4-9-84
Vol. 49 No. 69
Pages 13861-14076

Federal Register

Monday
April 9, 1984

Selected Subjects

Administrative Practice and Procedure
Equal Employment Opportunity Commission

Air Pollution Control
Environmental Protection Agency

Animal Diseases
Animal and Plant Health Inspection Service

Animal Drugs
Food and Drug Administration

Bilingual Education
Education Department

Flood Insurance
Federal Emergency Management Agency

Foreign Investments in the U.S.
Treasury Department

Government Procurement
Health and Human Services Department

Grant Programs
Farmers Home Administration

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

Motor Carriers
Interstate Commerce Commission

CONTINUED INSIDE

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

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

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

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

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

Selected Subjects

Poison Prevention
Consumer Product Safety Commission

Privacy
Securities and Exchange Commission

Securities
Securities and Exchange Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Vocational Education
Defense Department
Veterans Administration

Contents

Federal Register
Vol. 49, No. 69
Monday, April 9, 1984

Administration Office, Executive Office of the President
NOTICES
13916 Agency information collection activities under OMB review

Agricultural Marketing Service
RULES
Cotton:
13861 American upland; grade standards; correction
13861 Lemons grown in Ariz. and Calif.
PROPOSED RULES
Milk marketing orders:
13887 Oregon-Washington
13883 Raisins produced from grapes grown in Calif.

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Federal Grain Inspection Service.

Animal and Plant Health Inspection Service
RULES
Livestock and poultry quarantine:
13863 Lethal avian influenza; interim

Civil Aeronautics Board
NOTICES
13896 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
Hearings, etc.:
13897 Hawaiian Pacific Airlines
13949 Meetings; Sunshine Act

Commerce Department
See National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
13949, 13950 Meetings; Sunshine Act (8 documents)

Consumer Product Safety Commission
PROPOSED RULES
Poison prevention packaging:
13888 Oral contraceptives; child-resistant packaging requirements, exemption
NOTICES
13950 Meetings; Sunshine Act (2 documents)

Defense Department
RULES
13881 Federal Acquisition Regulation (FAR); correction
PROPOSED RULES
Veterans:
13892 Post-Vietnam era veterans' educational assistance program; program change
NOTICES
13897, 13898 Agency information collection activities under OMB review (2 documents)
Meetings:
13898 DIA Advisory Committee (2 documents)
13898, 13899 Electron Devices Advisory Group (2 documents)

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
13928 Drug Mart, Inc. of Lake Wales
13928 Polk, Henry A., D.O.

Education Department
RULES
Bilingual education and minority language affairs:
14072 State educational agency projects for coordinating technical assistance
NOTICES
Grantback arrangements; award of funds:
13899 West Virginia
13900 Rural education and rural family education policy

Employment and Training Administration
NOTICES
13929 Employment transfer and business competition determinations; financial assistance applications

Energy Department
See Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards, and standards of performance for new stationary sources:
13875 Authority delegations; Arizona
13876, 13877, 13878 Authority delegations; California (3 documents)

Air pollution; standards of performance for new stationary sources:
13874 California; authority delegation
13874, 13875 Nevada; authority delegation (2 documents)

Water pollution; effluent guidelines for point source categories:
13879 Battery manufacturing; correction
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
13893 Illinois
NOTICES
13915 Agency information collection activities under OMB review
Meetings:
13916 Science Advisory Board

Equal Employment Opportunity Commission
RULES
13873 Charge processing procedures, modification

Executive Office of the President
See Administration Office, Executive Office of the President.

Farmers Home Administration
RULES
Loan and grant programs:
13862 Community programs applicants, income determination

Federal Communications Commission
NOTICES
13950, 13952 Meetings; Sunshine Act (2 documents)

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
13879 Missouri et al.
NOTICES
Disaster and emergency areas:
13917 Florida
13917, 13918 North Carolina (2 documents)
13917 South Carolina

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
13907 Alabama Gas Corp.
13901 ANR Pipeline Co.
13915 California Department of Water Resources
13903 Cleveland Electric Illuminating Co.
13908 Commonwealth Edison Co.
13911 Kern County Water Agency
13912 Lone Star Gas Co.
13912 Maine Yankee Atomic Power Co.
13913 Midvale Irrigation District
13913 National Fuel Gas Supply Corp. et al.
13903, 13904 Niagara Mohawk Power Corp. (4 documents)
13904 Northern Natural Gas Co.
13915 Oconto Electric Power & Light Cooperative
13915 Pennsylvania Power & Light Co.
13915 Public Service Co. of Colorado
13912 Putney, Mark W.
13905 Texas Eastern Transmission Corp.
13908 Ukiah, Calif.
13907 Western Power
13908 Hydroelectric applications (Tupper Lake, N.Y., et al.)
13952 Meetings; Sunshine Act
Natural gas companies:
13902 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (Cities Service Oil & Gas Corp. et al.)
Natural Gas Policy Act:
14060, 14063, 14066 Jurisdictional agency determinations (3 documents)
13907 Well category determinations, etc. (Conoco, Inc.)

Federal Grain Inspection Service
NOTICES
Meetings:
13896 Advisory Committee

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
13919 Alireza International, Inc.
13919 Pacific Western Shipping Co. et al.
Investigations, hearings, petitions, etc.:
13918 AABCO, Inc.; vessel operating common carriers military household goods rates

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
13920 Bay Bancshares, Inc.
13919 Community Bancorp, Inc., et al.

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
13948 Surety Insurance Co. of California; termination

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
13872 Progesterone and estradiol benzoate
NOTICES
Food for human consumption:
13925 Food Chemicals Codex; monographs; inquiry; extension of time

Forest Service
NOTICES
Meetings:
13896 Toiyabe National Forest Grazing Advisory Board

General Services Administration
RULES
13881 Federal Acquisition Regulation (FAk); correction
NOTICES
Travel regulations:
13920 Household goods and temporary quarters subsistence expenses, etc.; relocation allowance levels

Health and Human Services Department
See also Food and Drug Administration; Public Health Service; Social Security Administration.
RULES
13960 Acquisition regulations

Housing and Urban Development Department
NOTICES
Meetings:
13926 Contract Document Reform Advisory Committee

Interior Department
See National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
NOTICES
Authority delegations:
13946 Revenue officers

Interstate Commerce Commission
RULES
Tariffs and schedules:
13881 Motor carriers; justification statements for rates and charges higher than applicable classification ratings

NOTICES
Motor carriers:
13927 Agricultural cooperative transportation; filing notices
Railroad operation, acquisition, construction, etc.:
13927 Cadiz Railroad Co.
13927 Seaboard System Railroad, Inc.
Railroad services abandonment:
13927 Carbon County Railway Co.

Justice Department
See Drug Enforcement Administration.

Labor Department
See Employment and Training Administration.

Legal Services Corporation
NOTICES
13954 Meetings; Sunshine Act

National Aeronautics and Space Administration
RULES
13881 Federal Acquisition Regulation (FAR); correction

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
13942 Jaguar Cars, Inc.

National Oceanic and Atmospheric Administration
NOTICES
Marine mammal permit applications, etc.:
13897 Minerals Management Service

National Park Service
NOTICES
Meetings:
13926 Mormon Pioneer National Historic Trail Advisory Council

National Science Foundation
NOTICES
Meetings:
13930 Astronomical Sciences Advisory Committee
13930 Developmental Neuroscience Advisory Panel
13930 Psychobiology Advisory Panel

Nuclear Regulatory Commission
NOTICES
13931 Agency information collection activities under OMB review
Applications, etc.:
13931 Commonwealth Edison Co.
Meetings:
13930 Reactor Safeguards Advisory Committee

Personnel Management Office
NOTICES
13932 Privacy Act; systems of records

Postal Service
NOTICES
13953 Meetings; Sunshine Act

Public Health Service
NOTICES
Meetings:
13925 Vital and Health Statistics National Committee
Organization, functions, and authority delegations:
13925 National Institutes of Health

Securities and Exchange Commission
RULES
13865 Privacy Act; implementation
Securities:
13867 Tender offers
NOTICES
Hearings, etc.:
13934 Drexel Bond-Debenture Trading Fund
13935 Gulledge Realty Investors II et al.
13937 Indiana & Michigan Electric Co.
13939 National Fuel Gas Co.
13940 New York & Harlem Railroad Co.
National market system securities:
13938 Insitutional Networks Corp. et al.; temporary stay extension
Self-regulatory organizations; proposed rule changes:
13932, 13933 Chicago Board Options Exchange, Inc. (2 Documents)
13939 New York Stock Exchange, Inc.
Self-regulatory organizations; unlisted trading privileges:
13939 Midwest Stock Exchange, Inc.
13940 Pacific Stock Exchange, Inc.
13941 Philadelphia Stock Exchange, Inc.

Small Business Administration
RULES
13864 Small business investment companies; correction

Social Security Administration
RULES
Supplemental security income
13872 Disability hearing process; evaluation and continuation of project

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
13891 Indiana

Transportation Department
See also National Highway Traffic Safety Administation; Urban Mass Transportation Administration.
NOTICES
13941 Agency information collection activities under OMB review

Treasury Department
See also Fiscal Service; Internal Revenue Service.
RULES
14054 Portfolio investment survey
NOTICES
13945 Agency information collection activities under OMB review
Boycotts, international:
13945 Countries requiring cooperation; list
Organization, functions, and authority delegations:
13945 Procurement Office et al.

Urban Mass Transportation Administration
NOTICES
13944 Buy American requirements; exemption petition; waiver granted
Meetings:
13944 Section 15 Reporting System Advisory Committee

Veterans Administration
PROPOSED RULES
Vocational rehabilitation and education:
13892 Post-Vietnam era veterans' educational assistance program; program change
NOTICES
Environmental statements; availability, etc.:
13948 Wichita, Kans.

Separate Parts In This Issue

Part II
13960 Department of Health and Human Services, Office of the Secretary

Part III
14054 Department of the Treasury, Office of the Assistant Secretary for International Affairs

Part IV
14060 Department of Energy, Federal Energy Regulatory Commission

Part V
14072 Department of Education

Reader Aids

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
28 13861
910 13861
1942 13862
Proposed Rules:
989 13883
1124 13887

9 CFR
81 13863

13 CFR
107 13864

16 CFR
Proposed Rules:
1700 13888

17 CFR
200 13865
240 13867

20 CFR
404 13872
416 13872

21 CFR
522 13872
556 13872

29 CFR
1601 13873

30 CFR
Proposed Rules:
914 13891

31 CFR
129 14054

34 CFR
503 14060

38 CFR
Proposed Rules:
21 13892

40 CFR
60 (7 documents) 13874–13878
61 (4 documents) 13875–13878
461 13879
Proposed Rules:
52 13893

44 CFR
64 13879

48 CFR
Ch. 1 13881
Ch. 3 13960

49 CFR
1310 13881

Rules and Regulations

Federal Register
Vol. 49, No. 69
Monday, April 9, 1984

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Middling Light Gray Cotton Grade Standard; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: The purpose of this document is to set forth the correct text of the Middling Light Gray cotton grade standard for American upland cotton. This action is necessary to correct typographical and printing errors which have appeared in editions of the Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, AMS, USDA, Washington, D.C. 20250, (202) 447–2167.

SUPPLEMENTARY INFORMATION: This document sets forth the correct text of § 28.462 of Title 7 of the Code of Federal Regulations (CFR). This section contains the definition of the Official Cotton Standard of the United States for the grade of Middling Light Gray American upland cotton. The definition was printed correctly in the **Federal Register** when the standard was first promulgated at 24 FR 5171 and as such remains unchanged. However, the text of this standard has inadvertently been printed incorrectly in the Code of Federal Regulations. This action is necessary to correct the typographical and printing errors in the CFR.

PART 28—[AMENDED]

In consideration of the foregoing, the Agricultural Marketing Service sets forth the correct text of 7 CFR 28.462 by revising it to read as follows:

§ 28.462 Middling Light Gray.

Middling Light Gray is American upland cotton which in color is Low Middling and which in leaf and preparation is Middling.

Dated: April 3, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–9387 Filed 4–6–84; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 910

Lemons Grown in California and Arizona; Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment to the rules and regulations of the marketing order increases from 100 cartons to 150 cartons per week, the amount of organic lemons handlers may ship without regard to volume and size regulations issued under the order. The amendment recognizes the additional opportunity to market organic lemons to organic or health food wholesalers or retailers and is consistent with the special purpose shipment provisions of the marketing order.

DATES: Effective April 4, 1984 through July 31, 1984.

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

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

This final rule is issued under marketing order 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This final rule is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this final rule will tend to effectuate the declared policy of the Act.

Section 910.180(d)(3) of the rules and regulations established under the order prescribes procedures governing the exemption from volume and size requirements issued under the order of organic lemons handled in minimum quantities. This amendment increases to 150 cartons the amount of organic lemons handlers may ship each week to organic or health food wholesalers and retailers. Previously handlers could ship only 100 cartons of such lemons weekly. This action is designed to facilitate the marketing of organic lemons and would be in effect for the remainder of the 1983–84 fiscal year, which ends July 31, 1984.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that the time intervening between the date when information upon which this final rule is based became available and the time when this final rule must become effective in order to effectuate the declared policy of the Act is insufficient. Interested persons were given an opportunity to submit information and views on this action at an open meeting, at which the committee recommended the action. It is necessary to effectuate the declared purposes of the Act to make this final rule effective as specified. This final rule relieves restrictions on the handling of lemons and handlers have been apprised of such provisions.

List of Subjects in 7 CFR Part 910

Marketing agreement and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Therefore, § 910.180 is amended by revising the first sentence of paragraph (3) of paragraph (d) to read as follows (this final rule expires July 31, 1984, and will not be published in the annual Code of Federal Regulations):

§ 910.180 Lemons not subject to regulation.

* * * * *

(d) Minimum quantities and types of shipments.

* * * * *

(3) During the period April 4, 1984, through July 31, 1984, any person may be granted an exemption of up to 150 cartons per week, or an equivalent amount thereof, to market or distribute organic lemons to organic or health food wholesalers or retailers. * * *

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

Dated: April 4, 1984.

Russell L. Hawes,

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

[FR Doc. 84–9388 Filed 4–6–84; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1942

Income Determination for Community Programs Applicants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends an administrative provision referencing a specific Bureau of Census publication from which the median family income for Community Programs applicants is obtained. This action is needed because the Bureau of the Census has redesignated their publication numbers for the 1980 census, but FmHA regulations reference a publication from the 1970 census. The intended effect is to clearly establish that when using census data to determine median family income, the most recent census data will be used, and to clarify the procedures used to update income data.

EFFECTIVE DATE: April 9, 1984.

FOR FURTHER INFORMATION CONTACT: Yoonie MacDonald, Loan Officer, Water and Waste Disposal Division, FmHA, 14th Street and Independence Avenue, S.W., Room 6338, Washington, DC 20250. Telephone (202) 382–9586.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management affecting the internal decisionmaking and signature authority of the Agency. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of this change involves only internal Agency management and publication for comment is unnecessary.

Intergovernmental Consultation

The FmHA programs and projects which are affected by this regulation are subject to intergovernmental review in the manner delineated in Subpart H of Part 1901 of this Chapter.

Environmental Impact Statement

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

Programs Affected

The catalogue of Federal Domestic Assistance (CFDA) numbers and titles are 10.423, Community Facilities Loans; and 10.418, Water and Waste Disposal Systems for Rural Communities.

Background

FmHA must determine the median family income of the service area for Community Programs applicants. Determinations of interest rate, grant eligibility, and grant amount are made based upon the median family income in the applicant's service area. FmHA has generally relied upon data provided by the Bureau of the Census to determine median family income. Current FmHA regulations make reference to a Bureau of Census publication, Publication PC(1)–C series, which was the source of income data from the 1970 census. Bureau of the Census has redesignated their 1980 census publication numbers in order to avoid any confusion with publications from the 1970 census. Therefore, FmHA is deleting this specific Bureau of Census publication reference and substituting wording to clarify the use of census data to determine median family income. In addition, the procedure for updating income data is clarified.

The change involves only internal Agency management. FmHA, in practice, has always been using the most recent and reliable census data available for median family income determination and updating income data when appropriate. Therefore, this change will result in no practical effects.

In addition, § 1942.50 is added to show the OMB control number.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Grant programs—Housing and community development, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

PART 1942—ASSOCIATIONS

Accordingly, 7 CFR Part 1942 is amended as follows:

Subpart A—Community Facility Loans

§ 1942.17 [Amended]

1. In § 1942.17, paragraph (f)(6) is amended in the third sentence after the words "will be determined from" by removing the words "the U.S. Department of Commerce, Bureau of Census, Publication PC (1)—C Series, or from unpublished Bureau of Census data for individual enumeration districts" and by inserting in their place the words "income data from the most recent decennial census of the U.S. This data will normally be published or unpublished Bureau of the Census data and may be updated on a national basis by the FmHA National Office based on data provided by the Bureau of the Census, or other reliable sources." In addition, the last sentance of this paragraph has been deleted and replaced by the following:

"The nonmetropolitan median family income of the State may be updated on a national basis by the FmHA National Office based on data provided by the Bureau of the Census, or other reliable sources. Updating income data for the median family income of the service area and the nonmetropolitan median family income of the State should be done concurrently, using data from the same year."

2. Section 1942.50 is added to read as follows:

§ 1942.50 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575–0015.

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

§ 1942.356 [Amended]

3. In § 1942.356, paragraph (b)(7) is amended in the third sentence after the words "will be determined from" by removing the words "the U.S. Department of Commerce, Bureau of Census, Publication PC (1)—C Series, or from unpublished Bureau of Census data for individual enumeration districts" and by inserting in their place the words "income data from the most recent decennial census of the U.S. This data will normally be published or unpublished Bureau of the Census data and may be updated by the FmHA National Office based on data provided by the Bureau of the Census, or other reliable sources." In addition, the last sentence of this paragraph has been removed and replaced by the following:

"The nonmetropolitan median family income of the State may be updated on a national basis by the FmHA National Office based on data provided by the Bureau of the Census, or other reliable sources. Updating income data for the median family income of the service area and the nonmetropolitan median family income of the State should be done concurrently, using data from the same year."

Authorities: 7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70.

Michael E. Brunner,

Associate Administrator, Farmers Home Administration.

[FR Doc. 84-9317 Filed 4-6-84; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 84-032]

Lethal Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the Lethal Avian Influenza interim rule by deleting from the list of quarantined areas the area in Maryland that was designated as a quarantined area. This action is necessary because it has been determined that lethal avian influenza no longer exists in Maryland. The effect of this action is to delete unnecessary prohibitions and restrictions on the interstate movement of live poultry and certain other items from the previously quarantined area in Maryland.

DATES: Effective date is April 5, 1984. Written comments must be received on or before June 8, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION:

Background

This document amends the Lethal Avian Influenza interim rule by deleting from the list of quarantined areas the area in Maryland that was designated as a quarantined area. The Lethal Avian Influenza interim rule is set forth in 9 CFR Part 81 (48 FR 51422-51423, 51798, 52420, 52427, 52885-52887, 53586, 53678-53679, 53679-53681, 53997, 54574-54575, 55402-55405, 55722, 57474-57475, 49 FR 368-369, 2742-2744, 3446-3448, 3494, 3839-3845, 5723-5724, 7978-7979, 8582-8583, 8412-8415, 8582-8583).

Lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania.

Quarantined Areas

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

The interim rule also provides, with certain exceptions, that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Poultry carcasses or parts thereof,

(2) Eggs from poultry, and

(3) Coops, containers, troughs or other accessories that have been used in the handling of poultry or poultry eggs.

Prior to the effective date of this document, the areas quarantined because of lethal avian influenza included portions of Maryland, Pennsylvania, and Virginia. Lethal avian influenza had been found to occur in Maryland only on one premises in Cecil County, and the previously quarantined area in Maryland was solely within Cecil County. The poultry on that premises in Cecil County have been depopulated. Also, extensive surveys have been conducted on commercial and noncommercial poultry premises in the previously quarantined area in Maryland. These surveys indicate that there are no lethal avian influenza virus or antibodies in poultry within the previously quarantined area and that lethal avian influenza no longer exists in Maryland.

Under these circumstances there is no longer a basis for imposing prohibitions or restrictions on the movement of live poultry or other items from any area in Maryland because of lethal avian influenza.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to delete unnecessary restrictions on the movement of live poultry and certain other items from Maryland, and to benefit Maryland by declaring that lethal avian influenza no longer exists in that State.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register.**

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 with respect to this interim rule. Immediate action is warranted in order to delete unnecessary restrictions on the movement of live poultry and certain other items from the previously quarantined area in Maryland, and to benefit Maryland by declaring that lethal avian influenza no longer exists in Maryland.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

PART 81—LETHAL AVIAN INFLUENZA

§ 81.4 [Amended]

Under the circumstances referred to above, § 81.4 of 9 CFR Part 81 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as (a) and (b), respectively.

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–6, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6, and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C. this 5th day of April, 1984.

D. F. Schwindaman,

Acting Deputy Administrator, Veterinary Service.

[FR Doc. 84–9512 Filed 4–5–84; 2:17 am]

BILLING CODE 3410–34–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

[Revision 6]

Small Business Investment Companies; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; correction.

SUMMARY: This corrects the final rules governing the operation of Small Business Investment Companies (Revision 6) published in the **Federal Register** on September 30, 1983 (48 FR 45014–45032.

DATE: Effective April 9, 1984.

FOR FURTHER INFORMATION CONTACT: Robert G. Lineberry, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202–653–6848.

In FR Doc. 83–26294 in the issue for Friday, September 30, 1983, the following corrections should be made.

At page 45014:

1. Under Supplementary Information, third column, nineteenth line from bottom, "percent proposed" should read "percent as proposed."

At page 45015:

2. First column, fifth line from bottom, "to" should read "of".

3. First column, second line from bottom, "those" should read "that".

4. Under Review for Executive Order 12291 and the Regulatory Flexibility Act, third column, 2, Definition of Cost of Money, § 107.3, seventh line, "Dept" should read "Debt".

At page 45017:

Under Definitions § 107.3 Definition of Terms:

5. *Associate of a Licensee,* (a)(3), third line, "which in terms" should read "which terms".

6. *Associate of a Licensee,* (a)(3), seventh line, "on" should read "or".

7. *Associate of a Licensee,* (c), third line, "(b) or this" should read" (b) of this".

At page 45018:

8. *Associate of a Licensee,* last line of (g), "Licensee" should read "Licensee's".

9. *Cost of Money,* starting at line eleven, "fees for commitment fees persuant to § 107.501, bona fide" should read "fees for management services pursuant to § 107.501, bona fide".

10. *Debt Securities,* first line, "Debt Securities means" should read "*Debt Securities.* "Debt Securities" means".

11. *Equity Securities,* first line, ""Equity Security"" should read ""Equity Securities"".

12. *Financing,* starting with fourth line, ". . .through (a) loans, (b) guarantees, (c) equity investment, (d) commitments or (e) purchases. . ." should read ". . .through (a) Loans, (b) guaranties, (c) Debt Securities, (d) Equity Securities (e) commitments or (f) purchases. . . ".

13. *Lending Institution,* first line, ""Lending Institution" means. . ." should read "*Lending Institution.* "Lending Institution" means. . .".

14. *Private Capital,* seventh line, "the Permanent Partnership Capital." should read "the partnership capital."

At page 45019:

15. Between the definitions "Private Capital" and "SBA" insert the following definition: *Real Estate Investment.* "Real Estate Investment" means a Licensee's Financing of a Small Concern which is classified as a real estate concern under Industry Numbers 6531, 6541 and 6552 of the SIC Manual. For restrictions governing Real Estate Investments, see §§ 107.101(c) and 107.901(c).

16. Footnote, first line, "this proposed Revision" should read "this Revision".

Under Operational Requirements:

17. § 107.101—Operational Requirements, (c)(ii), second line, "engage" should read "engaged".

At page 45020:

18. Under License, § 107.102, License application and fees, (a), fourth line, "or" should read "of".

19. § 107.103, Public notice, eleventh line, "area of the operations," should read "area of operation,".

20. § 107.103, Public notice, seventeenth line, "of, persons" should read "of, or persons".

21. § 107.201, Funds to Licensee, (b)(1), second line, "guarantee" should read "guaranty".

22. § 107.201, Funds to Licensee, Footnote, third line, "guarantee" should read "guaranty".

At page 45021:

23. § 107.201, Funds to Licensee, (b)(2), twentieth line, "requirement" should read "requirements".

24. § 107.202, Leverage in excess of three hundred percent, (d), first line, "ration" should read "ratio".

At page 45022:

25. § 107.203, SBA purchase, sale, or guaranty of securities evidencing Leverage: events of default.—(d) *Capital Impairment* sixth line

"[publication date]" should read "September 30, 1983."

At page 45023:

26. In the heading "Under Financing of Small Concerns (Loan and Debt; Securities; Equity Capital Financing; Guarantees and Commitments)", "Debt; Securities;" should read "Debt Financing;" and "Guarantees" should read "Guaranties".

At page 45024:

27. § 107.303, Overline limitation, (b)(5), fifth line, "to" should read "of".

At page 45025:

Under Guaranties and Commitments:

28. § 107.401, SBIC guaranty of loans, (a), third line, "guarantee" should read "guaranty".

29. § 107.401, SBIC guaranty of loans, (a)(1), third line, "to the State" should read "to State".

30. § 107.403, Other permissible Financing, (b)(3), second from last line, "of Equity Securities" should read "of securities".

31. Under Management Services, § 107.501, Management Services, (b)(2), sixth from last line, "for Small Concern" should read "for a Small Concern".

At page 45026:

Under Control of Licensee:

32. § 107.601, Changes in ownership or control of Licensee, (d)(1), fourth line, "Permanent Partnership Capital" should read "partnership capital".

At page 45027:

33. § 107.602, Common Control, (b), third from last line, "Permanent Partnership Capital" should read "partnership capital".

At page 45028:

34. § 107.710, Assets in liquidation, (b), fourth line, "or" should read "of".

At page 45029:

35. § 107.901, Prohibited uses of Funds, (g), thirteenth line, "those" should read "that".

At page 45031:

36. § 107.1002, Records and reports, (b)(4), third line, "micro-production" should read "micro-reproduction".

37. § 107.1002, Records and reports, (e), fourth line, "for fiscal" should read "for the fiscal".

Dated: March 27, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-9295 Filed 4-6-84; 8:45 am]

BILLING CODE 8025-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 33-6523; 34-20805; 35-23268; 39-898; IC-13855; IA-905; PA-8]

Delegation to General Counsel of Authority To Consider Appeals Under Privacy Act of 1974

AGENCY: Securities and Exchange Commission.

ACTION: Final Rule Amendment.

SUMMARY: The Commission is amending its rules governing delegation of authority and its rules governing requests for access to and amendments of records, to delegate authority to the General Counsel to consider appeals from initial decisions under the Privacy Act of 1974.

EFFECTIVE DATE: May 1, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Rosenblat, Assistant General Counsel, Office of the General Counsel, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272-2428.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (5 U.S.C. 552a) (the "Act") provides that any person who requests to correct or amend a record pertaining to him or her shall have the right to appeal an adverse initial determination of his or her request to "the head of the agency or an officer designated by the head of the agency." 5 U.S.C. 552a(d)(2)(B)(ii). The Commission's rules governing procedures under the Act, Subpart H of 17 CFR Part 200, provide that the Commission shall decide appeals of initial decisions denying requested changes in or amendments to records, and, in addition, provide for Commission review upon appeal of initial adverse determinations of access to records, and for Commission disposition of statements of disagreement with records which the Commission has declined to correct or amend. 17 CFR 200.308.

Initial determinations of requests for access to records, or of requests for amendments or correction to records, are made by the Commission's Privacy Act Officer, except that such decisions may be made by the Director of a Division of the Commission or Office head whose zone of responsibility relates to the record requested. 17 CFR 200.304, 200.307. If on appeal the Commission upholds the initial determination against amendment or correction, or against access to, a record, it is required to notify the requester of the reasons for its decision and of the provisions in the Act for judicial review of its order, as well as the requester's right to file a statement of disagreement concerning the contents of the record with the Commission, in the case of denial of amendment or correction. 17 CFR 200.308(a)(8)-(9). These rules are consistent with the authority granted by the Act to an agency to "establish procedures * * * for an appeal within the agency of an initial adverse agency determination and for whatever additional means may be necessary for each individual to be able to exercise fully his rights" under the Act. 5 U.S.C. 552a(f)(4). In this regard, the Act specifically provides for an internal appeal procedure for agency refusals to amend or correct records, with authority to delegate appeal determination to agency officials. The Act does not, however, require such a procedure for agency review of denials of access. The Commission has voluntarily provided such a procedure and now delegates the determinations of appeals from staff denials of access, as well as refusals to amend or correct records, to the General Counsel.

Under current procedures, when a Privacy Act appeal or matter is pending before the Commission, the Office of the General Counsel reviews the matter and presents its recommendation to the Commission as to whether the initial determination should be followed. These appeals, though small in number, generally do not justify the time spent by the Commission considering them, as they are generally routine. The Commission now finds that it is in the interest of the public and of the Commission to delegate the authority to decide Privacy Act appeals (and to administer related matters, including the filing of statements of disagreement) to the General Counsel. Nevertheless, in appropriate cases involving difficult or important issues, the General Counsel would be expected to bring the matter to the Commission for decision; and the amended rules provided for such a procedure.

As mentioned above, the Act contemplates the delegation of the authority to determine refusals to amend or correct records to "an officer designated by the head of the agency." The Commission, moreover, believes that the process of administrative review could be carried out more expeditiously if it is delegated to the General Counsel. For example, the process of scheduling appeals for consideration by the Commission, including publication of notice in fulfillment of the requirements of the Government in the Sunshine Act (5 U.S.C. 552b), can make it difficult to meet the thirty-day limit that the Act and the rules thereunder set for consideration of appeals. If appeals were considered pursuant to delegated authority, administrative review could be carried out more swiftly.

The Commission believes it appropriate to delegate its Privacy Act review function to the General Counsel. The amended regulations divest the General Counsel of his powers, under the current rules, to make initial decisions under the Act with respect to Privacy Act requests for records within his zone of responsibility. Thus, under the amended regulations the General Counsel will not review initial determinations made by him. In addition, the General Counsel defends the Commission in suits brought under the Privacy Act, and may be expected to decide appeals and other matters arising under the Act in a thorough and impartial manner.

Accordingly, the Commission hereby amends Sections 200.21 (a)(17 CFR 200.21(a)) and 200.30-14 (17 CFR 200.30-14) of the Commission's rules relating to general organization to delegate to the General Counsel the authority to make determinations with respect to appeals from initial decisions by duly authorized officers of the Commission under the Privacy Act.

The Commission also amends Subpart H of 17 CFR, Part 200, Sections 200.304 (a) and (c); 200.307 (a) and (b); 200.308 (a)(4)–(10); 200.308(b)(1)–(4); and 200.309(e) (1) and (2) of its regulations pertaining to administrative procedures under the Privacy Act, to set forth the procedure by which the General Counsel will consider and act on appeals of initial decisions under the Act concerning access to, or amendment or correction of, records, as well as related matters, including the filing of statements of disagreement.

Statutory authority: In amending § 200.21(a) (17 CFR 200.21(a)) and 200.30–14 (17 CFR 200.30–14) with respect to delegated authority, the Commission is acting pursuant to the Act of August 20, 1962, Pub. L. No. 87–592, 76 Stat. 394 (15 U.S.C. 78d–1, 78d–2), as amended by the Securities Acts Amendments of 1975, Pub. L. No. 94–29, 89 Stat. 163 (June 4, 1975); and 5 U.S.C. 552a(d)(2)(B)(ii). The Commission's regulation concerning the privacy of individuals and records relating thereto, Subpart H of 17 CFR Part 200, which is hereby amended, is issued under the Privacy Act of 1974, 5 U.S.C. 552a(f). It is also issued pursuant to Section 19 of the Securities Act of 1933, 48 Stat. 85, as amended; Section 23 of the Securities Exchange Act of 1934, 48 Stat. 901, as amended; Section 20 of the Public Utility Holding Company Act of 1935, 49 Stat. 833; Section 319 of the Trust Indenture Act of 1939, 53 Stat. 1173; Section 38 of the Investment Company Act of 1940, 54 Stat. 841; and Section 211 of the Investment Advisers Act of 1940, 54 Stat. 855 (15 U.S.C. 77s, 78w, 79t, 77sss, 80a–37, 80b–11).

The Commission finds, in accordance with the Administrative Procedure Act, 5 U.S.C. 553(b)A), that the foregoing regulation relates solely to agency organization, procedure, or practice and that notice and public procedure are not necessary.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of Information, Privacy, Securities.

Text of Amendments

17 CFR Chapter II is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. By revising the tenth sentence of paragraph (a) of § 200.21 as follows:

§ 200.21 The General Counsel.

(a) * * * In addition, he or she is responsible for appropriate disposition of all Freedom of Information Act and Privacy Act appeals pursuant to the authority delegated in § 200.30–14, and is the Commission's advisor with respect to legal problems arising under the Freedom of Information Act, the Privacy Act, the Federal Reports Act, the Federal Advisory Committee Act, the Civil Service laws and regulations, the statutes and rules applicable to the Commission's procurement, contracting, fiscal and related administrative activities, and other statutes and regulations of a similar nature applicable to a number of Government agencies.

* * * * *

2. By revising the introductory paragraph and adding paragraph (d) to § 200.30–14 as follows:

§ 200.30–14 Delegation of authority to the General Counsel.

Pursuant to the provisions of Pub. L. 94–29, 89 Stat. 163, Pub. L. 87–592, 76 Stat. 395, 15 U.S.C. 78d–1, 78d–2, and 5 U.S.C. 552a(d)(2)(B)(ii), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the General Counsel of the Commission, to be performed by him or her or under his or her direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

* * * * *

(d) Determine the appropriate disposition of all Privacy Act appeals and related matters in accordance with §§ 200.304 (a) and (c); 200.307 (a) and (b); 200.308(a)(4)–(10); 200.308(b)(1)–(4); and 200.309(e) (1) and (2).

3. By revising paragraphs (a) and (c) of § 200.304 as follows:

§ 200.304 Disclosure of requested records.

(a) *Initial review.* Requests by individuals for access to records pertaining to them will be referred to the Commission's Privacy Act Officer who initially will determine whether access will be granted, *Provided, however,* That a Director of a staff Division of the Commission or Office head, other than the General Counsel, whose zone of responsibility relates to the record requested (see 17 CFR 200.13 et seq.), may make a determination that access is not lawfully required to be granted and should not be granted, in which case he, and not the Privacy Act Officer, shall make the required notification to the individual making the request.

* * * * *

(c) *Denial of request for access.* If it is determined that access will not be granted, the individual making the request will be notified of that fact and given the reasons why access is being denied. The individual also will be advised (1) of his right to seek review by the General Counsel of the intital decision to deny access, in accordance with the procedures set forth in § 200.308 of this Subpart; and (2) of his right ultimately to obtain judicial review pursuant to 5 U.S.C. 552a(g)(1)(A) of a final denial of access by the General Counsel.

* * * * *

4. By revising paragraph (a) of § 200.307 as follows:

§ 200.307 Review of requests for amendment or correction.

(a) *Initial review.* As in the case of requests for access, requests by individuals for amendment or correction to records pertaining to them will be referred to the Commission's Privacy Act Officer for an initial determination, except that such requests may be considered by a Division Director or Office Head (other than the General Counsel) as set forth in § 200.304(a) of this subpart.

* * * * *

5. By revising the introductory text of paragraph (a), (a)(4) through (a)(9), adding paragraph (a)(10) and revising paragraph (b) of § 200.308 as follows:

§ 200.308 Appeal of initial adverse agency determination as to access or as to amendment or correction.

(a) *Administrative review.* Any person who has been notified pursuant to § 200.304(c) that his request for access to records pertaining to him has been denied, or pursuant to Section 307(e) of this subpart that his request for amendment or correction has been denied in whole or in part, or who has received no response to a request for access or to amend within 30 days (excluding Saturdays, Sundays and legal holidays) after his request was received by the Commission's staff (or within such extended period as may be permitted in accordance with § 200.304(d) and § 200.307(c) of this subpart), may appeal the adverse determination or failure to respond by applying for an order of the General Counsel determining and directing that access to the record be granted or that the record be amended or corrected in accordance with his request.

* * * * *

(4) The General Counsel will make a determination with respect to any appeal within 30 days after the receipt of such appeal (excluding Saturdays, Sundays and legal holidays), unless for good cause shown, the General Counsel

shall extend that period. If such an extension is made, the individual who is appealing shall be advised in writing of the extension, the reasons therefor, and the anticipated date when the appeal will be decided.

(5) In considering an appeal from a denial of a request to amend or correct a record, the General Counsel shall apply the same standards as set forth in § 200.307(b).

(6) If the General Counsel shall conclude that access should be granted, he or she shall issue an order granting access and instructing the Privacy Act Officer to comply with § 200.304(b).

(7) If the General Counsel shall conclude that the request to amend or correct the record should be granted in whole or in part, he or she shall issue an order granting the requested amendment or correction in whole or in part and instructing the Privacy Act Officer to comply with the requirements of § 200.307(d) of this subpart, to the extent applicable.

(8) If the General Counsel affirms the initial decision denying access, he or she shall issue an order denying access and advising the individual seeking access of (i) The order; (ii) the reasons for denying access; and (iii) the individual's right to obtain judicial review of the decision pursuant to 5 U.S.C. 552a(g)(1)(B).

(9) If the General Counsel determines that the decision of the Privacy Act Officer denying a request to amend or correct a record should be upheld, he or she shall issue an order denying the request and the individual shall be advised of (i) The order refusing to amend or correct the record and the reasons therefor; (ii) his right to file a concise statement setting forth his disagreement with the General Counsel's decision not to amend or correct the record; (iii) the procedures for filing such a statement of disagreement with the General Counsel; (iv) the fact that any such statement of disagreement will be made available to anyone to whom the record is disclosed, together with, if the General Counsel deems it appropriate, a brief statement setting forth the General Counsel's reasons for refusing to amend or correct; (v) the fact that prior recipients of the record in issue will be provided with the statement of disagreement and the General Counsel's statement, if any, to the extent that an accounting of such disclosures has been maintained pursuant to 5 U.S.C. 552a(c); and (vi) the individual's right to seek judicial review of the General Counsel's refusal to amend or correct, pursuant to 5 U.S.C. 552a(g)(1)(A).

(10) In appropriate cases the General Counsel may, in his or her sole and unfettered discretion, refer matters requiring administrative review of initial decisions to the Commission for determination and the issuance, where indicated, of orders.

(b) *Statement of disagreement.* As noted in paragraph (a)(9)(ii) of this section, an individual may file with the General Counsel a statement setting forth his disagreement with the General Counsel's denial of his request to amend or correct a record.

(1) Such statement of disagreement shall be delivered to the Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street NW., Room 1024, Washington, D.C. 20549, or mailed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549, within 30 days after receipt by the individual of the General Counsel's order denying the amendment or correction. For good cause shown this period can be extended for a reasonable time.

(2) Such statement of disagreement shall concisely state the basis for the individual's agreement. Generally a statement should be no more than two pages in length, except an individual may submit a slightly longer statement if it is necessary to set forth his disagreement effectively. Unduly lengthy or irrelevant materials will be returned to the individual by the General Counsel for appropriate revisions before they become a permanent part of the individual's record.

(3) The record about which a statement of disagreement has been filed will clearly note which part of the record is disputed and the General Counsel will provide copies of the statement of disagreement and, if the General Counsel deems it appropriate, provide a concise statement of his or her reasons for refusing to amend or correct the record, to persons or other agencies to whom the record has been or will be disclosed.

(4) In appropriate cases, the General Counsel may, in his or her sole and unfettered discretion, refer matters concerning statements of disagreement to the Commission for disposition.

6. By revising paragraphs (e)(1) and (e)(2) of § 200.309 as follows:

§ 200.309. General Provisions.

* * * * *

(e) *Oral requests; misdirected written requests. (1) Telephone and other oral requests.* Before responding to any request by an individual for information concerning whether records maintained by the Commission in a system of records pertain to him or to any request for access to records by an individual, such request must be in writing and signed by the individual making the request. The General Counsel will not entertain any appeal from an alleged denial or failure to comply with an oral request. Any person who has orally requested information or access to records pertaining to him that he believes to have been improperly denied to him should resubmit his request in appropriate written form in order to obtain proper consideration and, if need be, administrative review.

(2) *Misdirected written requests.* The Commission cannot assure that a timely or satisfactory response will be given to written requests for information, access or amendment by an individual with respect to records pertaining to him that are directed to the Commission other than in a manner prescribed in §§ 200.303(a), 200.306(a), 200.308(a)(2), and 200.310 of this subpart. Any staff member who receives a written request for information, access or amendment should promptly forward the request to the Privacy Act Officer. Misdirected requests for records will be considered to have been received by the Commission only when they have been actually received by the Privacy Act Officer in cases under § 200.308(a)(2). The General Counsel will not entertain any appeal from an alleged denial or failure to comply with a misdirected request, unless it is clearly shown that the request was in fact received by the Privacy Act Officer.

By the Commission.

George A. Fitzsimmons,

Secretary.

April 2, 1984.

[FR Doc. 84-9198 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

---

17 CFR Part 240

[Release No. 34-20799—File No. S7-903]

Short Tendering Rule

AGENCY: Securities and Exchange Commission.

ACTION: Final rulemaking.

SUMMARY: The Commission has determined to adopt certain amendments to Rule 10b-4 under the Securities Exchange Act of 1934, the short tendering rule. These amendments will impose additional ownership requirements for persons tendering securities in response to tender offers for those securities, clarify the provisions of the rule, and limit the types of offers to which the rule applies. The Commission has decided not to deregulate short tendering entirely.

EFFECTIVE DATE: May 9, 1984.

FOR FURTHER INFORMATION CONTACT: M. Blair Corkran, Esq. (202-272-2853) or Kevin A. Corcoran, Esq. (202-272-2828), Division of market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is adopting amendments to Rule 10b-4 [§ 240.10b-4] under Section 10(b) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78j(b). Rule 10b-4 (the "Rule") was adopted by the Commission in 1968 [1] for the purpose of prohibiting "short tendering," *i.e.*, tendering more shares than a person owns in order to avoid or reduce the risk of *pro rata* acceptance in tender offers for less than all the outstanding securities of a class or series. The amendments being adopted are substantially the same as those proposed for comment on August 21, 1981.[2] Among other things, the amendments prohibit the practice of hedged tendering, *i.e.*, tendering and then selling a portion of the tendered shares in the market.

I. Background

In making a tender offer for securities of the corporation that is the subject of the offer, the bidder usually offers as consideration either cash, its own securities, or a combination of both. Tender offers can be for all the outstanding securities of the subject company or for a lesser amount.

Offers for less than all of the outstanding shares involve a risk to the securityholder of the subject company that not all of the securities that the securityholder tenders will be accepted.[3] Before the adoption of Rule 10b-4, certain securityholders tendered more securities than they owned in order to diminish this risk. By tendering a greater number of securities than they owned, and by guaranteeing their own tenders, market professionals were able to secure acceptance of a disproportionately larger number of the securities owned and tendered by them than could be secured by other persons who tendered only securities that they owned.[4] Accordingly, the Commission adopted Rule 10b-4 in May 1968 [5] for the specific purpose of prohibiting short tendering. Rule 10b-4 makes it a "manipulative or deceptive device or contrivance," as used in Section 10(b) of the Act for any person, in response to an offer or invitation for tenders of any security, to tender securities that he does not own. Ownership is defined in paragraph (b) of the Rule. The Rule applies to all tender offers whether made by a third party or by the issuer of the securities sought.[6]

II. Need for the Amendments

By prohibiting short tendering, Rule 10b-4 was designed to promote equality of opportunity and risk for all tendering security holders. In the years since the Rule's adoption, it has become apparent that simply requiring a tendering person to tender from a long position does not reach certain conduct that has the same purpose and effect as short tendering. Under the Rule, arbitrageurs are able to tender an offer involving prorationing or selection by lot and then sell into a market that reflects the offer the portion of shares they estimate will be returned unaccepted by the bidder. The shares sold may, in turn, be bought and tendered by another arbitrageur who may also hedge his tender by selling a portion of the shares. As a result, the same shares are effectively tendered by two (or more) shareholders and those shareholders who tender and do not engage in any hedging continue to experience the same dilution of their *pro rata* acceptance that occurred before the Rule was adopted.[7]

To address this concern, the Commission on August 21, 1981, published for comment a proposal to amend Rule 10b-4 to require that a tendering person own the tendered securities not only when they are tendered, but also at the end of the proration period.[8] Since consistent treatment of short tendering and hedged tendering could also be achieved by deregulation and because it has been argued that deregulation might result in broader economic benefits, the Commission also requested comment on the effects, costs and benefits that would result from a deregulation of short tendering.

More recently, the Commission formed an Advisory Committee on Tender Offers ("Advisory Committee"). The Advisory Committee considered a wide range of matters relating to the regulation of tender offers, including the appropriate regulatory treatment of short and hedged tendering. The Advisory Committee recommended that both short and hedged tendering should be prohibited.[9]

The Commission has considered the Comments received in response to the Proposing Release [10] and the recommendations of the Advisory Committee. For the reasons set forth in this release, the Commission is adopting the amendments to Rule 10b-4 as proposed. The Commission has also determined not to deregulate short tendering, for the reasons set forth in Section IV, below.

A majority of the commentators believed that hedged tendering should be proscribed. A substantial minority of commentators argued that hedged tendering should not be curtailed. They asserted that hedged tendering enables arbitrageurs to minimize prorationing risks and therefore to bid higher for securities during a tender offer. This, in turn, benefits those securityholders who

---

[1] Securities Exchange Act Release No. 8321 (May 28, 1968), 33 FR 8269 (1968).

[2] Securities Exchange Act Release No. 18050 (August 21, 1981), 46 FR 43459 (1981) ("Proposing Release").

[3] When tendered securities are accepted on a *pro rata* basis, the offeror accepts only a percentage of the securities tendered by each securityholder. The percentage is calculated from a fraction whose numerator represents the total number of securities accepted and whose denominator represents the total number of securities tendered.

[4] *See* Testimony of Chairman Manuel F. Cohen in Hearings on S. 510 Before the Subcomm. on Securities of the Senate Comm. on Banking and Currency, 90th Cong., 1st Sess. 198-99 (1967).

[5] *See* note 1 *supra*. Rule 10b-4 was adopted on May 28, 1968, two months before the passage of the Williams Act on July 29, 1968.

[6] Although tender offers by an issuer are exempt from the provisions of Section 14(d), they are subject to the antifraud provisions of Section 14(e) of the Act. In addition, issuer tender offers are subject to Rule 13e-4, which was adopted in 1979. Securities Exchange Act Release No. 16112 (August 19, 1979), 44 FR 49406 (1979).

[7] For example, assume there is a tender offer for less than all the outstanding securities of the target and that A and B each owns 200 shares of the subject security and expects that the offeror will accept on a *pro rata* basis 60% of the securities tendered. If A tenders has 200 shares, and then sells 80 shares, he will (assuming the 60% expectation proves correct) have 120 shares accepted by the offeror, or 100% of the securities that he owns at the time the proration period ends. In contrast, if B simple tenders his 200 shares and does not engage in any hedging (possibly because he cannot borrow the subject security), he will have only 120 of his shares accepted and 80 shares will be returned unaccepted to him.

It seems anomalous that A, who would have engaged in a prohibited short tender if he had sold the 80 shares immediately before tendering 200 shares, can accomplish precisely the same result under the current Rule by waiting to sell the 80 shares until a moment after tendering. Furthermore, the 80 shares A tendered and then sold may be bought by an arbitrageur or other purchaser who will tender the same shares to the bidder and thereby increase the likelihood or degree of prorationing. If that occured, it would reduce the number of tendered securities that would be accepted from other security holders.

[8] *See* note 2 *supra*. The Commission also withdrew an earlier proposal to amend Rule 10b-4. *See* Securities Exchange Act Release No. 14157 (November 9, 1977), 42 FR 59280 (1977).

[9] *See* Report of Recommendations of the Advisory Committee on Tender Offers ("Advisory Committee Report") at 47.

[10] Pursuant to the Commission's request for comment, 14 letters of comment were submitted, as follows: Law firms and associations (4); industry associations (1); self-regulatory organizations (1); broker-dealers (3); Congressional (1); individuals (4). The comment letters are available for public inspection and copying at the Commission's Public Reference Room (*see* File No. S7-903).

wish to avoid proration risk by selling all of their shares in the market at a known price.

The benefits to such securityholders, however, come at the expense of those shareholders who tender without hedging and thereby suffer from the expansion of the proration pool.[11] The Commission believes that the impact of hedged tendering is unfair because, as a practical matter, hedged tendering is not available to most shareholders. Of the eight commentators who addressed the question posed in the Release as to the availability of hedged tendering to the public, only one suggested that hedged tendering was available to all shareholders, and that commentator conceded that small investors would have difficulty borrowing stock during a tender offer if demand were tight.[12]

The Commission recognizes that hedged tendering and short tendering may be distinguished, largely because the hedged tenderor owns the tendered securities at the moment of tender. The Commission believes, however, that the two practices are closely analogous in terms of their purpose, availability, and effect on other shareholders who tender, and that hedged tendering should therefore be proscribed for essentially the same reasons that support the prohibition of short tendering.

III. Summary of Amended Rule

The amended Rule is designed to prohibit hedged tendering by the additional requirement that all tendering securityholders be "net long" the amount of securities tendered at the end of the proration period, or on the last day securities may be tendered in order to be accepted by lot where that method of acceptance is used. In addition, the Rule has been amended to clarify certain of its provisions and to limit its application to partial offers.[13] The provisions of the rule are discussed below.

Paragraph (a)(1) sets forth the definition of ownership, which is essentially unchanged from current Rule 10b–4(2)(b), except for a revision to reflect the use of "equivalent security" as a defined term in paragraph (a)(2). The ownership definition has been refined to provide that a person who might otherwise tender securities will be deemed not to own the securities, and thus will be prohibited from tendering them, if he has entered into any arrangement or agreement (other than stock loans or the writing of exchange-traded call options) whereby another person can tender those securities under the Rule. Thus, for example, a person who has title to subject securities would not be permitted to tender them if he has (i) entered into an unconditional contract to sell them or (ii) written an over-the-counter call option on them and caused the holder to have the reasonable belief set forth in paragraph (a)(2) of the Rule.

Paragraph (a)(2) defines equivalent security to include (1) options, warrants, and rights issued by the person whose securities are the subject of the offer and (2) any other option to acquire the subject security, but only if the holder reasonably believes that the maker or writer of the option has title to and possession of the subject security and upon exercise will promptly deliver the subject security. This language tracks in all significant respects the proviso in existing Rule 10b–4(a)(1). An option traded on a national securities exchange would not be included within the definition of equivalent security since the holder of such an option cannot know that the maker or writer of the option has "title to and possession of" the underlying security within the meaning of the Rule. Since an unlimited number of options can be written on an uncovered basis, Rule 10b–4 does not permit listed options holders to tender unless they have exercised those options. The exclusion of options that are traded on a national securities exchange from the definition of equivalent securities represents a codification of prior staff interpretations of Rule 10b–4.

The term "tender" is defined in paragraph (a)(4) to encompass all methods by which a person can affirmatively respond to a request or invitation for tenders. Current Rule 10b–(4)(a)(1) refers to tendering for a person's own account; paragraph (a)(2) refers to tenders or guarantees on behalf of others. It has thus been possible to read Rule 10b–4 as prohibiting guarantees of delivery for a person's own account, although it is the Commission's understanding that market professionals routinely have employed so-called "self-guarantees" as a method of tendering securities purchased but not yet received. The definition of "tender" in paragraph (a)(4) specifically includes "guarantee" and thus eliminates any implication in the current Rule that self-guarantees are improper.[14]

Paragraph (b) of the Rule limits the substantive provisions to partial offers. In addition, new paragraph (c) would expressly exclude any partial offer where acceptance of tenders is not primarily by lot or on a *pro rata* basis for a specified period.[15]

Paragraph (b) of the amended Rule contains the substantive provisions of the Rule and covers acts by "any person acting alone or in concert with others, directly or indirectly." The phrase "directly or indirectly," together with the "in concert" language, is intended to make it clear that persons may not do indirectly what they may not do directly, and thereby to emphasize that indirect forms of short tendering are prohibited. This does not, however, effect a substantive change in the Rule, in view of the provisions of Section 20(b) of the Act.[16]

Paragraph (b)(1) incorporates the ownership provisions of current Rule 10b–4(a)(1), considerably abbreviated through the use of defined terms. In addition, paragraph (b)(1) makes it unlawful for any person to tender any security unless he owns the securities tendered both at the time of tender and at the end of the proration acceptance period. This provision assures that the *pro rata* determination more fairly and accurately reflects actual ownership of tendered securities at that time. Securityholders who tender and do not thereafter sell the securities are unaffected by this amendment. A securityholder who tenders the subject

---

[11] *See* note 7 *supra.*

[12] If a tenderor has physically tendered his shares, other shares must be borrowed to complete any subsequent short sale. If the tender is by guarantee, the tenderor may be able to sell and deliver the shares that he owns (subject to any restriction imposed by the quarantor), but would need to borrow shares to fulfill the guarantee, at least in those offers where the bidder requires that all shares tendered by guarantee be submitted.

[13] A partial offer is generally an offer for less than the total number of outstanding securities of a particular class or series or one where the bidder makes a bid for all the outstanding securities of a particular class or series but offers different consideration for a specified number of the outstanding securities than it offers for the remaining outstanding securities of that class or series.

[14] If broker-dealers were unable to utilize self-guarantees, they could not tender securities purchased "regular-way" in the last five days of a partial offer, unless they secured the guarantee of another broker-dealer. There would not appear to be any regulatory rational for imposing such a requirement.

[15] Incidential prorationing would not bring an offer within the coverage of the Rule. such incidental prorationing might occur, for example, when some, but not all, securities at the highest acceptable price were accepted in an offer conducted on a "lowest price first" basis. Thus, Rule 10b–4, as amended, does not apply to most tender offers for municipal and corporate debt securities. Each of the commentators addressing the issue favored limiting the application of Rule 10b–4 to partial offers.

[16] Section 20(b) of the Act [15 U.S.C. 78t(b)] makes it unlawful for "any person, directly or indirectly, to do any act or thing which it would be unlawful for such person to do under the provisions of [the Act] or any rule or regulation thereunder through or by means of any other person."

security, and thereafter during the proration period sells all or a portion of the subject securities that constituted his net long position is required by this provision either to repurchase sufficient shares, or to withdraw shares from his tender, in order to comply with the net long proviso at the end of the proration period. The "end of the proration period" is the time after which securities would not be accepted by the bidder on a *pro rata* basis. Sales of subject securities occurring after the proration period are not prohibited since they do not affect the *pro rata* calculation.

In the case of a tender based upon ownership of an equivalent security, the Rule, as amended, clarifies the intent of the current Rule that equivalent securities need be converted, exchanged or exercised only to the extent required by the bidder's terms of acceptance.

Paragraph (b)(2), which covers guarantees of tender, is largely comparable to current Rule (10b–4(a)(2), again simplified through the use of defined terms. The current standard of inquiry imposed upon guarantors by Rule 10b–4 remains unchanged. A guarantor must have "a reasonable belief that, upon information furnished by the person on whose behalf the tender is made," the person could tender in accordance with the provisions of the Rule.

Paragraph (b)(3) prohibits a tendering securityholder from tendering the same securities to more than one partial offer at the same time, *i.e.*, multiple tendering. Some commentators believed that allowing multiple tendering would allow investors to have greater flexibility in choosing the best offer. The Advisory Committee, however, specifically recommended that multiple tendering be prohibited.[17] The Commission agrees with the Advisory Committee and with the majority of commentators that prohibiting multiple tendering will prevent the confusion and possible deception to the market and to bidders that could otherwise arise, as well as the potential unfairness to certain securityholders for whom this practice may not be available.

Paragraph (d) provides a mechanism for obtaining exemptive relief to the extent that there may be factual situations that would justify the granting of an exemption upon a proper application.

IV. Withdrawal of Deregulatory Alternative

In view of the possibility that Rule 10B–4 might impose burdens that exceed its benefits, the Commission in the Proposing Release solicited public comment on whether short tendering is an appropriate subject for complete or partial deregulation. Virtually all of the commentators who addressed this issue were opposed to the deregulation of short tendering.

The commentators asserted two very different reasons for retaining the prohibition of short tendering. Several commentators, as well as the Advisory Committee, emphasized the continued validity of the original purpose of Rule 10b–4, *i.e.*, the unfairness of allowing market professionals, by guaranteeing delivery of securities they do not own, to gain acceptance of a disproportionate number of shares owned by them at the expense of non-professionals who cannot engage in this practice.

Other commentators suggested that short tendering would exacerbate the confusion that can exist in the market for target stock, particularly in the context of competing offers. These commentators argued that absent the requirement that a tenderor own the shares tendered, there would be no limit upon the amount of shares that could be tendered.

Considering this nearly unanimous adverse comment, and mindful of the need to fulfill the important investor protection goals of the Williams Act, the Commission has decided not to rescind Rule 10b–4.

V. Regulatory Flexibility Act Status

The Chairman of the Commission certified that the amendments to Rule 10b–4 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.

VI. Competition

Pursuant to Section 23(a)(2) of the Act, the Commission has considered the impact that the amended rule will have on competition. For the reasons stated above, the Commission finds that compliance with the rule will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

VII. Statutory Basis

The amendments to Rule 10b–4 are promulgated under the Act, 15 U.S.C. 78a *et seq.*, and particularly Sections 3(b), 10(a), 10(b), 14(e), 15(b), and 23(a) of the Act (15 U.S.C. 78c(b), 78j(a), 78j(b), 78n(e), 78o(b), and 78w(a)).

List of Subjects in Part 240

Reporting and recordkeeping requirements, Securities.

VIII. Text of Rule

On the basis of the above discussion and analysis, the Commission is amending Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by revising § 240.10b–4 to read as follows:

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

§ 240.10b–4 Short tendering of securities.

(a) *Definitions.* For purposes of this section:

(1) A person shall be deemed to own a subject security or an equivalent security if neither he nor his agent has entered into an arrangement or agreement (other than one for the lending of securities or the writing of a call option that is traded on a national securities exchange) whereby any other person may tender that security or be deemed to own it and: (i) He or his agent has title to it, or (ii) he has purchased, or has entered into an unconditional contract, binding on both parties thereto, to purchase it but has not yet received it, or (iii) he has an option that is traded on a national securities exchange to purchase it and has exercised that option, or (iv) in the case of a subject security, he has converted, exchanged, or exercised an equivalent security that he owned (within the meaning of (i) or (ii) above). For the purpose of determining ownership as of the end of the proration period, securities that have been tendered and not withdrawn are deemed to be owned as of the end of the proration period. *Provided, however,* that a person shall be deemed to own a security for purposes of this rule only to the extent that he has a net long position in such security.

