Consequently, the design of the child care center should meet the requirements of those sources providing organizational personnel and/or financing.

302–2.5 *Manager's Dwelling*—If a manager's dwelling unit is to be provided as a part of the FmHA loan or grant, it will meet these guidelines. However, if it is necessary to provide a year-round caretaker/manager dwelling unit with FmHA loan or grant funds, it will meet the applicable development standard.

302–2.6 *Recreation*—Outdoor recreation space is required and shall be commensurate with the needs of the occupants. Active and passive recreation areas will be provided which may consist of outdoor sitting areas, playfields, tot lots and play equipment.

General Requirements

303–1 Materials and Construction—All materials and their installation in a labor housing facility shall meet the applcable development standard. Any exceptions to these requirements for materials and their installation must be obtained with the approval of the FmHA National Office. Material should be selected that is durable and easily cleaned and maintained.

303–2 Fire Protection—Fire protection and egress shall be provided to comply with the applicable development standard.

303–3 Light, Ventilation, Screening—Natural light and ventilation requirements as specified in the applicable development standard shall be followed. Screening of all exterior openings is required.

303–4 Ceiling Heights—Ceiling heights of habitable rooms shall be a minimum of seven feet six inches clear, and seven feet in halls or baths in dwelling units. Public rooms shall have a minimum of eight feet clear ceiling height. Sloping ceilings shall have at least seven feet six inches for ½ the room with no portion less than five feet in height.

303–5 Heating and Cooling—Heating and cooling and/or air circulation equipment shall be installed as needed for the comfort of the tenants, considering the climate and time of year the facility will be in operation. Maximum feasible use of passive solar heating and cooling techniques shall be required. All equipment installed will be in accordance with the applicable development standard to protect the health and safety of occupants.

303–6 Plumbing—Plumbing materials and their installation shall meet the applicable development standard. Hot water will be required to all living units, baths, kitchens and laundry facilities.

303–7 Insulation, Thermal Standards, Winterization—Insulation will be required where either heating or cooling is provided as per pargraph 303–5 above or when climatic conditions dictate a need for installation. Insulation Standards will comply with Exbibit D, paragraph IV C 3, of this subpart, or the State insulation standards, whichever are the more stringent.

303–8 Electrical—Electrical design, equipment and installation shall comply with the requirements of the latest edition of the National Electrical Code, and the applicable development standard for materials and their installation. Individual family units may be separately metered; other types of dwelling units may be separately metered as required.

303–9 Security and Winterization—Adequate management and physical measures will be provided as necessary to protect the facility during off-season periods, including adequate heating and insulation as required.

Exhibit K.—Classifications for Multi-Family Residential Rehabilitation Work

I. General

This Exhibit distinguishes between what FmHA considers maintenance and repair work, moderate rehabilitation and substantial rehabilitation. In all cases the building or project to be rehabilitated shall be structurally sound. The applicant shall have a structural analysis of the existing building made to determine the adequacy of all structural systems for the proposed rehabilitation.

II. Definitions

Maintenance and Repair—Work involved in the selective replacement and general maintenance and repair of certain materials, appliances or components of an existing residential building.

Moderate Rehabilitation—All work directly involved in the rearrangement of interior space, the replacement of finish materials or components of the electrical, plumbing, heating or conveyance systems of an existing multi-family residential building. Work and improvements are considered to be more than routine maintenance and repair.

Substantial Rehabilitation—All work directly involved in the rearrangement of interior space that involves alteration of load bearing partitions and columns; the replacement of the electrical, plumbing, heating or conveyance systems; and the addition to and/or major conversion of existing multi-family residential buildings or other building structures.

Moderate rehabilitation and repair shall not be limited to building changes for cosmetic or convenience purposes. In all cases moderate rehabilitation shall involve a minimum of three (3) components of building rehabilitation listed as moderate. Unless combined with other improvements in a project that are considered to be moderate or substantial rehabilitation the items identified as maintenance and repair are considered to be cosmetic and convenience changes.

When a rehabilitation project consists of both moderate and substantial rehabilitation components, those substantial rehabilitation components shall be in accordance with FmHA's development standards and local codes and regulation requirements. Where the majority of project components of building rehabilitation are considered substantial the project shall be considered in the substantial rehabilitation category.

Those site components of rehabilitation such as landscaping, grading, drainage, fencing, parking areas, recreation areas, water and waste disposal systems, etc., whether considered either maintenance and repair, moderate rehabilitation or substantial rehabilitation shall be in accordance with FmHA's development standards for site development work; all local codes and regulation requirements; and sound engineering and architectual practices.

Any alteration of a structure listed or eligible for listing on the National Register of Historic Places may be considered either moderate or substantial rehabilitation. However, it shall conform first to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and then to FmHA's requirements. In cases where the Secretary of the Interior's standards cannot be met, rehabilitation will conform to the agreed upon approaches, treatments and techniques resulting from the consultation process between FmHA, the borrower, the State Historic Preservation Officer and the Advisory Council of Historic Preservation.

III. Components of Multi-Family Building Rehabilitation

The components of multi-family building rehabilitation necessary and generally considered by FmHA to be either maintenance and repair, moderate rehabilitation or substantial rehabilitation include but are not limited to these listed in the follwing chart.

COMPONENTS OF MULTI-FAMILY BUILDING REHABILITATION

Components	Maintenance and repair	Moderate rehabilitation	Substantial rehabilitation
Partition repair	0		
Drywall repair	0		
Caulking	0		
Air conditioning	0		
Carpeting	0		
Clothes closets or shelving improvements	0		
Kitchen cabinet improvement	0		
Paneling	0		
Painting	0		
Wallpapering	0		
Lath and plaster repair	0		
Door repair	0		
Window shades and curtains	0		
Stair repair	0		
Roof repair	0		
Cabinet replacement or repair	0		
Lighting fixture replacement or repair	0		
Appliance replacement or repair	0		
Hardware replacement or repair	0		
Gutters and downspouts	0		
Tile work	0		
Mail boxes	0		
Signage	0		
Partition (non bearing) replacement, or relocation		0	
Exterior entrance redesign, relocation		0	
Porch and steps alteration or replacement		0	
New shingles or roof replacement		0	

COMPONENTS OF MULTI-FAMILY BUILDING REHABILITATION—Continued

Components	Maintenance and repair	Moderate rehabilitation	Substantial rehabilitation
Drywall replacement		0	
Lath and plaster replacement		0	
Plumbing fixture replacement		0	
Furnace replacement		0	
Subfloor material replacement		0	
Storm windows and weatherstripping		0	
Finish flooring materials		0	
Trim—exterior and interior		0	
Window replacement		0	
Door replacement		0	
Ceiling framing		0	
Flashing		0	
Pointing		0	
Insulation		0	
Elevator components replacement		0	
New or alteration to the:			
Water supply system			0
Gas pipes			0
Soil pipes			0
Waste pipes			0
Vent pipes			0
Electrical wiring system			0
Mechanical system			0
Alteration or replacement of structural components:			
Exterior walls			0
Interior walls			0
Floor construction			0
Chimneys and vents			0
Columns and post			0
Foundation wall			0
Footing			0
Beams			0
Elevator replacement			
Foundation waterproofing			0
Electrical service—replacement or new			0

Exhibit L.—Insured 10-year Home Warranty Plan Requirements

I. Purpose

In recent years, numerous third-party home warranty plans have been developed offering new homeowners varying degrees of protection against builder default and/or major structural defects in their homes. This exhibit establishes the criteria and procedures by which a warranty plan is found acceptable for new construction of single family homes financed by Farmers Home Administration (FmHA). An acceptable warranty plan will:

A. Assure that FmHA borrowers receive adequate warranty coverage,

B. in certain circumstasnces, eliminate the requirement for FmHA personnel to make the first two construction inspections, and

C. permit a loan up to the market value of the security (less the unpaid principal balance and past due interest of any other liens against the security) even though FmHA personnel did not perform periodic inspections during construction.

II. Types of acceptable Warranty Companies

A. An insured warranty company is underwritten by an insurance carrier, licensed to operate as an insurer in the states where the warranty company plans to operate and has an acceptable rating from a nationally recognized rating company such as A. M. Best Company.

B. A risk retention group is a company which is chartered in one state and is authorized, under the Products Liability Risk Rentention Act of 1981, to operate in all states. This authority is not challenged by FmHA; however, if at some future time any state insurance commission or regulatory agency challenges the legal authority of such group, FmHA will reconsider its acceptance of the group.

C. Individual state warranty plans, such as that offered by the State of New Jersey, are backed by the full faith and credit of the state government.

III. Plan Requirements

To be considered acceptable, a warranty plan must include the following features:

A. The entire cost (fee, premium, etc.) of the coverage is prepaid and coverage automatically transfers ot subsequent owners without additional cost.

B. The coverage is not cancellable by the warrantor (builder), warranty company or insurer.

C. The coverage includes at least the following:

(1) For one year from the effective date, any defects caused by faulty workmanship or defective materials.

(2) During the second year after the effective date, the warranty continues to cover the wiring, piping and duct work of the electrical, plumbing, heating and cooling systems, plus the items in (3).

(3) During the third through the tenth years, the warranty continues to cover major structural defects. A major structural defect is actual damage to the load-bearing portion of the home including damage due to subsidence, expansion or lateral movement of the soil (excluding movement caused by flood or earthquake) which affects its load-bearing function and which vitally affects or is imminently likely to affect use of the home for residential purposes.

D. A system is provided for complaint (claims) handling which includes a conciliation and, if necessary to resolve matters in dispute, arbitration arranged by the American Arbitration Association or similar organization.

E. A construction inspection plan is required if FmHA is to eliminate the first two FmHA inspections or permit a full market value loan when FmHA inspections are not conducted.

IV. The Review Process

A. Companies submitting warranty plans for a determination of acceptability must support requests with the following information.

(1) Evidence that the insured warranty company has met the state licensing and/or regulatory requirements in the state in which the company plans to operate.

(2) Evidence that the insurance carrier underwriting the warranty plan is licensed to operate as an insurer in the states in which the company plans to operate and has an acceptable rating from a nationally recognized rating company such as A. M. Best Company.

(3) A company claiming authority to operate as a risk retention group must submit certification it has complied with all requirements of the Products Liability Risk Retention Act of 1981 (Pub. L. 97–45) and information indicating the state in which it is chartered and licensed.

(4) State warranty plan agencies will provide evidence that the plan is backed by the full faith and credit of the state.

(5) A full description of the warrantly plan including information on the fees, builder and home registration procedures, required construction standards, construction inspection prcedures, coverage provided and claims procedures.

(6) A sample copy of the warranty information and/or policy which is provided to the homeowner.

(7) Suggested means by which FmHA field offices can readily assure that the builder is a member in good standing prior to loan approval and that a warranty will be issued upon the completion of construction prior to the final release of funds.

B. Submission and Acceptance.

(1) Insured warranty companies and state warranty plan agencies will submit their requests and supporting information to the FmHA State Director in the state in which they plan to operate.

(2) State Directors will determine the acceptability of insured warranty plans and state warranty plans in their jurisdictions, notify the appropriate company or agency of the decision in writing and notify field offices by issuance of a State Supplement including the names and addresses of acceptable warranty companies and any other pertinent information.

(3) Risk retention groups will submit their requests and supporting information to the FmHA National Office, Single Family Housing Processing Division.

(4) The National Office will determine the acceptability of risk retention groups, notify the organization of the decision in writing and notify field offices by publication of an attachment to the Exhibit.

V. Warranty Performance

A. County Supervisors will report inadequate warranty performance through their District Director to the State Director. State Directors will review the situation, assist in resolving any problems and, if necessary, initiate action under Subpart F of Part 1924 of this chapter. State Directors will inform, by memorandum, the Director, Single Family Housing Processing Division, National Office, of any problems with warranty performance and if any debarment action is initiated.

B. State Directors will annually monitor each warranty company and/or its insurer to assure continued compliance with state licensing and/or regulatory requirements.

Attachment 1—Acceptable Warranty Companies

The warranty company listed below claims authority to provide 10-year home warranties as a risk retention group under the Products Liability Risk Retention Act of 1981 and as such is authorized to operate in all states, subject to any future challenge to that authority by any state insurance commissioner or regulatory agency.

Name and Address: Home Owners Warranty Corporation, 2000 L. Street, NW., Washington, DC, Telephone: 202–452–0450.

Area of Operation: All states.

Subpart F—Complaints and Compensation for Construction Defects

5. In § 1924.253, paragraph (c) is revised to read as follows:

§ 1924.253 Definitions.

* * * * *

(c) Newly constructed dwelling. A newly constructed dwelling is one which (1) is financed with a Section 502 RH insured loan, (2) was, at the time the loan was closed, not more than one year old and not previously occupied as a residence, and (3) the required construction inspections were made by Farmers Home Administration (FmHA), Department of Housing and Urban Development (HUD), Veterans Administration (VA) or as authoriged in Subpart A of Part 1924 of this chapter.

* * * * *

PART 1944—HOUSING

6. The authority citation for Part 1944 continues to read as follows and all other authority citation continued in this Part are revised.

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

7. In § 1944.16, paragraphs (a)(1)(i) and (a)(5) are revised to read as follows:

§ 1944.16 Building requirements.

(a) * * *

(1) * * *

(i) Living area will include all finished areas as well as unfinished areas that are designed for or normally considered as living area.

* * * * *

(5) Solid fuel burning devices may be authorized only if the loan approval official determines and documents in the case file that:

(i) A dependable and economical fuel supply is available,

(ii) the device complies with paragraph IVD2 of Exhibit D of Subpart A of Part 1924 of this chapter,

(iii) the device and installation drawings should be approved and will be inspected upon completion by at least one of the following:

(A) Local fire department official or the authority having jurisdiction,

(B) An insurance company representative that is providing fire coverage on the property; or,

(C) If required by local codes, the code authority having jurisdiction; and

(iv) The State Office policies and guidelines with respect to such devices are being followed.

* * * * *

Dated: January 30, 1986.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 86–5102 Filed 3–14–86; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 71

[Docket No. 86–023]

Interstate Movement of Cattle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of comment period for proposed rule.

SUMMARY: This document extends the comment period for a proposal to amend the regulations concerning the requirement that an owner-shipper statement or other document containing specified information accompany certain cattle during interstate movement.

DATE: Written comments must be received on or before April 16, 1986.

ADDRESS: Written comments should be submitted to Thomas O. Cessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 84–118. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. R.E. Wagner, Chief Staff Veterinarian, Interstate and Compliance Staff, VS, APHIS, USDA, Room 809, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8684.

SUPPLEMENTARY INFORMATION: A document published in the Federal Register (50 FR 53330–53332) on December 31, 1985, proposed to amend the regulations in 9 CFR Part 71 with respect to the requirement that an owner-shipper statement or other document containing specified information accompany certain cattle during interstate movement. It was proposed to delete the requirement that cattle be accompanied by an owner-shipper statement or other document when moved interstate if the following

conditions are met: If the cattle are moved interstate to a slaughtering establishment operating under Federal or State inspection or to a stockyard specifically approved under 9 CFR 78.25(b); if the cattle are moved from a farm or other premises where the cattle to be moved interstate have been kept for not less than four months prior to the date of movement; and if such farm or other premises have not had on the premises any cattle or bison from any other premises within four months prior to the date of movement. Further, for those movements of cattle for which an owner-shipper statement or other document would still be required, it was proposed to require additional information on the owner-shipper statement or other document.

The proposed rule provided for receipt of comments on or before March 3, 1986. An industry representative has requested additional time to review the proposal and offer substantive comments. It has been determined that additional time is needed to allow industry representatives and other interested persons adequate time in which to prepare comments. Therefore, the comment period is extended for an additional 30 days.

Done at Washington, DC, this 12th day of March 1986.

J. K. Atwell,

Deputy Administrator Veterinary Services.

[FR Doc. 86-5814 Filed 3-14-86; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 86; 0063]

Occidental Petroleum Corp. et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would, among other things, allow Occidental Petroleum Corp to proceed with its tender offer for MidCon Corp. and their subsequent merger. Respondent would be required to divest MidCon's subsidiary, Mississippi River Transmission Corp. (MRT), within one year after the order becomes final. Additionally, respondent and its subsidiary, Cities Service Oil and Gas Corp., would be prohibited from entering into any new agreements to sell natural gas to MRT until the divestiture is completed.

DATE: Comments will be received until May 16, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/B-908, Ronald B. Rowe, Washington, DC 20580. (202) 724-1441.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Mergers, Natural gas, Trade practices.

Agreement

Before Federal Trade Commission

[File 861 0063; Agreement Containing Consent Order]

In the matter of Occidental Petroleum Corp., a corporation, and MidCon Corp., a corporation.

The agreement herein, by and among Occidental Petroleum Corporation ("Occidental"), MidCon Corp. ("MidCon"), and counsel of the Federal Trade Commission ("Commission"), is entered into in accordance with the Commission's Rules governing consent order procedures. In accordance herewith the parties agree that:

1. Occidental is a corporation organized under the laws of California with its executive office at 10889 Wilshire Boulevard, Los Angeles, California 90024.

MidCon is a corporation organized under the laws of Delaware with its executive office at 701 East 22nd Street, Lombard, Illinois 60148.

2. Occidental and MidCon have been furnished a draft complaint, here attached, that the Bureau of Competition will present to the Commission for its consideration, which Occidental and MidCon understand may then be issued by the Commission, charging Occidental and MidCon with violations of the Clayton Act and Federal Trade Commission Act.

3. Occidental and MidCon admit only the jurisdictional facts set forth in the Commission's draft complaint in the proceeding.

4. Occidental and MidCon waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise challenge or contest the validity of the Order entered pursuant to this agreement; and

d. All rights under the Equal Access to Justice Act.

5. This agreement is for purposes of settlement of the complaint and does not constitute an admission by Occidental and MidCon that the law has been violated as alleged in the complaint.

6. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commision. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Occidental and MidCon, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

7. If this agreement is accepted by the Commission, the Commission shall not request that a temporary restraining order, preliminary injunction, or permanent injunction be sought with respect to the Acquisition, provided, however, that nothing contained in this Agreement shall bar the Commission from further investigation of the Acquisition or from issuing an administrative complaint concerning any other aspect of the Acquisition or from seeking judicial relief to enforce the Order or to enforce any order arising from such administrative proceeding.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Occidental and MidCon: (1) Issue its decision containing the following Order to divest in disposition of the complaint and (2) make information public with respect thereto. When so entered, the

Order to divest shall have the same force and effect andy may be altered, modified or set aside in the same manner and within the same time provided by statute for other Orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to Occidental's and MidCon's addresses as stated in this agreement shall constitute service. Occidental and MidCon waive any rights they may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

9. Occidental and MidCon have read the draft complaint and Order contemplated hereby. They understand that once that Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order. Occidental and MidCon further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is hereby Ordered that as used in this Order the following definitions shall apply:

1. "Acquisition" means Occidental's acquisition of shares of the Common Stock of MidCon and the subsequent merger of MidCon into an affiliate of Occidental pursuant to an Agreement and Plan of Reorganization.

2. "MRT" means Mississippi River Transmission Corporation, an indirect, wholly-owned subsidiary of MidCon.

3. "Occidental" means Occidental Petroleum Corporation, its subsidiaries, divisions, groups and affiliates controlled by Occidental and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

4. "MidCon" means MidCon Corp. as it was constituted prior to the Acquisition, including its parents, subsidiaries, divisions, groups and affiliates controlled by MidCon, and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

II

It is further ordered that:

A. Within 12 months of the date this Order becomes final, Occidental shall divest, absolutely and in good faith, MRT.

B. Divestiture of MRT shall be made only to an acquirer or acquirers and only in a manner that receives the prior approval of the Federal Trade Commission. The purpose of the divestiture of MRT is to ensure the continuation of MRT as an ongoing, viable enterprise engaged in the same business in which it is presently engaged and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

C. So long as Occidental shall own MRT, Occidental and its subsidiary, Cities Service Oil and Gas Corporation, shall not enter into any new agreement(s) for sale of natural gas to MRT.

III

It is further ordered that:

A. If Occidental has not divested MRT within the 12-month period, Occidental shall consent to the appointment of a trustee in any action that the Federal Trade Commission may bring pursuant to section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45 (*l*), or any other statute enforced by the Commission. In the event the court declines to appoint a trustee, Occidental shall consent to the appointment of a trustee by the Commission pursuant to this Order.

B. If a trustee is appointed by a court or the Commission pursuant to paragraph III(A) of the Order, Occidental shall consent to the following terms and conditions regarding the trustee's duties and responsibilities:

1. The Commission shall select the trustee, subject to Occidential's consent, which shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures.

2. The trustee shall have 18 months from the date of appointment to accomplish the divestiture, which shall be subject to the prior approval of the Commission, and if the trustee was appointed by the court, subject also to the prior approval of the court. If, however, at the end of the 18-month period the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission or by the court, if the trustee was appointed by a court.

3. The trustee shall have full and complete access to the personnel, books, records, and facilities of MRT and Occidental shall develop such financial or other information relevant to the assets to be divested as such trustee may reasonably request. Occidental shall cooperate with the trustee and shall take no action to interfere with or impede the trustee's accomplishment of the divestiture.

4. The power and authority of the trustee to divest shall be at the most favorable price and terms available consistent with the Order's absolute and unconditional obligation to divest and the purposes of the divestiture as stated in paragraph II(B). If bona fide offers are received by the trustee from more than one prospective purchaser, the Commission shall determine whether to approve each such purchaser, and the trustee shall divest to the purchaser elected by Occidental from among the purchasers approved by the Commission.

5. The trustee shall serve at the cost and expense of Occidental on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the court or the Commission of the account of the trustee, including fees for his or her services, all remaining monies shall be paid to Occidental and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee divesting MRT.

6. Promptly upon appointment of the trustee and subject to the approval of the Commission, Occidental shall, subject to the Commission's prior approval and consistent with provisions of this Order, execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to cause divestiture.

7. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed for the balance of the 18-month period specified in paragraph III(B)(2) or any extension thereof.

8. The trustee shall report in writing to Occidental and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

C. Occidental shall maintain the viability and marketability of MRT and shall not cause or permit the destruction, removal or impairment of any assets of MRT except in the ordinary course of business and except for ordinary wear and tear. Occidental shall use its best efforts to ensure that MRT continues to be an ongoing, viable

enterprise engaged in the same business in which it is presently engaged.

IV

It is further ordered that, within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until Occidental has fully complied with the provisions of paragraphs II and III of this Order, Occidental shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying or has complied with those provisions. Occidental shall include in compliance reports, among other things that are required from time to time, a full description of contacts or negotiations for the divestiture of MRT, including the identity of all parties contacted. Occidental also shall include in its compliance reports copies of all written communications to and from such parties, and all internal memoranda, reports and recommendations concerning divestiture.

V

It is further ordered that for a period commencing on the date this Order becomes final and continuing for ten (10) years from and after the date this Order becomes final, Occidental shall cease and desist from acquiring, without the prior approval of the Federal Trade Commission, directly or indirectly, through subsidiaries or otherwise, assets used or previously used by (and still suitable for use by), any interest in or the whole of any substantial part of the stock or share capital of any natural gas transmission line located in whole or part in the St. Louis MSA; these prohibitions shall not relate to participation in any joint venture in which Occidental or MidCon is a participant on the date of service of this Order or to the construction of new facilities.

VI

It is further ordered that for the purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice to Occidental and MidCon made to its principal office, Occidental and MidCon shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Occidental and MidCon relating to any matters contained in this Order; and

B. Upon five days notice to Occidental and MidCon and without restraint or interference from them, to interview officers or employees of Occidental and MidCon who may have counsel present, regarding such matters.

VII

It is further ordered that Occidental shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change that may affect compliance obligations arising out of the Order.

Analysis To Aid Public Comment

The Federal Trade Commission has accepted for public comment from Occidental Petroleum Corporation and MidCon Corp. an agreement containing consent order. This agreement has been placed on the public record for sixty days for reception of comments from interested persons.

Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's order.

The Commission's investigation of this matter concerns the February 1986 acquisition by Occidental Petroleum Corporation ("Occidental") of the stock of MidCon Corp. ("MidCon"). Occidental is a producer of natural gas. MidCon owns an extensive natural gas transmission system that transports gas from the natural gas producing areas of the country to various consuming areas. One pipeline subsidiary of MidCon, Mississippi River Transmission Corporation ("MRT"), supplies gas to the St. Louis area. Another MidCon pipeline subsidiary, Natural Gas Pipeline Company of America ("NGPL") supplies gas to various markets in Illinois, including Chicago. MidCon owns a number of additional pipeline subsidiaries, including United Gas Pipeline Company ("UGPL") which supplies markets in Louisiana.

The agreement containing consent order would, if issued by the Commission, settle the complaint that alleges an anticompetitive effect in the St. Louis market. The potential for such an anticompetitive effect is described in the United States Department of Justice, 1984 Merger Guidelines, 2 Trade Reg. Rep. (CCH) 14,490 (1984), as follows:

4.23 Evasion of Rate Regulation

Non-horizontal mergers may be used by monopoly public utilities subject to rate regulation as a tool for circumventing that regulation. The clearest example is the acquisition by a regulated utility of a supplier of its fixed or variable inputs. After the merger, the utility would be selling to itself and might be able arbitrarily to inflate the prices of internal transactions. Regulators may have great difficulty in policing these prices, particularly if there is not an independent market for the product (or service) purchased from the affiliate. As a result, inflated prices could be passed along to consumers as "legitimate" costs. In extreme cases, the regulated firm may effectively preempt the adjacent market, perhaps for the purpose of suppressing observable market transactions, and may distort resources allocation in that adjacent market as well as in the regulated market. In such cases, however, the Department recognizes that genuine economies of integration may be involved. The Department will consider challenging mergers that create substantial opportunities for such abuses.[1]

If MidCon pipelines have market power in any consumer market, Occidental's acquisition of MidCon would be analogous to the situation set out in the Department of Justice Guidelines for the following reasons: First, as a result of the acquisition, Occidental will be able to internally transfer large quantities of deregulated natural gas to MidCon pipelines. Second, although MidCon's interstate pipeline subsidiaries are subject to Federal Energy Regulatory Commission rate-of-return regulation, Occidental is likely to be able to inflate the price of the gas it sells to its own pipelines in a manner that escapes regulatory strictures. Third, MidCon will be able to pass along inflated prices to customers in any market where MidCon pipelines have market power. Fourth, and finally, MidCon is likely to have market power in the St. Louis area because MidCon pipelines are the sole suppliers of the area. MRT, one of MidCon's interstate pipeline subsidiaries, is the sole supplier to the local gas distribution company for

[1] The Federal Trade Commission gives considerable weight to the Department of Justice Merger Guidelines in its evaluation of mergers and acquisitions. *See* Statement of Federal Trade Commission Concerning Horizontal Mergers, 2 Trade Reg. Rep. (CCH) ¶ 4516 (1982).

the city of St. Louis. MRT is not required by state or federal law to transport gas for others and alternative transportation facilities for natural gas into the St. Louis area are not available.

Because of the conditions described above, the Commission has reason to believe that the acquisition would have an anticompetitive effect in the St. Louis market that violates section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act, unless an effective remedy eliminates the anticompetitive effect. The order accepted for public comment contains provisions requiring the divestiture (sale) of MRT within twelve months of the date that the order becomes final. If Occidental fails to divest MRT within the twelve-month period, Occidental shall consent to the appointment of a trustee, who would have eighteen additional months to divest MRT. Any proposal to divest MRT must be approved by the Federal Trade Commission after the divestiture proposal has been placed on the public record for reception of comments from interested persons. Prior to divestiture, the order prohibits Occidental from entering into any new agreements for the sale of natural gas to MRT.

For a period of ten years from its effective date, the order would also prohibit Occidental from acquiring, without prior Commission approval, any interest in any natural gas transmission line located in whole or in part in the St. Louis area.

It is anticipated that the provisions of the order would resolve the competitive problems alleged in the complaint. After divestiture, MRT would be an independent company serving the St. Louis area and would have an incentive to buy gas at the lowest possible prices.

The purpose of this analysis is to invite public comment concerning the consent order and any other aspect of the acquisition. In this regard, the agreement containing consent order makes clear that nothing in the agreement shall bar the Commission from further investigation or from issuing an administrative complaint concerning any other aspect of the acquisition.

This analysis is not intended to constitute an official interpretation of the agreement and order or to modify its terms in any way.

Emily H. Rock,

Secretary.

[FR Doc. 86-5719 Filed 3-14-86 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 150

[Docket No. 86N-0019]

Fruit Jelly and Fruit Preserves and Jams; Advance Notice of Proposed Rulemaking on the Possible Amendment of the U.S. Standards of Identity and Establishment of U.S. Standards of Quality and Fill of Container

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering interested persons an opportunity to review the Codex Standard for Jams (Fruit Preserves) and Jellies (Codex Standard 79-1981) (Codex standard) developed by the Codex Alimentarius Commission and to comment on the desirability of and need for amending the U.S. standards of identity and establishing U.S. standards of quality and fill of container for these foods to achieve consistency with the Codex standard. The Codex standard was submitted to the United States for consideration for acceptance. If the comments received do not support the need to amend the U.S. standards of identity and establish U.S. standards of quality and fill of container for fruit jelly and fruit preserves and jams, FDA will not propose their amendment or establishment .

DATE: Comments by May 16, 1986.

ADDRESS: Written comments, data, or other information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Howard A. Anderson, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-485-0118.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The program has developed a number of Codex standards, among which is the Codex standard for Jams (Fruit Preserves) and Jellies (Codex Standard 79-1981).

As a member of the Codex Alimentarius Commission, the United States is obligated to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341) or to appropriately revise an existing standard to incorporate the provisions within the U.S. standard. At present the United States has standards of identity for fruit jelly (21 CFR 150.140) and fruit preserves and jams (21 CFR 150.160) which differ in some respects from the Codex standard. There are no U.S. standards of quality and fill of container for these foods.

Under the procedure prescribed in 21 CFR 130.6(b)(3), FDA is providing an opportunity for review and informal comment on: (1) The desirability of and need for amending the U.S. standards of identity and establishing U.S. standards of quality and fill of container for fruit jelly and fruit preserves and jams, (2) the specific provisions of the Codex standard, (3) additional or different requirements that should be in the U.S. standards, and (4) any other pertinent points.

FDA advises that if comments received do not support the need to amend the U.S. standards of identity or establish U.S. standards of quality and fill of container, no amendment or new standards will be proposed. If this decision is reached, FDA will inform the Codex Alimentarius Commission of the differences between the Codex and U.S. requirements and that imported foods may move freely in interstate commerce in this country, providing they comply

with the applicable U.S. laws and regulations which include the U.S. standards of identity for fruit jelly and fruit preserves and jams.

Certain provisions of the Codex standards may not be consistent with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, certain basic labeling requirements such as declaration of the net quantity of contents, name of manufacturer and country of origin, and other factors. These factors are not considered a part of U.S. food standards under section 401 of the act, rather, they are dealt with under the authority of other sections of the act.

For the benefit of interested persons who may wish to submit comments relative to this notice, FDA points out that the following major differences exist between the Codex standard and the U.S. standards for fruit jelly and fruit preserves and jams:

(1) *Fruit Ingredients.* The Codex standard in sections 2.1.1 and 2.1.2 states that fruit jelly and fruit preserves and jams are prepared from a suitable fruit ingredient. Section 2.2.1 of the Codex standard states that fruit means all recognized fruits and those vegetables recognized as suitable in making jams, including but not limited to chestnuts, ginger, melon, rhubarb, and tomatoes. The U.S. standards in §§ 150.140(b)(1) and 150.160(b)(1) list 28 fruits for fruit jelly and 34 fruits, including rhubarb and tomatoes, for fruit preserves and jams.

(2) *Optional Ingredients.* The Codex standard provides for the following ingredients not provided for by the U.S. standards: in section 3.1.2 for the addition of herbs and spirituous liquors and for the use of butter, margarine, and other vegetable or animal oils; in 4.2 for the use of mono- and diglycerides of fatty acids of edible oils and dimethyl polysiloxane as antifoaming agents; and in 4.7 for the use of certain firming agents on the fruit ingredient. The Codex standard in section 3.1.2(7) also provides for the optional use of fruit juice or fruit juice concentrates in the case of jams. Of these optional ingredients, the U.S. standards of identity in §§ 150.140(c)(7) and 150.160(c)(7) provide only for the use of safe and suitable antifoaming agents that are not derived from animal fat.

(3) *Fruit Content.* The Codex standard in section 3.2 provides, with certain exceptions, specifications for two levels of fruit (or fruit juice) content for both fruit jelly and fruit preserves and jams. Specification A (3.2.1.1) requires not less than 45 parts by weight of fruit (or fruit juice) ingredient, exclusive of any added sugar or optional ingredients, for each 100 parts by weight of the finished product, except that blackcurrant, rosehip, or quince may contain not less than 35 parts, or ginger 25 parts, or cashew apple 23 parts, or passionfruit 8 parts. Specification B (3.2.1.2) requires not less than 33 parts by weight of fruit (or fruit juice) ingredient, exclusive of any added sugar or optional ingredients, for each 100 parts by weight of the finished product, except that blackcurrant, rosehip, or quince may contain not less than 25 parts, or cashew apple 16 parts, or ginger 15 parts, or passionfruit 6 parts. The U.S. standard of identity for fruit jelly in § 150.140(d)(1) requires not less than 45 parts by weight of fruit juice ingredient to each 55 parts by weight of the saccharine ingredient. The U.S. standard of identity for fruit preserves and jams in § 150.160(d)(1), requires not less than 47 parts by weight of fruit ingredient for Group I fruits, or permitted combination thereof, as specified in § 150.160(b)(1), and not less than 45 parts by weight of fruit ingredient for all other fruits (Group II) to each 55 parts by weight of the saccharine ingredient.

(4) *Mixtures of Fruits.* The Codex standard in section 3.2.2 requires, with limited exceptions, that the first named fruit in a two-fruit product be not less than 50 percent nor more than 75 percent of the total fruit content (3.2.2.1); in a three-fruit product, not less than 33⅓ percent nor more than 75 percent of the total fruit content (3.2.2.2); and in a four- or more fruit product, not less than 25 percent nor more than 75 percent of the total fruit content (3.2.2.3). There are no compositional requirements in the Codex standard for fruits other than the first named fruit. The U.S. standards in §§ 150.140(b)(2) and 150.160(b)(2) require, with limited exceptions, that each fruit in such mixed fruit products be not less than 20 percent of the weight of the combined fruits.

(5) *Conserve.* The Codex standard in section 7.1.1 recognizes the name "conserve" as an optional name for "preserve" or "jam." The U.S. standard does not recognize "conserve" as a permitted name for this food.

(6) *Labeling.* The Codex standard in section 7.1.1(a) provides for the labeling of products meeting Specification A as "Extra jam," "High fruit jam," or "Jam" (or "Jelly," "Preserve," or "Conserve," as appropriate). The Codex standard in section 7.1.1(b) provides for the labeling of products meeting Specification B as "Low fruit jam," "Light jam," "Jam", or "Fruit spread" (or "Jelly," "Preserve," or "Conserve," as appropriate). The U.S. standards of identity for fruit jelly and fruit preserves and jams in §§ 150.140(e)(1) and 150.160(e)(1) provide for the labeling of products as "Jelly," "Preserve," or "Jam," and when the fruit ingredient is a combination of two, three, four, or five fruits (or fruit juices), the name is "Jelly" or "Preserve" or "Jam" followed by the words "Mixed fruit" or by the names or synonyms of the fruit (or fruit juice) ingredients as designated by the respective standards.

(7) *Percentage Labeling.* The Codex standard in section 7.1.3 requires percentage labeling of the fruit ingredient(s). The U.S. standards have no such requirement.

(8) *Compliance.* The Codex standard specifies analytical methods by which compliance with certain provisions would be determined. In making such determinations, FDA prefers to rely on methods of analysis recognized by the Association of Official Analytical Chemists.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subjects in 21 CFR Part 150

Food standards, Fruits.

The Codex standard under consideration is as follows:

CODEX STAN 79–1981—CODEX STANDARD FOR JAMS (FRUIT PRESERVES) AND JELLIES[1]

(Wolrld-wide Standard)

1. *SCOPE.*

1.1 This standard applies to a class of fruit spreads commonly known as jams and jellies and which may be prepared from single fruits or from two or more fruits.

1.2 The distinguishing characteristics of the product are:

(a) a substantial amount of fruit ingredient is required in the formulation; and

(b) the end product has a relatively high soluble solids value.

1.3 The terms "jams" and "preserves" are frequently used interchangeably. "Jellies" are differentiated from jams in that the fruit ingredient consists of the juice that has been extracted from whole fruits and clarified by filtration or other means.

1.4 This standard does not apply to:

(a) Products prepared with non-carbohydrate sweeteners and which are clearly intended or labelled as intended for diabetic or dietetic use; or

(b) Products with a low sugar content; or

(c) Products prepared from citrus fruit, commonly referred to as marmalade, which products are covered by the "Codex

[1] Formerly CAC/RS 79–1976.

Recommended International Standard for Citrus Marmalade" (CODEX STAN. 80–1981); or

(d) Products clearly intended and marked as for manufacturing use.

2. *DESCRIPTION.*

2.1 *Product Definitions.*

2.1.1 "Jam" or "Preserve" or "Conserve" is the product prepared from a suitable fruit ingredient (as defined in 2.2.2.1):

(a) which may be whole fruit, pieces of fruit, fruit pulp, or fruit puree; and

(b) with or without fruit juice or concentrated fruit juice as optional ingredient(s); and

(c) mixed with a carbohydrate sweetner, with or without water; and

(d) processed to a suitable consistency.

2.1.2 "Jelly" is the product prepared from a suitable fruit ingredient (as defined in 2.2.2.2):

(a) which is practically free from suspended fruit particles; and

(b) mixed with a carbohydrate sweetener, with or without water; and

(c) processed to a semi-solid consistency.

2.2 *Other Definitions.*

2.2.1 "Fruit" means all of the recognized fruits and those vegetables recognized as suitable in making jams, including but not limited to chestnuts, ginger, melon, rhubarb, tomato.

2.2.2 "Fruit ingredient" means:

2.2.2.1 *In the case of jams, preserves or conserves* the product:

(a) prepared from fruit which is fresh, frozen, canned, concentrated or otherwise processed or preserved; and

(b) prepared from fruit which is substantially sound, wholesome, of suitable ripeness and clean; not deprived of any of its main constituents, except that it is trimmed, sorted and otherwise treated to remove objectionable bruises, stems, toppings, tailings, cores, pits (stones), and may or may not be peeled. In the case of ginger, rhubarb, and melon, it means respectively the drained edible and cleaned root of ginger (Zingiber officinale) preserved in syrup, trimmed rhubarb stems, and melons with seeds, stem, and rind removed; and

(c) containing all natural soluble solids (extractives) except for those lost during preparation under good manufacturing practices.

2.2.2.2 *In the case of jelly* the juice or aqueous extract:

(a) obtained from fruit which is fresh, frozen, canned, concentrated, or otherwise processed or preserved; and

(b) prepared from fruit which is substantially sound, wholesome, clean, and which is trimmed, sorted and otherwise treated to remove objectionable material; and

(c) prepared by removal of all, or practically all, of this insoluble solids and may be concentrated by the removal of water.

2.2.3 "Fruit Pulp" means the edible portions of the fruit, mashed, or cut into pieces, but not reduced to a puree.

2.2.4 "Fruit Puree" means fruit ingredient finely divided by sieving, screening, or other mechanical means.

2.2.5 "Soluble Solids" means percent by weight of soluble solids as determined by the refractometric method corrected to 20°C using the International Sucrose Scale but making no correction for insoluble solids or acids.

3. *Essential Composition and Quality Criteria.*

3.1 *Composition.*

3.1.1 Basic Ingredients.

(1) Fruit ingredient as defined in 2.2.2.

(2) One or more of the carbohydrate sweetener(s) (sugar(s)) defined by the Codex Alimentarius Commission, including sucrose, dextrose, invert sugar, invert sugar syrup, fructose, glucose syrup, dried glucose syrup.

3.1.2 Optional Ingredients.

(1) Citrus juice.

(2) Herbs, spices (including powdered ginger) and vinegar.

(3) Essential oils.

(4) Spirituous liquors.

(5) Butter, margarine, other edible vegetable or animal oils (used as anti-foaming agents).

(6) Honey.

(7) Fruit juice or fruit juice concentrates in the case of jams. In Labrusoa grape jam, grape juice and grape juice concentrate may constitute a part of the required fruit content.

3.2 *Formulation.*

3.2.1 Fruit Content.

3.2.1.1 Specification A.

The product shall be manufactured from not less than 45 parts, by weight, of original fruit ingredient, exclusive of any added sugar or optional ingredients for each 100 parts, by weight, of finished product except for the following:

	Parts
Blackcurrant, rosehip, quince	35
ginger	25
cashew apple	23
passion fruit	8

When concentrated or diluted fruit ingredient is used, the formulation is based upon the equivalent of single strength fruits as determined by the relationship between the soluble solids of the concentrate or the dilution and the soluble solids of the natural (single strength) fruit.

3.2.1.2 Specification B.

The product shall be manufactured from not less than 33 parts, by weight, of original fruit ingredient, exclusive of any added sugar or optional ingredients used in the preparation of the fruit ingredient, for each 100 parts, by weight, of finished product except for the following:

	Parts
Blackcurrant, rosehip, quince	25
ginger	15
cashew apple	16
passionfruit	6

When concentrated or diluted fruit ingredient is used, the formulation is based upon the equivalent of single strength fruits as determined by the relationship between the soluble solids of the concentrate or the dilution and the soluble solids of the natural (single strength) fruit.

3.2.2 Mixtures of fruits.

3.2.2.1 Two fruits.

When a jam or jelly contains a mixture of two fruits, the first-named fruit shall contribute not less than 50 percent, nor more than 75 percent, of the total fruit content except when melon, passionfruit, lemon, papaya, or ginger is one of the two fruits. When melon or papaya is a constituent it may be present up to a level of 95 percent and where pineapple, passionfruit, lemon, and ginger are present they shall be present at a level of not less than 5 percent with the major ingredient being permitted at a level greater than 75 percent.

3.2.2.2 Three fruits.

When a jam or jelly contains a mixture of three fruits, the first-named fruit shall contribute not less than 33⅓ percent, nor more than 75 percent, of the total fruit content.

3.2.2.3 Four or more fruits.

When a jam or jelly contains a mixture of four or more fruits, the first-named fruit shall contribute not less than 25 percent nor more than 75 percent, of the total fruit content.

3.3 *Soluble solids* (finished product).

The soluble solids value of the finished product shall not be less than 65 percent (see sub-sections 7.1.3 and 8.2.1).

3.4 *Quality criteria.*

3.4.1 General requirements.

The end product shall be viscous or semi-solid, have a colour and flavour normal for the type or kind of fruit ingredient taking into consideration any flavour imparted by optional ingredients. Characteristic colour shall not, however, be a requirement where the colour of the product has been adjusted by use of permitted colouring agents. It shall be reasonably free from defective materials normally associated with the fruits.

In the case of jellies, the product shall be at least reasonably clear or transparent and shall contain no apparent defects.

Seeds, in the case of berries and passionfruit, are a natural fruit component and are not considered defects unless the product is presented as "Seedless".