(2) The term "equivalent security" means: (i) Any security (including any option, warrant, or other right to purchase the subject security), issued by the person whose securities are the subject of the offer, that is immediately convertible into, or exchangeable or exercisable for, a subject security, or (ii) any other right or option (other than an option that is traded on a national securities exchange) that entitles the holder thereof to acquire a subject security, but only if the holder thereof reasonably believes that the maker or writer of the right or option has title to and possession of the subject security and upon exercise will promptly deliver the subject security.

(3) The term "subject security" means a security that is the subject of any tender offer or request or invitation for tenders.

[17] Advisory Committee Report at 49.

(4) For purposes of this rule, a person shall be deemed to "tender" a security if he: (i) Delivers a subject security pursuant to an offer, (ii) causes such delivery to be made, (iii) guarantees delivery of a subject security pursuant to a tender offer, (iv) causes a guarantee of such delivery to be given by another person, or (v) uses any other method by which acceptance of a tender offer may be made.

(b) It shall constitute a "manipulative or deceptive device or contrivance" and a "fraudulent, deceptive, or manipulative act or practice" as those terms are used in sections 10(b) and 14(e) of the Act, respectively, for any person acting alone or in concert with others, directly or indirectly, to tender any subject security in a partial offer:

(1) For his own account unless at the time of tender, and at the end of the proration period or period during which securities are accepted by lot (including any extensions thereof), he owns: (i) The subject security and will deliver or cause to be delivered such security for the purpose of tender to the person making the offer within the period specified in the offer, or (ii) an equivalent security and, upon the acceptance of his tender, will acquire the subject security by conversion, exchange, or exercise of such equivalent security to the extent of such acceptance and, within the period specified in the offer, will deliver or cause to be delivered the subject security so acquired for the purpose of tender to the person making the offer; or

(2) For the account of another person unless the person making the tender: (i) Possesses the subject security or an equivalent security, or (ii) has a reasonable belief that, upon information furnished by the person on whose behalf the tender is made, such person owns the subject security or an equivalent security and will promptly deliver the subject security or such equivalent security for the purpose of tender to the person making the tender.

(3) If the same security has been tendered in response to any other partial offer, unless such other tender has been withdrawn.

(c) This rule shall not apply to a partial offer where tenders are not accepted either by lot or a *pro rata* basis for a specified period.

(d) This rule shall not prohibit any transaction or transactions if the Commission, upon written request or upon its own motion, exempts such transaction or transactions, either unconditionally or on specified terms and conditions, as not constituting a manipulative or deceptive device or contrivance or fraudulent, deceptive, or manipulative act or practice comprehended within the purpose of this rule.

By the Commission.

Dated: March 29, 1984.

George A. Fitzsimmons,

Secretary.

Dissent of Commissioner Cox

I respectfully dissent. From the standpoint of investor protection, I cannot agree to prohibit hedged tendering. My analysis leads me to conclude that a prohibition of hedged tendering arbitrarily favors one group of investors over another.

The Division of Market Regulation's ("Division") action memorandum recognizes the argument that the practice of hedged tendering benefits target shareholders who sell their shares rather than tender them during the interim period between announcement and execution of a tender offer. Unfortunately, the Division's analysis of that argument does not go far enough. Taken to its logical conclusion the analysis shows that hedged tendering merely transfers wealth between two groups of target shareholders. The Commission has no good reason, on the basis of investor protection, to say that one of these groups of target shareholders is more deserving than the other.

As it stands, the Division's analysis concludes that the benefits from hedged tendering accuring to target shareholders who sell into the market are at the expense of target shareholders who tender shares to the bidder without hedging those tenders. This is because hedged tendering expands the proration pool and thereby decreases the fraction of the tendered shares accepted. Let us briefly consider this redistribution of wealth from tenderors to sellers.

It is useful to divide target shareholders into three groups: (1) those who tender shares to the bidder but do not hedge the tenders, (2) those who sell shares into the market where the shares may be purchased and tendered by a market professional, a risk arbitrageur, who finds it worthwhile to hedge his tender, and (3) those who neither tender nor sell, that is, a group that does nothing. To understand the effect of hedged tendering, consider first the case of an oversubscribed partial tender offer when there is no hedged tendering. In this case, the larger is the group that does nothing, the better off are the shareholders who tender because a larger fraction of their shares is accepted by the bidder. This is to say that the inaction of those who do not tender benefits those who do tender.

Next, add the practice of hedged tendering to the market. This means adding a group of risk arbitrageurs who buy shares in the market, tender those shares, and then sell short the fraction of shares they estimate will be returned under prorationing. Note that the arbitrageurs buy these shares from target shareholders who prefer to sell at the interim price rather than go through the process of tendering the shares. The demand for shares by arbitrageurs who engage in hedged tendering bids up the market price, the price becomes closer to the tender premium offered by the bidder, and this benefits the target shareholders who sell into the market.

In order to accomplish hedged tendering, the arbitrageurs have to borrow shares to cover their short sales. Who will lend shares to these arbitrageurs without charging a premium, since the shares used to pay back the lender will be worth less than the shares lent? The answer is that target shareholders who neither tender nor sell their shares and who hold the shares in street name or a similar type of account "lend" the shares to the arbitrageurs. Arbitrageurs can borrow shares from these accounts as long as they stand ready to replace the shares immediately if the beneficial owner decides to tender or sell his shares.

Besides bidding up the interim price of shares, hedged tendering enlarges the proration pool and thereby decreases the fraction of shares accepted from target shareholders who tender. Now, however, the ultimate source of the wealth transfer is clear. When there is no hedged tendering, inaction by target shareholders who neither tender nor sell transfers wealth to target shareholders who tender their shares. This is to say, there is a redistribution of wealth from inactive target shareholders to those who tender. With hedged tendering, some of that wealth is redistributed away from the target shareholders who tender to the target shareholders who sell into the market. Put another way, target shareholders who tendered

without hedged tendering gained greater benefits at the "expense" of those target shareholders who neither tendered nor sold. Hedged tendering allows target shareholders who sell to avail themselves of some of the gains otherwise enjoyed by the target shareholders who tendered.

The fact that some shareholders choose neither to tender nor to sell their shares creates a potential gain for target shareholders who tender or sell. There is no objective basis on which to judge that the group of shareholders that tenders is more worthy of the gains than the group of shareholders that sells into the market. To me, shareholder protection implies that both groups of target shareholders are equally worthy and the precise division of the tender premium is best left to market processes.

A helpful analogy is the sale of used cars. Is there any basis for deciding that people who choose to sell used cars to ultimate buyers by using such methods as newspaper advertisements (analogous to target shareholders who tender) are more deserving than people who choose to sell used cars to used car dealers (analogous to target shareholders who sell into the market)? I think not.

What about the risk arbitrageurs, the market professionals who have the ability to engage in hedged tendering? They supply a service to target shareholders who decide to sell at the interim price rather than bear the risk and go through the process of tendering. The professionals bear risk and provide other services to target shareholders who sell. In a competitive market they are compensated at a competitive rate. This is to say, they benefit the target shareholders who sell and they are compensated for it. There is neither reason to think nor evidence to show that they are compensated at a supracompetitive rate.

In summary, hedged tendering is a market practice that developed in response to a demand by target shareholders who do not want to bear the burdens of tendering shares. There is no basis for the Commission to judge these target shareholders less worthy of a share of the tender premium than target shareholders who choose to tender their shares. Prohibiting hedged tendering benefits target shareholders who tender and harms target shareholders who sell. Overall investor protection is not increased by this change.

[FR Doc. 84-9345 Filed 4-6-84; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Project To Improve the Hearing Process Through the Involvement of SSA Representatives

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Continuance of the SSA Representation Project.

SUMMARY: This document provides notice of continuance, for a period of at least one year, of the SSA Representation Project under which SSA is evaluating the effects of SSA participation in the disability hearing process. Due to the limited duration of the project to date, the normal start-up problems in implementing such a change in the usual hearing process, and the limited Appeals Council and court experience to date, we believe that a continuance of the project is needed to evaluate fully the potential nationwide effects of SSA representation.

EFFECTIVE DATE: April 9, 1984.

FOR FURTHER INFORMATION CONTACT: Gary Flenner, Director, SSA Representation Project, Office of Hearings and Appeals, Room 202, Braedon Building, 3833 N. Fairfax Drive, Arlington, Virginia 22203; (703) 235-3524.

SUPPLEMENTARY INFORMATION: The rules for the SSA Representation Project were published on August 19, 1982 (47 FR 36117). The project commenced in five selected hearing offices for cases in which the request for hearing was filed on or after October 12, 1982. We estimated that the project would have a duration of at least one year.

The rules at 20 CFR 404.965(c)(1) and 416.1465(c)(1) contain the following explanation of our purposes in undertaking the project:

The purpose of the project is to determine whether the participation of the SSA representatives in the hearing process will—

(i) Help to improve the overall disability adjudicatory process;
(ii) Reduce delays in conducting hearings and issuing hearing decisions;
(iii) Improve the quality of hearing decisions;
(iv) Increase the productivity of administrative law judges;
(v) Achieve more uniformity and consistency in hearing decisions; and
(vi) Reduce hearing costs.

The rules further provide that "[t]he results of the project will be evaluated to determine whether to propose the implementation of SSA representation on a larger scale." 20 CFR 404.965(c)(2) and 416.1465(c)(2).

Our initial experience with SSA representation has been generally favorable in terms of the purposes set out above. However, due to the limited duration of the project to date, the normal start-up problems in implementing such a change in the usual hearing process, and the limited Appeals Council and court experience to date, we believe that a continuance of the project is needed to evaluate fully the potential nationwide effects of SSA representation. For this reason, we are publishing this notice to announce to the public our intention to continue the project for at least one year.

Dated: March 29, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

[FR Doc. 84-9216 Filed 4-6-84; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Parts 522 and 556

Implantation or Injectable Dosage Form New Animal Drugs Not Subject To Certification; Tolerances for Residues of New Animal Drugs in Food; Progesterone and Estradiol Benzoate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Syntex Agribusiness, Inc., providing for safe and effective use in suckling beef calves of an implant containing 100 milligrams (mg) of progesterone and 10 mg of estradiol benzoate. FDA is also establishing residue tolerances for each drug in certain edible tissues derived from treated animals.

EFFECTIVE DATE: April 9, 1984.

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

SUPPLEMENTARY INFORMATION: Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, filed a supplement to NADA 9-576 providing for use of an implant containing 100 mg of progesterone and 10 mg of estradiol benzoate to be used in suckling beef calves (at least 45 days of age) up to 400

pounds body weight for growth promotion. The supplement is approved. The regulations are amended to reflect this approval and to establish residue tolerances for each drug in certain edible tissues derived from treated animals. The basis for approval of this supplement is discussed in the freedom of information summary.

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

The Center for Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Center's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(iv)) 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 522

Animal drugs, injectable.

21 CFR Part 556

Animal drugs; Foods; Residues.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. In Part 522, § 522.1940 is amended by revising paragraphs (b) and (d)(1) to read as follows:

§ 522.1940 Progesterone and estradiol benzoate in combination.

* * * * *

(b) *Sponsor.* See No. 000033 for use as provided for in paragraph (d) (1) and (2) of this section; see No. 021641 for use as provided for in paragraph (d)(2) of this section.

* * * * *

(d) * * *

(1) *Suckling beef calves*—(i) *Amount.* 100 milligrams of progesterone and 10 milligrams of estradiol benzoate per dose.

(ii) *Indications for use.* Growth promotion.

(iii) *Limitations.* For use in suckling beef calves (at least 45 days of age) up to 400 pounds of body weight; do not use in veal calves or calves intended for reproduction; for subcutaneous ear implantation, one dose per animal.

* * * * *

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

2. Part 556 is amended:

a. By revising § 556.240 to read as follows:

§ 556.240 Estradiol benzoate.

No residues of estradiol, resulting from the use of estradiol benzoate, are permitted in excess of the following increments above the concentrations of estradiol naturally present in untreated animals:

(a) In uncooked edible tissues of heifers, steers, and calves:

(1) 120 parts per trillion for muscle.

(2) 480 parts per trillion for fat.

(3) 360 parts per trillion for kidney.

(4) 240 parts per trillion for liver.

(b) In uncooked edible tissues of lambs:

(1) 120 parts per trillion for muscle.

(2) 600 parts per trillion for fat, kidney, and liver.

b. By revising § 556.540 to read as follows:

§ 556.540 Progesterone.

No residues of progesterone are permitted in excess of the following increments above the concentrations of progesterone naturally present in untreated animals:

(a) In uncooked edible tissues of steers and calves:

(1) 3 parts per billion for muscle.

(2) 12 parts per billion for fat.

(3) 9 parts per billion for kidney.

(4) 6 parts per billion for liver.

(b) In uncooked edible tissues of lambs:

(1) 3 parts per billion for muscle.

(2) 15 parts per billion for fat, kidney, and liver.

Effective date. April 9, 1984.

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

Dated: March 30, 1984.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84–9300 Filed 4–6–84; 8:45 am]

BILLING CODE 4160–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations; Charge Processing Procedures

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission has recently approved modification to its charge processing procedures. The modifications seek to make charge processing similar under all three statutes which the Commission administers, and to concentrate on the law enforcement aspect of the investigative process. Four changes to the Title VII procedural regulations are needed to conform to the modifications made by the Commission.

DATES: This Final Rule is effective April 9, 1984.

FOR FURTHER INFORMATION CONTACT: The Office of Legal Counsel, Legal Services, Nicholas M. Inzeo (634–6592), Assistant Legal Counsel.

SUPPLEMENTARY INFORMATION: Section 1601.14, concerning service of charge or notice of charge, is changed to provide, in the last sentence of paragraph (a), that where the charge is not served, the notice of the charge will contain the date, place and circumstances of the charge. The regulatory requirement that the identity of the person filing the charge be included in the notice is deleted. While the identity of the person filing the charge will normally be provided by service of the charge or of the notice, including the identity of the person filing the charge, the requirement is being deleted because the Commission will not disclose the identity of the charging party until after the person has been interviewed by Commission staff. Section 706 of Title VII, 42 U.S.C. 2000e–5, requires that only the date, place and circumstances of the charge be provided to the respondent. This regulatory change is consistent with the statutory requirement.

Section 1601.20(a), concerning negotiated settlements, is changed to delete the fourth sentence and to reword the third sentence to indicate that the

Commission's agreement to discontinue processing the charge is in consideration for the agreement reached by the parties.

Section 1601.24, concerning conciliation agreements, is changed to provide that, for charges filed on behalf of aggrieved persons, either the person filing the charge or the aggrieved person can sign the conciliation agreement. This procedure will permit the aggrieved person's identity to remain confidential.

Section 1601.28, concerning notices of right to sue, is changed to provide that, for charges filed on behalf of aggrieved persons, the notice of right to sue would contain the name of the person filing the charge. Again, this procedure will preserve the confidentiality of the person on whose behalf a charge is filed.

Signed at Washington, D.C. this 3rd day of April, 1984.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Civil rights, Equal employment opportunity.

PART 1601—[AMENDED]

Part 1601, Procedural Regulations, is amended as follows:

§ 1601.14 [Amended]

1. Section 1601.14 is amended in paragraph (a) by ending the second sentence before the parenthetical, removing the parenthetical in the second sentence and inserting the following new sentences at the end of paragraph (a): "The notice shall include the date, place and circumstances of the alleged unlawful employment practice. Where appropriate, the notice may include the identity of the person or organization filing the charge."

§ 1601.20 [Amended]

2. Section 1601.20 is amended by removing the fourth sentence of paragraph (a) and by revising the third sentence of paragraph (a) to read as follows: "When the Commission agrees in any negotiated settlement not to process that charge further, the Commission's agreement shall be in consideration for the promises made by the other parties to the agreement.

§ 1601.24 [Amended]

3. Section 1601.24 is amended in paragraph (a) by removing "who are signatories thereto" at the end of the paragraph and adding the following sentence: "Where a charge has been filed on behalf of a person claiming to be aggrieved, the conciliation agreement may be signed by the person filing the charge or by the person on whose behalf the charge was filed."

§ 1601.28 [Amended]

4. Section 1601.28 is amended by adding the following sentence at the end of paragraph (c): "Where a charge has been filed on behalf of a person claiming to be aggrieved, the notice of right to sue shall be issued in the name of the person or organization who filed the charge."

(Sec. 713(a), Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–12(a))

[FR Doc. 84–9379 Filed 4–6–84; 8:45 am]
BILLING CODE 6570–06–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A–9–FRL 2562–1]

Delegation of New Source Performance Standards (NSPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the California Air Resources Board (CARB) on behalf of the San Diego County Air Pollution Control District (SDCAPCD). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: January 23, 1984.

ADDRESS: San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of one NSPS category on behalf of the SDCACPD. Delegation of authority was granted by a letter dated December 22, 1983 and is reproduced in its entirety as follows:

Mr. James D. Boyd,

Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA

Dear Mr. Boyd: In response to your request of October 27, 1983, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) Category in 40 CFR Part 60: Subpart QQ—Graphic Arts Industry: Publication Rotogravure Printing on behalf of the San Diego County Air Pollution Control District (SDCAPCD). We have reviewed your request for delegation and have found the SDCAPCD programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60 including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

cc: San Diego County APCD

With respect to the areas under the jurisdiction of the SDCAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source category should be directed to the SDCAPCD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.).*

Dated: March 29, 1984.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 84–9361 Filed 4–6–84; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 60

[A–9–FRL 2562–4]

Delegation of New Source Performance Standards (NSPS); State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the Washoe County District Health Department (WCDHD), State of Nevada. This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The WCDHD has requested authority for delegation of one NSPS category. Delegation of authority was granted by a letter dated January 13, 1984 and is reproduced in its entirety as follows:

Mr. David J. Minedew,
Director, Environmental Health Services, Washoe County District Health Department, Wells Avenue at Ninth Street, P.O. Box 11130, Reno, NV

Dear Mr. Minedew: In response to your request of January 3, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard category in 40 CFR Part 60: Subpart QQ: Standards of Performance for Graphic Arts Industry: Publication Rotogravure printing. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

With respect to the areas under the jurisdiction of the WCDHD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source category should be directed to the WCDHD at the address shown in the letter of delegation.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: March 29, 1984.

Judith E. Ayres,
Regional Administrator.

[FR Doc. 84-9358 Filed 4-6-84; 8:45 am]
BILLING CODE 6560-50-M

---

40 CFR Part 60

[A-9-FRL 2562-2]

Delegation of New Source Performance Standards (NSPS); State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the Nevada Department of Conservation and Natural Resources (NDCNR). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: January 23, 1984.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The NDCNR has requested authority for delegation of certain NSPS categories. Delegation of authority was granted by a letter dated December 19, 1983 and is reproduced in its entirety as follows:

Mr. Richard Serdoz,
Air Quality Office, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, Capitol Complex, Carson City, NV

Dear Mr. Serdoz: In response to your request of November 15, 1983, I am pleased to inform you that we are delegating to your agency authority to implement and enforce two New Source Performance Standard (NSPS) categories in 40 CFR Part 60: Subpart RR—Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations and Subpart VV—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

With respect to the areas under the jurisdiction of the NDCNR, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the NDCNR at the address shown in the letter of delegation.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.).*

Dated: March 29, 1984.

Judith E. Ayres,
Regional Administrator.

[FR Doc. 84-9360 Filed 4-6-84; 8:45 am]
BILLING CODE 6560-50-M

---

40 CFR Parts 60 and 61

[A-9-FRL 2562-3]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the Pima County Health Department (PCHD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary

program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: March 29, 1984.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The PCHD has requested authority for delegation of certain NSPS and NESHAPS categories. Delegation of authority was granted by a letter dated March 16, 1984 and is reproduced in its entirety as follows:

Patricia A. Nolan, M.D.,
Director, Pima County Health Department, 151 West Congress Street, Tucson, AZ

Dear Dr. Nolan: In response to your request of February 24, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) promulgated as of June 8, 1983 listed below. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following new source categories:

NSPS	40 CFR part 60, subpart
General Provisions	A.
Glass Manufacturing Plants	CC.
Surface Coating of Metal Furniture	EE.
Lead-Acid Battery Manufacturing Plants	KK.
Automobile & Light-Duty Truck	
Surface Coating Operations	MM.
Phosphate Rock Plants	NN.
Ammonium Sulfate	PP.
Graphic Arts Industry: Publication Rotogravure Printing.	QQ.
Industrial Surface Coating: Large Appliances	SS.
Metal Coil Surface Coating	TT.
Asphalt Processing and Asphalt Roofing Manufacture.	UU.

NESHAPS	40 CFR part 61, subpart
General Provisions	A.
Beryllium Rocket Motor Firing	D.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA 's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the near future.

Sincerely,
Judith E. Ayres,
Regional Administrator.

With respect to the areas under the jurisdiction of the PCHD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the PCHD at the address shown in the letter of delegation.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.).*

Dated: March 29, 1984.

Judith E. Ayres,
Regional Administrator.

[FR Doc. 84-9359 Filed 4-6-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL 2561-5]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the San Joaquin County Air Pollution Control District (SJCAPCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: January 23, 1984.

ADDRESS: San Joaquin County Air Pollution Control District, 1601 E. Hazelton Avenue, Stockton, CA 95210.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the SJCAPCD. Delegation of authority was granted by a letter dated December 22, 1983 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources, Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA

Dear Mr. Boyd: In response to your request of December 5, 1983, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) on behalf of the San Joaquin County Air Pollution Control District (SJCAPCD). We have reviewed your request for delegation and have found the SJCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following sources categories:

NSPS	40 CFR, part 60, subpart
Surface Coating of Metal Furniture	EE.
Lead-Acid Battery Manufacturing Plants	KK.
Phosphate Rock Plants	NN.
Graphic Arts Industry: Publication Rotogravure Printing.	QQ.
Pressure Sensitive Tape and Label Surface Coating.	RR.
Industrial Surface Coating: Large Appliances	SS.
Metal Coil Surface Coating	TT.
Asphalt Roofing and Asphalt Roofing Manufacture.	UU.

In addition, we are redelegating the following NSPS and National Emission Standards for Hazardous Air Pollutants (NESHAPS) categories since the SJCAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR, part 60, subpart
General Provisions	A.
Fossil-Fuel Fired Steam Generators	D.
Electric Utility Steam Generators	Da.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Petroleum Storage Vessels	Ka.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X.

NSPS	40 CFR, part 60, subpart
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile & Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR, part 61, subpart
General Provisions	A.
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

cc: San Joaquin County Air Polution Control District

With respect to the areas under the jurisdiction of the SJCAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the SJCAPCD at the address shown in the **ADDRESS** section of the notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: March 29, 1984.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 84-9362 Filed 4-6-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL 2561-4]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf or the North Coast Unified Air Quality Management District. This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: January 23, 1984.

ADDRESS: North Coast Unified Air Quality Management District, 5630 South Broadway, Eureka, CA 95501.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: On November 1, 1982, the Del Norte County and the Trinity County Air Pollution Control Districts merged with the Humboldt County Air Pollution Control District to be known as the North Coast Unified Air Quality Management District (NCUAQMD). These address changes are corrected in 40 CFR 60.4 and 61.4.

The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the NCUAQMD. Delegation of authority was granted by a letter dated December 22, 1983 and is reproduced in its entirety as follows:

Mr. James D. Boyd,

Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA

Dear Mr. Boyd: In response to your request of December 5, 1983, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the North Coast Unified Air Quality Management District (NCUAQMD). We have reviewed your request for delegation and have found the NCUAQMD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR, Part 60, Subpart
General Provisions	A.
Fossil-Fuel Fired Steam Generators	D.
Electirc Utility Steam Generators	Da.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Petroleum Storage Vessels	Ka.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Elocric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Elovators	DD.
Surface Coating of Metal Furniture	EE.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Lead-Acid Battery Manufacturing Plants	KK.
Automobile & Light-Duty Truck Surface Coating Operations.	MM.
Phosphate Rock Plants	NN.
Ammonium Sulfate	PP.
Graphic Arts Industry: Publication Rotogravure Printing.	QQ.
Industrial Surface Coating: Large Appliances	SS.
Metal Coil Surface Coating Operations	TT.
Asphalt Processing and Asphalt Roofing Manufacture.	UU.
Beverage Can Surface Coating	WW.
Bulk Gasoline Terminals	XX.

NESHAPS	40 CFR, Part 61, Subpart
General Provisions	A.
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,
Judith E. Ayers,
Regional Administrator.

cc: North Coast Unified Air Quality Management District

With respect to the areas under the jurisdiction of the NCUAQMD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the NCUAQMD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: March 29, 1984.

Judith E. Ayres,
Regional Administrator.

PARTS 60 AND 61—[AMENDED]

Subpart A of Parts 60 and 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

§§ 60.4 and 61.04 [Amended]

Sections 60.4(b)(F) and 61.04(b)(F) are both amended by removing the addresses of the Del Norte County Air Pollution Control District, Humboldt County Air Pollution Control District, and the Trinity County Air Pollution Control District and adding the address for the North Coast Unified Air Quality Management District to read as follows:

* * * * *

(b) * * *
(F) * * *

North Coast Unified Air Quality Management District, 5630 South Broadway, Eureka, CA 95501

* * * * *

[FR Doc. 84-9363 Filed 4-6-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL 2561-3]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the Kern County Air Pollution Control District (KCAPCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: February 22, 1984.

ADDRESS: Kern County Air Pollution Control District, 1601 H Street, Suite 250, Bakersfield, CA 93301.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the KCAPCD. Delegation of authority was granted by a letter dated February 9, 1984 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA

Dear Mr. Boyd: In response to your request of January 24, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) on behalf of the Kern County Air Pollution Control District (KCAPCD). We have reviewed your request for delegation and have found the KCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories.

NSPS	40 CFR, part 60, subpart
Beverage Can Surface Coating Industry	WW.
Bulk Gasoline Terminals	XX.

In addition, we are redelegating the following NSPS and National Emission Standards for Hazardous Air Pollutants (NESHAPS) categories since the KCAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR, part 60, subpart
General Provisions	A.
Fossil-Fuel Fired Steam Generators	D.
Electric Utility Steam Generators	Da.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Petroleum Storage Vessels	Ka.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Surface Coating of Metal Furniture	EE.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Lead-Acid Battery Manufacturing Plants	KK.
Automobile & Light-Duty Truck Surface Coating Operations.	MM.
Phosphate Rock Plants	NN.
Ammonium Sulfate	PP.
Graphic Arts Industry: Publication Rotogravue Printing.	QQ.
Industrial Surface Coating: Large Appliances	SS.
Metal Coil Surface Coating	TT.
Asphalt Processing and Asphalt Roofing Manufacture.	UU.

NESHAPS	40 CFR, part 61, subpart
General Provisions	A.
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,
Judith E. Ayres,
Regional Administrator.

cc: Kern County Air Pollution Control District

With respect to the areas under the jurisdiction of the KCAPCD, all reports, applications, submittals, and other communications pertaining to the above

listed NSPS and NESHAPS source categories should be directed to the KCAPCD at the address shown in the address section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: March 29, 1984.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 84-9364 Filed 4-6-84; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 461

[WH-FRL 2516-2]

Battery Manufacturing Point Source Category, Effluent Limitations Guidelines, Pretreatment Standards, And New Source Performance Standards

Correction

In FR Doc. 84-6236 beginning on page 9108 in the issue of Friday, March 9, 1984, make the following corrections:

1. On page 9108, column 1, in the Dates paragraphs, line 6, "April 18, 1984" should read "April 23, 1984".
2. On page 9108, column 2, line 22, "May 9, 1984" should read "May 14, 1984".
3. On page 9113, column 1, line 22, "(153,437) pounds" should read "(153,437 pounds)".
4. On page 9118, column 2, line 26, "Lechlanche" should read "Leclanche".
5. On page 9119, column 3, third line from the bottom of the page, "ananlysis" should read "analysis".
6. On page 9120, column 2, line 18, "may be in" should read "may be an".
7. On page 9120, column 3, line 21, "discharges" should read "dischargers".
8. On page 9123, column 1, second line from the bottom of the page, "For these employees" should read "For those employees".
9. On page 9127, column 3, line 16, "carinogenicity"should read "carcinogenicity".
10. On page 9129, column 3, Appendix C, item 033, should read "033 1, 2-dichloropropyle (1,3-dichloropropene)".
11. On page 9130, column 3, item 017 should read "017 Bis(chloromethyl) ether".
12. On page 9130, column 3, item 018 should read "018 Bis (2-chloroethyl) ether".
13. On page 9131, column 1, item 052 should read "052 Hexachlorobutadien".
14. On page 9132, column 3, item 053 should read "053 Hexachlorocyclopentadiene".
15. On page 9133, column 3, Appendix F, item 014 should read "014 1,1,2-trichloroethane".
16. On page 9137, column 2, in § 461.13(a)(1), in the first table, the last entry, "(2) Subpart A—Impregnated Anodes—NSPS." should be removed and inserted as the heading at the top of the second table in the paragraph.
17. On page 9140, column 1, in § 461.31(a), line 2, "125.30–32," should read "125.30–125.32,".
18. On page 9141, column 1, § 461.32(a), line 2, "125.30–32," should read "125.30–125.32,".
19. On page 9145, column 3, in § 461.63(a)(5), in the table, "BAT Effluent Limitations" should be deleted.
20. In § 461.70(a)(11), on page 9147, column 3, in the table, "Metric units—mg/kg of silver peroxide produced" should read "Metric units—mg/kg of silver in silver peroxide produced".
21. In § 461.72(a)(4), on page 9148, column 2, in the table, "Metric units—mg/kg of Zinc deposited" should read "Metric units—mg/kg of zinc deposited".
22. In § 461.72(a)(11), on page 9148, column 3, in the table, "Metric units—mg/kg of silver peroxide produced" should read "Metric units—mg/kg of silver in silver peroxide produced".
23. In § 461.75(a)(9), on page 9151, column 3, in the table, "Metric units—mg/kg of silver peroxide produced" should read "Metric unit mg/kg of silver in silver peroxide produced."

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6594]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certian flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0222, 500 C Street, SW., FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies

that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance—flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Missouri: Holt	Unincorporated areas	290157A	Mar. 1, 1984, emergency	Jan. 18, 1984.
Nebraska: Dawson	....do	310058A	Mar. 8, 1984, emergency	Oct. 18, 1977.
Minnesota: Aitkin	Palisade, city of	270004B	Mar. 8 1984, emergency, Mar. 8 1984, regular	Aug. 2, 1974 June 11, 1976, and Mar. 1, 1984.
Idaho: Franklin	Preston, city of	160186	Mar. 14, 1984, emergency	Aug. 29, 1975.
Nevada: Eureka	Unincorporated areas	320028	Mar. 9, 1984, emergency	Dec. 21, 1982.
California: San Mateo	East Palo Alto, city of	060708	Mar. 19 1984, emergency	
Pennsylvania: Bedford	Bloomfield, township of	421332A	....do	Jan. 31, 1975 and Sept. 12, 1980.
Indiana: Crawford	Alton, town of	180031B	Mar. 19, 1984, emergency, Mar. 19, 1984, regular.	Jan. 23, 1974, July 2, 1976, and Aug. 1, 1983.
Idaho: Jerome	Unincorporated areas	160228A	Mar. 20, 1984, emergency	Oct. 25, 1977.
Utah: Kane	Kanab, city of	490085	....do	Oct. 29, 1976.
Pennsylvania: Bedford	Colerain, township of	421334	....do	Jan. 3, 1975 and Sept. 12, 1980.
Colorado: Logan	Iliff, town of	080207A	....do	Dec. 27, 1974 and Sept. 12, 1978.
Nebraska: Harlan	Orleans, city of	310394	....do	July 9, 1976.
Pennsylvania: York	Lewisberry, borough of	420929B	Jan. 27, 1976, emergency, Nov. 17, 1982, regular, Nov. 17, 1982, suspended, Mar. 20, 1984, reinstated.	Aug. 2, 1974 and Mar. 5, 1976.
Idaho: Franklin	Unincorporated areas	160060A	Mar. 26, 1984, emergency	
Oklahoma: Pottawatomie	....do	400496A	....do	May 25, 1982.
Alabama: Cherokee	Cedar Bluff, town of	015010 New	Mar. 28, 1984, emergency	
Tennessee: McMinn	Englewood, town of	470271A	....do	May 17, 1974.
Region I				
Connecticut: Fairfield	Bridgeport, city of	090002D	Mar. 1, 1984, suspension withdrawn	Sept. 13, 1974, Feb. 11, 1977, Oct. 15, 1980, and Oct. 1, 1983.
Region II				
New Jersey:				
Monmouth	Belmar, borough of	345283D	....do	May 13, 1972, July 1, 1974, and Feb. 27, 1976.
Huntordon	Clinton, township of	340505A	....do	Jan 31, 1975.
Monmouth	Neptune, township of	340317C	....do	July 13, 1973, Sept. 3, 1976, and Feb. 16, 1977.
Hudson	Jersey City, city of	340223B	....do	July 25, 1975 and Aug. 13, 1976.
New York:				
Dutchess	Beacon, city of	360217B	....do	July 26, 1974, Aug. 13, 1976, and Jan. 30, 1976.
Saratoga	Halfmoon, town of	360719C	....do	June 21, 1974, June 18, 1976, and Feb. 4, 1977.
Saratoga	Corinth, town of	360715C	....do	Aug. 2, 1974 and July 9, 1976.
Saratoga	Corinth, village of	360714B	....do	Aug. 7, 1974 and May 28, 1976.
Saratoga	Malta, town of	360720B	....do	Oct. 18, 1974 and Oct. 17, 1975.
Oneida	Vienna, town of	360562B	....do	Sept. 13, 1974 and June 25, 1976.
Region III				
Pennsylvania: Chester	Warick, township of	421494B	....do	Sept. 13, 1974 and July 9, 1976.
Region IV				
Alabama: Fayette	Fayette, city of	010084	....do	Dec. 19, 1975.
Mississippi: Jackson	Ocean Springs, city of	285259C	....do	Sept. 9, 1970, July 1, 1974, and May 14, 1976.
South Carolina:				
Georgetown	Unincorporated areas	450085C	....do	Jan. 3, 1975, Apr. 7, 1977, and Oct. 1, 1983.
Georgetown	Georgetown, city of	450087C	....do	June 7, 1974, Mar. 28, 1975 and Sept. 29, 1978.
Region V				
Illinois: Whiteside	Lyndon, village of	170917A	....do	Oct. 8, 1976.
Wisconsin:				
Waukesha	Big Bend, village of	550477B	....do	Nov. 30, 1973 and Apr. 16, 1976.
Portage	Plover, village of	550340B	....do	July 11, 1975 and June 11, 1976.
Region VI				
Louisiana: St. Tammany Parish	Unincorporated areas	225205B	....do	Apr. 23, 1971, July 1, 1974, and Sept. 17, 1976.
Texas:				
Jim Wells	Alice, city of	480394C	....do	Dec. 28, 1973, June 25, 1976, and Dec. 6, 1977.
Harris	Seabrook, city of	485507B	....do	May 26, 1970 and July 1, 1974.
Region VII				
Iowa: Polk	Unincorporated areas	190901B	....do	Aug. 23, 1977.
Region VIII				
Colorado: Montrose	Montrose, city of	080125B	....do	Feb. 15, 1974 and Apr. 30, 1976.
North Dakota: Dunn	Unincorporated areas	380026A	....do	Mar. 1, 1984.
Region IX				
Arizona: Greenlee	Clifton, town of	040035B	....do	June 7, 1974 and Mar. 25, 1977.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Region I				
Connecticut: Fairfield	Stratford, town of	090016C	Mar. 15, 1984, suspension withdrawn	Feb. 28, 1975, June 1, 1978, and Aug. 1, 1980.
Rhode Island: Newport	Tiverton, town of	440012C	do	May 24, 1974 and May 2, 1977.
Region II				
New Jersey:				
Sussex	Franklin, borough of	340449B	do	May 17, 1974 and June 11, 1976.
Sussex	Hamburg, borough of	340450B	do	June 14, 1974 and Feb. 6, 1976.
New York:				
Putnam	Cold Spring, village of	360064B	do	Mar. 8, 1974 and June 4, 1976.
Dutchess	Fishkill, village of	360218B	do	June 21, 1974 and June 18, 1976.
Oneida	Floyd, town of	360528B	do	Aug. 9, 1974 and June 18, 1976.
Schoharie	Middleburgh, town of	360744B	do	Aug. 30, 1974 and June 25, 1976.
Schoharie	Middleburgh, village of	361245D	do	May 31, 1974, Sept. 12, 1975, Sept. 10, 1976, and Jan. 13, 1978.
Region IV				
Florida: Manatee	Unincorporated areas	120153B	do	June 26, 1971, July 1, 1974, and July 20, 1976.
Mississippi:				
Harrison	Biloxi, city of	285252C	do	June 27, 1970, Sept. 11, 1970, Apr. 16, 1976, and Aug. 8, 1980.
Jackson	Unincorporated areas	285256C	do	Sept. 18, 1970, Apr. 3, 1978, and Oct. 1, 1983.
Jackson	Pascagoula, city of	285260	do	May 14, 1976.
South Carolina: Charleston	Charleston, city of	455412C	do	Apr. 9, 1971, Apr. 27, 1971, May 25, 1973, July 1, 1974, Sept. 3, 1976, and Nov. 12, 1976.
Region V				
Michigan: Saginaw	Bridgeport, charter township of	260186B	do	Feb. 8, 1974 and Oct. 24, 1975.
Wisconsin:				
La. Crosse	Unincorporated areas	550217A	do	Mar. 15, 1984.
Pierce and St. Croix	Spring Valley, village of	550331C	do	June 14, 1974, July 18, 1975, and Mar. 12, 1982.
Dunn	Wheeler, village of	550124B	do	Aug. 2, 1974 and Apr 23, 1976.
Region VIII				
Colorado: Delta	Unincorporated areas	080041B	do	May 10, 1977.
Region X				
Washington: Snohomish	do	535534	do	Dec. 23, 1971 and Dec. 13, 1977.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-9318 Filed 4-6-84; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

[Federal Acquisition Circular 84-1]

Federal Acquisition Regulation

Correction

In FR Doc. 84–8751, beginning on page 12972, in the issue of Friday, March 30, 1984, on page 12974, in the third column, in paragraph 15, "TABLE OF CONTENTS" should be removed and replaced with "Part 27—Patents, Data, and Copyrights".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1310

[No. 36135]

Rules Governing Publication of Exceptions Ratings Higher Than Classification Ratings

AGENCY: Interstate Commerce Commission.

ACTION: Removal of rules.

SUMMARY: The Commission has repealed 49 CFR 1310.7(r). This paragraph codified the principle that classification ratings and rules, together with the class rates, generally provide the highest rates and charges for the transportation of an article. The Commission found that, without a basic unity in classification ratings throughout the country, it would be virtually impossible to maintain a just and reasonable relationship between competing commodities. The Commission concluded that neither the Commission's nor shippers' resources should be expended to monitor and challenge tariff provisions that produce charges higher than class rates when such provisions could not be justified. Therefore, 49 CFR 1310.7(r) requires that carriers submit justification statements with any tariff provision that would result in charges higher than the class rates.

EFFECTIVE DATE: This decision will be effective on May 9, 1984.

FOR FURTHER INFORMATION CONTACT:
Wendy Tillis (202) 275–6445

or

Louis E. Gitomer, (202) 275–7245

SUPPLEMENTARY INFORMATION: Notice of proposed rules in the proceeding appeared at 46 FR 56629, November 18, 1981. Additional information is

contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan Area) or toll free (800) 424–5403.

Environmental and Energy Considerations

We adopt our preliminary finding in our notice of proposed rules that this action will not significantly affect the quality of the human environment or the conservation energy resources. No comments have been submitted on any matter indicating that a contrary position is warranted.

Regulatory Flexibility Analysis

We also reaffirm our preliminary finding that this proceeding will not have a significant economic impact on a substantial number of small entities. Repeal of § 1310.7(r) does not affect the substantive right of shippers to reasonable rates or ratings. In addition, repeal of the section may have a small, albeit beneficial, impact upon an unascertainable number of small, carrier entities by reducing the amount of reporting and paperwork required of them.

List of Subjects in 49 CFR Part 1310

Exports, Freight, Imports, Intermodal Transportation, Maritime carriers, Motor carriers.

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: April 2, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Commissioner Gradison did not participate.

James H. Bayne,

Acting Secretary.

Appendix

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATION OF MOTOR COMMON CARRIERS

§1310.7 [Amended]

Paragraph (r) of § 1310.7 is removed and reserved for future use.

[FR Doc. 84–9371 Filed 4–6–84; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 49, No. 69
Monday, April 9, 1984

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Proposed Changes in Operating Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes a number of changes in the administrative rules and regulations. Some of the proposed changes are needed to recognize recent order changes. One such change involves Raisin Administrative Committee representation and nomination procedures. Other proposed changes update provisions to bring them into agreement with current operating procedures. These changes include a revision in the definition of Natural (sun-dried) Seedless raisins to reflect a new drying process, and in the rates of payment the Committee makes to raisin handlers for receiving, storing, fumigating, and handling of reserve tonnage raisins during and beyond the crop year of acquisition. The proposed changes are based on a unanimous recommendation by the Raisin Administrative Committee, which works with USDA in administering the marketing order program.

DATES: Comments must be received by April 19, 1984.

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

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447-5053.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classfied a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Frank M. Grasberger, has determined that an emergency situation exists which warrants publication of this proposal with less than a 30-day public comment period. This proposal prescribes, among other things, Raisin Administrative Committee districting, representation, and nomination provisions. These provisions should be made effective as soon as possible so the nomination and selection of the Committee can be completed for the term of office beginning May 1, 1984. Other proposed changes recognize current industry operating practices, provide handlers with more flexibility in meeting requirements, and will generally benefit the industry through more flexible regulation. Also, costs of services provided by handlers for the Committee in maintaining reserve pools, such as labor, employee benefits, plant, and administrative overhead and equipment, have increased substantially since the current rates of compensation were established. The proposed rates prescribed herein should be established promptly so that handlers can be paid at the increased rates as soon as possible. For all of the above reasons, a comment period of less than 30-days is necessary.

This proposal amends Subpart—Administrative Rules and Regulations (7 CFR 989.102-989.176) and Subpart—Schedule of Payments (7 CFR 989.401). These subparts are operative pursuant to the marketing agreement and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). (7 CFR Part 989; 48 FR 32973). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

In § 989.110, clarifications are made in the definitions of certain seedless raisin varietal types and to recognize the recent use of MP-11 (a fungicide) by producers in the production of sun-dried seedless raisins. California raisins are classed into varietal types under the order for the purpose of applying quality and volume controls. MP-11 raisins are similar to raisins in the Natural (sun-dried) Seedless category, and a change in the current definition of that category is necessary for MP-11 raisins to be included in that category.

Other changes are proposed in the definitions of the Dipped Seedless and Oleate and Related Seedless varietal types to recognize current industry practices in classifying raisins into these varietal types. Seedless raisins which are dipped in or sprayed with water to expedite the artificial drying process are now being classed as Dipped Seedless raisins, and the proposed definition is limited to raisins produced in that manner. Under the proposal, when chemicals are introduced to expedite the drying process, such raisins would fall into the Oleate and Related Seedless varietal type, whether they are sun-dried or artificially dried. The exclusions specified in the definitions of these two varietal types are proposed to be deleted because they are no longer needed under current industry classifying procedures. A change also is proposed in the definition of Golden Seedless raisins to make the color ranges more specific and to emphasize the "golden yellow" color in the range.

Section 989.166(b) would be revised to specify indentification, delivery, and transfer requirements for Natural (sun-dried) Seedless raisins. Although, the industry is in agreement that MP-11 raisins should be considered as Natural (sun-dried) Seedless raisins for volume and quality control regulation, some handlers have indicated that they will not pack MP-11 raisins, and have informed their growers accordingly.

To recognize this when a physical transfer of raisins from one handler to another may be necessary, the Committee has proposed identification, delivery, and transfer requirements for Natural (sun-dried) Seedless raisins. Handlers who receive such raisins would be required to identify them by having the Inspection Service attach a Committee pallet control card which shall remain attached until such raisins are processed or disposed of in natural condition. A packer may set aside such

raisins to satisfy the reserve obligation for Natural (sun-dried) Seedless raisins. However, if the handler chooses to deliver such raisins to the Committee or to another handler, such delivery only will be accepted if the receiving handler or the Committee approves of the receipt of such raisins.

The July 20, 1983, order amendment changed Committee composition and nomination procedures so that representation is given each industry segment in accordance wth its share of raisin production. The first category of producers established by the order amendment represents major cooperative marketing organizations. The order requires that representatives of this category be members of the cooperative marketing association(s) engaged in the handling of raisins, each of which acquired not less than 10 percent of the total raisin acquisitions during the preceding crop year. The second category of producers is for cooperative bargaining association(s). The order requires that these representatives be members of the cooperative bargaining association(s). The third and final category of producers established by the recent order amendment contains the balance of the 35 producer members on the Committee. This category includes all independent producers and producers who are members of cooperative marketing associations which acquired less than 10 percent of the total raisin acquisitions during the preceding crop year.

Currently, the producer membership of 35 is chosen from nineteen districts necessitating many meetings. In order to effect an industry-wide savings in time, effort, and expense involved in holding nomination meetings, the associations within Categories 1 and 2 would nominate persons from their membership to serve on the Committee. Three districts are proposed to provide equitable representation for Category 3. Each of the three districts would be able to nominate at least one representative, and nomination meetings would be held in each of the three producer districts.

The ten handler members on the Committee are required to be divided into two groups—those representing major marketing association(s) and all others. The representation for each of these two groups is determined according to the ratio obtained by comparing raisin acquisitions of each group to the total acquisitions by all handlers during the preceding crop year.

The first handler group includes cooperative marketing association(s), each of which acquired not less than 10 percent of the total raisin acquisitions during the preceding crop year. The second group includes all other handlers, including all independent handlers and any small cooperative marketing association(s) which acquired less than 10 percent of the total raisin acquisitions during the preceding crop year.

The first handler group will nominate persons from their respective organizations to serve on the Committee. Handlers nominated from the second group are required to be nominated by all handlers in that group in a manner determined by the Committee and approved by the Secretary.

In accordance with the recommendation of the Committee, membership for the second handler group is proposed to be apportioned into three subgroups. The first subparagraph established in § 989.126(b)(1) consists of two members to be chosen from the four handlers, other than major cooperative marketing associated handler(s), who acquired the largest percentages of the total raisin acquisitions during the preceding crop year. The second subgroup described in § 989.126(b)(2) consists of two members to be selected from the six handlers, other than major cooperative marketing association handlers, who acquired the next largest percentages of the total raisin acquisitions during the preceding crop year. The third and final group of handlers described in § 989.126(b)(3) consists of all the remaining and independent handlers, including small cooperative marketing association handlers and processors. In 1984, the third handler subgroup will have two handler members. Handler nominations will be obtained by mail ballot.

The order amendment also abolished the Executive Operations Committee and transferred its compliance responsibility to the Raisin Administrative Committee. The elimination of the Executive Operations Committee requires the deletion of §§ 989.142 and 989.143. These sections prescribe districting and representation procedures applicable to the Executive Operation Committee and are no longer needed. Similarly, the reference to the Executive Operations Committee in § 989.139 should be eliminated because it is not needed.

A change is proposed to be made in § 989.158(a)(1)(iii) to give handlers greater flexibility in reporting the weight of their raisin acquisitions. Currently, the weights must be substantiated by an official "State Certificate of Weights and Measures" issued by a public weightmaster. Under the change, the Committee can authorize the reporting of weights on any document which accurately reflects the weight of each lot tendered. This would enable handlers to submit computer lists of lots, instead of individual weight certificates to the Committee. This proposed change requires a conforming change in § 989.173.

Section 989.159(g)(2)(i)(*e*), in part, requires that any shipment or transfer of off-grade raisins, other failing raisins, or raisin residual material be made only to firms with an agreement with the Committee. Under that agreement, the firms agree to use such raisins and raisin residual material only in eligible non-normal outlets such as livestock feed and wineries, and if not so used, to pay the Committee liquidated damages. Currently, the amount of liquidated damages prescribed in § 989.159(g)(2)(iii) is $400 for each ton shipped or disposed of in unauthorized outlets. Rather than specify a specific dollar figure, the Committee has proposed that the amount of liquidated damages be the applicable free tonnage price. In recent years, the free tonnage price has been more than three times the amount of liquidated damages. The proposed change in § 989.159(g)(2)(iii) provides greather flexibility in the computation of liquidated damages and a more accurate measurement of the value of such raisins.

Another change in the order altered the method used to establish seasonal marketing policy and volume regulations. Formerly, the Committee recommended preliminary percentages on or before October 5 of each crop year for approval of the Secretary. Under the new procedures, the Committee computes and announces initial free and reserve percentages for a crop year. The proposed change in the provisions on time limits for setting aside reserve raisins in § 989.166(c)(1) is necessary to bring these provisions into conformity with order provisions requiring the establishment of reserve pools after the Committee computes and announces preliminary percentages. Formerly, the pools were established after the preliminary percentages were designated by the Secretary through informal rulemaking.

Finally, an increase in handler payment rates is proposed for: (1) Receiving, storing, fumigating, and handling reserve tonnage raisins during the crop year of acquisition from $36 to $38.75 per ton; (2) holding reserve tonnage raisins beyond the crop of acquisition from $1.80 to $1.94 per ton for each month of the three-month period ending November 30 and from 93 cents to $1.00 per ton per month for each

of the next nine months; and (3) boxes and bins containing reserve raisins held beyond the crop year of acquisition. The total payment for boxes is proposed to be increased from 75 cents to $1.00 per box per year, and for bins, the total payment is proposed to be increased from $6.00 to $10.00 per bin per year.

Funds to pay these costs are deducted from proceeds from the sale of reserve tonnage raisins held by handlers for the account of the Committee. Net proceeds from such sales are distributed to equity holders in the reserve pool.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Raisins and grapes.

PART 989—[AMENDED]

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 989.102–989.176), and Subpart—Schedule of Payments (7 CFR 989.401) are proposed to be amended as follows:

Subpart—Administrative Rules and Regulations

1. Section 989.102 is revised to read as follows:

§ 989.102 Inspection Service.

"Inspection Service" means the Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service of the United States Department of Agriculture.

2. Section 989.110 is revised to read as follows:

§ 989.110 Varietal types.

Pursuant to § 989.10, specific definitions for each varietal type of raisins contained in that section are as follows:

(a) Natural (sun-dried) Seedless includes all sun-dried seedless raisins that possess characteristics similar to Natural Thompson Seedless raisins which, for the purpose of expediting drying, have not been dipped in or sprayed with water, with or without soda, oil or other chemicals prior to or during the drying process.

(b) Dipped Seedless includes all raisins produced by artificial dehydration of seedless grapes which, in order to expedite drying, have been dipped in or sprayed with water only after such grapes have been removed from the vine.

(c) Oleate and Related Seedless includes all raisins produced by sun-drying or artificial dehydration of seedless grapes which, in order to expedite drying, are dipped in or sprayed with water with soda, oil, Ethyl Oleate, Methyl Oleate or any other chemicals either while such grapes are on the vine or after they have been removed from the vine.

(d) Golden Seedless includes all seedless raisins whose color generally varies from golden yellow to dark amber.

(e) Muscats (including other raisins with seeds) include all raisins which usually contain seeds and possess characteristics similar to Muscat raisins.

(f) Sultana includes all raisins which usually contain an undeveloped (vestigial) seed and possess characteristics similar to Sultana raisins.

(g) Zante Currant includes all raisins that possess characteristics similar to those produced from Black Corinth or White Corinth grapes.

(h) Monukka includes all raisins that possess characteristics similar to those produced from Monukka and Black Imperial grapes.

3. A new § 989.111 is added to read as follows:

§ 989.111 Independent producer and small cooperative producer.

(a) "Independent producer" means any producer who is not a member of a cooperative bargaining association or a cooperative marketing association, nor has sold for cash to a cooperative marketing association.

(b) "Small cooperative producer" means any producer who is a member of a cooperative marketing association which acquired less than 10 percent of the total raisin acquisitions during the crop year preceding the year in which nominations are held.

4. A new § 989.115 is added to read as follows:

§ 989.115 Independent handler, major cooperative marketing association handler, and small cooperative marketing association handler.

(a) "Independent handler" means any handler who is not a cooperative marketing association of producers.

(b) "Major cooperative marketing association handler" means any handler who is a cooperative marketing association of producers which acquired not less than 10 percent of the total raisins acquisitions during the crop year preceding nominations.

(c) "Small cooperative marketing association handler" means any handler who is a cooperative marketing association of producers which acquired less than 10 percent of the total raisin acquisitions during the crop year preceding nominations.

5. Section 989.122 is revised to read as follows:

§ 989.122 Districts for independent and small cooperative producer representation on the Committee.

For the purposes of § 989.26(c) and commencing with the term of office beginning May 1, 1984, independent and small cooperative producer districts are as follows:

(a) District No. 1—All of the counties north of Fresno County.

(b) District No. 2—All of the counties south of Fresno County.

(c) District No. 3—All of Fresno County.

6. Section 989.126 is revised to read as follows:

§ 989.126 Representation on the Committee.

(a) To provide independent and small cooperative producers equitable representation throughout the production area commencing with the term of office beginning May 1, 1984, representation shall be apportioned among the three districts specified in § 989.122. Districts 1 and 2 shall each have one producer member, and District 3 shall have the remaining producer members to which independent and small cooperative producers are entitled pursuant to § 989.26(c).

(b) Pursuant to § 989.26(d) and commencing with the term of office beginning May 1, 1984, apportionment of the independent and small cooperative marketing association handlers shall be:

(1) Two members selected from and representing the four handlers other than major cooperative marketing association handlers who acquired the largest percentage of the total raisin acquisitions during the preceding crop year;

(2) Two members selected from and representing the six handlers other than major cooperative marketing association handler(s) who acquired the next largest percentage of the total raisin acquisitions during the preceding crop year; and

(3) The remaining members(s) selected from and representing all other handlers, including small cooperative marketing association handler(s) and all processors.

§ 989.139 [Amended]

7. Section 989.139 is amended by removing the words "or Executive Operations Committee" from the first sentence.

§§ 989.142 and 989.143 [Removed]

8. Sections 989.142 and 989.143 are removed.

9. Section 989.158(a)(1)(iii) is revised to read as follows:

§ 989.158 Natural condition raisins.

(a) * * *

(1) * * *

(iii) The weight of each lot of raisins tendered for receiving, storage, reconditioning, acquisition, or disposition shall be substantiated by an official "State Certificate of Weights and Measures" issued by a public weighmaster, whether located at the inspection point or otherwise, or such other document approved by the Committee which accurately reflects the weight of each lot tendered. The net weight of such raisins for the purposes of this part, shall be determined by deducting the sand tare and box tare from the gross weight of the raisins. The sand tare shall be the weight of the sand and other foreign material removed from the raisins by passing the raisins over a screen (of a type commonly used by the industry for such purpose) having 36 square openings to the square inch, with each opening being one-eight of an inch square.

* * * * *

10. Section 989.159(g)(2)(iii) is revised to read as follows:

§ 989.159 Regulation of the handling of raisins subsequent to their acquisition.

* * * * *

(g) * * *

(2) * * *

(iii) Each such application shall also include a provision for liquidated damages wherein the handler, in consideration of the Committee approving his application, agrees that in the event any raisins or raisin residual material covered by the approved application should be shipped to points outside of the continental United States or to Alaska, or disposed of in other than elibible non-normal outlets, by any person, it will cause serious and substantial damage to the Committee, to producers, and to handlers of raisins and will be difficult, if not impossible, to prove the extent of such damage. Therefore, the handler shall pay to the Committee a sum equal to the established field price as liquidated damages for each ton so shipped or disposed of, such sum being a fair measure of damages and not a penalty.

* * * * *

11. Section 989.166 (b)(1) and (c)(1) are revised to read as follows:

§ 989.166 Reserve tonnage generally.

* * * * *

(b) *Setaside obligations.*—(1) *Natural (sun-dried) Seedless.* A handler who acquires any lot of natural condition Natural (sun-dried) Seedless raisins which have been dipped in or sprayed with water, with or without chemicals prior to or during the drying process, for purposes other than to expedite drying, may set aside such raisins to satisfy his reserve pool obligation: *Provided,* That such raisins shall be identified by the Inspection Service affixing to one container on each pallet or to each bin in each lot, a prenumbered RAC control card (to be furnished by the Committee) which shall remain affixed until the raisins are processed or disposed of as natural condition raisins: *And Provided Further,* That such raisins shall not be delivered to the Committee or transferred to another handler without approval of the Committee or the receiving handler.

(2) *Mixed varietal types.* A handler who acquired any lot of natural condition raisins of mixed varietal types (commingled within their containers) shall meet the reserve tonnage setaside obligations for each varietal type contained in the mixed lot by setting aside raisins of each such varietal type which have not been mixed or commingled with raisins of any other varietal type. The obligation as to each varietal type shall be computed according to the reserve percentage established by the Secretary, and the percentage of the varietal type contained in the mixed lot as shown by the incoming inspection certificate applicable thereto.

(c) *Storage of reserve tonnage raisins.* (1) *Time limits for setting aside pool tonnage.* Handles shall be allowed 3 calendar days (exclusive of Saturdays, Sundays, and holidays), after the preliminary or interim percentages have been computed and announced by the Committee, and after the publication in the **Federal Register** of the applicable final reserve percentage established for the crop year, or after any reserve tonnage raisins are acquired subsequent to the percentages being announced or established, to segregate and properly stack each varietal type of reserve tonnage raisins.

* * * * *

12. Section 989.173 (b)(1)(ii) is revised to read as follows:

§ 989.173 Reports.

* * * * *

(b) * * *

(1) * * *

(ii) For each report required to be submitted pursuant to this paragraph, the required information shall be shown separately for each varietal type. With each report, other than that specified in paragraph (b)(4) of this section, the handler shall submit a copy of the door receipt, weight certificate or such other document approved by the Committee that accurately reflects the weight of each lot tendered, for each lot of raisins received or acquired by him during the reporting period and for each lot of raisins stored on memorandum or warehouse receipt which was returned to the tenderer during such period, which shall show the information to be contained on such receipts or weight certificates as specified in § 989.158(a)(3). At the time he submits the reports specified in paragraphs (b)(2) and (3) of this section to the Committee, each handler shall submit a copy of each such report to the Inspection Service.