3.4.2 Defects and allowances—Jams (Preserves).

Based on a sample unit of 450 g the product shall have not more than the following:

(a) *Harmless extraneous plant material.* (consisting of plant material common to specific fruit and includes leaves, full caps, stems over 10 mm in length and sepal bracts aggregating an area of 5 mm^2 or larger.)	2 pieces.
(b) *Pit (Stone)* (whole pit or stone in fruits such as cherries that are normally pitted; or a piece of pit of approximately one-half pit.)	1 piece.
(c) *Pit fragments* (a piece of pit less than the equivalent of one-half pit and which weighs at least 5 milligrammes.)	2 pieces.
(d) *Damaged*	5 pieces.

(a piece of fruit that is blemished, discoloured, or bruised by pathological or other means to the extent that it is materially affected.)

(e) *Mineral impurities* (see 8.2.4)

Strawberry jam (percent by weight). 0.04.

Other (percent by weight)..... 0.01.

3.4.3 Classification of "defectives".

A container that fails to meet one or more of the applicable quality requirements, as set out in sub-sections 3.4.1 and 3.4.2 shall be considered a "defective".

3.4.4 Lot Acceptance.

A lot will be considered as meeting the applicable quality requirements referred to in sub-section 3.4.1 when the number of "defectives", as defined in sub-section 3.4.3, does not exceed the acceptance number (c) of the appropriate sampling plan (AQL-6.5) in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (Ref. No. CAC/RM 42-1969).

	Maximum level
4. *Food Additives.*	
4.1 *Acidifying and pH Regulating Agents*	
4.1.1. Citric acid	Insufficient amount to maintain the pH at a level of 2.8–3.5.
4.1.2. Malic acid	
4.1.3. Lactic acid	
4.1.4. L-tartaric acid	
4.1.5. Fumaric acid	L-tartaric acid and fumaric acid and their salts expressed as the acid, 3g/kg.
4.1.6 Sodium, potassium and calcium salts of any of the acids listed in 4.1.1 through 4.1.5	
4.1.7 Sodium and potassium carbonates	
4.1.8 Sodium and potassium bicarbonates	
4.2 *Anti-Foaming Agents.*	
4.2.1. Mono-and diglycerides of fatty acids of edible oils.	Not more than is necessary to inhibit foaming.
4.2.2. Dimethyl polysiloxane	10 mg/kg.
4.3 *Thickening Agents.*	
4.3.1. Pectin (non-amidated)	Limited by GMP.
4.3.2. Pectin (amidated)	5 g/kg.
4.4 *Colours.*	
4.4.1. Erythrosine 45430	200 mg/kg singly or in combination.
4.4.2 Amaranth 16185 [1]	
4.4.3 Fast Green FCF 42053	
4.4.4 Ponceau 4R 16255	
4.4.5 Tarazine 19140	
4.4.6 Sunset Yellow FCF 15985	
4.4.7 Brilliant Blue FCF 42090	
4.4.8 Indigo Carmine (Indigotin) 73015	
4.4.9 Caramel colours (not made by the Ammonia Sulphite process)	
4.10 Caramel colours (made by the Ammonia Sulphite process) [1]	
4.4.11 Cholorophylls 75810	
4.4.12 Beta-apo-8'-carotenal 40820	
4.4.13 Ethyl ester of beta-apo-8'-carotenoic acid 40825	
4.4.14 Canthaxanthine	
4/5 *Preservatives.*	
4.5.1. Sodium benzoate	1 g/kg, singly or in combination.
4.5.2 Sorbic acid and potassium salt	
4.5.3 Esters of parahydroxy benzoic acid [2]	
4.5.4. Sulphur dioxide (as a carryover from raw material).	100 mg/kg—based on the end product.
4.6 *Flavours*	
4.6.1. Natural fruit essences of the named fruit(s) in the product.	
4.6.2 Natural mint flavour	
4.6.3 Natural cinnamon flavour	
4.6.4 Vanilla and vanillin (in chestnut preserves only)	Limited by CMP
4.7. *Firming Agents* (for use only on the fruit).	
4.7.1. Calcium bisulphite	200 mg/kg expressed as Ca, singly or in combination.
4.7.2 Calcium carbonate	
4.7.3 Calcium chloride	
4.7.4 Calcium lactate	
4.7.5 Calcium gluconate	
4.8 *Antioxidant.*	
4.8.1. L-ascorbic acid—generally	500 mg/kg.
4.8.2. L-ascorbic acid in blackcurrant jam	750 mg/kg.

[1] Temporarily endorsed.
[2] Methyl, ethyl and propyl esters

5. *Hygiene*

5.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the Recommended International Code of Hygienic Practice for Canned Fruit and Vegetable Products (Ref. No. CAC/RCP 2-1969).

5.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

5.3 When tested by appropriate methods of sampling and examination, the product:

(a) shall be free from microorganisms capable of development under normal conditions of storage; and

(b) shall not contain any substances originating from microorganisms in amounts which may represent a hazard to health.

6. *Weights and Measures*

6.1 *Fill of container*

6.1.1 Minimum fill

The container shall be well filled with the product. When packed in rigid containers, the product shall occupy not less than 90% of the water capacity of the container. The water

capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled (see 6.2.3).

6.1.2 Classification of "defectives"

A container that fails to meet the requirement for minimum fill (90 percent container capacity) of 6.1.1 shall be considered a "defective".

6.1.3 Lot Acceptance

A lot will be considered as meeting the requirement of 6.1.1 when the number of "defectives" does not exceed the acceptance number (c) of the appropriate sampling plan (AQL-6.5) in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (Ref. No. CAC/RM 42-1969).

7. *Labeling*

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CODEX STAN. 1-1981) the following specific provisions apply:

7.1 *The name of the food*

7.1.1 The name of the product shall be:

(a) with respect to Specification A:

Extra Jam or High Fruit Jam or Jam	(or Jelly, Preserve or Conserve as appropriate)

(b) with respect to Specification B:

Low Fruit Jam or Light Jam or Jam or Fruit Spread	(or Jelly, Preserve or Conserve as appropriate)

7.1.2 The name of the product may be:

(a) "Creme" for products made from chestnuts.

(b) When any ingredient has been added which imparts to the food the distinctive flavour of the ingredient, the name of the food shall be accompanied by the term "flavoured with X" or "X flavoured", as appropriate. In the case of apple jelly that is coloured green and flavoured with mint, the traditional name "Mint Jelly" may be used.

7.1.3 In all cases the name of the product shall be accompanied by a statement on the label showing the parts of fruit ingredient used in the preparation of 100 parts of finished product. In the case of products with soluble solids levels below 65%, the word "Jam (Preserve, Conserve or Jelly)" may, in accordance with the law and custom of the Country in which the product is sold, be included in the name provided that the name includes appropriate words other than "Jam (Preserve, Conserve or Jelly)" and the name of the fruit or fruits.

7.1.4 The name of the product shall be preceded or followed by the name of the fruit, or fruits, used in order of proportion by weight.

7.1.5 The name of the product may include the name of the variety of fruit (e.g. Victoria Plum Jam) or type descriptions (e.g. Yellow Plum Jam).

7.1.6 The name of the product or fruit may include and adjective describing the character (e.g., Seedless Blackberry Jam).

7.1.7 Jam made from ginger, or pineapple, or figs, with or without the addition of citrus fruit, may be designated "Ginger Marmalade", "Pineapple Marmalade", or "Fig Marmalade" if such product is customarily so described in the country in which it is sold.

7.2 *List of ingredients*

7.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-sections 3.2(b) and (c) of the General Standard for the Labelling of Prepackaged Foods (Ref. CODEX STAN. 1-1981).

7.2.2 If ascorbic acid is added to preserve colour, its presence shall be declared in the list of ingredients as ascorbic acid.

7.3 *Net Contents*

The net contents shall be declared by weight in either the metric system ("Systéme international" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

7.4 *Name and Address*

The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

7.5 *Country of Origin*

The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

7.6 *Lot Identification*

Each container shall be embossed or otherwise permanently marked in code or in clear to identify the producing factory and the lot.

8. *Methods of Sampling, Analysis and Examination*

8.1 *Sampling*

In accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (Ref. No. CAC/RM 42-1969).

8.2 *Test Procedures*

8.2.1 Soluble Solids

Soluble solids shall be determined by the refractometric method, disregarding any adjustment of water insoluble solids and invert sugars, in accordance with the AOAC Method. (Reference: Official Methods of Analysis of the Association of Official Analytrical Chemists (1975) XII, 22.024 and 31.011).

8.2.2 Determination of Calcium in Jams

In accordance with the FAO/WHO Codex Alimentarius Recommended Method (Ref. No. CAC/RM 38-1970) als shown in Methods of AOAC (1975) XII, 32.014 through 32.016 (complexometry).

8.2.3 *Method of Determination of Water Capacity of Containers*

In accordance with the FAO/WHO Codex Alimentarius Recommended Method (Ref. No. CAC/RM 46-1972).

8.2.4 Determination of Mineral Impurities

In accordance with the FAO/WHO Codex Alimentarius Recommended Method (Ref. No. CAC/RM 49-1972).

For the convenience of the reader, FDA is also including the text of the existing U.S. standards of identity for fruit jelly and fruit preserves and jams which are as follows:

§ 150.140 Fruit jelly.

(a) The jellies for which definitions and standards of identity are prescribed by this section are the jelled foods each of which is made from a mixture of one or a permitted combination of the fruit juice ingredients specified in paragraph (b) of this section and one or any combination of the optional ingredients specified in paragraph (c) of this section, which meets the specifications in paragraph (d) of this section and which is labeled in accordance with paragraph (e) of this section. Such mixture is concentrated with or without heat. The volatile flavoring materials or essence from such mixture may be captured during concentration, separately concentrated, and added back to any such mixture, together with any concentrated essence accompanying any optional fruit ingredient.

(b)(1) Each of the fruit juice ingredients referred to in paragraph (a) of this section is the filtered or strained liquid extracted with or without the application of heat and with or without the addition of water, from one of the following mature, properly prepared fruits which are fresh, frozen and/or canned:

FACTOR REFERRED TO IN PARAGRAPH (D)(2) OF THIS SECTION

Name of fruit	
Apple	7.5
Apricot	7.0
Blackberry (other dewberry)	10.0
Black raspberry	9.0
Boysenberry	10.0
Cherry	7.0
Crabapple	6.5
Cranberry	9.5
Damison, damson plum	7.0
Dewberry (other than boysenberry, loganberry, and youngberry)	10.0
Fig	5.5
Gooseberry	12.0
Grape	7.0
Grapefruit	11.0
Greengage, greengage plum	7.0
Guava	13.0
Loganberry	9.5
Orange	8.0
Peach	8.5
Pineapple	7.0
Plum (other than damson, greengage, and prune)	7.0
Pomegranate	5.5
Pricky pear	11.0
Quince	7.5
Raspberry, red raspberry	9.5
Red currant, currant (other than black currant)	9.5
Strawberry	12.5
Youngberry	10.0

(2) The permitted combinations are of two, three, four, or five of the fruit juice ingredients specified in paragraph (b)(1) of this section, the weight of each is not less than one-fifth of the weight of the combination. Each such fruit juice ingredient in any such combination is an optional ingredient.

(c) The following safe and suitable optional ingredients may be used:

(1) Nutritive carbohydrate sweeteners.
(2) Spice.
(3) Acidifying agents.
(4) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit juice ingredient.
(5) Buffering agents.
(6) Preservatives.
(7) Antifoaming agents except those derived from animal fats.
(8) Mint flavoring and artificial green coloring, in case the fruit juice ingredient or combination of fruit juice ingredients is extracted from apple, crabapple, pineapple, or two or all of such fruits.
(9) Cinnamon flavoring, other than artificial flavoring, and artificial red coloring in case the fruit juice ingredient or combination of fruit juice ingredients is extracted from apple or crabapple or both such fruits.

(d) For the purposes of this section:

(1) The mixture referred to in paragraph (a) of this section shall contain not less than 45 parts by weight of the fruit juice ingredients as measured in accordance with paragraph (d)(2) of this section to each 55 parts by weight of saccharine ingredient as measured in accordance with paragraph (d)(4) of this section.

(2) Any requirement with respect to the weight of any fruit juice ingredient, whether prepared from concentrated, unconcentrated, or diluted fruit juice means the weight determined by the following method: (i) Determine the percent of soluble solids in such fruit juice ingredient by the method for soluble solids referred to in paragraph (d)(3) of this section: (ii) multiply the percent so found by the weight of such fruit juice ingredient; (iii) divide the result by 100; (iv) subtract from the quotient the weight of any added saccharine ingredient solids or other added solids; and (v) multiply the remainder by the factor for such fruit juice ingredient prescribed in paragraph (b) of this section. The result is the weight of the fruit juice ingredient.

(3) The soluble-solids content of the finished jelly is not less than 65 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 31.011, under "Solids by Means of Refractometer—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(4) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.

(e)(1) The name of each jelly for which a definition and standard of identity is prescribed by this section is as follows:

(i) In case the jelly is made with a single fruit juice ingredient, the name is "Jelly", preceded or followed by the name or synonym whereby the fruit from which such fruit juice ingredient was extracted is designated in paragraph (b) of this section.

(ii) In case the jelly is made with a combination of two, three, four, or five fruit juice ingredients, the name is "Jelly", preceded or followed by the words "Mixed fruit" or by the names or synonyms whereby the fruits from which the fruit juice ingredients were extracted are designated in paragraph (b) of this section, in the order of predominance, if any, of the weights of any such fruit juice ingredients in the combination.

(2) Each of the optional ingredients specified in paragraphs (b) and (c) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(i) The name(s) of the fruit or fruits used may be declared without specifying the particular form of the fruit or fruits used.

(ii) When the optional ingredients listed in paragraphs (c) (3), (4), and (5) of this section are declared on the label, the declaration may be followed by the statement "Used as needed" on all jellies to which they are customarily, but not always, added to compensate for natural variations in the fruit juice ingredients used.

§ 150.160 Fruit preserves and jams.

(a) The preserves or jams for which definitions and standards of identity are perscribed by this section are the viscous or semi-solid foods, each of which is made from a mixture composed of one or a permitted combination of the fruit ingredients specified in paragraph (b) of this section and one or any combination of the optional ingredients specified in paragraph (c) of this section which meets the specifications in paragraph (d) of this section, and which is labeled in accordance with paragraph (e) of this section. Such mixture, with or without added water, is concentrated with or without heat. The volatile flavoring material from such mixture may be captured during concentration, separately concentrated, and added back to any such mixture, together with any concentrated essence accompanying any optional fruit ingredient.

(b)(1) The fruit ingredients referred to in paragraph (a) in this section are the following mature, property prepared fruits which are fresh, concentrated, frozen and/or canned:

Group I

Blackberry (other than dewberry), Black raspberry, Blueberry, Boysenberry Cherry, Crabapple, Dewberry (other than boysenberry, loganberry, and youngberry) Elderberry, Grape, Grapefruit, Huckleberry, Loganberry, Orange, Pineapple, Raspberry, Red raspberry, Rhubarb, Strawberry, Tangerine, Tomato, Yellow tomato, Youngberry

Group II

Apicot, Cranberry, Damson, damson plum, Fig, Gooseberry, Greengage, greengage plum, Guava, Nectarine, Peach, Pear, Plum (other than greengage plum and damson plum), Quince, Red currant, currant (other than black currant)

(2) The following combinations of fruit ingredients may be used:

(i) Any combination of two, three, four, or five of such fruits in which the weight of each is not less than one-fifth of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

(ii) Any combination of apple and one, two, three, or four of such fruits in which the weight of each is not less than one-fifth and the weight of apple is not more than one-half of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

In any combination of two, three, four, or five fruits, each such fruit is an optional ingredient. For the purposes of this section the word "fruit" includes the vegetables specified in this paragraph.

(c) The following safe and suitable optional ingredients may be used:

(1) Nutritive carbohydrate sweeteners.
(2) Spice.
(3) Acidifying agents.
(4) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit ingredient.
(5) Buffering agents.
(6) Preservatives.
(7) Antifoaming agents, except those derived from animal fat.

(d) For the purposes of this section:

(1) The mixture referred to in paragraph (a) of this section shall be composed of not less than: (i) In the case of a fruit ingredient consisting of a Group I fruit or a permitted combination exclusively of Group I fruits, 47 parts by

weight of the fruit ingredient to each 55 parts by weight of the saccharine ingredient; and (ii) in all other cases, 45 parts by weight of the fruit ingredient to each 55 parts by weight of the saccharine ingredient. The weight of the fruit ingredient shall be determined in accordance with paragraph (d)(2) of this section, and the weight of the saccharine ingredient shall be determined in accordance with paragraph (d)(5) of this section.

(2) Any requirement with respect to the weight of any fruit, combination of fruits, or fruit ingredient means:

(i) The weight of fruit exclusive of the weight of any sugar, water, or other substance added for any processing or packing or canning, or otherwise added to such fruit.

(ii) In the case of fruit prepared by the removal, in whole or in part, of pits, seeds skins, cores, or other parts; the weight of such fruit, exclusive of the weight of all such substances removed therefrom.

(iii) In the cases of apricots, cherries, grapes, nectarines, peaches, and all varieties of plums, whether or not pits and seeds are removed therefrom; the weight of such fruit, exclusive of the weight of such pits and seeds.

(iv) In case of concentrated fruit, the weight of the properly prepared fresh fruit used to produce such concentrated fruit.

(3) The term "concentrated fruit" means a concentrate made from the properly prepared edible portion of mature fresh or frozen fruits by removal of moisture with or without the use of heat or vacuum, but not to the point of drying. Such concentrate is canned or frozen without the addition of sugar or other sweetening agents and is identified to show or permit the calculation of the weight of the properly prepared fresh fruit used to produce any given quantity of such concentrate. The volative flavoring material or essence from such fruits may be captured during concentration and separately concentrated for subsequent addition to the concentrated fruit either directly or during manufacture of the preserve or jam, in the original proportions present in the fruit.

(4) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.

(5) The soluble-solids content of the finished jam or preserve is not less than 65 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 22.024, under "Soluble Solids by Refractometer in Fresh and Canned Fruits, Jellies, Marmalades, and preserves—Official Final Action," which is incorporated by reference, except that no correction is made for water-insoluble solids. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 100 L St. NW., Washington, DC 20408.

(e)(1) The name of each preserve of jam for which a definition and standard of identity is prescribed by this section is as follows:

(i) If the fruit ingredient is a single fruit, the name is "Preserve" or "Jam", preceded or followed by the name or synonym whereby such fruit is designated in paragraph (b) of this section.

(ii) If the fruit ingredient is a combination of two, three, four, or five fruits, the name is "Preserve" or "Jam", preceded or followed by the words "Mixed fruit" or by the names or synonyms whereby such fruits are designated in paragraph (b) of this section, in the order of predominance, if any, of the weights of such fruits in the combination.

(2) Each of the optional ingredients specified in paragraphs (b) and (c) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(i) The name(s) of the fruit or fruits used may be declared without specifying the particular form of the fruit or fruits used.

(ii) When the optional ingredients listed in paragraphs (c) (3), (4), and (5) of this section are declared on the label, the declaration may be followed by the statement "used as needed" on all preserves or jams to which they are customarily, but not always, added to compensate for natural variations in the fruit ingredients used.

Interested persons may, on or before May 16, 1986, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Each comment should identify the title of the Codex standard and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any comments submitted in support of amending the U.S. standards of identity and establishment of U.S. standards of quality and fill of container for fruit jelly and fruit preserves and jams should be supported by appropriate infomation and data regarding impact on small business consistent with requirements of the Regulatory Flexibility Act (Pub. L. 96-354).

Dated: March 4, 1986.

Robert Scheuplein,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-5702 Filed 3-14-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100, 110 and 165

[CGD3-86-02]

Temporary Regulations, New York Harbor, July 2-5, 1986

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: The Coast Guard is correcting the proposed rule containing the temporary regulations for the Port of New York governing port activities and vessel movement and control during the forthcoming Opsail '86 and International Naval Review, July 2-5, 1986, that appeared in the **Federal Register** of February 19, 1986 (51 FR 6066). This action is necessary to correct typographical errors in certain latitudes and longitudes and to correct an error in identifying boat and spectator anchorages on Chartlet III, Appendix A. For the convenience of the reader, Chartlet III is reproduced in its entirety and relabeled as Chartlet III-change 1.

DATE: Comments on the proposed rule must be received on or before April 7, 1986.

ADDRESSES: Comments should be mailed to Commander, Coast Guard Group New York, Bldg. 109, Governors Island, New York, NY 10004. The comments and other materials referenced in this notice will be available for inspection and copying at the Vessel Movement Office, Bldg. 109, Governors Island, New York. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade T. S. Kuhaneck, Vessel Movement Officer, Commander, Coast Guard Group New York, at (212) 668-7933.

SUPPLEMENTARY INFORMATION: The following corrections are made FR Doc.

86–3215 appearing on page 6066 in the issue of February 19, 1986:

§ 100.35–323 [Corrected]

1. On page 6068, column 3, S 100.35–323(b)(9), line 17, change "73° 58'28" to "73° 57'28"".

2. On page 6068, column 3, S 100.35–323(b)(9), line 19, change "73° 57'55" to "73° 56'55"".

§ 110.T301 [Corrected]

3. On page 6070, column 1, S 110.T301(g)(1), line 9, change "40° 38'06" to "40° 38'36"".

§ 165.T388 [Corrected]

4. On page 6070, column 2, S 165.T388(a), line 6, change "74° 02'27" to "74° 02'11"".

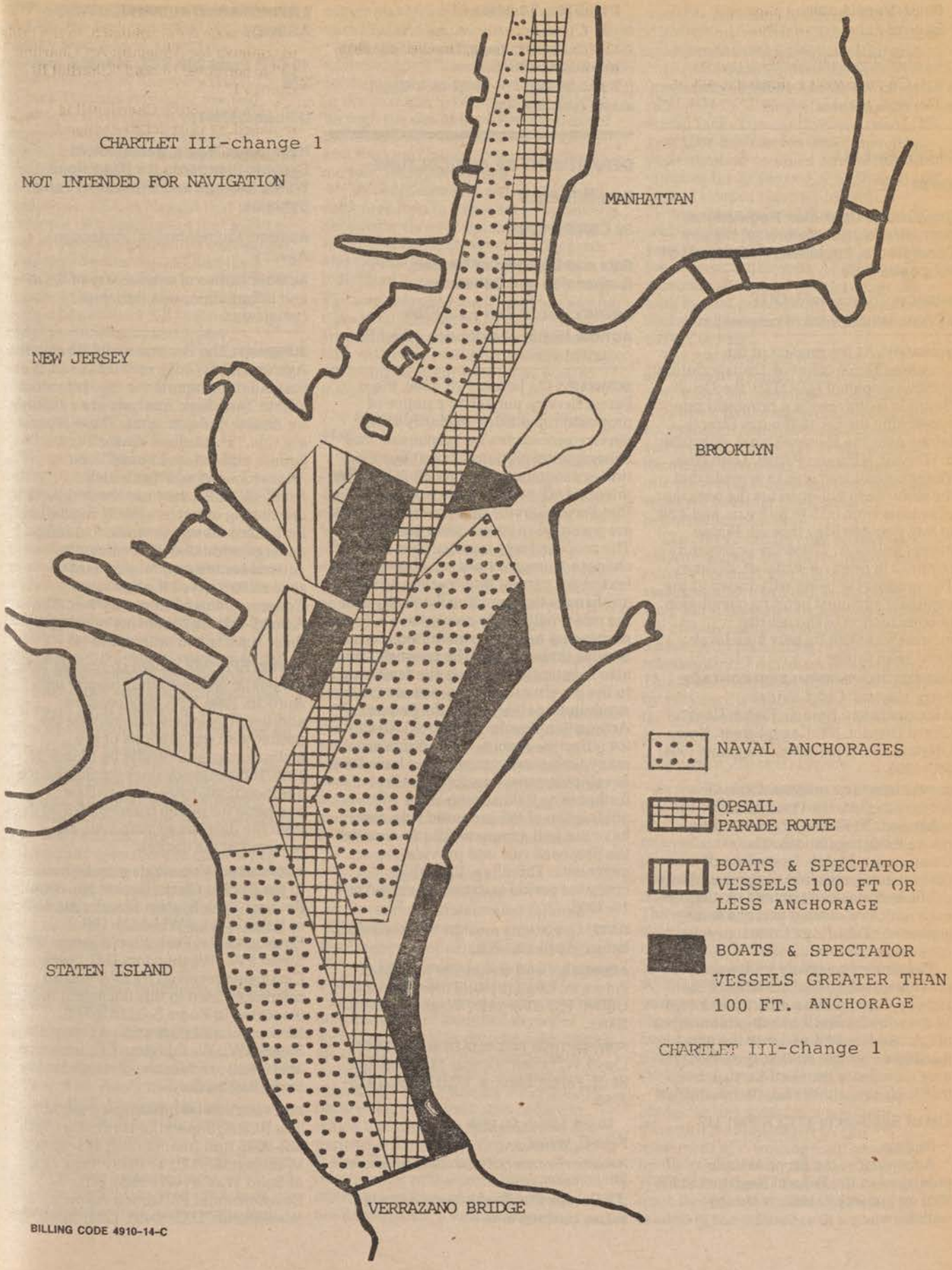
5. On page 6070, column 2, S 165.T388(a), line 8, change "74° 02'50" to "74° 02'27"".

Appendix A—[Corrected]

6. On page 6070, column 3, in the table of contents for Appendix A, "Chartlet III" is corrected to read "Chartlet III-change 1".

7. On page 6073, Chartlet III is replaced by Chartlet III-change 1.

BILLING CODE 4910-14-M



BILLING CODE 4910-14-C

Dated: March 7, 1986.

Paul A. Yost,

Vice Admiral, United States Coast Guard Commander, Third Coast Guard District.

[FR Doc. 86-5809 Filed 3-14-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[08-84-10]

Drawbridge Operation Regulations: Gulf Intracoastal Waterway, Harvey Canal Route, Louisiana; Withdrawal of Proposed Rule

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is withdrawing a proposed rule concerning the LA 18 (Fourth Street) bridge over the Harvey Canal, mile 0.24 in Harvey, Jefferson Parish, Louisiana. The proposed rule was to provide that the draw need not open for the passage of vessels from 6:15 to 8:15 a.m. and 4:30 to 5:45 p.m. Monday through Friday except holidays. The draw is presently required to open on signal at all times. The proposal is being withdrawn at the applicant's request pending completion of construction of the nearby expressway with its new high level fixed span bridge.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, Eighth Coast Guard District, 500 Camp Street, New Orleans, LA 70130-3396, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: On January 7, 1985, the Coast Guard published (50 FR 860) a proposal to revise these regulations. The Commander, Eighth Coast Guard District also published the proposal in a public notice dated January 18, 1985. In each notice interested persons were given until February 21, 1985, to submit comments.

The new expressway bridge will provide an additional crossing of the Harvey Canal just 0.6 mile from the LA 18 drawbridge and a substantial number of LA 18 users will divert to the new fixed span bridge. At that time, LDOTD may reevaluate the need for rush hour traffic closures of the LA 18 drawbridge.

List of Subjects in 33 CFR Part 117

Bridges.

Accordingly, the proposed rule published in the **Federal Register** (50 FR 860) on January 7, 1985, is hereby withdrawn.

Dated: March 3, 1986.

Clyde T. Lusk, Jr.,

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

[FR Doc. 86-5807 Filed 3-14-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Sale and Disposal of Timber; Suspension and Debarment

AGENCY: Forest Service, USDA.

ACTION: Notice of extension of public comment period.

SUMMARY: On January 23, 1986, the Forest Service published a notice of proposed rulemaking to clarify Forest Service procedures for suspension and debarment of National Forest System timber sale purchasers (51 FR 3158). The intended effect of the rule is to ensure that Forest Service timber sale contracts are awarded to responsible purchasers. The proposed rule incorporates editorial changes to improve overall clarity of the text of the current interim rule, as well as changes that specifically clarify that the rule would apply solely to suspension and debarment from Forest Service timber sales. The proposed rule also substantially adopts the revisions to the governmentwide procurement regulations published as the Federal Acquisition Regulations (FAR), 48 CFR 9.4 (effective April 1, 1984). Because many timber sales purchasers have been developing operating plans for the forthcoming field season since publication of the proposed rule, they have not had adequate time to consider the proposed rule and provide comments. Therefore, the public comment period is extended until April 18, 1986.

DATE: Comments must be received on or before April 18, 1986.

ADDRESS: Send comments to R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Olson, Timber Management Staff, Forest Service, USDA, (202) 475-3758.

Dated: March 10, 1986.

Peter C. Myers,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 86-5716 Filed 3-14-86; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 262, 264, 265, and 270

[FRL No. 2979-7]

Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of data and information; solicitation of comments.

SUMMARY: The Environmental Protection Agency (EPA) today notifies the public that the draft reports for the Hazardous Waste Tank Risk Analysis are available for review and comment. These reports are title, "Hazardous Waste Tank Failure and Release Model" and "Hazardous Waste Tank Risk Analysis." EPA may use these reports in developing or implementing regulations for hazardous waste tanks, including underground tanks that cannot be entered for inspection, pursuant to section 3004(w) of the Resource Conservation and Recovery Act. The Agency solicits comments relating to these reports and other matters.

DATES: EPA will accept comments from the public on these draft reports until April 16, 1986. EPA may conduct additional anaylses and provide the docket with descriptions of the methodology and results by March 31 1986. If the Agency does complete such additional analyses, they will be available for public comment for 30 days from the date the descriptions are received in the docket.

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. 3004, Revised Tank System Standards), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments received by EPA and all references used in this document may be inspected in Room S-212(C), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, from 9:00 am to 4:00 pm, Monday through Friday, excluding holdiays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline, at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, D.C., or Betsy Tam, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2791.

SUPPLEMENTARY INFORMATION: On June 26, 1985, the Environmental Protection Agency proposed to amend its regulations under the Resource Conservation and Recovery Act (RCRA) for tank systems storing or treating hazardous waste (50 FR 26444). These proposed regulations would revise substantially and would supplement existing regulations for hazardous waste tanks. In the preamble to the proposed regulations, EPA explained that it would develop a risk assessment that might be used in developing the final regulations.

Among the alternatives that the Agency discussed in the preamble to the proposed regulation were technical approaches such as full secondary containment, partial secondary containment, ground water monitoring, leak testing, and corrosion protection. In addition, the Agency solicited public comment on alternative regulatory strategies, such as national risk-based standards, minimum Federal performance standards, banning underground tanks, and forced retirement of underground tanks (50 FR 26451; June 26, 1985).

The Agency has developed a risk assessment methodology in order to examine these regulatory alternatives and has obtained preliminary results. Today the Agency is making the methodology and preliminary results available for public comment. The Agency has not decided whether to use the risk assessment in developing the final hazardous waste tank regulations or, if so, in what manner to use it.

One use to which the analysis may be put is to serve as guidance for implementing a risk-based variance or waiver from otherwise applicable standards. The proposed regulations contained provisions for such waivers at § 264.193(i) and 265.193(f). The risk analysis may also serve in other ways, such as supporting differences in regulatory requirements, or in the dates upon which requirements must be met, based upon the relative risks presented by differences in tank systems, such as age or size.

Methodology and Preliminary Results of the Risk Analysis

In order to examine the risks associated with hazardous waste tanks, the risk analysis examines the results of the Tank Risk Analysis Model (TRAM). The Tank Risk Analysis Model is composed of the following three component sub-models:

- The Hazardous Waste Tank Failure (HWTF) model, a Monte Carlo simulation model that predicts failure events for hazardous waste tanks and estimates release volumes associated with these failure events;
- A subsurface transport and environmental fate model that simulates contaminant transport and degradation in the unsaturated and saturated zones through the use of modified versions of the McWhorter-Nelson Wetting Front and Prickett-Lonnquist Random Walk models, respectively; and
- An exposure and risk model that estimates human exposure to hazardous chemicals via contaminated drinking water and calculates non-carcinogenic and carcinogenic risk to an exposed individual.

The analysis uses the TRAM to examine risks from different tank types (above-ground, underground, etc.), different tank materials (carbon steel, fiberglass, etc.), and different hazardous waste streams.

The Hazardous Waste Tank Failure Model

The Hazardous Waste Tank Failure (HWTF) Model is a Monte Carlo simulation model that simulates failure events and the volume of released waste for hazardous waste tanks. Its purpose is to simulate the various failure mechanisms associated with hazardous waste tanks in terms of: (1) The timing of occurrence for these failure events; and (2) the magnitude of release volumes associated with these failure events. The model relies on two basic techniques: Fault tree analysis and Monte Carlo simulation.

The model uses fault tree analysis to evaluate the reliability of complex tank systems. The fault trees are used to identify the sequence of contributing events leading to a tank system failure that results in a release of waste to the environment. Failure events considered in the model by fault trees include:

- Overflows
- Leaks and ruptures
- Natural catastrophes
- Secondary containment failures
- Operator errors.

The frequency of occurance and timing of these failure events is predicted using a Monte Carlo Simulation model.

In Monte Carlo simulation, probability distributions are assigned to model variables for which deterministic values are not available. These probability distributions reflect the uncertainty regarding a real value for a particular parameter. As a result, the degree to which the model is representative of a particular situation is dependent upon the availability of data for the construction of the probability distribution. Once these distributions are constructed, a value for each variable is randomly chosen from the distribution for that parameter, and the model calculates a release estimate.

Distributions for both the timing and magnitude of failure events are sampled randomly for 250 iterations for each model tank. The analysis assumed a 20-year time horizon for tanks; therefore, each iteration contains annual release volumes for 20 years. For each iteration, annual release volumes for failure events are calculated from the year in which a failure event occurred to the year in which the model predicts that the release is detected. At the time of detection the model assumes that the tank system is taken out of operation such that the source of the release ceases to exist.

The 250 iterations represent the spectrum of a model tank's performance over a 20-year time horizon. Of the 250 iterations, five or six were used in the contaminant transport and exposure sub-models. These five or six selected iterations are called "representative release profiles" because they represent what we consider the typical performance of a tank.

The HWTF model may be used not only to identify the failure events and release volumes for different tank systems (above-ground, underground, etc.), but it may also be used to estimate the effectiveness of various protective measures in preventing or reducing releases from hazardous waste tanks. This is accomplished within the model by varying the probability distributions for failure events associated with the protective measures.

Subsurface Transport Model

In the Tank Risk Analysis Model (TRAM), the representative release profiles from the HWTF model are input to a subsurface transport model that predicts the transport and environmental fate of contaminants released from hazardous waste tanks. The subsurface transport model simulates contaminant transport in both the unsaturated and saturated zones. The model uses in McWhorter-Nelson Wetting Front Model to simulate the transport of contaminants in the unsaturated zone and the Prickett-Lonnquist Random Walk Model to simulate saturated zone transport. These models are described briefly below.

McWhorter-Nelson Wetting Front Model: In this model, contaminant transport is represented by the movement of a wetting front generated by the release of liquid from the tank system. The travel time for the wetting front through the unsaturated zone is related to the difference in water

content in the layers immediately above and below the wetting front, the distance traveled in the unsaturated zone, the leakage rate (Darcian flux), and the retardation of contaminant flow by soil adsorption.

Extensive testing has revealed that the McWhotrer-Nelson Model results depend on seven factors:

- Thickness of unsaturated zone
- Retardation coefficient of the contaminant
- Specific discharge of material from the contaminant source
- Porosity of the unsaturated zone
- Soil moisture content in the unsaturated zone
- Unsaturated zone permeability
- Pore size distribution.

Thus, contaminant transport in the unsaturated zone, as modeled by the McWhorter-Nelson Wetting Front Model, is dependent not only upon properties of the unsaturated zone, but also upon the quantity and physical and chemical properties of the released contaminants.

The McWhotrer-Nelson Model has been used extensively in subsurface transport studies and is a well documented and widely accepted unsaturated zone model. However, to use this model in the TRAM, we had to make several assumptions regarding soil properties and such contaminant characteristics as degradation and dispersion factors. While these assumptions tend to oversimplify transport and attenuation processes occurring in the unsaturated zone, they are consistent across all situations and thus allow for direct risk comparisions between different tank scenarios. The unsaturated zone model provides as its output a mass loading to the saturated zone for each contaminant released from the model tank used in the analysis.

Prickett-Lonnquist Random Walk Model: The Tank Risk Analysis Model uses the Prickett-Lonnquist ground water transport model with random walk particle tracking to simulate the transport of contaminants in the saturated zone. This model is a numerical (finite difference) model that simulates transport in two dimensions (longitudinal and vertical) and accounts for dispersion through the use of the random walk stochastic submodel. It is a widely used and well documented ground water transport model that has been utilized in many ground water contamination studies.

The TRAM does not actually use the Prickett-Lonnquist code, but rather a set of standard breakthrough curves are used to calculate the concentration of a particular contaminant at an exposure well for a given set of hydrogeologic and mass loading conditions over time. Hydrogeologic conditions such as horizontal and vertical ground water velocities and aquifer conditions are represented in the model by a set of nine generic flow fields.

Although the saturated zone model is considered adequate for comparing the transport of contaminants in hypothetical, generic situations, the model, as included in the TRAM, is not suitable for site-specific analyses. In addition, developing and using the saturated zone transport model required several simplyfying assumptions that affect the model's results and limit its applicability. However, since all assumptions are consistent to all situations in this analysis, EPA considers the model useful for comparative purposes.

Exposure and Risk Model

The subsurface transport model results are input to an exposure and risk model. This model estimates the time and magnitude of exposure to individuals using contaminated ground water as a drinking water source. The model also predicts the probability that the exposed individual will suffer an adverse health effect as a result of using the contaminated water supply. The yearly dose to an individual using a particular well is equal to the well contaminant concentration times the ratio of the intake rate of drinking water divided by the receptor weight.

The model calculates risk for the exposed individual based on dose and the inherent hazard of the particular contaminant to which the individual is exposed. For carcinogens, the analysis uses a linear dose-response model that assumes no minimum threshold. Thus, risks are estimated for carcinogens at very low concentrations.

The model used EPA unit risk values, when available, to estimate the inherent hazard for carcinogens and the one-hit model to estimate unit risk. When EPA unit risk values were unavailable, the inherent hazard was estimated by applying the one-hit equation to an appropriate set of experimental data. For non-carcinogens, the analysis assumes a threshold, or minimum effective dose (MED), and uses a non-linear dose-response model to calculate risk.

Limitations of the Tram

1. Limits for Use in Establishing Risk-Based Standards

During the course of this analysis, the Agency determined that there were insufficient data to establish different levels of protection based on levels of risk posed by different tank system, waste stream, and environmental combinations. In addition, the model structure is generalized such that it does not represent the entire spectrum of the regulated community's characteristics. Such complete representation would be essential for us to determine specific regulatory levels of stringency for different tank system, waste stream, and environmental combinations.

Among the data for which we have insufficient information are the following:

- Waste streams and constituent composition and concentrations for the hazardous waste tank population
- Hydrogeologic setting for the hazardous waste tank population
- Distances between drinking water wells and hazardous waste tanks
- Populations associated with those drinking water wells.

These data vary significantly on a site-by-site basis. Thus, it appears that the best way to utilize such information effectively may be to implement risk-based variances from the general standards.

2. Limits for Examining Effects of Banning Underground Tanks

The Tank Risk Analysis Model structure is inappropriate for examining the effects of banning underground hazardous waste tanks since the focus is on the effects of ground water contamination. One of the primary reasons for using underground tanks is the safe storage of ignitable or explosive wastes. Because the risk model does not simulate risks from fires or explosions, we would not be adequately addressing the risks associated with banning the use of underground tanks.

Further Analyses

The risk model may be used to assist the Agency in examining the effects of forced retirement of underground tanks, under the assumption that once the tank is retired it is replaced with a secondary contained underground tank. In addition to phasing-in secondary containment for underground tanks, we could examine the effect of phasing-in secondary containment for the entire tank population.

Before issuing a final rule, the Agency also hopes to analyze regulatory options in addition to those specified in the proposal. These alternatives include excavation zone monitoring (vapor well monitoring in the tank backfill area that is of a known consistency and permeability, not in the native soil) for

an appropriate volatile hazardous waste and corrosion protection in combination with leak detection methods, such as leak testing or excavation zone monitoring.

If the Agency analyzes these additional options, we will provide the docket with a description of the methodology and the results of these analyzes by March 31, 1986. The new analyses will then be available for comment for a period of 30 days. As with the already completed analyses, it is uncertain whether or how these analyses will be used in developing the final rule.

At this time, however, the model has been used only to examine the relative risks associated with hazardous waste tanks under the proposed alternative technical requirements. The hazardous waste tank risk analysis is useful for comparing risks of tanks under the proposed alternative technical standards because waste stream and hydrogeology assumptions can be kept constant while the technical standards are changed. The following discussion presents a summary of the risk results associated with the technical alternatives that were considered in this analysis.

Preliminary Results

Preliminary results of the analysis showed that retrofitting full secondary containment significantly reduced risks for all tanks, with a typical reduction of 50 percent for those cases where risks were estimated. More importantly, high risk estimates (for this analysis, assumed to be risk greater than 10^{-3}) were reduced by 80 percent or more for most modeled tanks by retrofitting full secondary containment.

As a result, this analysis indicates that full secondary containment with leak monitoring is the most effective method of reducing risks associated with hazardous waste tanks. Secondary containment systems prevent most releases from escaping to the environment, allowing hazardous waste releases mainly as a result of very low probability catastrophic failures.

Based on the results of this risk analysis, possible regulatory strategies were ranked in descending order of risk reduction compared to risks estimated for the baseline situation (assuming compliance with the existing regulations) as follows:

- Secondary containment
- Partial secondary containment and ground water monitoring
- Leak testing and ground water monitoring
- Corrosion protection without leak detection
- Existing (baseline) regulations.

Direct comparisons cannot be made between all strategies since not all of the alternatives are applicable to all tank types. This ranking scheme does provide an indication of the overall effectiveness of each of the alternatives compared to the baseline.

The preliminary results indicate that the Agency's proposed requirements of full secondary containment with interstitial leak monitoring is the most effective strategy for preventing environmental damage caused by leaking hazardous waste tanks. The partial containment approach is effective for preventing releases from such causes as overfilling, spills, and operator error. However, the on-grade or in-ground portion of the tank may have a leak that cannot be seen. Such a leak is not detected until the ground water monitoring indicates contamination.

For steel underground tanks, leak testing with ground water monitoring appears to be substantially less effective than full secondary containment since this approach does not prevent releases from occurring. Although the leak detection and ground water monitoring option allows the source of the leak to be removed upon detection, it does not guarantee prevention of substantial environmental damage and risk to human health. This is because leak detection methods are not reliable enough to detect all leaks. In addition, depending on the frequency of the leak test, substantial contamination could occur between tests.

However, for fiberglass reinforced plastic (FRP) tanks, the results of this analysis indicate that the leak testing and ground water monitoring approach is comparable to full secondary containment in reducing risks. This result may be due to the types of failures associated with FRP tanks. The model simulates FRP tank failures as large seam cracks or ruptures that would generally be detected by leak testing. This is in contrast to steel tanks that may develop leaks due to corrosion that are too small to be detected by leak testing.

Finally, corrosion protection without any form of leak detection does not appear to be very effective in reducing the risks presented by carbon steel and stainless steel tanks. This is because, while corrosion protection prevents or delays corrosion, it does not address all the other failures that result in releases. Such failures include installation deficiencies, overfills, spills, and tank or pipe ruptures.