13. Section 989.401 (a), (b) and (c) are revised to read as follows:

Subpart—Schedule of Payments

§ 989.401 Payments for services performed with respect to reserve tonnage raisins.

(a) *Payment for crop year of acquisition*—(1) *Receiving, storing, fumigating, and handling.* Each handler shall, beginning August 1, 1983, be compensated at the rate of $30.75 per ton (natural condition weight at the time of acquisition) for receiving, storing, fumigating, and handling the reserve tonnage raisins, as determined by the final reserve tonnage percentage, acquired during a particular crop year and held by him for the account of the Raisin Adminstrative Committee during all or any part of the same crop year, and released after February 13, 1984.

(2) *Insurance.* Each handler shall be reimbursed by the Committee for inspection costs applicable to the reserve tonnage raisins, as determined by the final reserve tonnage percentage, received and held by him for the account of the Committee. Such payment shall be made at the currently applicable rate per ton paid by such handler to the Inspection Service and on the quantity reported by the handler. the Committee shall pay the cost of any inspection required by it of such reserve tonnage raisins while they are being held for its account: *Provided,* That the cost of inspection of any raisins substituted, pursuant to § 980.66(b)(3), by a handler for such reserve tonnage raisins, or which he received by transfer from another handler by purchasing, as permitted pursuant to § 989.166, a portion or all of such other handler's share of an offer, shall be borne by the handler and shall not be reimbursed to him by Committee.

(b) *Additional payment for reserve tonnage raisins held beyond the crop year of acquisition.* Additional payment for reserve tonnage raisins held beyond the crop year of acquisition shall be made in accordance with this paragraph. Each handler holding such raisins for

the account of the Committee on August 15 and the following September 1 shall be compensated for storing, handling, and fumigating such raisins at the rate of $1.94 per ton per month, or any part thereof, for each month of the three-month period ending November 30, and $1.00 per ton per month, or any part thereof, for each month of the next nine months. Such services shall be completed so that the Committee is assured that the raisins are maintained in good condition.

(c) *Payment of rental on boxes and bins containing raisins held beyond the crop year of acquisition.* Payment of rental on boxes and bins containing reserve tonnage raisins held beyond the crop year of acquisition shall be made in accordance with this paragraph. Each handler, producer, dehydrator, and other person who furnishes boxes or bins in which such raisins are held for the account of the Committee on August 15 and the following September 1 shall be compensated for the use of such boxes and bins. The rate of compensation shall be: For boxes, two and one-half cents per day, not to exceed a total payment of $1 per box per year, per average net weight of raisins in a sweatbox, with equivalent rates for raisins in boxes other than sweatboxes; and for bins twenty cents per day per bin, not to exceed a total of $10 per bin per year. For purposes of this paragraph, "box" means any container with a capacity of less than 1,000 pounds and "bin" means any container with a capacity of 1,000 pounds, or more. The average net weight of raisins in each type of box shall be the industry average as computed by the Committee for the box in which the raisins are so held. No further compensation shall be paid unless the raisins are so held in the boxes on the succeeding September 1.

* * * * *

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

Dated: April 3, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84–9316 Filed 4–6–84; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Termination of Proceeding on Proposed Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding.

SUMMARY: This action terminates a proceeding on a proposal to terminate the base-excess plan used in distributing returns to producers whose milk is priced under the Oregon-Washington Federal milk order. Termination of the base-excess plan was requested by a cooperative association. The request was supported by a second cooperative association.

Two cooperative associations representing a substantial number of producers on the market, several individual producers, two milk handlers regulated under the order, an association of Oregon dairymen, and the Oregon State Department of Agriculture submitted comments opposing the proposed termination. Because of the conflicting viewpoints expressed by interested parties and the large number of producers opposed to the proposed termination, it is concluded that the requested termination should not be implemented on the basis of this proceeding.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Proposed Termination of Certain Provisions of the Order: Issued January 27, 1984; published February 1, 1984 (49 FR 4005).

Extension of Time for Filing Comments on Proposed Termination: Issued February 16, 1984; published February 22, 1984 (49 FR 6499).

This termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

Notice of proposed rulemaking was published in the **Federal Register** (49 FR 4005) concerning a proposed termination of certain provisions of the Oregon-Washington milk order. Interested persons were afforded opportunity to file written data, views, and arguments thereon by February 16, 1984. The comment period was later extended until March 2, 1984 (49 FR 6499).

Statement of Consideration

The proposed termination would have terminated the base-excess payment plan effective February 1, 1984. The base-excess plan is a method of apportioning the total value of milk in the market among producers on the basis of their marketings of milk during a representative period.

Under the plan, which applies to milk delivered during the 12-month period beginning with February 1 of each year, producers are paid according to the amount of "base" they earn through deliveries during the market's four lowest months of production of the preceding calendar year. Deliveries of producers in excess of their "base" are paid for at a lower price than for base milk.

In the absence of the base-excess plan, a single uniform price would be paid directly to producers or, in the case of producers participating in the Oregon State base plan, to the Director of the Milk Stabilization Division, Oregon State Department of Agriculture, for subsequent payment to the participating producers.

Termination of the base-excess plan was requested by Northwest Dairymen's Association (NDA). Tillamook County Creamery Association submitted views in support of NDA's request. These two cooperative associations represent nearly half of the producers on the market. The basis for the proposed action was that the base-excess provisions of the Oregon-Washington milk order would not result in equitable apportionment of returns among producers due to the recently enacted milk diversion program. NDA expressed concern that the milk diversion program, which is designed to encourage dairy farmers to reduce milk production in order to alleviate the dairy surplus problem, would provide an incentive for dairy farmers to reduce production in a manner not contemplated when the base-excess plan was adopted under the order. The cooperatives were also concerned that continuation of the base-excess plan would result in inequities between producers participating in the diversion program and producers who did not contract to reduce production.

Comments opposing the proposed termination were filed by seven individual dairy farmers, two proprietary milk handlers, two cooperative associations (Farmers Cooperative Creamery and Oregon Jersey Cooperative) that represent a substantial number of producers on the market, the Oregon Dairymen's Association, and the Oregon State Department of Agriculture. The parties opposing termination contended that no statistical evidence was presented to justify such action. They also disputed proponent's claim that inequities would result between producers participating in the diversion program and producers who did not contract to reduce production. Opponents cited the low rate of participation in the diversion program as their basis for concluding

that any inequities which might exist would not be substantive.

A further point made by several commentors was that termination of the base-excess payment plan at this time would not influence producer participation in the diversion program since participating producers had to sign such contracts by January 31, 1984.

In view of the conflicting viewpoints expressed by interested parties and the large number of producers opposed to the proposed termination, it is concluded that the requested termination should not be implemented on the basis of this proceeding. Accordingly, the proceeding begun in this matter on January 27, 1984, is hereby terminated.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington, D.C. on: April 3, 1984.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-9319 Filed 4-6-84; 8:45 am]

BILLING CODE 3410-02-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Poison Prevention Packaging; Proposed Exemption of Oral Contraceptives From Child-Resistant Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed exemption.

SUMMARY: The Commission is proposing to exempt certain oral contraceptives from the child-resistant packaging requirements of the Poison Prevention Packaging Act of 1970. The exemption would apply to mnemonic (memory-aid) dispenser packages of cyclically administered oral contraceptives containing estrogens and progestogens. The packaging requirements have been suspended with respect to these oral contraceptives since 1974, and a final exemption would therefore not affect their marketing.

DATE: Public comments are due no later than June 8, 1984. The exemption is proposed to become effective immediately upon its publication in final form.

ADDRESSES: Comments should be submitted, preferably with four copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Submitted comments may be seen during normal working hours on the 8th floor of 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Fred Marozzi, Division of Safety Packaging and Scientific Coordination, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6477.

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Framework

The Poison Prevention Packaging Act of 1970 (PPPA, 15 U.S.C. 1471–1476) authorizes the Commission to establish standards for the "special packaging" of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance.

Special packaging is often referred to as "child-resistant packaging"and is defined as packaging that is (1) designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use properly. (It does not mean, however, packaging which all such children cannot open, or obtain a toxic or harmful amount from, within a reasonable time.) Under the PPPA, there are effectiveness standards for special packaging (16 CFR 1700.15), as well as a procedure for evaluating effectiveness (16 CFR 1700.20). Regulations have been issued requiring special packaging for a number of household products (16 CFR 1700.14).

2. 1974 Proposed Exemption

In April 1973 the Food and Drug Administration (FDA), which then administered the PPPA, issued a regulation requiring child-resistant packaging for human prescription drugs in oral dosage forms (38 FR 9431; April 16, 1973). That regulation became effective in April 1974.

In February 1974 the Consumer Product Safety Commission (SPSC), which had taken over responsibility for administering the PPPA in May 1973, proposed an exemption from the regulation for mnemonic (memory-aid) dispenser packages as cyclically administered oral contraceptives that contain no more than specified amounts of certain hormones (39 FR 51907; Feb. 11, 1974) [1].[1] The Commission cited "* * * a low toxicity for oral contraceptives, considerable human experience data showing no related serious personal injury or serious illness in young children, and the importance of the present form of mnemonic (memory-aid) packaging to successful hormone therapy." 39 FR 5198.

In proposing the exemption, the Commission also suspended the April 1974 effective date for the oral contraceptives covered by the proposal [1]. That suspension has remained in effect since then, so child-resistant packaging has never been required for the oral contraceptives. The suspension will remain in effect until this proceeding has been concluded.

3. Follow-Up to 1974 Proposal

The Commission received 15 comments from the public on the proposed exemption [2–16]. In addition, members of the Commission's Technical Advisory Committee (TAC) commented on the proposal [17]. The major comments address the potential adverse health effects—both acute and chronic—of oral contraceptives. This issue is discussed in detail in section B below. Some other issues raised by public and TAC commenters have been considered by the Commission staff and have resulted in changes and clarifications incorporated into the exemption that is proposed below.

B. Data on Health Effects

A number of commenters have stated that oral contraceptives could pose serious health risks to young children who ingest them [2, 3, 6, 12]. However, the Commission has carefully considered this issue and disagrees.

Over 20 years of human experience data are available on oral contraceptives, and the pharmacological, physiological, and toxicological effects of these drugs, including those from long-term therapeutic dosage, are well established [20]. The Commission believes that these data provide no evidence of either acute or chronic health effects associated with accidental ingestion of oral contraceptives by young children.

[1] The numbers in brackets refer to the reference documents listed at the end of this notice.

This Commission position is supported by the Food and Drug Administration [21, 22, 23]. In discussing the question with Commission staff, FDA officials have observed that ample time has elapsed since the introduction of oral contraceptives into the market for any long-term health effects associated with accidental childhood ingestions to have manifested themselves. Such problems, were they to have occurred, would not have gone undetected by the medical profession. The FDA officials have emphasized the fact that current oral contraceptive products contain only a fraction of the hormone doses which were used in the early years of oral contraception. If problems were to be seen, they would have occurred with the former, higher dosage strengths.

The FDA officials have further indicated that, in spite of a high frequency of ingestion of oral contraceptives, frequency of either acute or long-term injury is one of the lowest of any class of drugs. Fewer than three percent of oral contraceptive cases reported by poison control centers in 1980 were associated with signs and symptoms, usually mild gastrointestinal effects, compared with 27 percent of all drug ingestion cases. No reports of serious acute toxic effects have been reported in the literature in more than 20 years of clinical experience. Long-term toxic effects following acute overdose are unknown and highly unlikely.

Finally, the FDA officials have made these additional observations:

1. Health effects which have been associated with long-term oral contraceptive therapy are not related to effects likely to be seen following accidental ingestions in children.

2. Chronic toxicity data, either for animals or humans, cannot be extrapolated to an acute overdose situation occurring with the oral contraceptives.

3. Oral contraceptives could probably be classified as akin to non-toxic. It would be virtually impossible for a child to ingest anywhere near what might be considered a median lethal dose. Children would become physically ill long before reaching a dose which would be considered injurious or lethal.

4. There is no reason to expect thrombotic effects to occur following acute ingestions, even of relatively high doses.

The Commission has also considered some specific comments concerning the potential health risks posed by oral contraceptives to young children. These comments, and the Commission's responses, are:

1. Commenters who concede that one-time ingestions of the oral contraceptives may not seriously harm children nevertheless assert that such ingestions may produce nausea and/or vomiting [13].

The Commission recognizes that oral contraceptives, like many products found in the home, can produce nausea and vomiting in young children who ingest them. However, in most cases of accidental ingestion, vomiting is regarded as a beneficial reflex since it helps to remove the substance from the body and thus reduces the risk of serious toxic effects [18].

Although unpleasant for both the child and adult involved, nausea and vomiting resulting from the accidental ingestion of oral contraceptives are generally not severe. Nausea and vomiting are undoubtedly among the most frequently observed symptoms associated with the accidental ingestion of products by young children. Such symptoms rarely involve serious consequences requiring professional medical attention [18].

2. Commenters have pointed out that warnings in package inserts for two oral contraceptives include the statement: "A small fraction of the hormonal agents in oral contraceptives have been identified in the milk of mothers receiving these drugs. The long-term effects to the nursing infant cannot be determined at this time" [2, 6, 12].

The Commission believes that, in the case of nursing mothers who take oral contraceptives, any danger to the infant would arise from the daily ingestion of the medication via the milk supply for a period of several weeks to several months and would be related to long-term hormonal effects [18]. Therefore, it is inappropriate to relate the possible dangers involved in this situation to one in which the single ingestion takes place.

3. Commenters have also pointed out that there has been an association of cancer of the vagina and cervix of young women whose mothers were treated with diethylstilbestrol (DES) during pregnancy [2,3,6]. DES is an estrogen compound used during the 1960's to treat threatened or habitual miscarriages. It was later shown that female children of mothers who had taken DES during their pregnancy had an increased risk of developing a rare form of cervical or vaginal cancer when they reached adulthood.

The Commission believes it inappropriate to relate the effects observed in the case of DES, which resulted from the *chronic* exposure of a chemically distinct estrogen to a developing fetus *in utero*, to the possible effects of a single *acute ingestion* by a young child of the estrogens contained in oral contraceptives. [18].

4. Commenters have asserted that sufficient data are not available to evalutate the effects of oral contraceptives in male and female children, and data are not available to predict the effects of ingesting these drugs in combination with other drugs or household substances [17].

The Commission responds that over 20 years of human experience data are available on oral contraceptives, and that the effects of these drugs are well established. Ingestion data, reflecting incidents in both sexes, indicate that the drugs are frequently ingested but few, if any, serious effects have been reported in children. [20]. In addition, there is no evidence of oral contraceptives interacting with other drugs or household products to produce untoward reactions [20].

5. Commenters have suggested that no exemption should be provided unless the industry provides studies of single dose effects (at excessive levels) on long-term animal health [17].

The FDA does not require such studies in order to prove the safety of a drug [20]. Therefore, if the Commission adopted this suggestion, it would be requiring studies to support a special packaging exemption that are not required to market the drug in the first place.

C. Injury Data

The Commission's Children and Poisoning (CAP) data base for the years 1978 through March 1983 contains 105 reports of accidental ingestions of oral contraceptives by children under age five [24]. This projects to a national estimate of 4305 similar cases. Of the 105 reports, 101 children were treated and released; two were transferred and treated; two were hospitalized.

For the years 1969 through 1978, 5027 cases of accidental ingestion of oral contraceptives by children under age five were reported to the National Clearinghouse for Poison Control Centers [25]. Of these 5027 cases, 139 reported symptoms, most frequently lethargy and nausea/vomiting/diarrhea. Thirty-four children were hospitalized, generally for one or two days.

D. Market Information

Since oral contraceptives were introduced in 1960, they have become the most popular reversible method of contraception worldwide. Within their first five years on the market, purchases or oral contraceptives by pharmacies had reached 65 million cycles per year (a cycle is a one-month supply

contained in an individual packet) [27]. Industry sources estimate that, since 1978, the number of women using oral contraceptives in the United States has remained stable at roughly 10 million [26,27]. Each year, pharmacies dispense an estimated 60 to 70 million cycles to these women. [27]

Six domestic pharmaceutical manufacturers share the U.S. market for oral contraceptives, with three firms predominating [26,27]. These six firms currently have annual retail sales in excess of $400 million [26, 27].

E. Reproposal of Exemption

The exemption proposed by the Commission in February 1974 applied to cyclically administered oral contraceptives in manufacturers' mnemonic (memory-aid) dispenser packages that (1) relied solely upon the activity of one or more named progestogen and estrogen substances and (2) contained no more than specific amount per package (39 FR 5198) [1]. The substances and amounts were: 150.0 mg. of dimethisterone, 2.2 mg. of ethinyl estradiol, 21.0 mg. of ethynodiol diacetate, 6.0 mg. of mestranol, 200.0 mg. of norethindrone, 105.0 mg. of norethynodrel, and 10.5 mg. of norgestrel.

The Commission has decided to repropose the exemption because ten years have passed since the original proposal. Before issuing any final exemption, the Commission wants to give all interested parties an opportunity to comment on it and on all the currently-available data that relate to it. A reproposal accomplishes that purpose.

The reproposed exemption has a broader scope than the exemption proposed in 1974. The Commission now believes that particular estrogens and progestogens and particular amounts do not need to be specified. Therefore, the reporposal applies to all cyclically administered oral contraceptives in mnemonic packaging that rely on the activity of any estrogen or progestogen substance in any amount.

The Commission believes that there is little or no risk to children from accidental ingestion of any estrogen or progestogen in any amount that would be approved by FDA for use in oral contraceptives. The same data on health effects that apply to the substances and amounts specified in 1974 (see section B above) apply to the broadened exemption proposed below [31].

The purpose of broadening the proposal is to avoid any need for future amendments to the exemption (assuming it is issued in final form). If drug manufacturers changed to different estrogen or progestogen hormones or to greater amounts of the previously-named hormones, they should be covered by an existing exemption, as long as no greater risk is presented by the modified oral contraceptives. (In fact, two commenters on the 1974 proposals did suggest that the named substances and amount were partially outdated.)

The Commission is particularly soliciting public comments from any party who believes that the issuance of a broadened exemption might place children at risk. Any such comments submitted should, to the greatest extent possible, be specific as to estrogen or progestogen substances and amounts. The Commission is additionally interested in comments from manufacturers on the existing hormone content of oral contraceptive and on any content changes that can be anticipated.

F. Regulatory Flexibility Act Certification

The Commission staff has concluded that no firm would be required to institute any changes to its present practices as a result of the exemption proposed below. Therefore, using the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601(3), the Commission certifies that the exemption will not, if issued, have a significant economic impact on a substantial number of small entities.

G. Environmental Considerations

Rules requiring poison prevention packaging of products and exemptions from such rules normally have little or no potential for affecting the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required. *See* 16 CFR 1021.5(c)(3). From the facts presently available, the Commission concludes that the exemption proposed below, if issued, will have no significant effects on the environment.

H. Effective Date

The PPPA provides that, except for good cause, no regulation shall take effect sooner than 180 days or later than one year from the date such regulation is issued. A lead time of six months to a year provides firms with time to "gear up" to child-resistant packaging.

However, an exemption from a PPPA packaging requirement does not fall within the prescribed time limits on the effective date, and no lead time is necessary where child-resistant packaging is not being required. In the case of the oral contraceptive, the packaging is not now required and no marketplace changes will be necessary. Therefore, the Commission is proposing that the exemption become effective immediately upon its publication in final form in the **Federal Register**. An immediate effective date complies with the Administrative procedure Act, 5 U.S.C. 553(d)(1) as well as the PPPA.

I. Conclusion

After considering all relevant and available information, the Commission finds preliminarily that special packaging is not required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting the oral contraceptives described below. Based on ths preliminary finding, the Commission concludes that a special packaging exemption for them should be proposed.[2]

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

PART 1700—[AMENDED]

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601; secs. 2(4), 3, 5; 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474) and under the authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573; sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes to amend § 1700.14 of Subchapter E of Chapter II of Title 16 by adding paragraph, (a)(10)(iv) as follows (although unchanged, the introductory text of subsection (10) is included below for context):

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

* * * * *

(iv) Cyclically administered oral contraceptives in manufacturers' mnemonic (memory-aid) dispenser packages that rely solely upon the activity of one or more progestogen or estrogen substances.

* * * * *

[2] The proposal was approved by a 4–0 vote of the Commission.

Authority: Pub. L. 91-601, secs. 2(4), 3, 5, 84 Stat. 1670-72; 15 U.S.C. 1471(4), 1472, 1474; Pub. L. 92-573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a).

Dated: April 3, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

List of References

1. **Federal Register** document proposing an exemption from special packaging for oral contraceptives (39 FR 5197-98, February 11, 1974).
2. Public comment from Dr. Robert Scherz of American Academy of Pediatrics; February 19, 1974.
3. Public comment from Creighton University; February 22, 1974.
4. Public comment from Sunbeam Plastics; February 25, 1974.
5. Public comment from Cooper Laboratories; February 25, 1974.
6. Follow-up public comment from Dr. Robert Scherz of American Academy of Pediatrics; February 26, 1974.
7. Public comment from Searle Laboratories; March 4, 1974.
8. Public comment from American Pharmaceutical Association; March 8, 1974.
9. Public comment from Mead Johnson Research Center; March 8, 1974.
10. Public comment from University of Alabama (Birmingham) Medical Center; February 26, 1974.
11. Public comment from Abbott Laboratories; March 8, 1974.
12. Public comment from Patricia van Betten; March 9, 1974.
13. Public comment from Parke, Davis & Company; March 11, 1974.
14. Public comment from Dr. Sumner Yaffe of American Academy of Pediatrics; March 13, 1974.
15. Public comment from The Upjohn Company; March 12, 1974.
16. Public comments from Ortho Pharmaceutical Corp.; April 22, 1974, August 27, 1974, and September 27, 1974.
17. Thirteen comments from different members of the Technical Advisory Committee; January through April 27, 1980.
18. Memo from Fred Marozzi and Denise Orzech on oral contraceptives petitions; October 12, 1979.
19. Memo from Fred Marozzi on the packaging of cyclically administered oral contraceptives; March 27, 1979.
20. Memo from Fred Marozzi analyzing TAC comments on oral contraceptive exemption petition; May 30, 1980.
21. Memo from Fred Marozzi summarizing FDA's position on acute and long-term effects of oral contraceptives following accidental ingestion by children; April 8, 1983.
22. Record of December 14, 1982 meeting between CPSC and FDA staff on oral contraceptive exemption from PPPA packaging; December 20, 1982.
23. Letter from Joseph Hile, FDA Associate Commissioner for Regulatory Affairs; March 7, 1983.
24. Memo from Dorothy Drago on ingestions of oral contraceptives; May 10, 1983.
25. Memo from Denise Orzech on injury data update on oral contraceptives; March 20, 1981.
26. Memo from Elliot Foutes on update of market information on oral contraceptives; July 18, 1983.
27. Memo from Elliot Foutes on market information on oral contraceptives; January 8, 1980 (RESTRICTED).
28. Briefing memo from Virginia White on proposed regulation to exempt oral contraceptives from special packaging requirements; September 28, 1983.
29. Memo from Alan Shakin on proposed exemption of oral contraceptives from special packaging requirements; September 29, 1983 (RESTRICTED).
30. Vote sheets on proposed exemption of oral contraceptives from special packaging requirements; September 29, 1983.
31. Memo from Fred Marozzi on expansion of exemption to all estrogen and progestogen substances; March 9, 1984.

[FR Doc. 84-9432 Filed 4-6-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Permanent State Regulatory Program of Indiana

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a proposed program amendment to the Indiana Permanent Regulatory Program (hereinafter referred to as the Indiana program) received by OSM pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The proposed amendment submitted by the State on March 19, 1984, consists of modification to the Indiana regulations pertaining to the hearing on a lands unsuitable petition, various provisions on the blasting plan and use of explosives, administrative and judicial review of decisions on permit applications, requirements for signs and markers, and protection of underground mining.

This document sets forth the times and locations that the Indiana program and proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment and information pertinent to the public hearing.

DATE: Written comments relating to Indiana's proposed modification of its programs not received on or before 4:00 p.m., on May 9, 1984, will not necessarily be considered in the Director's decision to approve or disapprove the proposed program modifications.

If requested, a public hearing will be held on May 4, 1984. Beginning at 10:00 a.m. at the location shown below under **ADDRESSES.**

ADDRESSES: Written comments should be mailed or hand-delivered to: Mr. Richard D. McNabb, 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.

If a public hearing is held, its location will be at: OSM Indianapolis Field Office, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana. Telephone: (317) 269-2600.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. McNabb, 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. Public Comment Procedures

Availability of Copies

Copies of the Indiana program, the proposed amendment, and a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana

Indiana Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time

indicated under **DATES** or at locations other than Indianapolis, Indiana, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the close of business April 30, 1984. If no one requests to comment at the public hearing, the hearing will not be held.

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

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

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

Public Meeting

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

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

II. Discussion of the Proposed Amendment

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).

On March 20, 1984, the Director, Indiana Department of Natural Resources, submitted to OSM pursuant to 30 CFR 732.17, a proposed State program amendment for approval. The proposed amendment to the Indiana regulations would amend various provisions of the approved Indiana program. Briefly, the proposed modifications and regulation cites are:

1. Indiana proposed changes to regulations concerning hearing requirements for lands unsuitable determinations. 310 IAC 12–2–8.
2. Indiana would change some requirements for information in the blasting plan required for permit applications. 310 IAC 12–3–43.
3. A change is proposed concerning administrative review of decisions by the commission on permit applications. 310 IAC 12–3–118.
4. Changes are proposed in the requirements for signs and markers. 310 IAC 12–5–6 and 310 IAC 12–5–73.
5. Changes are proposed in the use of explosives provisions for preblasting survey, public notice of blasting schedule, surface blasting requirements, and records of blasting operations. 310 IAC 12–5–34, 12–5–35, 12–5–36, 12–5–38, and 310 IAC 12–5–100, 12–5–101, 12–5–103.
6. A change is proposed in protection of underground mining requirements. 310 IAC 12–5–40.
7. A new section would be added for underground mining use of explosives detailing requirements for public notice of a blasting schedule. 310 IAC 12–5–100.5.

Therefore, pursuant to 30 CFR 732.17 and 732.15, the Director requests public comment on the adequacy of the above modifications. If the Director determines that the proposed modifications are in accordance with SMCRA and consistent with the Federal regulations, the amendment will be incorporated as part of the approved Indiana program.

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 OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules 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.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1202 *es seq.*).

Dated: April 4, 1984.

Carson W. Culp,

Acting Director, Office of Surface Mining.

[FR Doc. 84–9385 Filed 4–6–84; 8:45 am]

BILLING CODE 4310–05–M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Post-Vietnam Era Veterans' Educational Assistance Program

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulation.

SUMMARY: This proposed regulation, issued jointly by the VA (Veterans Administration) and the Department of Defense, states that all of the provisions of 38 CFR 21.4234 apply to veterans who are receiving educational assistance under VEAP (the Post-Vietnam Era Veterans' Educational Assistance Program) and who wish to change their program of education. This should eliminate confusion which has arisen in this area.

DATES: Comments must be received before May 9, 1984. It is proposed to make this regulation effective on the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420.

All written comments received will be available for public inspection at this address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until May 21, 1984. Anyone visiting VA Central Office in Washington, DC for the purpose of

inspecting any of these comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: Section 21.5232, Title 38, Code of Federal Regulations is amended to state that all of the paragraphs of 38 CFR 21.4234 apply when a VEAP participant wishes to change his or her program of education.

The VA and the Department of Defense have determined that this proposed regulation is not a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The proposal will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs and the Secretary of Defense hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this proposed regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this proposed regulation contains a technical change which does not affect basic VA policy. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this proposed regulation is 64.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: January 24, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Approved: March 19, 1984.

E. A. Chavarrie,

Deputy Assistant Secretary of Defense.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

It is proposed to amend 38 CFR Part 21 as set forth below:

Section 21.5232 is revised as follows:

§ 21.5232 Change of program.

In the administration of benefits payable under chapter 32, title 38, United States Code, the Veterans Administration will apply § 21.4234 in the same manner as it is applied in the administration of chapters 34 and 36. (38 U.S.C. 1641)

[FR Doc. 84–9370 Filed 4–6–84; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL 2561–1]

Approval and Promulgation of Nonattainment Plans for Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes rulemaking and solicits public comment on rules for issuance of construction permits to new or modified air pollution sources affecting nonattainment areas in Illinois. These regulations were submitted by the State of Illinois to satisfy Part D of the Clean Air Act (Act). They are intended to require new sources to comply with the Lowest Achievable Emission Rate (LAER), and to accommodate emissions growth in nonattainment areas through the use of offsets and the provision of a limited growth margin.

DATE: Comments on this revision and on the proposed USEPA action are due on or before May 9, 1984.

ADDRESSES: Copies of the SIP revisions, USEPA's evaluation and public comments received are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706

Comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6035.

SUPPLEMENTARY INFORMATION: Part D of the Act, as amended in 1977, requires each State to revise its State Implementation Plan (SIP) to meet specific requirements for areas designated as not attaining the National Ambient Air Quality Standards (NAAQS).

The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). In order to be approvable, each Part D New Source Review (NSR) SIP must require permits for the construction and operation of new or modified major stationary sources in nonattainment areas. The permits must be issued in conformance with the statutory requirements of Sections 172 and 173 of the Act and the regulatory requirements of 40 CFR 51.18.

On April 3, 1979, the Illinois Environmental Protection Agency (IEPA) submitted rules adopted by IEPA which were conditionally approved by USEPA on February 21, 1980 (45 FR 11472). On May 26, 1981, the Court of Appeals for the Seventh Circuit (Case No. 80–1531) ruled that the IEPA adopted NSR Rules were not properly submitted because IEPA lacked promulgation authority and, therefore, the Court invalidated USEPA's approval.

Meanwhile the State of Illinois had adopted Public Act 81–1444 which required the Illinois Pollution Control Board (IPCB) to promulgate nonattainment area NSR Rules. This Illinois Act gave IEPA authority to promulgate NSR Rules as interim rules, to be effective until the IPCB adopted permanent NSR Rules implementing Section 173 of the Act.

On February 3, 1982, USEPA proposed approval of a State submittal consisting of an IPCB interim adoption be reference, expiring October 1, 1982, of an IEPA adopted rule. USEPA was unable to take final action on the submittal because it contained a "plant-wide" definition of source, and USEPA had committed to the D.C. Circuit Court of Appeals in *NRDC* v. *Gorsuch* (No. 81–2208) not to approve NSR Rules containing a "plant wide" definition.

On July 14, 1983, the IPCB promulgated Rule 203 entitled "Major Stationary Source Construction and Modification" for the State of Illinois. These rules were submitted to USEPA on August 26, 1983, in the form of a July 14, 1983, "Opinion and Order of the Board" (R81–16 Docket B). Additionally, on September 16, 1983, the State submitted draft IEPA Rule 252 entitled "Rules Governing Public Participation in the Air Pollution Permit Program for Major Sources in Nonattainment Areas". These public comment procedures have not been adopted in final form. However, since the submitted draft is not expected to change significantly during the completion of the approval process, USEPA is basing today's proposed action on this draft, pending submission of finally adopted procedures. USEPA is today proposing to approve these two submittals as meeting the requirements of 40 CFR 51.18, with a few exceptions cited below.

The essential elements of a NSR program are provisions which assure that (1) the appropriate new sources and modifications are subject to preconstruction review, (2) exemptions are in accordance with federal requirements, (3) reasonable further progress (RFP) toward the State's attainment demonstration is maintained, (4) subject sources must comply with LAER, (5) existing sources under common ownership with new sources are in compliance, and (6) the public has an opportunity to comment on the permitting agency's analysis.

Nonattainment Source Review

IPCB Rules 101 and 203, except for a potential deficiency in the definition of source, have sufficient provisions to assure that the appropriate sources and modifications are reviewed. The dual definition of source used by USEPA includes for NSR purposes either an entire building, structure, or facility, or an individual piece of process equipment. The dual source concept is proposed by the State to be implemented by the definition of "emission source" contained in Rule 101, which refers to any equipment or facility. The term "equipment" is adequately defined to cover a narrow definition of dual source. However, the term "facility" is not sufficiently explained in the Illinois Rule to assure that it covers the broader definition of source. The Illinois Rule does not specify that all pollutant-emitting activities which belong to the same industrial grouping, on contiguous or adjacent properties and under the control of the same person are subject to review. USEPA proposes to approve the definition of source if a demonstration can be made by the State that the term "facility" includes the above cited concepts. Without a demonstration by the State that the submitted NSR Rule covers the appropriate sources, USEPA will be constrained to disapprove the entire submittal.

Section 203.207(g) of the Illinois rule exempts increased emission of organic material due to temporary seasonal shutdown of control equipment from the definition of "major modification." This exemption is not consistent with the requirements of 40 CFR 51.18(j)(1)(v), (vi) and (x). However, USEPA's seasonal afterburner policy encourages the temporary seasonal shutdown of certain control equipment during non-ozone formation months. USEPA is presently reviewing the NSR regulations and the afterburner policy to determine how these conflicting approaches might best be resolved. USEPA, therefore, is deferring action on the exemption in § 203.207(g). Once USEPA has resolved this overall policy issue and made any appropriate regulatory amendments, USEPA will be in a position to propose to either approve or disapprove the exemption.

The federal requirements provide that emission reductions used for netting and offsets must be federally enforceable. Although the term "federally" does not appear in the State Rules, such emission reductions are included in the State operating permits. These permits are considered to be federally enforceable by the Seventh Circuit Court of Appeals in *CBE vs. USEPA* (No. 80–1531). Furthermore, emission reduction may be included in construction permits which are federally enforceable according to 40 CFR 52.02(d). In other places where federal enforceability would be required in the State Rule, federal enforceability is assured by having the State Rules approved as part of the SIP. Therefore, USEPA proposes to approve Illinois' approach to the federal enforceability issue.

The State Rule requires a reasonable estimate of emissions from malfunctions, start-ups, and break-downs to be included into the definition of allowable emissions. This is an environmentally beneficial provision when offsets are required to equal or exceed new allowable emissions. However, when an existing source is providing offsets from an allowable emissions baseline, non-complying emissions could be used as offsets. This is inconsistent with the federal requirements. USEPA is, therefore, not taking rulemaking action on § 203.107(c) of the Illinois NSR Rule.

USEPA is proposing to approve § 203.304(a) of the Illinois submittal which addresses the situation which occurs when offsets are not "reasonably available." The State Rule requires sources that cannot obtain offsets to commit in a permit to obtain appropriate offsets as soon possible. In such cases, untill the offsets are obtained, the State will allow consumption of the available growth margin. However, once the growth margin is consumed (this is determined by reference to the federally approved attainment demonstration), no more permits without offsets can be issued; otherwise, RFP would not be protected. With this understanding, USEPA proposes to approve this section of the Rule.

The State Rule contains provisions which exempt certain sources from the offset requirement. Section 203.304(b) exempts temporary sources of less than 2 years duration, and § 203.304(e) exempts new total suspended particulates (TSP) sources where agricultural fugitive emissions predominate, and the area is classified as secondary nonattainment for TSP. Because neither of these exemptions requires that a demonstration be made that RFP will be maintained, USEPA proposes to disapprove both of these sections. However, if the State can show prior to final action on this rulemaking that RFP will be maintained, USEPA will approve these sections.

Section 203.304(c) provides an exemption from the offsetting requirements of § 203.302, if the area in which the proposed new major source or major modification is proposing to locate is being considered by USEPA for redesignation to attainment. The State argues that an area that is a candidate for redesignation can be assumed to be in attainment and, therefore, no RFP is needed. The State claims that no offsets should be required for such a new source provided that air quality modeling projects no ambient standard violation. However, it would be possible under § 203.304(c) to allow a source to construct without offsets or a RFP demonstration in an area under consideration for redesignation and later have USEPA disapprove the redesignation. The new source would then be in violation of the construction ban provisions of the NSR Rule. To avoid this situation, USEPA is proposing

to disapprove this section.

USEPA wishes to solicit comment specifically on the relations between offsetting emissions and the attainment plan to insure RFP and, what the relationship should be between the federally approved RFP plan and offsets required in section 173 of the Act. Section 171 of the Act requires all areas designated as nonattainment under Section 107 of the Act to develop an RFP plan which outlines a yearly schedule of emissions reductions to ensure the area will meet the NAAQS by the statutory deadline. The Act also requires in section 173(1)(A) that "by the time the source is to commence operation, total allowable emissions from existing sources * * * and from the proposed source will be sufficiently less than total emissions from existing sources * * * so as to represent * * * reasonable further progress * * *". USEPA Part D New Source Regulations cite section 172(b)(6) and 173.

The Illinois rule does not require each and every offset transaction to be consistent with actual progress under their federally approved RFP plan. In place of this requirement, the Illinois regulations give the source several options to determine if a particular emission reduction is "sufficient" to offset the proposed source's emissions increase. These options include a ratio of 1.25 to 1, an air quality improvement at every impact location, and/or an improvement of air quality with equal or greater offsets. Since these provisions give new sources a "pro forma" declaration of how much offset is enough regardless of whether the State is meeting their RFP commitment, if the State has not achieved sufficient emissions reductions for the RFP schedule, the State will be forced to put additional requirements on existing sources to make up the shortfall.

Because USEPA is currently developing policy on RFP plans in general and on the offsets/growth allowance issue in particular, the USEPA is soliciting comment to assist in this policy development. Although USEPA is proposing to approve and may promulgate approval of the Illinois offset provision, the State is advised that if the final USEPA policy requires a direct link between offsets and actual progress under RFP plans, then the State will have to revise the Illinois SIP to meet the new policy.

USEPA also recognizes that new major sources and major modifications are required to demonstrate that RFP will be met. This demonstration must be done with actual offsetting emission reductions or reductions which make an actual improvement in air quality. USEPA is basing its approvability determination on the assumption that a modelled air quality improvement will be detected in the environment and not based on a "paper" improvement resulting from modelling reductions. This notice solicits comment from the State on the procedures to be used to ensure that offsets will not be allowed based on adjustments of modelling data, rather than actual emission reductions. If during the public comment period the State satisfies this concern, USEPA will approve this Section, otherwise USEPA will finally disapprove this Section.

USEPA is proposing to approve § 203.301 which requires LAER at new major sources and major modifications. USEPA is also proposing to approve the provisions in § 203.305 which require existing sources owned by an applicant to be in compliance before a construction permit may be issued to a new major source or major modification. Both of these sections meet the federal requirements.

USEPA is proposing to approve the severability provisions in § 203.155. This section requires that the current NSR Rule be stayed or declared invalid if a court of competent jurisdiction stays or declares invalid any section of the rule. The effect of this provision at the State level would be to re-institute a prior version of the NSR Rule which has not been approved by USEPA. USEPA proposes approval of this Section with the caution that if the current NSR Rule is invalidated, the construction moratorium required by section 110(a)(2)(i) of the Act will take immediate effect without any action by USEPA.

The Act in section 172(b)(11)(A) requires new sources in areas which receive attainment extensions beyond December 31, 1982, to do alternative site, size, production process and control analysis. Section 203.306 of the State Rule requires such an analysis of new major sources and major modifications and, therefore, USEPA is proposing to approve this provision as part of the SIP.

Today, USEPA is proposing to disapprove the specific sections referring to temporary source (§ 203.304(b)), and secondary nonattainment areas with agricultural TSP emissions (§ 203.304(e)), and offset exemptions in areas being redesignated to attainment (§ 203.304(c)). Additionally, USEPA is not taking action on § 203.107(c) which includes start-up, malfunction, and breakdown emissions as part of allowable emissions. Disapproval or no action on these provisions in no way prompts any action related to a construction moratorium pursuant to Act, section 110(a)(2)(I). Rather, disapproval of these sections is necessary to maintain the integrity of IPCB Rule 203 with respect to the requirement of 40 CFR 51.18. USEPA is, therefore, proposing to approve the remaining provisions of Rule 203 pending the submittal of the appropriate demonstrations as referenced in this notice.

Public Comment Procedures

In accordance with IPCB rule § 203.150—Public Participation, IEPA has developed procedures for the public to comment on proposed actions on NSR permits. These procedures meet the requirements of 40 CFR 51.18(h) for major sources and major modifications in nonattainment areas, and USEPA is proposing to approve the procedures as part of the Part D SIP. This proposal is based on the assumption that the Federal requirement to make the IEPA's analysis of the project's projected impact on air quality available for public comment is met by the State draft requirement in § 252.203 (2) and (3), where IEPA's findings and summary are required to be available for public comment. IEPA's comment on this assumption is requested.

All interested parties are invited to comment on these proposed revisions and on USEPA's proposed actions. Public comments received on or before May 9, 1984 will be considered in USEPA's final rulemaking on the SIP. USEPA specifically solicits comment on the relationship between offsetting emissions and the attainment plan to ensure reasonable further progress toward attainment.

Under 5 U.S.C. 605(b) the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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

List of Subjects in 40 CFR Part 52

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

This proposed rulemaking is issued under the authority of Sections of 110, 172, and 173 of the CAA as amended.

Dated: November 22, 1983.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-9338 Filed 4-6-84; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 49, No. 69
Monday, April 9, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following meeting:

Name: Federal Grain Inspection Service Advisory Committee.

Date: April 25, 1984.

Place: U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 2096 South Building, Washington, D.C. 20250.

Time: 8:30 a.m.

Purpose: To provide advice to the Administrator of the Federal Grain Inspection Service on the efficient and economical implementation of the U.S. Grain Standards Act of 1976 (the Act) and to assure the normal movement of grain in an orderly and timely manner.

The agenda includes: (1) financial matters; (2) recordkeeping; (3) additives to grain; (4) subcommittee report on appeal and reinspection study; (5) status of wheat, sunflower seed, and other standards; (6) the international monitoring program; and (7) other matters.

The meeting will be open to the public. Public participation will be limited to written statements unless otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting or submit written statements before or at the meeting should contact Dr. Kenneth A. Gilles, Administrator, FGIS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–0219.

Dated: April 3, 1984.

Kenneth A. Gilles,

Administrator.

[FR Doc. 84–9315 Filed 4–6–84; 8:45 am]

BILLING CODE 3410–EN–M

Forest Service

Toiyabe National Forest Grazing Advisory Board; Meeting

The Toiyabe National Forest Grazing Advisory Board will meet at 10 a.m. April 17, 1984, in the Austin Courthouse, Austin, Nevada. The purpose of this meeting is to discuss:

1. Allotment Management Planning
2. Utilization of Range Betterment Fund

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Toiyabe National Forest, 1200 Franklin Way, Sparks, Nevada 89431, telephone (702) 784–5331. Written statements may be filed with the committee before or after the meeting.

James A. Lawrence,

Acting Forest Supervisor.

February 28, 1984.

[FR Doc. 84–9538 Filed 4–6–84; 11:50 am]

BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

Applications For Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Permits filed under Subpart Q of the Board's Procedural Regulations; week ended March 30, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
Mar. 26, 1984	42064	Flirite, Inc., c/o Marilyn Buker, P.O. Box 297, Kodiak, Alaska 99615. Application of Flirite, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point Kodiak and the terminal point Old Harbor, Alaska. Conforming Applications, Motions to Modify Scope and Answers may be filed by April 23, 1984.
Mar. 30, 1984	42078	For West Airlines, Inc., c/o Richard Nair, 255 California Street Ninth Floor, San Francisco, California. Application of Far West Airlines, Inc. pursuant to Section 401 of the Act and Subpart q of the Board's Procedural Regulations applies for a certificte of public convenience and necessity to provide scheduled air transportation of persons, property, and mail for the central California Valley cites of Bakersfield, Fresno, and Modesto with service to the San Francisco and Los Angeles Metropolitan areas and other cities in the Far West. Conforming Applications, Motions to Modify Scope and Answers may be filed by April 27, 1984.

Date filed	Docket No.	Description
Mar. 30, 1984	42081	Martinair Holland, N.V., c/o Robert C. Lester, 1621 Connecticut Ave., N.W., Suite 350, Washington, D.C. 20009.
		Application of Martinair Holland, N.V., pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations applies for modification of its foreign air carrier permit, as issued pursuant to Order 78-3-30, dated February 1, 1978. The purpose of this application is to have Martinair's permit redrawn in conformance with rights and privileges afforded pursuant to Martinair's designation by the Netherlands Government to exercise the rights specified in Article 4 of the Protocol Relating to U.S.-Netherlands Air Transport Agreement of 1957, entered into March 31, 1978.
		Answers may be filed by April 27, 1984.
Mar. 26, 1984	41968	Indian International Air Lines, Inc., c/o Harry A. Bowen, Bowen and Atkin, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006.
		Corrected Application of Indian International Air Lines, Inc. in response to Order 84-2-90, requesting a certificate of public convenience and necessity under Section 401 of the Act for interstate and overseas scheduled air transportation of persons, property and mail.
		Answers may be filed by April 23, 1984.
Mar. 27, 1984	41457	Empresa Ecuatoriana de Aviacion (Ecuatoriana), c/o John A. Hodges, McDermott, Will & Emery, 1850 K Street, N.W., Washington, D.C. 20006.
		Amendment No. 1 to the application of Ecuatoriana pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations for renewal of its foreign air carriers permit with respect to the routes to be covered by the permit.
		Answers may be filed by April 24, 1984.
Mar. 28, 1984	410835	Cook Inlet Aviation, Inc., c/o Robert W. Gruber, P.O. Box 175, Homer, Alaska 99603.
		Application of Cook Inlet Aviation, Inc. pursuant to Order 84-2-114.
		Answers may be filed by April 25, 1984.
Mar. 27, 1984	41937	Seagreen Air Transport, Limited, c/o David B. Ortman, 304 Capital Gallery East, 600 Maryland Avenue, S.W. Washington, D.C. 20024.
		Amendment No. 1 to the Application of Seagreen Air Transport, Limited, for renewal and Amendment of its Foreign Air Carrier Permits.
Mar. 27, 1984	41958	Bering Air, Inc. c/o James D. Rowe, P.O. Box 1650, Nome, Alaska 99762.
		Application of Bering Air, Inc. provides additional information as requested by Order 84-2-50.
		Answers may be filed by April 27, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-9389 Filed 4-6-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41696]

Hawaiian Pacific Airlines Fitness Investigation; Notice of Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on June 12, 1984, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., April 3, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-9390 Filed 4-6-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Issuance of Permit To Take Endangered Marine Mammals

On February 22, 1984, Notice was published in the **Federal Register** (49 FR 6526) that an application had been filed with the National Marine Fisheries Service by the Department of the Interior—Minerals Management Service, Alaska OCS Region, 800 A Street, Anchorage, Alaska 99501, for a Scientific Research and Scientific Purposes Permit to take bowhead and gray whales by harassment.

Notice is hereby given that on March 29, 1984, the National Marine Fisheries Service issued a Scientific Research and Scientific Purposes Permit as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), to the Department of the Interior—Minerals Management Service, subject to certain conditions set forth therein.

Issuance of this Permit as required by Endangered Species Act of 1973 is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) and will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to Parts 220-222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, 709 West Ninth Street, Juneau, Alaska.

March 29, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-9433 Filed 4-6-84; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of

the information proposal may be obtained.

Extension

The Defense Investigative Service (DIS) is responsible for administration of the Industrial Security Program. In carrying out these responsibilities, DIS must determine what facilities are eligible to receive and safeguard classified information. DD Form 374 is used to record information obtained during the initial survey of a contractor facility and is part of the documentation used to determine and establish eligibility. The information is a prerequisite to participation in this program.

Forward comments to Edward Springer, OMB Desk, Room 3235, NEOB, Washington, DC 20503, and Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, DC 20301, telephone (202) 694-0187.

A copy of the information collection proposal may be obtained from Fred Schonert, DIS, HQ Administrative Services Division, 1900 Half Street SW., Washington, DC 20324, telephone (202) 693-0881.

Dated: April 4, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-9356 Filed 4-6-84; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded, (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Department of Defense Transportation Service (DIS) is responsible for administering the Industrial Security Program on behalf of DoD Components and other federal "user" agencies.

The Transportation Security Agreement (DIS Form 1149) is one of the factors used by DIS to determine eligibility of a commercial carrier to participate in the Industrial Security Program.

DIS Form 1149 is a legally binding contractual document between government and obligates the contractor (commercial carrier) to adhere to all security requirements outlined in same.

Forward comments to Edward Springer, OMB Desk, Room 3235, NEOB, Washington, D.C. 20503, and Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 697-0187.

A copy of the information collection proposal may be obtained from Fred Schonert, DIS HQ Administrative Service Division, 1900 Half Street SW., Washington, DC 20324, telephone (202) 693-0881.

Dated: April 4, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-9357 Filed 4-6-84; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Thursday, 10 May 1984, INCA Program Office, McLean, VA.

The entire meeting, commencing at 0900 hours, is devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the United States Code and therefore will be closed to the public. Subject matter will be used in a special study on Intelligence Communications Architecture.

Dated: April 4, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-9320 Filed 4-6-84; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Wednesday, 9 May; Wednesday, 23 May; and Wednesday, 6 June 1984, Plaza West, Rosslyn, VA.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the United States Code and therefore will be closed to the public. Subject matter will be used in a special study on Special Actions.

Dated: April 3, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-9321 Filed 4-6-84; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on May 10, 1984 at Naval Post Graduate School, Ingersoll Hall, Room 325, Monterey, CA 93940.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended (5 U.S.C. App. 1 section 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: April 4, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-9322 Filed 4-6-84; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on May 17, 1984 at Palisades Institute for Research Service, Inc., 1925 North Lynn Street, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. 1 section 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. section 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: April 4, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-9323 Filed 4-6-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Chapter 1, Education Consolidation and Improvement Act of 1981; Intent To Repay to the West Virginia State Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of Intent to Award Grantback Funds.

SUMMARY: Notice is given that, under Section 456 of the General Education Provisions Act (GEPA), the U.S. Secretary of Education (Secretary) intends to repay under a grantback arrangement to the West Virginia State Department of Education (SEA) an amount equal to 75 percent of the funds recovered to date by the U.S. Department of Education (Department) as a result of a final audit determination issued on July 29, 1981 by the Assistant Secretary for Elementary and Secondary Education. This notice describes the SEA's plan, submitted on behalf of the Wyoming County School District (LEA), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available.

DATE: All written comments must be received on or before May 9, 1984.

ADDRESS: All written comments should be submitted to Dr. A. Bruce Gaarder, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3616, ROB-3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. A. Bruce Gaarder. Telephone: (202) 245-9846.

SUPPLEMENTARY INFORMATION:

A. Background

On July 29, 1981, the Assistant Secretary for Elementary and Secondary Education issued a final audit determination against the SEA, finding that the LEA had improperly spent $109,201 in funds provided under Title I of the Elementary and Secondary Education Act of 1965 (Title I). This final audit determination was based on an audit of the Title I program in the SEA for the period July 1, 1976 through June 30, 1979 conducted by the Inspector General Audit Agency. The audit report disclosed that the LEA submitted erroneously compiled comparability reports to the SEA and expended Title I funds which met the general needs of schools rather than the identified special needs of educationally deprived children.

The Assistant Secretary concluded in his final audit determination that an amount of $78,146 was expended by the LEA in non-comparable schools in violation of the comparability requirements in 20 U.S.C. 241e(a)(3)(C) (1976) and 45 CFR 116a.26 (1976). The SEA did not detect and take required action to correct errors in comparability data compiled and reported by the LEA. As a result, Title I funds were spent in four project schools that did not receive comparable State and local services in school years 1977-78 and 1978-79.

It was further concluded by the Assistant Secretary that the LEA expended $31,055 to meet the general needs of schools during fiscal years 1977 through 1979. This was a violation of 20 U.S.C. 241e(a)(1)(A) (1976) and Section 116a.22 of the Title I regulations which required that Title I funds must be used solely to ". . . meet the special educational needs of educationally deprived children. . . ." Title I funds were expended by the LEA for general purpose textbooks, general program personnel, and for general program travel.

The SEA challenged $75,111 of the Assistant Secretary's $109,201 determination in an application for review filed with the Education Appeal Board (EAB) on August 28, 1981 and amended on October 2, 1981, under the authority in Section 452(b) of GEPA (20 U.S.C. 1234a(b)). In the meantime, on July 29, 1983, the LEA submitted a check in the amount of $35,562.68 to the Department, including $34,090 for the undisputed amount of the final audit determination and $1,472.68 in interest.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA (20 U.S.C. 1234e(a)) provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the SEA or LEA that resulted in the audit determinations have been corrected, and that the SEA or LEA is in all other respects in compliance with the requirements of the applicable program;

(2) The SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the applicable program, and, to the extent possible, benefits the population that was affected by the misexpenditures that resulted in the audit exception; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the program under which the funds were originally granted.

C. Request for Repayment of Funds Awarded Under a Grantback Arrangement

On December 5, 1983, the SEA formally requested in writing repayment of $25,567 (75 percent of the $34,090 returned to the Department on behalf of the final audit determination) under a grantback arrangement. With its request, the SEA provided assurances that the practices and procedures of the LEA that resulted in the final audit determination have been corrected and that the LEA is in all other respects in compliance with the requirements of the program. Also included with the SEA's request was a detailed budget prepared by the LEA for the expenditure of the funds to be awarded under the grantback arrangement.

D. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with Section 456(a)(2) of GEPA, the SEA, in its December 5, 1983 request (amended January 17, 1984 and February 3, 1984), submitted a plan on behalf of the LEA outlining the LEA's intent to use the grantback funds to meet the special educational needs of educationally deprived children in programs administered under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (ECIA) (Chapter 1). The final audit determination against the LEA resulted from improper expenditures of Title I funds. However, since Chapter 1 supersedes Title I, the SEA's proposal reflects the requirements in Chapter 1—a program, similar to Title I, designed to serve educationally deprived children in low-income areas.

The plan demonstrates that the LEA conducted a needs assessment of the children and determined that there was a special need for improvement in reading and math skills. Thirteen teachers and eighteen aides will be hired in school year 1984–85 to provide remedial instruction in reading and math. Because the funds requested under this grantback arrangement must be expended by September 30, 1984 in accordance with Section 456(c) of GEPA, the LEA will use these funds to pay the salaries of ten teachers and ten aides in the Chapter 1 program during the month of September. The Chapter 1 funds that otherwise would have been spent for these salaries will be used to expand and enrich the Chapter 1 reading and math components through the use of computer-assisted instruction. To the extent possible, children in these schools who were affected by the audit violations will benefit from these funds.

No children in private schools are eligible to participate in the Chapter 1 program.

E. The Secretary's Determinations.

Based upon a thorough review of the SEA's request for the repayment of funds under Section 456 of GEPA, including the LEA's partial discharge of its payment obligations to the Department in July 1983, the SEA's assurances described in part C of this notice, and the SEA's plan and budget, the Secretary makes the following determinations:

(1) The LEA has corrected the practices and procedures that resulted in the final audit determination, and the LEA is in all other respects in compliance with the requirements of the Chapter 1 program;

(2) The SEA has submitted a plan on behalf of the LEA for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the Chapter 1 program and, to the extent possible, benefits the Chapter 1 children who were affected by the misexpenditures that resulted in the audit exceptions; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the Chapter 1 program.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

F. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires, at least thirty days prior to entering into an arrangement to award funds under a grantback, that the Secretary publish in the **Federal Register** a notice of his intent to do so, and the terms and conditions under which the payment will be made.

In accordance with this requirement, notice is given that the Secretary intends to make available under a grantback arrangement to the SEA an amount of $25,567, which is 75 percent of the funds the Department has recovered to date as a result of the Assistant Secretary's final audit determination. The Secretary bases his intention to enter into a grantback arrangement under Section 456 of GEPA on his determinations outlined in part E of this notice, and payment by the SEA of a portion of the funds owed to the Department as a result of the final audit determination.

G. Terms and Conditions Under Which Payment Under the Grantback Arrangement Will Be Made

Section 456(b) of GEPA provides that any payments made under a grantback arrangement shall be subject to the terms and conditions that the Secretary deems necessary to accomplish the purposes of the affected program. The SEA agrees to comply with the following terms and conditions under which payment under the grantback arrangement will be made:

(1) The SEA will spend the funds awarded under the grantback in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to that plan that are approved by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved by the Secretary.

(2) In accordance with Section 456(c) of GEPA and the SEA's plan, all funds received under the grantback arrangement will be expended by September 30, 1984.

(3) The SEA, on behalf of the LEA, must, not later than January 1, 1985, submit a report to the Secretary which indicates that the funds awarded under the grantback have been spent in accordance with the SEA's proposed plan and approved budget.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

Invitation To Comment

The Secretary invites public comments on this notice of intent to award funds under a grantback arrangement to the West Virginia SEA on behalf of Wyoming County School District. Interested persons may send written comments to Dr. A. Bruce Gaarder at the address at the beginning of this notice. All comments must be received on or before May 9, 1984.

(Catalog of Federal Domestic Assistance No. 84.010—Educationally Deprived Children—Local Educational Agencies)

Dated: April 3, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-9306 Filed 4-6-84; 8:45 am]

BILLING CODE 4000-01-M

Rural Education and Rural Family Education Policy for the 80's

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces the Rural Education and Rural Family Education Policy for the Department of Education.

FOR FURTHER INFORMATION CONTACT: Duane Nielsen, Deputy Director, Division of Innovation and Development, Office of Vocational and Adult Education, U.S. Department of Education, Regional Office Building–3, Room 5044, 7th and D Street, SW., Washington, D.C., 20202, Telephone: (202) 245–2278.

SUPPLEMENTARY INFORMATION:

Rural Education and Rural Family Education Policy for the 80's

The Department of Education recognizes the unique and valuable contributions rural America has made to both the social and economic development of our country. In recent decades, however, the changing dynamics of our urban centers have forced public policy decisions which tend to emphasize solutions to urban concerns rather than rural concerns; this despite the fact that over one-fourth of all Americans still live—and are educated—in areas described as "rural." * While the Department of Education remains committed to programs that help urban youth and adults, it is appropriate that we strengthen our efforts to provide programs that address the educational needs of rural and small town youth and adults. Those educated in rural areas must be provided with the basic educational tools necessary to enter an increasingly complex workforce. Rural educators ask no more than "equity" in their attempts to work within the Federal and State education structures to assure rural and small town youth and adults equal educational opportunities. To meet this goal, the Department of Education adopts the following policy—Rural education shall receive an equitable share of the information, services, assistance, and funds available from and through the Department of Education and its programs.

To the extent that resources are available and appropriate statutory authorities permit, the Department of Education is prepared to take the following initiatives in this regard—

(a) The Department will assist educators and administrators on all levels interested in developing outreach and volunteer programs with the active support and interaction of parents, teachers, civic groups, and the business community to improve the delivery of educational services to rural communities.