The risk estimates developed in this analysis are not only a function of tank failure events and release volumes, but are also a function of the waste streams stored in a particular tank and the hydrogeologic settings in which the tank is located. As a result, although the alternative technical requirements may substantially reduce the quantities of released waste, substantial risks may remain due to waste stream and hydrogeologic characteristics.

The summary of results presented here is not complete. The docket report, "Hazardous Waste Tank Risk Analysis," provides a more detailed discussion of the preliminary results of this risk analysis.

Solicitation of Comments

1. Risk Analysis

The Agency is soliciting comments on this analysis for a period of thirty days. It is necessary to obtain comments quickly because the Agency may use the analysis in the hazardous waste tank regulation. Under an Order of the United States District Court for the District of Columbia, the regulations are required to be promulgated by June 30, 1986. The Agency specifically encourages commenters to address the appropriateness of the methodology for this analysis, including the assumptions used, as well as how the Agency should consider using the analysis in developing or implementing the final hazardous waste tank Regulations.

2. Other Issues

The Agency also requests comments on the possibility of the Agency's making distinctions, in the final hazardous waste tank regulations, in regulatory requirements, or effective dates of those requirements based upon the Agency's estimates of differences in risks presented. Specifically, the Agency is considering basing such distinctions for non-leaking tanks on age and size of tanks. Other factors that might be considered are whether the tanks are above-ground, in-ground, or underground, and what the tank material is (carbon steel, fiberglass, concrete, etc). Finally, the Agency requests comments on the duration of leaks once they occur, and the median or mean time to failure for various tank systems, such as concrete or fiberglass tank systems.

Dated: March 11, 1986.

Marcia Williams,

Director, Office of Solid Waste.

[FR Doc. 86-5743 Filed 3-14-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-2985-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of data and request for comments.

SUMMARY: On May 1, 1985, the Environmental Protection Agency (EPA) proposed to list as hazardous three wastes generated during the production of linuron and bromacil. EPA has received additional information after the close of the comment period and is making these data available for public comment.

DATE: EPA will accept public comments on this notice until April 16, 1986.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments should identify the regulatory docket "Listing Linuron and Bromacil." The public docket for this amendment is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Wanda LeBleu-Biswas, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-7392.

SUPPLEMENTARY INFORMATION:

I. Background

On May 1, 1985, EPA proposed to amend the hazardous waste list by adding three wastes generated during the production of linuron and bromacil (see 50 FR 18622). These wastes are:

- K119—Wastes from the decanter in the production of linuron,
- K120—Wastes from the spill control trap in the production of linuron, and
- K121—Wastewater from product filtration and water washing in the production of bromacil.

Comments were received from E.I. du Pont de Nemours & Company, Inc., the sole producer of linuron and bromacil. In their comments, Du Pont argued that the listing of these wastes should not be made final since they believe that they are not hazardous.

Du Pont, after the close of the comment period, contacted EPA to request a meeting to clarify their comments. The Agency met with Du Pont on December 16, 1985, at which time EPA received additional data. The major subjects discussed were as follows:

- Du Pont current surface impoundments and wastewater treatment process were described. Also discussed was the impact of the Clean Water Act's effluent guidelines for pesticide chemicals (made final (see 50 FR 40672) on October 4, 1985, after the close of the comment period) on the management of proposed waste K121.
- Du Pont's commented that proposed waste K119 is not a waste because it is recycled back into the process. Earlier information submitted by Du Pont, however, stated that this waste is incinerated off-site. Du Pont clarified that residues from cleaning the decanter are incinerated, but the organic material in the decanter is recycled back into the process continuously.
- Du Pont explained how wastes from the bromacil formulation process, rather than the bromacil production process, enter the spill control trap that services the linuron plant.

In addition, EPA received a letter from Du Pont dated January 17, 1986, in which they stated that:

(1) Linuron and bromacil should not be added to the list of commercial chemical products which are hazardous wastes when discarded (40 CFR 261.33(f)), and

(2) The one-pound CERCLA RQ is illogical.

These comments were based on Du Pont's belief that this would be inconsistent with linuron and bromacil's FIFRA registration as pesticide products for use on food crops.

Copies of these new data and comments (as well as the minutes of the meeting that was held with Du Pont) are available for public inspection from the RCRA Docket, in Room S-212. Du Pont also submitted data that is confidential business information; these data are not available to the public. Comments are solicited only on the new data. These comments must be received by EPA on or before April 16, 1986 to ensure their consideration.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: March 5, 1986.

J.W. McGraw,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 86-5748 Filed 3-14-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-75; RM-5002]

FM Broadcast Station in Clayton, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to allot Channel 281A to Clayton, Georgia, as its first FM service in response to a petition filed by Richard J. Turner, Jr.

DATES: Comments must be filed on or before April 28, 1986, and reply comments on or before May 13, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and exectuve order provisions authorizing or interpreted or applied by specific sections are cited to text.

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Clayton, Georgia); MM Docket No. 86-75; RM-5002.

Adopted: February 14, 1986.

Released: March 6, 1986.

By the Chief, Policy and Rules Division:

1. Before the Commission is a petition for rule making filed by Richard J. Turner, Jr. ("petitioner") which requests the allotment of Channel 281A to Clayton, Georgia, as its first FM channel. Petitioner stated his intention to apply for the channel.

2. Channel 281A can be allotted to Clayton in compliance with the minimum distance separation requirements.[1] In view of the fact that the proposed allotment could provide a first FM service to Clayton, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Rules, as follows:

[1] The separation would be met based on the permit issued to Station WAGQ, Athens, Georgia, to change its transmitter site.

City	Channel No.	
	Present	Proposed
Clayton, GA		281A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before April 28, 1986, and reply comments on or before May 13, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Edward W. Hummers, Jr., Esq., Fletcher, Heald and Hildreth, 1225 Connecticut Avenue NW., Suite 400, Washington, DC 20036. [Attorney].

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §§1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86-5801 Filed 3-14-86; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-77; RM-4935]

FM Broadcast Station in Mattoon, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of Channel 267A to Mattoon, Illinois, in response to a petition filed by Randal J. and Cathaleen R. Miller.

DATES: Comments must be filed on or before May 2, 1986, and reply comments on or before May 17, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:.

List of subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Mattoon, Illinois); MM Docket No. 86-77 RM-4935.

Adopted: February 11, 1986.
Released: March 11, 1986.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Randal J. and Cathaleen R. Miller ("petitioners") which seeks the allotment of Channel 282A to Mattoon, Illinois, as its second FM service. Petitioners stated their intention to apply for the channel. However, the allotment of Channel 282A would be short-spaced to the recent allotment of Channel 282B1 for Casey, Illinois, Docket 84-231, *Memorandum Opinion and Order*, 50 FR 47391, published November 18, 1985. Our staff engineering study indicates that Channel 267A can be allotted instead. The proposal for Channel 267A at Mattoon meets the minimum spacing requirements of § 73.207 of the Rules.

PART 73—[AMENDED]

2. In view of the fact that the proposal could provide a second FM service to Mattoon, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Rules, with regard to the community listed below:

City	Channel No.	
	Present	Proposed
Mattoon, IL	245	245, 267A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before May 2, 1986, and reply comments on or before May 17, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Randal J. Miller, Post Office Box 121, Mattoon, Illinois 61938, ("petitioner").

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the Public should note that from the time a Notice of Proposed Rule Making is issued until the matter is not longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contract is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86-5802 Filed 3-14-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, and 174

[Docket No. HM-180, Notice No. 86-1]

Placarding Tank Cars Which Contain Hazardous Material Residue

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking; disposition of petitions for reconsideration.

SUMMARY: The Research and Special Programs Administration (RSPA) recently published amendments to the Department of Transportation's Hazardous Materials Regulations (HMR) changing the placarding and shipping paper requirements for tank cars which contain the residues of hazardous materials. The amendments, which contained a quantitative definition for "residue" were promulgated in a final rule issued under Docket HM-180, which was published on September 26, 1985 (50 FR 39005). Eight petitions for reconsideration were filed in connection with these amendments. This notice requests comments regarding the changes which the RSPA is proposing in response to these petitions, as well as a change that relates to another recent amendment (Docket HM-196; 50 FR 41092, October 8, 1985).

DATE: Comments must be received on or before April 22, 1986.

ADDRESS: Address comments to: Dockets Branch, Office of Hazardous Materials Transportation (DHM-53), U.S. Department of Transportation, Washington, DC 20590. Comments should be submitted, when possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, SW, Washington, DC Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lee Jackson, Standards Division, Office of Hazardous Materials Transportation, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 426-2075.

SUPPLEMENTARY INFORMATION:

I. Background

On September 26, 1985, the RSPA published a final rule [Docket HM-180; 50 FR 39005], which concerned the placarding of empty tank cars. In the final rule, RSPA changed the placarding and shipping paper requirements for tank cars that contain residues of hazardous materials. Also contained in the final rule was a quantitative definition for the word "residue."

In response to the final rule, RSPA received eight petitions for reconsideration under 49 CFR 106.35. Each of the petitioners objected to the definition of residue which was contained in the final rule. Specifically, concern was expressed about that portion of the definition which states:

> "Residue of a hazardous material, as applied to the contents of a tank car (other than DOT Specification 106 or 110 tank cars), means a quantity of material not greater than 3 percent of the car's marked volumetric capacity."

One of the petitioners, Shell Oil Company, requested that RSPA reconsider the quantitative wording of the residue definition. Shell, as well as the other petitioners, contend that the public was given no opportunity to comment on the residue definition and that it is not operationally possible to comply with the definition. Commenters state that there is no accurate method of determining exactly how much material remains in a tank car after unloading.

Although the RSPA does not necessarily agree with certain of the factual statements made in the petition submitted by Shell, we believe their comments on the final rule concerning the residue definition represent a consensus of the concerns expressed by the other petitioners. For this reason, the substantive points of the Shell petition are quoted as follows:

> "There is no practical method of determining precisely how much material remains in a tank car after unloading, considering tank car design and the limitations of facilities at many unloading locations.
>
> Some gauging tapes are designed to gauge the liquid level at the top of the car rather than at the bottom.
>
> Devices used in pressure cars don't reach to the bottom of the car and therefore can't measure the remaining liquid which may be more or less than 3% depending on the pumping effort expended.
>
> Some receivers unload butane and other compressed gases by heating a small amount of the liquid and pumping the resulting vapor through the vapor line to force out the liquefied gas. The remaining vapors occupy 100% of the marked volumetric capacity of the car. Although for all practical purposes, the car contains only the residue of a hazardous material, it does not meet the definition in Section 171.8 and presumably would be considered a loaded car.
>
> Viscous liquids such as resins and regulated asphalts also present a problem since there is no accurate method of measuring the clingage on the tank walls.
>
> Weighing cars before they leave the unloading location is not a viable alternative since most facilities don't have track scales. Installing scales at all locations receiving hazardous material tank cars would be prohibitively expensive. Moving a car from the unloading point to a railroad scale to determine its status could result in a violation, if for example, a car displayed residue placards and the scale weight indicated it contained more than 3% of the volumetric capacity. The additional switching would also be costly in terms of time and money.
>
> The definition of what constitutes an empty car does not enhance safety but merely increases the potential for unintentional violations of the regulations. The 3% measure is basically an economic issue and is already covered in Rule 35 of the Uniform Freight Classification.
>
> There is no need for a specific percentage figure to be included in the residue definition since fire fighters would follow the same procedure regardless of the exact amount of the residue. Shell suggests the following definition be added to § 171.8 in lieu of the one in the final rule.
>
> "Residue means the hazardous material remaining in a packaging, including a tank car, after its contents have been emptied and before the packaging is refilled or cleaned and purged of vapor to remove any potential hazard."

II. Response to Comments

In response to the petitions, the RSPA proposes to redefine "residue" by limiting it to liquids (excluding vapor and gases) and expanding the quantitative limitation from 3% to 4% with a tolerance of plus or minus one percent in order to provide shippers greater flexibility in their determination of compliance with the rule. The RSPA is taking this action because of the problems that may be encountered in accurately determining the amount of residue which remains in an unloaded tank car. Aside from weighing the car, which may be impractical because most unloading facilities don't have track scales, there appears to be no accurate method of measuring the precise amount of residue which remains in a tank car. However, RSPA believes that a quantitative requirement must be adopted in order to make the rule effective.

The public is invited to submit any substantive comments or information which they may have concerning the "residue" definition proposed in this notice. Comments should, as a minimum, address the maximum amount of residue which, from a safety standpoint, could be left in a tank car which is placarded with the RESIDUE placard.

In addition to the petitions addressed to the definition of residue, the RSPA also received comments stating that it was inconsistent and confusing to require a COMBUSTIBLE placard to

remain on a tank car which only contains the residue of a combustible liquid. Currently, tank cars which contain residue of hazardous material may be placarded with the appropriate RESIDUE placards.

The only exception to this is for tank cars which contain combustible liquid residue. These cars must continue to display the COMBUSTIBLE placard. Upon further consideration of this point, the RSPA agrees that this is inconsistent and may cause confusion. For this reason, the RSPA believes that a RESIDUE Placcard should be required on tank cars which contain combustible liquid residues. Therefore, the RSPA proposes to remove the second sentence in footnote 4 to Table 2 of § 172.504 and paragraph (c) of § 172,510. Revision to both of these sections is necessary to require the display of a RESIDUE placard on a tank car which contains residue of a combustible liquid. Further, RSPA proposes to revise § 172.525 to require the lower triangle of the combustible RESIDUE placard to be white and to require and word "RESIDUE" to be black on this same placard. This change is necessary to identify those tank cars which contain combustible residue so they are not subjected to the train placement requirements. In addition, it is proposed to reinstate the first sentence of footnote 4 to Table 2 of § 172.504 as it appeared prior to Amendment No. 172–98(50 FR 39005).

For clarification, the RSPA proposes to revise paragraph (c) of § 172.334. This revision was inadvertantly omitted from Docket HM–196, the final rule that addressed the *Packaging and Placarding Requirements for Liquids Toxic by Inhalation*. This revision would prohibit the display of identification numbers on subsidiary placards such as the POISON placard required by § 172.505. The RSPA proposes to revise § 172.525 to authorize the display of identification numbers on the RESIDUE placard or orange panel in accordance with the marking requirements contained in Subpart D of Part 172. The RSPA also proposes to revise the Table in paragraph (a)(2) of § 174.25 to clarify the shipping paper requirements for tank cars which contain combustible liquids.

Editorially, the RSPA proposes to amend § 172.525(a)(2) to include a reference to § 172.544 so there is a citation in this section which refers to the RESIDUE placard for combustible liquids. Further, the RSPA proposes to amend paragraph (c) of § 174.25 to clarify exactly when the letters "RQ" must be entered on the shipping paper and to remove the combustible liquid exception from the description requirements.

Also, § 174.93 would be amended to except tank cars which contain combustible liquid residue from the train placement requirements. This is consistent with the provision for loaded tank cars which contain Combustible liquids. In the case of a tank car which contains the residue of a hazardous material, the letters "RQ" are required to be shown on the shipping paper when the quantity of the residue is equal to or exceeds the reportable quantity level and the residue or a constituent of the residue is a hazardous substance. Comments are requested on the changes proposed to §§172.334, § 172.504, § 172.510, § 172.525, § 174.25 and § 174.93.

The RSPA is also interested in receiving comments on the placarding requirements for tank cars which carry residues of materials which exhibit inhalation toxicity. After April 30, 1986 tank cars loaded with these materials are required to display POISON placards as well as the placards required in § 172.504. When the tank car is unloaded, each of these placards would have to be changed to RESIDUE placards. The RSPA is interested in receiving suggestions on optional placarding methods that could be employed when placarding tank cars which contain residue of materials which exhibit inhalation toxicity.

III. Review by Sections

1. It is proposed to revise § 171.8 by expanding the quantitative limits of the "residue" definition and to restrict the application of the definition to liquids.

2. It is proposed to revise paragraph (c) of § 172.334 to prohibit the display of an identification number marking on a subsidiary placard.

3. It is proposed to reinstate the first sentence of footnote 4 to Table 2 of § 172.504 as it appeared prior to Amendment No. 172–98 and to remove the second sentence which prohibits a RESIDUE (EMPTY) placard on a tank car containing Combustible liquid.

4. It is proposed to revise paagraph (c) of § 172.510 by removing the prohibition against using a RESIDUE placard for combustible liquid residues.

5. It is proposed to revise § 172.525 so a reference to the RESIDUE placard for combustible liquids is shown.

6. It is proposed to revise § 172.525 to require the lower triangle of the RESIDUE placard for combustible liquid residues to be white and to require the word "RESIDUE" to be black on the combustible liquid RESIDUE placard.

7. It is also proposed to revise § 172.525 to authorize identification numbers to be displayed on RESIDUE placards or on orange panels in association with RESIDUE placards.

8. It is proposed to revise § 174.25 for clarification.

9. It is proposed to revise § 174.93 to except tank cars which contain combustible liquid residue from train placement requirements.

IV. Administrative Notice

A. Executive Order 12291

The effect of this rule, as proposed, does not meet criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This rule is not considered to be a significant rule under the regulatory procedures of the Department of Transportation (44 FR 11034). This proposed rule does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 et seq.) The economic impact of this document has been found to be so minimal that further evaluation is unnecessary.

B. Impact on Small Entities

Based on limited information concerning the size and nature of entities likely affected by this proposed rule, I certify this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Definitions.

49 CFR Part 172

Hazardous materials transportation, Placarding.

49 CFR Part 174

Hazardous materials transportation, Railroad safety.

Rules and Regulations

In consideration of the foregoing, it is proposed to amend Parts 171, 172 and 174 of Title 49 of the Code of Federal Regulations as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. The authority citation for Part 171 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

2. Section 171.8 would be amended by the addition in, its correct alphabetic sequence, the following definition.

§ 171.8 Definition and abbreviations.

* * * * *

"Residue" means the hazardous material remaining in a packaging after its contents have been emptied to the maximum extent practicable and before the packaging is refilled, or cleaned of hazardous material and purged of vapor to remove any hazard. Residue of a hazardous material, as applied to the contents of a tank car (other than DOT Specification 106, 107 and 110 tank car tanks), means a quantity of material not exceeding 4% (plus or minus one percent) of the cars marked volumetric capacity and applies only to the liquid phase of the material in the tank car.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

3. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804; 49 CFR Part 1, unless otherwise noted.

4. In § 172.334, paragraph (c) would be revised as follows:

§ 172.334 Indentification numbers; prohibited display.

* * * * *

(c) Except as required by § 172.332(c)(4) for a combustible liquid, the identification number of a material may be displaced only on the placards required for the material by § 172.504.

* * * * *

5. In § 172.504, Footnote 4 to Table 2 would be revised to read as follows:

§ 172.504 General placarding requirements.

* * * * *

Table 2

* * * * *

4. A FLAMMABLE placard may be used on a cargo tank or portable tank during trasnportation by highway, rail or water, and on a compartmented tank car containing materials classed as Flammable liquid and Combustible liquid.

* * * * *

6. In § 172.510, paragraph (c)(1) is removed and paragraphs (c)(2) and (c)(3) are redesigned as (c)(1) and (c)(2) and are revised to read as follows:

§ 172.510 Special placarding provisions: Rail.

* * * * *

(c) * * *

(1) Is reloaded with a material requiring no placards or different placards; or

(2) Is sufficiently cleaned of residue and purged of vapor to remove any potential hazard.

* * * * *

7. In § 172.525, paragraph (a) would be revised to read as follows:

§ 172.525 Standard requirements for the RESIDUE placard.

(a) Each RESIDUE placard must be as follows:

(1) Except as provided in paragraph (a)(3) of this section, the lower triangle of the RESIDUE placard must be black and the word "RESIDUE" must be in white letters approximately 1½ inches (40 mm) high made with approximately ¼ inch (6 mm) of an inch stroke.

(2) Except for the POISON GAS, RADIOACTIVE or EXPLOSIVES placard, the RESIDUE placard may be used to display the appropriate identification number in accordance with the provisions of Subpart D of this part.

(3) For a combustible liquid residue, the lower traingle of the RESIDUE placard must be white with the word "RESIDUE" in black letters.

(4) Otherwise, the RESIDUE placard must be as specified in § 172.519 and Appendix B to this Part, and §§ 172.528, 172.530, 172.532, 172.536, 171.540, 172.542, 172.544, 172.546, 172.548, 172.550, 172.552, 172.554, or 172.558, as appropriate for the residue of the hazardous material being transported and required by this subchapter to be placarded. No other placard may be used as a RESIDUE placard.

* * * * *

PART 174—CARRIAGE BY RAIL

8. The authority citation for Part 174 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

9. In 174.25, the last entry in the table which follows paragraph (a)(2)(ii) is deleted and the following two entries are added to the end of the Table, and paragraph (c) of this section is revised, as follows:

§ 174.25 Additional information on waybills, switching orders and other billings.

(a) * * *

Hazardous material or class	Placard notation	Placard endorsement
* * * * * * *		
Tank cars which contain a residue of a hazardous material other than a combustible liquid.	See sec. 174.25(c)	Dangerous.
Tank cars which contain a residue of a combustible liquid	See sec. 174.25(c)	None.

* * * * *

(c) For a tank car that contains only the residue of a hazardous material, the shipping papers must contain the words "RESIDUE: Last Contained * * *", followed by the basic description of the hazardous material last contained in the tank car and the placard notation specified in the second column of the table in paragraph (a)(2) of this section followed by the word RESIDUE. For example, "RESIDUE: Last Contained Petroleum Naptha, Combustible liquid, UN 1255, Placarded: COMBUSTIBLE—RESIDUE". For a tank car that contains a residue that is a hazardous substance, the letters "RQ" must also be entered on the shipping paper either before or after the basis description.

* * * * *

10. In 174.93, the text would be revised to read as follows:

§ 174.93 Position in train of a tank car displaying RESIDUE placards.

Except for a tank car placarded COMBUSTIBLE—RESIDUE, a tank car displaying RESIDUE placards in a moving or standing train may not be placed nearer than the second car from an engine or occupied caboose.

Issued in Washington, DC on March 11, 1986, under the authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 86-5730 Filed 3-14-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Threatened Status and Critical Habitat for the Concho Water Snake (Nerodia Harteri Paucimaculata)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that a public hearing will be held to discuss its proposal to list the Concho water snake (*Nerodia harteri paucimaculata*) as a threatened species and to designate critical habitat for it. The period for acceptance of comments on this proposal is reopened. Comments are solicited on this proposal from all interested parties.

DATES: A public hearing will be held on this proposal on April 3, 1986 (Thursday), from 7:00 to 9:00 p.m. c.s.t. in Ballinger, Texas. The comment period on this proposal is reopened on April 3, 1986. The comment period, which originally closed on March 24, 1986, will now close on May 2, 1986. Comments received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held at the Runnels County Courthouse, 2nd floor courtroom, in Ballinger, Texas. Written comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Sally Stefferud, Endangered Species Biologist, U.S. Fish and Wildlife Service, 505/766–3972 (FTS 474–3972) (see "**ADDRESSES**").

SUPPLEMENTARY INFORMATION:

Background

The Concho water snake is found only in the Colorado and Concho Rivers in Runnels, Tom Green, Concho, McCulloch, Coleman, Brown, Mills, San Saba, and Lampasas Counties, Texas. It is presently found in 199 miles of those rivers with the majority of the snakes concentrated in only 105 miles of that range. Twenty-eight percent of its known historic range has been destroyed due primarily to dam and reservoir construction and water diversion. The limited range, low numbers, and narrow habitat requirements of this riffle-dwelling snake make it vulnerable to further habitat loss from proposed water development and other activities. A proposal to list the Concho water snake as a threatened species and to designate critical habitat for this species was published in the **Federal Register** on January 22, 1986 (51 FR 2923). Critical habitat is proposed for 131 miles of the Colorado and Concho Rivers in Runnels, Tom Green, Concho, McCulloch, and Coleman Counties, Texas.

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held, if requested, within 45 days of the publication of a proposed rule. The 45-day period for this proposal ended on March 10, 1986. Requests for a hearing were received from the Colorado River Municipal Water District, Big Spring, Texas on February 7, 1986, from Congressman Charles Stenholm, 17th District, Texas on February 24, 1986, and from M.C. Vinson, Midland, Texas, on February 28, 1986. In response to these requests, the Service has scheduled a public hearing for April 3, 1986, from 7:00 to 9:00 p.m. c.s.t., at the Runnels County Courthouse, 2nd floor courtroom, Ballinger, Texas. Those parties wishing to make statements for the record should have available a copy of their statements, to be presented to the moderator at the start of the hearing. Oral statements may be limited to 5 or 10 minutes, if the number of statements to be presented necessitates some limitation. There are no limits on the length of written comments which may be presented at this hearing or mailed to the Service during the comment period.

The comment period on this proposal originally closed on March 24, 1986. To accommodate this hearing, the Service is reopening the comment period on this proposal. Written comments will now be received from April 3 until May 2, 1986 (see "**ADDRESSES**").

Author

This notice was prepared by Sally Stefferud, Endangered Species Biologist, U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.;* Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: March 11, 1986.

M.J. Spear,

Regional Director.

[FR Doc. 86–5717 Filed 3–14–86; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 51, No. 51
Monday, March 17, 1986

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.

ACTION

Proposed Student Service-Learning Project Guidelines

AGENCY: ACTION.

ACTION: Notice of proposed Student Service-Learning Project Guidelines.

SUMMARY: The following Notice sets out the guidelines under which student service-learning projects will operate in the future. The Guidelines are divided into seven parts which deal with the overall program philosophy, responsibilities of the sponsor, staff, volunteers, and volunteer placement sites. It also includes basic data on the administration of a student service-learning project.

DATE: Written comments should be submitted no later than April 16, 1986, to Suzanne Gibson Wise, Director of VISTA/Service-Learning Programs, ACTION, 806 Connecticut Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Suzanne Gibson Wise, Director of VISTA/Service-Learning Programs, ACTION, 806 Connecticut Avenue, NW., Washington, DC, 800-424-8867, or 202-634-9445.

SUPPLEMENTARY INFORMATION: Section 420 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5060) was amended in 1979 to define the term regulation and to detail the procedures to be followed in prescribing regulations. Through its broad definition of a regulation, the section requires that "any rule, regulation, guidelines, interpretation, order, or requirement of general applicability" issued by the Director of ACTION must be published with a 30 day comment period except in certain limited circumstances. These Guidelines, although not regulations under this Administrative Procedure Act (5 U.S.C. 551 et seq.), may, in whole or in part, be required by our Act to be published in proposed form for comments.

ACTION has determined that student service-learning project guidelines are not major rules as defined in E.O. 12291. This determination is based on the proposed grants' size and purpose, neither of which will result in the economic impact of a major rule.

Student Service-Learning Project Guidelines

I. Introduction

This Notice sets forth the guidelines under which student service-learning projects will operate. Student service-learning project guidelines are contained in seven parts:

Part I—Introduction
Part II—Purpose
Part III—Grantee Eligibility and Selection Criteria
Part IV—Grant Application Procedures
Part V—Project Management
Part VI—Student Volunteer Assignments
Part VII—Restrictions

These guidelines supersede Young Volunteers in ACTION (YVA) Program Guidelines published in the Federal Register, dated August 12, 1982, and instructions and technical assistance provided to grants previously awarded under Title I, Part B of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113). However, existing YVA grantees eligible for second year renewal will be permitted to apply for second year funding under YVA Program Guidelines published in the Federal Register dated August 12, 1982, and must abide by requirements and procedures as outlined therein.

II. Purpose

Student service learning projects are authorized under Title I, Part B, sec. 111 and sec. 114 of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113). The statutory purpose of student service-learning projects is to encourage students to undertake volunteer service in their communities in such a way as to enhance the educational value of the service experience, through participation in activities which address poverty-related problems. Student volunteers must be enrolled in secondary, secondary vocational or post-secondary schools on an in-school or out-of-school basis. They serve on a part-time, non-stipended basis.

Service opportunities must result in student volunteers gaining experiences through service in poverty communities which relate to classroom, vocational, or other learning needs.

It is the intent of student service-learning projects to join community, school and youth in developing the scope and nature of volunteer experiences which serve the needs of poverty communities while securing resources by which the effort can be continued and expanded after federal support ends.

Local communities should determine what their problems are and how best to solve them. ACTION resources can be made available to assist in helping communities solve some of their problems through fostering student volunteer service. The community must generate increasing resources to enable the project to continue once ACTION grant funds are no longer provided. Technical assistance and training in project management, fund raising and recruiting will be provided by ACTION as required.

III. Grantee Eligibility and Selection Criteria

The following criteria will be employed by ACTION staff in the selection and approval of student service-learning projects:

a. The applicant must be a Federal, State, or local agency, or private non-profit organization or foundation in the United States, the District of Columbia, Virgin Islands, Puerto Rico, American Samoa, or Guam, which has the authority to accept and the capability to administer a student service-learning project grant.

b. Student volunteer activities must be poverty-related in scope and otherwise comply with the provisions of the legislative authority outlined in Part II.

c. Grant funds must be used to initiate or expand a student volunteer service-learning project which addresses the needs of the low-income community.

d. The grantee must develop and maintain community support for the student service-learning project through a planned program including public awareness and communications.

e. Community representation in the project's operation, including representatives of youth groups, school

systems, educational institutions, etc., must be identified in the grant application.

f. The grant application must demonstrate that project goals and objectives are quantifiable, measurable, and show benefits to the student volunteers and to the low-income community. The projected number of student volunteers who will serve in the project and hours of service are to be included in project goals and objectives.

g. The grant application must demonstrate how student volunteers will be recruited and how they will receive orientation appropriate to their assignments.

h. The grantee must identify resources which will permit continuation of the service-learning project upon the conclusion of federal funding as outlined in Part II.

i. The grantee must comply with all programmatic and fiscal aspects of the project and may not delegate or contract this responsibility to another entity. This does not refer to agreements made with volunteer placement sites as discussed in Part VI. This includes compliance with applicable financial and fiscal requirements established by ACTION or other elements of the Federal Government.

j. The grantee must ensure compliance with the restrictions outlined in Part VII.

IV. Grant Application Procedures

A. Scope of Grant

Student service-learning project grants are awarded for up to a twelve month period. Requests for second or third year reduced funding can be sought by grantees. Maximum federal awards over a period of three years are up to $15,000 for the first year, up to $10,000 for the second, and up to $5,000 for the third. The grantee is required to contribute a local share of at least $3,000 each year. Final determination of the actual amount of grant awards rests with the ACTION Regional Director.

ACTION seeks sponsoring organizations which can demonstrate the ability to raise sufficient local support in order to achieve 100% non-ACTION funding of their student service-learning projects after Federal funding ends.

Applicants for new or renewal grants must comply with the provisions of Executive Order 12372, the "Intergovernmental Review of Federal Programs and Activities" as set forth in 45 CFR Part 1233. ACTION State Offices will provide applicant organizations with technical assistance regarding this requirement.

B. Procedures for New Grantees

Project application forms are available from ACTION State or Regional Offices which will also establish schedules for application submission. Grant allowable costs are contained in ACTION Handbook 2650.2, *Grants Management Handbook for Grantees*, which is available from the ACTION State or Regional Offices.

Applications will be submitted to the appropriate ACTION State Office for programmatic and technical review. ACTION Regional Offices will review all new applications recommended for funding by the State Offices and send them, along with Regional recommendations, to the Director of VISTA/Service-Learning Programs. The Director of VISTA/Service-Learning will render final decisions on new student service-learning project grant applications.

Regional Grants and Contracts Officers will issue Notices of Grant Awards upon notification from the Director of VISTA/Service-Learning Programs.

C. Procedures for Renewal Grantees

Applications for renewal will be evaluated using the factors identified in selecting initial grantees, as well as the grantee's compliance with these guidelines and the grantee's performance during the previous year(s), particularly in the achievement of measurable goals and objectives. All project renewals are subject to the availability of funds.

Renewal applications from first and second year grantees are reviewed at the ACTION State Office level and submitted to the ACTION Regional Director for final approval.

If the renewal application is denied, the sponsor will be notified that ACTION intends to deny the application for renewal and the sponsor will be given an opportunity to show cause why the application should not be denied in accordance with 45 CFR Part 1206. This regulation is available from ACTION State or Regional Offices.

V. Project Management

Sponsors shall manage grants awarded to them in accordance with the provisions of these guidelines and ACTION Handbook 2650.2, *Grants Management Handbook for Grantees*, which will be furnished the sponsor at the time the initial grant is awarded.

Project support provided under an ACTION grant will be furnished at the lowest possible cost consistent with the effective operation of the project. Project costs for which ACTION funds are budgeted must be justified as being essential to project operations.

A. Local Support Contributions

The student service-learning project sponsor shall be responsible for providing at least $3,000 in non-federal share contribution for each year of the grant's operation. This amount can be obtained through cash and/or allowable in-kind contributions.

Local share can include, but is not limited to, cash or in-kind contributions such as office space, office equipment, supplies, accounting services, insurance, vehicles, telephones, printing, postage, recognition, travel and personnel which directly benefit the project.

B. Reporting Requirements

Sponsors must comply with fiscal reporting requirements as outlined in ACTION Handbook 2650.2 and must maintain records in accordance with generally accepted accounting principles. Records shall be kept available for inspection at the request of ACTION and shall be preserved for at least three years following the date of submission of the final Financial Status Report for each budget period.

A quarterly project progress report shall also be submitted to the ACTION State Office no later than 30 days after the end of each project quarter. The report shall include, but not be limited to, the following items:

1. A comparison of actual accomplishments with the goals and objectives established for the period.
2. The number of volunteers participating in the project during the quarter.
3. The number of volunteer hours generated during the quarter.
4. Problems, delays, or adverse conditions that have affected or will affect the attainment of project objectives.

C. Insurance

Grantees are responsible for ensuring that student volunteers, while performing their assignments, have adequate accident, personal liability, and automobile liability insurance coverage consistent with other insurance maintained by the organization, or with sound institutional and business practice.

D. Transportation

The sponsor should structure student volunteer assignments to minimize transportation expenses and requirements.

When transportation is not provided, volunteers may be reimbursed for actual

costs within the limitations prescribed by the local project and the availability of funds. Transportation reimbursement should be provided on the basis of need, at the discretion of the project director.

E. Project Staff

Each grantee will designate a person to serve as the Project Director. A full-time Director is desirable yet fiscal realities or project needs may dictate otherwise. A rationale for less than a full-time Project Director must be included with the project application. Supervision of the Project Director is the responsibility of the sponsor.

Student service-learning project staff are employees of the grantee organization and are subject to its personnel policies and practices.

F. Community Relations

1. *Public Awareness.* A strong community relations program ensures public awareness of start-up and continuing project activities. It is essential for the successful recruiting of volunteers and for the recognition of volunteer service. The project sponsor and Project Director should inform community, city and county officials, and the media about development, growth, and success of the student service-learning project.

2. *Volunteer Recognition.* With the participation of the sponsor, the staff, and volunteer placement sites, recognition should be given to student volunteers for service to the community. Projects can also provide recognition to local individuals and agencies or organizations for significant activities in support of project goals.

3. *Community support.* A viable community support system needs to be initiated to ensure project success and project continuation without federal funds. Project support may be sought from school districts, governmental entities, religious and service groups, United Way, foundations, the business community, youth organizations, etc. One method of enlisting and maintaining community support for the project's operation is through the establishment of a project advisory council and/or working committee of the sponsor's board.

VI. Student Volunteer Assignments

Student volunteers are assigned to serve low-income communities in a variety of ways. Local sponsors are expected to develop volunteer service opportunities taking into consideration the focus of the project, the age, skills, and interests of student volunteers, as well as the value of the learning experience itself.

Clear understanding concerning the responsibilities of volunteer placement sites must be reached between representatives of the grantee's project staff and the volunteer site supervisor. Agreements may be formally arranged through the utilization of a Memorandum of Understanding, a Letter of Agreement or other means.

A formal agreement between the project staff and volunteer site will greatly assist the staff and volunteers in the management of volunteers. Issues and responsibilities concerning volunteer orientation/training, volunteer transportation, recognition and reporting of service hours, are functions outlined in this agreement.

VII. Restrictions

A. Special Restrictions on Student Service-Learning Project Grantees

1. *Political Activities.* a. Grant funds shall not be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office or any voter registration activity.

b. No project shall use grant funds to provide services, employ or assign personnel or volunteers for, or take any action which would result in the identification or apparent identification of the project with:

(1) Any partisan or non-partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office;

(2) Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any election; or

(3) Any voter registration activity.

2. *Lobbying.* a. No grant funds or volunteers may be used by the sponsor in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except as follows:

(1) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests a student volunteer, a sponsor chief executive, his or her designee, or project staff to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or

(2) In connection with an authorization or appropriation measure directly affecting operation of the program.

Regulations found in 45 CFR Part 1226, "Prohibitions on Electoral and Lobbying Activities," apply fully hereto, and provide further details on the limitations of political and lobbying activities that apply to volunteers and sponsors. Each grantee is obliged to know, and communicate to staff and volunteers, the prohibitions included therein.

3. *Special Restrictions on State or Local Government Employees.* If the sponsor receiving a grant from ACTION is a state or local government agency, certain restrictions contained in Chapter 15 of Title 5 of the United States Code are applicable to persons who are principally employed in activities associated with the project. The restrictions are not applicable to employees of educational or research institutions. An employee subject to these restrictions may not:

a. Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.

b. Directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

c. Be a candidate for elective office, except in a non-partisan election. "Non-partisan election" means an election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential election received votes in the last preceding election at which Presidential electors were selected.

If a project staff member, whose salary is traceable in whole or in part to an ACTION grant, is also a State or local government employee, the staff member is covered by provisions of the Hatch Act, restricting in many instances public participation in partisan political activities. Questions about the coverage of the Hatch Act may be addressed to the Office of General Counsel, ACTION, Washington, D.C. 20525.

4. *Non-discrimination.* No person with responsibility for the operation of a project shall discriminate with respect to any activity or program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation.

5. *Religious Activity.* Volunteers and project staff funded by ACTION shall not give religious instruction, conduct worship services, or engage in any form of proselytization as part of their duties.

6. *Labor and Anti-Labor Activity.* No grant funds shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

7. *Non-displacement of Employed Workers.* A student vounteer may not perform any service or duty which could supplant the hiring of workers who would otherwise be employed to

perform similar services or duties; or result in the displacement of employed workers or impair existing contracts for service.

8. *Non-compensation for Services.* No volunteer or other person, organization, or agency shall request or receive any compensation for services of student volunteers. No volunteer site or any member or cooperating organization shall be requested or required to contribute or to solicit contributions to establish any part of a local share. This does not prevent the acceptance of cash contribution made voluntarily and without condition to the SSLP grantee for legitimate charitable purposes.

9. *Volunteer Status.* Student volunteers are not employees of the sponsoring organization or the U.S. Government while volunteers.

10. *Nepotism.* Persons selected for project staff positions may not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors unless there is concurrence by ACTION.

(42 U.S.C. 4974)

Signed in Washington, DC, this 10th day of March, 1986.

Donna M. Alvarado,

Director.

[FR Doc. 86-5736 Filed 3-14-86; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1986 Upland Cotton Marketing Quota Program; Producer Referendum

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice regarding the conduct of a producer referendum with respect to the 1986 Upland Cotton Marketing Quota Program.

SUMMARY: The purpose of this notice is to announce that the producer referendum with respect to the 1986 upland cotton marketing quota, originally proposed to be conducted during the week of December 9–13, 1985, and later postponed until no later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress, will not be conducted. The Food Security Act of 1985, Pub. L. 99-198, which provides for a 1986 upland cotton program, was signed into law on December 23, 1985, making the referendum unnecessary.

EFFECTIVE DATE: March 17, 1986.

ADDRESS: Dr. Howard C. Williams, Director, Commodity Analysis Division, Agricultural Stabilization and Conservation Service (ASCS), USDA, Room 3741 South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Janise A. Zygmont, Agricultural Economist, USDA–ASCS, Room 3758 South Building, P.O. Box 2415, Washington, DC 20013, or call (202) 475–4645. A preliminary Regulatory Impact Analysis has been prepared and is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "non-major". It has been determined that this notice will not have any of the significant effects specified in those documents. The purpose of this notice is to announce that the producer referendum with respect to the national marketing quota for upland cotton for the marketing year beginning August 1, 1986, will not be held since the provisions of the Agricultural Adjustment Act of 1938 which required the referendum have been suspended for the 1986–1990 crops of upland cotton.

The titles and numbers of the Federal assistance programs to which this notice applies are: Title—Cotton Production Stabilization; Number—10.052, and Title—Commodity Loans and Purchases; Number—10.051, as found in the Catalogue of Federal Domestic Assistance.

The Administrator, Agricultural Stabilization and Conservation Service (ASCS), certifies that this notice will not have a significant economic impact on a substantial number of small entities. Consequently, no regulatory flexibility analysis is required under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment.

Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Section 342 of the Agricultural Adjustment Act of 1938 (the "1938 Act") provides that, whenever a national marketing quota is proclaimed for upland cotton, the Secretary of Agriculture shall, not later than December 15 of the calendar year in which such quota is proclaimed, conduct a referendum of farmers to determine whether they favor or oppose marketing quotas. A notice of proposed determination was published in the **Federal Register** (50 FR 41541) on October 11, 1985, in which it was proposed that a producer referendum for the marketing year beginning August 1, 1986, would be conducted during the week of December 9–13, 1985.

Section 342 of the 1938 Act was amended by Pub. L. 99–157, effective November 15, 1985, to provide that the referendum with respect to the national marketing quota for upland cotton for the marketing year beginning August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress. On December 6, 1985, the Secretary of Agriculture announced by press release that the marketing quota referendum for upland cotton for the 1986 Upland Cotton Marketing Quota Program would be postponed. However, section 502 of the Food Security Act of 1985, Pub. L. 99–198, provides that section 342 of the 1985 Act is not applicable to the 1986–1990 crops of upland cotton.

Notice

Accordingly, notice is hereby given that the producer referendum to determine whether farmers favor or oppose marketing quotas for upland cotton for the marketing year beginning August 1, 1986, will not be conducted.

Signed at Washington, DC, on March 11, 1986.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86-5713 Filed 3-14-86; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

Bureau of the Census

1990 Census Pub. L. 94-171 Program

Under the requirements of Pub. L. 94-171 (13 U.S.C. 141), the Director of the Bureau of the Census is issuing below a statement of the Census Bureau's plans for providing population counts for state legislative reapportionment/redistricting needs. The Census Bureau has provided this statement to the Governor, Secretary of State, and legislative leaders of each state. Copies are

available on request from the Director, Bureau of the Census, Washington, DC 20233.

Under the provisions of Pub. L. 94–171, the Census Bureau must provide each state with 1990 census population counts for legislative reapportionment/redistricting. In addition to counts by standard geographic areas (counties, minor civil or census county divisions, incorporated places, census tracts, and census blocks nationwide), the Census Bureau will provide population counts by voting district in participating states by aggregating data for census blocks within those voting districts that meet the criteria issued by the Census Bureau for the 1990 Census Pub. L. 94–171 Program.

The 1990 Census Pub. L. 94–171 Program has three major phases:

Phase 1

The Census Bureau announced this phase, the Block Boundary Suggestion Project, in the April 25, 1985 **Federal Register** and provided the guidelines and criteria to the Governor, Secretary of State, and legislative leaders of each state. The Census Bureau also offered to meet with officials in each state to discuss this program and answer questions; 40 states participated in such meetings.

The Block Boundary Suggestion Project afforded states the opportunity to suggest certain visible features they wanted the Census Bureau to use as block boundaries in the 1990 census to the extent those features conformed to the criteria issued by the Census Bureau. For any visible feature the state suggests that is not on the Census Bureau's maps, the state staff must provide topographic maps, aerial photographs, or other suitable materials for verification purposes.

July 31, 1985 was the deadline for the state to inform the Census Bureau of its intent to participate in this Project. Forty-two states elected to participate. A list of contact persons in the participating states is available from the Director, Bureau of the Census, Washington, DC 20233.

Phase 2

Beginning in late 1988, the Census Bureau will provide requesting states with copies of preliminary 1990 census maps showing block boundaries. State staff will delineate voting district boundaries using these blocks and the January 1, 1988 boundaries of counties, minor civil divisions, and incorporated places shown on these maps. The Census Bureau will include these voting district boundaries—updated for January 1, 1990 boundaries of counties, minor civil divisions, and incorporated places—in its census geographic system so that it can provide the state with counts for voting districts, voting district equivalents, standard census tabulation areas, and census blocks statewide no later than April 1, 1991.

Those states that are not participating in Phase 1 of the 1990 Census Pub. L. 94–171 Program may participate in Phase 2 by submitting their voting district boundaries on copies of these 1990 census block-numbered maps so long as they follow the boundaries of the census blocks.

Phase 3

The Census Bureau will deliver a copy of the final 1990 census block numbered maps and the 1990 Pub. L. 94–171 data to the Governor and the officers or public bodies having initial responsibility for legislative apportionment or districting in each state by April 1, 1991. States that did not participate in the earlier phases of this program will receive population counts and maps for standard census areas; i.e., counties, incorporated places, minor civil divisions, census tracts, block numbering areas, and census blocks. The planned subject content of these data is total population, major race groups, and Spanish origin. The Census Bureau is considering the feasibility of including voting age population counts.

Participation by a state in the Pub. L. 94–171 Program is voluntary, and questions concerning this Program should be addressed to the Director, Bureau of the Census, Washington, DC 20233.

Dated: March 11, 1986.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 86–5729 Filed 3–14–86; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A–588–504]

Erasable Programmable Read Only Memories (EPROMs) From Japan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminary determined that EPROMs from Japan are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of EPROMs from Japan 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 for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by May 27, 1986.

EFFECTIVE DATE: March 17, 1986.

FOR FURTHER INFORMATION CONTACT: David Mueller, William Kane, or Raymond Busen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–2923, 377–1766, or 377–3464.

Preliminary Determination

We have preliminary determined that EPROMs from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1673(b)) (the Act). Except in the instances where we used the best information available, we made fair value comparisons on virtually all sales of the class or kind of merchandise to the United States by the respondents during the period of investigation, April 1 through September 30, 1985. The weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On September 30, 1985, we received a petition from Intel Corporation, Advanced Micro Devices, Inc., and National Semiconductor Corporation on behalf of the domestic manufactuers of EPROMs. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of EPROMs from Japan are being, or are likely to be sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a United States industry. The petition also alleged that sales of the subject merchandise were being made at less than the cost of production. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty

investigation. We notified the ITC of our action and initiated such an investigation on October 21, 1985 (50 FR 43603). On November 14, 1985, the ITC detemined that there is reasonable indication that imports of EPROMs from Japan are materially injuring, or are threatening material injury to, a U.S. industry (50 FR 47852).

On December 2, 1985, we presented antidumping duty questionnaires to Hitachi Ltd. (Hitachi), Fujitsu Limited (Fujitsu), Toshiba Corporation (Toshiba), and NEC Corporation (NEC). Respondents were requested to answer the questionnaire in 30 days. However, at the requests of Hitachi, Fujitsu, Toshiba, and the Japanese Ministry of International Trade and industry, we granted an extension to January 17, 1986. On January 17, 1986, we received incomplete responses from Hitchi, Fujitsu, and Toshiba, and a letter from NEC stating that it would not respond to our questionnaire. In letters dated February 3, 1986, the Department requested supplemental information from each of the three respondents. Additional information was submitted by these respondents on February 18, 1986.

Products Under Investigation

The products covered by this investigation are erasable programmable read only memories (EPROMs), which are a type of memory integrated circuit that is manufactured using variations of Metal Oxide-Semiconductor (MOS) process technology, including both Complementary (CMOS) and N-Channel (NMOS). The products include processed wafers, dice and assembled EPROMs produced in Japan and imported into the United States from Japan.

Finished EPROMs are currently provided for in the Tariff Schedules of the United States Annotated (TSUSA) under item 687.7445. Unassembled EPROMs, inlcuding unmounted chips, wafers, and dice, are provided for under TSUSA item 687.7405.

In the notice of initiation in this case, we tentatively included in the scope of this investigation processed wafers and dice produced in Japan and assembled into finished EPROMs in another country prior to importation into the United States from the other country. Based on the responses received, there are currently no such third-country assembly/imports. We have preliminarily determined that the question as to whether we have authority to include these third country imports is dependent, in part, on certain factual considerations. Thus, we can not make such a determination in the abstract, absent information as to what might actually occur in the third country. Should we receive evidence at some future date that these third-country assembly/imports are occurring, we will determine whether to include them in the scope of the proceeding at that time.

Fair Value Comparisons

For the three responding firms, to determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with foreign market value as specified below. For NEC, we made our fair value comparison using the best information available for both United States price and foreign market value, as NEC did not respond to our questionnaire. The best information available was the United States price and foreign market value developed in the petition.

For purposes of this preliminary determination, we used the date of shipment as the date of sale in both the U.S. and home markets. We will continue to evaluate whether these are the appropriate dates at verificaiton and for the final determination.

United States Price

As provided in section 772(c) of the Act, we used exporter's sales price (ESP) to represent United States price, as the merchandise was sold to unrelated purchasers after the date of importation. A small number of Hitachi's sales were made to unrelated purchasers prior to importation, but no calculations were performed on these sales.

We calculated ESP based on the packed, duty paid, C.I.F. delivered price to unrelated purchasers in the United States. Where appropriate, we made deductions for brokerage charges in Japan and the U.S., foreign inland freight and insurance, air freight and insurance, U.S. duty, U.S. freight and insurance, commissions to unrelated parties, U.S. selling expenses incurred in Japan and the U.S., credit expenses, warranties, technical services, advertising, discounts, and rebates in the U.S. market. The cost of additional packing performed in the U.S. was deducted. For Fujitsu, the cost of further processing in the U.S. was also deducted.

Foreign Market Value

The petitioner alleged that sales in the home market by all the respondents were at prices below the cost of producing the merchandise.

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market prices where there were sufficient home market sales at or above the cost of production to determine foreign market value. We used constructed value as the basis for calculating foreign market value where there were no sales of such or similar merchandise in the home market or where there were not sufficient sales above the cost of production, as defined in section 773(b) of the Act.

Where foreign market value was based on home market prices, we calculated a foreign market value for each product for each month of the period of investigation, due to sharp declines in monthly prices. Where foreign market value was based on constructed value we used a monthly constructed value for each product.

Cost of Production

The Department analyzed the unverified cost submissions of the respondents to determine the sufficiency of such data for the purposes of calculating the cost of production for the preliminary determination. Where the Department determined that a submission was substantially complete and sufficient, it used the submission for the preliminary determination. However, adjustments to the respondents' data were made when it appeared from the explanation provided in the response that certain costs necessary for the production of EPROMs were not included or were not appropriately quantified or valued.

Some adjustments were made to the cost of production of all the respondents. These were:

(1) Matching the sales to cost of production incurred two months prior to the sales.

(2) Including the expense of sales credit for the home market sales, and

(3) Including interest expense equal to the percentage of interest expense to the cost of sales; based on the consolidated operations of the company.

For Fujitsu, the product specific R&D was revised because the cost of production did not include historic R&D costs.

For Toshiba, the depreciation expense was revised because Toshiba based such expenses on a useful life of three years for its equipment; the product-specific R&D was revised because a clear explanation of the allocation method was not presented.

For Hitachi, general, administrative and selling expenses were revised because of the apparent omission of certain general costs.

Price to Price Comparisons

For each company examined, we found sufficient sales above the cost of production for certain products to allow use of home market prices in accordance with section 773(a)(1)(A) of the Act to determine foreign market value. Where we used home market prices as the basis for foreign market value, we calculated the home market price on the basis of the delivered price to unrelated purchasers. We made deductions, where appropriate, for foreign freight and insurance, discounts, rebates, and commissions to unrelated parties in the home market. We also made deductions, where appropriate, for differences in circumstances of sale for credit terms, technical services, and warranty, in accordance with § 353.15 of our regulations. We deducted home market packing costs and added U.S. packing costs. Where appropriate, we offset commissions paid on U.S. sales with indirect selling expenses in the home market, in accordance with § 353.15(c) of our regulations. We also used indirect selling expenses to offset United States selling expenses, in accordance with § 353.15(c) of our regulations.

On March 6, 1986, Fujitsu submitted a revised listing of home market sales reflecting a recalculation of credit expenses and discounts. We did not receive this new information in sufficient time to evaluate and incorporate it in our calculations. We will consider that information prior to our final determination.

Constructed Value

In accordance with section 773(e) of the Act, we calculated foreign market value based on constructed value when there were insufficient home market sales of such or similar merchandise above the cost of production for comparison. For constructed value, the Department used the materials, fabrication, and general expenses, based on the respondents submissions revised as detailed under the "Foreign Market Value—Cost of Production" section of this notice. The actual general expenses were used, since in all cases, such expenses exceeded the statutory minimum of 10 percent of materials and fabrication. "Since all of the respondents' submissions indicated that the actual profit for merchandise of the same general class or kind was less than 8 percent, the Department used the 8 percent statutory minimum for profit. We made adjustments under § 353.15 of the regulations for differences in circumstances of sale between the two markets.

Currency Conversion. For ESP comparisons, we used the official exchange rate for the date of purchase since the use of that exchange rate is consistent with section 615 of the Tariff and Trade Act of 1984 (1984 Act). We followed section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations because the later supersedes that section of the regulations.

Verification

We will verify all the information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of the company.

Suspension of Liquidation

In accordance with section 7733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of EPROMs from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeded the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/Producer/Exporter	Margin percentage
Hitachi Ltd.	29.9
Fujitsu Limited	145.9
Toshiba Corporation	21.7
NEC Corporation	188.0
All others	63.1

ITC Notification

In accordance with section 733(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 consent of the Deputy Assistant Secretary for Import Administraton. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry, before the later of 120 days after we make our preliminary affirmative determination, or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 1:00 p.m., on April 25, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B–099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by April 18, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

March 10, 1986.

[FR Doc. 86–5766 Filed 3–14–86; 8:45 am]

BILLING CODE 3510-DS-M

[A–533–502]

Certain Welded Carbon Steel Standard Pipe and Tube From India; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain welded carbon steel standard pipe and tube (standard pipe and tube) from India are being, or are likely to be, sold in the United States at less than fair value and that critical circumstances do not exist. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise, except that

produced and exported by Zenith Steel Pipes and Industries Ltd. (Zenith) and Gujarat Steel Tubes Ltd. (Gujarat), as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Terri A. Feldman, or Jess M. Bratton, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–1769, (202) 377–0160, or (202) 377–1778.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that standard pipe and tube from India are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) (19 U.S.C. 1673d(a)) of the Tariff Act of 1930, as amended (the Act).

Two of the three companies investigated, Zenith and Gujarat, have been excluded from this final affirmative determination since we have found no sales at less than fair value. The weighted-average margin of all TISCO sales is 7.08%. The margins ranged from 0.81% to 57.96%. The weighted-average margin for each company is shown in the "Suspension of Liquidation" section of this notice.

Case History

On July 16, 1985, we received a petition in proper form filed by the Standard Pipe and Tube Subcommittee of the Committee on Pipe and Tube Imports (CPTI), and by each of the member companies who produce standard pipe and tube. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from India are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or threatening material injury to, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on August 9, 1985 (50 FR 32244). On August 30, 1985, the ITC determined that there is a reasonable indication that imports of standard pipe and tube are materially injuring, or threatening material injury to, a U.S. industry (50 FR 37068).

On September 24, 1985, we received an amendment to the petition alleging that critical circumstances exist with respect to imports of standard pipe and tube from India.

On September 6, 1985, a questionnaire was presented to counsel for respondents. On October 21 and 22, 1985, Tata Iron & Steel Co., Ltd. (TISCO) and Zenith responded to our questionnaire. On November 13, 1985, Gujarat presented a voluntary response to our questionnaire. Because the above-named companies accounted for more than 60 percent of exports of the merchandise to the United States during the period of investigation, we limited our investigation to them. We investigated virtually all sales of standard pipe and tube by these companies for the period February 1, 1985, through July 31, 1985.

On December 31, 1985, we made an affirmative preliminary determination (50 FR 53356). We verified the questionnaire responses in January. A hearing was held in February.

Scope of Investigation

The products covered by this investigation are welded carbon steel pipe and tube with an outside diameter of 0.375 inch or more but not over 16 inches, of any wall thickness, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258 and 610.4925. These products are commonly referred to in the industry as standard pipe or tube produced to various ASTM specifications, most notably A–120, A–53 or A–135.

Fair Value Comparisons

To determine whether sales in the United States of the subject merchandise were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise as the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the packed F.O.B. or C&F prices to unrelated customers in the United States. Where appropriate, we made deductions for foreign inland freight, ocean freight, government quality control and inspection charges, and clearing/forwarding charges. Where appropriate, we also made additions for indirect tax rebates through the cash compensatory support (CCS) scheme, central excise duty (tax), import duty, duty drawback, separate sales tax payments made on hot-rolled coil, duty exemptions on imported hot-rolled coil and zinc, and the Steel Development Fund (SDF) Levy.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market prices. We used packed C&F and F.O.B. delivered prices to unrelated home market purchasers to determine the foreign market value. We made deductions, where appropriate, for freight charges and discounts. We made comparisons of such or similar merchandise based upon product subgroups selected by Department of Commerce industry experts and, where appropriate, made adjustments for differences in physical characteristics based upon data provided by the companies and Department of Commerce industry experts. We also made adjustments for differences in packing costs. In accordance with § 353.15 of the Commerce Regulations, we made circumstance of sale adjustments for differences in advertising, the International Price Reimbursement Scheme (IPRS), commissions and credit terms in the two markets for all respondents.

We disallowed circumstances of sale adjustments claimed by TISCO for differences in technical services, legal expenses and bad debt. We disallowed these adjustments because they were not directly related to sales under consideration as required by § 353.15(a) of the Commerce Regulations.

We made currency conversions in accordance with § 353.56(a)(1) of the Commerce Regulations, using certified exchange rates as furnished by the Federal Reserve Bank of New York.

Final Negative Determination of Critical Circumstances

The petitioners alleged that imports of standard pipe and tube from India present "critical circumstances." Under section 735(a)(3) of the Act, critical circumstances exist if we determine that (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and (2) there have been massive imports of the class or

kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there is a history of dumping of standard pipe and tube from India in the United States or elsewhere, we reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping duty orders. We also reviewed the antidumping actions of other countries. We did not find that there was a history of dumping of standard pipe and tube in the United States or elsewhere. Therefore, we considered whether importers of this product knew or should have known that it was being sold at less than fair value. We found the dumping margins too small to lead us to believe importers knew these firms were dumping.

Since we did not find a history of dumping in the United States or elsewhere, nor that importers of this product knew or should have known that it was being sold at less than fair value, we did not need to consider whether there have been massive imports over a relatively short period. Therefore, for the reasons described above, we determine that critical circumstances do not exist.

Verification

As provided in section 776(a) of the Act, we verified all information provided by respondents by using standard verification procedures, including on-site inspection of the manufacturers' operation and examination of accounting records and randomly selected documents.

Comments

Petitioners' Comments

Comment 1: Petitioners argue that the Department should not make a circumstances of sale adjustment to TISCO's home market sales price for the International Price Reimbursement Scheme (IPRS) because (1) the program might be countervailable; or (2) the program is not comparable to any situation in which circumstance of sale adjustments ordinarily are allowed; or (3) the program is merely an institutionalized cover for dumping because TISCO both pays into and receives rebates from the program.

DOC Response: We disagree. First, the countervailability of the IPRS should be addressed in the context of a countervailing duty investigation. Here, we are determining whether the IPRS meets the requirements for a difference in circumstances of sale adjustment, as provided for in the law and § 353.15 of the Commerce Regulations. Secondly, in this case, the IPRS rebate is directly related to, and in fact contingent upon, the export sale of the merchandise under investigation. Receipt of the IPRS effectively enhanced the net return to TISCO on those sales. Therefore, we believe this adjustment is comparable to other circumstances of sale adjustments.

Third, although TISCO pays required levies into and receives payments from the Engineering Goods Exports Assistance Fund (EGEAF), it does so according to the rates established by the Indian government. Monies for this generalized fund come from assessments included in the government-set price of steel. The formula for rebates is tied to the difference between domestically-produced and internationally-acquired steel prices. As such, the fact that this rebate acts as a revenue enhancement for TISCO does not constitute dumping.

Comment 2: Petitioners argue that no one in India pays the import duty on imports of hot-rolled coil (an input into pipes and tubes), even if the coil were to be imported for domestic consumption. Thus, the import duty is not "imposed" within the meaning of section 772(d)(1)(B) and Zenith and Gujarat are not entitled to an addition to United States price for duty drawback or exemption.

DOC Response: We verified that the Indian tariff schedule contains an entry establishing an import duty for hot-rolled coil. We found no evidence at verification that these duties would be rebated or not collected if hot-rolled coil were imported to be sold domestically. Based on verified information in the record, it is clear that the import duties set by the government of India were not collected on imports of coil because Zenith and Gujarat held import licenses showing they would export the pipes and tubes produced with the imported coil. Therefore, we allowed this adjustment to United States Price, under section 772(d)(1)(B) of the Tariff Act.

Comment 3: Petitioners contend that the amount of uncollected duties and taxes for Zenith should not include the four percent Central Sales Tax on hot-rolled coil because these payments have not been collected by reason of importation rather than exportation.

DOC Response: We disagree. Section 772(b)(1)(C) allows an adjustment for taxes on merchandise sold in the home market which are not paid on the product when exported to the United States. We verified that Zenith paid the Central Sales Tax on the hot-rolled coil input in its domestically sold pipe and tube. Since it is included in the price of the domestic goods and it is not collected on the exported product, we have made an appropriate adjustment.

Comment 4: Petitioners argue that the Department should not allow an adjustment for the Steel Development Fund levy because this amount is not collected by reason of importation of the steel coil, rather than by reason of exportation of the pipes and tubes.

DOC Response: Our analysis of this comment is similar to that in Petitioners Comment 2. This levy was included in the price of domestically sold pipe and tube but was not included in the price of the pipe and tube exported to the United States. Therefore, we made an adjustment as provided for in section 772(b)(1)(C).

Comment 5: Petitioners argue that the Department should not make an addition to the United States price for the CCS indirect tax rebate because no indirect taxes are actually "added to or included in the price of such or similar merchandise when sold in the country of exportation".

DOC Response: We disagree. Under section 772(b)(1)(C) we add to the United States price indirect taxes that would be included in the home market prices. For hot-rolled coil and zinc used to produce pipe and tube for the home market we verified that the companies paid a Central Sales Tax. Therefore, since this tax was not collected on the material inputs used to produce pipe and tube exported to the United States, we made an addition to the United States price, as required by the statute.

Comment 6: Petitioners argue that Department, consistent with its practice in the recent antidumping duty investigation on Circular Welded Carbon Steel Standard Pipes and Tubes from Thailand (51 FR 3384), should use domestic sales throughout the entire six month period of investigation to compare to the sales to the United States.

DOC Response: We agree, for reasons stated in DOC response to respondents' comment 9.

Comment 7: Petitioners argue that the Department should request that the Steel Authority of India, Limited (SAIL), the only known importer of hot-rolled coil for domestic use, submit documentation of imports of hot-rolled coil demonstrating that duties were actually paid on such imports when the finished product was sold domestically. The petitioners have submitted independent statements in their comments that SAIL never pays import duties on imported steel, whether imported for use in producing domestic or exported merchandise. Absent such

documentation, an adjustment for duty exemption should not be allowed.

DOC Response: We disagree. The information submitted by petitioners after verification is contradicted by information submitted by respondents. Absent further verification which is not possible because of the statutory deadline for the final determination, we are relying on verified information in the record for our final determination. Based on the verified information, as indicated above in our response to comment 1, we are allowing this adjustment.

Comment 8: Petitioners argue that the Department should not use a 12% export financing rate when calculating imputed credit on sales to the United States because the program under which exports are financed at this rate was found to constitute a countervailable subsidy in the countervailing duty investigation.

DOC Response: We disagree. We verified that Zenith and Gujarat received short-term financing for U.S. exports of pipe and tube at the 12% interest rate and so used this actual interest rate for Zenith and Gujarat. We verified that TISCO did not use the 12% interest rate to finance its exports. Therefore, we used the commercial rate for this firm.

Comment 9: Petitioners argue that adjustments for certain advertising expenses claimed by TISCO should not be allowed because there is not direct relationship between the advertisements and the pipe and tube sales.

DOC Response: We disagree. We verified that the advertisements for which adjustments were claimed were of TISCO pipe and tube aimed directly at the end users, and not simply promotion of the company name. Accordingly, we made an appropriate circumstances of sale adjustment for these expenses.

Comment 10: Petitioners contend that the Department should not allow a circumstances of sale adjustment for technical services claimed by TISCO. These charges encompass for more than what is usually included in technical services, and a direct relationship between these expenditures and specific home market sales of pipe and tube has not been established.

DOC Response: We agree. We verified that the technical service expenses claimed by TISCO included general service charges, such as salaries, branch office overhead expenses, research and development, and sales taxes that do not qualify for a circumstances of sale adjustment. Therefore, we did not make an adjustment for technical services.

Comment 11: Petitioners argue that the Department should find that critical circumstances exist with respect to these imports. U.S. importers should know that merchandise is being sold at less than fair value if it is imported at prices that are similar to prices of imports from other countries which recently have been found to be dumping. Critical circumstances also should be found to exist because recent imports have been massive in comparison to previous import levels from India.

DOC Response: We disagree. The fact that we have found companies from one country to be dumping does not necessarily indicate that companies from another country also are dumping. Home market prices and the costs of production may differ substantially from country to country. Therefore, we are maintaining our case by case analysis for determining whether critical circumstances are present. In this case, the relatively small margins do not indicate that the importers knew or should have known, that the exports from India were sold at less than fair value. This, plus the fact that there is no history of dumping of these products, led us to determine that critical circumstances are not present in this case.

Comment 12: Petitioners argue that setting two different "all others" rates, one for companies using IPRS and another for those that do not, is administratively unfeasible.

DOC Response: Having allowed the IPRS adjustment, the issue is no longer relevant.

Respondents' Comments

Comment 1: Respondents argue that an adjustment should be made for the credit cost on the two percent of payments yet to be received by TISCO on home market sales. Respondents state that the Department should take the number of days from the date of shipment to the date of verification and should apply this cost as an adjustment to home market sales.

DOC Response: We agree. The two percent of the sales price still outstanding is directly related to the sale of the merchandise in the home market. Therefore, we have allowed this adjustment as a circumstances of sale and have imputed credit costs on home market sales on this basis.

Comment 2: Respondents argue that the Department should not find that critical circumstances exist with respect to exports from TISCO. Importers could not have known that the merchandise was being dumped because the magnitude of TISCO's margins was due solely to the Department's treatment of the IPRS.

DOC Response: We have allowed the IPRS adjustment and therefore this argument is moot. In this final determination TISCO's margins are not high enough to assume that importers knew or should have known, that TISCO was selling pipe and tube at less than fair value. See our response to petitioners' Comment 12.

Comment 3: Respondents argue that the Department should change its current practice of considering negative margins as zero, and instead calculate weighted-average margins by using both positive and negative margins from each sales transaction.

DOC Response: We disagree. Our methodology in calculating a weighted-average margin for each individual company ensures that sales made at less than fair value on a portion of a company's product line to the United States market are not negated by more profitable sales.

Comment 4: Respondents claim that an adjustment for exemption from the Steel Development Fund levy on export sales by Zenith and Gujarat should be made. Zenith and Gujarat pay the tax on domestic steel, but not on steel that they are permitted to import to produce the pipes which they export. Therefore, under section 772(d)(1)(C), an addition to U.S. price is required.

DOC Response: We agree. Although Zenith and Gujarat do not pay the SDF levy directly, the tax is included in price which they pay the domestic producer of the coil. Therefore the adjustment is appropriate and has been made.

Comment 5: Respondents argue that the credit costs in both the U.S. and home markets for Zenith and Gujarat were incorrectly calculated. The imputed credit factor was multiplied by the "net purchase price" rather than the gross price which is the amount on which interest is actually paid.

DOC Response: We agree. For this final determination we have recalculated the interest cost accordingly.

Comment 6: Gujarat and Zenith demonstrated at verification that the interest rate charged in India for financing their sales to the U.S. was 12%. Therefore, the credit expenses on the U.S. sales should be corrected accordingly.

DOC Response: We agree. See also our responses to petitioners' Comments 8 and 9.

Comment 7: Respondents argue that in adjusting for the difference in merchandise, the Department understated the discount which both

Zenith and Gujarat offer on plain ended pipe by calculating it on the basis of new home market rather than gross unit price.

DOC Response: We agree. We verified that the discount was applied to invoice (gross) price. Therefore, in this final determination we made the adjustment to gross price.

Comment 8: Respondents contend that the Department incorrectly adjusted for the differences in galvanization in the United States and home markets for Gujarat's fence tubes. The price difference should have been converted from dollars to rupees and subtracted from foreign market value, rather than added to foreign market value.

DOC Response: We agree and have changed our calculation for this final determination accordingly.

Comment 9: Respondents argue that Zenith's one U.S. sale should be compared to home market sales of that same month. The one U.S. sale was made in February prior to the announcement of an increase in the domestic prices of the major input, steel. Home market prices fixed after the end of February reflect the increase in raw material costs and are not representative of home market prices at the time the U.S. sale was made. Further, citing the Department's practice of using monthly foreign market values when investigating prices which are rapidly changing, respondent argues that this sudden price increase makes post-February home market prices unrepresentative.

DOC Response: We disagree. We use month to month comparisons only under exceptional circumstances, such as when examining prices in a hyperinflationary economy or where prices are rapidly changing. One price increase during the six-month period, in our opinion, does not constitute rapidly changing prices, nor does the inflation rate in India approach a hyperinflationary rate. Therefore, we do not believe a deviation from our normal practice is warranted and we have compared the sale to the U.S. during the period of investigation to those of such or similar merchandise in the home market during the same period, as established in the law.

Comment 10: Respondents argue that an adjustment should be made for the yearly performance discount Zenith extended in late November to its customers for sales during the period of October through November.

DOC Response: We disagree. Since the claim for this discount was not made prior to verification the Department followed its usual procedure and did not verify this late claim.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(2). of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of standard pipe and tube from India that are entered, or withdrawn from warehouse, for consumption, on or after the date on which the Department published its preliminary determination in the **Federal Register** (50 FR 53356). The retroactive suspension of liquidation of entries of the subject merchandise from TISCO is hereby terminated.

The Customs Service shall require a cash deposit or bond equal to the weighted/average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. Zenith and Gujarat have been excluded from this determination since they have made no sales at less than fair value. The suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturers/Sellers/Exporters	Weighted-average margin percentage
TISCO	7.08
Zenith	[1] 0
Gujarat	[1] 0
All Other Manufacturers/Producers/Exporters	7.08

[1] Excluded.

For all entries of pipe and tube from Zenith and Gujarat and entries from TISCO made prior to December 31, 1985, the Customs Service is directed to terminate the suspension of liquidation, release any bond, refund any cash deposit and liquidate all entries or withdrawals from warehouse for consumption.

ITC Determination

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential 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 wil not disclose such information, either publicly or under an administrative protective order, without the 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 45 days of the publication of this notice.

If the ITC determines that materal injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on standard pipe and tube from India entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 10, 1986.

[FR Doc. 86-5767 Filed 3-14-86; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Financial Assistance Application Announcements; Florida

AGENCY: Minority Business Development Agency; Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Develpment Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first 12 months is estimated at $764,706 for the project performance of July 1, 1986 to June 30, 1987. The MBDC will operate in the Miami, FL Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $650,000 in Federal funds and a minimum of $114,206 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is 04-10-86009-01 for the Miami, FL SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and

operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for applications is April 11, 1986. Applications must be postmarked on or before April 11, 1986.

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309, (404) 347–4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia, Friday, March 21, 1986, at 9 am.

(11.800 Minority Business Development) (Catalog of Federal Domestic Assistance)

Dated: March 21, 1986.

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

[FR Doc. 86–5718 Filed 3–14–86; 8:45 am]

BILLING CODE 3510–21–M

Financial Assistance Application Announcements; Pittsburgh, PA

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first 12 months is estimated at $200,000 for the project performance of July 1, 1986 to June 30, 1987. The MBDC will operate in the Pittsburgh, Pa. Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $170,000 in Federal Funds and a minimum of $30,000 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical asistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for applications is April 14, 1986. Applications must be postmarked on or before April 14, 1986.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Washington, DC 20230, 202/377–8280.

FOR FURTHER INFORMATION CONTACT: Willie J. Williams, Regional Director, Washington Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development) (Catalog of Federal Domestic Assistance)

Dated: March 4, 1986.

Willie J. Williams,

Regional Director, Washington Regional Office.

[FR Doc. 86–5721 Filed 3–14–86; 8:45 am]

BILLING CODE 3510–21–M

Financial Assistance Application Announcements; Richmond, VA

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first 12 months is estimated at $200,000 for the project performance of July 1, 1986 to June 30, 1987. The MBDC will operate in the Richmond, VA. Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $170,000 in Federal Funds and a minimum of $30,000 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for applications is April 14, 1986. Applications must be postmarked on or before April 14, 1986.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Washington, DC 20230, 202/377–8280.

FOR FURTHER INFORMATION CONTACT: Willie J. Williams, Regional Director, Washington Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development) (Catalog of Federal Domestic Assistance)

Dated: March 4, 1986.

Willie J. Williams,

Regional Director, Washington Regional Office.

[FR Doc. 86–5722 Filed 3–14–86; 8:45 am]

BILLING CODE 3510–21–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Additional Official of the Government of the Republic of the Philippines Authorized to Issue Export Visas and Exempt Certifications

March 12, 1986.

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 March 18, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On November 28, 1979, a CITA directive was published in the **Federal Register** (44 FR 68005), which established an export visa requirement and certification for exemption of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States. One of the requirements is that the visas and certifications must be signed by an official authorized by the Government of the Republic of the Philippines. The Government of the Republic of the Philippines has named an additional official, Lorna del Rosario, to issue these documents in addition to those previously designated (49 FR 34389). A list of the currently authorized officials is published as an enclosure to the letter to the Commissioner of Customs which follows this notice. This list supersedes all previously such lists.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 12, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of November 23, 1979, as amended, from the Chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption of certain cotton, wool and man-made fiber textile products in designated categories for which the Government of the Republic of the Philippines had not issued an appropriate export visa or exempt certification.

Effective on March 18, 1986, the directive of November 21, 1979, as amended, is hereby further amended to include the enclosed list of officials authorized by the Government of the Republic of the Philippines to issue export visas and exempt certifications. These are the only officials currently so authorized.

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 (a)(1).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Officials Currently Authorized by the Government of the Republic of the Philippines to Issue Visas and Certifications for Exemption for Certain Cotton Wool and Man Made Fiber Textile and Apparel Products Exported to the United States

Aida Cabardo
Asuncion B. Kalalo
Eden Malapad
Lorna del Rosario

[FR Doc. 86–5770 Filed 3–14–86; 8:45 am]

BILLING CODE 3510–DR–M

Announcing Import Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in India Effective on January 1, 1986; Correction

March 12, 1986.

On December 27, 1985 a notice was published in the **Federal Register** (50 FR 52985), which established the 1986 import control limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in India. In the letter to the Commissioner of Customs which followed that notice, the categories included in the apparel group limit of 115,634,600 square yards equivalent should be corrected to read as follows:

330–359, 431–459, and 630–659 [1]

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–5768 Filed 3–14–86; 8:45 am]

BILLING CODE 3510–DR–M

Announcing Revisions in Issuing Authorities Authorized To Issue Export Licenses/Commercial Invoices for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products, Produced or Manufactured in the People's Republic of China

March 12, 1986.

Under the terms of the cotton, wool and man-made fiber export licensing

system, effected by an exchange of letters dated February 16, 1984, between the Governments of the United States and the People's Republic of China, the Government of the People's Republic of China has notified the United States Government that six additional authorities have been named to issue textile export lincenses/commercial invoices for textile and apparel products subject to the terms of the bilateral agreement. The purpose of this notice is to advise the public of this change.

Following this notice is a complete list of issuing authorities of the Government of the People's Republic of China which are currently authorized to issue export licenses/commercial invoices.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation for Textile Agreements.

The Authorities for issuing Textile Export Licenses of the People's Republic of China

Foreign Trade Administration of the Ministry of Foreign Economic Relations and Trade, 2 Dong China An Street, Beijing

Beijing Foreign Trade Bureau, 17 Building, Yong An Li, Jianwai, Beijing

Tianjin Foreign Trade Bureau, 80 Qufu Road, Heping District, Tianjin

Hebei Foreign Economic Relations and Trade Department, 58 Beima Road, Shijiazhuang, Hebei Province

Shanxi Foreign Economic Relations and Trade Department, 6 Xinjian Road, Taiyuan, Shanxi Province

Neimenggu Foreign Economic Relations and Trade Department, 1 Xinhua Street, Huhehaote, Neimenggu

Liaoning Foreign Trade Bureau, 2 Zhngshan Square, Dalian, Liaoning Province

Jilin Foreign Economic Relations and Trade Commission, 56 Stalin Street, Changchun, Jilin Province

Heilongjiang Foreign Economic Relations and Trade Department, 55 Heping Road, Harbin, Heilongjiang Province

Shanghai Foreign Economic Relations and Trade Commission, 33 Building, 1 Dongshan Road, Shanghai

Jiangsu Foreign Economic Relations and Trade Department, 50 Zhonghua Road, Nanjing, Jiangsu Province

Zhejiang Foreign Economic Relations and Trade Department, 24 Changsheng Road, Hangzhou, Zhejiang Province

Anhui Foreign Economic Relations and Trade Commission, 85 Changjiang Road, Hefei, Anhui Province

Fujian Foreign Economic Relations and Trade Commission, 24 East Road, Fuzhou, Fujian Province

Jiangxi Foreign Economic Relations and Trade Department, 36 Zhanqian Road, Nanchang, Jiangxi Province

Shandong Foreign Trade Bureau, 11 Nanhai Road, Qingdao, Shandong Province

Henan Foreign Economic Relations and Trade Commission, 69 Wenhua Road, Zhengzhou, Henan Province

Hubei Foreign Economic Relations and Trade Department, 72 Yanjiang Road, Hankou, Wuhan, Hubei Province

Hunan Foreign Economic Relations and Trade Commission, Wuyi Road, Changsha, Hunan Province

Guangdong Foreign Economic Relations and Trade Commission, 774 Dongfeng Road, Guangzhou, Guangdong Province

Guanxi Foreign Economic Relations and Trade Commission, Hongxing Road, Nanning, Guangxi Province

Sichuan Foreign Economic Relations and Trade Department, Chenghua Street, Chendu, Sichuan Province

Yunnan Foreign Economic Relations and Trade Department, 113 Huashan Road, Kunming, Yunnan Province

Shaanxi Foreign Economic Relations and Trade Department, Xincheng, Xi An, Shaanxi Province

Xinjiang Foreign Economic Relations and Trade Department, 10 Tuanjie Road, Wulumuqi, Xinjiang

Chongqing Foreign Economic Relations and Trade Bureau, 35 Linjiang Road, Central District, Chongqing, Sichuan Province

Gansu Foreign Economic Relations and Trade Department, 28 Dingxi Road, Lanzhou, Gansu Province

Wuhan Foreign Economic Relations and Trade Commission, 344 Jiefang Road, Wuhan, Hubei Province

Qinghai Foreign Economic Relations and Trade Department, 102 Shulin Road, Xining, Qinghai Province

Dalian Foreign Economic Relations and Trade Commission, 1 Stalin Square, Xigang District, Dalian, Liaoning Province

Harbin Foreign Economic Relations and Trade Bureau, 102 Tongjiang Street, Harbin, Heilongjiang Province

Shenyang Foreign Economic Relations and Trade Bureau, 3 Zhongshan Road, Heping District, Shenyang, Liaoning Province.

[FR Doc. 86-5769 Filed 3-14-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Agency Information Collection Activities Under OMB Review; Guaranteed Student Loan Program

AGENCY: Department of Education.

ACTION: Notice of Need to Obtain OMB Paperwork Reduction Act Approval.

In February, 1986, the Department of Education issued Bulletin 86-L-87 with ED Form 799 Addendum to all lenders participating in the Guaranteed Student Loan Program, and Bulletin 86-L-89 (LD) with ED Form 799A Addendum to all lenders who make or purchase Guaranteed Student Loans with tax-exempt funds, to inform the lenders of the effect of the Balanced Budget and Emergency Deficit Control Act of 1985, Pub. L. 99-177. The Secretary publishes this notice to clarify the status of the bulletins and their addenda.

The ED Form 799 Addendum and Form 799A Addendum were issued without the requisite approval by the Office of Management and Budget (OMB) as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Paperwork Reduction Act requires the assignment of a valid OMB control number to information collections of the sort contained in the two forms. No penalty will be imposed on lenders for failure to report using the addenda until the forms have been approved by OMB and assigned control numbers. The forms have been submitted to OMB for approval, and a notice will be published in the Federal Register to inform the public once approval is granted.

A presidential sequestration order, effective March 1, 1986, has been issued as required by section 256(c) of Pub. L. 99-177. The effect of the order is described in the bulletins issued by the Department. The effective date of the presidential sequestration order is not affected by OMB approval of the forms submitted by the Department.

FOR FURTHER INFORMATION CONTACT: Carol Roberts, Acting Chief, Guaranteed Student Loan Branch, Room 4310, ROB-3, 400 Maryland Ave., SW., Washington, DC 20202. Telephone: (202) 245-2475; or Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503. Telephone: (202) 395-7316.

Dated: March 13, 1986.
William J. Bennett,
Secretary of Education.
[FR Doc. 86-5869 Filed 3-13-86; 1:43 pm]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Idaho Operations Office; Solicitation of Cooperative Agreement Proposals; Geothermal Research Holes in the Cascades

AGENCY: Department of Energy.

ACTION: Solicitation of cooperative agreement proposals (SCAP) No. DE-SC07-86ID12632 for geothermal research holes in the Cascades region of Washington, Oregon and California.

SUMMARY: The Department of Energy, Idaho Operations Office, desires to receive and consider for support proposals to enter into a Cooperative Agreement to perform the drilling of 3,000 feet or deeper geothermal research holes and to collect data. DOE will cost share up to 50% of the cost of drilling the hole and associated data collection. DOE will require access to the hole for further data and technology development for a specified period of time after drilling. The objectives of the program are: (1) To support research to understand the nature of the deep hydrothermal resource of the Cascade volcanic region, and (2) to transfer data to the public in order to understand the Cascades resource and to stimulate further technology development. Funding is estimated at approximately $400,000 in Fiscal Year 1986, anticipating a cost-sharing of 1-2 Cooperative Agreements.

Minimum Requirements

To qualify for evaluation under the SCAP, the proposer must meet the following qualification criteria: the proposed site must be located within the Cascades volcanic region of the United States; the proposal must include a cost-share plan in which DOE's share shall not exceed 50 percent; the proposed hole must be a minimum of 3,000 feet deep; the proposer must agree to meet minimum data collection requirements, complete the hole, and allow DOE access to the hole for data acquisition.

DATES: It is anticipated that the SCAP will be issued April 18, 1986, and proposals will be due May 30, 1986.

CONTACTS: Potential proposers desiring to receive a copy of the SCAP should request it from: U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 83402, Attn: Trudy Thorne, Contracts Management Division, (208) 526-9519.

Issued at Idaho Falls, ID, on March 5, 1986.
J. F. Marmo,
Director, Contracts Management Division.
[FR Doc. 86-5710 Filed 3-14-86; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 86-15-NG]

Application To Import Natural Gas From Canada; Ocelot Energy Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas from Canada for short-term and spot sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on February 28, 1985, of an application filed by Ocelot Energy Corporation (Ocelot), a wholly-owned subsidiary of Ocelot Mining Corporation and an affiliate of Ocelot Industries Limited, for a blanket authorization to import from Canada up to 300 Bcf of natural gas over a two-year period beginning on the date of first delivery. The gas will be supplied by Ocelot Industries Limited, its Canadian affiliate, as well as by a variety of other producer groups and associations and pipeline companies located in Canada. Ocelot would then resell the gas to local distribution companies, pipelines and industries and commercial end-users or would act as an agent on behalf of Canadian producers and marketers and the U.S. purchasers. Ocelot proposes to file quarterly reports showing the specific terms of each import and sale, including the price and volumes.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than April 16, 1986.

FOR FURTHER INFORMATION CONTACT:
Clifford P. Tomaszewski, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9760
Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., April 16, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trail-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should

identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Ocelot's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, March 7, 1986.

Paula A. Daigneault,

Director, Natural Gas Division, Economic Regulatory Administration.

[FR Doc. 88–5709 Filed 3–14–86; 8:45 am]

BILLING CODE 6450–01–M

Proposed Remedial Order; Ted True, Inc., and Ted True

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Ted True, Inc. and Ted True; 1201 Elm Street, Suite 5377; Dallas, Texas 75270. This Proposed Remedial Order alleges pricing violations in the amount of $944,771.00 plus interest in connection with the sale of crude oil during the period June 1979 through November 1980.

A copy of the Proposed Remedial Order may be obtained from the Office of Freedom of Information Reading Room; U.S. Department of Energy; Forrestal Building, Room 1E–190; 1000 Independence Avenue, SW.; Washington, DC 20585. Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals; U.S. Department of Energy; Forrestal Building, Room 6F–078; 1000 Independence Avenue, SW.; Washington, DC 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 18 day of February 1986.

Ben Lemos,

Director, Office of Field Operations, Dallas, Economic Regulatory Administration.

[FR Doc. 86–5708 Filed 3–14–86; 8:45 am]

BILLING CODE 6450–01–M

Final Consent Order With Edwin L. Cox & Berry R. Cox

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Final action on proposed consent order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed Consent Order between the Department of Energy (DOE) and Edwin L. Cox & Berry R. Cox (Cox) shall be made a final order of the DOE. The Consent Order resolves issues of compliance by Cox with the federal petroleum price and allocation regulations concerning production and first sales of domestic crude oil for the period June 1, 1979 through January 27, 1981. Cox will pay to the DOE the sum of $1,206,698 within 10 days of publication of this notice. The Consent Order is effective as a final order of the DOE on the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, U.S. Department of Energy, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002, (713) 229–3715.