(b) The Department will work to expand the data base on the condition of education in rural areas, and will provide the necessary technologies to disseminate information relevant to curriculum, organization, personnel and support services needed for educational institutions serving rural communities. Data collection will focus on information relating to regional designation; goals of rural education and rural family education; surveys of rural curricula; test score comparison; tax base/student ratios; and descriptions of intermediate service agency delivery systems. To disseminate information to educational institutions and programs serving rural communities, including rural school districts, the Department will utilize State Departments of Education; Educational Resources Information Center/Clearinghouse on Rural Education and Small Schools; the Rural Education Association; other professional and service organizations; national advisory councils; youth organizations; intermediate units; American Education Magazine; and, county and local agencies.

(c) The Department, with appropriate control staff, will closely monitor education program regulations, eligibility and evaluation criteria, and administrative policy to insure equity for all LEAs regardless of size, location or condition. Monitoring will focus on reducing complexity of criteria for funding; reducing complexity of application and reporting procedures and forms; and reducing unrealistic requirements in general while insuring competent and enlightened staff monitoring.

(d) The Department will assist in identifying and developing special programs available for handicapped individuals located in rural areas.

(e) The Department will provide personnel to coordinate the consolidation of available research on shortages and additional needs for analysis by the Secretary's Rural Education Committee. Research will focus on effective practices and characteristics of effective rural programs and projects.

(f) The Department will include rural institutions in demonstration and pilot projects, and will involve cross sections of rural communities in educational technology planning.

(g) The Department will provide consultative and technical assistance to rural educational entities as a means to improve the quality of education in rural areas. To facilitate communications, the Department will support initiatives such as an annual national forum; a monthly newsletter; and utilization of extension services and existing organizations for dissemination of information.

(h) The Department will assist in improving public sector/private sector collaboration by coordinating networks at local, regional, State and Federal levels.

(i) The Department will assist rural education in improving the achievement of black students, American Indian students, children of migrant workers and other minorities. To this end, the Department will focus on data concerning rates of graduation from high school and college, including secondary and postsecondary vocational institutions and programs; gains in functional literacy, changes in college enrollment and achievements in adult education.

(j) The Department will assist individuals and families living in rural areas with family education programs and services through vocational home economics education, an established delivery system, as a means of improving quality of rural family education.

Dated: April 3, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84–9396 Filed 4–6–84; 8:45 am]

BILLING CODE 4000–01–M

* As defined in the 1980 census, the rural population comprises all persons living outside urbanized areas in the open country or in communities with less than 2500 inhabitants. It also includes those living in areas of extended cities with a population density of less than 100 inhabitants per square mile.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP84–301–000]

ANR Pipeline Co.; Request Under Blanket Authorization

March 30, 1984.

Take notice that on March 14, 1984, as supplemented on March 27, 1984, ANR Pipeline Company (ANR), 500

Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-301-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that ANR proposes to transport natural gas on behalf of Westvaco Corporation (Westvaco) under the authorization issued in Docket No. CP82-480-000 pursuant to Section 7 of the Natural Gas Act, all as more fully described in the request which is on file with the Commission and open to public inspection.

ANR indicates that Westvaco has entered into a gas purchase contract dated January 16, 1984, as amended, with Delhi Pipeline Corporation (Delhi) to acquire gas which would be used by Westvaco for boiler fuel at its Beryl, West Virginia (also referred to as Luke, Maryland), and Covington, Virginia, plants. It is further indicated that ANR would transport 4,500 dt equivalent of gas on a peak and average day, and 1,642,500 dt equivalent per year for a term not to extend beyond June 30, 1985. ANR explains that the gas to be purchased by Westvaco from Delhi is not released gas. ANR explains that its transportation service is incident to transportation arrangements Westvaco has made with Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), Columbia Gulf Transmission Company (Columbia Gulf), Columbia Gas Transmission Corporation (Columbia), and two distributors.

ANR states that pursuant to a January 18, 1984, transportation agreement between ANR and Westvaco, Westvaco would cause Northern to direct ANR to divert volumes of gas formerly deliverable to United Gas Pipe Line Company (United) to Columbia Gulf for Westvaco's account. It is further stated that ANR's system is interconnected with the pipeline systems of United and Columbia Gulf in St. Mary Parish, Louisiana. ANR states that Columbia Gulf, Columbia, Columbia Gas of West Virginia, Inc., and Columbia Gas of Virginia, Inc., would provide transportation services for Westvaco incidental to the service which would be provided by ANR for Westvaco. For its service, ANR proposes to charge Westaco two cents per dt equivalent for all gas which Northern would direct ANR to divert from United and deliver to Columbia Gulf for Westvaco's account. ANR states that this rate is based upon Rate Schedule EUT-1 of ANR's Tariff. ANR further states that no Added Incentive Charge would be charged.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9416 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-M

[Docket No. G-2712-004, et al.

Cities Service Oil and Gas Co., et al; Applications to Amend Certificates to Establish Entitlement to Section 109 Price [1]

April 3, 1984.

Take notice that each of the Applicants listed herein has either filed a petition to amend certificate pursuant to Section 7 of the Natural Gas Act or a notice of change in rate which is being treated as a petition to amend cerificate to establish Applicant's right to collect the section 109 price consistent with the court order issued in *Tenneco Exploration Ltd. v. FERC, 649 F.2d.376, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.*

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 17, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[3]	Pressure base
G-2712-004, Mar. 23, 1984	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102.	Arkansas Louisiana Gas Company, Carthage Field, Panola County, Texas.	(1)	
CI75-733-001, Mar. 8, 1984	Highland Resources, Inc., 800 San Jacinto Building, Houston, Texas 77002.	Trunkline Gas Company, South Marsh Island, Offshore Louisiana.	(1)	
CI78-613-002, Feb. 13, 1984	Hondo Oil & Gas Company, P.O. Box 2819, Dallas, Texas 75221.	El Paso Natural Gas Company, Millman Area, Eddy County, New Mexico.	(1)	
CI78-1062-001, Mar. 23, 1984	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Transco Gas Supply Company, West Cameron Block 222, Offshore Louisiana.	(1)	
CI81-432-001, Mar. 23, 1984	....do	Tennessee Gas Pipeline Company, West Delta Block 63 Field, Offshore Louisiana.	(1)	
CI81-437-003, Mar. 5, 1984	Sonat Exploration Company, P.O. Box 1513, Houston, Texas 77251-1513.	Southern Natural Gas Company, Eugene Island Block 341, Offshore Louisiana.	(1)	
CI82-173-001, Mar. 23, 1984	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Arkansas Louisiana Gas Company, Mississippi Canyon Block 148, Offshore Louisiana.	(1)	

[1] Application proposes to amend certificate to establish Applicant's entitlement to collect Section 109 price consistent with court order in *Tenneco Exploration, Ltd.* v. *FERC* 649 F2d 376.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9418 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-339-000]

Cleveland Electric Illuminating Co.; Notice of Filing

April 3, 1984.

The filing Company submits the following:

Take notice that on March 21, 1984, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 40 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests an effective date of March 7, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9419 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-337-000]

Niagara Mohawk Power Corp.; Notice of Filing

April 3, 1984.

The filing Company submits the following:

Take notice that on March 21, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing as a rate schedule, an agreement between Niagara and the Rochester Gas and Electric Corporation (Rochester) dated May 12, 1983.

Niagara presently has on file an agreement with Rochester dated April 12, 1973 as amended on July 20, 1982. This agreement is designated as Niagara Mohawk Corporation Rate Schedule FERC No. 76. This new agreement is being transmitted as a supplement to the existing agreement.

Niagara states that the original April 12, 1973 agreement states that Niagara will provide for the transmission of power and energy to and from the Power Authority of the State of New York at the Blenheim-Gilboa Pumped Storage Plant for Rochester. This supplement revises the rate to be paid by Rochester for the use of Niagara's facilities. The monthly charge will be updated on October 1 of each succeeding year using Niagara's most recent annual fixed charges.

Niagara requests an effective date of October 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this were served upon Rochester and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9421 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-338-000]

Niagara Mohawk Power Corp.; Notice of Filing

April 3, 1984.

The filing Company submits the following:

Take notice that on March 21, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated May 17, 1983.

Niagara presently has on file an agreement with Rochester dated February 14, 1975. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 92. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting FitzPatrick power and energy from the Power Authority of the State of New York to Rochester as provided for in terms of the original agreement.

Niagara requests an effective date of September 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Rochester and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20406, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9422 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-341-000]

Niagara Mohawk Power Corp.; Notice of Filing

April 3, 1984.

The filing Company submits the following:

Take notice that on March 22, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated May 12, 1983.

Niagara presently has on file an agreement with Rochester dated July 3, 1980 and last amended August 23, 1982. This agreement is for the transmission of Rochester's share of the Oswego #6

generation unit over Niagara's transmission system to Rochester.

The May 12, 1983 agreement contained in this filing revises the transmission rate for transmitting Oswego Unit #6 power and energy from the Oswego Unit #6 generating station to Rochester as provided for in the terms of the original agreement.

Niagara requests an effective date of July 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Rochester and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9423 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-342-000]

Niagara Mohawk Power Corp.; Notice of Filing

April 3, 1984.

The filing Company submits the following:

Take notice that on March 22, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (RG&E) dated May 17, 1983.

Niagara presently has on file an agreement with RG&E dated April 1, 1979. The Original Agreement is to provide transmission service for the delivery of diversity power and energy from the Power Authority of the State of New York (PASNY) and RG&E. The diversity power and energy is in turn exchanged by PASNY with Hydro Quebec. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. 114. This agreement is being transmitted as a supplement to the existing agreement and supersedes Supplement No. 4.

The April 27, 1982 agreement, which is a supplement to the original agreement, revises the transmission rates.

Niagara requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon RG&E and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9424 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-309-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request Under Blanket Authorization

April 2, 1984.

Take notice that on March 20, 1984, as supplemented on March 27, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-309-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northern proposes to transport natural gas on behalf of Westvaco Corporation (Westvaco) under the authorization issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully described in the request which is on file with the Commission and open to public inspection.

Northern indicates that Westvaco has entered into a gas purchase contract dated January 16, 1984, as amended, with Delhi Pipeline Corporation (Delhi) to acquire gas which would be used by Westvaco for boiler fuel at its Beryl, West Virginia (also referred to as Luke, Maryland), plant. It is further indicated that Northern would transport 4.5 billion Btu on a peak and average day and 1,642,500 MMBtu per year for a term not to extend beyond June 30, 1985, or the termination date of the gas purchase contract between Delhi and Westvaco, whichever occurs first. Northern explains that the gas to be purchased by Westvaco for Delhi is not released gas.

Northern states that Westvaco would deliver gas or cause gas to be delivered to Northern at an existing interconnection between Northern and Delhi in Beaver County, Oklahoma, pursuant to the terms of a January 19, 1984, gas transportation agreement. Northern proposes to back-haul the gas to a common point on its system in Pecos County, Texas. It is explained that Northern would then cause the delivery of thermally-equivalent gas to ANR Pipeline Company (ANR), by displacement, for the account of Westvaco at ANR's existing facilities near Centerville, St. Mary Parish, Louisiana, for further transportation. For this service, Northern proposes to charge Westvaco 10.90 cents per Mcf. It is stated that this rate is derived from Rate Schedule EUT-1 of Northern's Tariff which provides for 4.65 cents per Mcf per 100 miles of forward-haul plus one cent per Mcf for general and administrative expenses. Northern states that initially it would charge Westvaco an Added Incentive Charge (AIC) of 2.5 cents per Mcf of gas transported; it is averred that its rate per Mcf for the AIC is derived from Rate Schedule AIC-1 of Northern's Tariff. Further, Northern states that it would undertake certain filing requirements to implement its agreement with Westvaco as to sources of gas and Northern receipt points; any changes in sources of gas and/or receipt points would be on behalf of Westvaco at the same end-use location and would be within the maximum daily and annual volumes authorized. Northern avers that such transportation service would be rendered under the same terms and conditions authorized for basic service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn

within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9425 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-244-000]

Texas Eastern Transmission Corp.; Producer-Suppliers; Notice of Application

March 30, 1984

Take notice that on February 15, 1984, Texas Eastern Transmission Corporation (Texas Eastern), One Houston Center, Houston, Texas 77010, filed in Docket No. CP84-244-000 an application pursuant to Section 7 of the Natural Gas Act for a limited-term certificate of public convenience and necessity and limited permission and approval to abandon to enable Applicant to implement an Experimental Marketing Program (TEEMARK) crafted to increase the flow of natural gas from the industry's producing sector to the consumer at the marketplace, to provide competitive prices and to reduce Texas Eastern's take-or-pay exposure to its producer suppliers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Eastern states that granting of the requested authorizations would enable Texas Eastern to implement TEEMARK. Under TEEMARK, Texas Eastern states it would act as program coordinator and as agent to arrange purchases of natural gas. It is explained that each month Texas Eastern would post a price for TEEMARK purchases which is competitive with other energy supplies and the eligible purchasers would then certify to Texas Eastern the volumes of gas that they are willing to purchase for the next succeeding month at the posted price for that month. Texas Eastern states that it would then solicit offers from producers to sell natural gas to the purchasers at the posted price, or if an eligible purchaser certifies that a lower price is necessary to compete with energy supplies in its market area, Texas Eastern would attempt to match that purchaser with a producer willing to sell the volume of gas at the lower price.

Texas Eastern states that it would release from the natural gas volumes dedicated to its general system supply the quantities of gas which a producer is willing to make available for sale under TEEMARK in exchange for that producer's agreement to grant Texas Eastern take-or-pay relief. It is asserted that the volumes tendered for sale under TEEMARK would not result in a reduction in Texas Eastern's level of takes from a producer below what they would otherwise be under existing Texas Eastern's purchasing practices and that all sales made under TEEMARK would thus be additions to Texas Eastern's normal takes from the producer. Texas Eastern proposes to transport any TEEMARK volumes delivered into its system on behalf of the eligible purchasers, subject to available pipeline capacity, pursuant to a proposed new Rate Schedule TM and to make arrangements for the transportation and delivery of TEEMARK volumes by third parties on behalf of eligible purchasers.

Texas Eastern states that any purchaser who is connected to Texas Eastern's system or who can receive deliveries of TEEMARK volumes is an eligible purchaser under the TEEMARK program. However, Texas Eastern explains that in the event that supplies tendered for sale under the program are insufficient to meet the demand of all the eligible purchasers or in the event there is insufficient pipeline capacity for whatever reasons to deliver certain of the TEEMARK volumes the supplies which can be delivered within such capacity limitations would be allocated to the eligible purchasers in accordance with the following priority of purchaser categories (listed in descending order of priority):

(1) Priority 1—existing customers of Texas Eastern under firm sales contracts.

(2) Priority 2—distribution companies and end users who purchase gas from existing customers of Texas Eastern directly and indirectly.

(3) Priority 3—interstate pipelines, intrastate pipelines, Hinshaw pipelines and local distribution companies who are not included in Priority 1 or Priority 2 above.

(4) Priority 4—end users who are not included in the priorities above.

Texas Eastern states that each month it would establish a posted price for TEEMARK purchases (TEEMARK Posted Price) giving consideration to the price level which Texas Eastern believes to be required to make the volumes available for purchase under the TEEMARK program competitive with other energy supplies recognizing that the eligible purchasers would be incurring transportation charges and applicable shrinkage. If an eligible purchaser certifies that a price lower than the price posted by the Applicant is necessary to compete with other energy supplies in its market area, Texas Eastern states that it would attempt to match that purchaser with a producer or producers willing to sell the certified volumes of gas at the lower certified price. Texas Eastern states that if it is able to match a producer or producers with that purchaser the lower certified price would then be considered the TEEMARK Posted Price for that purchaser and the sale so arranged would continue on an interruptible basis for the term of the contract between the TEEMARK purchaser and seller or for the term of the TEEMARK program, whichever expires first.

Texas Eastern states that producers are eligible to sell natural gas under the TEEMARK program as specified below. In the event the supplies tendered for purchase exceed the demand for TEEMARK volumes or in the event there is insufficient capacity to receive deliveries of certain of the tendered volumes in order to maximize the reduction in Texas Eastern's take-or-pay exposure to its producer-suppliers, it is indicated that supplies would be purchased from producers in accordance with the following priority of categories (listed in descending order of priority):

(1) Priority 1—gas from wells under contract to Texas Eastern which is priced at or above the Natural Gas Policy Act (NGPA) Section 109 level under said contract.

(2) Priority 2—all other gas not under contract to Texas Eastern.

Texas Eastern states that the purchase price for TEEMARK volumes would be the applicable TEEMARK Posted Price or any applicable lower certified price and that this purchase price includes all adjustments for taxes, royalties, production-related costs and delivery into Texas Eastern's facilities. It is explained that for gas under contract to Texas Eastern, only wells which are priced to Texas Eastern at or above NGPA Section 109 levels would be eligible for release and sale under TEEMARK. Further, it is stated that no gas released for sale may be sold unless the weighted average cost of all Texas Eastern's released gas prior to release is equal to or exceeds Texas Eastern's weighted average cost of gas. Texas Eastern states that all gas sold and transported under TEEMARK would be sold and transported in the same proportion of pricing categories under which it was released regardless of the actual sale price charged to the buyer.

Applicant submits that it would transport TEEMARK quantities to eligible purchasers pursuant to the proposed new Rate Schedule TM.

Applicant states that applicable shrinkage would be retained for use in providing the transportation service. The presently effective shrinkage rate is 1.5 percent per zone involved for the period April 16 through November 15 and 2 percent for the period November 16 through April 15.

Texas Eastern states that in order to facilitate this form of transportation service, limited-term blanket transportation authority is essential. Therefore, Texas Eastern requests a blanket limited-term certificate of public convenience and necessity authorizing interstate pipelines (other than Texas Eastern) to transport TEEMARK volumes on behalf of end users and others on a self-implementing basis in accordance with the terms and conditions of Order Nos. 234–B and 319 which are not inconsistent with this application.

Texas Eastern further states that in order to facilitate any incidental transportation of TEEMARK volumes by intrastate pipelines, Hinshaw pipelines, local distribution companies, or any other entity, Texas Eastern requests that the Commission authorized: (1) Intrastate pipelines to transport, on a self-implementing basis, TEEMARK volumes purchased by an end user and others and transported by an interstate pipeline in accordance with the terms and conditions of Subpart C of Part 284 of the Commission's Regulations which are not inconsistent with this application; (2) local distribution companies and Hinshaw pipelines to transport TEEMARK volumes purchased by end users and others and transported by interstate pipelines on the same terms and conditions as intrastate pipelines; and (3) any other blanket transportation authorizations which may be necessary to implement this program on a self-executing basis.

Texas Eastern also requests a waiver of the reporting requirements of §§ 157.207, 157.209(g), 284.106, 284.126, and 284.222(e) of the Commission's Regulations with respect to TEEMARK transportation services. It is asserted that the requested waiver is appropriate because the information required by those regulations would be included in a more organized manner in the monthly reports contemplated to be filed, or caused to be filed, by Texas Eastern.

Applicant states that the monthly delivered price to the eligible purchaser would contain three elements: (1) The TEEMARK Posted Price in effect for such month, or any applicable lower certified price; (2) the transportation charges by Texas Eastern, and (3) any applicable transportation charges by third party transporters for transportation and delivery of TEEMARK volumes from facilities owned by Texas Eastern to the eligible purchasers.

Texas Eastern states that under the requested blanket limited-term certificate of public convenience and necessity, the producer would be authorized to make an interstate sale of the abandoned volumes to an eligible TEEMARK purchaser for the limited period of the TEEMARK sales transaction, and that the producer would not be required to obtain Section 7(b) abandonment authorization upon expiration of the authorized TEEMARK sale.

Texas Eastern states that such monthly reports required would also contain the information required to be submitted by producers under §§ 157.24, 157.25 and 157.30 of the Commission's Regulations. Applicant therefore requests, on behalf of producer-suppliers currently selling natural gas to Texas Eastern, a waiver of the reporting requirements of §§ 157.24, 157.25 and 157.30 of the Regulations.

Texas Eastern states that to assist the Commission in its review of TEEMARK, Texas Eastern would file or cause to be filed with the Commission within 15 days after the end of each month monthly reports containing the following information and such other information as the Commission may require in its final order approving this application:

(1) A report from any supplier of TEEMARK gas setting forth the following information: the total volumes of gas sold under the program; the total volumes of gas sold from each field; and the total volumes of each NGPA category sold.

(2) A report from Texas Eastern setting forth the following information: its system weighted average cost of gas; the volumes of gas released; identification of the field(s) from which the gas is released; the volumes by NGPA category of gas released; the price paid (and the contract price if the two prices are not the same) by Texas Eastern during the most recent month in which purchases were made by Texas Eastern; the duration of the release; and the volums that each supplier was willing to release or nominate for sale under this program, itemized by NPGA category from each producer, volumes of available alternative supplies, and, if the alternative fuel is gas, the name of the supplier.

(3) A report from any other transporting pipeline setting forth the following information: The TEEMARK volumes taken for delivery to each purchaser; the volume delivered to each purchaser; the charge for the transportation; and the disposition of the revenues.

Texas Eastern states that it would retain all transportation revenues attributable to the the transportation of TEEMARK volumes in accordance with the express provisions of the settlement in Docket No. RP83–35–000, *et al.*

Specially, Texas Eastern states that the following authorizations are necessary to implement the TEEMARK program:

(1) A blanket limited-term certificate of public convenience and necessity authorizing Texas Eastern to render TEEMARK transportation services in accordance with the terms, provisions and conditions of the application and the proposed new Rate Schedule TM for the limited period extending from the date on which the certificate of public convenience and necessity is granted through November 15, 1984, or such shorter period during which TEEMARK remains in effect;

(2) A blanket limited-term certificate of public convenience and necessity with limited permission and approval to abandon authorizing interstate pipeline (other than Texas Eastern) to render TEEMARK transportation services on behalf of end users and others for the limited period extending from the date on which an order granting the limited authorization requested is issued through November 15, 1984, or such shorter period during which TEEMARK remains in effect, in accordance with:

(a) The terms, provisions and conditions of the application; and

(b) The terms, provisions, and conditions of Subpart C and Part 284 of the Commission's Regulations which are not inconsistent with the application.

(4) Waiver of the reporting requirements of §§ 157.207, 157.209(g), 284.4(b), 284.106, 284.126 and 284.222(e) of the Commission's Regulations with respect to TEEMARK transportation volumes;

(5) On behalf of producer-suppliers currently selling natural gas to Texas Eastern, blanket authority for limited-term partial abandoment of certificated sales to Texas Eastern consistent with the purposes and duration of TEEMARK sales as described in the subject application;

(6) On behalf of producer-suppliers currently selling natural gas to Texas Eastern, a blanket limited-term certificate of public convenience and necessity with limited permission and approval to abandon authorizing the sale in interstate commerce of such partially abandoned volumes consistent with the purposes and duration of

TEEMARK sales as described in the application;

(7) On behalf of producer-suppliers currently selling natural gas to Texas Eastern, waiver of the requirements, of §§ 157.24, 157.25 and 157.30 of the Commission's Regulations; and

(8) Any additional or general waivers of the requirements of the Natural Gas Act, the Natural Gas Policy Act of 1978 and the Commission's Regulations as may be necessary to permit the successful implementation of TEEMARK as described in the application.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 13, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest 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 notice that, pursuant to the authority contained in and subject to the jurisidiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9417 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-27-000]

State of Wyoming; Section 108 NGPA Determination; Conoco, Inc.; South Elk Basin No. 7 Well, JD No. 84-19813; Notice of Protest

Issued: April 3, 1984.

On March 20, 1984, Conoco, Inc. (Conoco) filed a protest of a negative determination made by the Bureau of Land Management (BLM) at Worland, Wyoming. Conoco requests that the Commission issue a preliminary finding and subsequently a final order determining that the South Elk Basin No. 7 Well qualifies as a stripper well subject to a recognized enhanced recovery technique.

Conoco states that the well received section 108 stripper well gas status on August 5, 1979. After reworking the well, Conoco filed a petition for continued stripper gas well qualification as a result of the application of enhanced recovery techniques. However, BLM issued a final negative determination on December 23, 1983, because "the actions taken were on an interval that had not previously produced natural gas."

Conoco believes it qualifies for continued stripper gas well qualification. Conoco states that the work performed on the well was a recognized enhanced recovery technique and that the increased gas production resulted solely from the work performed on the well. Conoco insists that the reason cited by BLM for disqualification is not "sufficient to preclude the qualification of the subject well as a stripper well subject to an enhanced recovery technique."

On March 23, 1984, the Commission requested additional information from BLM to determine if BLM believe that production had occurred from separate reservoirs. Pursuant to § 275.202(b), the 45-day Commission review period will not begin until BLM replies to this request.

Within 30 days of publication in the **Federal Register**, any person may file a protest to Conoco's petition or a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. If you wish to become a party to this proceeding, you must file a petition to intervene. *See* Rules 214 or 211.[1]

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9420 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-298-000]

Western Power, Division of Centel Corp.; Notice of Refund Report

April 3, 1984.

Take notice that on March 26, 1984, the Western Power Division of Centel Corporation submitted for filing its Refund Report pursuant to the Settlement Agreement with Kansas State Corporation Commission.

Western Power states that a compliance report showing monthly billing determinants, revenue receipt dates, and revenues under the prior, present and settlement rates, the monthly revenue refund, and the monthly interest computed, together with a summary of such information for the total refund period has been furnished to the affected wholesale customers and to the Kansas State Corporation Commission.

Western Power further states that this Refund Report will complete the final filing requirements.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 11, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9426 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-297-000]

Alabama Gas Corp.; Application

April 4, 1984.

Take notice that on March 12, 1984, Alabama Gas Corporation (Applicant), 1918 First Avenue North, Birmingham, Alabama 35295, filed in Docket No. CP84-297-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 284.222 of the Commission's Regulations for a blanket certificate of public convenience and necessity for authorization to transport, sell and assign volumes of natural gas in interstate commerce as if Applicant were an intrastate pipeline as defined in Subparts C, D and E of Part 284 of the Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it received during the 12-month period ending

[1] 18 CFR 385.214 or 385.211 (1983).

December 31, 1983, 78,361,577 Mcf of natural gas from all sources, all of which was received within or at the state boundary, and was exempt from the Commission's jurisdiction under the Natural Gas Act by reason of Section 1(c) of the Natural Gas Act in Docket No. G–2575.

Applicant asserts that it would charge its rates on file with the Alabama Public Service Commission for intrastate transportation service in those situations where the interstate service provided under the requested certificate is comparable, and otherwise to apply for Commission approval of its transportation charges pursuant to 18 CFR 284.123(b)(2).

Applicant indicates it would comply with the conditions set forth in § 284.222(e) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 25, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition 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 on this application will be held without further notice before the Commission or its designee if no petition to intervene if filed within the time required herein, and such certificate will be granted if the Commission on its own review of the matter finds that a grant of such certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the meeting.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–9402 Filed 4–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 4944–001]

City of Ukiah, California; Surrender of Preliminary Permit

April 4, 1984.

Take notice that City of Ukiah, California, Permittee for the proposed Mendenhall Creek Hydroelectric Project, has requested that its preliminary permit be terminated. The preliminary permit was issued on March 21, 1983, and would have expired September 30, 1984. The Project would have been located on Mendenhall Creek in Mendocino County, California.

The Permittee filed its request on February 13, 1984, and the surrender to the preliminary permit for Project No. 4944 is deemed accepted as of February 13, 1984, and effective 30 days after the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–9404 Filed 4–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–354–000]

Commonwealth Edison Co.; Filing

April 4, 1984.

The filing Company submits the following:

Take notice that on March 27, 1984, Commonwealth Edison Company (Commonwealth) tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes revise the Electric service Contract between Commonwealth and the City of Batavia, Illinois, to provide for changes in the system of electric supply to the City by the Company.

Commonwealth requests an effective date on May 7, 1984, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing has been served upon the City of Batavia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–9405 Filed 4–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 6911–001, et al.]

Hydroelectric Applications (Village of Tupper Lake, New York, et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Minor License.

b. Project No: 6911–001.

c. Date Filed: July 28, 1983.

d. Applicant: Village of Tupper Lake, New York.

e. Name of Project: Bog River Project.

f. Location: On the Bog River in St. Lawrence, Franklin and Hamilton Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Donald T. Trudeau, Superintendent, Electric Department, Village of Tupper Lake, 53 Park Street, Tupper Lake, New York 12986.

i. Comment Date: May 7, 1984.

j. Competing Application: Project No. 7428–000; Date Filed: 7–6–83 for a Preliminary Permit.

k. Description of Project: The proposed project would consist of two developments:

The Upper Development would include: (1) The Upper Lows Dam, an existing concrete gravity structure approximately 18 feet high and 150 feet long; (2) Lows Lake with a surface area of 4,600 acres and a maximum storage capacity of 19,500 acre-feet at spillway crest elevation 1,743 feet m.s.l.; (3) a reconstructed powerhouse containing a generating unit with an installed capacity of 150 kW; (4) a 13.2-kV transmission line approximately 3.75 miles long; and (5) appurtenant facilities.

The Lower Development would include: (1) The Lower Lows Dam, an existing concrete buttress structure approximately 23 feet high and 239 feet long; (2) Hitchins Pond with a surface area 367 acres and a maximum storage

capacity of 1,745 acre-feet at spillway crest elevation 1,723 feet m.s.l.; (3) a rehabilitated powerhouse containing an installed generating capacity of 255kW; (4) a 13.2-kV transmission line approximately 7 miles long; (5) a 7.5-foot-diameter, 150-foot-long penstock; and (6) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 2,010 MWh.

The dams and surrounding lands are presently owned by the Boy Scouts of America.

2a. Type of Application: Transfer of License.

b. Project No: 2814–003.

c. Date Filed: February 13, 1984.

d. Applicant: Paterson Municipal Utilities Authority and Great Falls Hydroelectric Company.

e. Name of Project: Great Falls.

f. Location: Passaic River, City of Paterson, Passaic County, New Jersey.

g. Filed Pursuant to: 16 U.S.C. 791(a)—825(r).

h. Contact Person: John Topalian, Project Director, Paterson Municipal Utilities Authority, 72 McBride Avenue, Paterson, New Jersey 07510.

i. Comment Date: May 7, 1984.

j. Description of Project: The proposed Transfer: The Applicants propose to transfer the license from Paterson Municipal Utilities Authority (Licensee) to Paterson Municipal Utilities Authority and Great Falls Hydroelectric Company (Transferee) in order to raise sufficient capital to finance the project. Attempts to raise the necessary capital by the Licensee through the sale of municipal bonds have been unsuccessful. Great Falls Hydroelectric Company is a limited partnership organized under the laws of the State of Maryland. The Great Falls Project consists of an existing dam, reservoir and powerhouse to be restored to operating condition. Transferee has proposed to construct, operate and maintain the project in accordance withe the license.

k. This notice also consists of the following standard paragraph: B.

l. Filing and Service of Responsive Documents: Any filings must bear in all capital letters the title "COMMENTS", 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, 825 North Capitol Street, N.E., Washington, D.C. 20426.

An additional copy must be sent to: Fred E. Springer, Deputy Director, Project Management, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. Purpose of Project: Project output will be delivered into the electrical distribution system owned and operated by the Village of Tupper Lake to provide a portion of the energy requirements of the Village's electric customers.

l. This notice also consists of the following standard paragraphs: A2, B and C.

3a. Type of application: Preliminary Permit.

b. Project No: 8065–000.

c. Date Filed: February 7, 1984.

d. Applicant: City of Goshen, Indiana.

e. Name of Project: Goshen Dam Hydro Project.

f. Location: on the Elkhart River near Goshen, Elkhart County, Indiana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. Contract Person: Max R. Chiddister, Mayor, City of Goshen, 111 E. Jefferson Street, Goshen, Indiana 46526.

i. Comment Date: May 7, 1984.

j. Competing Application: Project No. 7678–000. Date filed: October 3, 1983. Due date: January 16, 1984.

k. Description of Project: The proposed project would consist of: (1) an existing 14-foot-high and 200-foot-long dam; (2) a small reservoir with a maximum surface elevation of 793 feet above mean sea level and storage capacity of 3,100 acre-feet; (3) an existing powerhouse with a total installed capacity of 800 kW; (4) transmission lines; and (5) appurtenant facilities. The proposed Goshen Dam Hydro Project utilizes facilities owned by the City of Goshen, Indiana. Applicant estimates the average annual generation for the project to be 4.5 GWh. All power generated would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A8, 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 $10,000.

4a. Type of Application: Exemption (5 MW or Less).

b. Project No: 7630–000.

c. Date filed: September 10, 1983.

d. Applicant: Commonwealth. Hydroelectric, Inc.

e. Name of Project: Whittles Mill Dam.

f. Location: Maherrin River, Mecklenburg County, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: Mr. John K. Pollock, President, Commonwealth Hydroelectric, Inc., Route 1, Box 413, Afton, Virginia 22920.

i. Comment Date: May 10, 1984.

j. Description of Project: The Whittles Mill Dam Project would consist of: (1) The existing Whittles Mill Dam, which is of pinned stone construction with a concrete cap and a gunite face, and about 130 feet long and 16 feet high; (2) an existing concrete powerhouse structure located at the right dam abutment; (3) two proposed generating units of total capacity of 280 kW to be installed in the existing powerhouse: (4) an 800-foot-long transmission line to connect with the existinig local distribution grid; and (5) appurtenant facilities. The estimated average annual generation for the project is 1,225,000 kWh.

k. 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 of license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

5a. Type of Application: Small Conduit Exemption.

b. Project No: 7392–001.

c. Date Filed: September 23, 1983.

d. Applicant: L. F. Bush.

e. Name of Project: Bush Ranch Hydroelectric.

f. Location: Shoer Creek, Elko County, Nevada.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. § 791(a)—825(r).

h. Contact Person: Mr. Gerald L. Martens, Edwards, Howard and Martens, Inc., 1139 Falls Avenue E., Suite B, Twin Falls, Idaho 83301.

i. Comment Date: May 10, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing small diversion structure, (2) an existing 18-inch-diameter steel irrigation

pipeline, approximately 6,560 feet long: (3) a proposed powerplant consisting of a single generating unit of 163 kW capacity; and (4) appurtenant facilities.

k. Purpose of Project: The estimated annual generation of 855,000 kWh would be sold to Wells Rural Electric Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption 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 license, conduit exemption, or small hydroelectric exemption 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.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, 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 license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption 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 license, conduit exemption, or small hydroelectric exemption 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.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption 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 application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission or or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, 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 preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would be compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

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 applications on notice of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application must be filed in response to and in compliance with the public notice of the initial permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a

competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

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 license, small hydroelectric exemption, or conduit exemption 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 invervene 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, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 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. No. 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 sent 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, the National Marine Fisheries 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, the National Marine Fisheries 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: April 4, 1984.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–9415 Filed 4–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 4123–001]

Kern County Water Agency; Surrender of Preliminary Permit

April 4, 1984.

Take notice that Kern County Water Agency, Permittee for the proposed Hobo Power Project No. 4123, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 20, 1981, and would

have expired May 30, 1985. The project would have been located on the Kern River in Kern County, California.

The Permittee filed its request on March 6, 1984, and the surrender of the preliminary permit for Project No. 4123 is deemed accepted as of March 6, 1984, and effective 30 days after the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9406 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-308-000]

Lone Star Gas Co., a Division of ENSERCH Corp.; Request Under Blanket Authorization

April 4, 1984.

Take notice that on March 20, 1984, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP84-308-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Lone Star proposes to construct and operate a sales tap and appurtenant facilities under the blanket authorization issued in Docket No. CP83-59-000, as amended in Docket No. CP83-59-002, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Lone Star proposes to sell up to 100 Mcf of natural gas on an annual basis to Masonic Lodge 301 located in McCurtain County, Oklahoma. This service would be provided through constructing a new sales tap and metering facility on Line E32-2-1 at Station 2+45. Lone Star states that Masonic Lodge 301 would purchase natural gas at the applicable commercial rate approved by the Oklahoma Corporation Commission.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to §157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9407 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-344-000]

Maine Yankee Atomic Power Co.; Filing

April 4, 1984.

The filing Company submits the following:

Take notice that on March 23, 1984, Maine Yankee Power Company (Maine Yankee) tendered for filing proposed changes in its FPC Electric Rate Schedule No. 1 (the Power Contract). The proposed changes would increase revenues from jurisdictional sales and service by $26,088,420, based on the 12-month period ending December 31, 1982. Maine Yankee proposes to make the changes effective May 22, 1984.

Maine Yankee states that the changes include two amendments to the Power Contract between Maine Yankee and its ten owner-sponsors. Power Contract Amendment No. 1 would ensure Maine Yankee's ability to recover its estimated costs of decommissioning its nuclear generating facility during the term of the Power Contract. Power Contract Amendment No. 2 would authorize an increase in the return on common equity and would authorize imposition of a late payment charge on overdue bills.

Maine Yankee further states that it is proposing to increase its return on common equity from 10.0% to 17.5%. Maine Yankee also is proposing to increase its equal collection for estimated decommissioning costs from $1.826 million to $17.9 million (of which $8.238 million is for potential Federal income tax liability and eventually may be eliminated). Finally, Maine Yankee proposes to change its accounting and billing practices to expense and bill currently the carrying costs associated with (1) all projects other than those specifically undertaken to increase the potential output of its nuclear generating facility and (2) maintaining nuclear fuel in process and in inventory.

Maine Yankee proposes an effective date of May 22, 1984.

Copies of this filing were served upon Maine Yankee's jurisdictional customers and the secondary purchasers of its power, as well as the utility regulatory authorities in each State having jurisdiction over such customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9408 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2099-000]

Mark W. Putney; Application

April 4, 1984

The filing individual submits the following:

Take notice that on March 29, 1984, Mark W. Putney filed an application pursuant to Section 205(b) of the Federal Power Act to hold the following positions:

Chairman and Director—Iowa Power and Light Company

Chairman, President and Director—Iowa Gas Company

Director—AID Insurance Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825, North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 19, 1984. Protests will be considered by the Commission in determining the appropriate action 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-9409 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6960-001]

Midvale Irrigation District; Surrender of Preliminary Permit

April 4, 1984.

Take notice that Midvale Irrigation District, Permittee for the proposed Pilot Canal Chute Hydroelectric Power Development Project No. 6960, has requested that its preliminary permit be terminated. The permit was issued on December 21, 1983, and would have expired on May 31, 1985. The project would have been located at the Pilot Canal Chute in Fremont County, Wyoming.

The Permittee filed its request on March 6, 1984, and the surrender of the preliminary permit for Project No. 6960 is deemed accepted 30 days after issuance of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9410 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-M

[ST84-466-000, et al.]

National Fuel Gas Supply Corp., et al.; Self-Implementing Transactions

April 4, 1984.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F(157)" indicates transportation by an interstate pipeline for an end-user pursuant to § 157.209 of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Lois D. Cashell,

Acting Secretary.

Docket No.[1] and Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (c/MMBtu)
ST84-466 National Fuel Gas Supply Corp	Tricot Products Corp	02-01-84	F(157)		
ST84-467 Transcontinental Gas Pipe Line Corp	Laurel Fuel Co	02-02-84	B		
ST84-468 Transcontinental Gas Pipe Line Corp	Texas Eastern Transmission Corp	02-02-84	G		
ST84-469 Transcontinental Gas Pipe Line Corp	Florida Gas Transmission Co	02-02-84	G		
ST84-470 Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	02-02-84	B		
ST84-471 Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	02-02-84	B		
ST84-472 Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	02-02-84	B		
ST84-473 Columbia Gas Transmission Corp	Ashland Oil, Inc	02-02-84	F(157)		
ST84-474 Columbia Gas Transmission Corp	W. R. Grace & Co	02-02-84	F(157)		
ST84-475 Columbia Gas Transmission Corp	Harbison-Walker Refractories	02-02-84	F(157)		
ST84-476 Columbia Gas Transmission Corp	Howmet Aluminum Corp	02-02-84	F(157)		
ST84-477 Columbia Gas Transmission Corp	Jones and Laughlin Steel Corp	02-02-84	F(157)		
ST84-478 Columbia Gas Transmission Corp	Jones and Laughlin Steel Corp	02-02-84	F(157)		
ST84-479 Columbia Gas Transmission Corp	Quaker State Oil Refining Corp	02-02-84	F(157)		
ST84-480 Northern Natural Gas Co	Davison Chemical	02-02-84	F(157)		
ST84-481 Tennessee Gas Pipeline Co	Creole Gas Pipeline Corp	02-03-84	B		
ST84-482 Tennessee Gas Pipeline Co	Louisiana Industrial Gas Supply	02-03-84	B		
ST84-483 Tennessee Gas Pipeline Co	N. Carolina Natural Gas Corp.; et al	02-03-84	B		
ST84-484 Tennessee Gas Pipeline Co	Creole Gas Pipeline Corp	02-03-84	B		
ST84-485 Tennessee Gas Pipeline Co	Piedmont Natural Gas Co	02-03-84	B		
ST84-486 Tennessee Gas Pipeline Co	Louisiana Industrial Gas Supply	02-03-84	B		
ST84-487 Channel Industries Gas Co	Tennessee Gas Pipeline Co	02-03-84	C		
ST84-488 Channel Industries Gas Co	Tennessee Gas Pipeline Co	02-03-84	C		
ST84-489 Texas Gas Transmission Corp	Stone Container Corp	02-03-84	F(157)		
ST84-490 Texas Eastern Transmission Corp	New Jersey Natural Gas Co	02-06-84	B		
ST84-491 Panhandle Eastern Pipe Line Co	Kansas Power & Light Co	02-06-84	B		
ST84-492 Trunkline Gas Co	Mid Louisiana Gas Co	02-06-84	G		
ST84-493 Texas Gas Transmission Corp	Memphis Light, Gas and Water Div	02-07-84	B		
ST84-494 Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	02-07-84	B		
ST84-495 Tennessee Gas Pipeline Co	N. Carolina Natural Gas Corp., et al	02-07-84	B		
ST84-496 Tennessee Gas Pipeline Co	Delhi Gas Pipeline Corp	02-07-84	B		
ST84-497 Trunkline Gas Co	Sugar Bowl Gas Corp	02-07-84	B		
ST84-498 Natural Gas Pipeline Co. of America	Stauffer Chemical Co	02-09-84	F(157)		
ST84-499 Houston Pipe Line Co	Industrial Natural Gas Co	02-09-84	C		
ST84-500 Oasis Pipe Line Co	Industrial Natural Gas Co	02-09-84	C		
ST84-501 ANR Pipeline Co	La. Industrial Gas Supply Corp	02-09-84	B		
ST84-502 ANR Pipeline Co	Acadian Pipeline Gas Corp	02-09-84	B		
ST84-503 ANR Pipeline Co	La. Industrial Gas Supply Corp	02-09-84	B		

Docket No.[1] and Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (c/MMBtu)
ST84-504 ANR Pipeline Co	Southern Natural Gas Co	02-09-84	G		
ST84-505 ANR Pipeline Co	Producer's Gas Co	02-09-84	B		
ST84-506 Columbia Gulf Transmission Co	Texas Eastern Transmission Corp	02-09-84	G		
ST84-507 East Tennessee Natural Gas Co	Chattanooga Gas Co	02-08-84	B		
ST84-508 Tennessee Gas Pipeline Co	Columbia Gas Transmission Corp., et al	02-09-84	G		
ST84-509 Southern Natural Gas Co	United Cities Gas Co	02-10-84	B		
ST84-510 Transcontinental Gas Pipe Line Corp	Consolidated Gas Supply Corp	02-13-84	G		
ST84-511 Transcontinental Gas Pipe Line Corp	Mid Lousiana Gas Co	02-13-84	G		
ST84-512 Transcontinental Gas Pipe Line Corp	Houston Pipe Line Co	02-13-84	B		
ST84-513 Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	02-13-84	B		
ST84-514 Transcontinental Gas Pipe Line Corp	Acadiana Natural Gas Co	02-13-84	B		
ST84-515 Tennessee Gas Pipeline Co	Texas Eastern Transmission Corp	02-13-84	G		
ST84-516 Delhi Gas Pipeline Corp	La. Industrial Gas Supply Corp	02-13-84	D		
ST84-517 Locust Ridge Gas Co	Southern Natural Gas Co	02-13-84	G		
ST84-518 Michigan Gas Storage Co	Consumers Power Co	02-13-84	B		
ST84-519 ANR Pipeline Co	Middletown Paperboard Co	02-14-84	F(157)		
ST84-520 ANR Pipeline Co	Davison Chemical Division	02-14-84	F(157)		
ST84-521 Northern Natural Gas Co	Transcontinental Gas Pipe Line Corp	02-15-84	G		
ST84-522 Northern Natural Gas Co	Allied Chemical Corp	02-15-84	F(157)		
ST84-523 Northern Natural Gas Co	Westvaco Corp	02-15-84	F(157)		
ST84-524 Producer's Gas Co	Northwest Pipeline Corp	02-15-84	C	07-14-84	37.50
ST84-525 ANR Pipeline Co	Producer's Gas Co	02-15-84	B		
ST84-526 ANR Pipeline Co	Michigan Consolidated Gas Co	02-15-84	B		
ST84-527 ANR Pipeline Co	3M Corp	02-Corp	02-15-84	F(157)	F(157)
ST84-528 ANR Pipeline Co	RCA Corp	02-15-84	15	F(157)	
ST84-529 ANR Pipeline Co	Stone Container Corp	02-15-84	15	F(157)	
ST84-530 ANR Pipeline Co	Watertown Municipal Utilities	02-15-84	15	F(157)	
ST84-531 Oklahoma Natural Gas Co	Michigan Wisconsin Pipe Line Co	02-15-84	C	07-14-84	10.00
ST84-532 Oklahoma Natural Gas Co	Michigan Wisconsin Pipe Line Co	02-15-84	C		
ST84-533 Texas Eastern Transmission Corp	Tennessee Gas Pipeline Co	02-16-84	G		
ST84-534 Texas Eastern Transmission Corp	New Jersey Natural Gas Co	02-16-84	B		
ST84-535 Natural Gas Pipeline Co. of America	Western Gas Corp	02-16-84	B		
ST84-537 Oklahoma Natural Gas Co	Michigan Wisconsin Pipe Line Co	02-16-84	C	07-15-84	10.00
ST84-538 Tennessee Gas Pipeline Co	Louisiana State Gas Corp	02-16-84	B		
ST84-539 Texas Gas Transmission Corp	Texas Eastern Transmission Corp	02-17-84	G		
ST84-540 Texas Eastern Transmission Corp	Public Service Electric and Gas Co	02-17-84	B		
ST84-541 Texas Eastern Transmission Corp	Philadelphia Electric Co	02-17-84	B		
ST84-542 Trunkline Gas Co	Intrastate Gathering Corp	02-17-84	B		
ST84-543 Panhandle Eastern Pipe Line Co	Peoples Natural Gas Co	02-17-84	B		
ST84-544 Michigan Consolidated Gas Co	Panhandle Eastern Pipe Line Co	02-17-84	G(HT)		
ST84-545 Tennessee Gas Pipeline Co	N. Carolina Natural Gas Corp., et al	02-17-84	B		
ST84-546 Louisiana Resources Co	Faustina Pipe Line Co	02-21-84	C	07-20-84	16.44
ST84-547 Columbia Gas Transmission Corp	Ashland Oil, Inc	02-17-84	F		
ST84-548 Columbia Gas Transmission Corp	Harbison Walker Refractories, Inc	02-17-84	F		
ST84-549 Columbia Gas Transmission Corp	Empire Detroit Steel	02-17-84	F		
ST84-550 Columbia Gas Transmission Corp	U.S. Steel Corp	02-17-84	F		
ST84-551 Columbia Gas Transmission Corp	Armco, Inc	02-17-84	F(157)		
ST84-552 Columbia Gas Transmission Corp	Armstrong World Industries, Inc	02-17-84	F(157)		
ST84-553 Columbia Gas Transmission Corp	Calgon Carbon Corp	02-17-84	F(157)		
ST84-554 Columbia Gas Transmission Corp	Dana Corp	02-17-84	F(157)		
ST84-555 Columbia Gas Transmission Corp	Empire Detroit Steel	02-17-84	F(157)		
ST84-556 Columbia Gas Transmission Corp	W. R. Grace and Co	02-17-84	F(157)		
ST84-557 Columbia Gas Transmission Corp	W. R. Grace and Co	02-17-84	F(157)		
ST84-558 Columbia Gas Transmission Corp	Lancaster Colony Corp	02-17-84	F(157)		
ST84-559 Columbia Gas Transmission Corp	OSCO Industries, Inc	02-17-84	F(157)		
ST84-560 Columbia Gas Transmission Corp	Stratoflex, Inc	02-17-84	F(157)		
ST84-561 Columbia Gas Transmission Corp	Westvaco, Inc	02-17-84	F(157)		
ST84-562 Columbia Gas Transmission Corp	Westvaco, Inc	02-17-84	F(157)		
ST84-563 ANR Pipeline Co	Colgate-Palmolive Co	02-15-84	F(157)		
ST84-564 ANR Pipeline Co	Cummins Engine Co	02-15-84	F(157)		
ST84-565 ANR Pipeline Co	Gohmann Asphalt Co	02-15-84	F(157)		
ST84-566 Tennessee Gas Pipeline Co	Houston Pipe Line Co	02-21-84	B		
ST84-567 Tennessee Gas Pipeline Co	Florida Gas Transmission Co	02-21-84	G		
ST84-568 ANR Pipeline Co	Westvaco Corp	02-21-84	F(157)		
ST84-569 ANR Pipeline Co	Georgia-Pacific Corp	02-21-84	F(157)		
ST84-570 Northern Natural Gas Co	Lukens Steel Co	02-21-84	F(157)		
ST84-571 Consolidated Gas Supply Corp	Anchor Hocking Corp	02-21-84	F(157)		
ST84-572 Montana-Dakota Utilities Co	Bridgeline Gas Distribution Co	02-22-84	B		
ST84-573 Panhandle Eastern Pipe Line Co	Quincy Soybean Co	02-22-84	F(157)		
ST84-574 Natural Gas Pipeline Co. of America	Tennessee Gas Pipeline Co	02-22-84	G		
ST84-575 ANR Pipeline Co	Bridgeline Gas Distribution Co	02-23-84	B		
ST84-576 ANR Pipeline Co	Bridgeline Gas Distribution Co	02-23-84	B		
ST84-577 Columbia Gas Transmission Corp	W. R. Grace and Co	02-24-84	F(157)		
ST84-578 Columbia Gas Transmission Corp	Inland Products, Inc	02-24-84	F(157)		
ST84-579 Columbia Gas Transmission Corp	ITT Grinnell Corp	02-24-84	F(157)		
ST84-580 Columbia Gas Transmission Corp	Yorktowne Paper Mills, Inc	02-24-84	F(157)		
ST84-581 National Fuel Gas Supply Corp	Columbia Gas Transmission Corp	02-24-84	G		
ST84-582 Delta Natural Gas Co., Inc	Columbia Gas Transmission Corp	02-24-84	G(HT)		
ST84-583 ANR Pipeline Co	Citizens Gas and Coke Utility	02-24-84	B		
ST84-584 ANR Pipeline Co	Texas Eastern Transmission Corp	02-24-84	G		
ST84-585 Trunkline Gas Co	Panhandle Eastern Pipe Line Co	02-27-84	G		
ST84-586 ANR Pipeline Co	Allied Chemical Co	02-27-84	F(157)		
ST84-587 ANR Pipeline Co	Terra Chemical International, Inc	02-27-84	F(157)		
ST84-588 United Gas Pipe Line Co	Transwestern Pipeline Co	02-27-84	G		
ST84-589 United Gas Pipe Line Co	LGC Intrastate, Inc	02-27-84	B		
ST84-590 United Gas Pipe Line Co	Louisiana State Gas Corp	02-27-84	B		
ST84-591 Columbia Gulf Transmission Co	Transcontinental Gas Pipe Line Corp	02-28-84	G		
ST84-592 Columbia Gulf Transmission Co	Natural Gas Pipeline Co. of America	02-28-84	G		
ST84-593 Columbia Gulf Transmission Co	United Gas Pipe Line Co	02-28-84	G		
ST84-594 Columbia Gulf Transmission Co	Southern Natural Gas Co	02-28-84	G		
ST84-595 The Peoples Natural Gas Co	Consolidated Gas Supply Corp	02-24-84	G(HT)		
ST84-596 Dow Pipeline Co	Northern Natural Gas Co	02-29-84	C		

Docket No.[1] and Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (c/MMBtu)
ST84-65 Superior Offshore Pipeline Co.[3]	Louisiana Gas Systems Inc	10-31-83	B		
ST84-66 Superior Offshore Pipeline Co.[3]	Louisiana Gas Systems Inc	10-31-83	B		

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.
[2] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to Section 284.123(b)(2) of the Commission's Regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.
[3] These filings were originally made on October 31, 1983, and were noticed by the Commission on December 2, 1983. Louisiana Intrastate Gas Corp. was designated as recipient of the transportation service in both filings. By a subsequent report filed by Superior Offshore Pipeline Co. on March 27, 1984, the recipient in both transactions was amended to Louisiana Gas Systems, Inc.

[FR Doc. 84-9411 Filed 4-6-84; 8:45 am]
BILLING CODE 6716-1-M

[Project No. 6690-001]

Oconto Electric Power and Light Coop.; Surrender of Preliminary Permit

April 4, 1984.

Take notice that Oconto Electric Power and Light Cooperative, Permittee for the proposed Chute Pond Dam Project No. 6690, has requested that its preliminary permit be terminated. The permit was issued on March 3, 1983, and would have expired August 31, 1984. The project would have been located on the North Branch of Oconto River, Oconto County, Wisconsin.

The Permittee filed its request on March 12, 1984, and the surrender of the preliminary permit for Project No. 6690 is deemed accepted 30 days from the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9412 Filed 4-6-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-343-000]

Pennsylvania Power & Light Co.; Filing

April 4, 1984.

The filing Company submits the following:

Take notice that on March 23, 1984, Pennsylvania Power & Light Company (PP&L) tendered for filing a Capacity & Energy Sales Agreement dated March 9, 1984 between PP&L and Jersey Central Power & Light Co. (JC) for the sale of a portion of PP&L entitlements to the net capacity and energy of certain electric station units owned by PP&L.

Copies of this filing were served upon the Pennsylvania Public Utility Commission and the New Jersey Board of Public Utilities.

Any person desiring to be heard or to protect said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9413 Filed 4-6-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-340-000]

Public Service Company of Colorado; Filing

April 4, 1984.

The filing Company submits the following:

Take notice that on March 22, 1984, the Public Service Company of Colorado (Public Service) tendered for filing a proposed change in its FERC Electric Service Tariff. Public Service states that the proposed change is a Supplement to Public Service's Transmission Interconnection and License Agreement with Southern Colorado Power, an operating unit of Centel Corporation (Centel), under FERC Rate Schedule No. 13.

Public Service indicates that the proposed change is to extend the license granted to Centel by Public Service to include certain additional facilities to be installed at Public Service's Boone Substation.

Public Service requests an effective date of October 21, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the parties to the Agreement and affected state 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9414 Filed 4-6-84; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5247-001]

State of California Department of Water Resources; Surrender of Exemption From Licensing

April 4, 1984.

Take notice that the State of California, Department of Water Resources, Exemptee for the Castaic Output Powerplant, FERC Project No. 5247, has requested that its exemption from licensing be terminated. The exemption from licensing for Project No. 5247 was issued on February 5, 1982. The project would have been located on Castaic Creek in Los Angeles County, California.

The Exemptee filed its request on March 6, 1984, and the surrender of its exemption from licensing for Project No. 5247 is deemed accepted as of March 6, 1984, and effective as of 30 days after the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-9403 Filed 4-6-84; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL 2559-4]

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 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 to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers, Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Water Permits Programs

• Title: Certification for Exemption from Monitoring and Notification of Process Changes in Effluent Guidelines (EPA #1014).

Abstract: Effluent guidelines for several industrial categories require monitoring for specific pollutants. Certain facilities may obtain monitoring exemptions by demonstrating to the permit or control authority (EPA, State agency or publicly owned treatment works) that the pollutant is not present in their discharges. Canmaking facilities are required to notify EPA of certain process changes.

(Note.—This submittal amends a previously approved collection [OMB #2040-0033] by adding aluminum forming, pharmaceutical manufacturing and coil coating [canmaking] industrial categories.)

Respondents: Businesses.

Agency PRA Clearance Requests Completed by OMB

EPA #0370, Underground Injection Control Permit Application and Permittee Reporting (Revision), was approved 16 March 1984 (OMB #2040-0042).

EPA #0799; RCRA Interim Status Inspection Checklist, was approved 22 February 1984 (OMB #2000-0356).

EPA #0995, Land Disposal Permitting Standards, was approved 19 March 1984 (OMB #2050-0007).

EPA #1159, Solid Waste Management at Primary Smelters/Refineries, was approved 22 February 1984 (OMB #2050-0027).

EPA #1162, Diesel Odor Survey, was approved 15 March 1984 (OMB #2010-0008).

Comments on all parts of this notice should be sent to:

David Bowers (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, S.W., Washington, D.C. 20460

and

Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, N.W., Washington, D.C. 20503

Dated: March 30, 1984.

Daniel J. Fiorino,

Acting Director, Regulation and Information, Management Division.

[FR Doc. 84-9211 Filed 4-6-84; 8:45 am]

BILLING CODE 6560-50-M

[FRL-2560-5]

Science Advisory Board, Clean Air Scientific Advisory Committee; Open Meeting—April 26-27, 1984

Under Public Law 92-463, notice is hereby given of a meeting of the Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board. The meeting will be held April 26-27 starting at 9:00 am on April 26 at the Main Auditorium, Environmental Research Center, Environmental Protection Agency, Route 54 and Alexander Drive, Research Triangle Park, North Carolina.

The purpose of the meeting is to allow the Committee to review and provide its advice to EPA on the October 1983 first external review draft of EPA's revised air quality criteria document for lead. For this review the Committee has been divided into two subcommittees, one of which will review health effects related information and the other to review welfare effects related information. The two subcommittees will jointly consider air quality measurements and related issues before breaking to consider health and welfare effects in separate concurrent sessions.

Copies of the October 1983 draft criteria document may be obtained by writing or calling the Office of Research and Development Publications Center, CERI-FRN, U.S. EPA, 21 West St. Clair Street, Cincinnati, Ohio, 45268 (513) 684-7562. Please ask for EPA document 600-8-83-028A, Vols. I-IV, October 1983.

The meeting is open to the public. Any member of the public wishing to obtain information or participate in the meeting should contact Mr. A. Robert Flaak, Executive Secretary, Clean Air Scientific Advisory Committee, Science Advisory Board (A-101), U.S. EPA, 401 M Street SW, Washington, D.C. 20460 (202) 382-2552, by close of business April 19, 1984.

Terry F. Yosie,

Director, Science Advisory Board.