SUPPLEMENTARY INFORMATION:

I. Introduction

ERA previously issued a notice announcing a proposed Consent Order between DOE and Cox which would resolve matters relating to the company's compliance with the federal petroleum price and allocation regulations pertinent to production and first sales of domestic crude oil for the period June 1, 1979 through January 27, 1981 (50 FR 51586, December 18, 1985). The proposed Consent Order requires Cox to pay $1,206,698 within 10 days of the effective date of the Consent Order. The notice solicited written comments from the public relating to the terms and conditions of the settlement.

II. Comments Received

ERA received two comments. Those comments addressed the question of the ultimate disposition of the funds to be paid by Cox pursuant to the settlement, but did not question the basis of the settlement or the adequacy of the settlement amount.

The comments were devoted exclusively to establishing the proposition that monies received under Cox Consent Order that could not be paid to parties injured by alleged overcharges should be paid to the States and should not be deposited in the U.S. Treasury.

During the period covered by this Consent Order the violations allegedly committed by Cox related to the miscertification of its crude oil. Such violations resulted in cost increases that were distributed among all refiners by the entitlements program and refiners could then pass the overcharges on to others. See *United States* v. *Exxon Corp.*, 773, F.2d 1240 (EM. App. 1985).

The DOE's Office of Hearings and Appeals in a report to the District Court of the District of Kansas in *In re: the Department of Energy Stripper Well Litigation, MDL No. 378*, determined that where alleged crude oil violations involve crude oil miscertifications, the resulting harm cannot be traced to specific customers. As explained by the DOE in an accompanying Statement of Restitutionary Policy:

> Essentially, OHA concluded that the direct purchasers (as such) generally did not absorb the overcharges because they were reimbursed by the entitlements programs. Tracing of overcharges is impossible in view of the spreading effect of the entitlements program, the fungibility of refiner costs and the consequent inability of firms and OHA to determine which costs were passed through and which, if any, were retained, and the high proportion of cost passthrough, among other factors.
>
> OHA's finding that it is impossible to trace crude oil cost increases that were equalized by the entitlements program. . . . is consistent with the conclusions of two district courts that have previously determined that the harm resulting from crude oil miscertifications cannot be traced. 50 Fed. Reg. 27400 (July 2, 1985).

DOE then examined the possible use of econometric modeling methods to estimate the extent to which overcharges were passed through at the various distribution levels within the industry. With regard to this indirect methodology, DOE concluded:

> It is too inexact in determining injury to particular classes of claimants and yields no conclusions concerning the injury to individuals within any class. The governmental costs in resources and, more importantly, societal costs in years of continued litigation prior to distribution are unacceptably high. *Id.* at 27402.

The comments on the Cox Consent Order appear to assume that DOE will distribute, or attempt to distribute, funds

received under the Consent Order to parties injured by the alleged overcharges. However, as discussed above, it is impossible to determine which persons were ultimately injured by crude oil miscertifications. Therefore, DOE will not attempt to make such a determination here, and the funds received from Cox pursuant to the Consent Order will not be the subject of a Subpart V petition and proceeding.

DOE's Statement of Policy also addressed the question of how to effect indirect restitution where refunds to individual injured claimants are not feasible. The policy statement provides that the ERA will retain the monies received in an escrow account for a reasonable time to allow Congress an opportunity to determine an appropriate disposition of the funds. If Congress does not enact legislation within a reasonable time, the DOE will transfer the funds to the general fund of the U.S. Treasury.

Because the terms of the settlement are consistent with the foregoing action, ERA has determined to make the Consent Order final. The ERA, however, modified the Consent Order to reflect a higher interest rate that would apply should the company not meet the 10-day payment deadline.

III. Decision

Pursuant to 10 CFR 205.199J, the Consent Order between Cox and DOE shall become a final order of the DOE on the date of publication of this notice in the **Federal Register.**

Issued in Houston, Texas, on February 20, 1986.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 86-5838 Filed 3-14-86; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: The Department of Energy (DOE) has submitted the energy information collections, listed at the end of this notice, to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The collection number(s); (2) Collection title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Monday, February 24, 1986 (51 FR 6456).

FOR FURTHER INFORMATION CONTACT:

John Cross, Director, Data Collection Services Division (DCSD), Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-2308

Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7313.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to Mr. Broussalian within 10 days of this notice.

If you anticipate commenting on a collection, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, DC, March 5, 1986.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Collections Under Review by OMB

Collection No. (1)	Collection title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated No. of respondents (7)	Annual respondent burden hrs. (8)	Abstract (9)
CE-189P, C, S	Industrial energy conservation program report forms	Extension	Annually	Mandatory	Businesses or other for-profit.	12,222	124,596	CE-189P, C, and S collect data on energy efficiency improvement and on recovered materials utilization. Data are aggregated, analyzed and organized into an annual report to Congress and the President. Respondents are corporations identified by DOE as having used at least one trillion Btu's of energy.
EIA-846(F)	Manufacturing energy consumption survey.	New	Triennially	Mandatory	Businesses or other for-profit.	4,000	32,000	EIA-846 (F) will collect data on the consumption of energy sources and the fuel-switching capability of establishments in the manfacturing sector. Respondents are manufacturing establishments in the SIC 20-39.

[FR Doc. 86-5837 Filed 3-14-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER84-568-008 et al.]

Electric Rate and Corporate Regulation Filings; Gulf States Utilities Co. et al.

March 11, 1986.

Take notice that the following filings have been made with the Commission:

Gulf States Utilities Company

[Docket No. ER84-568-008]

Take notice that on February 21, 1986 Gulf States Utilities Company, pursuant to Commission order issued January 22, 1986, tendered for filing an amendment to the Agreement for wholesale electric service between Gulf States and the City of Abbeville.

Comment date: March 21, 1986, in accordance with Standard Paragraph H at the end of this notice.

Arkansas Power & Light Company

[Docket Nos. ER83-86-000, ER84-193-000, and ER84-194-000]

Take notice that on March 4, 1986, Arkansas Power & Light Company (AP&L) tendered for filing a redeterminded Transmission Demand Rate, revenue comparisons and supporting workpapers in accordance with the agreements between AP&L and the City of Hope, Arkansas, Cajun Electric Power Cooperative, Inc. and Louisiana Energy and Power Authority in the above-referenced dockets.

AP&L asks that the updated rate supersede the currently effective rate and become effective on March 1, 1986, subject to refund, in accordance with the provisions of the agreements.

Comment date: March 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

Arkansas Power & Light Company

[Docket Nos. ER82-705-000, and ER83-230-000]

Take notice that on March 4, 1986, Arkansas Power & Light Company (AP&L) tendered for filing a redeterminded formula rate, revenue comparisons and supporting workpapers for the Cities of West Memphis, Osceola, and Jonesboro and the Arkansas Electric Cooperative Corporation in accordance with the Power Coordination, Interchange and Transmission Service Agreements and Settlement Agreements (Agreements) filed in the above-referenced dockets.

AP&L requests that the updated rates supersede those that became effective on March 1, 1985, and that the updated rates become effective for service on and after March 1, 1986, subject to refund, in accordance with the provisions of the Agreements.

Comment date: March 21, 1986, in accordance with Standard Paragraph H at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commision, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5823 Filed 3-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 9783-000 et al.]

Hydroelectric Applications (North American Hydro, Inc., et al.)

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Preliminary Permit.

b. Project No.: 9783-000.

c. Date Filed: December 30, 1985.

d. Applicant: North American Hydro, Inc., and Renaissance Hydro Associates.

e. Name of Project: Mauston Dam Project.

f. Location: On the Lemonweir River in the City of Mauston, Juneau County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Charles Alsberg, North American Hydro, Inc., Post Office Box 167, Neshkoro, WI 54960, (414) 293-4628.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing Mauston Dam approximately 190 feet long and 9 feet high; (2) an existing 828-acre reservoir having a storage capacity of 1,150 acre-feet; (3) an existing brick and concrete powerhouse approximately 40 feet by 80 feet containing two turbine/generator units having a total installed capacity of 480 kW operating at 8 feet of hydraulic head; and (4) appurtenant facilities. The existing facilities would be rehabilitated and placed back into service. The Applicant estimates that the average annual energy generation would be 800,000 kWh. The project dam is owned by the City of Mauston.

k. Purpose of Project: The Applicant intends to sell the power generated at the proposed facility to the Wisconsin Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $15,000.

2 a. Type of Application: Preliminary Permit.

b. Project No.: 9782-000.

c. Date Filed: December 30, 1985.

d. Applicant: North American Hydro, Inc. and Renaissance Hydro Associates.

e. Name of Project: Eau Galle Dam Project.

f. Location: On the Eau Galle River in the town of Eau Galle, Dunn County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Charles Alsberg, North American Hydro, Inc., P.O. Box 167, Neshkoro, WI 54960, (414) 293-4628.

i. Comment Date: May 9, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing concrete Eau Galle Dam approximately 150 feet long and 30 feet high; (2) an existing 351-acre reservoir having a storage capacity of 2,073 acre-feet; (3) an existing concrete, brick and stone powerhouse 30 feet by 40 feet containing two turbine/generator units having a total installed capacity of 560 kW operating at 28 feet of hydraulic head; and (4) appurtenant facilities. The existing facilities would be rehabilitated and placed back into service. An existing 12.7-kV transmission line is available at the site. The Applicant estimates that the average annual energy generation would be 1,000 MWh. The project dam is owned by Dunn County, Wisconsin.

k. Purpose of Project: The Applicant intends to sell the power generated at the proposed facilities to the Northern States Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $15,000.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 9780–000.

c. Date Filed: December 30, 1985.

d. Applicant: North American Hydro, Inc. and Renaissance Hydro Associates.

e. Name of Project: Big Falls Dam Project.

f. Location: On the Little Wolf River in the Village of Big Falls, Waupaca County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Charles Alsberg, North American Hydro, Inc., P.O. Box 167, Neshkoro, WI 54960, (414) 293–4628.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam approximately 76 feet long and 16 feet high; (2) an existing 22-acre reservoir having a storage capacity of 80 acre-feet; (3) an existing penstock 175 feet long and 6.5 feet in diameter; (4) an existing concrete and brick powerhouse approximately 24 feet by 30 feet containing a single turbine/generator unit with a capacity of 350 kW operating at 32 feet of hydraulic head; and (5) appurtenant facilities. An existing 12.7-kV transmission line is available at the site. The existing facilities would be rehabilitated and put back into service. The Applicant estimates that the average annual energy generation would be 1,800 MWh. The project dam is owned by the Village of Big Falls.

k. Purpose of Project: The Applicant intends to sell the power generated at the proposed facilities to the Wisconsin Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $15,000.

4 a. Type of Application: Preliminary Permit.

b. Project No: 9766–000.

c. Date Filed: December 30, 1985.

d. Applicant: Old Mill Power Company, Inc.

e. Name of Project: Old Mill.

f. Location: Bearcamp River in Carroll County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William J. Spalke, Old Mill Power Company, Inc., P.O. Box 863, 31 Elm Street, Nashua, NH 03061, (603) 883–5571.

i. Comment Date: May 9, 1986.

j. Description of Project: The proposed project would consist of: (1) repair to the existing 20-foot-high, 231-foot-long dam owned by Saunders Bros. with a crest elevation of 536 feet msl; (2) an existing reservoir with a surface area of 4 acres and a gross storage capacity of 40 acre-feet; (3) a proposed powerhouse at the dam containing a generating unit with a rated capacity of 220 kW; and (4) a proposed 180-foot-long transmission line tying into the existing Public Service Company of New Hampshire system. The Applicant estimates a 1,500,000 kWh average annual energy production.

k. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $18,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

5 a. Type of Application: Minor License.

b. Project No.: 9688–000.

c. Date Filed: December 16, 1985.

d. Applicant: Chocorua Forestlands Limted Partnership.

e. Name of Project: Weed Brook/Halfway Brook.

f. Location: Weed and Halfway Brooks, Carroll County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16, U.S.C. 791(a)–825(r).

h. Contact Person: Mr. George K. Lagassa, Mainstream Associates, 86 Lafayette Road, P.O. Box 947, North Hampton, NH 03862, (603) 964–7113.

i. Comment Date: May 9, 1986.

j. Description of Project: The proposed project would be built at two sites. At the Weed Brook site, the project would consist of: (1) A proposed concrete intake structure 12 feet long, 6 feet wide, and 4 feet deep at an elevation of 1400 feet NGVD; (2) a proposed concrete diversion wall 8 feet long and 2 feet high; (3) a proposed 10-inch-diameter plastic penstock 5300 feet long; (4) a proposed concrete powerhouse 10 feet long and 10 feet wide housing a proposed turbine/generator of 57 kW capacity at a net hydraulic head of 440 feet; (5) a proposed 480 volt transmission line 200 feet long and a proposed 7.2 kV transmission line 50 feet long, and (6) appurtenant facilities.

k. At the Halfway Brook site, the project would consist of: (1) A proposed concrete intake structure 12 feet long, 6 feet wide, and 4 feet deep at an elevation of 1320 feet NGVD; (2) a proposed concrete diversion wall 18 feet long and 2 feet high; (3) a proposed 13-inch-diameter plastic penstock 2600 feet long; (4) a proposed concrete powerhouse 10 feet long and 10 feet wide housing a proposed turbine/generator of 25 kW capacity at a net hydraulic head of 230 feet; (5) a proposed 480 volt transmission line 100 feet long and a proposed 7.2 kW transmission line 75 feet long; and (6) appurtenant facilities. No significant

impoundment would be created at either site. The estimated annual power generation is 300,000 kWh.

l. Purpose of Project: Project power would be sold to Public Service Company of New Hampshire.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

6 a. Type of Application: Minor License.

b. Project No.: 9687–000.

c. Datae Filed: December 16, 1985.

d. Applicant: Chocorua Forestlands Limited Partnership.

e. Name of Project: Lovell River/ White Brook.

f. Location: Lovell River and White Brook, Carroll County, New Hamsphire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. George K. Lagassa, Mainstream Associates, 86 Lafayette Road, P.O. Box 947, North Hampton, NH 03862, (603) 964–7113.

i. Comment Date: May 9, 1986.

j. Description of Project: The proposed project would be built at two sites. At the Lovell River site, the project would consist of: (1) A proposed concrete intake structure 10 feet long, 6 feet wide and 4 feet deep at an elevation of 1360 NGVD; (2) a proposed concrete diversion wall 16 feet long and 3 feet high; (3) a proposed 16-inch-diameter plastic penstock 3700 feet long; (4) a proposed concrete powerhouse 10 feet long and 10 feet wide housing a proposed turbine/generator of 76 kW capacity at a net hydraulic head of 183 feet; (5) a proposed 7.2 kV transmission line 1.3 miles long; and (6) appurtenant facilities.

At the White Brook site, the project would consist of (1) a proposed concrete intake structure 10 feet long, 6 feet wide, and 4 feet deep at an elevation of 1265 NGVD; (2) a proposed concrete diversion wall 6 feet long and 3 feet high; (3) a proposed 12-inch-diameter plastic penstock 4500 feet long; (4) a proposed concrete powerhouse 10 feet long and 10 feet wide housing a proposed turbine-generator of 50 kW capacity at a net hydraulic head of 244 feet; (5) a proposed 480 volt transmission line 75 feet long; and (6) appurtenant facilities. No signficant impoundment would be created at either site. The estimated annual power generation is 430,000 kWh.

k. Purpose of Project: Project power would be sold to Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

7 a. Type of Application: Preliminary Permit.

b. Project No: 9615–000.

c. Date Filed: November 13, 1985.

d. Applicant: Swift River/Hafslund Company.

e. Name of Project: Three Rivers Dam.

f. Location: Chicopee River in Hampden County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Peter B. Clark, Chief Executive Officer, Swift River/ Hafslund Company, 10 Harbor Street, Danvers, MA 01923, (617) 777–7040.

i. Comment Date: May 9, 1986.

j. Description of Project: The proposed project would consist of: (1) an existing 32-foot-high, 250-foot-long concrete dam owned by the Town of Palmer with a crest elevation of 302 feet msl; (2) an existing reservoir with a surface area of 55 acres and a storage capacity of 600 acre-feet; (3) a proposed powerhouse at the base of the dam containing a generating unit with a rated capacity of 2,360 kW; and (4) a proposed 350-foot-long transmission line tying into the existing New England Electric Company system. The Applicant estimates a 13.5 GWh average annual energy production.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $125,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 9612–000.

c. Date Filed: November 4, 1985.

d. Applicant: Cedar Creek Limited Partnership.

e. Name of Project: Cedar Creek.

f. Location: On Cedar Creek and an unnamed tributary of Cedar Creek in Madison County, Montana near the town of Ennis. T6S R1E Sections 25, 26, 23, 14, 22, 15, 16, 21, 20, and 19 T6S R1W Sections 24 and 23.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Rhett Hurless, Water Engineering Inc., P.O. Box 3474, Bozeman, MT 59772, (406) 586–7017.

i. Comment Date: March 12, 1986.

j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 20-foot-wide concrete diversion dam at elevation 7,000 feet on Cedar Creek; (2) a 14-inch-diameter, 16,500-foot-long pvc and steel buried penstock extending to the powerhouse; (3) a 3-foot-high, 8-foot-wide concrete diversion dam at elevation 7,200 feet on an unnamed tributary of Cedar Creek; (4) a 12-inch-diameter, 9,000-foot-long pvc and steel buried penstock also terminating at the powerhouse; (5) a powerhouse containing two generating units with a total rated capacity of 500 kW, producing an estimated average annual energy output of 2.3 million kWh; (6) a concrete tailrace discharging project flows into Cedar Creek; (7) a 3-mile-long, 12.5-kV transmission line tying into an existing Montana Power Company line.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $12,000.

k. Purpose of Project: Project power would be sold to Montana Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 9590–000.

c. Date Filed: November 1, 1985.

d. Applicant: Patterson Creek Partners.

e. Name of Project: Patterson Creek.

f. Location: In Challis National Forest, on Patterson Creek in Lemhi County, Idaho. Township 14N, Range 23E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Louis Rosenman, Suite 1100, 1333 New Hampshire Avenue NW., Washington, DC 20036, (202) 783–2100.

i. Comment Date: April 21, 1986.

J. Competing Application: Project No. 9587, Date Filed: 11/1/85 Due Date: 4/7/85.

k. Description of Project: The proposed project would consist of: (1) a 6-foot-high diversion dam at elevation 6,800 feet; (2) a 13,000-foot-long, 42-inch-diameter penstock; (3) a powerhouse containing one generating unit with a capacity of 3,000 kW and an average annual generation of 15.0 GWh; and (4) a 150-foot-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $145,000.

No new roads would be constructed or drilling conducted during the feasibility study.

l. Purpose of Project: Project power would be sold.

m. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No: 9565–000.

c. Date Filed: October 30, 1985.

d. Applicant: Raymondville Hydro Corporation.

e. Name of Project: West Raymondville.

f. Location: Raquette River, St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Paul J. Elston, 420 Lexington Avenue, Suite 440, New York, New York 10170, (212) 986–0440.

i. Comment Date: May 9, 1986.

j. Description of Project: The proposed project would develop the unutilized capacity at the licensed Raquette River Project No. 2330, which includes (1) an existing concrete gravity dam 293 feet long and 17 feet high, a section of which is to be demolished; and (2) an existing impoundment 50 acres in surfact area with a storage capacity of 440 acre-feet at a normal maximum surface elevation of 212 feet mean sea level. The proposed project would consist of (1) a proposed reinforced concrete intake/powerhouse structure 110 feet long and 70 feet wide; (2) an excavated intake channel 180 feet long, 80 feet wide, and 40 feet deep; (3) two proposed turbine/generator units of 2.3 MW capacity each; (4) a proposed 115 kV transmission line 800 feet long; and (5) appurtenant facilities.

The estimated annual energy production is 7,000,000 kWh. The net hydraulic head is 22 feet. Project power would be sold to Niagara Mohawk Power Corporation. The dam owner is Niagara Mohawk Power Corporation.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $160,000.

11 a. Type of Application: Preliminary Permit.

b. Project No: 9853–000.

c. Date Filed: January 2, 1986.

d. Applicant: Arktech, Inc.

e. Name of Project: George #2.

f. Location: In Targhee National Forest, on Henrys Fork in Fremont County, Idaho, Township 11N and Range 42E, 43E.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Michael Arkoosh, P.O. Box 93, Gooding, ID 83330, (208) 934–8464.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would consist of: (1) A headgate on the river bank at elevation 6,000 feet; (2) a 1.25-mile-long canal; (3) a 300-foot-long, 96-inch-diameter penstock; (4) a powerhouse containing a generating unit with a capacity of 3,098 kW and an average annual generation of 18,484 MWh; and (5) a 0.5-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $96,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

12 a. Type of Application: Preliminary Permit.

b. Project No.: 9836–000.

c. Date Filed: December 31, 1985.

d. Applicant: West Slope Power Company.

e. Name of Project: Sand Creek Project.

f. Location: On Sand Creek, in Madera County, California; Sections 7, 18, 19, and 30, T.7S., R.23E., and Sections 25 and 26, T.7S., R.22E., MDB&M.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ms. Shirley Kimmel, P.O. Box 254800, Sacramento, CA 95865, (916) 924–3885.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 7.5-foot-long, diversion dam located at elevation 5,080 feet msl; (2) a 30-inch-diameter, 13,500-foot-long penstock; (3) a powerhouse with a total installed capacity of 4,750 kW; and (4) a 69-kV, 13,200-foot-long transmission line interconnecting the project to an existing utility distribution line. The estimated 13.9 GWh generated annually would be sold to the local utility company. The proposed project would be located within the Sierra National Forest.

k. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $75,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 9831–000.

c. Date Filed: December 31, 1985.

d. Applicant: West Slope Power Company.

e. Name of Project: Whisky Creek No. 3 Project.

f. Location: On Whisky Creek in Madera County, California; Sections 9, 16, 17, 18 and 20, T.9S., R.23E., MDB&M.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ms. Shirley Kimmel, P.O. Box 254800, Sacramento, CA 95865, (916) 924–3885.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 50-foot-long diversion dam located at elevation 2,080 feet msl; (2) a 36-inch-diameter, 8,500-foot-long penstock; (3) a powerhouse with a total installed capacity of 3,800 kW; and (4) a 13,200-foot-long, 69-kV transmission line interconnecting the project to an existing utility distribution line. The estimated 10.2 GWh generated annually would be sold to a local utility. The proposed project would be located within the Sierra National Forest.

A preliminary permit, if issued, does not authorize construction. Applicant seeks to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $75,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

14 a. Type of Application: Preliminary Permit.

b. Project No.: 9765–000.

c. Date Filed: December 30, 1985.

d. Applicant: Ramah Energy, Inc.

e. Name of Project: Big Sand Wash Hydro Project.

f. Location: On Big Sand Wash, a tributary of Dry Gulch Creek, a tributary of the Duchesne River, in Duchesne County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C 791(a)–825(r).

h. Contact Person: James F. Smith, President, Ramah Energy, Inc., 291 East 200 North, Roosevelt, UT 84066.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would utilize the Big Sand Wash Dam and Reservoir, owned by the Utah Board of Water Resources and operated and maintained by the Moon Lake Water Users Association, and would consist of: (1) The existing earthfill dam, 112 feet high and 795 feet long, with a top elevation at 5,892 feet m.s.l.; (2) a reservoir having a capacity of 12,050 acre-feet at spillway elevation of 5,885 feet m.s.l; (3) a new penstock utilizing the existing 40-inch diameter outlet works conduit; (4) a new powerhouse with an installed capacity of 750 kW operating under a maximum head of 100 feet; (5) a tailrace returning flow to the stream a short distance downstream from the dam; (6) a new 13.8 kV transmission line, about one half mile long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,211,149 kWh.

k. Purpose of Project: Project energy would be sold to the Utah Power & Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $20,000.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 9764–000.

c. Date Filed: December 30, 1985.

d. Applicant: American Hydro Power Company.

e. Name of Project: George B. Stevenson Dam Project.

f. Location: On the First Fork Sinnemahoning Creek in Grove Township, Cameron County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Peter A. McGrath, American Hydro Power Company, 33 Rock Hill Road, Bala Cynwyd, PA 19004–2010, (215) 668–8143.

i. Comment Date: May 9, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 1,925-foot-long, 166-foot-high rolled earth George B. Stevenson Dam; (2) an impoundment having a surface area of 142 acres, a storage capacity of 2,000 acre-feet, and a normal water surface elevation of 920 feet msl; (3) a proposed intake; (4) a proposed powerhouse containing four generating units with a total installed capacity of 920 kW; (4) a proposed tailrace; (5) a proposed 13-mile-long, 46-kV transmission line; and (6) appurtenant facilities The Applicant estimates the average annual generation would be 4,335 MWh. The existing dam and project facilities are owned by the Pennsylvania Department of Environmental Resources.

k. Purpose of Project: All project energy generated would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $47,000.

16 a. Type of Application: Preliminary Permit.

b. Project No.: 9742–000.

c. Date Filed: December 27, 1985.

d. Applicant: Taft Hydropower, Inc.

e. Name of Project: Diamond Hill Hydro Power Project.

f. Location: On Spruce Creek near Salisbury, Herkimer County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person:

Mr. Lawrence R. Taft, 10315 Caughdenoy Rd., Central Square, NY 13036, (315) 437–2547

Mr. Neal F. Dunlevy, % Stetson Dale Engineering PC, 185 Genesee St., Utica, NY 13501, (315) 797–5800.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing masonary stone gravity dam approximately 80 feet long and 14 feet high; (2) an existing 92 acre reservoir with 800 acre-feet of storage at an elevation of 1,360 mls; (3) rebuilding an existing intake structure; (4) a proposed penstock four feet in diameter and 1,200 feet long; (5) a new reinforced concrete powerhouse approximately 20 feet by 20 feet housing two 700 kW generators for a total capacity of 1,400 kW; (6) a proposed tailrace 15 feet wide, 6 feet deep, and 15 feet long; (7) a proposed 13.2 kV transmission line 400 feet long connecting with a single phase powerline which will be upgraded; and (8) appurtenant facilities. The Applicant estimates that the average annual energy generation would be approximately 6.0 GWh. The project energy would be sold to Niagara Mohawk Power Corporation. The Dam is owned by the City of Little Falls, New York.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under this Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $40,000.

17 a. Type of Application: Conduit Exemption.

b. Project No.: 9735–000.

c. Date Filed: December 27, 1985.

d. Applicant: City of Fullerton, California.

e. Name of Project: MWD Service Connection F–8.

f. Location: On the city of La Habra's Metropolitan Water District (MWD) Service Connection F–8, that obtains its water from the Colorado River, just south of the intersection of Lambert Road and Euclid Avenue, in the city of La Habra, in Orange County, California (Section 8 of T3S, R10W, S.B.M.&B.).

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person:

Mr. Hugh L. Berry, Assistant City Manager, City of Fullerton, 303 West Commonwealth Avenue, Fullerton, CA 92632, (714) 738–6845.
Mr. David C. Auslam, Jr., Auslam & Associates, Inc., 4125 Temescal Street, Suite D, Fair Oaks, CA 95628, (916) 961–8579.

i. Comment Date: April 18, 1986.

j. Description of Project: The proposed project would consist of a 20-foot-wide, 30-foot-long underground concrete vault (located beneath Euclid Avenue, adjacent to La Habra's pressure reducing and water distribution vault) containing all associated switchgear and two turbine-generator units with a combined rated capacity of 574 kW and operting under a head of 260 feet. A 60-kV, 50–foot-long transmission line would interconnect the project to an existing Southern California Edison Company line. The project's estimated average annual generation of 1.2 GWh would be sold to Southern California Edison Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

18 a. Type of Application: Preliminary Permit.

b. Project No.: 9695–000.

c. Date Filed: December 19, 1985.

d. Applicant: American Hydro Power Company.

e. Name of Project: Little Pine Creek Dam Project.

f. Location: On the Little Pine Creek in Cummings and Pine Townships, Lycoming and Clinton Counties, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Peter A. McGrath, American Hydro Power Company, 33 Rock Hill Road, Bala Cynwoyd, PA 19004–2010, (215) 668–8143.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 1,479-foot-long, 113-foot-high earth and rock filled Little Pine Creek Dam; (2) an impoundment with a surface area of 93.7 acres, a storage capacity of 1,100 acre-feet, and normal water surface elevation of 713 feet msl; (3) the existing 618-foot-long, 8.5-foot-diameter steel conduit; (4) a proposed powerhouse containing five generating units with a total installed capacity of 960 kW; (5) an existing tailrace; (6) a proposed 1.34-mile-long, 12.47-kV transmission line; and (7) appurtenant facilities. The Applicant estimates the Average annual generation would be 3,999 MWh. The existing dam and project facilities area owned by the Pennsylvania Department of Environmental Resources.

k. Purpose of Project: All project energy generated would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $47,000.

19 a. Type of Application: Preliminary Permit.

b. Project No: 9566–000.

c. Date Filed: October 30, 1985.

d. Applicant: East Norfolk Hydro Corporation.

e. Name of Project: South Norfolk.

f. Location: Raquette River, St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Paul J. Elston, 420 Lexington Avenue, Suite 440, New York, New York 10170, (212) 986–0440.

i. Comment Date: May 9, 1986.

j. Description of Project: The proposed project would develop the unutilized capacity at the licensed Raquette River Project No. 2330, which includes (1) an existing concrete gravity dam 245 feet long and 16 feet high; and (2) an existing impoundment 135 acres in surface area with a storage capacity of 1100 acre-feet at a normal maximum surface elevation of 288 feet mean sea level. The proposed project would consist of (1) a proposed reinforced concrete intake/powerhouse structure 110 feet long and 35 feet wide; (2) a proposed excavated intake channel 140 feet long, 35 feet wide, and 30 feet deep; (3) a proposed turbine/generator unit of 3.5 MW capacity; (4) a proposed 23 kV transmission line 1800 feet long; and (5) appurtenant facilities.

The estimated annual energy production is 4,000,000 kWh. The net hydraulic head is 15 feet. Project power would be sold to Niagara Mohawk Power Corporation. The dam owner is Niagara Mohawk Power Corporation.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $160,000.

20 a. Type of Application: Preliminary Permit.

b. Project No: 9563–000.

c. Date Filed: October 30, 1985.

d. Applicant: Herrings Hydro Corporation.

e. Name of Project: North Herrings.

f. Location: Black River, Jefferson County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Paul J. Elston, 420 Lexington Avenue, Suite 440, New York, NY 10170, (212) 986–0440.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would develop the unutilized capacity at the licensed Black River Project No. 2569, which includes: (1) An existing concrete gravity dam 512 feet long and 25 feet high; and (2) an existing impoundment 140 acres in surface area with a storage capacity of 1800 acre-feet at a normal maximum surface elevation of 680 feet mean sea level. The proposed project would consist of: (1) A proposed reinforced concrete intake/powerhouse structure 100 feet long and 120 feet wide; (2) a proposed excavated intake channel 250 feet long, 120 feet wide, and 20 feet deep; (3) three proposed turbine/generators of 3.24 MW capacity each; (4) a proposed 23 kV transmission line 200 feet long; and (5) appurtenant facilities.

The estimated annual energy production is 11,000,000 kWh. The net hydraulic head is 19 feet. Project Power would be sold to Niagara Mohawk Power Corporation. The dam is owned by Niagara Mohawk Power Corporation.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project.

Applicant estimates that the cost of the work to be performed under the preliminary permit would be $160,000.

21 a. Type of Application: Exemption from Licensing, less than 5MW.

b. Project No.: 9509–000.

c. Date Filed: September 30, 1985.

d. Applicant: D.D. Bean and Sons Company, Incorporated.

e. Name of Project: Cheshire Dam.

f. Location: Cheshire Pond and Contoocook River, Cheshire County, New Hampshire.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2709.

h. Contact Person: Mr. Stephen H. Krause, D.D. Bean Environmental Systems, Incorporated, 41 Main Street, Jaffrey, NH 03452, (603) 532–4416.

i. Comment Date: April 14, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing earth and concrete dam 130 feet long and 10 feet high; (2) an existing impoundment 57 acres in area with a storage capacity of 342 acre-feet at a normal maximum surface elevation of 964 feet mean sea level; (3) an existing earthen headrace 500 feet long, an existing 6-foot-diameter penstock 70 feet long, and an existing earthen tailrace 430 feet long; (4) a proposed turbine/generator of 110 kW capacity to be housed in the existing D.D. Bean and Sons Company factory; and (5) appurtenant facilities.

The net hydraulic head is 19 feet. The estimated annual energy production is 482,000 kWh. Project power will be consumed on-site by the applicant.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3a.

l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

22 a. Type of Application: Exemption (less than 5MW).

b. Project No.: 9456–000.

c. Date Filed: September 16, 1985.

d. Applicant: Adirondack Hydro Inc.

e. Name of Project: Black Brook.

f. Location: Black Brook, Clinton County, New York.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2709.

h. Contact Person: Mr. Christopher McGill, Adirondack Hydro Inc., P.O. Box 145, Wilmington, NY 12997, (518) 647–5955 or 946–7883.

i. Comment Date: April 18, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing stone masonry dam 455 feet long and varying between six and 34 feet in height, with 30 feet of breached section to be repaired; (2) an existing impoundment with surface area of 4.9 acres at a normal maximum surface elevation of 1015 feet msl, to be increased to a surface area of 34.9 acres and storage capacity of 279 acre-feet at a normal maximum surface elevation of 1022 feet msl; (3) an existing steel penstock, 100 feet long and 4 feet in diameter, to be extended by a proposed steel penstock 750 feet in length and 40 inches in diameter; (4) a proposed steel and concrete powerhouse 49 feet long, 30 feet wide, and 30 feet high, housing three proposed turbine/generators with a total capacity of 410 kW; (5) a proposed 2.3kV, ¾ mile-long transmission line; (6) two proposed access roads, 500 feet and 200 feet in length; and (7) appurtenant facilities. The estimated annual power production is 1,800,00 kWh. The net hydraulic head is 71 feet.

k. Purpose of Project: Project power will be sold to Niagara Mohawk Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

23 a. Type of Application: Amendment of License (New Capacity).

b. Project No.: 8278–001.

c. Date Filed: December 4, 1985.

d. Applicant: Crystal Springs Hydroelectric Company.

e. Name of Project: Cedar Draw Creek.

f. Location: On Cedar Draw Creek in Twin Falls County, Idaho near the town of Twin Falls.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C 791(a)–825(r).

h. Contact Person:

Mr. Wynn Johnson, Crystal Springs Hydroelectric Company, 200 East South Temple, Suite 300, Salt Lake City, UT 84111

Mr. H. Wayne Gibbs, Project Coordinator, J–U–B Engineers, Inc., 250 S. Beechwood Ave., Suite 1, Boise, ID 83709, (208) 376–73330.

i. Comment Date: April 21, 1986.

j. Description of Project: The proposed amendment would consist of: (1) The installation of an additional generating unit with a capacity of 778 kW connecting to an existing penstock in the existing powerhouse, and (2) lengthening the existing powerhouse 18 feet to accommodate the additional unit. The estimated average annual energy output due to this addition would be 10,751 MWh.

k. Purpose of Project: The additional generating unit is being added to take advantage of additional return irrigation flows.

l. This notice also consists of the following standard paragraphs: B and C.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the intial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application

must submit to the Commission, or or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene.*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 835 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be set to the Applicant's representatives.

D2. *Agency Comments*—Federal, State and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: March 12, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–5825 Filed 3–14–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-341-000 et al.]

Natural Gas Certificate Filings; Algonquin Gas Transmission Co. et al.

Take notice that the following filings have been made with the Commission:

1. Algonquin Gas Transmission Company

[Docket No. CP86-341-000]

March 10, 1986.

Take notice that on February 21, 1986, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP86-341-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 22,957 feet of 6-inch mainline pipe and 660 feet of 10-inch casing pipe on Applicant's existing G-8 pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authority to (1) abandon in place a portion of its existing G-8 pipeline system consisting of approximately 21,457 feet of 6-inch pipeline and 586 feet of 10-inch casing pipe and any related appurtenances and (2) remove and salvage a portion of its existing G-8 pipeline system consisting of approximately 1,500 feet of 6-inch pipeline and 74 feet of 10-inch casing pipe and any related appurtenances. Such facilities are said to be part of Applicant's original G-8 pipeline system authorized in Docket No. G-1319 and are located in the towns of Rochester, Wareham, Carver and Plymouth, Massachusetts.

Applicant states that the proposed abandonment of facilities would facilitate the installation of a 20-inch pipeline loop previously authorized by the Commission in Docket No. CP84-429-000, *et al.* Applicant avers that installation of the authorized 20-inch pipeline loop effectively eliminates the need for the existing 6-inch pipeline and associated facilities proposed to be abandoned. In addition, Applicant states that the proposed abandonment would allow Applicant to reduce its right-of-way rquirements for the installation and operation of the authorized 20-inch pipeline loop adjacent to the facilities proposed to be abandoned, resulting in less damage and construction costs for the new 20-inch pipeline loop. Applicant alleges that the proposed abandonment of these facilities would not entail any abandonment of service, affect significantly Applicant's net plant, nor impair its ability te meet its existing contract commitments to its existing customers.

Comment date: March 31, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Arkla Energy Resources, a Division of Arkla, Inc.

Docket No. CP86-338-000

March 12, 1986.

Take notice that on February 20, 1986, Arkla Energy Resources, (AER), a division of Arkla, Inc., P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP86-338-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate sales taps and related jurisdictional facilities necessary to enable Arkla to deliver gas from several of its jurisdictional pipelines to consumers served by Arkansas Louisiana Gas Company (ALG), a division of Arkla, Inc., under the certificate issued in Docket Nos. CP82-384-000 and CP82-382-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that AER proposes to construct and operate (1) a sales tap on its Line 6R2 in Sedgwick County, Kansas, to deliver gas to ALG for service to residential customer, Mrs. Judith L. Sawyer, who would use approximately 200 Mcf per year for residental purposes; (2) a sales tap on its Line BT-2A in Johnson County, Arkansas, to deliver gas to ALG for service to a retail customer, Mr. C.O. Blackard, who would use approximately 600 Mcf per year in connection with the operation of his chicken farm; (3) a sales tap on its Line BM-21 in Faulkner County, Arkansas, to deliver gas to ALG's Rural Extension No. 1171 for several retail customers to be served by ALG in the vicinity, who it is estimated would use an aggregate volume of about 2,000 Mcf per year; (4) a sales tap on its Line A in Hot Spring County, Arkansas, to deliver gas to ALG's Rural Extension No. 1175 for several retail customers to be served by ALG in the vicinity, who would use approximately 10,750 Mcf per year; (5) a sales tap on its Line LM-2 in Hot Spring County, Arkansas, to deliver gas to Mid-State Construction Co., which would use approximately 35,000 Mcf per year in an asphalt plant; (6) a sales tap on its Line J in White County, Arkansas, to deliver gas to ALG's Rural Extension No. 1163 for distribution to an anticipate 72 residential customers and 1 small industrial customer, who would use an aggregate volume estimated at about 260,400 Mcf per year; (7) a sales tap on its Line BM-24 in Yell County, Arkansas, to deliver gas to ALG for service to a retail customer, Mr. Floyd Avery, who would use approximately 925 Mcf per year for a chicken brooder house; (8) a sales tap on its Line AM-187 in Jefferson County, Arkansas, to deliver gas to ALG for service to Ms. Kathy Oliver and othes in the vicinity, who would use an aggregate volume estimated at about 212 Mcf per year for residential purposes; (9) a sales tap on its Line JM-12 to establish an additional town border delivery point as a needed supplemental feed into ALG's Truman, Arkansas, distribution system, it being estimated that about 20,000 Mcf per year would be deliverd through the proposed facilities; (10) a sales tap on its Line 638 to establish an additional town border delivery point to help relieve pressure problems on the east side of ALG's distribution system in Ada, Oklahoma, it being estimated that about 40,000 Mcf per year would be delivered through the proposed facilities.

The total estimated cost of facilities is $182,645.000.

AER states that the gas would be delivered from its general system supply, which it is stated is adequate to provide the service.

Comment date: April 28, 1986, in accordance with Standard Paragraph G at the end of this notice.

3. Midwestern Gas Transmission Company

[Docket No. CP82-74-003]

March 10, 1986.

Take notice that on February 20, 1986, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (NSP), 414 Nicollet Mall, Minneapolis, Minnesota 55401, filed in Docket No. CP82-74-003 a petition to amend the order of June 1, 1984, in Docket No. RP83-73-000, *et al.*, issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act to Midwestern Gas Transmission Company (Midwestern) so as to authorize Midwestern to transport natural gas purchased by NSP from any third party supplier, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

NSP states that the order approved a stipulation and agreement jointly submitted by Midwestern and Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), and granted Midwestern a certificate of public

convenience and necessity authorizing Midwestern to provide gas transportation service for NSP under the Rate Schedule T–9 transportation contract between Midwestern and NSP. NSP further states that the stipulation and contract allow Midwestern to transport gas purchased by NSP from any third party supplier. Ordering paragraph (D) of the order authorizes Midwestern to transport gas sold to NSP by Northern. NSP requests that the Commission amend the order to authorize Midwestern to transport gas purchased by NSP from any third party supplier. NSP alleges that amending the order will reflect the intent and expectations of the parties under the stipulation and the contract and will not affect the rights and obligations of NSP, Northern and Midwestern under the contract and NSP's service agreement with Northern. NSP states that neither Midewestern nor Northern objects to NSP's filing of the instant petition.

Comment date: March 31, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP86–325–000]

March 12, 1986.

Take notice that on February 13, 1986, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86–325–000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon and remove one 347 horsepower compressor unit (Unit #2) located in Hutchinson County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that due to declining volume production, the compressor unit is no longer needed at the Hutchinson County gathering station. It is explained that the present production can be gathered and compressed by the remaining 468 horsepower compressor unit (Unit #1) at the Hutchinson County gathering station.

Northern proposes to utilize said compressor elsewhere on its system or sell it to a potential buyer. The estimated cost to remove the compressor is $24,000 and its salvage value is estimated to be $17,350.

Comment date: April 2, 1986, in accordance with Standard Pargraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required to intervene herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on it own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the inst ant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–5824 Filed 3–14–86 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA86–3–33–000–001]

El Paso Natural Gas Co.; Proposed Change in Rates Pursuant To Purchased Gas Cost Adjustment

March 10, 1986.

Take notice that on February 28, 1986, El Paso Natural Gas Company ("El Paso") tendered for filing a notice of change in rates for jurisdictional gas service rendered to customers served by its interstate gas transmission system under rate schedules affected by and subject to section 19, Purchased Gas Cost Adjustment Provision ("PGA"), contained in the General Terms and Conditions of El Paso's FERC Gas Tariff, First Revised Volume No. 1, which section 19 also applies to certain special rate schedules contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A.

The filing reflects a decrease in the purchased gas cost of $0.3202 per dth and a decrease of $0.0674 per dth in the surcharge rate for a total downward adjustment in El Paso's currently effective sales rates of $0.3876 per dth attributable to the PGA.

To implement the instant notice of change in rates, El Paso tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Tariff Volume and Tariff Sheet

First Revised Volume No. 1—Eighth Revised Sheet No. 160 Sixth Revised Sheet No. 540
Third Revised Volume No. 2—Thirty-third Revised Sheet No. 1–D
Original Volume No. 2A—Thirty-fifth Revised Sheet No. 1–C

El Paso requests that the Federal Energy Regulatory Commission ("Commission") grant waiver of its applicable rules, regulations and orders as may be necessary to permit the tendered revised tariff sheets to become effective on April 1, 1986.

El Paso further states that in compliance with ordering paragraph D of the Commission's order issued February 19, 1986, at Docket No. TA86–1–33–004, El Paso is tendering Second Revised Sheet Nos. 355 and 356 to its FERC Gas Tariff, First Revised Volume No. 1 to be effective April 1, 1986 modifying its PGA provision (Section 19.7) to include language to reflect the treatment of exchange imbalances in the

calculation of the monthly Account 191 balances.

El Paso also states that is is tendering Third Revised Sheet No. 24 to its FERC Gas Tariff, Original Volume No. 1–A to be effective April 1, 1986 in order to reflect the rate of $2.1686 per dth to be utilized to determine the fuel reimbursement charge payable under Sections 6 of Rate Schedule T–1 or T–2 of said Tariff by shippers electing to reimburse El Paso for fuel usage in monthly payments rather than in-kind .

On January 31, 1986 at Docket No. RP86–45–000, El Paso filed with the Commission to establish rates, terms and conditions governing transportation service pursuant to Order Nos. 436 and 436–A, to become effective March 1, 1986. If said filing at Docket No. RP86–45–000 is approved and is acceptable to El Paso, Ninth Revised Sheet No. 100 and First Revised Sheet No. 100–A to El Paso's First Revised Volume No. 1 Tariff and Fourth Revised Sheet No. 24 to El Paso's Original Volume No. 1–A Tariff are proposed to be made effective April 1, 1986 in lieu of the counterpart revised tariff sheets.

El Paso also requests waiver of § 282.602(d)(2)(i) of the Commission's Regulations Under the NGPA. Preparation, duplication and service of the supplemental analysis required by § 282.602(d)(2)(i) necessitates a review of purchases from over 12,000 separate contract sellers, creating an extreme administrative burden. El Paso understands that the detail is for informational purposes, and is unnecessary for a thorough review of the rate change occasioned by this filing. Consequently, El Paso requests waiver of the need to file and serve the supplemental information on the condition that the data will be maintained and made available for inspection at El Paso's offices.

El Paso states the the filing has been served upon all interstate pipeline system customers of El Paso, all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with § 385.214 and 385.211 of ths Chapter. All such motions or protests should be filed on or before March 17, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–5818 Filed 3–14–86 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CI79–499–001 and CI86–230–000]

Marathon Oil Co.; Application for Limited-Term Partial Abandonment and Certificate of Public Convenience and Necessity

March 12, 1986.

Take notice that on February 27, 1986, Marathon Oil Company (Applicant) P.O. Box 3128, Houston, Texas 77056, pursuant to Sections 4 and 7 of the Natural Gas Act and Parts 154 and 157 of the Commission's Regulations, filed an application for limited term partial abandonment for a period of two years and for a certificate of public convenience and necessity to make limited-term sales for resale of this gas with pre-granted abandonment. Applicant makes sales to Transcontinental Gas Pipe Line Corporation (Transco) from the West Cameron Area Block 619 (Block 619) Offshore Louisiana, under a contract dated June 5, 1979, certificated in Docket No. CI79–499–000 pursuant to Applicant's FERC Gas Rate Schedule 164. Applicant states that the subject gas is not being purchased by Transco due to lack of demand on its system, and that in Docket No. CI85–651–000. Applicant further states that on July 18, 1985, Transco and Applicant executed a limited release agreement covering Block 619 permitting Applicant to sell excess guantities of NGPA section 102(d) gas to Transco Energy Marketing Company (TEMCO) under Applicant's LTA authorization. This LTA authority expires on March 31, 1986. Applicant states that to ensure that it is able to market the released gas after March 31, 1986, it is essential that it receive both limited-term partial abandonment and a limited-term certificate with pre-granted abandonment permitting such released volumes to be sold to TEMCO. In further support of expeditous consideration of its requests, Applicant states that production from Block 619 is from a distress well and recoverable reserves are dependent upon the rate of production from 36,400 Mcf/d in January 1984 to 10,400 Mcf/d in January 1986 and with this curtailment the natural water drive has encroached to reduce recoverable reserves. Applicant states that, in accordance with the July 18, 1985, release agreement, Transco will receive take-or-pay credit under the original June 5, 1979, contract, to the extent gas quantities are released from such contract. Such release agreement, as amended by letter agreement dated December 12, 1985, covers up to a maximum 12,000 MMBtu/d quantity for sales by Applicant to TEMCO. Applicant states the rate for the proposed sale of NGPA section 102(d) gas to TEMCO will be the market price determined by TEMCO, presently $1.895/MMBtu for 70% of the volumes and $1.845/MMBtu for the remaining 30%. Finally, Applicant states that to the extent a permanent certificate cannot be issued prior to March 31, 1986, Applicant also requests a temporary certificate to continue sales to TEMCO.

Any person desiring to be heard or to make any protest with reference to said application should, on or before March 27, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–5819 Filed 3–14–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI85–29–006]

Odeco Oil & Gas Co.; Application for Amendment and Extension of Certificate of Public Convenience and Necessity

March 12, 1986.

Take notice that on March 5, 1986, Odeco Oil & Gas Company (Odeco), of P.O. Box 61780, New Orleans, Louisiana 70161, filed an application pursuant to the provisions of the Natural Gas Act and Commission's rules and regulations thereunder, for amendment and extension of its certificate of public convenience and necessity to permit continuation of existing sales and allow blanket sales authority after March 31, 1986.

Odeco is not currently making sales pursuant to the authority granted due to the lack of transportation authority, but is concerned in light of Order 436 issued December 12, 1985 in Docket No. RM85-1-000 applicant must be in position to be able to make such sales after March 31, 1986 as it could be faced with large volumes of gas shut in due to expiration of its limited certificate and abandonment authority. Odeco does not believe that the Commission's proposed rules issued in Docket No. RM85-1-000 will provide the necessary authority to continue existing sales or permit new sales from its reserves. Loss of such authority could be detrimental not only to Odeco, but to the markets currently being served as well as those pipelines providing transportation service. Accordingly, Odeco is requesting extension of its certificate and associated limited term abandonment authority to January 1, 1990.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before March 24, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5820 Filed 3-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-33-001]

Sun Exploration and Production Co.; Application

March 12, 1986.

Take notice that on March 5, 1986, Sun Exploration and Production Company (Sun), P.O. Box 2880, Dallas, Texas 75221, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act requesting modification of the Commission's December 5, 1985 Order Permitting And Approving Limited-Term Abandonment And Granting Certificates by substituting March 31, 1987 for March 1, 1986 therein. The certificate would (1) continue to authorize the sale of natural gas by Sun and its working interest owners for resale in interstate commerce; (2) permit temporary partial abandonment of certain natural gas sales; (3) and confer pre-granted abandonment authorization for sales; (3) and confer pre-granted abandonment authorization for sales of natural gas made pursuant to the requested certificate.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before March 24, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5821 Filed 3-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-3-18-003, 004]

Texas Gas Transmission Corp.; Filing of Revised Tariff Sheets

March 10, 1986.

Take notice that on March 6, 1986, Texas Gas Transmission Corporation (Texas Gas) tendered for filing First Revised Sheet Nos. 113 and 115 to its FERC Gas Tariff, Original Volume No. 1.

The revised tariff sheets are being filed pursuant to Ordering Paragraph (E) of the Commission's Order issued January 31, 1986, in Docket Nos. TA86-3-18-000 and TA86-3-18-001. Ordering Paragraph (E) requires Texas Gas to revise its tariff language to implement the "industry method" of accounting for concurrent exchange imbalances in the computation of Account No. 191 balances.

Copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers, interested state commissions, and parties of record in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 17, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5822 Filed 3-14-86; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Final Supplemental Environmental Impact Statement Availability; Blue River-Gore Pass Portion of the Hayden-Blue River Transmission Line Project, CO

AGENCY: Western Area Power Administration, Energy.

ACTION: Notice of availability for final supplemental environmental impact statement.

SUMMARY: Notice is hereby given that the U.S. Department of Energy (DOE), Western Area Power Administration (Western) has issued a final supplemental environmental impact statement (EIS) for the proposed Blue River-Gore Pass Portion of the Hayden-Blue River Transmission Line Project, Colorado, DOE/EIS 0116-FS. The final supplemental EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA); Council on Environmental Quality regulations, 40 CFR 1500-1508; and DOE guidelines for compliance with NEPA, 45 FR 20694, and as amended. The final supplemental

EIS must be used in conjunction with the draft supplemental EIS.

DATE: A decision on the proposal will not be made until after April 14, 1986.

FOR FURTHER INFORMATION CONTACT: For copies of the Final Supplemental EIS, contact:

Mr. William C. Melander, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539, (303) 224–7231.

Mr. Gary W. Frey, Director of Environmental Affairs, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1527.

Ms. Lida Whitaker, Office of Environmental Guidance, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–4610.

SUPPLEMENTARY INFORMATION:

Background Information

Western, in cooperation with the Forest Service, Bureau of Land Management, Rural Electrification Administration (REA), has developed a supplemental EIS to assess the environmental effects of constructing, operating, and maintaining approximately 30 miles of 230/345-kV transmission line between the existing Gore Pass Substation northwest of Kremmling, Colorado, and a proposed new substation (not part of this action) near the Ute Pass Road. As part of the proposal, Western would construct and provide access to an alternate hang-gliding launch area.

The project is part of the Hayden-Blue River 345–kV Transmission Line Project, the subject of a final EIS issued by the U.S. Department of Agriculture, REA, in July 1982. The action includes minor work at the Gore Pass Substation and at two taps, and also the removal of two existing transmission lines: A 69–kV line between Gore Pass Substation and Green Mountain Powerplant and a 115–kV line between Green Mountain Powerplant and Blue River Tap. The purpose of the project is to provide additonal transmission capacity into the areas of Gore Pass, Granby, Green Mountain, Dillon, Climax, Oak Creek, and Keystone, Colorado; and between the generation plants in western Colorado and the major load areas in eastern Colorado. Alternatives assessed include routing and design alternatives plus the alternatives addressed in the Hayden-Blue River final EIS, issued by the REA.

Copies of the final supplemental EIS are being provided to public and private agencies, organizations, and individuals who received the draft supplemental EIS. Copies of the draft and final supplemental EIS and the final EIS for the Hayden-Blue River Transmission Line Project are also available for public inspection at Western's Loveland Area Office, 5555 East County Road 26, Loveland, Colorado; Western's Headquarters Office, Room 304, 1627 Cole Boulevard, Golden, Colorado; the DOE Reading Room, 1000 Independence Avenue, SW., Washington, DC; the Bureau of Land Management's Kremmling Resource Area Office, 1116 Park Avenue, Kremmling, Colorado; and the Forest Service's Dillon District Ranger's Office, 135 Colorado Highway 9, Silverthorne, Colorado.

The final supplemental EIS must be used in conjunction with the draft supplemental EIS. The final supplemental EIS contains only changes and additons to the draft, comments on the draft, and responses to these comments. A limited number of draft supplemental EIS's are available for distribution at the addresses given above.

Correspondence on the Final Supplemental EIS should be sent to:

Mr. Mark N. Silverman, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539.

Issued at Golden, Colorado, March 6, 1986.

William H. Clagett,

Administrator.

[FR Doc. 86–5839 Filed 3–14–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[A–1–FRL–2983–3]

Prevention of Significant Deterioration of Air Quality (PSD); Determination of Exemption; Dartmouth College, Hanover, NH

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

ACTION: Notice of final determination of exemption.

SUMMARY: The purpose of this notice is to announce that on January 6, 1986, John H. Sununu, Governor of New Hampshire, issued a final determination that the Dartmouth College Multi-Fuel Boiler Project, Phase I (the Project), located at Dartmouth College in Hanover, New Hampshire, is exempt from EPA's PSD review requirements (40 CFR 52.21(j)–(r)). This determination was made under the March 18, 1982 PSD delegation of authority agreement between Region I and the state of New Hampshire. The determination was issued because the institutional arrangement involving Dartmouth is such as to render the college a "nonprofit health or education" institution pursuant to section 169(1) of the Clean Air Act. 42 U.S.C. 7479(1), and 40 CFR 52.21(i)(4)(vi). Accordingly, the installation and operation of the multi-fuel boiler filed with #6 fuel oil (2.0% sulfur, maximum) at the Dartmouth College Heating Plant will not be subject to these PSD review requirements.

DATE: The determination was effective January 6, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Courcier, State Air Programs Branch, U.S. Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Room 2311, Boston, Massachusetts 02203, (617/223–4876) or Mr. James W. Marston, New Hampshire Air Resources Agency, Health & Human Services Building, Hazen Drive, Concord, New Hampshire 03301, (603/271–4576).

SUPPLEMENTARY INFORMATION: This final determination of exemption was made in response to a request, dated July 8, 1985, by John G. Skewes, Director of Business Affairs, Dartmouth College.

Copies of this Final Determination and all infomation used in making the determination are available for public inspection at the New Hampshire Air Resources Agency, Health & Human Services Building, Hazen Drive, Concord, New Hampshire 03301. Copies of the determination are also available for public inspection at the U.S. Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Room 2311, Boston, Massachusetts 02203 and at the Howe Library, Reference Department, 13 East South Street, Hanover, New Hampshire 03755.

The determination is a final action under the Clean Air Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the First Circuit within 60 days from the date of publication in the **Federal Register.** Under section 307(b)(2) of the Clean Air Act, this final determination shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: February 14, 1986.

Paul Keough,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region I.

[FR Doc. 86–5612 Filed 3–14–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS-51612; FRL-2975-5]

Certain Chemical Premanufacture Notices

Correction

In FR Doc. 86-4253, beginning on page 7118, in the issue of Friday, February 28, 1986, make the following corrections:

On page 7118, second column, in the heading, the document number should read as set forth above.

On the same page, third column, under **P86-541**, third line, "carbamoyl" was misspelled.

BILLING CODE 1505-01-M

[OPTS-59210B; FRL-2985-9]

Toxic and Hazardous Substances Control; Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for testing marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-86-11. The test marketing conditions are described below.

EFFECTIVE DATE: March 6, 1986.

FOR FURTHER INFORMATION CONTACT: Eileen Gibson, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Environmental Protection Agency, RM. E-609, 401 M Street, SW., Washington, DC 20460, (202-382-3394).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-86-11. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time periods and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and number of customers must not exceed those specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-86-11. A bill of lading accompanying each shipment must state that the use of the substance is restricted to those approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA.

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T-86-11

Date of Receipt: January 23, 1986.

Notice of Receipt: January 31, 1986 (51 FR 4029).

Applicant: Confidential.

Chemical: (G) Modified, maleated metal resinate.

Use: Publication gravure printing inks.

Production Volume: Confidential.

Number of Customers: Confidential.

Worker Exposure: Confidential.

Test Marketing Period: Six months.

Commencing on: March 6, 1986.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its findings that the test marketing activites will not present any unreasonable risk of injury to health or the environment.

Dated: March 6, 1986.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 86-5760 Filed 3-14-86; 8:45 am]

BILLING CODE 6560-50-M

[OPPE-FRL-2989-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382-2740 or FTS 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Development of New Source Performance Standards (NSPS) for Small Boilers (EPA ICR #1293). (This is a request for a new collection.)

Abstract: The purpose of this ICR is to gather data on small industrial-commercial-institutional boilers with heat input capacities of 100 Million Btu/hour or less. These data will be used in connection with regulatory development to analyze and evaluate various control technologies, regulatory options, costs, and economic, energy, and environmental impacts.

Respondents: Owners/operators of small industrial-commercial-institutional steam generating units.

Office of Administration and Resources Management

Title: Application for Federal Assistance—Short Form (EPA ICR #0873). (This is a reinstatement of a previously approved ICR; no changes are proposed).

Abstract: States submit EPA Form 5700-31 to apply for financial assistance under EPA's State Management Assistance Grant Program. The Agency uses the information to determine if the State-proposed work program is consistent with EPA requirements and the recipients' needs.

Respondents: States, local governments, and federally recognized Indian Tribal governments.

Agency PRA Clearance Request Completed by OMB

EPA #1271; Household Survey of Exposure to Consumer Products Containing Methylene Chloride and Substitutes, was approved 2/18/86 (OMB #2070–0079; expires 12/31/87).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Wayne Leiss (ICR #1293), or Rick Otis (ICR #0873), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503.

Dated: March 11, 1986.

Daniel J. Fiorino,

Acting Director.

[FR Doc. 86–5744 Filed 3–14–86; 8:45 am]

BILLING CODE 6560–50–M

[EN–FRL–2986–3]

Fuel and Fuel Additives; American Methyl Corp.; Reconsideration of Waiver Granted

AGENCY: Enviromental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the reconsideration of a waiver application submitted under section 211(f) of the Clean Air Act by American Methyl Corporation (American Methyl) for a proprietary fuel known as "Petrocoal." This action is being taken pursuant to a court order vacating the waiver and remanding the matter to the Environmental Protection Agency (EPA). This notice also announces EPA's policy for dealing wth existing stocks of Petrocoal.

DATE: The reconsideration process will begin immediately and EPA's policy on existing stocks of Petrocoal takes effect immediately and will last until April 16, 1986.

FOR FURTHER INFORMATION CONTACT: Sylvia I. Correa, Attorney/Advisor, Fuels Section, Field Operations and Support Division (EN–497F), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–2635.

SUPPLEMENTARY INFORMATION: Section 211(f)(1) of the Clean Air Act (Act), 42 U.S.C. 7545(f)(1), states that effective upon March 31, 1977 it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for general use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. Section 211(f)(4) of the Act, 42 U.S.C. 7545(f)(4), provides that the Administrator of the EPA, upon application of any manufacturer of any fuel or fuel additive, may waive the prohibitions established under 211(f)(1), if the Administrator determines that the applicant has established that such fuel or fuel additive or a specified concentration thereof, or the emission products of such fuel or additive or specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

American Methyl [1] submitted an application for a waiver for methanol-gasoline blend called "Petrocoal" on February 20, 1981. The 180-day review period provided by section 211(f)(4) was extended until September 28, 1981, by mutual consent.

On September 28, 1981, the EPA granted a waiver to American Methyl for a Petrocoal, which consisted of up to 12 percent by volume methanol, up to six percent by volume cosolvents (certain four-carbon alcohols), in the presence of a proprietary inhibitor in unleaded gasoline. See 46 FR 48975 (October 5, 1981).

On December 4, 1981 the Motor Vehicle Manufacturers Association (MVMA) filed both a petition for administrative reconsideration of the waiver and a petition for judicial review of the waiver in the U.S. Court of Appeals for the District of Columbia Circuit (MVMA v. EPA, No. 81–2276). On February 22, 1983, MVMA submitted to EPA a supplemental petition for reconsideration referencing new data on the effects of methanol in gasoline on automotive evaporative emissions. In addition, information subsequently obtained by the Agency indicated that the fuel tested by American Methyl may not have been the fuel described in the waiver request.

On May 2, 1983, 48 FR 19789, EPA stated that it was considering administrative action to modify or revoke the waiver under section 211(f) of the Act, or to control or prohibit the sale of Petrocoal under section 211(c) of the Act. On March 28, 1984, 49 FR 11879, the Agency granted MVMA's petition for reconsideration and proposed to revoke the waiver under section 211(f). Shortly thereafter, the Court of Appeals granted a stay of proceedings in the MVMA case pending a final administrative decision by EPA.

On May 25, 1984, however, American Methyl petitioned the same Court of Appeals for review of the proposed revocation on the ground that section 211(f) did not authorize such action by the Agency. That Court subsequently held that EPA was not authorized to evoke the waiver under 211(f), although it might control or prohibit marketing of the product pursuant to section 211(c). See *American Methyl Corp. EPA*, 749 F.2d 826 (October 31, 1984).

Subsequently, the MVMA lawsuit was reactivated and on July 26, 1985, the Court of Appeals vacated the Administrator's decision granting the waiver for Petrocoal and remanded the matter to the Agency to make a new determination as to whether to grant such waiver on the basis of the record existing at the time of the original waiver decision 768 F.2d 385. The issuance of the mandate was stayed, however, pending American Methyl's unsuccessful request for consideration by the Court of Appeals and its subsequent petition for certiorari to the Supreme Court. That petition was denied on January 21, 1986 (*American Methyl Corp.* v. *MVMA*, No. 85–718). On February 5, 1986, Court of Appeals issued its mandate in the MVMA case.

Today's Action

As required by the Court of Appeals, the EPA will consider the original waiver application for Petrocoal submitted by American Methyl de novo, based on the record existing prior to September 28, 1981. No new comments or other information will be considered since the Court mandated that the decision be made only upon the existing record. EPA will complete its reconsideration as expeditiously as possible.

As of February 5, 1986, pursuant to the Court's order vacating the Administrator's decision, and under section 211(f)(1) of the Act, it is illegal to sell Petrocoal or to introduce that

[1] Until June 30, 1982, American Methyl was incorporated under the name Anafuel Unlimited. For the sake of clarity, its current name will be used.

product into commerce. However, the Agency is aware that this product has been sold for five years and that some inventories or Petrocoal exist. In order to allow those who in good faith purchased Petrocoal during the time the waiver was in force to deplete their stocks, the Agency will not pursue any enforcement action concerning any sales made by April 16, 1986, of existing inventories of Petrocoal. This policy is applicable only to already existing finished inventories and does not apply to fuel produced after issuance of the mandate.

Dated: March 11, 1986.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 86-5749 Filed 3-14-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing it (Space WARC Advisory Committee); Main Committee Meeting

March 12, 1986.

The Space WARC Advisory Committee will convene its next meeting on April 22, 1986. The Committee will be reviewing the work of the working groups and will be considering recommendations and advice to the Commission concerning U.S. participation within the intersessional work program of the International Telecommunication Union in preparations for the second session in 1988. Details regarding the date, place and agenda of the meeting are provided below.

Chairman: Ronald F. Stowe.

Vice Chairman: Stephen E. Doyle.

Date: Tuesday, April 22, 1986.

Time: 9:30 A.M.–1:00 P.M.

Location: Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, DC 20554

Designated Federal Employee: Thomas S. Tycz.

Agenda: (1) Adoption of Agenda, (2) Status of ITU Preparatory Activities, (3) Working Group Reports, (4) Date of Next Meeting, (5) Other Business, and (6) Adjournment.

For additional information, please contact Thomas S. Tycz, (202) 632-3214.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-5803 Filed 3-14-86; 8:45 am]

BILLING CODE 6712-01-M

Seventh and Eighth Meetings of the Land Mobile Radio/UHF Television Technical Advisory Committee

The seventh meeting of the Land Mobile Radio/UHF Television Technical Advisory Committee will be held on April 4, 1986, in Room 856 (the Commission Meeting Room), 1919 M Street, NW., Washington, DC. The meeting will start at 10:00 A.M.

The eighth meeting of the Land Mobile Radio/UHF Television Technical Advisory Committee will be held on April 28, 1986, in Room 856 (the Commission Meeting Room), 1919 M Street, NW., Washington, DC. The meeting will start at 10:00 A.M.

All interested parties are invited to attend these meetings. Since this is a technical advisory committee, attendees should be prepared for technical discussions.

The agenda for these meetings will consist of;

1. Approval of minutes of last meeting;
2. Status report from working group co-convenors;
3. Discussion of new business for the Committee;
4. Discussion of appropriate date and tentative agenda for next meeting.

Any questions regarding these meetings should be directed to Mr. Kenneth Nichols at (301) 725-1585.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-5804 Filed 3-14-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-758-DR]

California; Major-Disaster Declaration

AGENCY: Federal Emergency Mangement Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA-758-DR), dated February 21, 1986, and related determinations.

DATED: March 10, 1986.

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 California, dated February 21, 1986, 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 February 21, 1986:

Del Norte Country as an adjacent area for Individual Assistance only.

Trinity County for Public Assistance only.

(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. 86-5704 Filed 3-14-86; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-758-DR]

California; Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA-758-DR), dated February 21, 1986, and related determinations.

DATED: March 8, 1986.

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 California, dated February 21, 1986, 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 February 21, 1986:

Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Sierra, Solano, Sonoma, Sutter, Tehama, Tuolumne, and Yuba Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-5705 Filed 3-14-86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010485-014.

Title: United States Atlantic & Gulf Ports/Italy, France and Spain Freight Conference.

Parties:

Compania Trasatlantica Espanola, S.A.
Costa Line
Farrell Lines, Inc.
Lykes Bros. Steamship Corp.
Med-America Express Service
Sea-Land Service, Inc.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would reduce the scope of the conference to cargo discharged at ports in Italy, Spain and Mediterranean Ports of France and cargo destined for points in those countries to the extent it is moved through the above named ports. It would also exclude bulk cargo not carried in containers from the scope of the conference. The parties have requested a shortened review period.

Agreement No.: 217-010898.

Title: Lykes Bros. Steamship Co., Inc./Union International de Vapores, S.A. Space Charter Agreement.

Parties:

Lykes Bros. Steamship Co., Inc. (Lykes)
Union International de Vapores, S.A. (Univsa)

Synopsis: This agreement between Lykes and Univsa permits Univsa to charter container space on Lykes' vessels for carriage of cargo between foreign ports in the Far East, Asia, Mediterranean, Europe, United Kingdom and Central America, direct or via inland points/ports in the United States.

Agreement No.: 023-010899.

Title: Matson Terminals Maintenance and Repair Agreement

Parties:

Matson Terminals, Inc. (Matson)
HT&T Company, Inc. (HT&T)

Synopsis: The proposed agreement provides for HT&T to perform maintenance, repair and other miscellaneous services on the Island of Hawaii with respect to containers and related equipment owned and/or operated by Matson or Matson Navigation Company, Inc. which Matson has the obligation to maintain and repair.

Dated: March 12, 1986.

By Order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-5810 Filed 3-14-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Ameritrust Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 4, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *AmeriTrust Corporation,* Cleveland, Ohio; to acquire 100 percent of the voting shares of First United Bancorp, Franklin, Indiana, thereby indirectly acquiring Franklin Bank and Trust Company, Franklin, Indiana.

Applicant has also applied to acquire Franklin Financial Corporation, Indianapolis, Indiana, and thereby arrange commercial and residential real estate loans and commercial lines of credit. Applicant also proposes to package and service mortgage loans and to engage in the leasing of personal property.

Applicant has also applied to acquire Franklin Mortgage Corporation, Indianapolis, Indiana, and thereby engage in making and servicing mortgage loans and other extensions of credit.

2. *First National Cincinnati Corporation,* Cincinnati, Ohio; to merge with Peoples National Bancorp of America, Lawrenceburg, Indiana, thereby indirectly acquiring The Peoples National Bank of Lawrenceburg, Lawrenceburg, Indiana.

Applicant has also applied to acquire P.N.B. Insurance Agency, Inc., Lawrenceburg, Indiana and First-In-Leasing, Inc., Lawrenceburg, Indiana, and thereby engage in the underwriting of credit life, accident and health insurance related to extensions of credit by the bank holding company system.

pursuant to § 225.25(b)(9) of Regulation Y; and leasing of personal activity, pursuant to § 225.25(b)(5) of Regulation Y.

Board of Governors of the Federal Reserve System, March 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5826 Filed 3-14-86; 8:45 am]

BILLING CODE 6210-01-M

Community Banks, 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 April 9, 1986.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Community Banks, Inc.*, Millersburg, Pennsylvania; to acquire 100 percent of the voting shares of Peoples Bank of Shamokin, Pennsylvania, Shamokin, Pennsylvania.

2. *First Lehigh Corporation*, Walnutport, Pennsylvania; to acquire 5.32 percent of the voting shares of Knoblauch Bank, Reading, Pennsylvania. Comments on this application must be received not later than April 10, 1986.

B. **Federal Reserve Bank of Kansas City** (Thomas Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Robinson Bancshares, Inc.*, Robinson, Kansas; to acquire 91.80 percent of the voting shares of Morrill and Janes Bancshares, Inc., Hiawatha, Kansas, thereby indirectly acquiring Morrill and Janes Bank, Hiawatha, Kansas.

Board of Governors of the Federal Reserve System, March 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5827 Filed 3-14-86; 8:45 am]

BILLING CODE 6210-01-M

The Conifer Group 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 April 7, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *The Conifer Group Inc.*, Worcester, Massachusetts; to acquire 100 percent of the voting shares of Hampshire National Bank of South Hadley, South Hadley, Massachusetts.

2. *The Conifer Group Inc.*, Worcester, Massachusetts; to acquire 100 percent of the voting shares of Patriot Bancorporation, Boston, Massachusetts, thereby indirectly acquiring Patriot Bank, N.A., Boston, Massachusetts.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *United Bank Corporation of New York*, Downsville, New York; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Downsville, Downsville, New York.

C. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bellwood Bancorporation, Inc.*, Bellwood, Illinois; to acquire 10 percent or more of the voting shares of Peterson Bank, Chicago, Illinois.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Brownstown CSB Bancorp*, Brownstown, Indiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Citizens State Bank, Brownstown, Indiana.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Tanglewood Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Tanglewood Bank, N.A., Houston, Texas.

Board of Governors of the Federal Reserve System, March 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5828 Filed 3-14-86; 8:45 am]

BILLING CODE 6210-01-M

Citizen Banking Corp., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under §225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and §225.21(a) of Regulation Y (12 CFR 225.21 (a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for

inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than April 2, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago Illinois 60690:

1. *Citizens Banking Corporation*, Detroit, Michigan; *Comerica Incorporated*, Detroit, Michigan; *First of America Bank Corporation*, Kalamazoo, Michigan; *Manufacturers National Corporation*, Detroit, Michigan; *Michigan National Corporation*, Bloomfield Hills, Michigan; and *Union Bancorp, Inc.*, Grand Rapids, Michigan; proposes to engage in providing data processing services to financial institutions through the organization of ML, Inc., Detroit, Michigan, and its subsequent merger with Magic Line, Inc., an existing not-for-profit corporation, pursuant to § 225.25(b) (7) of Regulation Y. This activity will be performed as a joint venture with the Mutual Savings & Loan Association, Michigan Credit Union League, and First Federal Savings of Michigan.

Board of Governors of the Federal Reserve System, March 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5829 Filed 3-14-86; 8:45 am]

BILLING CODE 6210-01-M

Gulf Coast Holding Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23) (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 10, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Gulf Coast Holding Corporation*, Panama City, Florida; to acquire ATM Network, Inc., Panama City, Florida, and thereby engage in providing data processing and data transmissions services, facilities (including data processing and data transmission hardward, software, documentation or operating personnel), data bases, or access to such services, facilitities or data by any technological means, pursuant to § 225.25(b)(7)(i)(ii)(iii) of Regulation Y.

Board of Governors of the Federal Reserve System, March 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5830 Filed 3-14-86; 8:45 am]

BILLING CODE 6210-01-M

Union Bancshares Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subisidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 30, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Union Bancshares Corp.*, Bellevue, Ohio; to engage *de novo* through its subsidiary, Union Ohio Brokerage, Inc., Bellevue, Ohio, in discount brokerage activities, pursuant to § 225.25(b)(15) of Regulation Y.

2. *Union Bancshares Corp.*, Bellevue, Ohio; to engage *de novo* through its subsidiary, Union Ohio Brokerage, Inc., Bellevue, Ohio, in the leasing of personal property, pursuant to § 225.25(b)(5) of Regulation Y.

Comments on this application must be received not later than March 31, 1986.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Midland Bank, Plc.*, London, England; to engage through its subsidiary, Samuel Montagu & Co. (Holdings) Limited, New York, New York, in the following activities: (1) Foreign exchange advisory and transactional services, including the providing of (i) general information and statistical forecasts concerning foreign exchange markets, (ii) advisory services to assist customers in monitoring, evaluating and managing foreign exchange exposures, and (iii) transactional services involving the arranging of (A) foreign exchange transactions and (B) "swaps" among customers with complementary foreign exchange exposure, pursuant to § 225.25(b)(17) of Regulation Y; (2) in soliciting, executing and clearing on major commodity exchanges, for nonaffiliated persons, futures contracts and options on futures contracts for bullion, foreign exchange, government securities, certificates of deposit, and other money market instruments of the type that a bank may buy or sell in the cash market for its own account, pursuant to § 225.25(b)(18) of Regulation Y; (3) making, acquiring and servicing loans and other extensions of credit for its own account and the account of others, pursuant to § 225.25(b)(1) of Regulation Y; (4) providing investment and financial advice, including serving as an investment advisor to an investment company registered under the Investment Company Act of 1940 (including sponsoring, organizing and managing a closed-end investment company), providing portfolio investment advice, furnishing general economic information and advice and general economic statistical forecasting services and industry studies; and providing financial advice to state and local governments, pursuant to § 225.25(b)(4) of Regulation Y; (5) underwriting and dealing in obligations of the United States, general obligation of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in (including bankers acceptances and certificates of deposit) under the same limitations as are applicable to member banks of the Federal Reserve System, pursuant to § 225.25(b)(16) of Regulation Y.

Board of Governors of the Federal Reserve System, March 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5831 Filed 3-14-86; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget; Profit/Loss Statement, Operating Statement

AGENCY: Office of Administration, GSA.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) requests the Office of Management and Budget (OMB) to approve the extension of the expiration date of a currently approved collection.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Rodney P. Lantier, GSA Clearance Officer, General Services Administration (CAID), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: George Lampman, Public Buildings Service (202-566-0542).

SUPPLEMENTARY INFORMATION:

A. *Purpose.* This collection is used in an offeror's proposal to perform a cafeteria service contract and is considered by the contracting officer to make an award.

B. *Annual reporting burden.* Respondents, responses and hours, 250 each.

C. *Copies of proposal.* Copies may be obtained from the Directives and Reports Management Branch (CAID), Room 3013, GS Building, Washington, DC 20405 (202-566-0666).

Dated: March 7, 1986.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 86-5694 Filed 3-14-86; 8:45 am]

BILLING CODE 6820-23-M

[Wildlife Order 160; 1-D-NJ-552]

Portion, Artificial Island/Alloway Creek Disposal Area, New Castle County, DE; Conveyance of Property

Pursuant to section 2 of Pub. L. 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the General Services Administration dated January 10, 1986, the property, consisting of approximately 92 acres of unimproved land known as Portion, Artificial Island/Alloway Creek Disposal Area, New Castle County, Delaware, was transferred to the State of Delaware, Department of Natural Resources and Environmental Control.

2. The above described property was conveyed for the purpose of wildlife conservation in accordance with the provisions of section 1 of said Pub. L. 80-537 (16 U.S.C. 667b), as amended by Pub. L. 92-432.

Dated: March 5, 1986.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 86-5695 Filed 3-14-86; 8:45 am]

BILLING CODE 6820-96-M

[Wildlife Order 159; 1-D-NJ-552]

Portion, Artificial Island/Alloway Creek Disposal Area, Salem County, NJ; Conveyance of Property

Pursuant to section 2 of Pub. L. 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the General Services Administration dated September 17, 1985, the property, consisting of approximately 1,270.30 acres of unimproved land known as Portion, Artificial Island/Alloway Creek Disposal Area, Salem County, New Jersey, was transferred to the State of New Jersey, Department of Environmental Protection.

2. The above described property was conveyed for the purpose of wildlife conservation in accordance with the provisions of section 1 of said Pub. L. 80-537 (16 U.S.C. 667b), as amended by Pub. L. 92-432.

Dated: March 5, 1986.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 86-5696 Filed 3-14-86; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Collection of Fees for Proficiency Testing of Private Clinical Laboratories

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Notice of Collection of Fees.

SUMMARY: The Public Health Service is initiating fees for proficiency testing of certain clinical laboratories participating in the program directly operated by the Centers for Disease Control (CDC). The purpose of these charges is to recover full costs of operating the program.

EFFECTIVE DATE: Fees for the period May 1–September 30, 1986, wil be due not later than April 15, 1986.

FOR FURTHER INFORMATION CONTACT: Harold W. Muir, Assistant Chief, Performance Evaluation Branch, Laboratory Program Office, Centers for Disease Control, Atlanta, Georgia 30333, (404) 329–2131 or FTS 236–2131.

SUPPLEMENTARY INFORMATION:

Purpose and Background

The purpose of this announcement is to specify administrative policies for charges for participation in the proficiency testing operated directly by CDC.

The Appropriations Act for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1986 (Pub. L. 99–178) contains a provision for collecting of fees, for the full cost of proficiency testing of private clinical laboratories to be credited to the appropriation.

The Centers for Disease Control (CDC) operates a proficiency program (PTP) for laboratories licensed under the Clinical Laboratories Improvement Act of 1967 (Section 353 of PHS Act, 42 U.S.C. 263a), and for laboratories participating on a voluntary basis. Regulations for the licensing program appear at 42 CFR Part 74.

Applicability

The fees are applicable to the private clinical laboratory participants who are enrolled to meet federal regulatory requirements or who are participating on a voluntary basis. The fees are not applicable to laboratories serving as reference laboratories for the PTP or to State or local public health laboratories.

Proposed Fees

For clinical laboratories enrolled in the CDC Proficiency Testing Program, the actual costs for each survey are determined by taking into account salaries, benefits, supplies, contract services, printing, postage and shipping, average equipment and instrument requirements, and appropriate overhead assessments. The costs per survey are divided by the number of enrollees (including nonlicensed laboratories) to arrive at a per laboratory per survey annual cost.

Fees will be levied against approximately 1,700 clinical laboratories. The estimated charge for the first full year during which fees for proficiency testing are assessed, is $3,185 for a clinical laboratory enrolled in *all of the surveys* offered by the CDC, or $1,593 for one-half year. Few laboratories are enrolled in all surveys.

The estimated costs for full year and for one-half year, for individual surveys, are shown below:

Survey	Number of shipments per year	Cost per year	Cost per one-half year
Bacteriology	4	$222	$111.00
Mycology	4	231	115.50
Parasitology	4	167	83.50
N. gonorrhoeae	2	131	65.50
HTLV	4	288	144.00
Public Health	1	61	32.00
Hepatitis	2	101	50.50
Chemistry Profile	4	251	125.50
TDM	4	380	190.00
Neonatal Screening	4	467	253.50
Blood Lead	4	294	147.00
Hematology Profile	4	164	82.00
Immunohematology	4	201	100.50
Hemoglobinopathy	4	127	63.50
Platelet Count	4	100	50.00

Since user fees initially will be charged for one-half year only, participants will be provided by mail. April 1, 1986, a fee schedule and instructions for submitting appropriate fees. The fees will be due at the address specified in the mailing, not later than April 15, 1986.

Dated: March 12, 1986.

William E. Muldoon,

Director, Office of Program Support Centers for Disease Control.

[FR Doc. 86–5863 Filed 3–14–86; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also 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:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. April 3, 9 a.m., Bldg. 1, Wilson Hall, Third Floor, NIH, 9000 Rockville Pike; April 4, 8:30 a.m., Bldg. 29, Rm. 121, 8800 Rockville Pike, Bethesda, MD. Please note that times for opening and closing sessions of the meeting are approximate.

Contact person. Jack Gertzog, Center for Drugs and Biologics (HFN–31), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluate available data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases. The committee also reviews and evaluates the quality and relevance of FDA's reseach program which provides scientific support for the regulation of these products.

Agenda—Open public hearing. April 3, 9 a.m. to 10 a.m., unless public participation does not last that long. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Closed committee deliberations. April 3, 10 a.m. to 4:30 p.m. The committee will review trade secret or confidential commercial information relevant to a pending license application. The portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Open committee discussion. April 4, 8:30 to 9:30 a.m.; 11 a.m. to 12 m. The committee will review parts of the intramural research program in the Office of Biologics Research and Review (OBRR). Included for review are: (1) The Molecular Immunology Program of the Division of Biochemistry and Biophysics, and (2) the Pediatric, Enteric, and Neurologic Diseases Program of the Division of Virology. The research that is being conducted in each of these two programs will be discussed during the two open committee discussion times set forth above; FDA has not yet determined the order of discussion of the two programs. A number of individual projects under each of these programs will be reviewed.

Closed committee deliberations. April 4, 9:30 a.m. to 11 a.m., 12 m. to 1 p.m. Each of the two closed sessions involves a continuation of the review of the OBRR research program discussed in the preceding section. These closed

sessions involve discussions of personal information concerning the scientific competence of individuals associated with these intramural research programs. Disclosure of this information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(c)(6)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

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 chairperson'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 form the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

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: March 10, 1986.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 86–5703 Filed 3–14–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974, Revision of Notice of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a) notice is hereby given that the Department of the Interior proposes to revise a notice describing a system of records maintained by the Minerals Management Service. The notice is titled "Mineral Lease and Royalty Accounting Files—Interior, MMS–1" (formerly EMM–1). Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other updating administrative revisions which have occurred since the publication of the material in the **Federal Register** on June 2, 1983 (48 FR 24791). The revised notice is published in its entirety below.

The sections of the notice describing categories of individuals covered by, and records contained in the system are being revised to expand and clarify the descriptions of information and scope of the records. In accordance with the provisions of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701, et. seq.), the routine uses section of the notice is expanded to describe additional access to information by States and Indian tribes. Also, the existing routine disclosure statement for litigation purposes is revised to incorporate the clarification on such disclosures prescribed by the Office of Management and Budget

(OMB) in its supplementary guidelines dated May 24, 1985, for implementing the Privacy Act. A routine disclosure to consumer reporting agencies pursuant to the provisons of 5 U.S.C. 552a(b)(12) also is added.

As required by section 3 of the Privacy Act of 1974, as amended (5 U.S.C. 552a(o)), the Office of Management and Budget, the President of the Senate, and the Speaker of the House of Represenatives have been notified of this action.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. The Office of Management and Budget requires a 60-day period to review such proposals pursuant to its Circular No. A–130. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, DC 20240. Comments received on or before May 16, 1986, will be considered. The notice shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: March 6, 1986.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/MMS–1

SYSTEM NAME:

Mineral Lease and Royalty Accounting Files—Interior, MMS–1.

SYSTEM LOCATION:

Department of the Interior, Minerals Management Service, Royalty Management Program, Denver Federal Center, Building 85, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Lease or permit holders, royalty payors and reporters and individuals who have reported rents, royalties, and bonuses from oil or other minerals or gas from producing or nonproducing Federal or Indian leases. Only the records reflecting information about individuals are subject to the Privacy Act. The system also contains records concerning corporations and other business entities that are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lease numbers; dates due; debtors; billee; payor; lessee; permittee; lessor (Federal, Indian tribe, or allottee); names and addresses; ID numbers; products produced; production volume; sales value; royalty amounts; dates due; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The principal statutory authorities under which this system is maintained include the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982 (30 U.S.C. 1701 et seq.); The Act of February 20, 1920 (30 U.S.C. 181 et seq.); The Act of March 3, 1909 (25 U.S.C. 396 et seq.); and, The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to: (1) Collect royalties and rents; (2) control revenues; (3) distribute funds collected; (4) keep records of royalty accounts, including rents, bonuses, royalties and associated sales and production information; (5) provide data to facilitate comparative auditing of mineral production, royalties due, revenues collected, and funds distributed; (6) gather statistics for managing the mineral leasing program; and (7) provide informational access to external users including States, Indian tribes or agencies, and Federal agencies.