April 2, 1984.

[FR Doc. 84-9337 Filed 4-6-84; 8:45 am]

BILLING CODE 6560-50-M

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Administration

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Office of Administration, Executive Office of the President.

The Office of Administration, Executive Office of the President has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). The entry contains the following information: (1) Type of Submissions; (2) Legal authority for information collection; (3) Abstract Statement of the need for, use of, and public affected by the collection; (4) Burden estimates; (5) Frequency of reporting; and (6) the point of contact from whom a copy of the information proposal may be obtained.

Information collection from the public in support of the OA/EOP acquisition process is necessary to allow the Government to support contractual actions for supplies, services and equipment subject to the procedures required by the Federal Procurement Regulations, and, after March 31, 1984, by the Federal Acquisition Regulation in conformance with the requirements of the Federal Property and Administrative Services Act, Title 41 U.S.C.

Contractor Actions: 1050 annual responses; 25,200 annual hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235 NEOB, Washington, D.C. 20503, telephone 202/694-0187.

A copy of this information collection proposal may be obtained from Ms. Kathy Gibbs, Office of Administration, Room 498 OEOB, Washington, D.C. 20500, telephone 202/395-3314.

S. D. Valakis,

Procurement Executive, Executive Office of the President.

[FR Doc. 84-9296 Filed 4-6-84; 8:45 am]

BILLING CODE 3115-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-698-DR]

Florida; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA-698-DR), dated March 29, 1984, and related determinations.

DATED: March 29, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Notice

Notice is hereby given that, in a letter of March 29, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288) as follows:

I have determined that the damage resulting from severe freezing temperatures in certain areas of the State of Florida beginning on December 24, 1983, are of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Thomas P. Credle of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster: For Individual Assistance: Lake, Orange, Pasco, Polk and Seminole Counties.

(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. 84-9309 Filed 4-6-84; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-699-DR]

North Carolina; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of North Carolina (FEMA-699-DR), dated March 30, 1984, and related determinations.

DATED: April 2, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice

The notice of a major disaster for the State of North Carolina dated March 30, 1984, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 30, 1984: Cumberland and Sampson Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.156, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84-9311 Filed 4-6-84; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-700-DR]

South Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Carolina (FEMA-700-DR), dated March 30, 1984, and related determinations.

DATED: March 30, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice

Notice is hereby given that, in a letter of March 30, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288) as follows:

I have determined that the damage resulting from severe storms and tornadoes in certain areas of the State of South Carolina beginning on or about March 28, 1984, are of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of South Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Roland Sarabia of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of South Carolina to have been affected adversely by this declared major disaster:

For Individual Assistance and Public Assistance: Abbeville, Fairfield, Marlboro and Newberry Counties.

For Individual Assistance Only: Kershaw and Laurens Counties.

(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. 84-9310 Filed 4-6-84; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-699-DR]

North Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Carolina (FEMA-699-DR), dated March 30, 1984, and related determinations.

DATED: March 30, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Notice

Notice is hereby given that, in a letter of March 30, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288) as follows:

I have determined that the damage resulting from severe storms and tornadoes in certain areas of the State of North Carolina beginning on or about March 28, 1984, are of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of North Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period of not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Paul E. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of North Carolina to have been affected adversely by this declared major disaster:

For Individual Assistance and Public Assistance: Bertie Duplin, Hertford, Pitt, Robeson, Scotland and Wayne Counties.

For Individual Assisance Only: Greene County.

(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. 84-9308 Filed 4-6-84; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 13]

Military Household Goods Rates of Vessel Operating Common Carriers; Order of Non-Adjudicatory Investigation

It has come to the attention of the Commission that certain vessel operating carriers are engaging in the practice of publishing two rates applying to the transportation of household goods, one for the carriage of such goods on account of the Department of Defense or other U.S. Government agencies and a different rate for non-government shippers which rate is sometimes unrestricted against military household goods.*

It would appear that in the transportation between points in the United States and points in foreign countries, privately owned household goods of military personnel and of civilian employees of the Department of Defense move under contracts between the Military Traffic Management Command of the Department of Defense and certain freight forwarders who may also be acting as non-vessel operating common carriers (NVOCCs) when utilizing the services of vessel operating ocean carriers. It would further appear that the costs of providing the services contemplated in that contract are to be borne by the forwarders. It is unclear under these circumstances whether the terms and conditions of the contract between MTMC and the freight forwarders it employs in any manner affect the type and cost of the service provided by the ocean carrier. This, in turn, raises the question of whether the ocean carriers' "military" household goods rates are based on recognized transportation and rate-making factors rather than on the identity of the shipper and, consequently, of the propriety of the maintenance of different rates for what would appear to be one commodity, *i.e.*, privately owned household goods. Also to be considered here is the effect of the Cargo Preference Act, 10 U.S.C 2631, which mandates that the charges for ocean transportation not be higher for military cargo than those assessed for the transportation of like goods for private persons.

Because the resolution of those issues is of general public interest, the Commission has determined to institute, pursuant to Subpart R of its Rules of Practice and Procedure (46 CFR 502.281 *et seq.*), a nonadjudicatory investigation into the economic, statutory and regulatory basis for the practice of vessel operating common carriers by water in the publishing of separate tariffs and rates for the transportation of household goods for the account of the Department of Defense and other United States Government agencies.

Therefore, it is ordered, that pursuant to sections 21, 22 and 27 of the Shipping Act, 1916 (46 U.S.C. 820, 821 and 826) and section 214(a) of the Merchant Marine Act of 1936 (46 U.S.C. 1124(a)), a nonadjudicatory investigation is hereby instituted into the practices of vessel operating common carriers subject to the Commission's jurisdiction of publishing separate tariffs and rates for the transportation of household goods for the account of the Department of Defense and other United States Government agencies; said investigation to be conducted pursuant to the Commission's Rules of Practice and Procedure (46 CFR 502.281-291).

It is further ordered, that the Investigative Officer shall be Aaron W. Reese of the Commission. Mr. Reese shall direct the investigation and shall be assisted by such staff members as he may designate.

The Investigative Officer shall have the full authority of the Commission to hold public or nonpublic sessions, to resort to all compulsory processes authorized by law (including the issuance of subpoenas), to administer oaths and to perform such other duties as may be necessary in accordance with

* Docket No. 83-20, *AABCO, Inc.—Petition for Declaratory Order (Applicability of "Commercial" Tariffs of Vessel Operating Common Carriers to Military Household Goods Traffic).* The Petition was denied by Order of the Commission served March 14, 1984.

the laws of the United States and the regulations of the Commission;

It is further ordered, that any persons having an interest and desiring to participate in this proceeding, shall file a statement with the Investigative Officer, describing their interest on or before April 30, 1984;

It is further ordered, that the Investigative Officer shall issue to the Managing Director interim progress reports every three months and a final report of findings and recommendations no later than one year after publication of this Order in the **Federal Register**, all such reports to remain confidential unless and until the Commission rules otherwise; and

It is further ordered, that notice of this order be published in the **Federal Register**.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-9299 Filed 4-6-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2669]

Alireza International, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Alireza International, Inc. was cancelled effective March 29, 1984.

Our letter, advising Alireza International, Inc. That Independent Ocean Freight Forwarder License No. 2669 would be automatically revoked unless a valid surety bond was filed with the Commission, was returned by the postal authorities marked refused.

Alireza International, Inc. has failed to furnish a valid bond.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(f) dated September 27, 1983.

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2669 be and is hereby revoked effective March 29, 1984.

It is ordered, that Independent Ocean Freight Forwarder License No. 2669 issued to Alireza International, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Alireza International, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-9381 Filed 4-6-84; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License, Pacific Western Shipping Co. et al.; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Pacific Western Shipping Company, 1221 3rd Street, Oakland, CA 94607

Officers: Timothy H. Bailey, President/Secretary, John Joseph Kopshever, Vice President-Export Manager.

Lawrence Export Services, Inc., 5633 Old Clinton Drive, Houston, TX 77020

Officers: James D. Lawrence, President/Director, Lonnie D. Brown, Executive Vice President, James D. Harvey, Vice President, William D. Sutton, Vice President/Secretary

Pacific Rim Shipping, Inc., 1205 Seattle Tower, 1228 3rd Avenue, Seattle, WA 98101

Officers: Richard H. Beuthel, President/Director, Ronald J. Cowan, Vice President/Treasurer, Bernard B. Pelly, Jr., Vice President/Secretary, E. Wood Peabody, Jr., Vice President/Director

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-9380 Filed 4-6-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Community Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 Federal Register 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 2, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Community Bancorp, Inc.*, Hudson, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of The Hudson National Bank, Hudson, Massachusetts.

2. *Westbank Corporation*, West Springfield, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Park West Bank and Trust Company, West Springfield, Massachusetts.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Arkansas Bankstock Corporation*, Little Rock, Arkansas; to acquire 98.2 percent of the voting shares of The First National Bank in Harrison, Harrison, Arkansas, and thereby indirectly acquire Conway Bancshares, Inc., Conway, Arkansas; First State Bank and Trust Company, Conway, Arkansas; National Bancshares Corporation, Pine Bluff, Arkansas; and National Bank of Commerce of Pine Bluff, Pine Bluff, Arkansas. Comments on this application must be received not later than April 30, 1984.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First West Concord Bancorporation, Inc.*, West Concord, Minnesota; to become a bank holding company by acquiring 80.82 percent of the voting shares of First National Bank

in West Concord, West Concord, Minnesota. Comments on this application must be received not later than April 30, 1984.

2. *U-Banc, Incorporated,* Red Lodge, Montana; to become a bank holding company by acquiring 82.6 percent of the voting shares of United Bank of Absarokee, N.A., Absarokee, Montana. Comments on this application must be received not later than April 30, 1984.

Board of Governors of the Federal Reserve System, April 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-9304 Filed 4-6-84; 8:45 am]

BILLING CODE 6210-01-M

Bay Bancshares, Inc.; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 May 1, 1984.

A. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bay Bancshares, Inc.,* La Porte, Texas; to engage *de novo* through its subsidiary Bay Harbor Life Insurance Company, La Porte, Texas, in the underwriting of credit life insurance and credit accident and health insurance which is directly related to extensions of credit by applicant's financial subsidiaries. The activities would be performed at the applicant's subsidiary offices in the United States.

Board of Governors of the Federal Reserve System, April 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-9305 Filed 4-6-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR A-40, Supp. 10]

Federal Travel Regulations

AGENCY: Office of Federal Supply and Services, General Services Administration (GSA).

ACTION: Notice of Changes to Federal Travel Regulations.

SUMMARY: GSA has issued GSA Bulletin FPMR A-40, Supplement 10, transmitting changed pages to amend FPMR 101-7, Federal Travel Regulations (FTR) by implementing certain changes to the Federal employee relocation allowance levels for household goods, temporary quarters subsistence expenses, and maximum reimbursement for the purchase of a new residence; by including certain Presidential appointees as being eligible for certain relocation allowances; and by requiring a reasonable advance notice of reassignment or transfer. These revisions result from amendments to subchapter II, of chapter 57, title 5, United States Code, made by Pub. L. 98-151, November 14, 1983.

EFFECTIVE DATE: The revised provisions of chapter 2 are effective for employees and certain new appointees whose effective date of transfer or appointment is on or after November 14, 1983. For purposes of these regulations, the effective date of transfer or appointment is the date the employee or new appointee reports for duty at the new or first official station.

FOR FURTHER INFORMATION CONTACT: Staff members, Travel and Transportation Regulations Division, (703) 557-1253 or 557-1256.

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

Effect of changes on payment of relocation allowance claims. The relocation allowances contained in the FTR were changed substantially effective October 1, 1982, and again with the changed pages transmitted by this supplement. Because of these changes and the extended eligibility period for certain allowances (potential 3 years), payment of relocation allowance claims may require application of different allowance levels for different employees. Agencies are reminded that provisions of the regulations in effect on the employee's or new appointee's effective date of transfer or appointment must be used for payment purposes.

Explanation of changes. This supplement amends the FTR as follows:

a. Paragraph 2-1.2a is amended by adding a new subparagraph (6) to add certain new Presidential appointees to the list of persons covered by the FTR. New appointees to the Senior Executive Service (SES) have been deleted from previous subparagraph (3) and are now included in new subparagraph (6). The word "conterminous" is deleted from subparagraph (3) to be consistent with subparagraph 2-1.3a(3).

b. Paragraph 2-1.2b(1) is revised to update the reference to the Foreign Service Act.

c. Paragraph 2-1.3 is retitled, reformatted for ease of use, and revised to add:

(1) New provisions of 5 U.S.C. 5724(j) regarding reasonable advance notice of transfer or reassignment in new subparagraph b;

(2) A specific requirement in new subparagraph c for written travel authorizations (TA) prior to transfer and issuance of the TA in accordance with guidelines contained in 1-1.5; and

(3) Advice to agencies in new subparagraph d of varying allowance levels in effect depending on the employee's or new appointee's effective date of transfer or appointment.

d. Paragraph 2–1.4 is amended to add subparagraph a–1 to define the term United States as used in these regulations.

e. Paragraph 2–1.5f is revised to add:

(1) "Certain Presidential appointees" to the paragraph title;

(2) An introductory statement in subparagraph (1);

(3) New subparagraph (1)(d) which is a redesignation of subparagraph (1)(a–1); and

(4) New subparagraph (1)(e) to include certain new Presidential appointees as being eligible for payment of certain travel and transportation expenses to their first duty station.

f. Paragraph 2–5.1 is revised to add a statement at the end of the paragraph to require that the determination on the need for occupancy of temporary quarters and the length of time for occupancy be made on an individual-case basis.

g. Paragraph 2–5.2 is amended to rearrange and retitle some of the subparagraphs and to include the following regulatory revisions:

(1) Subparagraph a(1) allows a maximum of 60 days for occupancy of temporary quarters for all transferred employees whose new official station is located in the United States and non-foreign areas;

(2) Subparagraph a(2) allows an additional period not to exceed 60 days in temporary quarters when the agency head determines that there are compelling reasons (examples are provided) for continued occupancy;

(3) Subparagraph d requires that the temporary quarters be located within the proximity of the old or new official station unless a different location is justified under unique or special circumstances and approved by the agency head; and

(4) Subparagraph f deletes the former reference to the 30- or 60-day limitations in computing the length of time allowed for temporary quarters.

h. Paragraph 2–5.4 is revised as follows:

(1) Subparagraphs a and b are revised by deleting the last sentence of b related to local transportation expenses and adding the sentence to the end of subparagraph a; and

(2) Subparagraph c is revised to delete the required reduction of reimbursement in 10-day increments; clarify that the applicable locality per diem rate for the conterminous United States is $50 (the law limits per diem to $50 per day in the conterminous United States); provide new rules for computing the maximum reimbursement for each 30-day period; require a reduced per diem for family members for the first 30-day period; and require a reduction of all rates after the first 30-day period.

i. Paragraph 2–5.5 is revised to authorize an initial advance of funds for temporary quarters subsistence expenses not to exceed the maximum reimbursement for the first 30-day period and subsequent advances in 30-day increments.

Note.—Since substantial changes are being made to Part 5 of the Federal Travel Regulations, the entire part is published in this **Federal Register** for clarity. The changed paragraphs are as stated above.

2. Paragraph –6.2g(2) is revised to increase the dollar maximum for reimbursement of allowable expenses incurred for the purchase of a new residence at the new official duty station from $5,000 to $7,500.

k. Paragraph 2–8.2a is revised to increase the maximum net weight for shipment and storage of the employee's household goods and personal effects from 11,000 pounds to 18,000 pounds.

l. Appendix 2–A is being added to the Federal Travel Regulations as a reference to reflect the various allowance levels currently in effect for payment purposes, (i.e., prior to October 1, 1982, on or after October 1, 1982; and on or after November 14, 1983). The new appendix is not published in this **Federal Register.**

m. Other minor and/or editorial changes have been made which are not published in this notice but will be included in the FTR. Accordingly, the Federal Travel Regulations, are amended as follows:

CHAPTER 2. RELOCATION ALLOWANCES

Part 1—Applicability and General Rules

1. Authority: (Sec. 205(c), 63 Stat. 390; 40 U.S.S. 486(c)); Executive Order No. 11609, July 22, 1971; 5 U.S.C. 5707)

2. Paragraphs 2–1.2a(3) and 2–1.2b(1) are revised and new subparagraph 2–1.2a(6) is added to read as follows:

2–1.2. *Applicability.*

* * * * *

a. * * *

(1) * * *

(2) * * *

(3) New appointees to any positions outside the conterminous United States; and new appointees to positions within the United States for which the Office of Personnel Management has determined that a personnel shortage exists.

(4) * * *

(5) * * *

(6) New appointees to the Senior Executive Service; and certain Presidential appointees.

b. * * *

(1) Officers and employees transferred in accordance with the provisions of the Foreign Service Act of 1980, as amended.

* * * * *

3. Paragraph 2–1.3 is revised in its entirety to read as follows:

2–1.3. *General Provisions.*

a. *Travel covered.* When change of official station or other action described below is authorized or approved by such official or officials as the head of the agency may designate, travel and transportation expenses and applicable allowances as provided herein (see applicability and exclusions in pertinent sections) are payable in the case of:

(1) An employee transferring from one official station to another for permanent duty, *Provided that:* the transfer is in the interest of the Government and is not primarily for the convenience or benefit of the employee or at his/her request; the transfer is to a new official station which is at least 10 miles distant from the old official station; and, in the case of a relatively short distance relocation, a determination of eligibility is made under the provisions of 2–1.5b(1);

(2) New appointees relocating from their places of actual residence at the time of appointment for permanent duty to official stations outside the conterminous United States;

(3) New appointees, as provided in 2–1.5f, relocating from their places of actual residence at the time of appointment for permanent duty to official stations within the United States;

(4) Eligible employees outside the conterminous United States traveling in connection with overseas tour renewal agreement travel; and

(5) Eligible employees returning from posts of duty outside the conterminous United States to places of actual residence for separation as provided in 2–1.5g.

b. *Reasonable advance notice of reassignment or transfer.* As provided in 5 U.S.C. 5724(j) (Pub. L. 98–151, November 14, 1983), "* * * the reassignment or transfer of any employee, for permanent duty, from one official station or agency to another which is outside the employee's commuting area shall take effect only after the employee has been given advance notice for a reasonable period. Emergency circumstances shall be taken into account in determining whether the

period of advance notice is reasonable." Agencies shall give as much advance notice as possible to enable the employee to begin the arrangements necessary when relocating family and residence. However, see 2–1.5b governing payment of travel and transportation expenses and applicable allowances when short distances are involved. A reasonable period of advance notice should not be less than 30 days except when: (1) The employee and both the losing and gaining agencies agree on a lesser period; (2) other statutory authority and implementing regulations stipulate a lesser period (see Office of Personnel Management regulations for specified timeframes); or (3) emergency circumstances prevail.

c. *Travel authorization.* When it is determined that a relocation will be authorized at Government expense, a written travel authorization shall be issued to the employee prior to the employee's relocation to the new official station. The agency should advise the employee, or individual selected for appointment, not to incur relocation expenses in anticipation of a relocation until he/she has received written notification. The travel authorization shall indicate the specific allowances which are authorized as provided in these regulations. The guidelines in 1–1.5 on issuance of travel authorizations shall be followed.

d. *applicable provisions for reimbursement purposes.* Because of successive changes to the provisions of these regulations governing relocation allowances and the extended period of time that employees retain eligibility for certain allowances (see 2–1.5a(2) and 2–6.1e), the reimbursement maximums or limitations applicable to certain allowances will not be the same for all employees even though claims may be filed within the same timeframe. The provisions of these regulations in effect on the employee's or new appointee's effective date of transfer or appointment (see 2–1.4j) shall be used for payment or reimbursement purposes. A summary of the allowance levels in effect on specific dates is provided in appendix 2–A for reference purposes.

4. Paragraph 2–1.4 is amended by adding subparagraph 2–1.4a–1 to read as follows:

2–1.4. *Definitions.*

* * * * *

a–1. *United States.* The 50 States and the District of Columbia. The term "United States" and "the 50 States and the District of Columbia" are used interchangeably throughout chapter 2 of the Federal Travel Regulations (FTR).

* * * * *

5. Paragraph 2–1.5f is revised by amending the paragraph title; adding an introductory statement to 2–1.5f(1); and adding new paragraphs 2–1.5f(1) d and e to read as follows:

2–1.5. *Eligibility and Conditions.*

* * * * *

f. *Shortage-category appointees, students trainees, Senior Executive Service appointees, and certain Presidential appointees.*

(1) *Coverage.* New appointees listed below are eligible for only those travel and transportation expenses as specified in (3) and (4), below.

(a) * * *

(b) * * *

(c) * * *

(d) *Senior Executive Service (SES) appointees.* New appointees to positions in the Senior Executive Service are eligible for travel and transportation to their first official stations at Government expense.

(e) *Presidential appointees.* Any person appointed by the President, by and with the advice and consent of the Senate, to a position for which the rate of pay is equal to or higher than the minimum rate of pay prescribed for GS–16 is eligible for travel and transportation to his/her first official station at Government expenes.

* * * * *

Part 5—Subsistence While Occupying Temporary Quarters

6. Part 5 is revised to read as follows:

2–5.1. *Policy.* Heads of agencies shall prescribe procedures for administering these provisions reasonably and equitably so that the necessity for allowing subsistence expenses and the amount of time an employee and members of his/her immediate family use temporary quarters is justified in connection with the employee's transfer to a new official station. As a general policy, the period for temporary quarters shall be reduced or avoided if a round-trip to seek permanent residence quarters has been made or if, as a result of extended temporary duty at the new official station or other circumstances (for example, if the family does not move until some time after the employee's transfer), the employee has had adequate opportunity to complete arrangements for permanent quarters. The administrative determination as to whether the occupancy of temporary quarters is necessary and the length of time for occupancy shall be made on an individual-case basis.

2–5.2. *Conditions and limitations for eligibility.*

a. *Length of time allowed and location of new official station.*

(1) *Initial period of temporary quarters.* An employee for whom a permanent change of station is authorized or approved shall be allowed subsistence expenses for himself/herself and for each member of his/her immediate family (defined in 2–1.4d) for a period of not more than 60 consecutive days when occupancy of temporary quarters is determined to be necessary and the new official station is located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, and the areas and installations in the Republic of Panama made available to the United States under the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), provided a written agreement as required in 2–1.5a(1) is signed in connection with the transfer. The period of consecutive days may be interrupted for the time that is allowed for travel between the old and new official stations, or for circumstances attributable to official necessity as, for example, an intervening temporary duty assignment.

(2) *Additional time in certain cases.* Subsistence expenses as provided in (1) above, may be allowed for an additional period of time not to exceed 60 consecutive days provided the head of the agency, or his/her designee, determines that there are compelling reasons for the continued occupancy of temporary quarters. The total period of time in temporary quarters shall not exceed 120 days under any circumstances. The same considerations as expressed in 2–5.1 are applicable in allowing any part of the additional 60 days. Authorizations to extend the temporary quarters period and the number of days authorized shall be held to a minimum. Extensions of the temporary quarters may be authorized only in situations where there is a demonstrated need for additional time in temporary quarters due to circumstances which have occurred during the initial 60-day period of temporary quarters occupancy and which are determined to be beyond the employee's control and acceptable to the agency. Examples of compelling reasons which could be considered as beyond the employee's control for purposes of granting this extension may include but are not limited to the following situations:

(a) Shipment and/or delivery of household goods to new residence is

delayed due to extended transit time incident to ocean transportation, strikes, customs' clearance, hazardous weather, fires or floods, or other acts of God; etc.

(b) New permanent residence cannot be occupied because of unanticipated problems (i.e., delays in settlement on new residence, short term delay in construction of a new residence, etc.).

(c) Inability to locate permanent residence which is adequate for family needs because of housing conditions at the new official station.

(d) Sudden illness, injury, or death of employee or immediate family member.

(3) *Authorizing less than maximum time.* The specified time limits are maximum periods, and the normal length of necessary occupancy of temporary quarters is expected to average much less. Temporary quarters should be regarded as an expedient to be used only if, or for as long as, necessary until the employee concerned can move into permanent residence quarters.

b. *Transfer to foreign area.* When the new official station is located in a foreign area, the employee is not eligible for temporary quarters allowances under these regulations. When temporary lodgings are obtained in a foreign area, or in the United States prior to transferring to a foreign area, the employee may be eligible for an allowance under the Standardized Regulations (Government Civilians, Foreign Areas) prescribed by the Department of State.

c. *What constitutes temporary quarters.* Generally, the term "temporary quarters" refers to lodging obtained from private or commercial sources for the purpose of temporary occupany after vacating the residence occupied when the transfer was authorized. However, occupancy of temporary quarters that eventually becomes the employee's permanent residence shall not prevent payment of the temporary quarters allowance if, in the agency's judgment, the employee shows satisfactorily that the quarters occupied were intended initially to be only temporary. In making this determination the agency should consider factors such as: the duration of the lease, movement of household effects into the quarters, type of quarters expressions of intent, attempts to secure a permanent dwelling, and the length of time the employee occupies the quarters.

d. *Temporary quarters located at other than official station.* As a general rule the location of the temporary quarters must be within reasonable proximity of the old and/or new official station. Payment of subsistence expenses for occupancy of temporary quarters in other locations shall not be allowed unless justified by circumstances unique to the individual employee or the employee's family that are reasonably related and incident to the transfer. Payment for such expenses must be authorized or approved by the head of the employing agency, or his/her designee, provided the designee is at a level high enough to ensure adequate review of the circumstances involved and to determine that payment of the temporary quarters allowance is justified. Occupancy of temporary quarters shall not be approved for vacation purposes or other reasons unrelated to the transfer.

e. *Beginning of eligibility period.* The use of temporary quarters for subsistence expense purposes under these provisions may begin as soon as the employee's transfer has been authorized, and the written agreement required in 2–1.5a(1) has been signed. In order to be eligible for the temporary quarters allowance, the period of use of such quarters for which a claim for reimbursement is made must begin not later than 30 days from the date the employee reported for duty at his/her new official station, or if not begun during this period, not later than 30 days from the date the family vacates the residence at the old official station, but not beyong the maximum time for beginning allowable travel and transportation. (See 2–1.5a(2).)

f. *Computation of eligibility period and termination.* When computing the length of time allowed for temporary quarters at Government expense, the time period will begin for the employee and all members of the immediate family when either the employee or any member of the immediate family begins the period of use of such quarters for which a claim for reimbursement is made. The time period shall run concurrently for the employee and all members of the immediate family. The employee may occupy temporary quarters at one location while members of the immediate family occupy quarters at another location. However, see limitations in d, above. The period of eligibility shall terminate when the employee or any member of the immediate family occupies permanent residence quarters or when the authorized period of time expires, whichever occurs first.

g. *Effect of partial days.*

(1) The following guidelines shall be used for determining the eligibility period for temporary quarters subsistence expense reimbursement and in computing maximum reimbursement when occupancy of temporary quarters for reimbursement purposes occurs the same day that en route travel per diem ends:

(a) For en route travel of more than 24 hours, reimbursement for temporary quarters subsistence expenses shall start at the beginning of the calendar day quarter immediately following termination of the en route travel per diem. This will be considered the first full day of the entitlement period for the purpose of computing maximum reimbursement.

(b) For en route travel of 24 hours or less, reimbursement for temporary quarters subsistence expenses shall start at the beginning of the same calendar day quarter in which en route travel per diem ends upon arrival at destination. This will be considered the first full day of the entitlement period for the purpose of computing maximum reimbursement.

(2) In all other cases, the temporary quarters period shall start with the first quarter of the calendar day in which temporary quarters subsistence expense reimbursement is claimed, provided that temporary quarters are occupied during that calendar day.

(3) The temporary quarters period shall terminate at midnight of the last day of eligibility.

h. *Allowance when short distance transfer is involved.* An employee or members of his/her immediate family shall not be eligible for temporary quarters expenses when the distance between the new official station and old residence is not more than 40 miles greater than the distance between the old residence and the old official station, except that the expenses of temporary quarters are allowable for the period during which the employee is awaiting the arrival of his/her household goods shipped from the old to the new residence, provided that use of such quarters is begun not later than the maximum time for beginning allowable travel and transportation. All measurements shall be made according to map distance along a usually traveled route.

i. Duplication of other allowances. In no case shall subsistence expenses under these provisions be allowed which duplicate, in whole or in part, payments received under other laws or regulations covering similar costs. (A cost-of-living allowance payable under 5 U.S.C. 5941 is not a duplication of subsistence expenses.)

2–5.3. *Exclusions.* The provisions of 2–5 do not apply to new appointees, including those appointees covered in 2–1.5f, employees assigned under the Government Employees Training Act (see 5 U.S.C. 4109), or employees

returning for overseas assignments for the purpose of separation.

2–5.4. *Allowable amount.*

a. *Actual expenses allowed.* Reimbursement shall be only for actual subsistence expenses incurred provided these are incident to occupancy of temporary quarters and are reasonable as to amount. Allowable subsistence expenses include only charges for meals (including groceries consumed during occupancy of temporary quarters), lodging fees and tips incident to meals and lodging, laundry, and cleaning and pressing of clothing. Expenses of local transportation incurred for any purpose during occupancy of temporary quarters shall not be allowed.

b. *Itemization and receipts.* The actual expenses shall be itemized in a manner prescribed by the head of the agency which will permit at least a review of the amount spent daily for (1) lodging, (2) meals and (3) other allowable items of subsistence expenses (see a, above). Receipts shall be required at least for lodging and laundry and cleaning expenses (except when coin-operated facilities are used).

c. *Maximum reimbursement.* The amount which may be reimbursed for temporary quarters subsistence expenses shall be the actual amount of allowable expenses incurred for each 30-day period not to exceed a maximum amount based on the applicable daily rate prescribed under (2) through (4) below, multiplied by 30. The daily actual subsistence expenses required to be itemized under a and b, above, will be totaled for each 30-day period to permit a comparison with the maximum allowable amount for the particular period. If less than a 30-day period is authorized, or used, the maximum allowable amount will be based on the number of days authorized, or used, multiplied by the applicable daily rate.

(1) *Applicable maximum per diem rates.* The maximum per diem rate to be used for computations under (2) through (4), below, shall be the maximum per diem rate prescribed for the locality in which the temporary quarters are located, as follows:

(a) For temporary quarters located in the coterminous United States, the applicable maximum per diem rate is $50.

(b) For temporary quarters in applicable locations outside the conterminous United States, the maximum per diem rate is the rate prescribed for the locality by the Secretary of Defense or by the Secretary of State as provided in 1–7.2b or c.

(2) *For the first 30 days.* Reimbursement for the first 30 days will be limited as follows:

(a) For the employee, or for the unaccompanied spouse (i.e., the spouse necessarily occupies temporary quarters in a location separate from the employee), the daily rate shall not exceed the maximum per diem rate prescribed in (1), above.*

(b) For the spouse when accompanied by the employee, the daily rate shall not exceed two-thirds of the employee's daily rate established in (a), above.*

(c) For each other member of the employee's immediate family who is 12 years of age or older, the daily rate shall not exceed two-thirds of the daily rate established in (a), above, for the employee or the unaccompanied spouse, as appropriate.*

(d) For each member of the employee's immediate family who is under 12 years of age, the daily rate shall not exceed one-half of the daily rate established in (a), above, for the employee or the unaccompanied spouse, as appropriate.*

*Note.— If the temporary quarters occupied are in the conterminous United States, the maximum daily rates prescribed under (a), (b), (c), and (d), above, are $50, $33.33, $33.33, and $25, respectively.

(3) *For the second 30 days.* The daily rates for the second 30-day period for the employee and each member of the immediate family shall be three-fourths of the daily rates prescribed under (2), above. For example, if the temporary quarters occupied are located in the conterminous United States the following limitations will apply:

(a) For an employee, or unaccompanied spouse, the daily rate shall not exceed $37.50;

(b) For an accompanying spouse, the daily rate shall not exceed $25;

(c) For each other family member 12 years of age or older, the daily rate shall not exceed $25; and

(d) For each family member under 12 years of age, the daily rate shall not exceed $18.75.

(4) *Additional 60 days.* When the agency authorizes an extension of time for occupancy of temporary quarters beyond the first 60 days (not to exceed an additional 60 days) due to compelling reasons as provided in 2–5a(2), the additional days shall be computed at the same rates allowed for the second 30-day period in (3), above, for the employee and each member of the immediate family.

2–5.5 Advance of funds. Advance of funds may be made in 30-day increments in connection with subsistence expenses covered by 2–5 under policies and procedures prescribed in 2–1.6a. The initial advance of funds for temporary quarters subsistence expenses shall not exceed the maximum amount allowable under 2–5.4c(2) for the first 30-day period (or other authorized period if less than 30 days). Thereafter, funds may be advanced for subsequent 30-day periods as authorized by the agency. Agencies should advise employees that when an advance of funds is needed for the second and subsequently authorized 30-day periods, the request for advance should be submitted in sufficient time to allow for processing, approval, and issuance of the advance of funds.

Part 6—Allowance for Expenses Incurred in Connection With Residence Transactions

7. Paragraph 2–6.2g(2) is revised to read as follows: 2–6.2. *Reimbursable and nonreimbursable expenses.*

* * * * *

g. *Overall limitations.*

(1) * * *

(2) In connection with the purchase of a residence at the new official station, reimbursement shall not exceed 5 percent of the purchase price or $7,500, whichever is the lesser amount.

* * * * *

Part 8—Transportation and Temporary Storage of Household Goods and Professional Books, Papers, and Equipment

8. Paragraph 2–8.2a is revised to read as follows: 2–8.2. *General Limitations.*

a. *Maximum weight allowance.* The maximum weight of household goods that may be transported or stored in connection therewith at Government expense is limited to 18,000 pounds net weight for all employees. The total weight of household goods stored under 2–9.2 plus the weight of household goods transported under this Part 8 shall not exceed the above maximum weight allowance.

* * * * *

Dated: March 13, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–9324 Filed 4–6–84; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the Subcommittee on Uniform Minimum Health Data Sets of the

National Committee on Vital and Health Statistics, pursuant to functions established by section 306(k)(2) of the Public Health Service Act, as amended (42 U.S.C. 242k), will convene on Monday, April 30 and Tuesday, May 1, at 10:30 a.m. in Room 729G, of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The Subcommittee will hold its first meeting to review and discuss the Long-Term Care Minimum Data Set.

Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting William F. Stewart, National Committee on Vital and Health Statistics, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-7122.

Dated: April 2, 1984.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 84-9331 Filed 4-5-84; 8:45 am]

BILLING CODE 4160-17-M

Food and Drug Adminstration

[Docket No. 83N-0424]

Revisions of Certain Food Chemicals Codex, 3d Ed., Monographs; Opportunity for Public Comment; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is extending the time for filing comments on pending changes to certain Food Chemicals Codex, 3d Ed., monographs and specification information on proposed new monographs. For certain substances used as food ingredients, revised materials, consisting of new monographs, and additions, changes, and corrections in several current monographs are being prepared by the National Academy of Sciences/National Research Council (NAS/NRC) Committee on Food Chemicals Codex. These revised materials will be published in the second supplement to the Food Chemicals Codex, 3d Ed. The Infact Formula Council (IFC) requested a 60-day extension of the comment period.

DATE: Comments by May 25, 1984.

ADDRESS: Written comments to the NAS/NRC Committee on Food Chemicals Codex, National Academy of Sciences (NAS 341), 2101 Constitution Ave. NW., Washington, DC 20418.

FOR FURTHER INFORMATION CONTACT:

Robert A. Mathews, Committee on Food Chemicals Codex, Food and Nutrition Board, 2101 Constitution Ave. NW., Washington, DC 20418, 202-334-2580;

or

John W. Gordon, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 26, 1984 (49 FR 3271), FDA published a notice providing the public an opportunity to comment on revisions of certain food chemicals codex, 3d Ed., and certain proposed new monographs that NAS/NRC prepares for the Food Chemicals Codex, a compilation of specifications for substances used as food ingredients. FDA provides research contracts to the NAS/NRC to support preparation of the Food Chemicals Codex. The notice announced that written comments could be submitted until March 26, 1984.

In a letter dated March 20, 1984, the Infant Formula Council requested a 60-day extension of the comment period, until May 25, 1984, to allow it time to comment on the proposed new monographs and proposed revisions to existing monographs, because the drafts only became available for review by interested parties on March 2, 1984.

After carefully evaluating and discussing the request with the Chairman of the NAS/NRC Committee on Food Chemicals Codex, FDA has concluded that an extension is appropriate to allow adequate time to provide comments and information on proposed new monographs and proposed revisions to certain existing monographs. FDA recognizes the significance of the issues involved in this matter and wishes to ensure that all interested parties have a fair amount of time for comment. Therefore, FDA has concluded that the comment period should be extended an additional 60 days.

Interested persons may, on or before May 25, 1984, submit written comments to the National Academy of Sciences at the address listed above. The National Academy of Sciences will forward copies of each comment to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, to be placed under Docket No. 83N-0424 for public review between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 4, 1984.

William F. Randloph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-9301 Filed 4-6-84; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently in pertinent part at 48 FR 54539, December 5, 1983) is amended to reflect the following changes within the National Institute of Dental Research (NIDR): (1) Republish without change the functional statements for program-level and above components; (2) abolish the National Caries Program (HN-P3); and (3) establish the Epidemiology and Oral Disease Prevention Program (HN-P5). These changes will show the correct Standard Administrative Codes (SACs) for the Institute and its programs, and reflect the accomplishment of a more effective alignment of functions and personnel by broadening the research capacity to perform high quality epidemiological and biometrical investigations of dental caries and other oral diseases and conditions.

Sec. HN-B, Organization and Functions, is amended as follows: Under the heading *National Institute of Dental Research (HN-P) [formerly (2P)]*, delete the functional statements for the Institute and its programs in their entirety, and republish those functional statements to read as follows:

National Institute of Dental Research (HN-P). Conducts, fosters, and supports research and research training in the causes, diagnosis, prevention, and cure of oral diseases and disorders through: (1) Laboratory, clincial, and field research; (2) grants for research projects and dental research institutes and individual and institutional research training awards; (3) collaborative and developmental research programs aimed at specific dental problems where major advance seems clearly possible; and (4) collection and dissemination of research findings and related information.

Intramural Research Program (HN-P2). (1) Plans and conducts the Institute's laboratory and clinical research program, which encompasses

research efforts directed toward improvements in the diagnosis, prevention, and treatment of caries, periodontal and oral soft tissue diseases, oral tumors, congential abnormalities and diseases, orafacial pain, and diabetes; (2) provides dental care for selected inpatients and ambulatory patients of Institutes conducting clinical research in the Warren Grant Magnuson Clinical Center; (3) provides data processing facilities and services for the Institute's research and clinical programs; (4) evaluates research efforts and establishes program priorities; (5) allocates funds, space, and personnel ceilings to ensure maximum utilization of available resources in the attainment of Institute objectives and integrates new research activities into the program structure; (6) collaborates with other NIH Institutes and external research institutions and maintains an awareness of natural research efforts in program areas; (7) provides advice on intramural research and science in general to the Institute Director.

Extramural Program (HN–P4). (1) Plans and directs the Institute's programs which support research and research training through grants and contracts in caries and restorative materials, periodontal and soft tissues diseases, craniofacial anomalies, pain control, and behavioral studies to ensure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research and research training in program areas; (3) determines program priorities and recommends funding levels; (4) collaborates with Institutes and NIH intramural and collaborative activities and maintains awareness of national research efforts in program areas; (5) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (6) establishes and maintains effective relationships with dental schools, professional dental organizations, and other institutions concerned with extramural programs; (7) consults with voluntary health organizations and professinal associations in identifying research needs and developing programs to meet them; and (8) provides advice on extramural research and science in general to the Institute Director.

Epidemiology and Oral Disease Prevention Program (HN–P5). (1) Plans, develops, directs, and applies epidemiological methodologies in the investigation of oral diseases and disorders;l (2) assures maximum utilization of available resources to obtain Institute objectives in this area; (3) determines program priorities and allocates funds for epidemiological and biometrical research, field trials, demonstrations, and related clinical and laboratory research; (4) provides epidemiological assistance to the intramural and extramural programs of the Institute; (5) prepares analyses and reports to assist Institute staff and advisory groups in carrying out their responsibilities; (6) consults with health organizations and professional associations in identifying research needs and developing programs to meet them; (7) plans and conducts field and related studies in the area of dental diseases; and (8) provides advice on the program and science in general to the Institute Director.

Dated: April 2, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84–9438 Filed 4–6–84; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Under Secretary

[Docket No. N–84–1362]

Advisory Committee on Contract Document Reform; Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of meeting of the Advisory Committee on Contract Document Reform.

SUMMARY: The fifth meeting of the Advisory Committee on Contract Document Reform will be held on Tuesday, April 24, 1984 at 9:30 a.m. in the Under Secretary's Conference Room (10106) at the Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

The purpose of the meeting is to discuss and analyze suggested amendments to contract document clauses.

This meeting is open to the public. Any interested persons may attend, appear before, or file statements with the Committee. Oral statements may be made at the meeting at the time and in the manner permitted by the Committee.

FOR FURTHER INFORMATION CONTACT: Joseph Lupica, Special Assistant to the Secretary, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Telephone: (202) 755–5713. [This is not a toll-free number.]

Dated: March 28, 1984.

Philip Abrams,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 84–9292 Filed 4–6–84; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

National Park Service

Mormon Pioneer National Historic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Mormon Pioneer National Historic Trail Advisory Council will be held beginning at 1:00 p.m. on May 3, and concluding at 12:00 noon, on May 4, 1984, at the Casper Hilton Inn, Conference Room, 800 Union Blvd., Casper, Wyoming 82602. The advisory council was established by the National Trails System Act, 82 Stat. 919, 16 U.S.C. 1244, as amended by the National Parks and Recreation Act of 1978, 92 Stat. 3514, 16 U.S.C. 1244(d) to consult with the Secretary of the Interior through the National Park Service on matters concerning the trail, including selection of rights-of-way, markers and administration. The members of the advisory council are as follows:

Mr. Booth Wallentine (Chairman), Mr. David S. Monson, Mrs. Jane Scherle, Mr. Lloyd Taggart, Mr. Douglas Bywater, Mr. Steven R. Bailey, Ms. Donna Knight, Mr. Steven Shipley, Mr. Wayne Erickson, Mr. Arthur J. Carroll, Mrs. Norma R. Green, Mr. Emerick Huber, Mr. Don Nelson, Dr. Leroy Kimball, Dr. Stanley Kimball, Mr. John J. Nielsen, Mr. Glen M. Leonard, Dr. Melvin T. Smith, Mr. Gene Bertagnoli, Mr. Warren Johnson, Mr. Jack Barnhart, Mr. Jerome Jacobs.

The meeting will be held for the purpose of providing management direction, implementation efforts and trail strategies, for management and administration of the trail.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first come, first served basis. Any member of the public may file with the council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who will wish to submit written statements, may contact Michael Beaudry, Trail

Manager, Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225, telephone (303) 234–4942.

Minutes of the meeting will be available for inspection at the above address 4 weeks after the meeting.

Dated: March 30, 1984.

James D. Harpster,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 84–9372 Filed 4–6–84; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperatives; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: April 4, 1984.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BPO 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Farmers Union Central Exchange, Inc. (CENEX)
(2) P.O. Box 43089, St. Paul, MN 55164
(3) 5500 CENEX Drive, Inver Grove Heights, MN 55075
(4) Clarence N. Anderson, P.O. Box 43089, St. Paul, MN 55164

(1) Dawn Transport, Inc.
(2) 117 W. San Ysidro Blvd., C.F.P. No. 13, San Ysidro, CA 92073
(3) 1590 Reforma Ave., Mexicali, Baja, CA
(4) H. Jackson c/o Dawn Transport, Inc., 117 W. San Ysidro Blvd., C.F.P. No. 13, San Ysidro, CA 92073.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–9312 Filed 4–6–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–190 (Sub-1)]

Carbon County Railway Co.—Abandonment—In Carbon and Emery Counties, UT; Findings

The Commission has issued a certificate authorizing Carbon County Railway Company to abandon its entire line extending from milepost 0.00 near Columbia Junction to milepost 10.00 near Horse Canyon, a distance of 10 miles in Carbon and Emery Counties, UT. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–9313 Filed 4–6–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30415]

Seaboard System Railroad, Inc.—Abandonment Exemption—In Perry County, KY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903 *et seq.* the abandonment by Seaboard System Railroad, Inc. of approximately 4,728 feet of rail line between Valuation Stations 215+33 and 262+61 in Perry County, KY, subject to conditions for protection of employees. Tariff changes may be made effective on not less than 10 days notice.

DATES: This exemption is effective on April 9, 1984. Petitions to reopen must be filed by April 30, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30415 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Charles M. Rosenberger, Seaboard System Railroad, Inc., 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided:

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Commissioner Gradison did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–9314 Filed 4–6–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30441]

Cadiz Railroad Company-Lease and Operation Exemption Between Princeton and Gracey, KY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 11343, *et seq.* a lease (pursuant to assignment) and operation by Cadiz Railroad Company of a line of railroad between milepost 99.82 at Princeton, KY and milepost 120.52 at Gracey, KY, a distance of 20.7 miles, which line is prsently leased by Illinois Central Gulf Railroad Company.

DATES: This decision shall be effective on April 6, 1984. Petitions to reopen must be filed by April 26, 1984.

ADDRESSES: Send petitions referring to Finance Docket No. 30441 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: Mr. H. S. White, Cadiz Railroad Company, Cadiz, KY 42211.

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC, 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: April 2, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-9513 Filed 4-6-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 83-17]

Drug Mart, Inc.; Revocation of Registrations

On May 20, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed to Drug Mart Inc. of Lake Wales (Respondent), located in Lake Wales, Florida, an Order to Show Cause proposing to revoke Respondent's DEA Certificates of Registration, AD1734169 and AD8070702. By letter dated June 13, 1983, Gerald Gettel, President of Respondent corporation, requested a hearing.

The hearing in this matter was held in Washington, D.C. on September 13, 1983. Administrative Law Judge Francis L. Young presided. On January 18, 1984, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. In compliance with 21 CFR 1316.65(b), as amended, copies of the Administrative Law Judge's opinion were served on the Respondent and on Government counsel. No exceptions were filed and on February 21, 1984, Judge Young transmitted the record of these proceedings to the Administrator. The Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that in December 1981, the Polk County, Florida, Sheriff's Department was informed that one Robert Cleveland had information concerning a pharmacist who would dispense drugs without a valid prescription. The pharmacist in question was Gerald Gettel, the sole owner, President and one of two pharmacists of Respondent pharmacy. Mr. Cleveland stated Gettel would sell Cleveland sealed pharmaceutical bottles of 100 Dilaudid tablets, a Schedule II controlled substance, for $1,000 per bottle.

Mr. Cleveland further stated that to cover these sales of Dilaudid, Gettel would place in the files of Respondent pharmacy prescriptions purporting to be written for one Paul Sage and showing a Dr. Verner as prescribing physician. Upon further investigation, twenty-eight prescriptions each for 100 Dilaudid 4 mg. or 2 mg., were found in Respondent pharmacy. Each prescription was purportedly written for Paul Sage and apparently signed by one John Verner, M.D. The investigators later showed the prescriptions to Dr. Verner. The doctor stated that he did not have a patient named Paul Sage, that the prescriptions were not in his handwriting and that he would not prescribe that amount of Dilaudid to anyone. The investigators also discovered that the prescriptions themselves had been written out by Cleveland on blanks provided by Gettel and that Gettel had instructed Cleveland on how to write out the prescriptions. The prescription blanks had been printed by a local printer per Mr. Gettle's order.

On or about May 28, 1982, Gerald Gettel was charged with 28 counts of unlawful delivery of a controlled substance, Dilaudid. Each of the 28 counts related to one of the prescriptions for Dilaudid forged by Cleveland and filled by Gettel. Following a jury trial, Gettel was found guilty and convicted on each of the 28 counts. These were felony convictions related to controlled substances.

DEA has consistently held that the registration of a corporate registrant may be revoked upon a finding that a natural person who is an owner, officer or key employee or who had some responsibility for the operation of the registrant's business, has been convicted of a felony offense relating to controlled substances. See: *Leonard S. Cohen, t/a Senate Drug Store,* Docket No. 72-5, 38 FR 9522 (1973); *River Forest Pharmacy,* Docket No. 73-6, 38 FR 27417 (1973); *Norman Bridge Drug Co. Inc.,* Docket No. 74-22, 41 FR 3108 (1976); *AG Pharmacy, Inc., d/b/a Berson Pharmacy,* Docket No. 79-12, 45 FR 6868 (1980). Therefore, there is a lawful basis for revocation of Respondent's DEA Certificate of Registration under 21 U.S.C. 824(a)(2).

The Administrative Law Judge concluded that the record in this proceeding provides little, if any, basis for confidence in Mr. Gettel's future actions. In 1982, Drug Mart Inc.'s net profit was $117,000. Judge Young noted that there was certainly no dire financial need for himself or his family which might have weakened Mr. Gettel's resolve and been an inducing factor leading him to sell controlled substances unlawfully.

The Administrative Law Judge has recommended that Respondent's registrations be revoked. The Administrator agrees with this recommendation. Mr. Gettel has disregarded his professional duty as a pharmacist to protect the public health and safety. He illegally diverted controlled substances for his own financial benefit. The Administrator will not tolerate such behavior. Therefore, the Administrator adopts the recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. The registrations must be revoked.

Having concluded that there is a lawful basis for the revocation of the Respondent's registrations and having further concluded that under the facts and circumstances presented in this case the registrations should be revoked, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificates of Registration, AD1734169 and AD8070702, previously issued to Drug Mart Inc., be, and they hereby are revoked.

Dated: April 3, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-9373 Filed 4-6-84; 8:45 am]

BILLING CODE 4410-09-M

Henry A. Polk, D.O.; Revocation of Registration, Denial of Application

On December 22, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Henry A. Polk, D.O., 1001 West Washington Avenue, Alpena, Michigan 49707 (Respondent) seeking to revoke DEA Certificate of Registration AP6430033 previously issued to Respondent and to deny Respondent's application executed on March 8, 1983 for reregistration under 21 U.S.C. 823(f). The statutory predicate under 21 U.S.C. 824(a)(2) for the Order to Show Cause was Respondent's conviction on March 9, 1983 in the Circuit court of Alpena

County, Michigan of unlawful delivery of a controlled substance by a practitioner, a felony conviction relating to controlled substances.

On January 26, 1984, Respondent, through counsel, submitted his position on the matters of fact and law involved under 21 CFR 1301.54(c), specifically waiving his opportunity for a hearing. The Administrator enters this final order on the record as it appears, taking into consideration Respondent's submission. 21 CFR 1301.54 (d) and (e).

The Administrator finds that from April 21, 1981 through July 16, 1981 an undercover investigation of Respondent was conducted by a drug investigator for the Michigan Department of Licensing and Regulation and a Detective Sergeant of the Michigan State Police. The undercover investigators went to Respondent's office on six separate occasions. Under the pretense of needing drugs for weight loss and sleep, the investigators received 13 prescriptions from Respondent of 436 dosage units of Schedules II, III, and IV controlled substances such as Tenuate Dospan, Valium and Dalmane.

During these visits, Respondent took the pulse rate of one of the investigators and also recorded her weight. Otherwise, Dr. Polk failed to conduct any form of physical examination, obtain any medical history, perform any diagnostic tests or other medical procedures or diagnose any ailment, illness or injury, prior to prescribing the controlled substances.

On March 9, 1983 Respondent pleaded guilty to delivery of Dalmane in the Alpena County Circuit Court. Subsequently, a conviction was entered. Therefore, there is a lawful basis for revoking Respondent's registration and denying his application for reregistration under 21 U.S.C. 824(a)(2).

Respondent alleges that even though the court accepted his guilty plea, it did so conditionally. Respondent was not sentenced nor will he be sentenced until April 12, 1984. Therefore, Respondent contends that he was not really "convicted" within the meaning of 21 U.S.C. 824(a)(2). DEA has consistently held that a conviction is final even though the trial court suspends execution of sentence. A registrant is convicted of a controlled substance related felony if there is a judgment of guilt, plea of guilty or *nolo contendere* or some other indication that he has been found guilty of a controlled substance related felony. See *Faunce Drug Store,* Docket No. 82–3, 47 FR 30122 (1982) and cases cited therein.

Respondent abused the public trust residing in his DEA registration by prescribing controlled substances without a showing of a legitimate medical need. This kind of practice by a physician has led the Administrator to revoke a DEA registration or deny a pending application. *Arthur J. Grahl, M.D.,* Docket No. 83–25, 49 FR 949 (1984); *Herbert Webster Voorhies, M.D.,* Docket No. 80–37, 46 FR 34859 (1981); *Ivan Czornyj, M.D.,* Docket No. 79–22. 45 FR 67477 (1980). The Administrator concludes that the continued registration of Dr. Polk is not in the best interest of the public at this time. However, the Administrator notes that the State of Michigan Board of Osteopathic Medicine and Surgery placed Respondent on close supervision for two years ending November 30, 1984 and Respondent is apparently abiding by the terms of this supervision. Accordingly, DEA will again consider an application for DEA registration submitted by Respondent after the expiration of his supervision by the Michigan Board and, provided that no new or independent grounds for denial then exist, such application will be approved.

The Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AP6430033, previously issued to Henry A. Polk, D.O., be, and it hereby is, revoked. Any pending applications for registration or reregistration are hereby denied, revocation and denial effective May 9, 1984.

Dated: April 3, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84–9374 Filed 4–6–84; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determination which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, N.W.,

Room 8000, Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C. this 3rd day of April 1984.

Joseph Seiler,

Director, Office of Program Operations.

APPLICATIONS RECEIVED DURING THE WEEK ENDING APRIL 7, 1984

Name of applicant and location of enterprise	Principal product or activity
L & G Truck Stop, Inc. Porter, Indiana.	Gasoline station, truck & car wash, restaurant, and gift shop.
Norland Corporation, Fort Atkinson, Wisconsin.	Manufacture of vehicle radar safety devices.

[FR Doc. 84-9328 Filed 4-6-84; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Astronomical Sciences.

Date: April 26 and 27, 1984.

Time: 8:30 AM-5 PM, April 26, 8:30 AM-3:30 PM, April 27.

Place: Room 540, National Science Foundation.

Type of Meeting: Open.

Contact person: Dr. Morris L. Aizenman, Acting Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, DC 20550 Telephone: 202 357-9488.

Summary minutes: May be obtained from the contact person at the above address.

Purpose of Committee: To provide advice and recommendations concerning research in astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning long range plans in astronomy.

April 26, 1984

Agenda: 8:30 AM-5 PM—Introductory Remarks, FY 1985 Budget Discussion, Report of Astronomy Research Section Oversight Subcommittee, Astronomy Centers Priorities and Long Range Plan.

April 27, 1984

8:30 AM-3:30 PM—Astronomy Research Section Priorities and Long Range Plan, National Optical Astronomy Observatories Organization and Structure, Continuation of presentations and discussions of previous day.

April 4, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-9399 Filed 4-6-84; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Developmental Neuroscience; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Developmental Neuroscience.

Date and time: April 26-27, 1984; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G. St., NW., Washington, DC 20550.

Type of meeting: Part Open—Closed 4/26—9:00 a.m. to 12:00 p.m. Open 4/26—12:00 p.m. to 2:00 p.m. Closed 4/26—2:00 p.m. to 5:00 p.m. Closed 4/27—9:00 a.m. to 5:00 p.m.

Contact person: Dr. Alan I. Leshner, Deputy Director, Division of Behavioral and Neural Sciences, Room 320, National Science Foundation, Washington, DC 20550, telephone (202) 357-7564.

Summary minutes: May be obtained from the Contract Person at the above stated address.

Purpose of meeting: To provide advice and recommendations concerning support for research in developmental neuroscience.

Agenda: Open—General discussion of the current status and future plans of the Developmental Neurosciences Program.

Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

Dated: April 4, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-9398 Filed 4-6-84; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Psychobiology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L., 92-463, the National Science Foundation announces the following meetings:

Name: Advisory Panel for Psychobiology.

Date and time: April 26-28, 1984, 8:30 a.m.-5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Room 523, Washington, D.C.

Type of meeting: Open—April 26, 8:30-11:00 a.m. Closed—4/26 12:00 noon—5:00 p.m. & 4/27-4/28.

Contact person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, D.C. 20050, Telephone (202) 357-7949.

Summary minutes: May be obtained from the Contact Person, Dr. Fred Stollnitz, at the above.

Purpose of panel: To provide advice and recommendations concerning support for research in Psychobiology.

Agenda: Open—Research trends and opportunities in Psychobiology.

Closed—Review of proposals.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 4, 1984.

[FR Doc. 84-9400 Filed 4-6-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Air Systems; Meeting

The ACRS Subcommittee on Air Systems will hold a meeting on April 26, 1984, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review general design for chilled water systems, the NRC Staff's prioritization of Generic Safety Issue regarding contamination of instrument air lines, and other related topics. Notice of this meeting was published March 26, 1984 (49 FR 11268).

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being

kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, April 26, 1984—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

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 alloted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., E.S.T.

Dated: April 4, 1984.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84–9392 Filed 4–6–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. STN 50–454, STN 50–455]

Commonwealth Edison Co. (Byron Nuclear Power Station, Units 1 and 2); Notice of Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of April 3, 1984, oral argument on the applicant's appeal from the Licensing Board's January 13, 1984 initial decision in this operating license proceeding will be held at 9:00 a.m. on Thursday, April 19, 1984, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

For the Appeal Board.

Dated: April 3, 1984.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 84–9393 Filed 4–6–84; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting and Record Keeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

A. 1. Type of submission, new, revision or extension: New.

2. The title of the information collection: 10 CFR 81.20 Non-exclusive licenses for NRC inventions.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Annually, unless license specifies a different period.

5. Who will be required or asked to report: Holders of non-exclusive patent licenses.

6. An estimate of the number of responses annually: Three.

7. An estimate of the total number of hours needed to complete the requirement or request: Six.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: Patent counsel uses information on the licensee's efforts to bring the invention to a point of practical application and licensee's progress in making the benefits of the invention reasonably accessible to the public to ensure the licensee's continuing qualification for the non-exclusive license.

B. 1. Type of submission, new, revision or extension: New.

2. The title of the information collection: 10 CFR 81.32 Exclusive licenses for NRC inventions.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Annually, unless license specifies a different period, and on the occurrence of specified events.

5. Who will be required or asked to report: Holders of exclusive patent licenses.

6. An estimate of the number of responses annually: One.

7. An estimate of the total number of hours needed to complete the requirement or request: Nine.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: Patent counsel uses information on market entry and return on investment to determine whether the license period should be extended. Transfer notices are used to keep track of who may exercise rights under the license. Patent counsel uses information on the licensee's efforts to bring the invention to a point of practical application and licensee's progress in making the benefits of the invention reasonably accessible to the public to ensure the licensee's continuing qualification for the exclusive license. Court papers are reviewed to determine whether the government should join in litigation to protect its interest in a licensed patent.

C. 1. Type of submission, new, revision or extension: New.

2. The title of the information collection: 10 CFR 81.40 Contents of a License Application for an NRC Invention.

3. The form number if applicable: Not applicable.

4. How often the collection is required: When seeking the benefit of an NRC patent license.

5. Who will be required or asked to report: Applicants for a NRC patent license.

6. An estimate of the number of responses annually: Three.

7. An estimate of the total number of hours needed to complete the requirement or request: Eighteen.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: NRC uses information on the invention; patent number; applicant's identity and citizenship; business; purpose; field of use; geographic area; and ability to develop the invention to determine whether it should issue an exclusive or non-exclusive patent license to the applicant.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland this 3rd day of April, 1984.

For the Nuclear Regulatory Commission.
Patricia G. Norry,
Director, Office of Administration.
[FR Doc. 84-9394 Filed 4-6-84; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Proposed New Routine Use for Existing Systems of Records

AGENCY: Office of Personnel Management.

ACTION: Notice of a proposed new routine use for an existing system of records.

SUMMARY: The purpose of this document is to propose a new routine use for the Office of Personnel Management's Civil Service Retirement and Insurance Record System (OPM/CENTRAL-1). The routine use, once in effect, will permit the disclosure of information from this system of records to state taxing agencies. The information received by the requesting states will be used only for state tax administrative purposes.

DATES: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received by May 9, 1984. Unless a notice to the contrary is published, this routine use will become effective 45 days after the publication date.

ADDRESS: Address comments to: Jerome D. Julius, Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, Post Office Box 57, Washington, D.C. 20044 or deliver them to 1900 E Street, NW., Room 4351. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Eugene R. Littleford, (202) 632-4684.

SUPPLEMENTARY INFORMATION: A study conducted by the General Accounting Office relating to the exchange of tax information between the Internal Revenue Service (IRS) and state tax agencies indicates that OPM's disclosure of certain data in the Civil Service Retirement (CSR) files to the states would be of significant benefit to them in the administration of their respective programs. State authorities have indicated concern that some Federal civil service retirees may have underreported or failed to report their CSR annuity income to the state tax administration agencies. As a result of these findings, the states have demonstrated an interest in having OPM add a new "routine use" to its system of records comprising the civil service retirement and insurance files (OPM/CENTRAL-1).

The existence of such a "routine use" would permit OPM to disclose information to the state tax administration agencies which would assist in identifying those Federal retirees who fail to comply fully with state tax laws. Such disclosure would be compatible with the purposes for which the records were collected. One reason that the Federal Government keeps records of its disbursements is to ensure that the recipients comply with the applicable laws regarding those disbursements: this includes State tax laws.

States that have an income tax generally have statutory provisions which require a payor to provide information to the State concerning the taxable amounts paid to residents. While the United States is immune from such legislation, civil service annuities are subject to State taxation. Recent legislation (Pub. L. 97-35, August 13, 1981) has required OPM to enter into agreements for the withholding of State taxes from annuities. In that civil service annuity is both taxable and subject to tax withholding, the disclosure of annuity payment information to the States is necessary and reasonable, and thus compatible with the purpose for which it was collected.

The data elements to be furnished from the CSR records include: name, address, social security account number, date of birth, sex, retirement date, retirement code (type of retirement), and annuity rate. The receipt of these data elements by a state tax administration agency will enable that organization to compare the information with that in its data bank or other internal records system. The result of the match will constitute an affirmation of the correctness of the tax information filed by the taxpayer or indicate a discrepancy between the source material and the information submitted on the state tax form. The use of the OPM data will alert the state tax authorities to any apparent improprieties in the information submitted by the taxpayer and also will reveal instances of the failure of certain individuals to file returns in cases in which it is legally required.

Office of Personnel Management.
Donald J. Devine,
Director.

The following "routine use" will be added to OPM's system of records designated as OPM/CENTRAL-1. The current notice of this system is published at 48 FR 37120 *et seq.*, August 16, 1983.

OPM/CENTRAL-1

SYSTEM NAME

Civil Service Retirement and Insurance Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

* * * * *

ii. To disclose information contained in the Retirement Annuity Master File, upon written request, to state tax administration agencies, for the express purpose of ensuring compliance with state tax obligations by persons receiving benefits under the Civil Service Retirement System, and to prevent fraud and abuse, but only the following date elements: name, correspondence address, date of birth, sex, social security account number, annuity rate commencing date of benefits, and retirement code (type of retirement).

* * * * *

[FR Doc. 84-9397 Filed 4-6-84; 8:45 am]
BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20811; SR-CBOE-84-12]

Chicago Board Options Exchange, Inc.; Filing and Order

April 2, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), Chicago Board Options Exchange, Inc., LaSalle at Van Buren, Chicago, IL 60604, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 27, 1984, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The CBOE proposes to allow its member firms to use CBOE's Order Support System ("OSS") to route electronically to CBOE's limit order book any public customer limit orders for Standard and Poor's ("S&P") Telecommunications Index options. Currently, limit orders for an option may be electronically routed to CBOE's limit order book (thus bypassing the floor brokers) only if they are at a limit price

that is above or below the current bid or ask by specified amounts ("parameters"). CBOE proposes to eliminate these parameters for S&P Telecommunications Index options on an experimental basis until April 20, 1984. CBOE states that the statutory basis for this proposed rule change is section 6(b)(5) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Reference should be made to File No. SR-CBOE-84-12.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the proposed rule change would simply expand, on an experimental basis and for a limited time, the potential use of CBOE's existing system for the automatic entry into CBOE's limit order book of public customer limit orders in one index option class.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9347 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20810; File No. SR-CBOE-84-10]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to Integrated Billing System

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 12, 1984, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The following rule is proposed to be added to Chapter Three, which chapter is titled "Membership."

Integrated Billing System

Rule 3.23. Every member must designate a clearing member for the payment of his Exchange invoices by means of the Exchange's integrated billing system ("IBS"). The designated clearing member shall pay to the Exchange on a timely basis any amount that is not disputed pursuant to IBS procedures by the member who is directly involved. Such payments shall be drafted by the Exchange against the designated clearing member's account at the Clearing Corporation; the Clearing Corporation shall have no liability in connection with its forwarding to the Exchange each month a check representing the total amount that the Exchange advises the Clearing Corporation is owed to the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), (C), and (D) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to enable the drafting of member dues, fees or other charges through clearing firms' accounts at The Options Clearing Corporation by requiring every member to designate a clearing firm for this purpose. The statutory basis for the proposed change is section 6(b)(4) of the Securities Exchange Act of 1934 (the Act), in that it will enable the Exchange to more efficiently collect monies owed the Exchange by members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that this proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

(D) Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that

may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 2, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9351 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13861; 812-5341]

Drexel Bond-Debenture Trading Fund; Application

April 2, 1984.

Notice is hereby given that Drexel Bond-Debenture Trading Fund ("Applicant"), 1500 Walnut Street, Philadelphia, Pennsylvania 19102, a closed-end investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on October 12, 1982, and amendments thereto on October 26, 1983, and March 30, 1984, for an order of the Commission, pursuant to Sections 6(c) and 17(f) of the Act, exempting Applicant from the provisions of Section 17(f) of the Act to permit Applicant: (1) To maintain initial margin payments with its custodian in a segregated account that may be in the name of a commodity broker; (2) to deliver to commodity brokers variation margin payable to the broker in connection with interest rate futures contracts; and (3) to maintain with commodity brokers variation margin payable to Applicant in connection with interest rate future contracts so long as such margin does not exceed $50,000. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and rules thereunder for further information as to the provisions to which the exemption applies.

According to the application, Applicant's investment objective is to seek a high rate of return primarily from interest income on, and the short term trading of, high quality debt securities. Applicant maintains a portfolio consisting principally of nonconvertible debt securities. In 1978 Applicant's shareholders approved new fundamental investment policies permitting it to acquire positions in interest rate futures contracts, primarily to permit Applicant to hedge its existing, portfolio positions in debt securities against changes in value resulting from interest rate fluctuations. In a letter to the Commodities Futures Trading Commission ("CFTC") requesting confirmation that it was not a "commodity pool operator," Applicant stated that it "desires to use the futures market in a very limited way for the sole purpose of protecting itself against fluctuations in interest rates and then only when an appropriate opportunity presents itself." Applicant's fundamental policies provide that it will not acquire any futures contract to deliver or acquire any security if, immediately thereafter, the face value of the securities required to be delivered or acquired pursuant to all futures contracts held by Applicant (not the lesser value of the contracts themselves) exceeds 20 percent of Applicant's total assets. Applicant's board of directors passed a resolution, as a condition to obtaining an opinion from the CFTC that Applicant's proposed activities were sufficiently limited so as not to require it to register as a "commodity pool operator," declaring that Applicant may not engage in interest rate futures transactions (other than to offset existing positions) if, immediately thereafter, all initial and variation margin deposits would exceed 5 percent of the market value of Applicant's total assets.

Applicant states that an interest rate futures contract requires one party to deliver a contractually established cash purchase price and the other party to deliver a standard face amount of an eligible debt security that fulfills the contract requirement. The acquisition of an obligation to deliver securities and a concomitant right to receive cash is referred to as a "sale" of an interest rate futures contract, and the acquisition of an obligation to deliver cash and a concomitant right to receive securities is referred to as a "purchase" of an interest rate futures contract. While delivery of a specified security is a term of each interest rate futures contract, delivery rarely occurs because the purpose ordinarily is not to acquire or deliver the securities but to protect or create values in the portfolio at a future time. Thus, open positions are usually closed by off-setting transactions.

Interest rate futures contracts are traded on organized commodity exchanges, each of which has established a clearing house which acts, in effect, as the other party to each contract. Thus, one who holds a position in a futures contract is not exposed to the credit of the contracting party; the clearing corporation assures that role. The CFTC, pursuant to the Commodity Exchange Act, regulates interest rate futures contracts and the commodity exchanges on which they are traded. Each member of the exchange (a "commodity broker") is required to maintain with the clearing house an amount equal to the net amount of the initial margin and variation margin applicable to all open contracts which it holds for customers. "Initial margin" in futures transactions differs from margin in a securities transaction because it does not involve the borrowing of funds by the purchaser. Instead, Applicant characterizes initial margin as a deposit of a set minimum amount for each contract which is used as a security deposit or performance bond intended to secure performance of the obligation on the contract by enabling the contract to be closed out using the initial margin. Similarly, variation margin once paid does not represent borrowing but is the amount required to be paid to bring the net equity in the broker's account with the exchange, after it has been reduced by net realized and unrealized losses to a pre-established minimum value, to the required level of initial margin.

The margin mechanism, in effect, marks futures contracts to market as to unrealized losses and gains. It causes the customer to make payment of net unrealized losses on a current basis and permits the customer, if it has a net gain, to withdraw its gain. As long as a contract remains open, the commodity account, and the customer's balance sheet, will reflect the customer's net equity in the account. "Equity" consists of amounts paid by the customer as initial and variation margin, reduced by the amount of net unrealized loss on, or increased by the amount of net unrealized gain on, the contracts in the account. The contingency that a substantial change in values could make performance financially difficult is corrected daily, and a broker has the means to close out a position, using the remaining initial margin, whenever variation margin is not paid on a timely basis. Applicant's exposure to large commitments to deliver or pay is monitored daily and can be limited by the ability to offset and close out contractual obligations. Applicant's exposure to a commitment to pay, while limited by the ability to offset, is not eliminated altogether because

Applicant's ability to offset may be impaired by limit moves and a closed futures market. Exposure to losses, however, may be offset in the cash market, if the futures market is closed.

Applicant intends to place initial margin amounts payable to its commodity broker in a segregated account with the custodian of its other assets. The account may be in the name of the broker with whom Applicant has entered into an agreement pursuant to which the broker has agreed that the assets in the account will at all times remain with the custodian unless released to Applicant, or sold or disposed of at the direction of the broker who has a right to payment in accordance with the rules of the CFTC and applicable commodity exchanges (this might occur if Applicant was unable to satisfy its obligations under the agreement to pay variation margin).

Applicant will pay, directly to the broker, the variation margin which the broker requests from Applicant on any day on which Applicant's net equity has been reduced below the pre-established minimum. Because this payment represents a settlement of the amount due to the broker under the agreement between Applicant and the broker, monies paid as variation margin are no longer Applicant's assets. As for variation margin payable to Applicant, Applicant represents that it will promptly demand payment of any excess variation margin greater than $50,000 or more upon notification by the broker that such amount is payable. Payments received by Applicant will be held by its custodian together with its other assets. While Applicant has a right to demand excess variation margin payments in any amount on any day that a net positive change in equity above the required initial margin exists, Applicant submits that it would both be unnecessarily costly and unduly burdensome for both Applicant and its brokers to require Applicant to demand *de minimis* amounts of variation margin. To demand an insubstantial portion of its assets, Applicant would have to incur transaction fees and additional operating expenses. Accordingly, Applicant requests exemption from section 17(f) of the Act to permit it to maintain excess variation margin with its broker so long as the amount of such margin does not exceed $50,000 (approximately ⅛ of 1% of net current assets). Applicant's board of directors will, from time to time, review Applicant's practice in leaving variation margin with its commodity broker and will decrease the amount that may be left with such brokers in those situations where it finds it appropriate to do so. Applicant believes the ability to leave excess margin with its broker to this extent would save Applicant, its shareholders, and its commodity brokers the expense of processing payments for small amounts without increasing in any meaningful degree any risk to the security of its assets.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 27, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-8342 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13857; 812-5765]

Gulledge Realty Investors II, et al.; Application

March 30, 1984.

Notice is hereby given that Gulledge Realty Investors II ("Partnership") 5203 Leesburg Pike, Suite 701, Falls Church, Virginia, 22041, and its General Partners, the Gulledge Corporation, a Delaware corporation ("Managing General Partner"), Eugene A. Gulledge and Keith A. Gulledge, Virginia residents (together with the Partnership and the Managing General Partner collectively referred to hereinafter as "Applicants"), filed an application on February 8, 1984, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting the Partnership from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicants state that the Partnership was formed under the Virginia Uniform Partnership Act on December 1, 1983, and is designed to provide investors with a means of acquiring equity interests on government-assisted rental housing in accordance with the policies of Title IX of the Housing and Urban Development Act of 1968.

Applicants state that the Partnership will operate as a "two-tier" partnership: that is, the Partnership will invest as a limited partner in other limited partnerships (the "Project Partnerships") which will own, acquire or develop, and operate Projects that are financed and/or operated under federal or state housing assistance programs. Applicants state that the Partnership may also invest a limited portion of the funds available for investment in certain Project Partnerships which own, or will develop or acquire, and operate conventional Projects if such investments are in the best interests of investors under the circumstances. Applicant further states that the Partnership has negotiated the right to acquire an interest in one Project Partnership at this time. According to the application the Project to be acquired is a 240-unit apartment complex for rental to low and moderate income persons, receiving assistance from the Department of Housing and Urban Development under the section 236 program.

The application states that the Partnership will make $1,683,375 of capital contributions to this Project Partnership and receive a 99% limited partnership interest and that the Gulledge Investment Company, an affiliate of the Managing General Partner, and Eugene A. Gulledge, a General Partner, will serve as general partners of the Project Partnership.

Applicants assert that the Partnership is organized as a limited partnership because a limited partnership is the only form of organization that provides investors with both (a) the ability to claim on their individual tax returns the tax benefits arising from the Partnership's investment in the Project Partnerships and (b) liability limited to their capital investment. The investment in the Projects is organized as a "two-tier" investment to facilitate a public offering involving numerous investors and acquisitions of interests in numerous Projects.

Applicants represent that the Partnership has requested a private ruling from the Internal Revenue Service that the Partnership will be classified as a "partnership" for federal income tax purposes. In addition, Applicants state

that their counsel is rendering an opinion on this issue and certain other aspects of the offering.

Applicants state that on January 31, 1984, the Partnership filed a registration statement under the Securities Act of 1933, pursuant to which the Partnership intends to offer publicly 10,000 Units of limited partnership interest (the "Units") at $1,000 per Unit, with a minimum investment of $5,000 per investor. Applicants represent that the Partnership will have between a minimum of $2,125,000 and a maximum of $22,250,000 available for investment, after the payment of selling commissions and offering expenses, from the proceeds of its public offering. Applicants represent that from the amount available for investment, the Partnership will pay acquisition expenses and fees to the General Partners and their affiliates, and establish a reserve for working capital. The remainder of the amount available for investment will be invested in Project Partnerships.

Applicants state that subscriptions for Units in the Partnership must be approved by the Managing General Partner of the Partnership, which approval will be conditioned upon representations as to suitability of the investment for the subscriber. The application states that in order to become a limited partner of the Partnership each investor must represent that either (a) he has a net worth (exclusive of homes, home furnishings and automobiles) of at least $50,000 and anticipates that he will have (after taking into account any losses which may result from investment in the Partnership) annual taxable income in each year from 1984 through 1986 in excess of $41,500 ($60,000 for married subscribers who file joint federal income tax returns) or (b) he has a net worth (subject to the above exclusions) of at least $150,000.

Applicants further state that Units will be sold in certain states only to persons who meet more restrictive standards, which will be set forth in the subscription agreement and that the transfer of Units will be permitted only if the transferee meets the same suitability standards.

Applicants state that the net proceeds of the offering will be utilized by the Partnership only if at least 2,500 Units are sold not later than six months after the date of the Prospectus, unless extended by the Managing General Partner of the Partnership to one year after the date of the Prospectus. If 2,500 Units in the Partnership are not sold by the later of such dates, the proceeds of the offering will be returned by the Partnership to the Limited Partners without reduction, plus a pro rata share of any interest remaining after the payment of escrow expenses.

Applicants further represent that at the discretion of the Partnership, subscription proceeds in escrow may be temporarily invested in savings bank and commercial bank time deposits or certificates of deposit, government securities issued and fully insured by the United States, commercial paper rated P–1 by Moody's Investors Service, Inc. and insured money market funds.

Applicants assert that any of the net proceeds of the offering which the Partnership has not invested or committed to investment in Project Partnerships within 24 months from the date of the Prospectus, except for amounts utilized to pay operating expenses and amounts set aside for reserves, will be returned by the Partnership to the Limited Partners without reduction for fees payable to the General Partners or their affiliates which would have been payable if such funds had been invested in Project Partnerships. The application states that any funds with respect to the investment of which the Partnership has executed a binding agreement in or which the Partnership has set aside as a reserve for contingent payments as of 24 months after the date of the Prospectus will be deemed committed to investment on that date and will not subsequently be returned to the Limited Partners, even if the investment of such funds is not consumed, the contingent payments are not made or the invested funds are returned to the Partnership upon a repurchase of the Partnership's interest in a Project Partnership. In any such event Applicants state that funds remaining after the payment of expenses will be maintained and used by the Partnership in accordance with its business purposes.

Applicants state that after the Partnership has made an initial capital contribution to a Project Partnership, other funds allocated for subsequent investment in that Project Partnership will be temporarily invested by the Partnership in tax-exempt investments, so that cash available for distribution derived from such investments should not be taxable. Applicants represent that these tax-exempt investments will all be rated MIG–1 (the highest possible rating) by Moody's Investors Services, Inc. with maturities which do not exceed one year. Applicants state that the determination of whether to distribute earnings from such tax-exempt investments or to utilize such earnings for other Partnership purposes will be made by the Managing General Partner.

Applicants state that the Partnership will be controlled by The Gulledge Corporation as the Managing General Partner, and that the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the Partnership's business. However, it is further stated that a majority in interest of the Limited Partners will have certain limited rights, including the right to amend the Partnership Agreement, dissolve the Partnership, remove any General Partners and elect a replacement and continue the Partnership upon the death, insanity, retirement or bankruptcy of a General Partner that is the sole General Partner, provided that counsel opines or a court competent jurisdiction determines that such rights will not adversely affect the tax or limited liability status of the Limited Partners. Applicants also state that under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership during reasonable business hours. Further, Applicants state that copies of the list of the names and addresses of the Limited Partners, including the number of Units owned by each of them, will be available to the Limited Partners.

Applicants represent that all such compensation is fair and on terms no less favorable to the Partnership than would be the case if such arrangements had been made with independent third parties. Further, Applicants represent that such compensation meets all applicable guidelines necessary to permit its respective Units to be offered and sold in the various states which prescribe such guidelines, including, without limitation, that statement of policy adopted by the North American Securities Administrators Association, Inc. in respect of real estate programs. Applicants state that fees will be payable to the General Partners or any of their affiliates if 2,500 Units are not sold. Applicants represent that where the Partnership has made an initial capital contribution but does not make further capital contributions because of the inability of the Project Partnership to comply with the provisions of the Project Partnership Agreement, make appropriate representations and warranties to the Partnership, or otherwise, no portion of the fees paid to the Managing General Partner or its affiliates will be returned to the Partnership. However, the application states that funds not invested in that Project Partnership will be available for investment in other Project Partnerships, and neither the General Partners nor any affiliate will receive a fee in

connection with the acquisition of such other Project Partnerships. Moreover, Applicant states that no fees will be payable to the General Partners or their affiliates in respect of any of the net proceeds not invested or committed to investment in Project Partnerships within 24 months from the date of the Prospectus.

Applicants recognize that under the Virginia Uniform Limited Partnership Act, and under the terms of the Partnership Agreement, a general partner is a fiduciary with respect to his partnership and the limited partners. However, the Partnership Agreement provides that no General Partner will be liable, responsible or accountable in damages or otherwise to any of the Partners for any act or omission performed or omitted in good faith and in a manner reasonably believed by it to be within the scope of the authority granted to it by the Partnership Agreement and in the best interests of the Partnership. Moreover, the application states that each General Partner will be indemnified and held harmless by the Partnership against any loss, liability or damage incurred by it as a result of or in connection with the Partnership's activities if such General Partner acted in good faith and was not guilty of fraud, negligence or misconduct. The application states that the General Partners are aware, and the Prospectus discloses, that it is the opinion of the Commission that insofar as indemnification for liabilities arising under the Securities Act may be provided to directors, officers and controlling persons pursuant to the foregoing, or otherwise, such indemnification is contrary to public policy and is, therefore, unenforceable. Applicants assert that a General Partner will, however, be liable, responsible or accountable for negligence, misconduct or breach of fiduciary duty.

Applicants submit that the Partnership is not an investment company as defined in the Act, but further request that, in any event, the Partnership be exempted from all provisions of the Act pursuant to 6(c).

Applicants contend that the exemption of the Partnership from the provisions of the Act is both necessary and appropriate in the public interest. It is asserted that the limited partnership form of organization which is necessary to limit the liability of private investors in government-assisted housing programs, is incompatible with the regulatory framework of the Act. Thus, Applicants submit that to discourage the use of the two-tier partnership vehicle would eliminate the primary means of attracting equity capital into government-assisted housing and would frustrate the national policy declared by Congress in Title IX, which is "to encourage the widest possible participation by private enterprise in the provisions of housing for low and moderate income persons."

Applicants further state that the requested exemption would be consistent with the protection of investors and the purposes and policies of the Act. Applicants note that sales of the Units will be restricted to sophisticated investors, who will be apprised on a continuing basis of the Partnership's business and operations through the detailed reports which the Partnership will distribute to Limited Partners, and file with the Commission. It is further stated that with the exceptions of funds which the Partnership may hold in money market instruments and other interim investments, all of the proceeds of the sale of the Units will be invested in the Project Partnerships, which are specifically indentified and described in the Partnership's prospectus. Thus, Applicants assert, the General Partners' discretion to invest Partnership funds is cicrumscribed by the investment objectives set forth in the Partnership's prospectus. Finally, Applicants represent that all potential conflicts of interest relating to the Partnership have been disclosed to investors in the Partnership' prospectus, and that the Partnership Agreement contains numbers provisions designed to prevent overreaching by the General Partners and to ensure fair dealing by them with Limited Partners.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own moton.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9346 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23256; 70-6957]

Indiana & Michigan Electric Co.; Proposed Increase in Unsecured Debt Limit and Order Authorizing Solicitation of Proxies

March 22, 1984.

Indiana & Michigan Electric Company ("I&MECo") One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 62 and 65 promulgated thereunder.

I&MECo intends to obtain the approval of the holders of its outstanding cumulative preferred stock for a proposed five-year extension of the current authorization by such shareholders under the company's Amended Articles of Acceptance ("Charter") which authorization permits the company to issue or assume, subject to requisite regulatory approvals, and to have outstanding, unsecured debt securities in an aggregate principal amount exceeding 10 percent, but which, together with outstanding long-term unsecured debt securities, may not exceed 20 percent, of the company's total capitalization at any time. I&MECo proposes to solicit proxies for a special meeting of shareholders which I&MECo proposes to call for the purpose of permitting shareholders of the company to consider and take action on the proposed five-year extension.

I&MECo states that in addition to the Charter limitation noted above, the company's ability to incur short-term debt also is restricted by the Agreement dated as of June 1, 1961, between the company and United States Trust Company of New York, as Trustee, as amended and supplemented ("Debenture Agreement"), pursuant to which two series of sinking fund debentures of I&MECo were issued. The Debenture Agreement provides that, while such debentures are outstanding, the company shall not issue, incur or be obligated to pay any Current Indebtedness (defined as the principal of any indebtedness of the company for borrowed money (excluding certain

deposit accounts) maturing by its terms on demand or one year or less after the date on which the company issued, incurred, or became obligated to pay it) either directly or by guarantee, unless, after giving effect to such Current Indebtedness and the application of the proceeds thereof, the aggregate of all Current Indebtedness of the company does not exceed (i) 10 percent of the Capitalization of the company as defined or (ii) such larger percentage of the Capitalization of the company as shall be authorized or approved, upon application by the company, by this Commission. I&MECo requests that it be authorized pursuant to the Debenture Agreement to issue, incur, and become obligated to pay Current Indebtedness (as defined) in excess of 10 percent, but not exceeding 20 percent, of the Capitalization of the Company (as defined) through December 31, 1990, subject to the proviso that the aggregate principal amount of Current Indebtedness (as defined) outstanding on December 31, 1990, in excess of 10 percent of the Capitalization of the Company (as defined) shall mature by its terms no later than June 30, 1991.

No state or federal Commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to incurred in connection with the proposed transactions are estimated at $42,500.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 17, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

It appearing to the Commission that I&MECo's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rules 62 and 65:

It is ordered that the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rules 62 and 65 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9352 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20803; File No. 4-256]

Institutional Networks Corp. and National Association of Securities Dealers, Inc.; Order Extending Temporary Stay

March 30, 1984.

The Commission is extending until April 30, 1984, the temporary stay granted to the Institutional Networks Corporation ("Instinet") on August 16, 1983,[1] and extended on November 30, 1983, until March 31, 1984.[2]

Background

On July 15, 1983, Instinet filed a petition with the Commission pursuant to section 11A(b)(5) of the Securities Exchange Act of 1934 ("Act") seeking review of proposed fees of the National Association of Securities Dealers, Inc. ("NASD") for quotation information in National Market System ("NMS") Securities.[3] Instinet stated its belief that such fees were a denial of access to services provided by the NASD as an exclusive processor of securities information.

On August 16, 1983, the Commission issued an order holding that the proposed fees constituted a prohibition or limitation on access to services and instituted a proceeding to determine whether the prohibition or limitation on access to services was inconsistent with the provisions of the Act ("Instinet Proceeding").[4] In addition, using its authority under Section 11A(b)(5)(A) of the Act, the Commission granted Instinet conditional interim relief until December 31, 1983 so that Instinet could begin receiving quotations in NMS Securities during the pendency of the Commission's review of the Instinet Proceeding. Pursuant to the terms of interim relief, Instinet has been paying into escrow an amount equal to the NASD's proposed fees.[5] Recognizing that the proceeding would not be concluded by December 31, 1983, the Commission issued a subsequent order extending interim relief to Instinet on the same terms until March 31, 1984.[6]

Discussion

The Commission notes that the temporary stay will expire on March 31, 1984. Because the Commission anticipates that the Instinet Proceeding will not be concluded by that date, and because the Commission continues to believe that it is appropriate for Instinet to receive interim relief during the pendency of the Proceeding, the Commission has determined to extend the temporary stay from March 31, 1984 until April 30, 1984. The interim relief provided during the extension of the stay shall be governed by the terms delineated in the Commission's original order granting the stay, and all money paid into escrow as of March 31, 1984, shall remain in escrow until the Commission orders otherwise or until the parties agree otherwise.

Order

Accordingly, the Commission hereby issues an order, pursuant to its authority under the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94-29 (June 4, 1975)] and particularly Sections 2, 3, 11, 11A, 15, 15A, 19, 22 and 23 thereof [15 U.S.C. 78b, 78c, 78k, 78k-1, 78*o*, 78*o*-1, 78s, 78v, 78w] as follows:

It is hereby ordered that the Commission's order, dated August 16, 1983 (Securities Exchange Release No. 20088, 48 FR 38124) granting a temporary stay, as extended on November 30, 1983 (Securities Exchange Act Release No. 20425, 48 FR 54733), is amended to extend the stay from March 31, 1984 until April 30, 1984. The terms and conditions of the stay remain unchanged.[7]

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9341 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

---

[1] *See* Securities Exchange Act Release No. 20088 (August 16, 1983), 48 FR 38124 ("order instituting the proceeding").

[2] *See* Securities Exchange Act Release No. 20425 (November 30, 1983), 48 FR 54733 ("extension order").

[3] *See* SR-NASD-83-13. Securities Exchange Act Release No. 19884 (June 17, 1983), 48 FR 20986.

[4] *See generally* order instituting the proceeding, *supra* note 1.

[5] For further information concerning the issues relating to the Instinet Proceeding and the terms of the interim relief *see* the order instituting the proceedings, *id.* note 1.

[6] *See* extension order, *supra* note 2.

[7] One term of the stay allows Instinet to decline to accept the stay as conditioned by the Commission. If Instinet determines not to continue to accept the quotation information before the termination of this proceeding, Instinet shall pay to escrow all money then due, and the entire escrow account shall not be paid to either party until ordered by the Commission or until the parties agree otherwise.

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

April 3, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Damson Oil Corporation
Common Stock, $.40 Par Value (File No. 7-7407)
American General Corporation
$2.64 Cumulative Convertible Preferred Stock (File No. 7-7408)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 24, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9343 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23269; 70-6966]

National Fuel Gas Co.; Proposal To Invest in a Non-Utility Joint Venture

April 2, 1984.

National Fuel Gas Company, ("National") 30 Rockfeller Plaza, New York, New York, 10112, a registered holding company, has filed with this Commission, an application pursuant to section 9(c)(3) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 23, 24, 40(a)(5) and 100 promulgated thereunder.

National proposed to invest $25,000 cash in Erie Venture Capital, Inc. ("EVC"). As of February 26, 1984, several other large corporations based in Erie, Pennsylvania, or with major operations there have committed to invest a total of $450,000 in EVC as well. If EVC can find additional investors, it will purchase a number of shares of newly-issued common stock of Jetstream International Airlines, Inc. ("Jetstream"), giving EVC a substantial minority interest.

Jetstream is an air passenger carrier which has its hub as the Erie, Pennsylvania Airport and from there provides direct flights to and from a number of cities, with plans to expand the number of such cities. Jetstream has only one competitor in serving Erie and this competitor provides direct service only to and from Pittsburgh, Pennsylvania.

National is interested in bolstering the capitalization of Jetstream through investing in EVC since Erie is the second largest metropolitan area National serves and is the Pennsylvania headquarters for the operations of National's subsidiaries. Erie-based employees frequently need to travel by air to other cities and with Jetstream's commencement of service, air travel into and out of Erie has become less inconvenient. National believes that investing indirectly in Jetstream will assist Jetstream in maintaining and exapanding air service to and from Erie. National also wishes to make this investment because it believes that strong air service will ultimately buttress and enhance the industrial and commercial competitveness of Erie and Erie businesses. By bolstering the Erie economy, National hopes to maintain, and perhaps enlarge, the market for its primary product, natural gas.

At current levels, commitments of other companies to invest in EVC indicates that National will become an "affiliate" of EVC, as the Act defines that term, if it does make the proposed investment. National expects that circumstances will change such that National will be able to make the proposed investment without becoming an affiliate of EVC. Only under such circumstances will National make the proposed investment.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 26, 1984, to the Secretary, Securities and Exchange Commissions, Washington, D.C. 20549, and service a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted and permitted to become effectvie.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9348 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20812; SR-NYSE-84-1]

New York Stock Exchange, Inc.; Order

April 2, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 11 Wall Street, New York, NY, 10005, 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, the New York Stock Exchange, Inc. ("NYSE") submitted on February 8, 1984, a proposed rule change to amend NYSE Rule 703 to provide for the listing of NYSE stock index options series with up to six expiration dates open simultaneously. The rule change requires that four of the authorized series shall expire in the four nearest-term months. The Commission solicited comment on this NYSE proposal by publication of a Commission release.[1] No comments were received. The Commission has previously approved somewhat similar proposed rule changes submitted by the American Stock Exchange, Inc. ("Amex") and the Chicago Board Options Exchange, Incorporated ("CBOE") providing for consecutive month expiration dates for broad and narrow-based index options, respectively.[2]

[1] Notice and the terms of substance of the proposed rule change were published in Securities Exchange Act Release No. 20674 (February 17, 1984), 49 FR 7175 (February 27, 1984).

[2] The Commission first approved proposed rule changes submitted by Amex and CBOE, respectively, providing for monthly expiration dates for broad-based index options alone. *See* File No. Amex-83-18 Securities Exchange Act Release No. 20201 (September 20, 1983), 48 FR 43747 (September 26, 1983) and File No. SR-CBOE-83-29, Securities Exchange Act Release No. 20284 (October 14, 1983), 48 FR 48730 (October 20, 1983). Those proposals permitted the exchanges to list series in up to four consecutive months. Thereafter, proposed rule changes filed by Amex and CBOE, respectively, to expand their monthly expiration rules to include narrow-based index options were also approved by the Commission. The Amex proposal also permitted concurrent listing of both quarterly expiration and

Continued

Currently, the NYSE authorizes for trading options series with five different expiration months, at any given time. Three series are nine-month options that expire on the designated quarterly cycle ("cycle month series"). Two are three-month options that expire in the off-cycle months ("consecutive month series"). As a result, the NYSE has series listed that expire in the fourth of the four nearest months for only four months during the year. However, pursuant to their rules, both Amex and CBOE always have series listed that expire in the fourth of the four nearest months.

The proposed rule change amends NYSE Rule 703, with respect to all classes of stock index options, to require that there will always be a listed series in the fourth of the four nearest expiration months, thereby assuring that there will always be listed series in all four of the nearest-term expiration months. In addition, the proposal permits the Exchange to have series expiring in up to six months at any given time. Under the proposal, however, the NYSE has reserved the right to elect not to list series expiring in a fifth or sixth month should industry practice or the "Peculiarities of the particular class" dictate that such a course is appropriate. In this connection, the NYSE may examine, monthly, the circumstances surrounding a particular options class to determine whether a fifth and/or sixth expiration month series is appropriate.[3]

The Commission's primary concern in considering previous exchange proposals to increase the number of options series outstanding is that this could serve to fragment trading interest and impact adersely the liquidity of the options. As the NYSE notes, other exchanges currently trade options on both broad and narrow-based indices with econcomic characteristics substantially similar to those traded by NYSE. Those exchanges' rules currently provide for consecutive months series up to four months out, and hence contemplate the trading of options series in the expiration month the NYSE proposes to add. As a result, the NYSE proposal does not appear to have the potential to expand materially the number of available options series and thus should not have significant adverse consequences on the quality of the market for index options.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges. In particular, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act, which provides in pertinent part that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public, since it promotes uniformity among the exchanges that trade stock index options.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9349 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

consecutive month series. *See* File No. SR-Amex-83-24, Securities Exchange Act Release No. 20414 (November 25, 1983), 48 FR 54308 (December 1, 1983) (the "Amex Release") and File No. SR-CBOE-83-38, Securities Exchange Act Release No. 20438 (December 12, 1983), 48 FR 55226 (December 9, 1983). The Commission has also approved a rule filing by the Philadelphia Stock Exchange, Inc. to permit its narrow-based stock index options to have monthly expiration dates. *See* File No. SR-Phlx-83-21, Securities Exchange Act Release No. 20455 (December 6, 1983) 48 FR 55661 (December 14, 1983).

[3] The rule proposal also states that because the possible listing of consecutive monthly expirations in the five nearest-term months may present a problem for certain member organizations, the Exchange has retained the right to defer the listing of a consecutive month series for one month. The NYSE rule proposal indicates that if this were to occur the Exchange would list both the deferred month and a replacement cycle month in the next month.

[File No. 1-1616]

The New York and Harlem Railroad Co.; 3½% Gold Mortgage Bonds (Due 2000) 4% Series B Mortgage Bonds (due 2043); Application To Withdraw From Listing and Registration

April 3, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12(d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

The New York and Harlem Railroad Company ("Company") has requested to withdraw its bonds from listing and registration on the NYSE because trading in the bonds has been low. For example, there has been no trading in the 3½% bonds since 1979. With respect to the 4% bonds, trading has been nominal since 1982 and there has been no trading since late January 1984. In addition, the bonds are held by a small number of holders and there is a small amount outstanding. Consequently, the Company has determined that the expense of continued listing is no longer justified. The NYSE has indicated that it has no objection in this matter.

Any interested person may, on or before April 24, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washingtin, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9350 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

March 30, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Delmed, Inc.
Common Stock, $.10 Par Value (File No. 7-7402)

Dome Petroleum Limited
Common Stock, No Par Value (File No. 7-7403)

Kirby Exploration Company
Common Stock, $.10 Par Value (File No. 7-7404)

Ozark Airlines, Inc.
Common Stock, $.50 Par Value (File No. 7-7405)

Ultimate Corporation
Common Stock, No Par Value (File No. 7-7406)

These securities are listed and registered on one or more other national securities exchange and are reported in

the consolidated transaction reporting system.

Interested person are invited to submit on or before April 20, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9340 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

April 3, 1984.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Sante Fe Southern Pacific Corp.

Common Stock, $1 Par Value (File No. 7-7409)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 24, 1984 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-9344 Filed 4-6-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB March 10-March 26, 1984

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and rcordkeeping requirements, transmitted by the Department of Transportation, during the period March. 10-March 26, 1984, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, DC. 20590, (202) 426-1887, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 328, Washington, D.C. 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

As needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from March 10-March 26, 1984:

DOT No.: 2398
OMB No.: 2132-0501
By: Urban Mass Transportation Administration
Title: Statement of Revenues and Expenses
Forms: None
Frequency: On occasion
Respondents: State and local governments
Need/Use: The information on eligible expenses, non-Federal income sources applied to eligible expenses, and the amounts to which Federal funds may be matched is used by UMTA Regional Offices to determine the total amount of Federal assistance eligibility of the applicant

DOT No: 2399

OMB No: 21-32-0510
By: Urban Mass Transportation Administration
Title: Authorizing Resolution
Forms: None
Frequency: On Occasion
Respondents: State and Local Governments

Need/Use: UMTA Regional Offices need an Authorizing Resolution to ensure that UMTA is dealing with the Financial Comptroller or other bona fide representative of the prospective grantee.

DOT No: 2400
OMB No: 2127-0001
By: National Highway Traffic Safety Administration
Title: National Driver Register File Check/Reporting of License Withdrawal Denial
Forms: HS-Forms 1046 and 1047
Frequency: On Occasion
Respondents: State/Federal agencies

Need/Use: Data is necessary in order that the National Driver Register be able to conduct file searches to locate or verify revocations of drivers licenses for States upon request. If the revocations and suspension data were not supplied by the States the NDR could not perform its statutory mandate to assist the States in identifying and controlling dangerous drivers.

DOT No: 2401
OMB No: 2120-0039
By: Federal Aviation Administration
Title: Air Carrier/Commercial Operators—FAR 135
Forms: FAA Form 8000-6, Application for Air Carrier/Commercial Operator certificate Under FAR 135
Frequency: As required
Respondents: Air carriers with small aircraft

Need/Use: FAR 135 prescribes requirements for Air Carrier Operators with small aircraft. The information collected is needed to ensure compliance with safety requirements and applicant eligibility for air carrier operations.

DOT No: 2402
OMB No: 2120-0018
By: Federal Aviation Administration
Title: certification Procedures for Products and Parts FAR 21
Forms: FAA 8110-12; 8130-1; 8130-6 and 8130-9 8130-12
Frequency: As required
Respondents: Aircraft and Parts Designers, Manufacturers and Owners.

Need/Use: FAR 21 prescribes certification procedures for products and parts. The information collected is used to determine compliance and eligibility with FAR 21. The licensing procedure is to ensure safety of flight.

DOT No: 2403
OMB No: 2120-0069
By: Federal Aviation Administration
Title: Medical Exemption Petition (Operational Questionnaire)
Forms: FAA Form 8500-20
Frequency: On occasion
Respondents: Individuals requesting aviation medical waivers

Need/Use: To assist in determining if applicant's physical fitness is adequate to perform specific aviation duties.

DOT No: 2404
OMB No: 2120-0040
By: Federal Aviation Administration
Title: Aviation Maintenance technician Schools—FAR 147
Forms: FAA Form 8310-6 Aviation Maintenance Technician School Certificate and Ratings Application
Frequency: On Occasion
Respondents: Aviation Maintenance Technician Schools

Need/Use: FAA Act of 1958, Section 607 (49 U.S.C. 1427) authorizes certification of civilian aviation mechanic school. 14 CFR 147 prescribes requirements for certification and operation of aviation mechanic schools. Information collected is used to determine applicant eligibility and compliance.

DOT No: 2405
OMB No: 2137-0051
By: Research and Special Programs Administration
Title: Requirements for Service of Process on Non-Residents of the U.S.
Forms: None
Frequency: On occasion
Respondents: Non-residents of U.S. applying for an exemption

Need/Use: Non-resident applicants for an exemption from hazardous materials regulations of the U.S. must designate an agent who is a permanent resident of the U.S. who will be responsible for any violations by the applicant. The U.S. agent for non-residents is the Department's point of contact for service of process for non-residents applying for and holding an exemption. The need for this process is to eliminate the possibility of foreign shippers evading safety rules without legal consequences.

DOT No: 2406
OMB No: 2137-0500
By: Research and Special Programs Administration
Title: Material of Construction for Portable Tanks
Forms: None
Frequency: Each new portable (high pressure and/or hazardous material) tank
Respondents: Manufacturers of portable tanks for hazardous materials

Need/Use: Used by manufacturers, purchasers, and the Materials Transportation Bureau to verify that steel used in construction of IM 101 and 102 portable tanks meets requirements set forth in the Department's regulations for their construction.

DOT No: 2407
OMB No: 2137-0522
By: Research and Special Programs Administration
Title: Incident Report and Annual reports for Gas Pipelines (4 combined)
Forms: RSPA 7100.1; RSPA 7100.2; RSPA 7100.1-1; RSPA 7100.2-1
Frequency: On occasion and annually
Respondents: Gas pipeline operators

Need/Use: Telephone notices and other reporting of gas pipeline incidents enables the Materials Transportation Bureau to send investigative personnel to the scene of the incident, alert the National Transportation Safety Board for a disaster investigation, prepare a fact sheet on the incident for queries from the Congress, and supply information for the Federal Energy Regulatory Commission.

Issued in Washington, D.C. on March 30, 1984.

Jon H. Seymour,

Deputy Assistant Secretary.

[FR Doc. 84-9435 Filed 4-6-84; 8:45 am]
BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

[Docket No. EX83-3; Notice 2]

Jaguar Cars, Inc.; Grant of Petition for Temporary Exemption From Federal Motor Vehicle Standard No. 108

This notice grants the petition of Jaguar Cars, Inc. of Leonia, N.J., for a temporary exemption of its XJ-S model from the headlighting requirements of Federal Motor Vehicle Safety Standard No. 108, subject to certain specified conditions. Jaguar had petitioned on the basis that the exemption would facilitate the "field evaluation of a styled, aerodynamic headlamp fitted with an externally mounted wash and wipe system."

Notice of receipt of petition was published on September 1, 1983 and an opportunity afforded for comment (48 FR 39714).

Under 49 CFR 555.6(b), a motor vehicle manufacturer may petition for an exemption from a Federal motor vehicle safety standard for a period up to two years, covering no more than

2500 vehicles for any 12-month period the exemption is in existence, on the basis that the exemption would facilitate the development or field evaluation of a new motor vehicle safety feature which provides a level of safety which is equivalent to or exceeds the level of safety established in the standard from which an exemption is sought. Jaguar sought a two-year exemption from the headlighting requirements of 49 CFR 571.108, *Lamps, Reflective Devices, and Associated Equipment,* for its XJ-S model, approximately 1000 of which (accounting for about 50% of total production) were sold in the United States in 1982.

Jaguar intends to fit the exempted models with styled, aerodynamic headlamps equipped with an externally mounted wash and wipe system. The headlamps are identical to those non-sealed beam headlamps used on the XJ-S model destined for markets other than the United States. The headlamp and wash/wipe system will be fitted as standard equipment on 1984 model XJ-S cars intended for the Canadian market. According to the petitioner, the system enables the headlamps to function without a deterioration under a wide variety of extreme operating conditions, such as exist in North America and nowhere else in the world: temperatures ranging from −30 degrees Celsius to +50 degrees Celsius, high and low humidity, high and low altitude, sea spray, dust, sand and road salt. Jaguar believes that its ordinary mileage-accumulation fleets are too small to provide "the field evaluation we envision for the wipe/wash system." The company announced its intention to survey owners of cars with wash/wipe systems, and to provide spare bulbs with each car.

According to Jaguar, the headlamps do not comply with current requirements of Standard No. 108 for all headlamps principally in that they are not mechanically aimable, possess a maximum design wattage that slightly exceeds that specified for upper and lower beams of Type 2B1 headlamps (the U.S. headlamp to which it is most similar in size), and when installed have an object in front of the lens, i.e., a wiper blade. However, Jaguar argued that the "driving beam" is "only minimally affected by the presence of the wipe blade." The status of compliance of these non-sealed headlamps with respect to the recently adopted environmental test procedures for semi-sealed replaceable bulb headlamp systems (48 FR 24690, June 2, 1983) was not addressed, but the petition included a Leyland Engineering Standard requiring testing of the headlamps to a variety of environmental conditions similar to the U.S. Federal requirement.

Jaguar argued that an exemption would be in the public interest because of the unique cleaning feature of the wipe/wash system, and the contribution of aerodynamic headlamps to fuel economy.

Two timely comments were received on the petition, both of which supported it. Subsequent to the comment period, Ford Motor Company opposed the petition, anticipating many of the agency's concerns. Jaguar, in turn, submitted a restatement of its position and arguments.

In order to grant the Jaguar petition, findings must be made that the exemption would facilitate the field evaluation of a new motor vehicle safety feature which provides a level of safety equivalent to or exceeding the level of safety established by Standard No. 108, and that the exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act.

The agency first examined the nature of the safety feature, noting that Jaguar's parent company, BL PLC., offers a washing system without wipers on the Rover automobile. This system features a jet of water under high pressure applied to wash dust and dirt from the headlamp lens. Jaguar did not explain whether addition of a wipe feature to its washer meant that its system is superior to that of the Rover which provides a wash only. Nevertheless, given the fact that headlamp cleaning systems are generally not offered on vehicles sold in the United States, the Jaguar system appears to qualify as a "new motor vehicle safety feature" within the statutory meaning of the term, and one that would provide a level of safety equvalent to or exceeding the level of safety established by Standard No. 108.

However, the agency further considered the effect upon level of safety established by Standard No. 108 were Jaguar to be provided a total exemption from the headlighting requirements. Standard No. 108 establishes a maximum of 150,000 candela for passenger car lighting systems while up to twice that amount is permissible under European standards. The reason for the limitation in the United States is that NHTSA research has shown that candlepower in excess of this maximum provides only a limited extension of seeing distance while increasing greatly the possibility of glare. Therefore the agency believes that Jaguar's headlamps should be subject to the candlepower limitations of Standard No. 108.

A further distinction between the Jaguar headlamps and all U.S. ones is that the latter are capable of mechanical aim. Because many of the States with motor vehicle inspection programs use mechanical aimers, there is a real possibility that a State would refuse to inspect a Jaguar because its headlighting system is incapable of mechanical aim. Failure to periodically verify aim could create a glare problem. Nothing in the Jaguar petition indicated an awareness of the inspection problem, or that any State inspection officials had been approached for views on the matter. NHTSA believes that Jaguar can mark its existing lens with aiming points and will voluntarily provide aimer adapters with each car, in order to address this concern.

The agency also believes that it is in the interest of safety that the Jaguar headlamp provide performance equivalent to that of the semi-sealed replaceable bulb headlamp permissible under Standard No. 108. Although an appendix to Jaguar's petition set forth the Leyland Engineering Standard, in incorporated many "BLS" procedures whose relationship to the NHTSA environmental test procedures for replaceable bulb headlamps was not explained. Some equivalence of corrosion resistance of the reflector should have been submitted, addressing one of the agency's long-standing concerns about unsealed headlamps. Further, questions of availability of replacement bulbs are avoided if the Jaguar headlamp contains a standard U.S. bulb. Therefore, the agency believes that its concerns are best addressed by requiring that the Jaguar headlamp contain Standard No. 108's replaceable bulb as its light source, and that the headlamp meet the requirements for U.S replaceable bulb headlighting systems.

Finally, the agency is concerned about possible wiper maladjustment which could leave the blade parked in the center of the lens. Interruption of the beam by the blade would seem to offset such lighting advantage as might be obtained from headlamps cleaned by the wiper/washer system. Therefore, the agency has decided that Jaguar's headlamps should be subject to the same prohibitions as other headlamps, that no ornamentation, styling or other feature shall be in front of the lens when the headlamp is in use.

Because of the potential of the wipe/wash system for headlamp beam maintenance under adverse environmental conditions, and the

positive effect on safety, an exemption from the balance of Standard No. 108 is found to be consistent with the objectives of the Act. Petitioner will be exempted from the maximum wattage limitations on headlamps which it slightly exceeds. Although the potential effect of excess wattage is to increase light output, petitioner has not been exempted from the maximum candlepower limitations for headlamp systems, and the wattage exemption shold therefore have no effect upon safety. Petitioner will also be exempted from the requirement that the aiming pads of its lamps comply with those of Figure 4 of the standard. The aiming points that it will provide will differ in detail from those specified by the standard. Finally, it will be exempted from the certification requirements because the headlamps will not comply in all respects with Standard No. 108. Any fuel economy improvement attributable to aerodynamic headlamps in a vehicle whose current rating is 14 mpg may be considered to be in the public interest. Accordingly, in consideration of the foregoing, NHTSA Exemption No 83–3, expiring April 1, 1986, is hereby provided Jaguar Cars, Ltd. from the following requirements of 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment:* maximum design wattage of S4.1.1.36(a)(1), the provisions of S4.1.1.36(a)(2) that the three aiming pads meet the requirements of Figure 4; the specifications for maximum design wattage of S4.1.1.38(b)(1), and S4.1.1.40.

(Sec. 3 Pub. L. 92–548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50)

Issued on April 3, 1984.

Diane K. Steed,

Administrator.

[FR Doc. 84–9330 Filed 4–6–84; 8:45 am]

BILLING CODE 4910–59–M

Urban Mass Transportation Administration

Exemption From Buy America Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of granted waiver.

SUMMARY: Section 165 of the Surface Transportation Assistance Act of 1982 provides that Federal funds may not be obligated for the purchase of mass transportation vehicles unless the cost of components of the vehicles which are produced in the United States is more than 50 percent of the cost of all components and final assembly of the vehicles takes place in the United States. Section 165 further provides that any of its provisions may be waived if their application would be inconsistent with the public interest. The Chrysler Corporation, along with several States, petitioned the Urban Mass Transportation Administration (UMTA) to grant such a waiver for Chrysler's 15-passenger vans which are assembled in Canada. The requested waiver was granted on February 27, 1984.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426–4063.

SUPPLEMENTARY INFORMATION: On February 1, 1984, UMTA published a Notice (49 FR 4062) that Chrysler had requested a waiver to the "Buy America" requirements for its 15-passenger vans. In the Notice, UMTA requested that interested parties submit comments on the Chrysler request by February 15, 1984.

Eighteen States had originally supported the Chrysler request. As a result of the February 1st Notice, an additional eleven States informed UMTA of their support of Chrysler's request. UMTA also received indications of support from numerous providers or rural mass transportation and providers of transportation services to the elderly and handicapped.

Section 165(b)(3) of the Surface Transportation Assistance Act of 1982 provides that in the case of the procurement of buses and other rolling stock, the cost of components which are produced in the United States must exceed 50 percent of the cost of all components, and final assembly must take place in the United States. Chrysler requested a waiver for its 15-passenger vans since the final assembly of these vans takes place in Canada. Seventy-four percent of the components of these vans, by cost, are produced in the United States.

Chrysler's request for a public interest waiver was based on the fact that the public interest would be best served by having competition in the market. Information was presented to UMTA which indicated that 15-passenger vans are only produced by the Ford Motor Company and Chrysler. The waiver request asserted that if Chrysler were not granted the waiver, UMTA grantees would not be able to purchase 15-passenger vans from Chrysler using Federal funds and would, because of the lack of competition, be in the position of only purchasing the vans from one company.

After reviewing all of the information and materials available to UMTA and after consultation with the Office of the United States Trade Representative, UMTA determined that it is in the public interest to grant Chrysler the requested waiver and did so effective February 27, 1984.

Under the terms of the waiver, Chrysler is only relieved from the requirement that the final assembly of the 15-passenger vans take place in the United States. Chrysler is still required to meet the requirement that the cost of the vans' components which are produced in the United States exceed 50 percent of the cost of all components.

Dated: March 28, 1984.

Ralph L. Stanley,

Administrator.

[FR Doc. 84–9353 Filed 4–6–84; 8:45 am]

BILLING CODE 4910–57–M

Section 15 Reporting System Advisory Committee

AGENCY: Urban Mass Transportation, DOT.

ACTION: Notice of section 15 Reporting System Advisory Committee meeting.

SUMMARY: In this Notice, the Urban Mass Transportation Administration (UMTA) announces a meeting of the Section 15 Reporting System Advisory Committee. The Committee will provide advice concerning the quality and usefulness of the Section 15 Reporting System.

DATE: May 2–4, 1984.

FOR FURTHER INFORMATION CONTACT: Ronald J. Fisher, Office of Information Services, Room 6419, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426–9157.

SUPPLEMENTARY INFORMATION:

Background

Section 15 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1611), requires the development of a national reporting system for public mass transportation financial and operating data. On August 27, 1981, UMTA issued a Notice in the **Federal Register** (46 FR 43352) announcing the establishment of the Section 15 Reporting System Advisory Committee. The Committee investigates the quality and usefulness of the Section 15 Reporting System with respect to its performance in providing meaningful information for the analysis of the transit industry.

All Committee meetings are open to the public. With the Chairman's

approval, members of the public may speak at meetings in accordance with procedures established by the Committee. A written statement may be filed with the Committee at any time.

Location

Dates: Wednesday, May 2, 1984.
Time: 2:00 p.m.–5:00 p.m., Thursday, May 3, 1984–Friday, May 4, 1984, 9:00 a.m.–5:00 p.m.
Place: Metropolitan Transportation Commission's Conference Room, Metrocenter, 101 Eighth Street, Oakland, California 94607.

Issued on: April 2, 1984.

Ralph L. Stanley,

Administrator, Urban Mass Transportation Administration.

[FR Doc. 84-9354 Filed 4-6-84; 8:45 am]
BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and/or to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: New
Form Number: None
Type of Review: Existing Collection
Title: Request for Certificate of Non-attachment of Lien

OMB Number: New
Form Number: None
Type of Review: Existing Collection
Title: Bond to Stay Collection of Jeopardy Assessment

OMB Number: 1545-0633
Form Number: Notice 437, 438 and 466
Type of Review: Extension
Title: Notice of Intention to Disclose
OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

U.S. Customs Service

OMB Number: New
Form Number: None
Type of Review: Existing Collection
Title: Trade Name Recordation ICB Form #133
OMB Reviewer: Judy McIntosh (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: April 3, 1984.

Gary Kowalczyk,

Departmental Reports, Management Office.

[FR Doc. 84-9439 Filed 4-6-84; 8:45 am]
BILLING CODE 4810-25-M

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954]. The list is the same as the prior quarterly list published in the **Federal Register.**

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954].

Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, Yemen, Arab Republic, Yemen, Peoples Democratic Republic of

John Elhafos,

Assistant Secretary for Tax Policy.

[FR Doc. 84-9436 Filed 4-6-84; 8:45 am]
BILLING CODE 4810-25-M

[Number: 101-3]

Delegation of Procurement Authority to Office of Procurement and Treasury Bureaus

March 19, 1984.

By virtue of the authority vested in me as Assistant Secretary (Administration) by Department of the Treasury Order No. 101-30, the following appointments and delegations are made:

1. Procurement Executive

The Director, Office of Procurement, Office of the Secretary, is appointed as Procurement Executive, in accordance with the provisions of Executive Order 12352, of March 17, 1982. The Director, Office of Procurement is responsible for the development and oversight of Department-wide procurement systems and is authorized to:

a. Prescribe and publish Treasury-wide procurement policies, regulations and procedures;

b. Enter into, make determinations and decisions and take other actions, consistent with appropriate laws, policies, regulations and procedures with respect to purchases, contracts, leases, and other contractual procurement transactions, except those required by law or regulation to be made by other authority;

c. Designate persons qualified in procurement matters as contracting officers and representatives thereof in accordance with the requirements and procedures established in Treasury Directive 70-06, "Treasury Acquisition/Procurement Regulation," Subpart 1001.6;

d. Establish clear lines of contracting authority;

e. If appropriate, exercise priorities authority on behalf of the Department of the Treasury, in accordance with the provisions of the Defense Production Act of 1950 (50 U.S.C. App. 2071, et seq.), Department of Defense Delegation of Priorities Authority, dated October 1, 1958, and applicable policies and regulations;

f. Evaluate and monitor the Department of the Treasury's procurement system performance;

g. In coordination with the Director of Personnel, Office of the Secretary, manage and enhance career development of the procurement work force throughout the Department;

h. Examine, in coordination with the Office of Federal Procurement Policy, the procurement system to determine specific areas where Government-wide performance standards should be established and applied, and participate in the development of Government-wide procurement policies, regulations and standards;

i. Determine areas for Treasury unique standards and develop unique Department-wide standards;

j. Be the Department of the Treasury's advocate for competition in procurement;

k. Certify to the Assistant Secretary (Administration) that the Department of the Treasury's procurement system meets approved standards; and,

1. Serve as "chief officer responsible for procurement" within the meaning of

41 U.S.C. 257(b) for Office of the Secretary procurement transactions.

2. Bureau Head Procurement Authority

a. The following officials of the Department of the Treasury are delegated authority to perform the functions described above in paragraphs 1.b, 1.c and 1.d with respect to procurement transactions and operations of their bureaus:

Director, Bureau of Alcohol, Tobacco and Firearms
Comptroller of the Currency
Commissioner of Customs
Director, Bureau of Engraving and Printing
Director, Federal Law Enforcement Training Center
Commissioner, Bureau of Government Financial Operations
Commissioner of Internal Revenue
Director, United States Mint
Commissioner of the Public Debt
National Director, U.S. Savings Bonds Division
Director, U.S. Secret Service

b. Each of the officials named in paragraph 2.a is deemed "chief officer responsible for procurement" within the meaning of 41 U.S.C. 257(b).