Disclosures outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation; and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records are compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (6) to a State or Indian tribe which has entered into a cooperative agreement pursuant to section 202 of FOGRMA (30 U.S.C. 1732) for sharing of oil and gas royalty information or for carrying out enforcement or other activities.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Pursuant to the provision of 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies, as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form (i.e. in file folders) as well as machine readable (i.e. magnetic tapes, disks, diskettes and microforms).

RETRIEVABILITY:

Indexed by: Lease or contract number; lessee and/or payor; purchasers of royalty oil; permittee; billee; production reporter; and/or commodity. The information is also retrievable by location, and by whether the lease is an Indian lease or a Federal onshore or offshore lease.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computerized and manual records.

RETENTION AND DISPOSAL:

Determination of the disposition of the records is pending approval of the Archivist.

SYSTEM MANAGER AND ADDRESS:

Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, Royalty Management Program, P.O. Box 25165, Denver, Colorado 80225.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of a record should be addressed to the System Manager. A written, signed request stating that the individual seeks information concerning his/her records is required (43 CFR 2.60).

RECORD ACCESS PROCEDURES:

Requests for access shall be addressed to the System Manager,

signed by the requester and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Lessees, permittees, and individuals on whom records are maintained.

[FR Doc. 86-5725 Filed 3-14-86; 8:45 am]
BILLING CODE 4310-MR-M

Bureau of Land Management

[ES-035951, Group]

Maine; Filing of Plat of Dependent Resurvey and Survey

March 10, 1986.

1. The plat of the dependent resurvey and survey of the boundaries of the land held in trust for the Passamaquoddy Tribe in Township 4 Northern Division, Bingham's Penobscot Purchase, Hancock County, Maine, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on April 24, 1986.

2. The dependent resurvey and survey were made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey and survey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., April 24, 1986.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey.

[FR Doc. 86-5677 Filed 3-14-86; 8:45 am]
BILLING CODE 4310-GJ-M

[ES-035952, Group 20]

Missouri; Filing of Plat of Dependent Resurvey and Subdivision of Sections

March 10, 1986.

1. The plat of the dependent resurvey of a portion of the east boundary (Fifth Principal Meridian), a portion of the south boundary, Township 33 North, Range 1 West, a portion of the east boundary, Township 33 North, Range 2 West, a portion of the subdivisional lines, and the subdivision of sections 18 and 21, Township 33 North, Range 1 West, Fifth Principal Meridian, Missouri, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on April 24, 1986.

2. The dependent resurvey was made at the request of the U.S. Forest Service.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., April 24, 1986.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey.

[FR Doc. 86-5698 Filed 3-14-86; 8:45 am]
BILLING CODE 4310-GJ-M

[4310-53]

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending 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 collection of information and related forms 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 within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7313.

Title: 30 CFR 601—Helium Purchase Contract Application.

Abstract: This application is a form which requires the company name, address, and amount of original volume of helium desired on initial order with amount of cash advance required. Part 601 of 30 CFR gives information in regard to address and telephone number for securing the forms.

Bureau Form Number: 6-1584-X.

Frequency: Occasional.

Description of Respondents: Purchasers of Government Helium.

Annual Responses: 19.

Annual Burden Hours: 5.

Bureau clearance officer: James T. Hereford 202-634-1125.

Robert C. Horton,

Director, Bureau of Mines.

March 7, 1986.

[FR Doc. 86-5726 Filed 3-14-86; 8:45 am]
BILLING CODE 4310-53-M

[4310-53]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending 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 collection of information and related forms 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 within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7313.

Title: Gas Well Data—Survey of Helium-Bearing Natural Gas.

Abstract: Respondents supply information which will be used by the Bureau of Mines Division of Helium Field Operations, to evaluate the helium resources of the United States. This evaluation helps assure a continued supply of the valuable natural resource to meet essential Government needs. Results of the gas analyses, along with the data supplied, are published to provide valuable information to industry and to the public when those data are released by the supplier.

Bureau Form Number: 6-1579-A.

Frequency: Annually.

Description of Respondents: Owners and operators of helium-bearing natural gas wells and transmission lines.

Annual Responses: 200.

Annual Burden Hours: 50.

Bureau clearance officer: James T. Hereford, 202-634-1125.

Robert C. Horton,

Director, Bureau of Mines.

March 7, 1986.

[FR Doc. 86-5727 Filed 3-14-86; 8:45 am]
BILLING CODE 4310-53-M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, DC 20503, telephone 202–395–7313.

Title: Pesticide Use Proposal.

Abstract: This information collection provides information necessary to issue permits for use of pesticides on national Wildlife refuges. A description of the proposed use, including type of pesticide, method, rate, frequency of application, target pest, and area of treatment is needed to assess likely impacts and establish terms necessary for resource protection.

Form Number(s): No specific form required for respondents; refuge manager submits Pesticide Use Proposal for approval.

Frequency: On occasion.

Description of Respondents: Individuals or households, farms, businesses, non-profit organizations, and small entities.

Annual Responses: 500.

Annual Burden Hours: 50.

Acting Service Clearance Officer: James E. Pinkerton, 202–653–7499, Room 859, Riddell Building, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: March 3, 1986.

Walter O. Stieglitz,

Acting Associate Director, Wildlife Resources.

[FR Doc. 86–5728 Filed 3–14–86; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30774]

Illinois Central Gulf Railroad Co.; Acquisition and Operation Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, The Commission exempts Illinois Central Gulf Railroad Company from regulation under 49 U.S.C. 11343–46 to acquire and operate certain rail lines owned and operated by Missouri Pacific Railroad Company in Natchez, MS, subject to standard employee protection conditions.

DATES: Exemption is effective on April 14, 1986. Petitions to stay are due on March 24, 1986. Petitions for reconsideration are due on April 3, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30774 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Howard D. Koontz, 233 North Michigan Ave., Chicago, IL 60601.

FOR FURTHER INFORMATION CONTRACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: March 7, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86–5733 Filed 3–14–86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30792]

Missouri Pacific Railroad Co. and The Atchison, Topeka and Santa Fe Railway Co.; Trackage Rights

The Atchison, Topeka and Santa Fe Railway Company (ATSF) has agreed to grant overhead trackage rights to Missouri Pacific Railroad Company between Engineering Station 18252 + 37 (Tower 55) at Ft. Worth, TX, and Engineering Station 18425 + 71.4 (Tower 60) at North Ft. Worth, TX, a distance of approximately 3.28 miles.[1] The trackage rights will be effective on March 7, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: March 5, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86–5734 Filed 3–14–86; 8:45 am]

BILLING CODE 7035-01-M

[1] The trackage rights also include 96.6 feet of ATSF Track No. 87; 450 feet of ATSF Track No. 2; 1,000 feet of ATSF Track No. 3, and 187 feet of ATSF Track No. 14.

[Docket No. AB-6 (Sub-No. 270)]

Burlington Northern Railroad Company—Abandonment—in Henry and Mercer Counties, IL

The Commission has found that the public convenience and necessity permit Burlington Northern Railroad Company to abandon its 20.88-mile line of railroad between Alpha (milepost 18.52) and Aledo, IL (milepost 39.40) in Henry and Mercer Counties, IL.

A certificate will be issued authorizing abandonment unless within 15 days after this publication the Commission also finds that:¶(1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10 days period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 86–5911 Filed 3–14–86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 160)]

Seaboard System Railroad, Inc.; Abandonment in Levy County, FL; Findings

The Commission has found that the public convenience and necessity permit Seaboard System Railroad, Inc., to abandon its 20.6-mile line of railroad between Ipco (milepost AND-816.40) and Lebanon Jct. (milepost AND-837.0) in Levy County, FL.

A certificate will be issued authorizing this abandonment unless within 10 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 86-5735 Filed 3-14-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General's Commission on Pornography; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Department of Justice announces the following meetings of the Attorney General's Commission on Pornography.

Meeting

Date and Time: April 29, 1986, 9:00 a.m.-11:00 p.m.

Place: Room 801, Homeowners Loan Corporation Building, 320 First Street, NW., Washington, DC 20530.

Status: Open to the public.

Matters to be considered at meeting: Discussion of (1) Issues and methodology to be utilized, (2) Previous hearings and evidence received, (3) Review of alleged obscene and pornographic material, and (4) Any other relevant matters.

Meeting

Date and Time: April 30, 1986, 9:00 a.m.-11:00 p.m.

Place: Room 801, Homeowners Loan Corporation Building, 320 First Street, NW., Washington, DC 20530.

Status: Open to the public.

Matters to be considered at meeting: Discussion of (1) Issues and methodology to be utilized, (2) Previous hearings and evidence received, (3) Review of alleged obscene and pornographic material, and (4) Any other relevant matters.

Meeting

Date and Time: May 1, 1986, 9:00 a.m.-11:00 p.m.

Place: Room 801, Homeowners Loan Corporation Building, 320 First Street, NW., Washington, DC 20530.

Status: Open to the public.

Matters to be considered at meeting: Discussion of (1) Issues and methodology to be utilized, (2) Previous hearings and evidence received, (3) Review of alleged obscene and pornographic material, and (4) Any other relevant matters.

Meeting

Date and Time: May 2, 1986, 9:00 a.m.-11:00 p.m.

Place: Room 801, Homeowners Loan Corporation Building, 320 First Street, NW., Washington, DC 20530.

Status: Open to the public.

Matters to be considered at meeting: Discussion of (1) Issues and methodology to be utilized, (2) Previous hearings and evidence received, (3) Review of alleged obscene and pornographic material, and (4) Any other relevant matters.

The meetings will be open to the public. Written comments may be submitted regarding relevant issues. Approximately 20 seats will be available at the meeting on a first-come, first-served basis.

Copies of minutes will be available upon request, at the actual cost of duplication, 60 days after the final meeting on May 2, 1986.

Contact person for more information or to submit written comments: Alan E. Sears, Executive Director, Attorney General's Commission on Pornography, Department of Justice, Room 1018, HOLC Building, 320 First Street, NW., Washington, DC 20530, (202) 724-7837.

Henry Hudson,

Commission Chairman.

[FR Doc. 86-5742 Filed 3-14-86; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Combined Subcommittee on Emergency Core Cooling Systems and Decay Heat Removal Systems; Meeting

The ACRS Subcommittee meeting on Emergency Core Cooling Systems scheduled for March 26, 1986 previously published in the Federal Register (50 FR 8580, Mar. 12, 1986) has been changed to a *combined* Subcommittee meeting with the Decay Heat Removal Systems Subcommittee. All other items regarding this meeting remain the same as previously published.

To the extent practical the meeting will be open to public attendance. However, portions of the meeting may be closed to discuss proprietary information related to Westinghouse ECCS codes.

The agenda for the subject meeting shall be as follows:

The Subcommittee will: (1) Continue review of the Duke Power Company's request to delete use of the ECCS UHI system at McGuire and (2) discuss the proposed NRR resolution position for Generic Issue 124, Auxiliary Feedwater System Reliability.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202-634-3267), between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: March 12, 1986.

Morton W. Libarkin,

Assistant, Executive Director for Project Review.

[FR Doc. 86-5811 Filed 3-14-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-529]

Arizona Public Service Co. et al., Palo Verde Nuclear Generating Station, Unit 2; Correction

On March 12, 1986, a notice was published in the Federal Register (51 FR 8584 entitled "Bi-Weekly Notice, Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration." On page 8587 of that notice, in column 1, the following replaces the first paragraph of Description of Amendment Request in the section entitled "Arizona Public Service Company, et al., Docket No. STN 50-529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona,":

The proposed amendment would reflect Commission approval, if granted, allowing: (i) Co-owner Public Service Company of New Mexico (PNM) to transfer a portion of its fee interest in PVNGS Unit 2 to equity investors and (ii) the simultaneous transfer by the equity investors back to PNM of a long-term (approximatley 29½ years) possessory leasehold interest of this share under the terms described in this application. It is contemplated that the equity investors will be third parties not affiliated with PNM. These equity investors might include electric utilities, or affiliates or subsidiaries thereof, in which case antitrust consideration may be present. Under the proposed transaction, it is represented that PNM will remain in possession of its present interests in PVNGS Unit 2 under leasehold rather than by virtue of ownership.

The comment period for this one section of the above notice is hereby extended to April 16, 1986, to allow the full 30 days comment period.

Dated at Bethesda, Maryland, this 10th day of March, 1986.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, PWR Project Directorate No. 7, Division of PWR Licensing-B.

[FR Doc. 86-5812 Filed 3-14-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-354]

Public Service Electric & Gas Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is issuing exemptions from certain requirements of Appendix J to 10 CFR Part 50 Public Service Electric and Gas Company (the applicant) for the Hope Creek Generating Station located in Salem County, New Jersey.

Environmental Assessment

A. Containment Airlock Surveillance

Identification of Proposed Action: The exemption would eliminate the air lock full pressure test required by Paragraph III.D.2(b)(ii) of Appendix J each time the air lock is opened during periods when containment integrity is not required. In lieu of the above Appendix J requirement, the applicant will perform an overall air lock integrity test when maintenance has been performed on the air lock that could effect the air lock sealing capability. If maintenance has not been performed on the air lock, the applicant intends to test the bulkhead door seal leakage.

Need for Proposed Action: The exemption is required to provide the applicant with greater plant availability over the lifetime of the plant.

Environmental Impact of Proposed Action: The exemption would allow the substitution of an air lock seal test for an air lock pressure test while the reactor is in a shutdown or refueling mode. With respect to this exemption from Appendix J, the increment of environmental impact is related solely to the potential increased probability and the magnitude of containment leakage during an accident which would lead to potentially greater offsite radiological consequences. However, the potential increase due to this exemption is small and would result from the potential leakage path through the door mechanism which will not be measured by this modified test. The six month test requirement of paragraph III.D.2(b)(i) of Appendix J, the three day test requirement of paragraph III.D.2(b)(iii) of Appendix J, and the testing requirements when maintenance is performed on the air lock, will measure the leakage through the door mechanism and provide assurance that the air lock will not leak excessively.

Alternative to Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of plant operations and would result in reduced operational flexibility and unwarranted delays in power ascension.

B. Leak Rate Testing of Main Steam Isolation Valves (MSIVs)

Identification of Proposed Action: The exemption would exclude the measured leakage for the MSIVs from the combined leak rate for the local leak rate test. The exemption would also allow the leak test for the MSIVs to be performed at reduced pressures. This is an exemption from the testing requirement of Paragraph III.C.2(b) of Appendix J which requires valves, which are sealed with fluid from a seal system, to be pressurized with that fluid to a pressure not less than 1.10Pa.

Need for Proposed Action: The exemption is needed because the design of the MSIVs is such that testing in the reverse direction tends to unseat the valve. Testing of the inboard and outboard MSIVs or outboard MSIV and main steam stop valve simultaneously by pressurizing between the valves at a design pressure of 52.9 psig (1.10 Pa) would lift the disc of the inboard valve, resulting in a meaningless test.

Environmental Impact of Proposed Action: The proposed exemption would exclude the measured leakage through the MSIVs from the combined local leak rate test results. The MSIV leakage control system at Hope Creek is designed to control and minimize the release of fission products that could leak through the closed MSIVs after onset of a loss of coolant accident (LOCA) by maintaining a positive pressure between the MSIVs in each steam line. A radiological analysis including this potential source of containment atmosphere leakage was performed, and the MSIVs will be periodically leak rate tested to verify that the leakage assumed in the radiological analysis is not exceeded.

Alternative to Proposed Action: The proposed Technical Specification requirements for the Hope Creek Generating Station will provide reasonable assurance that no material increase in the probability or extent of MSIV leakage is to be expected. Therefore, there is no significant increase in the probability of higher post-accident offsite or onsite doses related to the proposed exemption and no significant increase in environmental impact beyond that experienced with no exemption.

The principal alternative would be to deny the requested exemption. This would provide no greater assurance that offsite or onsite doses, in the event of an accident that resulted in fission product release, would be any less.

C. Traversing Incore Probe

Identification of Proposed Action: Paragraph III.D.3 of Appendix J states that Type C testing on valves shall be performed during each reactor shutdown for refueling but in no case at intervals greater than two years. The proposed exemption would eliminate the requirement of Type C testing of the Traversing Incore Probe (TIP) Systems shear valves. The TIP system is equipped with two isolation valves outside the containment, one is a solenoid-operated ball valve and the other is an explosive shear valve. Since the shear valve requires testing to destruction, the applicant has requested an exemption from Type C testing of the shear valve.

Need for Proposed Action: The exemption is required in order for the applicant to avoid continuously destroying TIP system shear valves.

Environmental Impact of Proposed Action: The exemption would allow the

applicant to implement a surveillance and replacement program on the shear valves as an alternative to Type C testing to ensure that the shear valves function. The staff concludes that exempting the shear valves from Type C testing will not increase radioactive leakage from the penetration because the valve is the second isolation valve and its closure is required only in emergencies. The staff finds that the functional capability of the shear valves is addressed by the applicant's maintenance program and in the Technical Specifications.

Alternative to Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of plant operation.

D. Instrument Lines

Identification of Proposed Action: The exemption from Paragraph III. C.2(a) of Appendix J would allow exemption from the Type C testing requirements for instrument lines, including suppression pool level and pressure instrumentation, drywell pressure instrumentation and those lines containing excess flow check valves.

Need for Proposed Action: The exemption is needed because the above instrumentation is not capable of being Type C tested. Furthermore, the leak tightness for the above instrumentation is verified during the Integrated (Type A) Leak Rate Test.

Environmental Impact of Proposed Action: These instrument lines consist of small diameter piping located outside the containment connected to a sealed instrument transducer, and are passive systems. They are designed to withstand the pressure and temperature conditions following the onset of a LOCA. Additionally, the leak tightness for the instrument lines is verified during the Integrated (Type A) Leak Rate Test. With respect to this exemption from Appendix J, the increment of environmental impact is related soley to the potential increased probability and the magnitude of containment leakage during an accident which would lead to potentially greater offsite radiological consequences. However, the potential increase due to this exemption is small and would result from leakage through these instrument lines. Based on the applicant's proposed alternative for testing leakage and the design of these instrument lines, it has been determined that the environmental impact would be negligible.

Alternative to Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of plant operations and would result in unwarranted delays in power ascension.

E. Thermal Relief Valves (TRVs)

Identification of Proposed Action: The exemption from Paragraph III.C.2(a) of Appendix J would allow the applicant to be exempted from the Type C test requirement for the thermal relief valves (TRVs).

Need for Proposed Action: The exemption is needed because the above instrumentation is not capable of being Type C tested without adding a valve to form the test boundary. To add another valve on the TRV discharge piping would defeat the purpose for which the relief valves were installed, and also decrease the probability that the TRVs would function properly when required.

Environmental Impact of Proposed Action: The TRVs, in the Residual Heat Removal (RHR) System and Core Spray (CS), System, are of safety grade design with the containment isolation function in the reverse flow direction. Additionally, the pressure setpoint for the valves to open is much higher than the containment design pressure. These features will prevent an outward leakage path through the TRVs. Although the applicant is requesting an exemption to Type C testing, the integrity of the TRVs is being verified during the Type A test. With respect to this exemption from Appendix J, the increment of environmental impact is related solely to the potential increased probability and the magnitude of containment leakage during an accident which would lead to potentially greater offsite rediological consequences. However, the potential increase due to this exemption is small and would result from leakage through the TRVs. Based on the applicant's proposed alternative for testing leakage and the design of these instrument lines, it has been determined that the environmental impact would be negligible.

Alternative to the Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no envrionmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of plant operations but would result in unwarranted delays in power ascension.

Alternative Use of Resources: These actions in the granting of exemptions A through E above do not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of the Hope Creek Generating Station," dated December 1984.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's requests that support the requested exemptions A through E above. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed exemptions will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the requested exemptions.

For further details with respect to this action, see the request for the exemptions as listed herein, in the applicant's December 12, 1985, submittal, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the Pennsville Public Library, 190 South Broadway, Pennsville, New Jersey 08070.

Dated at Bethesda, Maryland, this 10th day of March 1986.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing.

[FR Doc. 86-5813 Filed 3-14-86; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 676; Docket No. A86-15]

Palo Verde, AZ; Order Accepting Appeal and Establishing Procedural Schedule

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; Bonnie Guiton; Patti Birge Tyson.

Issued: March 11, 1986.

Docket Number: A86-15

Name of Affected Post Office: Palo Verde, Arizona 85343
Name(s) of Petitoner(s): Mrs. Eliza W. Narramore
Type of Determination: Consolidation
Date of Filing of Initial Appeal Papers: March 6, 1986
Categories of Issues Apparently Raised:
1. Effect on postal services. [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request: a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before March 21, 1986.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

March 6, 1986—Filing of Petition
March 11, 1986—Notice and Order of Filing of Appeal
March 31, 1986—Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
April 10, 1986—Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115(a) and (b)].
April 30, 1986—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
May 15, 1986—Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(d)].
May 22, 1986—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].
July 7, 1986—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 86-5723 Filed 3-14-86; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14971; File No. 812-6165]

American Capital Government Securities, Inc.; Application

March 7, 1986.

Notice is hereby given that American Capital Government Securities, Inc. ("Applicant"), 2800 Post Oak Boulevard, Houston, Texas 77056, filed an application on July 31, 1985, and an amendment thereto on December 18, 1985, for an order, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting it from the provisions of section 19(b) of the Act and Rule 19b-1 thereunder, to permit Applicant to distribute long-term capital gains from certain options and futures transactions more frequently than once a year. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the pertinent statutory provisions.

According to the application, Applicant is designed for investors who seek a high current return with frequent distributions. It seeks high current return from interest, premiums from writing covered call options and secured put options, any gains from sales of portfolio securities (whether upon the exercise of options or otherwise) and profits from closing transactions with respect to options and futures contracts. Applicant generally invests all of its assets in debt obligations issued or quaranteed by the U.S. Government, its agencies or instrumentalities, options on such U.S. Government securities, interest rate futures contracts, options on such contracts and repurchase agreements fully collateralized by U.S. Government securities. Dividends from net investment income are declared and paid monthly to shareholders. Applicant distributes quarterly, or on such other basis as may be determined from time to time by its board of directors, any net realized short-term capital gains, including those derived from expired options it has written, from closing purchase transactions and from securities sold upon the exercise of options or otherwise. Distributions of any net long-term capital gains realized during a fiscal year have been made once a year.

Applicant states that the Tax Reform Act of 1984 amended section 1256 of the Internal Revenue Code and significantly altered the tax treatment of capital gains from options on U.S. Government securities held or written by the Applicant, all of which have become section 1256 contracts. Prior to the 1984 amendments to section 1256, gain or loss recognized with respect to options on U.S. Government securities was treated as short-term capital gain or loss. Under the 1984 amendments to the tax law, 60% of the gain or loss recognized by the Applicant with respect to options on U.S. Government securities is treated as long-term capital gain or loss, and the remaining 40% is treated as short-term capital gain or loss. The 1984 amendments also resolved the issue of the tax treatment of options on interest rate futures by designating such options as section 1256 contracts. Regulated futures contracts, which were made subject to section 1256 by the Economic Recovery Act of 1981, were also designated as section 1256 contracts by the 1984 amendments. Thus, 60% of all gains and losses recognized by Applicant with respect to options and futures contracts are treated as long-term capital gain or loss and 40% as short-term capital gain or loss.

According to Applicant, the purpose of this change in the tax law with respect to options on U.S. Government securities was to eliminate certain tax abuses relating to the realization of short-term capital losses from options transactions. There is no evidence that Congress intended the amendment of section 1256 to limit the frequency with which registered investment companies may distribute capital gains from options transactions. Nevertheless, the new characterization of 60% of the gain from options transactions as long-term capital gain triggers section 19(b) of the Act and Rule 19b-1 thereunder.

Applicant asserts that none of the purposes of section 19(b) of the Act and Rule 19b-1 thereunder would be served by a strict application of these provisions to 60% of the capital gains generated by options and futures transactions. It is submitted that characterization of these gains as long-term capital gains should not make Applicant's shareholders more likely to confuse them with dividends paid from net interest income, since shareholders receive distributions of short-term capital gains more frequently than once a year. Furthermore, Applicant will continue clearly to distinguish any distribution of capital gains from distributions out of net interest income in accordance with section 19(a) of the Act.

Applicant believes that designating an appropriate part of each distribution of gains from options and futures transactions as long-term capital gain is

in the best interest of its shareholders since it will spread the benefit of the lower capital gains tax rate to persons who are shareholders at various points during the year. Alternativley, Applicant would designate its final distribution of gains with respect to a fiscal year as being the distribution of long-term capital gains. It is submitted that this approach could be disadvantageous to Applicant's shareholders because they might not receive the full tax benefit that section 1256 provides because a portion of the long-term capital gain realized on options and futures transactions may not be designated as such if the portion exceeds the amount of the final distribution.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 28, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or low that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Mangement, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-5763 Filed 3-14-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14981 (File No. 812-6185)]

IDS Certificate Co., Inc.; Notice of Application

March 11, 1986.

Notice is hereby given that IDS Certificate Company, Inc. ("Applicant"), IDS Tower, Minneapolis, Minnesota 55474, registered under the Investment Company Act of 1940 ("Act") as a face-amount certificate company, filed an application on August 19, 1985, for an order of the Commission pursuant to section 6(c) of the Act exempting Applicant from certain provisions of Sections 28(a) and 28(i) of the Act, in order to permit Applicant to use an alternative method of calculating its reserves. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act thereunder for the text of the applicable provisions thereof.

Applicant, a wholly-owned subsidiary of IDS Financial Services Inc., a registered investment adviser and broker-dealer has issued face-amount certificates since 1941 and currently has 41 series of face-amount certificates outstanding. Applicant states that face-amount certificate companies are required by section 28(a)(2) of the Act to maintain, at all times, minimum certificate reserves on all outstanding face-amount certificates. A primary concern of Congress when the Act was adopted, Applicant asserts, was the adequacy and security of face-amount certificate company reserves, and so a uniform system of calculating reserves was imposed and minimum levels of reserves required, and the reserves of face-amount certificates companies could be invested only in certain types of "qualified assets."

Sections 28 and 28(i) of the Act specify the amount of reserves required to be maintained on fully paid and installment certificates. An interest rate of 3½% is used to calculate those reserves. The application states that reserve payments must be made in the same frequency as payments are made by the certificate holder and must be sufficient in amount, when accumulated at 3½% per annum compounded annually, to provide the minimum maturity or face-amount of the certificate when due. The 3½% per annum rate is also important to Applicant because it constitutes the maximum interest rate it can guarantee in advance on its certificate products. All other interest must be declared as additional interest or additional credits. According to Applicant, this concept is extremely confusing for certificate holders and potential customers who find it difficult to understand why the interest rates on certificate products must be split into guaranteed minimum interest (the 3½%) and additional interest or additional credits.

According to the application, when the Act's provisions were adopted, the 3½% rate of interest was a generous market rate of interest. The fixed 3½% interest rate now used in reserve calculations does not work well, according to the Applicant, in a rapidly changing financial environment and prevents it from offering its customers more modern products. Applicant asserts that these products are difficult if not impossible to offer with the current reserve calculations because depositing the customer's initial investment in Applicant's reserves would not be sufficient.

Applicant seeks an order pursuant to section 6(c) of the Act exempting it from the provisions of sections 28(a) and 28(i) as they relate to the 3½% reserve calculation. Applicant proposes that it be permitted to calculate its statutory reserves using a floating interest rate analogous to that now used by the insurance industry. On a date certain each year (such as April 1), Applicant would use the average of the Moody's Corporate Bond Yield Average-Monthly Average Corporates ("Moody's Index") for the preceding twelve months to determine the maximum interest rate which it could use to calculate its reserves for all certificates issued during the following 12-month period. Applicant could use a lower rate if it so desired. Once the average Moody's Index was determined, Applicant would weight the index by multiplying it by 80%. Applicant concedes that some weighting is appropriate to assure that a relatively conservative interest rate figure is used. The application uses the example that, if on April 1, 1986, the average Moody's Index for the preceding 12 months was 10.5%, Applicant would calculate the necessary reserves for all certificate products issued for the 12 months beginning May 1, 1986 based on a rate not in excess of 10.5% times 80%, or 8.4%. This process would continue each year.

Applicant believes the exemption requested is appropriate in the public interest and consistent with the protection of investors. By having a floating rate, Applicant's reserves would be aligned more closely with the prevailing economic conditions rather than being tied to an outmoded and arbitrary fixed interest rate. Applicant also submits that its proposal is appropriate in the public interest for the additional reasons mentioned above, such as the public demand for new products bearing higher interest rates. Insofar as investor protection is concerned, Applicant notes several conditions, which exist including the fact that the floating rate of interest to be used on Applicant's reserves will be a 12-month average to avoid unusual, temporary fluctuations. Furthermore, Applicant must also maintain a capital stock "cushion" of $250,000 pursuant to section 28(a)(1) of the Act. Beyond the $250,000 cushion, Applicant agreed in an earlier no-action letter request to the Commission (Investors Syndicate of America, Inc., March 22, 1974), to maintain an amount of unappropriated earned surplus and capital equal to at least 5% of net certificate reserves.

Finally, with respect to the Applicant's being consistent with the purposes fairly intended by Section 28 the application submits that the Applicant will continue to be bound by the statutory provisions of qualified assets that restricts Applicant's "qualified assets" to those allowed to District of Columbia life insurance companies.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 3, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-5833 Filed 3-14-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22987; File No. SR-CSE-86-1]

Self-Regulatory Organizations; Proposed Rule Change by the Cincinnati Stock Exchange Relating To Small Order Execution Guarantee

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 6, 1986, The Cincinnati Stock Exchange ("CSE") filed with the Securities and Exchange Commission the Proposed Rule Change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the Proposed Rule Change from interested persons.

I. The Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The Proposed Rule Change increases from 1099 to 2099 the number of shares of a public agency market order which is guaranteed an automatic execution at the best available price represented by all Intermarket Trading System participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the Propose Rule Change is to improve the competitive position of the CSE in the national market system.

The Proposed Rule Change is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act") in that it is designed to perfect the mechanism of a free and open market and a national market system. The Proposed Rule Change is also consistent with section 11A(a)(1) of the Act because it assures economically efficient executions of securities transactions, thereby benefiting the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the Proposed Rule Change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others.

The Exchange has neither solicited nor received comments on the Proposed Rule Change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such Proposed Rule Change, or

(B) Institute proceedings to determine whether the Proposed Rule Change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC., 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the Propsosed Rule Change that are filed with the Commission, and all written communications relating to the Proposed Rule Change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 7, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 7, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-5834 Filed 3-14-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[CM-8/952]

Study Groups A and B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Groups A and B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 3, 1986 at 9:30 a.m. in Room 1107, Department of State, 2201 C Street, NW., Washington, DC.

Study Group A deals with international telecommunications policy and services; Study Group B deals with preparations for the PC/WATTC Study Group meeting.

Study Group A will review matters relating to the January 1986 Working Party meetings.

Study Group B will review results and requirements for future activities following the recent preparatory committee meeting on PC-WATTC.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the

Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC; telephone (202) 647–6700. All attendees must use the C Street entrance to the building.

Dated: March 7, 1986.

Domenick Iacovo,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86–5700 Filed 3–14–86; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/950]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 16, 1986 in Room 1205, Department of State, 2201 C Street, NW., Washington, DC. The meeting will begin at 9:30 a.m.

The agenda for the meeting is as follows:

1. Consideration of contributions for U.S. CCITT Study Group XVII, (Geneva, April 21–25);

2. Any other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC; telephone (202) 647–6700. All attendees must use the C Street entrance to the building.

Dated: March 6, 1986.

Domenick Iacovo,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86–5399 Filed 3–14–86; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/951]

Integrated Services Digital Network (ISDN) Joint Working Party and Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the ISDN Joint Working Party and Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 15, 1986 in Room 1205, Department of State, 2201 C Street, NW., Washington, DC. The meeting will begin at 9:30 a.m.

The agenda for the meeting is as follows:

1. Report on Study Group XI and Study Group XVIII Reapporteur Meetings;

2. Consideration of contributions to Study Group XI Working Parties meeting (Geneva, April 30);

3. Consideration of contributions to Study Group XVIII (Geneva, June 30–July 18);

4. Any other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC; telephone (202) 647–6700. All attendees must use the C Street entrance to the building.

Dated: March 6, 1986.

Domenick Iacove,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86–5699 Filed 3–14–86; 8:45 am]

BILLING CODE 4710–07–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980, Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms under review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Attention: Desk Office for Tennessee Valley Authority, 395–7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751–2524, FTS 858–2524.

Type of Request: Regular Submission

Title of Information Collection: Rebate Processing Form/Sales Data Form

Frequency of Use: On Occasion

Type of Affected Public: Individuals and small business

Small Business or Organizations Affected: Yes

Federal Budget Functional Category Code: 271

Estimated Number of Annual Responses: 1,200

Estimated Total Annual Burden Hours: 265

Need For and Use of Information: Increasing use of high-efficiency air conditioners (HEAC) in the Tennessee Valley must be encouraged to mitigate the costliness of high load growth on TVA's power system. TVA is encouraging consumer purchase of HEAC's through a rebate offering. These forms allow TVA to provide, monitor, and evaluate the rebate program.

Dated: March 10, 1986.

John W. Thompson,

Manager of Corporate Services, Senior Agency Official.

[FR Doc. 86–5720 Filed 3–14–86; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF TRANSPORTATION

Agreements Filed During the Week Ending March 7, 1986

Answers may be filed within 21 days from the date of filing.

Date filed	Docket No	Parties	Subject	Proposed effective date
Mar. 4, 1986	43845	Members of International Air Transport Association	U.S. Algeria Airport Tax	Apr. 1, 1986.
Do	43846 R-1 and R-2	do	Standard Revalidation-North Atlantic	Do.
Mar. 5, 1986	43852	do	Proportional Fares-Netherlands	Do.
Mar. 3, 1986	43837	Trans World Airlines, Inc., c/o Mark A. Buckstein, 605 Third Avenue, New York, New York 10158. Ozark Holdings, Inc., c/o James T. Lloyd, Preston, Thorgrimson, Ellis & Holman, 1735 New York Avenue, NW., Suite 500, Washington, D.C. 20006. Joint Application of Trans World Airlines, Inc. and Ozark Holdings, Inc., among whose wholly owned subsidiaries is Ozark Air Lines, Inc., have entered into an Agreement of Merger pursuant to which Ozark would become a wholly owned subsidiary of TWA.		

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 86-5731 Filed 3-14-86; 8:45 am]
BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of Department of Transportation's Procedural Regulations; Week Ended March 7, 1986

Subpart O Applications

The due date for answers conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings (See 14 CFR 302.1701 et. seq.)

Date filed	Docket No.	Description
Mar. 3, 1986	43835	Aero Trasporti Italiani A.T.I.-S. p.A., c/o August T. Lembo, Carella, Byrne, Bain & Gilfillan, 666 Fifth Avenue New York, New York 10103. Application of Aero Trasporti Italiani A.T.I.-S.p.A. pursuant to Section 402 of the Act requests a foreign air carrier permit to operate charter passenger and cargo flights to and from United States cities. Answers may be filed by March 31, 1986.
Do.	43836	Eastern Air Lines, Inc., c/o Robert N. Duggan, 1030-15th Street NW., Washington, D.C. 20005. Application of Eastern Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations applies for renewal of its certificates of public convenience and necessity for Routes 239, 240 and 258 which authorize Eastern to engage in air transportation between the United States and the Yucatan area of Mexico. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 31, 1986.
Do.	43838	Orion Lift Service, Inc. d/b/a Orion Air, c/o Stephen L. Gelband, Hewes, Morella, Gelband & Lamberton, 1010 Wisconsin Avenue NW., Washington, D.C. 20007. Application of Orion Lift Service, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations applies for expedited issuance of a certificate of public convenience and necessity authorizing it to engage in scheduled foreign air transportation of property and mail between the United States and Germany. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 31, 1986.
Do.	43840	Orion Lift Service, Inc. d/b/a Orion Air, c/o Stephen L. Gelband, Hewes, Morella, Gelband & Lamberton, 1010 Wisconsin Avenue NW., Washington, D.C. 20007. Application of Orion Lift Service, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations applies for expedited issuance of a certificate of public convenience and necessity authorizing it to engage in scheduled foreign air transportation of property and mail between the United States and the United Kingdom. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 31, 1986.
Do.	43842	Orion Lift Service, Inc. d/b/a Orion Air, c/o Stephen L. Gelband, Hewes, Morella, Gelband & Lamberton, 1010 Wisconsin Avenue NW., Washington, D.C. 20007. Application of Orion Lift Service, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations applies for expedited issuance of a certificate of public convenience and necessity authorizing it to engage in scheduled foreign air transportation of property and mail between the United States and France. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 31, 1986.
Mar. 4, 1986	43847	Air Puerto Rico Airlines, Inc., c/o Robert E. Cohn, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036. Application of Air Puerto Rico Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations requests issuance of a certificate of convenience and necessity authorizing it to engage in scheduled foreign air transportation of passengers, property and mail over the following routes: Between San Juan, Puerto Rico and a point or points in Haiti; the Dominican Republic; Tortola, British Virgin Islands; Virgin Gorda, British Virgin Islands; St. Maarten, Netherlands Antilles; St. Kitts, Leeward Islands; Antigua, West Indies; Guadeloupe; and Martinique. Conforming Applications, Motions to Modify Scope and Answers may be filed by April 1, 1986.
Do.	43741	Stateswest Airlines, Inc., c/o Richard A. Fitzgerald, 223 Cypress Hills Court, San Ramon, California 94583. Amendment No. 1 to the Application of Stateswest Airlines, Inc. for a certificate of public convenience and necessity to engage in scheduled and charter interstate/overseas air transportation. (Additional Information). Answers may be filed by April 1, 1986.
Mar. 6, 1986	43855	Haines Airways, Inc., c/o Bill Miller, Bill Miller Associates, Suite 604, 1341 G Street NW., Washington, D.C. 20005. Application of Haines Airways, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Regulations, requests a certificate of public convenience and necessity authorizing interstate scheduled air transportaiton of persons, property and mail: Between any point in any state in the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States. Conforming applications, Motions to Modify Scope and Answers may be filed by April 3, 1986.
Mar. 7, 1986	42570	Bahamasair Holdings Ltd., c/o George U. Carneal, Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006. Third Amendment to the Application of Bahamasair Holdings Ltd., requests renewal and amendment of its foreign air carrier permit. Bahamasair requests that its pending application should be amend by adding the following new coterminal points: Houston, Texas; New Orleans, Louisiana; Memphis, Tennessee; Nashville, Tennessee; and Charlotte, North Carolina. Answers may be filed by April 4, 1986.

Phyllis T. Kaylor,
Chief, Documentary Services Division
[FR Doc. 86-5732 Filed 3-14-86; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD3 86-08]

New York Harbor Traffic Management Advisory Committee; Meeting

AGENCY: Coast Guard, DOT..
ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 USC App. I), notice is hereby given of a meeting of the New York Harbor Traffic Management Advisory Committee to be held on April 9, 1986, in the Conference Room, second floor, U.S. Coast Guard Marine Inspection Office, Battery Park, New York, beginning at 9:30 a.m.

The agenda for this meeting of the New York Harbor Traffic Management Advisory Committee is as follows:

1. Introduction of Vice Admiral P. A. Yost, Commander, Third Coast Guard District and Committee Sponsor.
2. Introduction of Committee members and Coast Guard officers.
3. Discussion of charter and purpose of the Committee by Captain L. N. Hein, Executive Director of Committee.
4. Short discussion on per-diem/travel entitlements for committee members and procedures for publishing of minutes by Captain R. J. Heym, Executive Secretary.
5. Election by popular vote of Committee Chairperson.
6. Report on USCG perception of Vessel Traffic Serivce (VTS) participation. The Coast Guard is particularly interested in obtaining views and recommendations on improving service, improving level of participation, and shortening the needed radio communications.
7. Establishment of rules for public participation in New York Harbor Traffic Management Advisory Committee meetings.
8. Discussion of items for next meeting by Committee Chairperson.
9. Discussion of dates and places of future meetings.

The New York Harbor Traffic Management Advisory Committee has been established by Commander, Third Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritme interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Captain R. J. Heym, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, New York Vessel Traffic Service, Governors Island, New York, NY 10004; or by calling (212) 668-7954.

P.A. Yost,
Vice Admiral, United States Coast Guard Commander, Third Coast Guard District.

[FR Doc. 86-5808 Filed 3-14-86; 8:45 am]
BILLING CODE 4910-14-M

Federal Aviation Administration

Noise Exposure Map; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.
ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noice exposure maps submitted by City of Lebanon, New Hampshire, for Lebanon Municipal Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Lebanon Municipal Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before September 3, 1986.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is March 7, 1986. The public comment period ends May 6, 1986.

FOR FURTHER INFORMATION CONTACT: M. Ashraf Jan, Federal Aviation Administration, New England Region, Airports Division, ANE-610, 12 New England Executive Park, Burlington, MA 01803.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Lebanon Municipal Airport are in compliance with applicable requirements of Part 150, effective March 7, 1986. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before September 3, 1986. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations, Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken, or proposes, for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The City of Lebanon, New Hampshire submitted to the FAA on February 28, 1986, noise exposure maps, descriptions and other documentation which were produced during Airport Noise Compatibility Planning (Part 150) Study at Lebanon Municipal Airport from October 1984 to November 1985. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104 (b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by City of Lebanon. The specific maps under consideration are Figure 4-2 and Figure 4-3 along with the supporting documentation in the final report of the

Part 150 Study. The FAA has determined that these maps for Lebanon Municipal Airport are in compliance with applicable requirements. This determination is effective on March 7, 1986. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Lebanon Municipal Airport, also effective on March 7, 1986. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before September 3, 1986.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC

Federal Aviation Administration, 12 New England Executive Park, Airports Division, ANE–610, 12 New England Executive Park, Burlington, MA 01803

Mr. Marcel J. Theberge, Airport Manager, Lebanon Municipal Airport, Lebanon, N.H. 03784

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Burlington, Massachusetts, on March 7, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86–5690 Filed 3–14–86; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

Change of Name of Approved Trustee

Notice is hereby given that effective August 22, 1985, First Trust Company of Saint Paul, Saint Paul, Minnesota, changed its name to First Trust Company, Inc.

Dated: March 12, 1986.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 86–5761 Filed 3–14–86; 8:45 am]

BILLING CODE 4910-81-M

[Docket S–786]

American Shipping, Inc.; Application for Permission To Operate in the Domestic Alaskan Oil Trade

Notice is hereby given that American Shipping, Inc. owner of the BEAVER STATE by application dated March 12, 1986, has applied for written permission under sections 805(a) and 506 of the Merchant Marine Act, 1936, as amended (Act), for its 91,849 DWT tanker SS BEAVER STATE to operate in the domestic Alaskan oil trade for two months. Four consecutive voyages from Valdez to the West Coast would carry crude oil commencing about March 20–23, 1986. The vessel will be operated pursuant to consecutive voyage charters with SPC Shipping Corp., a subsidiary of SOHIO.

The applicants submitted a letter from SOHIO dated March 12, 1986, requesting the owners of the BEAVER STATE to apply for a month waiver. By letter dated March 12, 1986, to the Maritime Administration, SOHIO also stated that delays due to bad weather and ship repairs have now resulted in an urgent need for additional tonnage in the short term as evidenced by the recent reduction in throughput of the Trans Alaska Pipeline. SOHIO has canvassed all available tonnage and asserts that no suitable vessel would be available to load March 20–23, 1986.