3. Redelegation of Authority

a. The authorities delegated in paragraphs 1.b, 1.c and 1.d may be redelegated by the Director, Office of Procurement and each of the officials named in paragraph 2.a in accordance with procedures established in Subpart 1001.6 of Treasury Directive 70-06, "Treasury Acquisition/Procurement Regulation," to any subordinate officer or employee of his/her respective organization, except that the authority of paragraph 1.b may be delegated only to personnel qualified to serve as Contracting Officer for the United States for the type and complexity of procurement actions specified.

b. The authorities delegated in paragraphs 1.e, 1.g, 1.h and 1.j may be redelegated by the Director, Office of Procurement through Treasury Directives or, on a case-by-case basis, by program memorandums.

4. Limitations

All authorities delegated above shall be exercised in accordance with the applicable limitations and requirements of the Federal Property and Administrative Services Act of 1949; policies and regulations issued by the Office of Federal Procurement Policy in the Office of Management and Budget; the Federal Acquisition Regulation, 48 CFR Chapter 1; the applicable portions of the Federal Property Management Regulations, 41 CFR Chapter 101; as well as regulations issued by the Department of the Treasury which implement and supplement the Federal Acquisition Regulation and the Federal Property Management Regulations, including but not limited to 48 CFR Chapter 10 and Treasury Directives Manual Chapter 70-06, "Treasury Acquisition/Procurement Regulation," and other numbered directives in the TD 70-06 series.

5. Effective Date

This Order becomes effective on April 1, 1984, at which time Department of the Treasury Order No. 101-3, dated September 7, 1982, will be superseded.

David E. Pickford,

Acting Assistant Secretary (Administration).

[FR Doc. 84-9437 Filed 4-6-84; 8:45 am]
BILLING CODE 4810-25-M

Internal Revenue Service

[(Delegation Order No. 4 (Rev. 15))]

Delegation of Athority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The delegation order is revised to delegate authority to aides of Revenue Officers, GS-5 and above, to serve any summons issued by a Revenue Officer GS-9 and above. The text of the delegation order appears below.

EFFECTIVE DATE: March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Bill Kline, OP:C:O, 1111 Constitution Avenue, N.W., Room 7539, Washington, D.C. 20224, 202-566-4604 (Not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Dennis D. Reaves,

Acting Director, Office of Field Operations.

Order No. 4 (Rev. 15)

Effective date: March 15, 1984

Authority to Issue Summonses, To Administer Oaths and Certify, and to Perform Other Functions

1(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(b), 301.7603-1, 301.7604-1 and 301.7605-1(a) and the authorities contained in Section 7609 of the Internal Revenue Code of 1954 and vested in the Commissioner of internal Revenue Service by Treasury Department Order No. 150-37 to issue summonses; to set the time and place for appearance; to serve summonses; to take testimony under oath of the person summoned; to receive and examine books, papers, records or other data produced in compliance with the summons; to enforce summonses; to apply for court orders approving the service of John Doe Summonses issued under Section 7609(f) of the Internal Revenue Code; and to apply for court orders suspending the notice requirements in the case of summonses issued under Section 7609(g) of the Internal Revenue Code, are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 1(b), 1(c), and 1(d) of this Order and subject to the limitations stated in paragraphs 1(b), 1(d), 1(c), and 6 of this Order.

(b) The authorities to issue summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order are delegated to all District Directors and the following officers and employees, provided that the authority to issue a summons in which the proper name or names of the taxpayer or taxpayers is not identified because unknown or unidentifiable (hereinafter called a "John Doe" summons) may be exercised only by said officers and employees.

(1) Inspection: Assistant Commissioner and Director. Internal Security Division.

(2) District Criminal Investigation: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(3) District Collection Activity: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(4) District Examination: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(5) District Employee Plans and Exempt Organizations: Chief of Division.

(c) The authorities to issue summonses except "John Doe" summonses, and to perform other functions related thereto specified in paragraph 1(a) of this Order, are delegated to the following officers and employees:

(1) Inspection: Regional Inspectors and Assistant Regional Inspectors (Internal Security) and Chief, Investigations Branch.

(2) District Criminal Investigation: Assistant Chief of Division; Chiefs of Branches; and Group Managers.

(3) District Collection Activity: Assistant Chief of Division; Chiefs of Collection Section; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Chiefs Technical and Office Compliance

Branches and Groups and Group Managers.

(4) District Examination: Chiefs of Branches, Case Managers, Group Managers and, in streamlined districts Chiefs, Examination Section.

(5) District Employee Plans and Exempt Organizations: Group Managers.

(d) The authority to issue summonses except "John Doe" summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order is delegated to the following officers and employees except that in the instance of a summons to a third party witness, the issuing officer's case manager, group manager, or any supervisory official above that level, has in advance personally authorized the issuance of the summons. Such authorization shall be manifested by the signature of the authorizing officer on the fact of the original and all copies of the summons or by a statement on the face of the original and all copies of the summons, signed by the issuing officer, that he/she had prior authorization to issue said summons and stating the name and title of the authorizing official and the date of authorization.

(1) Foreign Operations District: Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Special Agents; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers, GS–9 and above.

(2) District Criminal Investigation: Special Agents.

(3) District Collection Revenue Officers, GS–9 and above.

(4) District Examination Internal Revenue Agents, Tax Auditors, Attorneys, Estate Tax, and Estate Tax Examiners.

(5) District Employee Plans and Exempt Organizations: Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(e) Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this Order may serve a summons whether it is issued by him/her or another official.

(f) Revenue Representatives, GS–5 and above, aides of Revenue Officers, GS–5 and above, and Revenue Officers, who are assigned to the District Collection Activity may serve any summons issued by the officers and employees referred to in paragraphs 1(b), 1(c) and 1(d) of this Order.

2. Each of the officers and employees referred to in paragraphs 1(b), 1(c) and 1(d) of this Order authorized to issue summonses, is delegated the authority under 26 CFR 301, 7602–1(b) to designate any other officer or employee of the Internal Revenue Service referred to in paragraph 4(b) of this Order, as the individual before whom a person summoned pursuant to Section 7602 of the Internal Revenue Code shall appear. Any such other officer or employee of the Internal Revenue Service when so designated in a summons is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records or other data produced in compliance with the summons.

3. Internal Security Inspectors are delegated the authority under 26 CFR 301.7603–1 to serve summonses issued in accordance with this Order by any of the officers and employees of the Inspection Service referred to in paragraphs 1(b)(1) and 1(c)(1) of this Order even though Internal Security Inspectors do not have the authority to issue summonses.

4(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602–1(a), and 301.7605–1(a) to examine books, papers, records or other data, to take testimony under oath and to set the time and place of examination are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 4(b), and 4(c) of this Order and subject to the limitations stated in paragraphs 4(c) and 6 of this Order.

(b) General Designations.

(1) Inspection: Assistant Commissioner; Director, Internal Security Division; Director, Internal Audit Division; Regional Inspectors, Internal Auditors; and Internal Security Inspectors; Investigators (Internal Security); and Internal Security Assistants.

(2) District Criminal Investigation: Chief and Assistant Chief of Division; Chiefs of Branches; Group Managers, and Special Agents.

(3) Foreign Operations District: Director, Assistant Director; Chief of Divisions and Branches; Special Agents; Case Managers; Group Managers, Internal Revenue Agents: Attorneys, Estate Tax; Estate Tax Examiners; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers.

(4) District Collection Activity: Chiefs and Assistant Chiefs of Division; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Chiefs. Technical and Office Compliance Branches; Chiefs, Collection Section; Chiefs, Technical and Office Compliance Branches and Groups; Group Managers; Revenue Officers; Revenue Representatives and Office Collection Representatives.

(5) District Examination: Chiefs of Division; Chiefs of Examination Sections; Chiefs of Examination Branches; Case Managers; Group Managers; Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(6) District Employee Plans and Exempt Organization: Chief of Division; Chief, Examination Branch; Chief, Technical Staff; Group Managers; Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(7) Service Center: Chief, Compliance Division; Chief, Examination Branch; Chief, Collection Branch; Chief, Criminal Investigation Branch; Revenue Agents; Tax Auditors; Tax Examiners in the correspondence examination function; and Special Agents.

(c) District Directors, Service Center Directors, Regional Inspectors, and the Chief of Investigation Branch may redelegate the authority under 4(a) of this Order to Law Clerks (Estate Tax), aides or trainees, respectively, for the positions of Revenue Agent, Tax Auditor, Tax Examiner in the Service Center Correspondence and Processing function, Tax Law Specialists, Revenue Officer, Internal Auditor, Internal Security Inspector, Investigator (Internal Security), Internal Security Assistant, Attorney (Estate Tax) and Special Agent, provided that each such Law Clerk (Estate Tax), aide or trainee shall exercise said authority only under the direct supervision, respectively, as applicable of a Revenue Agent. Tax Auditor, Tax Examiner in the Service Center Correspondence and Processing function, Tax Law Specialist Revenue Officer, Special Agent, Internal Auditor or Internal Security Inspector or Attorney (Estate Tax).

5. Under the authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7622–1, the officers and employees of the Internal Revenue Service referred to in paragraphs 1(b), 1(c), 1(d), and 4(b) and 4(c) of this Order are designated to administer oaths and affirmations and to certify to such papers as may be necessary under the internal revenue laws and regulations except that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive. Revenue Representatives and Office Collection Representatives referred to in paragraph 4(b)(4) of this Order are not designated to administer oaths or to perform the other functions mentioned in this paragraph, except that Revenue Representatives, GS–5 and above, are authorized to certify the method and manner of service, and the method and manner of giving notice, when performing the functions and

duties contained in paragraph 1(f) of this order.

6. The authority delegated herein may not be redelegated except as provided in paragraph 4(c).

7. Delegation Order No. 4 (Rev. 14), effective July 14, 1983, is superseded.

James I. Owens,

Deputy Commissioner.

[FR Doc. 84-9434 Filed 4-6-84; 8:45 am]

BILLING CODE 4830-01-M

Fiscal Service

[Dept. Circ. 570, 1983 Rev., Supp. No. 18]

Surety Insurance Company of California; Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Surety Insurance Company of California, under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective today. The company was last listed as an acceptable surety on Federal bonds at 48 FR 30540, July 1, 1983.

With respect to any bonds currently in force with Surety Insurance Company of California, bond-approving officers for the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Questions concerning this notice may be directed to the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226, telephone (202) 634-5745.

Dated: April 3, 1984.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 84-9303 Filed 4-6-84; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Medical and Regional Office Center, Wichita, Kansas, New Regional Office; Finding of No Significant Impact

It is the intent of the Veterans Administration (VA) to construct a new regional office building at the Veterans Administration Medical and Regional Office Center (VAM&ROC) in Wichita, Kansas. The new regional office building, consisting of approximately 38,866 net square feet, will be developed as a two-story structure with a connecting corridor. Associated parking will consist of approximately 50-75 additional spaces for vehicles.

The preferred agency alternative is a concept locating the new building directly north of the existing Building No. 26. This alternative is the proposed action to be taken. Two other alternative plans have been considered utilizing two different site locations at the VA Medical Center. In addition, the "No Action" alternative was evaluated. However, this plan would maintain the Regional Office in an offsite location in leased space. Many economic and operational concerns would not be addressed by implementing this alternative. No offsite construction alternative was considered because available site area for development exists at the VAM&ROC.

The development of the proposed project will have minimal impacts on the human and natural environment as it affects topography and aesthetics. Long-term open space and visual impacts will result from the building construction. However, neither attribute is of adverse significance.

The Witchita VAM&ROC is a property which contains architecturally significant structures and is recognized by both State and Federal authorities in its significance. Consequently, the proposed action will be reviewed by the State Historic Preservation Officer (SHPO) pursuant to the Advisory Council's Regulations, "Protection of Historic and Cultural Properties", 36 CFR, Part 800.

Findings conclude the proposed action wil not cause a significant effect on the physical and human environment.

The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue NW., Washington, D.C. 20420, (202) 389-3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: April 2, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Sunshine Act Meetings

Federal Register
Vol. 49, No. 69
Monday, April 9, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1
Commodity Futures Trading Commission	2-9
Consumer Product Safety Commission	10, 11
Federal Communications Commission	12, 13
Federal Energy Regulatory Commission	14
Postal Service	15
Legal Services Corporation	16

1

CIVIL AERONAUTICS BOARD

[M-403 4/3/84]

TIME AND DATE: 10:00 a.m., April 10, 1984.

PLACE: Room 1027 (Open) Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Proposed rulemaking to amend certificated air carrier financial and statistical reporting requirements in preparation for sunset. (OC, OGC, BCAA, BIA, BDA, OEA, OCCCA)
3. Docket 40269, *Visit USA Fare/Export Inland Contract Rate Investigation:* Memorandum of Issues. (OGC)
4. Docket EAS-794 Essential air service eligibility for Aberdeen/Hoquiam, Washington. (BDA, OCCCA, OGC, OC)
5. Dockets EAS-549, 550, 551, 553, and Docket 41521; Review of essential air service determinations for Enid, Lawton/Ft. Sill, McAlester, Ponca City and stillwater, Oklahoma and Notice of Metro Airlines to suspend service at Paris, Texas, and McAlester, Oklahoma. (BDA, OCCCA)
6. Essential air service at Sidney, Alliance and Chadron, Nebraska. (Memo 2286, BDA, OCCCA)
7. Dockets EAS-452 and———, Essential air service for Jackson, Michigan. (BDA, OCCCA)
8. Dockets 41616 and 41731, Notices of Piedmont Aviation and Sunbird Airlines to suspend service at Winston-Salem, North Carolina. (Memo 2075-B, BDA, OCCCA, OC)
9. Docket 41859, Application of Sand Point Air Service, Inc. under Subpart Q for a certificate authorizing scheduled interstate and overseas air transportation of persons, property and mail. (Memo 2288, BDA)
10. Name similarity issue raised by Empire Airlines in the commuter fitness review of Clearwater Flying Service, Inc. d/b/a Empire Airways. (Memo 2042-C, BDA, OGC)
11. Docket 38623, Agreement C.A.B. 29218, IATA agreement proposing a new Kagoshima-Guam GIT fare. (Memo 2295, BIA)
12. Docket 38623, Agreement C.A.B. 29208, IATA agreement establishing a U.S.—Israel fare structure through March, 1985. (Memo 2283, BIA)
13. Dockets 41817 and 41818, Applications of Lusair International, Inc. for foreign, interstate and overseas charter authority, (Memo 2284, BIA, OGC, BALJ)
14. Undocketed, Petition of The Flying Tiger Line Inc. for review of staff action granting a statement of authorization to Lineas Aereas Costarricenses, S.A. (Memo 2290, BIA, OGC)
15. Docket 40174, Application of Funjet Express International Airways for an initial foreign air carrier permit to transport persons, property and mail between St. Kitts and Miami via various intermediate points. (Memo 2289, BIA, OGC, BALJ)
16. Report on Korea. (BIA)
17. Report on Japan. (BIA)
18. Egypt—Upcoming Negotiations. (BIA)
19. Greece—Upcoming Negotiations. (BIA)
20. Report on Canada. (BIA)
21. Report on Brazil. (BIA)
22. Argentina—Upcoming Negotiations. (BIA)
23. Discussion on Peru. (BIA)

STATUS: 1-15 Open, 16-23 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-9401 Filed 4-5-84; 9:50 am]
BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 6, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84-9441 Filed 4-5-84; 9:33 am]
BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 2:00 p.m., Monday, April 9, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule enforcement review.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84-9442 Filed 4-5-84; 9:33 am]
BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 13, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84-9443 Filed 4-5-84; 9:33 am]
BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, April 17, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: National Futures Association Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84-9444 Filed 4-5-84; 9:33 am]
BILLING CODE 6351-01-M

6

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Tuesday, April 17, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Audit and Financial Review.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–9445 Filed 4–5–84; 9:33 am]

BILLING CODE 6351–01–M

7

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 20, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–9446 Filed 4–5–84; 9:33 am]

BILLING CODE 6351–01–M

8

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Friday, April 27, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Third Quarter Budget Plans, Programs, and Priorities.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–9447 Filed 4–5–84; 9:33 am]

BILLING CODE 6351–01–M

9

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 27, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–9448 Filed 4–5–84; 9:33 am]

BILLING CODE 6351–01–M

10

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, April 11, 1984.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Squeeze Toys: Options

The Commission will consider options to address the choking hazards associated with squeeze toys and similar infant products.

2. Toy Age Labeling: Status

The staff will brief the Commission on the status of staff and industry activities on age labeling for children's products.

Closed to the Public

2 p.m.

3. Compliance Status Report

The staff will brief the Commission on a Compliance Status Report.

4. Enforcement Matter OS #4131: Status Report

The staff will brief the Commission on the status of Enforcement Matter OS #4131.

For a recorded message containing the latest agenda information, call: 301–492–5709.

CONTACT PERSONS FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, 301–492–6800.

Dated: April 4, 1984.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84–9430 Filed 4–4–84; 5:04 pm]

BILLING CODE 6355–01–M

11

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, April 12, 10:00 a.m.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: *Mid Year Review*

The Commission and staff will review and discuss the status of CPSC's Fiscal Year 1984 Operating Plan.

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 Avenue, Md. 20207, 301–492–6800.

Dated: April 4, 1984.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84–9431 Filed 4–4–84; 5:04 pm]

BILLING CODE 6355–01–M

12

FEDERAL COMMUNICATIONS COMMISSION

April 4, 1984.

FCC to Hold Open Commission Meeting, Wednesday, April 11, 1984

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, April 11, 1984, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—Title: Inquiry into § 73.1910 of the Commission's Rules and Regulations Concerning the General Fairness Doctrine Obligations of Broadcast Licensees. Summary: The Commission will consider whether to institute a notice of inquiry concerning the general fairness doctrine obligations applicable to broadcast licensees

Private Radio—1—Title: Notice of Proposed Rule Making in the matter of amendment of Part 90 of the Commission's Rules concerning the sharing of two Police Radio Service frequency pairs with eligibles in the Fire and Special Emergency Radio Services. Summary: The Commission will consider adoption of a Notice of Proposed Rule Making proposing to eliminate the on-invoice restriction on the two frequency pairs 460.525/465.525 and 460.550/465.550 MHz and allow persons eligible in the Fire and Special Emergency Radio Services to use these frequencies and a co-equal, share basis with eligibles in the Police Radio Service.

Common Carrier—1—Title: Memorandum Opinion and Order on reconsideration re American Telephone & Telegraph Co., Approval of Plan for Capitalization of ATT Cellular Co. Summary: The Commission will consider whether to require that preoperational expenditures be recorded on the books of ATT Cellular Co. or its successors in the provisions of cellular communications services.

Common Carrier—2—Title: Inquiry into the revisions of Part–42 Preservation of Records of Communication Common Carriers. Summary: The Commission will consider soliciting comments on aspects of its record retention requirements found to be most burdensom by the carriers.

Common Carrier—3—Title: Order on Reconsideration re Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons, CC Docket No. 83–427. Summary:

The Commission will consider petitions by manufacturers of telephone equipment that it modify the effective date of its requirements for labelling telephone packaging to indicate whether telephones are hearing aid-compatible.

Common Carrier—4—Title: First Report and Order in CC Docket No. 81-216. Summary: The Commission will consider the matter of the installation of business and residential one and two-line (non-system) premises telephone wiring under Part 68. It will also consider a definition of "demarcation point" for purposes of Part 68 and other Commission decisions.

Common Carrier—5—Title: Petitions for Reconsideration of *Interconnection Order* (*Third Notice of Proposed Rulemaking*), CC Docket 81-216, 94 FCC 2d 5 (1983) filed by the Bell Operating Companies. Summary: In the *Interconnection Order* the Commission determined that network channel terminating equipment used in connection with digital transmission services would be treated as CPE under *Computer II*. The Commission will consider whether this decision should be reconsidered based on arguments offered by the Bell Operating Companies.

Common Carrier—6—Title: Special Construction of Lines and Special Service Arrangements Provided by Common Carriers. Summary: Notice of Proposed Rulemaking proposing to treat these special activities as not common carrier offerings.

Common Carrier—7—Title: Private Line Rate Structure and Volume Discount Practices CC Docket No. 79-246. Summary: Report and Order adopting guidelines and findings for private line rate structures and volume discount practices.

Common Carrier—8—Title: Third Report and Order in Nationwide Network Paging, CC Docket No. 80-183. Summary: The Commission will consider Whether to adopt the Third Report and Order in this proceeding, resolving questions of network access and tariff requirements.

Common Carrier—9—Title: Application for review filed by MRTS-Poe of Miami, Inc., and Petition for Reconsideration filed by Cell-Tel Network (Tampa) seeking reversal of Common Carrier Bureau action denying applicants' request for a minority preference in celluar comparative proceeding. Summary: The Commission will consider whether the Bureau acted properly in refusing to grant a minority preference to applicants for cellular radio service in the Miami and Tampa SMSAs.

Common Carrier—10—Title: Cellular Lottery Rulemaking Summary: The Commission will consider whether to adopt rules to implement a system of lotteries for cellular licenses for markets beyond the top-30, and modify several cellular rules and procedures for applications for markets below the top-90.

Common Carrier—11—Title: In the Matter of Proposed Modifications of the Commission's Authorized User Policy Concerning Access to the International Satellite Services of the Communications Satellite Corporation. Summary: The Commission will consider further actions in response to the order of the U.S. Court of Appeals for the D.C. Circuit vacating and remanding the Commission's August 19, 1982. Report and Order in this proceeding.

Audio—1—Title: Application for Review filed by Big River Broadcasting Corporation. Summary: The Commission will consider a staff action awarding the relinquished WEZI call letters.

Audio—2—Title: Request by 1984 Political Convention Frequency Coordinating Committee for designation as auxiliary broadcast frequency coordinator for broadcast coverage of the 1984 national political conventions, suspension of Section 74.24 of the Commission's Rules from June 1 to September 8, 1984, in San Francisco, California, and Dallas, Texas, and use of non-broadcast frequencies for broadcast use in convention coverage. Summary: The Commission will consider whether to designate the Committee as frequency coordinator, suspend Section 74.24 during the convention period, and advise the Committee of the procedure for requesting Special Temporary Authorization to use non-broadcast frequencies for broadcast convention coverage.

Audio—3—Title: Application for voluntary assignment of license of radio station WXXR (formerly WKUL), Cullman, Alabama, from Cullman Broadcasting, Co. Inc., to Piney Hills Broadcasting, Inc., under the Commission's distress sale policy without either having the WXXR license designated for revocation hearing or designating its license renewal application for hearing. Summary: The Commission considers the application for voluntary assignment of license of radio station WXXR (formerly WKUL), Cullman, Alabama, under the Commission's distress sale policy before designating the co-pending license renewal application for hearing.

Audio—4—Title: License Renewal Application of Station KTTL (FM), Dodge City, Kansas, licensed to Mr. & Mrs. Charles Babbs, d/b/a Cattle Country Broadcasting. Summary: The Commission considers petitions to deny KTTL's renewal application filed by the Dodge City Citizens for Better Broadcasting and the National Black Media Coalition; informal objections to KTTL's renewal application filed by the Attorney General of the State of Kansas, Robert T. Stephan, on behalf of the State of Kansas, the Anti-Defamation League of B'nai B'rith, the Jewish Community Relations Bureau of Kansas City, Missouri, and the Jewish War Veterans of the U.S.A.; a timely-filed application from Community Service Broadcasting, Inc., seeking a construction permit for a new FM broadcasting station in Dodge City, Kansas, which is mutually exclusive with the renewal application of KTTL; and an application for assignment of license from the licensee to Mr. Van Smith.

Policy—1—Title: Applications for Review of an action allotting FM channels to various communities in South Carolina. Summary: The Commission will consider an Application for Review filed by Santee-Cooper Broadcasting Company of the Bureau decision denying the allottment of an FM channel to Elloree, and to Mt. Pleasant, South Carolina.

Policy—2—Title: Application for review filed by C.P. Broadcasters, Inc. seeking review of an FM rule making action at Auburn and Lagrange, Indiana. Summary: The Commission will consider an Application for Review of a request to reopen the action which allotted channel 288A to Lagrange, Indiana, and substituted Class A channels at Auburn, Indiana, and which denied a stay of that action.

Policy—3—Title: In the Matter of Repeal of the "Regional Concentration of Control" Provisions of the Commission's Multiple Ownership Rules. Summary: The Commission will consider whether to repeal or modify the three-station regional concentration of control rule.

Policy—4—Title: Amendment of § 73.99 of the Commission's Rules. Summary: The Commission adopted a *Report and Order* in BC Docket No. 82-538 that for the first time authorized post-sunset operation by daytime-only stations. A petition for reconsideration of this decision has been filed by the Daytime Broadcasters Association. The Commission will consider this petition and other relevant issues from the proceeding. Title: Amendment of § 73.1725(d) of the Commission's Rules. Summary: The Commission also will consider the appropriate disposition of Docket No. 18421, a rule making proceeding concerning § 73.1725(d) (formerly § 73.81) of the Rules relating to the settlement of disputes concerning nighttime resumption of operations by limited-time stations.

Policy—5—Title: Amendment of Part 74, Subpart L of the Commission's Rules Pertaining to FM Radio Broadcast Translator Stations. Amendment of Subparts F and L of Part 74 to permit use of alternative input sources for FM broadcast translator stations and to permit uniform 10 watt FM translator power. Summary: The Commission will consider the issues involved in extending the permitted sources of programs rebroadcast or transmitted by FM translator stations and proposed restrictions on FM station licensee involvement in operating FM translators at distant locations.

Policy—6—Title: Amendments of Parts 2 and 73 of the Commission's Rules Concerning Use of Subsidiary Communications Authorization. Summary: The Commission will consider Petitions for Reconsideration of the *First Report and Order* in BC Docket No. 82-536, FM subchannels.

Enforcement—1—Title: Renewal Application of KDEN Broadcasting Company for Station KDEN, Denver, Colorado. Summary: The Commission considers a petition to deny filed by the National Black Media Coalition and the Urban League of Metropolitan Denver alleging that the licensee has not complied with the Commission's EEO rule.

Enforcement—2—Title: License Renewal Application of Alainde, Inc. for Station WYDE, Birmingham, Alabama. Summary: The Commission considers a infomal objection filed by the National Black Media

Coalition alleging that the licensee has not complied with the Commission's EEO rule.
Enforcement—3—Title: Applications for License and for Consent to Transfer Control of Station WEVV-TV, Evansville, IN. Summary: The Commission will consider whether to grant these applications.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtain from Sally Lawrence, FCC Public Affairs Office, telephone number (202) 254-7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-9471 Filed 4-5-84; 12:15 pm]

BILLING CODE 6712-01-M

13

FEDERAL COMMUNICATIONS COMMISSION

April 4, 1984.

FCC To Hold a Closed Commission Meeting Wednesday April 11, 1984.

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Wednesday, April 11, 1984 following the Open Meeting, which is scheduled to commence at 9:30 A.M. in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Two Applications for Review of a Final Review Board Decision in the St. Simons Island, Georgia comparative FM proceeding (Docket Nos. 81-306, 81-307, and 81-309).

This item is closed to the Public because it concerns Adjudicatory Matters (See 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and member of his staff
Chief, Office of Public Affairs and members of his staff.

Action by the Commission April 3, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sally Lawrence, FCC Public Affairs Office, telephone number (202) 254-7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-9472 Filed 4-5-84; 12:15 pm]

BILLING CODE 6712-01-M

14

FEDERAL ENERGY REGULATORY COMMISSION

April 4, 1984.

TIME AND DATE: 10:00 a.m., April 11, 1984.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary, Telephone: (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda

789th Meeting—April 11, 1984; Regular Meeting (10:00 a.m.)

CAP-1: Project No. 7442-001, Douglas Water Power Company
CAP-2: Project No. 4806-002, City of Auburn, New York
CAP-3:
- Project No. 5275-000, Hydro Resource Company
- Project No. 5325-000, Capital Development Company
- Project No. 6014-002, Public Utility District No. 1 of Lewis County, Washington
- Project No. 6600-000, Eagle Power Company

CAP-4: Project No. 5695-003, Paradise Irrigation District
CAP-5: Project No. 67-010, Southern California Edison Company
CAP-6:
- Project No. 4684-001, Long Lake Energy Corporation
- Project No. 5511-001, New York State Energy Research and Development Authority
- Project No. 2934-004, New York State Electric and Gas Corporation

CAP-7: Project No. 7659-001, WP, Inc.
CAP-8:
- Project No. 6839-001, Piedmont Camp Fire Council and Lake Vera Mutual Water Company
- Project No. 6076-001, Fairview Orchards Associates

CAP-9: Project No. 7616-000, WP, Inc.
CAP-10: Project No. 2890-003, Kings River Conservation District
CAP-11: Project No. 4786-001, Public Utility District No. 1 of Snohomish County, Washington
CAP-12: Project No. EF82-5031-001, Western Area Power Administration (Pick-Sloan Project)
CAP-13: Docket No. QF84-147-000, Alcon (Puerto Rico), Inc.
CAP-14: Docket No. QF84-135-000, Union Camp Corporation
CAP-15: Docket No. ER83-729-000, New England Power Company.
CAP-16: Docket No. ER84-91-000, Delmarva Power and Light Company,
CAP-17: Docket No. EL84-5-000, Sierra Pacific Power Company

Consent Miscellaneous Agenda

CAM-1: Docket No. RM8-14-000, Fees Relating to Freedom of Information Act Requests and to Other Public Information Requests
CAM-2: Docket No. RM79-76-213 (Texas-2 Addition II), High-Cost Gas Produced From Tight Formations
CAM-3: Docket No. SA83-15-001, Shar-Alan Oil Company

Consent Gas Agenda

CAG-1: Docket No. TA84-1-26-004, Natural Gas Pipeline Company of America
CAG-2:
- Docket Nos. RP83-35-012 and 013, RP81-109-000, R82-37-000 and RP74-41-016, Texas Eastern Transmission Corporation
- Docket Nos. TA83-1-17-011 and 012, T82-2-17-006 and 007, Texas Eastern Transmission Corporation
- Docket Nos. R74-41, (Remand) and RP74-41-021, et seq., Texas Eastern Transmission Corporation

CAG-3: Docket No. TA84-1-13-002, Gas Gathering Corporation
CAG-4: Docket No. TA84-2-37-002, Northwest Pipeline Corporation
CAG-5: Docket No. RP84-27-000, Northwest Central Pipeline Corporation
CAG-6: Docket No. RP83-64-000, Columbia Gas Transmission Corporation
CAG-7: Docket No. RP84-20-000, Panhandle Eastern Pipe Line Company
CAG-8: Docket No. RP83-1-000, Michigan Wisconsin Pipe Line Company
CAG-9: Docket No. RP83-71-001, Granite State Gas Transmission, Inc.
CAG-10: Docket No. RP81-137-000, Pacific Gas Transmission Company
CAG-11: Docket No. RP81-81-000, United Gas Pipeline Company
CAG-12:
- Docket No. RP83-73-000, State of North Dakota v. Northern Natural Gas Company, Division of Internorth, Inc. and Midwestern Gas Transmission Company
- Docket Nos. G-18313, et al., CP70-24-000 and CP82-74-000, Midwestern Gas Transmission Company
- Docket No. CP82-62-000, Northern States Power Company
- Docket No. CP82-105-000, Tennessee Gas Pipe Line
- Docket Nos. CP81-143-000 and CP81-143-001, Northern Natural Gas Company, Division of Internorth, Inc.

CAG-13: Docket No. ST80-124-002, Rael Gas Company

CAG—14:
Docket No. CI84–160–001, Exxon Corporation
Docket No. CI84–178–001, Marathon Oil Company
Docket No. CI84–189–001, Getty Oil Company
CAG—15: Docket No. CI83–285–001, Texas Producing Inc., et al.
CAG—16: Docket No. RI77–32–003, Disputed Zone Offshore Louisiana
CAG—17: Docket Nos. RI74–188–029, and RI75–21–024, Independent Oil & Gas Association of West Virginia
CAG—18: Docket No. CP84–173–000, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG—19: Docket No. CP83–322–002, Northwest Pipeline Corporation
CAG—20: Docket No. CP81–330–003, United Gas Pipe Line Company, Columbia Gulf Transmission Company and Southern Natural Gas Company
CAG—21: Docket No. CP84–83–000, Northwest Central Pipeline Corporation
CAG—22: Docket Nos. CP84–31–000, and CP84–31–001, Texas Gas Transmission Corporation and Texas gas Exploration Corporation
CAG—23:
Docket No. CP84–61–000, Carnegie Natural Gas Company
Docket No. CP84–210–000, Texas Eastern Transmission Corporation
Docket No. CP84–217–000, Columbia Gas Transmission Corporation
CAG—24: Docket No. CP82–538–002, Canyon Creek Compression Company
CAG—25: Docket No. CP72–236–000, Northern Natural Gas Company, Division of Internorth, Inc.
CAG—26: Docket No. CP83–348–002, Algonquin Gas Transmission Company
CAG—27: Docket No. TA84–1–27–001, North Penn Gas Company
CAG—28: Omitted
CAG—29: Docket Nos. RP82–57–014 and RP83–52–008, United Gas Pipe Line Company

Power Agenda

I. Licensed Project Matters

P–1: Project No. 6233–002, Big Bear Area Regional Waste Water Agency
P–2: Project No. 6840–000, Olympus Energy Corporation

II. Electric Rate Matters

ER–1: Docket No. ER83–78–001, Central Illinois Public Service Company
ER–2: Docket No. ER84–279–000, Pacific Power & Light Company
ER–3: Docket No. ER84–286–000, Centel Corporation, Western Power Diyision
ER–4: Docket No. ER84–236–000, El Paso Electric Company
ER–5: Docket No. ER84–155–001, Public Service Company of New Mexico, et al.
ER–6: Docket No. EF84–1021–000, United States Secretary of Energy Alaska Power Administration—Snettisham Project
ER–7: Docket No. QF84–121–000, Ultrapower 3
ER–8: Docket No. EL83–11–001, Virginia Electric & Power Company

Miscellaneous agenda

M–1: Reserved
M–2: Reserved
M–3: Docket No. RM83–52–000, Revisions to the Filing Requirements for Changes in a Tariff, Executed Service Agreement or Part Thereof, Contained in Title 18 of the Cope of Federal Regulations
M–4: Docket Nos. RM80–21–000, 002, 003, 004, 005, 006, 007 and 008, Regulations Under Section 110, 105 and 106(b) of the Natural Gas Policy Act
M–5:
(A) Docket Nos. RM82–25–000, 001 and 002, Fees Applicable to Producer Matters Under the Natural Gas Act
(B) Docket Nos. RM83–2–000, 001, 002 and 003, Fees Applicable to Natural Gas Pipeline Rate Matters

Gas Agenda

I. Pipeline Rate Matters

RP–1: Omitted
RP–2: Docket Nos. TA84–1–16, 001 (PGA84–1) and GP84–17–001, National Fuel Gas Supply Corporation
RP–3: Omitted
RP–4: Docket No. RP80–136–000, Southern Natural Gas Company
RP–5: Omitted
RP–6:
Docket No. RP84–43–000, Southwest Gas Corporation v. Northwest Pipeline Corporation
4Docket Nos. RP82–56–000, ST83–700–000, ST83–701–000, ST83–702–000, ST83–703–000, ST83–704–000 and ST83–705–000, Northwest Pipeline Corporation
RP–7: Docket No. CP80–22–006, Northern Natural Gas Company

II. Producer Matters

CI–1: Docket No. CI78–704–001, Mitchell Energy Corporation
CI–2: Docket No. CI83–163–001, Texaco, Inc.

III. Pipeline Certificate Matters

CP–1: Docket Nos. CP83–438–001, and 002, East Tennessee Natural Gas Company
CP–2:
Docket No. CP79–80–030, Trailblazer Pipeline Company, et al.
Docket No. CP79–80–031, Wyoming Interstate Company, Ltd., et al.
Docket No. CP82–450–001, Colorado Interstate Gas Company
CP–3: Docket Nos. CI83–188–003, and CI84–173–000, anr Production Company

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–9450 Filed 4–5–84; 10:10 am]

BILLING CODE 6717–01–M

15

POSTAL SERVICE (BOARD OF GOVERNORS)

Notice of Vote to Close Meeting

At its meeting on April 2, 1984, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting, scheduled for May 7, 1984, in Washington, D.C. The meeting will involve:

(1) A discussion of possible strategies in anticipated collective bargaining negotiations, pursuant to chapter 12 of title 39 United States Code, involving parties to the 1981 National Agreements, between the Postal Service and four labor organizations representing certain postal employees, which are scheduled to expire in July 1984; and

(2) Consideration of the February 24, 1984, Recommended Decision of the Postal Rate Commission on E–COM rate and classification changes in Docket No. R83–1.

The meeting is expected to be attended by the following persons: Governors Babcock, Camp, McKean, Peters, Ryan, Sullivan, Voss and Waldman; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; Acting General Counsel Hughes; Senior Assistant Postmasters General Coughlin and Morris; and Counsel to the Governors Califano.

As to the first of these agenda items, the Board is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of

Federal Regulations, the discussion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

As to the second agenda item, the Board is of the opinion that public access to the discussion would be likely to disclose information that could become involved in future rate or classification litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board has determined further, that pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c) (3), (9)(B) and (10) of title 5 and sections 410(c) (3) and (4) of title 39, United States Code, and § 7.3 (c), (i) and (j) of title 39, Code of Federal Regulations.

David F. Harris,
Secretary.

[FR Doc. 84-9503 Filed 4-5-84; 1:25 pm]
BILLING CODE 7710-12-M

16

LEGAL SERVICES COROPRATION

Appropriations and Audit Committee Meeting

TIME AND DATE: The meeting will commence at 2:00 p.m. and continue until all official business is completed. Monday, April 16, 1984.

PLACE: Office of Personnel Management, Auditorium, 1900 "E" Street, NW., Washington, D.C.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes
   —January 27, 1984
3. Report from the Office of Comptroller
   —First Quarter Budget Review
   —Report on Status of Retaining an Auditor
4. Report from the Director of the Audit Division
5. Report from the Office of General Counsel
6. Report from the President
7. Report from the Office of Government Relations

CONTRACT PERSON FOR MORE INFORMATION: LeaAnne Berstein, Office of the President, (202) 272-4040.

DATED ISSUED: April 5, 1984.

Donald P. Bogard,
President.

[FR Doc. 84-9480 Filed 4-5-84; 11:36 am]
BILLING CODE 6820-35-M

Federal Register

Monday
April 9, 1984

Part II

Department of Health and Human Services

Office of the Secretary

48 CFR Ch. 3
Acquisition Regulation; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Ch. 3

Acquisition Regulation

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule with request for comments.

SUMMARY: This rule establishes the Department of Health and Human Services Acquisition Regulation (HHSAR) as Chapter 3 of Title 48, Code of Federal Regulations. The HHSAR implements and supplements the Federal Acquisition Regulation (FAR), Title 48 CFR Chapter 1.

The FAR was jointly promulgated on September 19, 1983 (48 FR 42102) by the Department of Defense, General Services Administration, and National Aeronautics and Space Administration as the uniform, simplified, government-wide acquisition regulation required by Executive Order 12352, Federal Procurement Reforms. The FAR supersedes the Defense Acquisition Regulation, the Federal Procurement Regulations, and the National Aeronautics and Space Administration Procurement Regulation on April 1, 1984.

As a result of the promulgation of the FAR, all civilian agency implementations of the Federal Procurement Regulations, including the HHS Procurement Regulations, become obsolete on the effective date. For this reason, the Department of Health and Human Services is establishing the HHSAR to effect policies and procedures governing the acquisition processes which were formerly found in the HHS Procurement Regulations, Chapter 3 of Title 41, Code of Federal Regulations.

DATES: This final rule is effective April 1, 1984. Comment due date is May 15, 1984.

ADDRESS: Any person or organization wishing to submit comments pertaining to the HHSAR may do so by mailing them to the Division of Procurement Policy, Room 539–H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. Comments received after May 15, 1984 will not be considered. Oral comments will not be taken.

FOR FURTHER INFORMATION CONTACT: E. S. Lanham, Procurement Analyst, Division of Procurement Policy, telephone (202) 245–8791.

SUPPLEMENTARY INFORMATION: The HHSAR implements the FAR where required or considered necessary and supplements the FAR in areas where there is no FAR coverage or the coverage is considered inadequate. The HHSAR is the result of reformatting the existing HHS Procurement Regulations, removing portions of the HHS Procurement Regulations which would duplicate FAR coverage of subject matter not contained in the Federal Procurement Regulations, and inserting needed internal procedural guidance in areas where the FAR requires implementation.

The Department highlights the following parts of the HHSAR: Part 307—Acquisition Planning; Part 309—Contractor Qualifications; Part 315—Contracting by Negotiation; Part 337—Service Contracting; Part 342—Contract Administration; and Part 352—Solicitation Provisions and Contract Clauses.

The HHSAR, 48 CFR Chapter 3, supersedes the HHS Procurement Regulations, 41 CFR Chapter 3, as of April 1, 1984. However, the HHS Procurement Regulations remain in effect for those contracts awarded, or based upon solicitations issued, before the effective date.

Executive Order 12291. In accordance with the memorandum of October 4, 1982 from the Director, Office of Management and Budget, this final rule is exempt from the provisions of Executive Order 12291.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, Pub. L. 96–354, requires the preparation of a regulatory flexibility analysis for any rule which is likely to have a significant economic impact on a substantial number of small entities. Since this rule reformats existing procurement policies and procedures and does not promulgate any new policies or procedures which would impact the public, it has been determined that this rule will not have a significant economic impact on a substantial number of small entities, and, thus, a regulatory flexibility analysis has not been prepared.

Paperwork Reduction Act. HHSAR Parts 315, 323, 324, 332, 342, 352, and 370 contain information collection or reporting requirements. As required by the Paperwork Reduction Act of 1980, the Department has submitted a copy of this final rule to the Office of Management and Budget for its review of these information requirements. Individuals and organizations desiring to submit comments on the information requirements should direct them to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building—Room 3208, Washington, D.C. 20503, Attention: Desk Officer for HHS.

Administrative Procedure Act. The Administrative Procedure Act (APA) exempts rules relating to contracts from the prior notice and comment procedures normally required for formal rulemaking (5 U.S.C. 553(a)). This Department, however, as a matter of policy, utilizes the public participation procedures of the APA for rules relating to contracts except when, as authorized by the APA, "the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." (36 FR 2532; 5 U.S.C. 553(b)(B)).

The Department has determined that this rule falls within the authorized exceptions to the APA. Because this rule merely reformats the Department's existing procurement regulations to conform them to FAR, and inserts needed internal procedural guidance in areas where the FAR requires implementation, prior public comment is deemed unnecessary. Further, since the Department's current procurement regulations will become obsolete on April 1, 1984, it is impracticable to provide for prior public comment on this rule. Lastly, it would be contrary to the public interest to utilize a prior public comment procedure, since that procedure would result in the Department not having any acquisition regulations in effect on April 1, 1984.

OFPP Policy Letter No. 83–2. The Office of Federal Procurement Policy, in Policy Letter No. 83–2, requires that an agency must provide an opportunity for public comment before adopting procurement (acquisition) regulations if the regulations represent a "significant" change to existing regulations. A change to existing regulations "is generally considered to be significant if it has an effect beyond the internal procedures of the issuing agency, or a cost or administrative impact on contractors."

The Department has determined that this rule does not represent a significant change. As indicated earlier in the preamble, the changes made to the Department's procurement (acquisition) regulations are in the areas of format and internal procedures. Accordingly, the Department has concluded that the requirements of the Policy Letter do not apply.

For these reasons, the Department is issuing the HHS Acquisition Regulation as a final rule. However, the Department will accept comments on the regulation until May 15, 1984, and will review all comments for possible revisions to the regulation.

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Ch. 3

Government procurement, HHS acquisition regulation.

Accordingly, the Department amends Title 48, Code of Federal Regulations by establishing a new Chapter 3 as set forth below.

Dated: March 28, 1984.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

CHAPTER 3—HEALTH AND HUMAN SERVICES

Table of Contents

SUBCHAPTER A—GENERAL

Part 301—HHS Acquisition Regulation System
Part 302—Definitions of Words and Terms
Part 303—Improper Business Practices and Personal Conflicts of Interest
Part 304—Administrative Matters
Part 305—Publicizing Contract Actions

SUBCHAPTER B—ACQUISITION PLANNING

Part 307—Acquisition Planning
Part 309—Contractor Qualifications

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

Part 313—Small Purchase and Other Simplified Purchase Procedures
Part 314—Formal Advertising
Part 315—Contracting by Negotiation
Part 316—Types of Contracts
Part 317—Special Contracting Methods

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

Part 319—Small Business and Small Disadvantaged Business Concerns
Part 320—Labor Surplus Area Concerns
Part 323—Environment, Conservation, and Occupational Safety
Part 324—Protection of Privacy and Freedom of Information
Part 325—Foreign Acquisition

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Part 330—Cost Accounting Standards
Part 332—Contracting Financing

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

Part 334—Major System Acquisition
Part 335—Research and Development Contracting
Part 337—Service Contracting
Part 339—Management, Acquisition, and Use of Information Resources

SUBCHAPTER G—CONTRACT MANAGEMENT

Part 342—Contract Administration
Part 345—Government Property

SUBCHAPTER H—CLAUSES AND FORMS

Part 352—Solicitation Provisions and Contract Clauses
Part 353—Forms

SUBCHAPTER T—HHS SUPPLEMENTATIONS

Part 370—Special Programs Affecting Acquisition

Appendix

Appendix A—Single Letter of Credit Recipients and Central Point Addressees

SUBCHAPTER A—GENERAL

PART 301—HHS ACQUISITION REGULATION SYSTEM

Subpart 301.1—Purpose, Authority, Issuance

Sec.
301.101 Purpose.
301.102 Authority.
301.103 Applicability.
301.104 Issuance.
301.104–1 Publication and code arrangement.
301.104–2 Arrangement of regulations.
301.104–3 Copies.
301.105 OMB approval under the Paperwork Reduction Act.

Subpart 301.2—Administration

301.201 Maintenance of the HHSAR.
301.270 Executive Committee for Acquisition.
301.271 Timing of HHSAR revisions.

Subpart 301.3—Agency Acquisition Regulations

301.301 Policy.
301.302 Limitations.
301.303 Codification and public participation.
301.304 Agency control and compliance procedures.

Subpart 301.4—Deviations From the FAR

301.403 Individual deviations.
301.404 Class deviations.
301.470 Procedure.

Subpart 301.5—Agency and Public Participation

301.501 Solicitation of agency and public views.
301.502 Public meetings.

Subpart 301.6—Contracting Authority and Responsibilities

301.601 General.
301.603 Selection, appointment, and termination of appointment.
301.603–1 General.
301.603–3 Appointment.
301.670 Head of the contracting activity.
301.670–1 Responsibility.
301.670–2 Designation.
301.670–3 Redelegation.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 301.1—Purpose, Authority, Issuance

301.101 Purpose.

(a) The Department of Health and Human Services Acquisition Regulation (HHSAR) is issued to establish uniform acquisition policies and procedures for the Department of Health and Human Services (HHS) which conform to the Federal Acquisition Regulation (FAR) System.

(b) The HHSAR implements and supplements the FAR. (Implementing material expands upon or indicates the manner of compliance with related FAR material. Supplementing material is new material which has no counterpart in the FAR.)

(c) The HHSAR contains all formal departmental policies and procedures that govern the acquisition process or otherwise control contracting relationships between the Department's contracting offices and contractors.

301.102 Authority.

The HHSAR is prescribed by the Assistant Secretary for Management and Budget under the authority of 5 U.S.C. 301 and Section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary. The Assistant Secretary for Management and Budget has redelegated the authority to establish all departmental acquisition policy and publish all acquisition regulations to the Deputy Assistant Secretary for Procurement, Assistance and Logistics. This authority is not redelegable.

301.103 Applicability.

The FAR and HHSAR apply to all HHS acquisitions as stated in FAR 1.103. Unless specified otherwise, these regulations apply to acquisitions within and outside the United States.

301.104 Issuance.

301.104–1 Publication and code arrangement.

(a) The HHSAR is also published in the same forms as indicated in FAR 1.104–1(a).

(b) The HHSAR is issued in the Code of Federal Regulations (CFR) as Chapter 3 of Title 48, Department of Health and Human Services Acquisition Regulation. It may be referenced as "48 CFR Chapter 3."

301.104–2 Arrangement of regulations.

(a) *General.* The HHSAR conforms to the FAR with respect to divisional arrangements; i.e., subchapters, parts,

subparts, sections, subsections, and paragraphs.

(b) *Numbering.* The FAR System of numbering permits the keying of the same or similar subject matter throughout Chapters 1 (FAR) and 3 (HHSAR). However, unlike the FAR numbering scheme, our scheme varies somewhat in the numbering to the left of the decimal point. Whereas the FAR only identifies the part number to the left of the decimal point, our corresponding reference identifies the chapter as well. For example, this corresponding paragraph in the FAR is numbered 1.104–2(b) where "1" is the part number (may be one or two digits and is followed by a decimal point), "1" (to the right of the decimal point) is the subpart number, "04" (always two digits) is the section number, "2" is the subsection number (always hyphenated), and "(b)" is the paragraph reference. The corresponding HHSAR reference is 301.104–2(b) where the "3" or first digit is the chapter number assigned to the particular department or agency (may be two digits) and the "01" represents the part number (part numbers will always be two digits for agencies implementing the FAR). The remaining numbers are identical to and represent the same divisions as the FAR example.

(c) *References and citations.* (1) Unless otherwise stated, references, indicate parts, subparts, sections, subsections, etc, of this regulation, the HHSAR.

(2) This regulation shall be referred to as the Department of Health and Human Services Acquisition Regulation (HHSAR). Any reference may be cited as "HHSAR" followed by the appropriate number. Within the HHSAR, the number alone will be used.

(3) Citations of authority shall be incorporated where necessary. All FAR reference numbers shall be preceded by "FAR".

301.104–3 Copies.

Copies of the HHSAR in Federal Register and CFR form may be purchased by the public from the Superintendent of Documents, Government Printing Office (GPO), Washington, D.C. 20402. Lose-leaf copies of the HHSAR may be obtained by departmental personnel having a need for the document by placing an order with a Directives Distribution Coordinator in accordance with General Administration Manual Chapter 1–00, HHS Staff Manual System.

301.105 OMB approval under the Paperwork Reduction Act.

The following OMB control numbers apply to the information collection and recordkeeping requirements contained in this regulation:

HHSAR segment	OMB control no.
315.4	0990–0139
323.70	0990–0137
324.70	0990–0136
332.406	0990–0134
342.7103	0990–0131
352.215–71	0990–0139
352.216–70	0990–0138
352.223–70	0990–0137
352.224–70	0990–0136
352.228–70	0990–0135
352.232–70	0990–0134
352.232–71	0990–0134
352.232–73	0990–0134
352.233–70	0990–0133
352.237–71	0990–0132
352.242–70	0990–0131
352.270–1	0990–0129
352.270–2	0990–0129
352.270–3	0990–0129
352.270–5	0990–0130
352.270–6	0990–0130
370.1	0990–0129
370.2	0990–0129

Subpart 301.2—Administration

301.201 Maintenance of the HHSAR.

(a) The HHSAR is prepared and issued under the authority of the Deputy Assistant Secretary for Procurement, Assistance and Logistics. Acquisition policies and procedures which are necessary to implement, supplement, or deviate from the FAR will be issued in the HHSAR by the Deputy Assistant Secretary for Procurement, Assistance and Logistics when necessary to accomplish Department-wide acquisition objectives.

(b) The HHSAR is maintained by the Division of Procurement Policy, Office of Procurement and Assistance Policy, Office of Procurement, Assistance and Logistics. The Director, Division of Procurement Policy is responsible for developing and preparing for issuance all acquisition regulatory material to be included in the HHSAR.

301.270 Executive Committee for Acquisition.

(a) The Deputy Assistant Secretary for Procurement, Assistance and Logistics has established the Executive Committee for Acquisition (ECA) to assist and facilitate the planning and development of departmental acquisition policies and procedures and to assist in responding to other agencies and organizations concerning policies and procedures impacting the Federal acquisition process.

(b) The ECA consists of members and alternates from the Office of Procurement, Assistance and Logistics, Office of Management Services—OS, Office of Human Development Services, Health Care Financing Administration, Social Security Administration, Public Health Service, and, collectively, the regional offices. The ECA is chaired by the Director, Division of Procurement Policy. All meetings will be held at the call of the Chairman, and all activities will be carried out under the direction of the Chairman.

(c) The ECA, to facilitate the planning, development, and coordination of government-wide and department-wide acquisition policies and procedures, is to:

(1) Advise and assist the Chairman concerning major acquisition policy matters;

(2) Review and appraise, at appropriate intervals, the overall effectiveness of existing policies and procedures; and

(3) Review and appraise the impact of new major acquisition policies, procedures, regulations, and developments on current acquisition policies and procedures.

(d) The Chairman will periodically issue a list of current members and alternates specifying the name, title, organization, address, and telephone number of each. The member organizations are responsible for apprising the Chairman whenever a new member or alternate is to be appointed to the ECA.

301.271 Timing of HHSAR revisions.

HHSAR revisions will be issued throughout the year as the need arises. HHSAR material shall become effective on the date cited in the Federal Register issuance or on the date of the transmittal notice which distributes it to HHSAR Staff Manual holders, unless otherwise indicated.

Subpart 301.3—Agency Acquisition Regulations

301.301 Policy.

The FAR and HHSAR are intended to provide all necessary regulatory guidance for the conduct of the acquisition process within the Department. However, there may be some rare instances where regulations are necessary to implement and/or supplement the FAR and/or HHSAR at the Operating Division (OPDIV) level or lower. The Department discourages the proliferation of OPDIV and lower level issuances, but will allow lower level issuances when deemed pertinent.

301.302 Limitations.

The same limitations applicable to the FAR also apply to the HHSAR.

301.303 Codification and public participation.

The HHSAR shall be codified in Chapter 3 of Title 48, Code of Federal Regulations. Any OPDIV or lower implementation or supplementation of the HHSAR or FAR shall also be codified as part of Chapter 3. Implementing material is that which expands upon or indicates the manner of compliance with related higher level material. Supplementing material is that for which there is no counterpart. Where material in the FAR requires no implementation, there will be no corresponding number in the HHSAR. Thus, there are gaps in the HHSAR sequence of numbers where the FAR, as written, is deemed adequate. Supplementary material shall be numbered as specified in FAR 1.303.

301.304 Agency control and compliance procedures.

(a) Whenever an OPDIV or lower level organization determines a need for an acquisition regulation not covered by the FAR or HHSAR or wishes to implement or supplement the coverage in either, the organization shall prepare a memorandum that explains the need, background, justification, and significant aspects of the proposed regulation and send it, together with an outline, to the Director, Division of Procurement Policy. The Director will analyze the request to determine if it has applicability to the HHSAR or FAR; if not, the Director will either approve or disapprove the request for incorporation into the organization's acquisition regulation. If the request is approved, the organization must prepare the proposed regulation in **Federal Register** format, obtain all necessary concurrences, including Office of General Counsel—Business and Administrative Law Division, and send it to the Director, Division of Procurement Policy for review and approval. The regulation must be prepared for signature by the Deputy Assistant Secretary for Procurement, Assistance and Logistics. All regulations will be required to be processed through the public rulemaking process in the **Federal Register.**

(b) Only the organizations listed in paragraph (d) are authorized to established acquisition regulations. As of the date of issuance of the HHSAR, no acquisition regulations below the HHSAR level exist, and the procedures detailed in paragraph (a) must be followed to initiate the establishment of an OPDIV or lower level regulation.

(c) Under no circumstances shall any organization's implementation or supplementation of the FAR or HHSAR conflict with, supersede, or repeat, paraphrase, or otherwise restate policies or procedures prescribed by these regulatory issuances. OPDIV or lower level material shall follow the numbering system, format, and arrangement of the FAR and HHSAR and will be applicable only within the organization issuing it. One copy of all OPDIV or lower level material issued in loose-leaf format shall be furnished the Director, Division of Procurement Policy at the time of issuance.

(d) Material issued by OPDIV or lower level organizations to implement and supplement the HHSAR and FAR shall be identified by prefixes to the digit 3 (indicating Chapter 3–HHSAR) as follows, and shall use the same numbering system as the HHSAR:

Organization	Prefix
Office of the Secretary	OS
Health Care Financing Administration	HCFA
Office of Human Development Services	OHDS
Public Health Service	PHS
Alcohol, Drug Abuse, and Mental Health Administration.	ADAMHA
Centers for Disease Control	CDC
Food and Drug Administration	FDA
Health Resources and Services Administration.	HRSA
National Institutes of Health	NIH
Social Security Administration	SSA

Subpart 301.4—Deviations From the FAR

301.403 Individual deviations.

Requests for individual deviations to either the FAR or HHSAR shall be prepared in accordance with 301.470 and forwarded through administrative channels to the Director, Division of Procurement Policy for review and approval.

301.404 Class deviations.

Requests for class deviations to either the FAR or HHSAR shall be prepared in accordance with 301.470 and forwarded through administrative channels to the Director, Division of Procurement Policy for review and approval.

301.470 Procedure.

(a) When a contracting activity or contracting office determines that a deviation is needed, it shall prepare a deviation request in memorandum form and forward it through administrative channels to the Director, Division of Procurement Policy as stated in 301.403 or 301.404. In an exigency situation, the contracting activity or contracting office may request a deviation verbally, but is required to confirm the request in writing as soon as possible.

(b) A deviation request shall clearly and precisely set forth the:

(1) Nature of the needed deviation;

(2) Identification of the FAR or HHSAR from which the deviation is needed;

(3) Circumstances under which the deviation would be used;

(4) Intended effect of the deviation;

(5) Time-frame; and

(6) Reasons which will contribute to complete understanding and support of the requested deviation. A copy of pertinent background papers such as a form or contractor's request should accompany the deviation request.