The BEAVER STATE was built with construction-differential subsidy and is operating under a long-term operating-differential subsidy contract. Written permission pursuant to section 805(a) of the Act is required for the proposed Alaskan service notwithstanding the fact that the vessel would not be eligible for operating-differential subsidy for the period. Payback of construction-differential subsidy will be required pursuant to section 506 of the Act.

It will also be necessary to extend the section 805(a) written permission granted to American to its related companies which are holders of long-term operating-differential subsidy contracts. These companies are Atlas Marine Company and Aquarius Marine Company.

Although publication of a Notice with respect to American's request for permission under section 506 is not required, the Maritime Administration believes that it is appropriate to provide an opportunity for interested parties to comment on American's application.

Any person, firm, or corporation having any interest in the application for sections 805(a) and 506 permission and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, by the close of business on March 20, 1986. If such comments deal with section 805(a) issues, they should be accompanied by a petition for leave to intervene. The petition shall state clearly and concisely

the grounds of interest and the alleged facts relied on for relief.

If no petitions for leave to intervene on section 805(a) issues are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program Nos. 20.804 Operating-Differential Subsidies (ODS) and 20.800 Construction-Differential Subsidies (CDS))

By Order of the Maritime Administrator.

Dated: March 13, 1986.

Georgia P. Stamas,

Secretary.

[FR Doc. 86-5893 Filed 3-14-86; 8:45 am]

BILLING CODE 4910-81-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances, that a hearing is scheduled for March 27, 1986 at 10:00 a.m. at the Denver Regional Office for Station Committee on Educational Allowances, in the Adjudication Hearing room, Room 410 of the Denver Veterans Administration Regional Office, 44 Union Blvd., Denver, CO, to determine whether Veterans Administration benefits for all eligible persons enrolled in the Management Trainee Course, offered by Shopmier-Fawcett, Office Equipment, Inc., 205 N. Main Street, Pueblo, CO 81003, should be discontinued as provided in 38 CFR 21.4134, because a requirement of the law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: March 7, 1986.

Donald M. Twitty,

Director, VA Regional Office, Denver, CO.

[FR Doc. 86-5724 Filed 3-14-86; 8:45 am]

BILLING CODE 8320-01-M

Veterans' Advisory Committee on Rehabilitation; Meeting

The Veterans Administration gives notice that a meeting of the Veterans' Advisory Committee on Rehabilitation, authorized by 38 U.S.C. 1521, will be held in Room 1010 of the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, April 8 and 9, 1986. The sessions will begin at 9 a.m. The purpose of the meeting will be to review the administration of veterans' rehabilitation programs and provide recommendations to the Administrator.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Dr. Carole J. Westerman, Executive Secretary, Veterans' Advisory Committee on Rehabilitation (phone 202-389-2886) prior to March 28, 1986.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after meeting. Oral statements will be heard at 11:30 a.m. on April 9, 1986.

Dated: March 7, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86-5765 Filed 3-14-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 51
Monday, March 17, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Consumer Product Safety Commission	1
Federal Home Loan Bank Board	2
Securities and Exchange Commission	3

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, March 19, 1986.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS:

MATTERS TO BE CONSIDERED:

Open to the Public

1. Monitoring Voluntary Standards

The Commission will consider policy options for monitoring industry conformance to voluntary standards and recent comments received on plans to monitor industry enforcement of voluntary standards.

Closed to the Public

2. Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301—492–6800.

Sheldon D. Butts,

Deputy Secretary.

March 13, 1986.

[FR Doc. 86–5876 Filed 3–13–86; 12:51 pm]

BILLING CODE 6355-01-M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: Wednesday, March 26, 1986 (3:00—6:00 p.m.); Thursday, March 27, 1986 (8:00 a.m.—3:00 p.m.).

PLACE: The Mariott Marquis, Atlanta, Georgia.

STATUS: Federal Savings and Loan Advisory Council Meeting.

CONTACT PERSON FOR MORE INFORMATION: John M. Buckley, Jr. (202/377–6577) or Debra J. Ahearn (202/377–6924).

MATTERS TO BE CONSIDERED:

Committee reports regarding the following:

1. Interest Rate Risk and Fixed Rate Mortgages
2. FSLIC Funding Options
3. D & O Coverage
4. Classification of Assets

Jeff Sconyers,

Secretary.

March 13, 1986.

[FR Doc. 86–5897 Filed 3–13–86; 2:58 pm]

BILLING CODE 6720-01-M

3

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [51 FR 7362 March 3, 1986].

STATUS: Closed meetings.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, February 24, 1986.

CHANGE IN THE MEETING: Additional items/meeting.

The following additional items were considered at a closed meeting held on Wednesday, March 5, 1986, at 2:30 p.m.

Formal orders of investigation.
Regulatory matter regarding financial institution.
Opinion.

The following items were considered at a closed meeting held on Thursday, March 6, 1986, following the 10:00 a.m. open meeting.

Proposed order in administrative proceeding of an enforcement nature.
Administrative proceeding of an enforcement nature.

Chairman Shad and Commissioners Cox, Peters, Grundfest and Fleischman determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Mahaffey at (202) 272–2091.

Shirley E. Hollis,

Assistant Secretary.

March 10, 1986.

[FR Doc. 86–5832 Filed 3–12–86; 4:15 pm]

BILLING CODE 8010-01-M

federal register

Monday
March 17, 1986

Part II

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

March 1, 1986.

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 March 1, 1986, of 77 rescission proposals and 58 deferrals contained in the first three special messages of FY 1986. These messages were transmitted to the Congress on October 1 and November 25, 1985, and February 5, 1986.

Rescissions (Table A and Attachment A)

As of March 1, 1986, there were rescission proposals totaling $9,945.7 million pending before the Congress.

Deferrals (Table B and Attachment B)

As of March 1, 1986, $15,309.1 million in 1986 budget authority was being deferred from obligation and $105.2 million in 1986 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1986.

Information From Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below:

Vol. 50, FR p. 41100, Tuesday, October 8, 1985

Vol. 50, FR p. 49498, Monday, December 2, 1985

Vol. 51, FR p. 5830, Tuesday, February 18, 1986.

James C. Miller III,

Director.

BILLING CODE 4710-01-M

TABLE A

STATUS OF 1986 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$9,945.7
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	$9,945.7

****

TABLE B

STATUS OF 1986 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$23,388.6
Routine Executive releases through March 1, 1986 (OMB/Agency releases of $7,758.9 million and cumulative adjustments of $8.2 million)	-7,750.7
Overturned by the Congress	-223.6
Currently before the Congress	$15,414.3 a/

a/ This amount includes $105.2 million in outlays for a Department of the Treasury deferral (D86-30A).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1986

As of March 1, 1986 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								
Multilateral Assistance								
International organizations and programs.	R86-1		39,760	2-5-86				
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization and Conservation Service								
Rural clean water program.....	R86-2		6,000	2-5-86				
Agricultural conservation program.....	R86-3		140,839	2-5-86				
Water bank program.....	R86-4		8,371	2-5-86				
Dairy indemnity program.....	R86-5		95	2-5-86				
Rural Electrification Administration								
Reimbursement to the Rural electrification and telephone revolving fund for interest subsidies and losses..	R86-6		100,000	2-5-86				
Purchase of Rural Telephone Bank capital stock.....	R86-7		28,710	2-5-86				
Farmers Home Administration								
Rural development loan fund.....	R86-10		13,674	2-5-86				
Soil Conservation Service								
Watershed and flood prevention operations	R86-11		60,401	2-5-86				
Great plains conservation program.....	R86-12		6,606	2-5-86				
Food and Nutrition Service								
Food donations program.....	R86-13		5,183	2-5-86				
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs.	R86-14		101,309	2-5-86				
International Trade Administration								
Operations and administration.....	R86-15		19,290	2-5-86				
National Oceanic and Atmospheric Administration								
Operations, research, and facilities.....	R86-16		63,323	2-5-86				

As of March 1, 1986 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 Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction	R86-17		21,820	2-5-86				
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Compensatory education for the disadvantaged	R86-18		7,177	2-5-86				
Special programs	R86-19		37,782	2-5-86				
Office of Bilingual Education and Minority Languages Affairs								
Immigrant education	R86-20		28,710	2-5-86				
Office of Special Education and Rehabilitative Services								
Education for the handicapped	R86-21		44,364	2-5-86				
Rehabilitation services and handicapped research	R86-22		75,439	2-5-86				
Payments to institutions for the handicapped	R86-23		446	2-5-86				
Office of Vocational and Adult Education								
Vocational and adult education	R86-24		210,337	2-5-86				
Office of Postsecondary Education								
Student financial assistance	R86-25		456,347	2-5-86				
Higher education	R86-26		180,882	2-5-86				
Special Institutions								
Howard University	R86-27		5,699	2-5-86				
Office of Educational Research and Improvement								
Libraries	R86-28		33,017	2-5-86				

Attachment A - Status of Rescissions - Fiscal Year 1986

As of March 1, 1986 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 HEALTH AND HUMAN SERVICES								
Health Resources and Services Administration								
Health resources and services	R86-9		211,455	2-5-86				
Indian health	R86-29		24,262	2-5-86				
Indian health facilities	R96-30		38,642	2-5-86				
Centers for Disease Control								
Disease control, research, and training	R86-31		34,096	2-5-86				
National Institutes of Health								
National Cancer Institute	R86-32		6,800	2-5-86				
National Heart, Lung and Blood Institute	R86-33		11,469	2-5-86				
National Institute of Diabetes and Digestive and Kidney Diseases	R86-34		7,980	2-5-86				
National Institute of Neurological and Communicative Disorders and Strokes	R86-35		9,554	2-5-86				
National Institute of Allergy and Infectious Disease	R86-36		1,513	2-5-86				
National Institute of General Medical Sciences	R86-37		7,358	2-5-86				
National Institute of Child Health and Human Development	R86-38		1,150	2-5-86				
National Eye Institute	R86-39		5,224	2-5-86				
National Institute on Aging	R86-40		2,679	2-5-86				
Office of the Director	R86-41		23,055	2-5-86				
Alcohol, Drug Abuse, and Mental Health Administration								
Alcohol, drug abuse, and mental health	R86-42		39,718	2-5-86				
Health Care Financing Administration								
Program management	R86-43		912	2-5-86				
Social Security Administration								
Refugee and entrant assistance	R86-44		87,551	2-5-86				
Human Development Services								
Human development services	R86-45		29,980	2-5-86				
Family social services	R86-46		6,157	2-5-86				
Work incentives	R86-47		45,884	2-5-86				
Community services block grant	R86-48		182,139	2-5-86				
Community development credit union revolving fund	R86-49		2,529	2-5-86				

As of March 1, 1986 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
Departmental Management								
General Departmental management	R86-50		19,619	2-5-86				
Policy research	R86-51		220	2-5-86				
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs	R86-52		4,416,151	2-5-86				
Congregate services program	R86-53		2,555	2-5-86				
Housing counseling assistance	R86-54		3,313	2-5-86				
Community Planning and Development								
Urban development action grants	R86-55		220,062	2-5-86				
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Land acquisition	R86-56		3,000	2-5-86				
United States Fish and Wildlife Service								
Land acquisition	R86-57		4,951	2-5-86				
National Park Service								
Construction	R86-58		13,613	2-5-86				
Land acquisition	R86-59		83,917	2-5-86				
Historic preservation fund	R86-60		18,523	2-5-86				
DEPARTMENT OF JUSTICE								
Federal Prison System								
National Institute of Corrections	R86-61		3,315	2-5-86				
Office of Justice Programs								
Justice assistance	R86-62		134,666	2-5-86				
DEPARTMENT OF LABOR								
Employment and Training Administration								
Training and employment services	R86-63		416,037	2-5-86				

Attachment A - Status of Rescissions - Fiscal Year 1986

As of March 1, 1986 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 TRANSPORTATION								
Federal Railroad Administration								
Rail service assistance	R86-64		14,355	2-5-86				
Northeast corridor improvement program	R86-65		11,962	2-5-86				
Railroad rehabilitation and improvement financing funds	R86-66		32,059	2-5-86				
Urban Mass Transportation Administration								
Discretionary grants	R86-67		521,275	2-5-86				
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
Payments to State and local government fiscal assistance trust fund	R86-68		759,975	2-5-86				
Federal Law Enforcement Training Center								
Salaries and expenses	R86-69		4,976	2-5-86				
United States Customs Service								
Salaries and expenses	R86-70		4,169	2-5-86				
Operation and maintenance, air interdiction program	R86-71		19,275	2-5-86				
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and development	R86-72		26,796	2-5-86				
OFFICE OF PERSONNEL MANAGEMENT								
Government payment for annuitants, employees health benefits	R86-73		600,000	2-5-86				
OTHER INDEPENDENT AGENCIES								
Appalachian Regional Commission								
Appalachian regional development programs	R86-74		81,000	2-5-86				
Corporation for Public Broadcasting								
Public broadcasting fund	R86-75		44,000	2-5-86				

Attachment A - Status of Rescissions - Fiscal Year 1986

As of March 1, 1986 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 Endowment for the Humanities Grants and administration	R86-76		1,903	2-5-86				
State Justice Institute Salaries and expenses	R86-78		7,656	2-5-86				
United States Railway Association Administrative expenses	R86-79		640	2-5-86				
Total, rescissions		0	9,945,671					

Note. - The amount of the rescission proposal for Subsidized housing programs (R86-52) for the "Rental rehabilitation grants program" was inadvertently shown in the Third Special Message as $71,755,000 instead of $71,775,000. This report reflects the correct amount.

Attachment B - Status of Deferrals - Fiscal Year 1986

As of March 1, 1986 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 3-1-86
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs..	D86-1	10,000		10-1-85					10,000
International Security Assistance									
Foreign military sales credit.....	D86-32	4,590,000		2-5-86	1,545,770				3,044,230
Economic support fund.....	D86-24	1,222,216		11-25-85					
	D86-24A		1,936,060	2-5-86	407,271				2,751,005
Military assistance program.....	D86-33	661,350		2-5-86	172,815				488,535
International military education and training.....	D86-34	27,245		2-5-86	27,245				0
Multilateral Development Banks									
Contribution to the special facility for sub-saharan Africa.....	D86-35	75,000		2-5-86	75,000				0
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal.....	D86-2	77,913		10-1-85					77,913
Timber salvage sales.....	D86-3	22,854		10-1-85	151				22,702
DEPARTMENT OF COMMERCE									
Economic Development Administration									
Economic development assistance programs.....	D86-36	40,000		2-5-86					40,000
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D86-26	32,333		11-25-85	[illegible]				0
Fisheries loan fund.....	D86-25	1,959		11-25-85					
	D86-25A		338	2-5-86					2,297

As of March 1, 1986 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 3-1-86
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D86-4	353,079		10-1-85					
	D86-4A		1,488,579	2-5-86	558,509				1,283,149
Family Housing									
Family housing, Defense	D86-27	11,800		11-25-85					
	D86-27A		210,042	2-5-86					221,842
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation	D86-5	1,168		10-1-85					
	D86-5A		88	2-5-86	124			106	1,238
DEPARTMENT OF ENERGY									
Energy Programs									
Energy supply, research and development activities	D86-38	65,763		2-5-86					65,763
Uranium supply and enrichment activities	D86-58	584,158		2-5-86					584,158
Fossil energy research and development	D86-6	9,247		10-1-85					
	D86-6A		55,565	2-5-86	6,640			6,640	64,812
Fossil energy construction	D86-7	7,038		10-1-85	4,964				2,074
Naval petroleum and oil shale reserves	D86-8	155,668		10-1-85					
	D86-8A		10,798	2-5-86	130,005				36,461
Energy conservation	D86-9	9,880		10-1-85	3,080				6,800
Strategic petroleum reserve	D86-37	197,941		2-5-86					197,941
SPR petroleum account	D86-10	536,958		10-1-85					
	D86-10A		40,576	2-5-86					577,534
Alternative fuels production	D86-11	1,149		10-1-85					
	D86-11A		750	2-5-86	1,899				0
Power Marketing Administration									
Southeastern Power Administration, Operation and maintenance	D86-12	25,344		10-1-85	23,936			681	2,089
Southwestern Power Administration, Operation and maintenance	D86-13	5,000		10-1-85					
	D86-13A		8,243	2-5-86					13,243

Attachment B - Status of Deferrals - Fiscal Year 1986

As of March 1, 1986 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 3-1-86
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D86-14	27,095		10-1-85					27,095
Departmental Administration Departmental administration	D86-15	8,501		10-1-85	8,501				0
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health Scientific activities overseas (special foreign currency program)	D86-16	3,000		10-1-85					3,000
Health Care Financing Administration Program management	D86-57	8,489		2-5-86					8,489
Social Security Administration Limitation on administrative expenses (construction)	D86-28	6,489		11-25-85					6,647
	D86-28A		157	2-5-86					
Limitation on administrative expenses (excludes disability determination services)	D86-39	30,000		2-5-86					30,000
Limitation on administrative expenses (information technology systems)	D86-40	114,641		2-5-86					114,641
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs Annual contributions for assisted housing - Budget authority	D86-41	7,032,443		2-5-86	4,309,566				2,722,876
Contract authority	D86-42	641		2-5-86	641				0
Rental housing development grants	D86-43	77,400		2-5-86	74,175				3,225
Congregate services program	D86-44	2,670		2-5-86	2,555				115
Housing for the elderly or handicapped fund	D86-45	599,801		2-5-86					599,801
Nonprofit sponsor assistance	D86-46	1,000		2-5-86	500				500

As of March 1, 1986 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 3-1-86
Community Planning and Development									
Rental rehabilitation grants program.....	D86-47	77,000		2-5-86	77,000				0
Community development grants.....	D86-48	500,000		2-5-86					500,000
Urban development action grants.....	D86-49	251,000		2-5-86	251,000				0
Rehabilitation loan fund.....	D86-50	135,535		2-5-86	4,402				131,133
DEPARTMENT OF JUSTICE									
Bureau of Prisons									
Buildings and facilities.....	D86-17	20,000		10-1-85					
	D86-17A		10,730	2-5-86					30,730
Office of Justice Programs									
Crime victims fund.....	D86-18	100,000		10-1-85					
	D86-18A		3,396	2-5-86					103,396
DEPARTMENT OF LABOR									
Employment and Training Administration									
State unemployment insurance and employment service operation.....	D86-51	37,000		2-5-86	33,089				3,911
DEPARTMENT OF STATE									
Bureau of Refugee Programs									
United States emergency refugee and migration assistance fund, executive.....	D86-19	18,082		10-1-85					18,082
Other									
Assistance for implementation of a Contadora agreement.....	D86-20	2,000		10-1-85					2,000
DEPARTMENT OF TRANSPORTATION									
Federal Railroad Administration									
Conrail labor protection.....	D86-52	4,565		2-5-86					4,565

Attachment B - Status of Deferrals - Fiscal Year 1986

As of March 1, 1986 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 3-1-86
Urban Mass Transportation Administration									
Discretionary grants	D86-21	223,600		10-1-85		223,600	P.L. 99-190		0
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D86-29	686,438		11-25-85					
	D86-29A		681,723	2-5-86					1,368,162
Maritime Administration									
Operations and training	D86-53	9,350		2-5-86					9,350
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D86-30	7,743		11-25-85					
	D86-30A		97,483	2-5-86	712			712	105,226
Local government fiscal assistance trust fund	D86-31	54,349		11-25-85	63			63	54,349
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine									
Salaries and expenses	D86-54	233		2-5-86					233
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	D86-22	10,947		10-1-85					10,947
Railroad Retirement Board									
Milwaukee railroad restructuring, administration	D86-23	243		10-1-85	43				200
Dual benefits payments account	D86-55	2,201		2-5-86	2,009				192
United States Information Agency									
Acquisition and construction of radio facilities	D86-56	66,545		2-5-86	4,880				61,666

Attachment B - Status of Deferrals - Fiscal Year 1986

As of March 1, 1986 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 3-1-86
TOTAL, DEFERRALS.....		18,844,063	4,544,529		7,758,878	223,600		8,202	15,414,316

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D86-30A) of outlays only.

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BILLING CODE 3110-01-C

federal register

Monday
March 17, 1986

Part III

Office of Management and Budget

Budget Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new rescission proposals totaling $61,377,000, six new deferrals of budget authority totaling $1,209,629,624, and five revised deferrals of budget authority totaling $394,054,125.

The rescissions affect programs in the Department of Energy.

The deferrals affect programs in the Departments of Agriculture, Energy, Interior, and Treasury, and Funds Appropriated to the President.

The details of these rescission proposals and deferrals are contained in the attached report.

Ronald Reagan

The White House,
March 12, 1986.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

RESCISSION NO.	ITEM	BUDGET AUTHORITY
	Department of Energy	
	Energy Programs	
R86-8	Energy supply, research and development activities	38,489
R86-77	Energy conservation	9,816
R86-80	Fossil energy research and development	13,072
	Total, rescissions	61,377

DEFERRAL NO.	ITEM	BUDGET AUTHORITY
	Funds Appropriated to the President	
	Agency for International Development	
D86-59	International disaster assistance	64,607
	Department of Agriculture	
	Farmers Home Administration	
D86-60	Rural housing insurance fund	700,000
	Forest Service	
D86-2A	Expenses, brush disposal	108,806
D86-61	Cooperative work	442,336
	Department of Energy	
	Energy Programs	
D86-9A	Energy conservation	36,782
	Power Marketing Administration	
D86-62	Alaska Power Administration, Operation and maintenance	400
D86-14A	Western Area Power Administration, Construction, rehabilitation, operation, and maintenance	43,466
	Departmental Administration	
D86-63	Departmental administration	393
	Department of the Interior	
	National Park Service	
D86-64	Land acquisition and state assistance	1,893
	Department of the Treasury	
	Office of Revenue Sharing	
D86-30B	Local government fiscal assistance trust fund	125,000
D86-31A	Local government fiscal assistance trust fund	80,000
	Total, deferrals	1,603,684

SUMMARY OF SPECIAL MESSAGES
FOR FY 1986
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Fourth special message:		
New items	61,377	1,209,630
Revisions to previous special messages	---	119,591
Effects of fourth special message	61,377	1,329,221
Amounts from previous special messages that are changed by this message (changes noted above)	---	274,463
Subtotal, rescissions and deferrals	61,377	1,603,684
Amounts from previous special messages that are not changed by this message	9,945,671	23,114,130
Total amount proposed to date in all special messages	10,007,048	24,717,813

R86-8

DEPARTMENT OF ENERGY

Energy Programs

Energy supply, research and development activities

Of the funds made available under this head in Public Law 99-190, $38,489,000 are rescinded.

Rescission Proposal No: R86-8

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority.....** $1,772,271,000 (P.L. 99-141)
Bureau: Energy Programs	**Other budgetary resources** 553,357,559
Appropriation title and symbol: Energy supply, research and development 89X0224	**Total budgetary resources** 2,325,628,559
	Amount proposed for rescission $ 38,489,000
OMB identification code: 89-0224-0-1-271	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |__| Yes |X| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|__| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|X| No-Year	|__| Other_____

Justification: The purpose of Energy supply, research and development activities is to: (1) support long-term research and development on a mix of technologies that have the potential to provide adequate supplies of energy at reasonable cost, and (2) fund other research programs which provide significant benefits to the Government and the public. The proposed rescission consists of university construction projects which include: the Center for Science and Technology, Advanced Science Center, Energy and Mineral Research Center, Center for Energy and Biomedical Technology, Demonstration Center for Information Technologies, and the National Center for Chemical Research. A reassessment of current budgetary constraints and concern over the deficit leads to the conclusion that Federal funding for these projects should be terminated, especially since these projects are not in direct support of the Department's basic energy sciences research and development program. The President's Budget assumed these funds would be used for other purposes in 1987. The Department of Energy will identify other unobligated balances in order to maintain the 1987 program at the program levels estimated in the President's 1987 Budget.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
1,870,898	1,853,498	17,400	11,546	9,543	---	---	---

1/ This account is also the subject of a deferral in 1986 (D86-38) and a deferral in 1985 (D85-70).

DEPARTMENT OF ENERGY

Energy Programs

Energy conservation

Of the funds made available under this head in Public Law 99-190, $9,816,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority.....** $ 446,721,492 (P.L. 99-190)
Bureau: Energy Programs	**Other budgetary resources** 23,059,807
Appropriation title and symbol: Energy conservation 1/ 89X0215	**Total budgetary resources** 469,781,299
	Amount proposed for rescission $ 9,816,000
OMB identification code: 89-0215-0-1-999	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |__| Yes |X| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|__| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|X| No-Year	|__| Other_____

Justification: This account funds a variety of energy conservation research and development activities including buildings and community systems, industry, transportation, and multi-sector research. It also funds assistance to State and local governments for the weatherization of schools, hospitals, and low-income dwellings. The rescission consists of previously deferred construction funds that were added by the Congress. The addition of construction projects through legislative action bypasses the normal, and important, peer-review process for such funding. It also is not part of the research program to which the funds were added. As non-priority activities, these projects are also inconsistent with the Administration's effort to reduce the Federal deficit pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985. The President's Budget assumed these funds would be used for other purposes in 1987. The Department of Energy will identify other unobligated balances in order to maintain the 1987 program at the program levels estimated in the President's 1987 Budget.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
434,146	434,146	---	6,871	2,945	---	---	---

1/ This account is also the subject of a deferral in 1986 (D86-9A) and was the subject of a deferral in 1985 (D85-30B) and a rescission proposal in 1985 (R85-87).

DEPARTMENT OF ENERGY

Energy Programs

Fossil energy research and development

Of the funds made available under this head in P.L. 99-190, $13,072,000 are rescinded.

Rescission Proposal No: R86-80

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Energy	P.L. 99-190 310,970,912 **New budget authority**..... (P.L. 98-146) $ 15,000,000
Bureau: Energy Programs	**Other budgetary resources** 42,235,103
Appropriation title and symbol: Fossil energy research and development 1/ 89X0213	**Total budgetary resources** 368,206,015 **Amount proposed for rescission** $ 13,072,000
OMB identification code: 89-0213-0-1-271	**Legal authority** (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This account funds research and development activities in coal, petroleum and unconventional gas. The amount proposed for rescission consists of previously deferred funds for two projects: operation and testing of gas stream clean-up equipment at the Waltz Mill coal gasification test facility, and research and development of 7.5 Mw phosphoric acid fuel cells employing air-cooled technology. These projects support the development of new fossil energy technologies beyond the proof-of-concept stage. The Administration believes that further development of these technologies should be the responsibility of the private sector. The Department of Energy will identify other unobligated balances in order to maintain the 1987 program at the program levels estimated in the President's 1987 Budget.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
307,945	302,945	5,000	8,072	---	---	---	---

1/ This account is also the subject of a deferral (D86-6A). It was the subject of a similar deferral in 1985 (D85-27A).

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Funds Appropriated to the President

Bureau:
Agency for International Development

Appropriation title and symbol:
International Disaster Assistance, Executive
115/61035 11X1035

OMB identification code:
11-1035-0-1-151

Grant program:
[X] Yes [ ] No

Type of account or fund:
[ ] Annual
[X] Multiple-year 3/31/86 (expiration date)
[X] No-Year

New budget authority..... (P.L. 99-190) $ 21,532,000
Other budgetary resources 82,213,598
Total budgetary resources 103,745,698

Amount to be deferred:
Part of year 64,607,207
Entire year

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Coverage:

Appropriation	Symbol	Identification Code	Amount Deferred
International Disaster Assistance, Executive	115/61035	11-1035-0-1-151	35,000,000
	11X1035	11-1035-0-1-151	29,607,207
			64,607,207

The International disaster assistance account allows the President to respond to humanitarian disaster relief efforts throughout the world. The African Famine Relief Supplemental, P.L. 99-10, makes available funds for disaster assistance activities provided that a comprehensive country-by-country plan is established to ensure effective use of funds. As plans are developed, funds will be made available for African relief and other disaster assistance obligations. To date, $31.6 million of the $35 million has been made available for recovery aid to famine victims in Africa. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D86-60

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority.....** $2,197,923,000 (P.L. 99-190)
Bureau: Farmers Home Administration	**Other budgetary resources**
Appropriation title and symbol: Rural Housing Insurance Fund (including FFB loan asset purchases) 12X4141	**Total budgetary resources** 2,197,923,000
	Amount to be deferred: Part of year $
	Entire year 700,000,000
OMB identification code: 12-4141-0-3-371	**Legal authority** (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual	**Type of budget authority:** ☐ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☒ No-Year	☒ Other Permanent indefinite authority to borrow

Justification: This fund was established in 1965 (Public Law 89-117) pursuant to Section 517 of Title V of the Housing Act of 1949, as amended. This fund may be used to insure or guarantee rural housing loans for single family homes, rental and cooperative housing, farm labor housing, rural housing sites, and to make rental assistance payments authorized by Section 521(a). Loan programs are limited to rural areas that include towns, villages, and other places that are not part of an urban area and have a population not in excess of 2,500 inhabitants, or is in excess of 2,500 but not in excess of 10,000 if rural in character, or has a population in excess of 10,000 but not more than 20,000 and is not within a standard metropolitan statistical area and has a serious lack of mortgage credit for low- and moderate-income borrowers.

The deferral is part of the administration's efforts to reduce the size and scope of Federal credit programs and their adverse impact on the management of future fiscal policy. The $29 billion portfolio of direct and insured loans has an average effective interest rate of only five percent and represents a subsidy by the Government of over $2.6 billion during 1986. Large future year outlay savings can be achieved by reducing the direct and insured loan authorization levels in the Rural Housing Insurance Fund as proposed in the 1987 Budget for 1986 and 1987. This deferral action is taken pending Congressional action on supplemental language proposed in the 1987 Budget to reduce the direct lending program.

Estimated Program Effect: The proposal would reduce borrowing requirements.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Deferral	1986 Outlay Estimate With Deferral	Outlay Changes 1986	1987	1988	1989	1990	1991
2,941,491	2,925,391	-16,100	-229,712	-106,125	-41,625	-21,925	-17,925

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-2 transmitted to Congress on October 1, 1985.

This increases by $30,893,347 the previous deferral of $77,912,778 in the Forest Service's Expenses, brush disposal account, resulting in a total deferral of $108,806,125. The additional funds can be deferred because more unobligated funds and recoveries were made available than previously anticipated.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority.....** $ 48,026,000 (16 U.S.C. 490)
Bureau: Forest Service	**Other budgetary resources** 99,141,125*
Appropriation title and symbol: Expenses, brush disposal 1/ 12X5206	**Total budgetary resources** 147,167,125*
	Amount to be deferred: Part of year $ ____
	Entire year 108,806,125*
OMB identification code: 12-9922-0-2-302	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other ____

Justification: *Purchasers of National Forest timber are required to deposit the estimated cost to the Forest Service for disposing of brush and other debris resulting from timber cutting operations pursuant to 16 U.S.C. 490. The deposits becoming available in the current year are estimated and the related disposal operations are planned for the following year. Efficient program planning and accomplishment is facilitated by operating a stable program well within the funds available in any one year for this purpose. Much of the brush disposal work for which fees are collected cannot be done in the same year because of weather conditions or because harvesting is not completed. The Forest Service is planning for a stable year-to-year program which will require $48.0 million in 1986. The current fiscal year reserve of $108.8 million is established pursuant to the provisions of the Antideficiency Act (31 U.S.C. 1512) as a reserve for contingencies.

Estimated Program Effect: None

Outlay Effect: None

* Revised from previous report.

1/ This account was the subject of a similar deferral in 1985 (D85-5 and D85-5A).

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority.....** $155,091,000 (16 U.S.C. 576b)
Bureau: Forest Service	**Other budgetary resources** 506,180,417
Appropriation title and symbol: Cooperative work 12X8028	**Total budgetary resources** 661,271,417
	Amount to be deferred: Part of year $_____ Entire year 442,336,417
OMB identification code: 12-9973-0-7-999	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act [ ] Other_____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other_____

Justification: Funds are received from States, counties, timber sale operators, individuals, associations, and others. These funds are expended by the Forest Service as authorized by law and the terms of the applicable trust agreements. The work consists of protection and improvement of the National Forest System and it benefits the national forest users, research investigations, reforestation, and administration of private forest lands. Much of the work for which deposits have been made cannot be done, or is not planned to be done, during the same year that the collections are being realized. Examples include areas where the timber operators have not completed all of the contract obligations during the year funds are deposited. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D85-9 transmitted to Congress on October 1, 1985.

This revision to a deferral of the Department of Energy's Energy conservation account increases the amount previously reported as deferred from $9,880,000 to $36,782,000. This net increase of $26,902,000 is attributed to funding for low priority projects included in the 1986 appropriation, $9,816,000 of which is now being withheld pending rescission.

Deferral No: D86-9A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority.....** $ 446,721,492* (P.L. 99-190)
Bureau: Energy Programs	**Other budgetary resources** 23,059,807*
Appropriation title and symbol: Energy Conservation 1/ 89X0215	**Total budgetary resources** 469,781,299*
	Amount to be deferred: Part of year $ ____
	Entire year 36,782,000*
OMB identification code: 89-0215-0-1-272	**Legal authority** (in addition to sec. 1013): |___| Antideficiency Act
Grant program: |X| Yes |___| No	|___| Other ____
Type of account or fund:	**Type of budget authority:**
|___| Annual	|X| Appropriation
|___| Multiple-year ____ (expiration date)	|___| Contract authority
|X| No-Year	|___| Other ____

Justification: *This account funds a variety of energy research and development activities including buildings and community systems, industry, transportation, and multi-sector research. It also funds assistance to State and local governments for the weatherization of schools, hospitals, and low-income dwellings. The deferred funds consist of (1) $6,556,000 from recoveries of prior year obligations for projects and activities which were completed or terminated, and (2) $30,226,000 for various research and development activities which are inconsistent with the Administration's policies, programs, and priorities, particularly in a period of fiscal constraint. The President's 1987 Budget proposes to utilize these funds to offset 1987 appropriation requirements. A portion of these funds ($9,816,000) is now being withheld pending rescission, but no adjustment is necessary to the 1987 Budget.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Change					
Without Deferral	With Deferral	1986	1987	1988	1989	1990	1991
452,537	434,146	-18,391	7,356	3,679	7,356	---	---

* Revised from previous report.

1/ This account is also the subject of a rescission proposal (R86-77). This account was the subject of a similar deferral in 1985 (D85-30B), and a rescission proposal in 1985 (R85-87)

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority.....** $ 3,281,000 (P.L. 99-141)
Bureau: Power Marketing Administration	**Other budgetary resources** 864,197
Appropriation title and symbol: Alaska Power Administration, Operation and maintenance 89X0304	**Total budgetary resources** 4,145,197
	Amount to be deferred: Part of year $ ____
	Entire year 400,000
OMB identification code: 89-0304-0-1-271	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other ____

Justification: This account funds the activities of the Alaska Power Administration (APA), an agency which operates and sells power from two hydroelectric projects located in Alaska. In 1985, $400,000 of appropriated funds were not used for procurements because contract costs were lower than anticipated. Consequently, the level of unobligated funds carried into 1986 was $400,000 higher than previously planned. There currently is no plan to use these funds in 1986, although the funds will be released later this year if a critical need arises. If a critical need does not arise, however, the funds will be deferred until 1987. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D85-14 transmitted to Congress on October 1, 1985.

This revision to a deferral of the Department of Energy's account for construction, rehabilitation, operation and maintenance, Western Area Power Administration increases the amount previously reported as deferred from $27,095,000 to $43,466,000. This net increase of $16,371,000 results from lower costs of purchasing power.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority.....** $ 196,610,000* (P.L. 99-141)
Bureau: Power Marketing Administration	**Other budgetary resources** 87,632,731*
Appropriation title and symbol: Western Area Power Administration, Construction, rehabilitation, operation and maintenance 1/ 89X5068	**Total budgetary resources** 284,242,731*
OMB identification code: 89-5068-0-2-271	**Amount to be deferred:** Part of year $ _____ Entire year 43,466,000*
Grant program: |___| Yes |X| No	**Legal authority** (in addition to sec. 1013): |X| Antideficiency Act |___| Other _____
Type of account or fund: |___| Annual |___| Multiple-year _____ (expiration date) |X| No-Year	**Type of budget authority:** |X| Appropriation |___| Contract authority |___| Other _____

Justification: *This account funds the activities of the Western Area Power Administration (WAPA), which markets power in 15 western States from power generating projects principally operated by the Bureau of Reclamation and the Corps of Engineers. WAPA activities also include the construction, operation, and maintenance of approximately 16,000 miles of power transmission lines. Funds are available for deferral for the following reasons:

- Almost $21 million became available as a result of a change in plans for power exchanges with Pacific Gas and Electric Company.
- Over $6 million became available because contract awards for construction of power transmission facilities were lower than budgeted.
- Over $16 million became available because less money was required to purchase power.

There is currently no plan to use any of these funds in 1986, although the funds will be released later this year if a critical need arises. If a critical need does not arise, however, the funds will be deferred until 1987. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

* Revised from previous report.

1/ This account was the subject of a similar deferral (D85-18B) and a rescission proposal in 1985 (R85-97).

Deferral No: D86-63

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy

Bureau:
Departmental Administration

Appropriation title and symbol:
Departmental administration 1/
89X0228

OMB identification code:
89-0228-0-1-276

Grant program:
| | Yes | [X] No

Type of account or fund:
| | Annual
| | Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ 410,366,000
(P.L. 99-141)
Other budgetary resources 29,443,467
Total budgetary resources 439,809,467

Amount to be deferred:
Part of year $ _____
Entire year 393,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
| | Other _____

Type of budget authority:
[X] Appropriation
| | Contract authority
| | Other _____

Justification: Appropriations for Departmental Administration fund several policy development and program support functions necessary to ensure effective operation of the Department of Energy. The obligation of funds for the Office of Minority Economic Impact, an activity generally responsible for encouraging minority participation in Department of Energy programs, will be delayed until 1987 because of the lead time required to plan and implement the Minority Educational Institutions Program. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of an earlier deferral in 1986 (D86-15) and a similar deferral (D85-43) and a rescission proposal in 1985 (R85-98).

Deferral No: D86-64

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of the Interior

Bureau:
National Park Service

Appropriation title and symbol:
Land acquisition and State assistance
14X5035

OMB identification code:
14-5035-0-2-303

Grant program:
[X] Yes | | No

Type of account or fund:
| | Annual
| | Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ 98,400,000
(P.L. 99-190)
Other budgetary resources 184,754,161
Total budgetary resources 283,154,161

Amount to be deferred:
Part of year $ _____
Entire year 1,893,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
| | Other _____

Type of budget authority:
[X] Appropriation
[X] Contract authority
| | Other _____

Justification: This appropriation provides (1) funds to acquire land for inclusion in the National Park System, and (2) grants to others for outdoor recreation purposes. The 1987 Budget proposes to pay administrative expenses for prior-year grants to States and administrative expenses for land acquisition from unobligated prior-year balances. Accordingly, $893,000 of the Secretary's contingency fund for grants and $1,000,000 of administrative expense funds are being deferred to cover estimated administrative costs in 1987. These funds are not needed to meet anticipated requirements in 1986. Appropriation language is proposed to make contingency grant funds available for administrative expenses. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: Funding availability for outdoor recreation grants from the Secretary's contingency fund will be reduced by $893,000. No significant program impacts are anticipated. The $1,000,000 for administrative expense funding can be deferred without reducing the 1986 operating level by using unobligated balances of prior-year administrative expense funds.

Outlay Effect: None

D86-30B

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-30A transmitted to Congress on February 5, 1986.

This increases by $19,774,149 the previous deferral of $105,225,851 in the Department of the Treasury's Local government fiscal assistance trust fund account, resulting in a total deferral of $125,000,000. The funds are payments withheld from various local governments due to annexations or disincorporations, or for non-compliance with General Revenue Sharing requirements.

Deferral No: D86-30B

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of the Treasury	**New budget authority.....** $4,185,000,000* (P.L. 99-160)
Bureau: Office of Revenue Sharing	**Other budgetary resources** -125,606,000*
Appropriation title and symbol: Local government fiscal assistance trust fund 1/ 20X8111	**Total budgetary resources** 4,059,394,000*
	Amount to be deferred: Part of year $ *
	Entire year 125,000,000* 2/
OMB identification code: 20-8111-0-7-851	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[X] Other 31 U.S.C. 6701-6724, particularly 31 U.S.C. 6704(c)
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Justification: *The Local government fiscal assistance trust fund is the vehicle for disbursement of General Revenue Sharing funds. This deferral represents payments withheld from various governments involved in annexations or disincorporations and for reasons of non-compliance with the requirements of the Local Government Fiscal Assistance Amendments of 1983. The release of these funds is contingent upon adherence by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations.

Estimated Program Effect: None

Outlay Effect: None

* Revised from previous report.

1/ This account is subject to another deferral (D86-31A) and was the subject of a similar deferral in 1985 (D85-12).

2/ Deferral of outlays only.

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-31 transmitted to Congress on November 25, 1985.

This increases by $25,650,791 the previous deferral of $54,349,209 in the Department of the Treasury's Local government fiscal assistance trust fund account, resulting in a total deferral of $80,000,000. The funds are held in reserve to permit the Secretary of the Treasury to satisfy legitimate claims that past revenue sharing payments have been too small without recurring recomputations of the entitlements of the over 39,000 governments.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of the Treasury	**New budget authority.....** $4,185,000,000* (P.L. 99-160)
Bureau: Office of Revenue Sharing	**Other budgetary resources** -125,606,000*
Appropriation title and symbol: Local government fiscal assistance trust fund 1/ 20X8111	**Total budgetary resources** 4,059,394,000*
	Amount to be deferred: Part of year $_____* Entire year 80,000,000*
OMB identification code: 20-8111-0-7-851	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[X] Other 31 U.S.C. 6701-6724, particularly 31 U.S.C. 6702(d)
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other_____

Justification: *The Secretary of the Treasury must hold in reserve an amount sufficient enough to meet valid claims from local governments that past revenue sharing payments have been too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of the entitlements of the over 39,000 governments for prior entitlement periods. This cumulative unobligated reserve from entitlement periods 1-17 is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for any prior entitlement periods. After adjusting for such releases from the reserve, the deferred amount projected to carry over into FY 1986 is $80.0 million. This unobligated amount will be further reduced whenever the Secretary determines the amount is adequate to meet forseeable liabilities against the Trust Fund and will be paid to recipients as part of the regular distribution.

Estimated Program Effect: None

Outlay Effect: None

* Revised from previous report.

1/ This account is subject to another deferral (D86-30B) and was the subject of a similar deferral in 1985 (D85-13).

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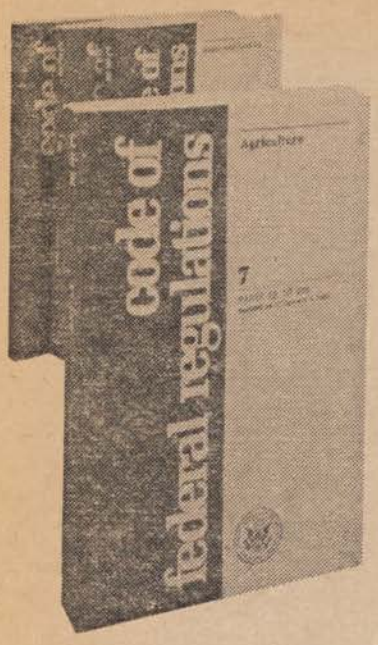
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