Subpart 301.5—Agency and Public Participation

301.501 Solicitation of agency and public views.

(a) [Reserved].

(b) Public opportunity for comment on proposed changes or additions to the HHSAR or lower level acquisition regulations will be offered whenever the proposed regulation will have a direct impact on the public and/or contractors. This will be accomplished by publishing a notice of proposed rulemaking in the **Federal Register** which will include the proposed language and the background and rationale for the proposed regulation. Comments will not be solicited directly from professional or industry associations or other interested parties; they will be expected to respond based upon the **Federal Register** notification. Normally, the public will be given 45 days to comment. Proposed changes or additions to the HHSAR or FAR shall be staffed to the Executive Committee for Acquisition in accordance with 301.270.

(c) and (d) [Reserved].

(e) In addition to the two instances stated in FAR 1.501(e), comments will not be solicited from the public when the change or addition to the HHSAR or lower level acquisition regulation is deemed procedural in nature and concerns internal administrative directions aimed at departmental personnel.

301.502 Public meetings.

Public meetings will not normally be used to solicit comments or views on HHSAR or lower level acquisition regulations. However, when the topic is so controversial that the Department or OPDIV believes a public meeting would be beneficial, public meetings will be convened.

Subpart 301.6—Contracting Authority and Responsibilities

301.601 General.

No contract shall be entered into, modified, or terminated unless all

required reviews, clearances, or approvals have been obtained, and all applicable requirements of law, the FAR, the HHSAR, and other applicable regulations have been met. In addition, refer to FAR 14.103-2 concerning limitations with respect to contracting by formal advertising and FAR 15.104 concerning authorization and approval with respect to contracting by negotiation.

301.603 Selection, appointment, and termination of appointment.

301.603-1 General.

The selection, appointment, and termination of contracting officers shall be made in accordance with OPDIV procedures, which shall conform to the requirements of FAR Subpart 1.6 and this subpart.

301.603-3 Appointment.

The Certificate of Appointment is not to be issued to employees where delegation of authority is restricted to ordering from mandatory sources of supply (FSS, GSA, Perry Point, Md., DOD, etc.).

301.670 Head of the contracting activity.

301.670-1 Responsibility.

The head of the contracting activity (HCA) is responsible for the conduct of an effective and efficient acquisition program. Adequate controls shall be established to assure compliance with applicable laws, regulations, procedures, and the dictates of good management practices. Periodic reviews shall be conducted and evaluated by qualified personnel, preferably assigned to positions other than in the contracting office being reviewed, to determine the extent of adherence to prescribed policies and regulations, and to detect a need for guidance and/or training.

301.670-2 Designation.

Each OPDIV head has been designated as HCA along with the following officials:

(a) Deputy Assistant Secretary for Procurement, Assistance and Logistics;

(b) Director, Office of Management Services, OS; and

(c) Each Regional Director.

301.670-3 Redelegation.

(a) The heads of contracting activities may redelegate their HCA authorities to the extent that redelegation is not prohibited by the terms of their respective delegations of authority, by law, by the Federal Acquisition Regulation, by the HHS Acquisition Regulation, or by other regulations. To ensure proper control of redelegated acquisition authorities, HCA's shall maintain a file containing successive delegations of HCA authority through and including the contracting officer level.

(b) Personnel delegated responsibility for acquisition functions must possess a level of experience, training, and ability commensurate with the complexity and magnitude of the acquisition actions involved.

PART 302—DEFINITIONS OF WORDS AND TERMS

Subpart 302.1—Definitions

302.100 Definitions of terms.

"Head of the agency" or "agency head" means the head of the Operating Division (OPDIV) for HCFA, OHDS, PHS, and SSA, or the Assistant Secretary for Management and Budget (ASMB) for the Office of the Secretary (OS).

"Head of the contracting activity" (HCA)—see 301.670-2.

"Principal official responsible for acquisition" (PORA) is defined in terms of certain organizational positions within the Office of Management Services (OMS-OS), Health Care Financing Administration (HCFA), Office of Human Development Services (OHDS), Office of the Assistant Secretary for Health (OASH), Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), Centers for Disease Control (CDC), Food and Drug Administration (FDA), Health Resources and Services Administration (HRSA), National Institutes of Health (NIH), Social Security Administration (SSA), and the Regional Offices (RO's), as follows:

OMS-OS—Director, Division of Contract and Grant Operations, OMS-OASMB
HCFA—Director, Division of Procurement Services, Office of Management and Budget
OHDS—Chief, Contracts Branch, Division of Grants, and Contracts Management, Office of Management Services
OASH—Director, Division of Materiel Management, Administrative Services Center, Office of Management
ADAMHA—Director, Division of Grants and Contracts Management, Office of the Administrator
CDC—Director, Procurement and Grants Office, Office of the Center Director
FDA—Director, Division of Contracts and Grants Management, Office of the Associate Commissioner for Management and Operations
HRSA—Director, Division of Grants and Procurement Management, Office of Management
NIH—Director, Division of Contracts and Grants, Office of Administration (For acquisitions assigned to the Division of Contracts and Grants)
NIH—Director, Division of Administrative Services, Office of Research Services (For acquisitions assigned to the Division of Administrative Services)
SSA—Director, Division of Contracts and Grants Management, Office of Material Resources Management, Office of Management, Budget and Personnel
RO's—Director, Regional Administrative Support Center

The PORA is subordinate to the head of the contracting activity and is the official in charge of the major contracting operation activity within the OPDIV, agency, staff office, or regional office.

(5 U.S.C. 301; 40 U.S.C. 486(c))

PART 303—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 303.1—Safeguards

Sec.
303.101 Standards of conduct.
303.101-3 Agency regulations.

Subpart 303.2—Contract Gratuities to Government Personnel

303.203 Reporting suspected violations of the Gratuities clause.

Subpart 303.3—Reports of Identical Bids and Suspected Antitrust Violations

303.302 Reporting identical bids.
303.302-2 Reporting requirements.
303.303 Reporting suspected antitrust violations.

Subpart 303.4—Contingent Fees

303.408 Evaluation of the SF 119.
303.408-1 Responsibilities.
303.409 Misrepresentations or violations of the Covenant Against Contingent Fees.

Subpart 303.5—Other Improper Business Practices

303.502 Subcontractor kickbacks.

Subpart 303.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

303.602 Exceptions.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 303.1—Safeguards

303.101 Standards of conduct.

303.101-3 Agency regulations.

The Department of Health and Human Services' Standards of Conduct are prescribed in Part 73 of Title 45.

Subpart 303.2—Contractor Gratuities to Government Personnel

303.203 Reporting suspected violations of the Gratuities clause.

Departmental personnel shall report suspected violations of the Gratuities clause in accordance with Subpart M, Reporting Violations, of the

Department's Standards of Conduct (45 CFR Part 73) and General Administration Manual Chapter 5-10, rather than as specified in FAR 3.203. Refer to Subpart E, Gifts, Entertainment, and Favors, of 45 CFR Part 73 for an explanation regarding what is prohibited and what is permitted.

Subpart 303.3—Reports of Identical Bids and Suspected Antitrust Violations

303.302 Reporting identical bids.

303.302-2 Reporting requirements.

Executive Order 12430, dated July 6, 1983 (48 FR 31371), revoked Executive Order 10936, dated April 26, 1961, which required executive agencies to submit a report to the Attorney General when identical bids were received in connection with a formally advertised acquisition greater than $10,000. As a result, the reporting procedures specified in FAR 3.302-2 are superseded and are to be ignored.

303.303 Reporting suspected antitrust violations.

A copy of each report of suspected antitrust violations submitted to the Attorney General shall also be submitted to the Deputy Assistant Secretary for Procurement, Assistance and Logistics.

Subpart 303.4—Contingent Fees

303.408 Evaluation of the SF 119.

303.408-1 Responsibilities.

(a) [Reserved]

(b) The chief of the contracting office shall perform the review required by FAR 3.408-1(b) and should consult with the Office of General Counsel, Business and Administrative Law Division, when deemed necessary.

303.409 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) Reports shall be made promptly to the contracting officer.

(b)(1)-(3) [Reserved]

(4) Suspected fraudulent or criminal matters to be reported to the Department of Justice shall be prepared in letter format and forwarded through acquisition channels to the head of the contracting activity for signature. The letter must contain all pertinent facts and background information considered by the contracting officer and chief of the contracting office that led to the decision that fraudulent or criminal matters may be present. A copy of the signed letter shall be sent to the Deputy Assistant Secretary for Procurement, Assistance and Logistics.

Subpart 303.5—Other Improper Business Practices

303.502 Subcontractor kickbacks.

(a) [Reserved]

(b) Any known or suspected violations of the Anti-Kickback Act (41 U.S.C. 51-54) shall be reported to the contracting officer who shall investigate the matter, document the findings, and report the results to the chief of the contracting office. If the results substantiate the known or suspected violation, the chief of the contracting office shall notify the Office of General Counsel, Business and Administrative Law Division and report the matter, through acquisition channels, to the head of the contracting activity. The head of the contracting activity shall take appropriate action is consonance with the Act, and notify the Deputy Assistant Secretary for Procurement, Assistance and Logistics of the case and its disposition.

Subpart 303.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

303.602 Exceptions.

Approval of an exception to the policy stated in FAR 3.601 shall be made by the head of the OPDIV (Assistant Secretary for Management and Budget in OS cases) or the Regional Director.

PART 304—ADMINISTRATIVE MATTERS

Subpart 304.1—Contract Execution

Sec.
304.101 Contracting officer's signature.
304.170 Ratification of unauthorized contract awards.

Subpart 304.2—Contract Distribution

304.201 Procedures.

Subpart 304.6—Contract Reporting

304.601 Federal Procurement Data System.

Subpart 304.8—Contract Files

304.801 General.
304.804 Closeout of contract files.
304.804-1 Closeout by the office administering the contract.
304.870 Closing review.

Subpart 304.70—Acquisition Instrument Identification Numbering System

304.7000 Scope of subpart.
304.7001 Numbering contracts.
304.7002 Numbering solicitation documents.
304.7003 Numbering purchase and delivery orders.
304.7004 Numbering basic agreements.
304.7005 Numbering basic ordering agreements.

Subpart 304.71—Review and Approval of Proposed Contract Awards

Sec.
304.7100 Scope of subpart.
304.7101 Contracts requiring review and approval.
304.7102 Conduct of the review.
304.7103 Approvals.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 304.1—Contract Execution

304.101 Contracting officer's signature.

An original of each bilateral contract or modification shall be executed by the contractor and contracting officer. An original of each unilateral contract or modification shall be executed by the contracting officer. The contracting officer need only sign the original when carbon paper is used in sets of forms such as Standard Form 44 or Optional Form 347 or 348. A legible carbon impression of the contracting officer's signature shall carry the same force and effect as a pen and ink signature for unilateral contracts.

304.170 Ratification of unauthorized contract awards.

(a) The Government is not bound by agreements or contractual commitments made to prospective contractors by persons to whom contracting authority has not been delegated. Such unauthorized acts may be in violation of the Federal Property and Administrative Services Act, other Federal laws, the FAR, the HHSAR, and good acquisition practice; e.g., certain requirements of law and regulation necessary for the proper establishment of a contractual obligation may not be met; i.e., certification of the availability of funds, determinations and findings, competition of sources, determination of contractor responsibility, certification of current pricing data, price/cost analysis, administrative approvals, negotiation of appropriate contract clauses, etc.

(b) The execution of otherwise proper contracts made by individuals without contracting authority, or by contracting officers in excess of the limits of their delegated authority, may be later ratified. To be effective, the ratification must be in the form of a written document clearly stating that ratification of a previously unauthorized act is intended and must be signed by the head of the contracting activity, provided the head of the contracting activity could have granted authority to enter into the commitment at the time it was made and still has the power to do so. Contracting officers shall not ratify contractual commitments made by other personnel of the Department without the prior approval of the head of the contracting activity. (This approval

authority may be redelegated to a designee not lower than the principal official responsible for acquisition.)

(c) Requests received by contracting officers for ratification of commitments made by personnel lacking contracting authority shall be processed as follows:

(1) The individual who made the unauthorized contractual commitment shall furnish the contracting officer all records and documents concerning the commitment and a complete written statement of facts, including, but not limited to: a statement as to why the contracting office was not used, a statement as to why the proposed contractor was selected, a list of other sources considered, a description of work to be performed or products to be furnished, the estimated or agreed contract price, a citation of the appropriation available, and a statement of whether the contractor has commenced performance.

(2) The contracting officer will review the file and forward it to the head of the contracting activity with any comments or information which should be considered in evaluation of the request for ratification. If legal review is desirable, the head of the contracting activity will coordinate the request for ratification with the Office of General Counsel, Business and Administrative Law Division.

(3) If ratification is authorized by the head of the contracting activity, the file will be returned to the contracting officer for issuance of a purchase order or contract, as appropriate, along with the ratification document.

(4) Heads of contracting activities or their designees will report the number and dollar value of requests for ratifications received and ratifications authorized each calendar quarter. Reports shall be submitted in an original and one copy to the Deputy Assistant Secretary for Procurement, Assistance and Logistics to arrive no later than 30 calendar days after the close of each calendar quarter.

Subpart 304.2—Contract Distribution

304.201 Procedures.

(a) Distribution of bilateral contracts and modifications shall follow these guidelines rather than those in FAR 4.201. The signed original shall be placed in the contract file, and duplicate originals shall be furnished the contractor, the appropriate accounting point, and the project officer, and for other special requirements, if applicable.

(b) Purchase orders, delivery orders, and other unilateral contracts and modifications shall be distributed the same as bilateral contracts except the original shall be furnished the contractor or seller. Copies with carbon impressioned signatures may be used but must be stamped "DUPLICATE ORIGINAL" (see 304.101).

Subpart 304.6—Contract Reporting

304.601 Federal Procurement Data System.

The Department-wide Contract Information System (DCIS) represents the Department's implementation of the FPDS. All departmental contracting activities are required to participate in the DCIS and follow the procedures stated in the Contract Information System Manual and amendments to it. The principal official responsible for acquisition shall ensure that all required contract information is collected, submitted, and received into the DCIS on or before the 15th of each month for all appropriate contract and contract modification awards of the prior month.

Subpart 304.8—Contract Files

304.801 General.

OPDIVs shall prescribe the contents of contract files and establish filing procedures consistent with the nature of the contracting actions and in accordance with FAR 4.801, 4.802, and 4.803. Contract files should contain an index of the contents to facilitate review and should be separated into logical categories (see FAR 4.803).

304.804 Closeout of contract files.

304.804-1 Closeout by the office administering the contract.

(a) (1) and (2) [Reserved]

(3) Files for all cost-reimbursement type contracts should be closed within 20 months of the month in which the contracting officer receives evidence of physical completion (see FAR 4.804-4). The contracting officer responsible for contract closeout may negotiate settlement of indirect costs for a specific contract, in advance of the determination of final indirect cost rates in accordance with FAR 42.708.

304.870 Closing review.

(a) Contracting officers shall assure the applicable items in FAR 4.804-5, other than a field audit, have been accomplished prior to closing any physically completed contract. Cost-reimbursement type contracts will be subject to the additional requirements set forth below before they may be closed.

(b) Contracting officers shall use the instructions in the October 5, 1982 memorandum from the Deputy Assistant Secretary for Procurement, Assistance and Logistics to closeout cost-reimbursement type contracts physically completed prior to fiscal year 1977 and cost-reimbursement type contracts completed subsequent to that date for which field audit information is available.

(c) Contracting officers shall closeout all other cost-reimbursement type contracts physically completed after September 30, 1977 in accordance with the following procedures:

(1) Field audits will be conducted for contracts in excess of $250,000 awarded to commercial organizations and non-profit organizations other than colleges and universities, hospitals and State and local units of government for which an agency other than HHS has audit cognizance. Field audits will also be conducted each year on approximately 25 of the same type contractors for which HHS has audit cognizance. These contracts may be closed after receipt of the field audit report.

(2) Contracts of any dollar value with non-proprietary colleges and universities, hospitals and State and local units of government and contracts not in excess of $250,000 with other institutions/organizations shall be closed out on the basis of a desk audit. The desk audit should include (i) a confirmation from the project officer that labor, material, travel, and other types of direct costs are commensurate with contract requirements, (ii) a review of available audit reports to determine if any adjustments were made that may be applicable to the contract under review, and (iii) discussions with the cognizant government auditor when considered appropriate. These contracts shall be closed with the condition that they are subject to adjustment should an on-site audit be conducted at a later date and should unallowable costs be identified as a result of that audit. The release executed by the contractor shall contain the following:

> The Contractor agrees, pursuant to the clause in this contract entitled Allowable Cost (for cost-reimbursement contracts) or Allowable Cost and Fixed Fee (for CPFF contracts), that the amount of any sustained audit exceptions resulting from any audit made after final payment will be refunded to the Government.

(3) The contracting officer may request a field audit of any contract when, in his/her judgment, the risk attendant with the contract warrants it. The contracting officer, however, shall exercise discretion in requesting such audits on creditable evidence such as unsatisfactory dealings with the contractor during the period of contract performance, prior audit reports

containing serious findings against the contractor, the known experience of other government officials in dealing with the contractor when the contracting officer is personally knowledgeable about the circumstances, formal third party complaints or allegations which bear upon the contractor's integrity or the propriety of costs charged to the Government, and other comparable allegations or advice of a derogatory nature about the contractor made by responsible individuals which in the contracting officer's judgment should be investigated. Except where a contracting officer suspects misrepresentation or fraud, audits should not be requested if their cost of performance is likely to exceed their potential cost recovery.

(4) When an audit is warranted prior to closing out a contract, the contracting officer should request the audit directly from the Department of Health and Human Services Office of the Inspector General, Office of Audits (HHSOA). The request should cite the reasons the contracting officer believes an audit is warranted. A copy of the request should be forwarded to the Office of Procurement, Assistance and Logistics (OPAL), ASMB. In the event the Office of the Inspector General cannot honor the request in a reasonable period of time, it will consult with OPAL and the contracting officer. The final decision on the need and scope of an audit will be made on the basis of the value of the contract, the nature of the contracting officer's concerns, and the availability of HHSOA or other existing resources in the Department to perform a review to satisfy the contracting officer's concerns.

(5) Closeout procedures are to be followed in conjunction with the regular procedures now followed in administering contracts. These procedures are not meant or to be interpreted as imposing any requirement or responsibility on contracting officers or necessitating any reviews on the part of the contracting officials not currently required by the FAR. With some rare exceptions, Standard Form 1035, Public Voucher for Purchases and Services Other than Personal, or Form HHS 646, Financial Report of Individual Project/Contract, will contain sufficient information to allow a contracting officer to satisfy requirements for desk audits. Accordingly, these closeout procedures shall not cause contracting officers to engage in extraordinary oversight or review and shall not be used by contracting officers as the basis for requiring contractors to submit extraordinary documentation such as payroll listing, labor billings, travel details, etc.

Subpart 304.70—Acquisition Instrument Identification Numbering System

304.7000 Scope of subpart.

This subpart prescribes policy and procedures for assigning identifying numbers to contracts and related instruments, including solicitation documents, purchase orders, and delivery orders.

304.7001 Numbering contracts.

(a) *Contracts which require numbering.* The following contracts shall be numbered in accordance with the system prescribed in paragraph (b) of this section:

(1) All contracts, including letter contracts and task orders under basic ordering agreements, which involve the payment of $2,500 or more for the acquisition of personal property or nonpersonal services.

(2) All contracts which involve the payment of $2,000 or more for construction (including renovation or alteration).

(3) All contracts which involve more than one payment regardless of amount. (The number assigned to a letter contract shall be assigned to the superseding definitized contract.)

(b) *Numbering system.* All contracts which require numbering shall be assigned a number consisting of the following:

(1) The three digit code assigned to the contracting office by the Division of Management Information Systems Services, OMAS, OS;

(2) A two digit fiscal year designation; and

(3) A four digit serial number. While it is required that a different series of four digit serial numbers be used for each fiscal year, serial numbers assigned need not be sequential.

(c) *Illustration of contract numbers.* The initial contract executed by the Division of Contract and Grant Operations, Office of Management Services, Office of the Secretary, for fiscal year 1983 should be numbered 100–83–0001, the second contract 100–83–0002. Alternatively, if it is desirable for internal identification purposes to establish separate series of numbers for formally advertised and negotiated contracts, this procedure is permissible. In this instance, the initial formally advertised contract might be numbered 100–83–0001 and the initial negotiated contract numbered 100–83–0500.

(d) *Assignment of identification codes.* Each contracting office of the Department shall be assigned a three digit identification code by the Division of Management Information Systems Services. Requests for the assignment of such codes for newly established contracting offices shall be submitted by the headquarters acquisition staff office of the contracting activity to the Director, Division of Management Information Systems Services. Conversely, in the event that a contracting office is to be disestablished, the Director, Division of Management Information Systems Services shall be notified. A listing of the contracting office identification codes currently in use is contained in the Department-wide Contract Information System Manual (DCIS).

304.7002 Numbering solicitation documents.

Requests for proposals and invitations for bids shall be numbered in accordance with procedures prescribed by the headquarters staff office of the contracting activity.

304.7003 Numbering purchase and delivery orders.

Contracting offices shall establish procedures for numbering purchase orders as required for effective identification and control.

304.7004 Numbering basic agreements.

Basic agreements shall be numbered in accordance with procedures prescribed by the headquarters staff office of the cognizant contracting activity. However, individual contracts entered into pursuant to the terms and conditions of a basic agreement shall be numbered in accordance with 304.7001(b).

304.7005 Numbering basic ordering agreements.

Basic ordering agreements shall be numbered in accordance with procedures prescribed by the headquarters staff office of the contracting activity. However, task orders placed under an agreement shall be numbered in accordance with 304.7001(b) if the dollar amount of the order is $2,500 or more.

Subpart 304.71—Review and Approval of Proposed Contract Awards

304.7100 Scope of subpart.

This subpart prescribes review and approval procedures for contract actions to ensure that:

(a) Contract awards are in conformance with law, established policies and procedures, and sound business practices;

(b) Contractual documents properly reflect the mutual understanding of the parties; and

(c) The contracting officer is informed of deficiencies and items of questionable acceptability and corrective action is taken.

304.7101 Contracts requiring review and approval.

(a) *General.* All contractual documents, regardless of dollar value, are to be reviewed by the contracting officer prior to award, even if the review and approval procedures prescribed in this section are applicable. However, under no circumstances may the individual who signs a contract instrument as contracting officer perform final review and approval of that contract action if it, or any modification to it, is expected to exceed the levels set forth in (b) (1), (2), or (3) below.

(b) *Required reviews and approvals.* (1) Officials responsible for the acquisition function in the Office of the Secretary, OPDIVs (except the Public Health Service), and regional offices (except the Regional Operations for Facilities Engineering and Construction) are to assure that advertised or negotiated contracts, and/or modifications to them, expected to exceed $300,000, are reviewed and approved prior to award. In order to assure the propriety of smaller dollar acquisitions, a statistically significant sample of contract actions not expected to exceed $300,000 are to be reviewed and approved prior to award.

(2) Contract actions of the Public Health Service are to be reviewed and approved prior to award in accordance with the dollar thresholds stated in PHS Subpart 304.71. In order to assure the propriety of smaller dollar acquisitions, a statistically significant sample of contract actions not expected to exceed those dollar thresholds referenced in PHS Subpart 304.71 are to be reviewed and approved prior to award.

(3) Contract awards and modifications to be made by Directors, Regional Operations for Facilities Engineering and Construction for proposed architect-engineer contracts expected to exceed $50,000 and construction contracts expected to exceed $500,000 are to be submitted prior to award to the Director, Division of Contract and Grant Operations, OS for review and approval. In addition, to assure the propriety of smaller dollar acquisitions, statistically significant samples of proposed awards are to be scheduled by, and submitted to, the Director, Division of Contract and Grant Operations, OS for review and approval.

(c) *Reviewing officials.* Officials assigned responsibility for review and approval of contract actions must possess qualifications in the field of acquisition commensurate with the level of review performed, and, as a minimum, possess those acquisition skills expected of a contracting officer. The following officials are responsible for preaward contract review and approval:

Office of the Secretary and ROFECs—Director, Division of Contract and Grant Operations, Office of Management Services
Office of Human Development Services—Chief, Contracts Branch, Division of Grants and Contracts Management
Social Security Administration—Director, Division of Contracts and Grants Management
Health Care Financing Administration—Director, Division of Procurement Services
Public Health Service—The reviewing official is designated in PHS Subpart 304.71, as approved by the Director, Division of Procurement Policy, OPAL.

However, if any of the officials are to serve as the contracting officer and sign the contractual document, the review and approval function shall be performed by an appropriate official at least one level above.

(d) *Regional offices.* The Director, Regional Administrative Support Center (RASC) is responsible for review and approval of contracts, or modifications to them, expected to exceed $300,000 and executed by the regional office's contracting staff. The RASC may obtain the advice of the Regional Attorney in the review of proposed contract awards.

304.7102 Conduct of the review.

(a) *General.* Reviewing officials may solicit the participation of specialists in various technical and administrative disciplines to aid in the review. The method of the review is not prescribed here in order to permit discretionary judgment in determining the depth to which significant areas are to be examined.

(b) *Contract file.* The reviewer is to: (1) Determine that the contract file constitutes an independent record, documented to provide a complete chronology of actions related to all aspects of the acquisition, and that the documentation is consistent with the requirements of FAR 4.803;

(2) Determine that each contract file contains documentation or other data (i.e., technical and business management evaluation, cost advisory and audit reports, negotiation memorandum, etc.) sufficient to explain and support the rationales, judgments, and authorities upon which all decisions and actions were predicated; and

(3) Ascertain:

(i) If the proposed acquisition action is to be awarded on a noncompetitive basis, that the documentation and approvals supporting the noncompetitive decision are present in the contract file;

(ii) That proper publicizing of the proposed acquisition was made pursuant to FAR Part 5 and Part 305;

(iii) That approval was obtained for any deviation from prescribed contract clauses;

(iv) That sufficient competition was obtained, the competitive range was appropriately determined, and oral or written discussions were conducted with all firms in the competitive range;

(v) That all the rules set forth in FAR Part 14 were complied with when the proposed award is a result of an IFB; and

(vi) That appropriate determinations and findings which justify the cited negotiation authority, method of contracting, and advance payments are a part of the contract file.

304.7103 Approvals.

(a) Awards are not to be made until approval is granted by the reviewing official identified in 304.7101. All approvals are to be in writing, except that when time is of the essence approval may be given orally and subsequently confirmed in writing.

(b) The reviewing official shall not approve a proposed contract award if a substantive issue (or issues) remains to be resolved. However, in appropriate circumstances, the reviewing official may use discretion and grant approval on a conditional basis and require the contracting officer to submit follow-up written documentation that the substantive issue has been resolved. This provides the reviewing official the option to require the contracting officer to resolve the substantive issue and submit documenting evidence before award approval is given, or to grant conditional approval providing the substantive issue is resolved before the contract is awarded and require the contracting officer to submit documenting evidence either before or after the award. The reviewing official also has the option to determine the extent of documentation evidence to be submitted by the contracting officer. This may range from complete resubmission of the contract file to submission of a memorandum stating the contracting officer's actions in resolving the substantive issue.

PART 305—PUBLICIZING CONTRACT ACTIONS

Subpart 305.1—Dissemination of Information

Sec.
305.102 Availability of solicitations.

Subpart 305.2—Synopses of Proposed Contracts

305.203 Time of synopsizing.
305.205 Special situations.

Subpart 305.5—Paid Advertisements

305.502 Authority.
305.503 Procedures.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 305.1—Dissemination of Information

305.102 Availability of solicitations.

Potential offerors or bidders must be allowed a reasonable period of time in which to request and receive a solicitation and prepare and submit a response to that solicitation. As a result, the Department has established thirty (30) calendar days as the minimum time period between the date of distribution of a solicitation and the date set for receipt of proposals (opening of bids). The minimum 30 calendar day period is applicable to all formally advertised and negotiated acquisitions and for small purchases over $5,000. Adequate quantities of the solicitation must be maintained to fulfill all anticipated requests during the 30 calendar day period. If a solicitation response period greater than 30 calendar days is used, or, in an urgent situation, a response period less than 30 calendar days is used, the contracting officer must ensure that adequate quantities of the solicitation are available to fulfill all anticipated requests. (A solicitation response period of less than 30 calendar days may be used when the contracting officer determines that the urgency for the supplies or services does not permit delay. This decision must be documented in the contract file.)

Subpart 305.2—Synopses of Proposed Contracts

305.203 Time of synopsizing.

It is the Department's policy that proposed acquisitions be publicized in the Commerce Business Daily at least ten (10) calendar days before issuance of the solicitation. The only time it is permissible to deviate from the 10 calendar day publicizing period is when the contracting officer has determined that an urgent delivery or performance requirement exists and that the 10 calendar day period between notification of the availability and issuance of the solicitation would be detrimental to the successful completion of the acquisition. In this instance, the contracting officer must ensure that the synopsis is forwarded to the Commerce Business Daily to arrive not later than the date of issuance of the solicitation, and must honor telephone requests for copies of the solicitation and include a statement to this effect in the synopsis to be forwarded for publication in the Commerce Business Daily.

305.205 Special situations.

(a) *Research and development (R + D) advance notices.* The introductory information specified in FAR 5.205(a) shall be followed by a paragraph similar to the following:

Firms having research and development capabilities in the field of [Be specific] ———, and whose facilities and personnel include [Describe in substantial detail minimum facilities and personnel required] ———, are invited to submit complete information to the contracting office listed above. Information furnished should include the total number of employees and professional qualifications of scientists, engineers, and technical personnel; a description of general and special facilities; an outline of previous projects, a statement regarding industrial security clearance, if previously granted; and other available descriptive literature. This is not a request for a proposal.

Subpart 305.5—Paid Advertisements

305.502 Authority.

The contracting officer is authorized to publish advertisements, notices, and contract proposals in newspapers and periodicals in accordance with the requirements and conditions referenced in FAR Subpart 5.5.

305.503 Procedures.

Requests for acquisition of advertising shall be accompanied by written authority to advertise or publish which sets forth justification and includes the names of newspapers or journals concerned, frequency and dates of proposed advertisements, estimated cost, and other pertinent information. Paid advertisements shall be limited to the publication of essential details of grant announcements, invitations for bids, and requests for proposals, including those for the sale of personal property, and for the recruitment of employees.

SUBCHAPTER B—ACQUISITION PLANNING

PART 307—ACQUISITION PLANNING

Subpart 307.1—Acquisition Plans

Sec.
307.104 General procedures.
307.104–1 Requirement for acquisition planning.
307.104–2 Responsibilities for acquisition planning.
307.104–3 Preparation of acquisition plan.
307.105 Contents of written acquisition plans.
307.105–1 Format and content.
307.105–2 Special program clearances or approvals.
307.105–3 Specification, purchase description, and statement of work.
307.170 Program training requirements.
307.170–1 Policy exceptions.
307.170–2 Training course prerequisites.

Subpart 307.3—Contractor Versus Government Performance

307.302 General.
307.303 Determining availability of private commercial sources.
307.304 Procedures.
307.307 Appeals.

Subpart 307.70—Considerations in selecting an award instrument

307.7000 Scope of subpart.
307.7001 Applicability.
307.7002 Purpose.
307.7003 Distinction between acquisition and assistance.
307.7004 Procedures.

Subpart 307.71—Phase II Advance Acquisition Planning (Scheduling)

307.7101 Background.
307.7102 Accountability and responsibility.
307.7103 Purpose.
307.7104 Contracting activity actions.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 307.1—Acquisition Plans

307.104 General procedures.

The acquisition planning document is an administrative tool designed to enable the contracting officer and project officer to plan effectively for the accomplishment of an acquisition during a specified time frame. The acquisition planning document serves as an outline of the method by which the contracting officer expects to accomplish the acquisition task.

307.104–1 Requirement for acquisition planning.

(a) The acquisition planning document is required for all new negotiated acquisitions which are expected to exceed $100,000, except the following:

(1) Acquisition of architect-engineer services;

(2) Acquisitions of utility services where the services are available from only one source; and

(3) Acquisitions made from or through other Government agencies.

(b) An acquisition planning document is also required for all two-step formally advertised acquisitions expected to exceed $100,000.

(c) The principal official responsible for acquisition shall prescribe acquisition planning procedures for:

(1) Negotiated acquisitions which are not expected to exceed $100,000;

(2) Two-step formally advertised acquisitions which are not expected to exceed $100,000; and

(3) All other advertised acquisitions regardless of dollar amount.

(d) An acquisition planning document is not required for a contract modification which either exercises an option or adds funds to an incrementally funded contract, provided there is an approved acquisition planning document in accordance with 307.105 and there is no significant deviation from that plan.

307.104-2 Responsibilities for acquisition planning.

(a) *Planning by program and staff activities.* Whenever execution of a program or project requires the acquisition of property or services by contract, the program or project plan shall delineate all elements to be acquired by contract. The program or project plans must include a plan and time-frame for completion action.

(b) *Planning for acquisition actions.* Action should commence as early as possible to effect an orderly and balanced acquisition workload throughout a fiscal year. Project officers who expect to initiate acquisitions are required to discuss their requirements with the contracting officials who will be responsible for these acquisitions to compare current staff capabilities with anticipated requirements to achieve an even distribution of fiscal year workload consistent with program needs. These discussions should result in understandings on:

(1) The details of the acquisition plan;

(2) Schedule for the completion of the acquisition plan;

(3) Preliminary discussions on the work statement/specifications and appropriate evaluation criteria; and

(4) Preliminary discussions on the content and timing of the request for contract (RFC).

(c) *Planning by contracting activities.* Contracting activities are required to coordinate with program and staff offices to ensure:

(1) Timely and comprehensive planning for acquisitions;

(2) Timely initiation of requests for contracts; and

(3) Instruction of program and staff offices in proper acquisition practices and methods.

307.104-3 Preparation of acquisition plan.

(a) The acquisition planning document serves as an advance agreement between program and contracting personnel by outlining the methods of how and when the acquisition is to be accomplished. It serves to resolve problems early in the acquisition cycle thereby precluding delays in contract placement. It is developed prior to the preparation and submission of the formal request for contract to the contracting activity. (For detailed information concerning the request for contract, see Subpart 315.70.)

(b) The acquisition planning document shall be prepared jointly by the project officer and the contract negotiator or in accordance with procedures prescribed by the principal official responsible for acquisition.

307.105 Contents of written acquisition plans.

307.105-1 Format and content.

The Department does not prescribe a standard format for the acquisition planning document, but recommends the use of a format similar to what is provided in this section. The subject areas addressed in paragraphs (a) through (e) must be included in every acquisition planning document. An OPDIV, agency, or regional office contracting activity may prescribe a standard format for the acquisition planning document and may include additional subject areas that are pertinent to that activity's needs.

(a) *Identification information.* The contracting activity shall prescribe the information necessary for readily identifying a planned acquisition. The information may include items such as acquisition planning document number, request for contract number, public law, program or project officer, etc.

(b) *Programmatic considerations.* (1) *Description of the project/supplies/services.* Include a brief description of the proposed project/supplies/services. Discuss all anticipated future requirements related to the acquisition. Discuss any past, present or future interrelated projects.

(2) *Project funding.* Include the summary of funds expected to be obligated for the entire project by fiscal years and phases. Include expenditures for previous years. Discuss the probability of obtaining future years funding and/or what specific managerial action can be taken to insure future funding (if applicable).

(3) *Background and acquisition history.* Provide a brief factual summary of the technical and contractual history of the supplies/services being acquired.

(4) *Related projects, efforts undertaken to avoid duplication of effort.* Discuss efforts made to determine if existing projects, supplies or materials will satisfy the requirement. Include any related in-house efforts, searches, and clearinghouse reviews made to avoid duplication of effort.

(5) *Need for project/supplies/services.* Discuss rationale for deciding on the need for the project/supplies/services.

(6) *Special program clearances or approvals.* Review 307.105-2 to determine which special program clearances or approvals are required. Specify clearances or approvals applicable to this acquisition.

(7) *Phasing.* Briefly describe discrete tasks or stages of accomplishment which could be susceptible to phasing. Describe criteria for evaluation of performance of each phase before proceeding to the next. (See 307.105-3(c)(3) for a discussion on phasing.)

(8) *Government furnished material/facilities.* Indicate material and facilities that will be furnished to the contractor and any associated problems which may be encountered. Discuss possible inequities which may arise in furnishing the materials or facilities. Discuss screening efforts for availability through GSA excess property schedules.

(9) *Discussion of project risk.* Provide a discussion of major areas of project risk including technical, cost, and schedule risk. Describe what efforts are planned to reduce risk. If a planned noncompetitive acquisition represents a significant portion of a proposed contractor's business, discuss the impact on technical capability, realism of schedule, changes in contractor workload and related cost impact.

(10) *Reporting/delivery requirements.* Describe the basis for establishing the delivery/reporting requirements and include the anticipated deliverables and time(s) for delivery.

(11) *Replication, dissemination, or use of the results.* Discuss anticipated replication, dissemination, or use of the results. Describe user audience and their expected use. Include a description of the delivery system.

(12) *Data, data rights, patents, copyrights.* Discuss data to be developed. Specify data to be delivered and data to remain in the contractor's possession. Discuss how the data is to be used, maintained, disclosed and disposed of by the contractor. Discuss data subject to the Privacy Act or Confidentiality of Information clause. Discuss data to be delivered with limited rights, data where title would not vest in the Government, and anticipated copyrights or patents. Discuss whether or not the data will

permit any follow-on acquisitions to be competitive.

(13) *Post-award administration and monitoring.* Detail milestones that require periodic evaluation of the contractor's progress. Discuss any formal management systems to be used to monitor the contractor. Discuss plans for post-award conference and site visits. Delineate the timing of the periodic status reports.

(14) *Technical evaluation plans.* Discuss the plans for technical evaluation of the proposal. Discuss whether non-Federal technical evaluators will review the proposals. Discuss potential conflict of interest situations.

(c) *Acquisition approach.* (1) *Proposed sources.* Include sources or categories of sources (if apparent). If a noncompetitive acquisition is to be recommended, discuss why competition is not feasible.

(2) *Contract type.* Provide the rationale for recommendation of contract type.

(3) *Negotiation authority recommended.* Discuss the basis for recommendation of the negotiation authority.

(4) *Socioeconomic programs.* Discuss preliminary liaison with the Small and Disadvantaged Business Utilization Specialist for review to determine requirements susceptible for the various socioeconomic acquisition programs; i.e., small business, disadvantaged business, or labor surplus area set-asides.

(5) *Other considerations, as applicable.* Discuss special contract clauses and proposed HHSAR deviations, if required. Discuss circumstances such as the effect of a protest on a previous acquisition to this acquisition, special public law or regulatory requirements which place restrictions on this acquisition, and use of a special type of synopsis. Address planned preproposal conference, preaward survey and preaward site visits.

(d) *Planning for the acquisition cycle.* (1) *Scheduling considerations.* The project officer and the contract negotiator shall establish realistic planned dates which meet the program needs for award to assure timely delivery or completion of the project. The following factors should be considered in planning realistic dates:

(i) Individual project officer and contract negotiator workloads;

(ii) Planned, extended absences from the office; and

(iii) Schedules are in consonance with established office goals for overall orderly and balanced workloads.

(2) *Acquisition planning schedule.* The following acquisition planning schedule should be included in all plans to the extent the items are significant or appropriate to the acquisition. Additional items may be added as appropriate.

Acquisition Planning Schedule

Actions and Date
Advance or sources sought synopsis released
Advance or sources sought synopsis closed
Synopsis evaluation received
Request for contract received
Special program approvals received
Synopsis publicizing proposed acquisition released
Request for proposal released
Preproposal conference conducted
Proposals received
Technical evaluation received
Cost advisory or audit report received
Equal opportunity clearance obtained
Prenegotiation conference conducted
Negotiation completed
Contract document prepared
Contract approval completed
Contract released
Award

(e) *Approvals.* All acquisition planning documents shall be signed by the project officer and the contract negotiator. Acquisition planning documents for acquisitions estimated to be between $100,000 and $1,000,000 shall be approved by the contracting officer. Acquisition planning documents for acquisitions estimated to be in excess of $1 million shall be approved by the principal official responsible for acquisition or his/her designee. The designated official shall be in a position no lower than the level above the contracting officer. One copy of all acquisition planning documents shall be filed with the principal official responsible for acquisition or the designated official for planning purposes. The original acquisition planning document shall be retained in the contract file.

307.105-2 Special program clearances or approvals.

The following special program clearances or approvals should be reviewed for applicability to each planned acquisition. The ones which are applicable should be addressed in the acquisition planning document and immediate programmatic action should be initiated to obtain the necessary clearances or approvals.

(a) *Clearances or approvals required to be completed and submitted with the request for contract (RFC).*—(1) *Automatic data processing.* All proposed acquisitions of automatic data processing hardware, software packages, and services, as well as telecommunications equipment, which exceed the dollar thresholds stated in Chapter 4-10 of the HHS ADP Systems Manual must be reviewed and approved by the Office of Management Analysis and Systems (OMAS), OASMB-0S. (See HHS ADP Systems Manual, Chapter 4-10; Title 41 CFR Chapter 150; and Subpart 339.70.)

(2) *ADP systems security.* All ADP systems regardless of dollar amount are required to have a Certification of ADP Systems Security Adequacy signed by the ADP system manager and the cognizant ADP systems security officer. (See ADP Systems Manual, Part 6—ADP Systems Security; OMB Circular No. A-71, Transmittal Memorandum No. 1; and Subpart 339.70.)

(3) *Consultant services.* The Assistant Secretary for Management and Budget is responsible for review and approval of all nonevaluation consultant service contracts of $100,000 or more. (See General Administration Manual Chapter 8-15.)

(4) *Evaluation contracts.* All evaluation projects except evaluability assessments under $100,000 will be reviewed and approved by the Assistant Secretary for Planning and Evaluation (ASPE). Evaluability assessments under $100,000 will be approved by the heads of the OPDIVs or the regional directors. Evaluability assessment is defined in the annual guidance for Evaluation, Research, and Statistical Activities issued by ASPE.

(5) *Commercial or industrial products or services.* (OMB Circular No. A-76.) A contract vs. in-house performance review and determination shall be made in accordance with the General Administration Manual (GAM) Chapter 18-10 on all proposed acquisitions except for:

(i) Contracts with an annual cost of less than $100,000;

(ii) Contracts under an acquisition set-aside for small business or labor surplus area concerns; and

(iii) Contracts made pursuant to Section 8(a) of the Small Business Act.

A request for contract (RFC) over $100,000 must contain a statement as to whether the proposed contract is or is not subject to review under GAM Chapter 18-10 requirements. (See GAM Chapter 18-10; FAR Subpart 7.3, Subpart 307.3; OMB Circular No. A-76.)

(6) *Paid advertising.* Paid advertisements, notices or contract proposals to be published in newspapers and periodicals may be authorized by the contracting officer. (See FAR Subpart 5.5, Subpart 305.5; Title 7, Chapter 5-25.2, and the General Accounting Office Policy and

Procedures Manual for Guidance of Federal Agencies.)

(7) *Printing.* The acquisition of printing by contract is prohibited unless it is authorized by the Joint Committee on Printing of the U.S. Congress. Procedures to be followed are contained in the "Government Printing and Binding Regulations" and the HHS Printing Management Manual and FAR Subpart 8.8.

(8) *Fraud, abuse and waste.* All proposed acquisitions that involve fraud, abuse and waste must be reviewed and approved by the Inspector General or Deputy Inspector General, and written approval from either must be included in the request for contract.

(9) *Paperwork Reduction Act.* Under the Paperwork Reduction Act of 1980 (Pub. L. 96–511), a Federal agency shall not collect information or sponsor the collection of information from ten or more persons other than Federal employees unless, in advance, the agency has submitted Standard Form 83, Clearance Request and Notice of Action, to the Director of the Office of Management and Budget, and the Director has approved the proposed collection of information. Procedures for obtaining approval are contained in Title 5 CFR Part 1320 and General Administration Manual Chapter 10–20.

(10) *Safety and health.* Subpart 323.70 sets forth the procedures for coordination between initiators of requests for contract and safety officers to assure that adequate safety requirements are established whenever a proposed contract will involve hazardous materials or operations.

(11) *Contracts with federal employees.* Contracts between the Government and Government employees or between the Government and organizations which are substantially owned or controlled by Government employees may not knowingly be entered into, except for the most compelling reasons (see FAR Subpart 3.6). Authority to enter into a contract with a Government employee or an organization substantially owned or controlled by a Government employee must be approved prior to award of the contract by either the Assistant Secretary for Management and Budget, the head of the OPDIV, or the regional director, or their designees. (See 45 CFR Part 73 and HHS Standards of Conduct.)

(12) *Classified contracts.* Projects involving national security information must be coordinated with the Division of Security and Protection, Office of Investigation for guidance and approval as required by the HHS Security Manual.

(13) *Publications.* All projects which will result in contracts in excess of $2,500 and which include publications require review and approval by the Office of the Assistant Secretary for Public Affairs (OASPA). Form HHS–615, Publication Planning and Clearance Request, should be forwarded to OASPA through the OPDIV public affairs officer. Publications are defined in the chapter on publications in the Public Affairs Management Manual.

(14) *Public affairs services.* Projects for the acquisition of public affairs services in excess of $5,000 shall be submitted to the Office of the Assistant Secretary for Public Affairs (OASPA) for review and approval on Form HHS–524B, Request for Public Affairs Service Contract.

(15) *Audiovisual (videotape and motion picture production).* Any proposed acquisition of an audiovisual product requires the submission of a Standard Form 282, Mandatory Title Check, to the National Audiovisual Center (NAC). When the results of this title check have been reviewed by the project office and if a determination is made that existing materials are not adequate to fulfill the requirement, a statement to that effect shall be prepared by the project office. For acquisitions in excess of $5,000, a copy of that statement, together with a Standard Form 202, Federal Audiovisual Production Report, and Form HHS–524A, Request for Audiovisual Material, shall be submitted through the OPDIV public affairs officer to the Office of the Assistant Secretary for Public Affairs (OASPA) for review and approval. Following approval by OASPA, the SF 202 and the statement explaining why existing materials are insufficient will be forwarded to NAC by OASPA. An approved copy of the Form HHS–524A will be returned to the OPDIV for transmission to the contract negotiator. All audiovisuals are required to be acquired under the Government-wide Contracting System for Motion Picture and Videotape Productions, unless they are included in the exceptions to the mandatory use of the uniform system. (See the Executive Agent for Government-Wide Contracting System for Audiovisual Productions' March 21, 1980, memorandum on Implementation of OFPP Policy Letter No. 79–4, November 28, 1979, Contracting for Motion Picture and Videotape Productions; HHS General Administration Manual Chapter 1–121.)

(16) *Privacy Act (Pub. L. 93–579.)* Whenever the Department contracts for the design, development, operation, or maintenance of a system of records on individuals on behalf of the Department in order to accomplish a departmental function, the Privacy Act is applicable. The program official, after consultation with the activity's Privacy Act Coordinator and the Office of General Counsel as necessary shall include a statement in the request for contract as to the applicability of the Act. Whenever an acquisition is subject to the Act, the program official prepares a "system notice" and has it published in the **Federal Register.** (See HHS Privacy Act regulation, 45 CFR 5b; FAR Subpart 24.1 and Subpart 324.1.)

(b) *Clearances or approvals required to be completed prior to contract award.* All foreign research contract projects to be conducted in a foreign country and financed by HHS funds (U.S. dollars) must have clearance by the Department of State with respect to consistency with foreign policy objectives. This clearance should be obtained prior to negotiation. Procedures for obtaining this clearance are set forth in the HHS General Administration Manual, Chapter 20–60.

307.105–3 Specification, purchase description and statement of work.

One of the most important parts of a contract is the description of the work to be done. The description of that work may be in the form of a specification, purchase description or statement of work. A brief reference to specifications and purchase descriptions is provided, although the nature of the work performed in this Department usually results in the development of work statements. The development of the acquisition planning document should result in sufficient information to readily develop the description of work, usually in the form of a statement of work.

(a) *Specification.* Specification is defined in FAR 10.001. Use of the specification is primarily limited to supply or service contracts where the material end item or service to be delivered is well defined by the Government.

(b) *Purchase description.* FAR 10.001 also contains the definition of purchase description.

(c) *Statement of work.—(1) General.* A statement of work differs from a specification and purchase description primarily in that it describes work or services to be performed in reaching an end result rather than a detailed, well defined description or specification of the end product. The statement of work may enumerate or describe the methods (statistical, clinical, laboratory, etc.) that will be used. However, it is preferable for the offeror to propose the method of performing the work. The statement of work should specify the desired results,

functions, or end items without telling the offeror what has to be done to accomplish those results unless the method of performance is critical or required for the successful performance of the contract. The statement of work should be clear and concise and must completely define the responsibilities of the Government and the contractor. The statement of work should be worded so as to make more than one interpretation virtually impossible because it has to be read and interpreted by persons of varied backgrounds, such as attorneys, contracting personnel, cost estimators, accountants, scientists, sociologists, educators, functional specialists, etc. If the statement of work does not state exactly what is wanted, or does not state it precisely, it will generate many contract management problems for both the project officer and the contracting officer. Ambiguous statements of work can create unsatisfactory performance, delays, and disputes, and can result in higher costs.

(2) *Term (level of effort) vs. completion work statement.* Careful distinctions must be drawn between term (level of effort) statements of work, which essentially require the furnishing of technical effort and a report thereof, and completion type work statements, which often require development of tangible end items designed to meet specific performance characteristics.

(i) *Term or level of effort.* A term or level of effort type statement of work is appropriate to research where one seeks to discover the feasibility of later development, or to gather general information. A term or level of effort type statement of work may only specify that some number of labor-hours be expended on a particular course of research, or that a certain number of tests be run, without reference to any intended conclusion.

(ii) *Completion.* A completion type statement of work is appropriate to development work where the feasibility of producing an end item is already known. A completion type statement of work may describe what is to be achieved through the contracted effort, such as the development of new methods, new end items, or other tangible results.

(3) *Phasing.* Individual research, development, or demonstration projects frequently lie well beyond the present state of the art and entail procedures and techniques of great complexity and difficulty. Under these circumstances, a contractor, no matter how carefully selected, may be unable to deliver the desired result. Moreover, the job of evaluating the contractor's progress is often difficult. Such a contract is frequently phased and often divided into stages of accomplishment, each of which must be completed and approved before the contractor may proceed to the next. Phasing makes it necessary to develop methods and controls, including reporting requirements for each phase of the contract and criteria for evaluation of the reports submitted, that will provide, at the earliest possible time, appropriate data for making decisions relative to all phases. A phased contract may include stages of accomplishment such as research, development, and demonstration. Within each phase, there may be a number of tasks which should be included in the statement of work. When phases of work can be identified, the statement of work will provide for phasing and the request for proposals will require the submission of proposed costs by phases. The resultant contract will reflect costs by phases, require the contractor to identify incurred costs by phases, establish delivery schedules by phases, and require the written acceptance of each phase. The provisions of the Limitation of Cost clause shall apply to the estimated cost of each phase. Contractors shall not be allowed to incur costs for phases which are dependent upon successful completion of earlier phases until written acceptance of the prior work is obtained from the contracting officer.

(4) *Elements of the statement of work.* The elements of the statement of work will vary with the objective, complexity, size, and nature of the acquisition. In general, it should cover the following matters as appropriate.

(i) *A general description of the required objectives and desired results.* Initially, a broad, nontechnical statement of the nature of the work to be performed. This should summarize the actions to be performed by the contractor and the results that the Government expects.

(ii) *Background information helpful to a clear understanding of the requirements and how they evolved.* Include a brief historical summary as appropriate. Include pertinent legislative history, related contracts or grants, and the relationship to overall program objectives.

(iii) *A detailed description of the technical requirements.* A comprehensive description of the work to be performed to provide whatever details are necessary for prospective offerors to submit meaningful proposals.

(iv) *Subordinate tasks or types of work.* A listing of the various tasks or types of work (it may be desirable in some cases to indicate that this is not all-inclusive). The degree of task breakout is directly dependent on the size and complexity of the work to be performed and the logical groupings. A single cohesive task should not be broken out merely to conform to a format. Indicate whether the tasks are sequential or concurrent for offeror planning purposes.

(v) *Phasing.* When phasing is applicable, describe in detail the work or effort required in each phase and the criteria for determining whether the next phase will take place. If one or more phases contain subordinate tasks or types of work, the preceding information in paragraph (c)(4) (iv) may be incorporated into the part.

(vi) *Reference material.* All reference material to be used in the conduct of the project, such as technical publications, reports, specifications, architect or engineering drawings, etc., that tell how the work is to be carried out must be identified. Applicability should be explained, and a statement made as to where the material can be obtained.

(vii) *Level of effort.* When a level of effort is required, the number and type of personnel required should be stated. If known, the type and degree of expertise should be specified.

(viii) *Special requirements* (as applicable). An unusual or special contractual requirement, which would impact on contract performance, should be included as a separate section. Such items could include required place(s) of performance or unusual travel requirements. Clearance requirements, such as forms clearance, should be addressed.

(ix) *Deliverables reporting requirements.* All deliverables and/or reports must be clearly and completely described. For example, in a Final Study Report it is important to indicate what areas the report should cover and the criteria for use in accepting the final report to determine if the contract objectives have been satisfied. It is important to require the preparation and submission of progress reports (administrative, technical and financial) to reflect contractor certification of satisfactory progress. If possible, the reports should be coordinated in such a manner as to provide a correlation between costs incurred and the state of completion. All delivery and reporting requirements shall include the quantities, the place of delivery, and time of delivery.

307.170 Program training requirements.

(a) Chapter 8–95 of the General Administration Manual (GAM) addresses the general parameters for acquisition planning as stated in 307.104. In conjunction with the principles of

proper acquisition planning, the Department has established training courses for program officials to promote expedient program management in the planning and other pertinent aspects of the acquisition process. Chapter 8-96 of the GAM sets forth specific training requirements for program officials as follows:

(1) All program personnel selected to serve as project officer for an HHS contract shall have successfully completed either the Department's basic or advanced "Program Officials Guide to Contracting" training course, or an equivalent course (see paragraph (b), below).

(2) At least fifty percent of the HHS program personnel performing the function of technical proposal evaluator on a technical evaluation team or panel for any competitively solicited HHS contract shall have successfully completed the basic "Program Officials Guide to Contracting" training course, or an equivalent course (see paragraph (b), below). This requirement applies to the initial technical proposal evaluation and any subsequent technical evaluations that may be required.

(b) Determination of course equivalency shall be made by the principal official responsible for acquisition. The contracting officer is responsible for ensuring that the project officer and technical proposal evaluators have successfully completed the required training discussed in 307.170-2.

307.170-1 Policy exceptions.

(a) *Small contracting activities.* (1) Program personnel designated to serve as project officers and technical proposal evaluators for contracts which originate in offices having a mission which only incidentally and infrequently involves the generation of contract requirements (i.e., normally less than three contract requirements per fiscal year and in an amount not exceeding $100,000 per contract) are not required to have completed the prerequisite training course, although it is recommended.

(2) As a substitute for the training, contracting officers servicing these program offices are required to ensure, as a minimum, that program personnel designated to serve as project officers and technical proposal evaluators have read and studied the HHS publication, "The Negotiated Contracting Process—A Guide for Project Officers," and fully understand their responsibilities. The contracting officer shall require these program personnel to furnish written certification that they have fulfilled this requirement prior to discharging the duties of project officer or technical proposal evaluator.

(b) *Urgent requirements.* In the event there is an urgent requirement for a specific individual to serve as a project officer and that individual has not successfully completed the prerequisite training course, the principal official responsible for acquisition may waive the training requirement and authorize the individual to perform the project duties, provided that:

(1) The individual first meets with the cognizant contracting officer to review the HHS publication, "The Negotiated Contracting Process—A Guide for Project Officers," and to discuss the important aspects of the contracting—program office relationship as appropriate to the circumstances; and

(2) The individual attends the next scheduled basic or advanced training course, as appropriate.

307.170-2 Training course prerequisites.

(a) *Project officers.* (1) Newly appointed project officers, and project officers with less than three years experience and no previous related training, are required to take the basic training course, "Program Officials Guide to Contracting." (The grade level for project officers attending the course should be GS-7 and above).

(2) Project officers with more than three years experience, and project officers with less than three years experience who have successfully completed the basic course, are qualified to take the advanced "Program Officials Guide to Contracting" training course.

(B) *Technical proposal evaluators.* Technical proposal evaluators, regardless of experience, are required to take the basic course. Upon successful completion of the basic course, it is recommended that they take the advance course.

Subpart 307.3—Contractor Versus Government Performance

307.302 General.

(a) GAM Chapter 18-10, Commercial-Industrial Activities of the Department of Health and Human Services Providing Products or Services for Government Use, assigns responsibilities for making method-of-performance decisions (contract vs. in-house performance) to various management levels within the Department depending on the dollar amount of capital investment or annual operating costs. It also requires that each operating division (OPDIV), staff division (STAFFDIV) and regional office (RO) designate a "Commercial-Industrial Control Officer" (CICO) to be responsible for ensuring compliance with the requirements of the Chapter.

(d) Besides contracts with annual operating costs under $100,000, contracts under an authorized acquisition set-aside for small business or labor surplus area concerns and contracts made pursuant to section 8(a) of the Small Business Act are exempted from the requirements of FAR Subpart 7.3, GAM Chapter 18-10, and OMB Circular No. A-76.

307.303 Determining availability of private commercial sources.

In accordance with the provisions of GAM Chapter 18-10, OPDIVs, STAFFDIVs, and ROs and must prepare and maintain a complete inventory of all individual commercial or industrial activities, including those conducted under contracts in excess of $100,000 annually. They must also conduct periodic reviews of each activity and contract in the inventory to determine if the existing performance, in-house or by contract, continues to be in accordance with the policy guidelines of GAM Chapter 18-10.

307.304 Procedures.

Contracting officers shall ensure that no acquisition action involving a commercial-industrial activity is initiated unless it is in compliance with the requirements of GAM Chapter 18-10. The contracting officer must check each request for contract expected to result in a contract in excess of $100,000 to ensure that it contains a statement as to whether the proposed contract is or is not subject to review under GAM Chapter 18-10 requirements. If the contracting officer has any questions regarding the determination of applicability or nonapplicability, or if the required statement is missing, the program office submitting the request for contract should be contacted and the situation rectified. If the issue cannot be resolved with the program office, the contracting officer shall refer the matter to the CICO for a final determination. The principal official responsible for acquisition is responsible for ensuring that contracting activities are in full compliance with FAR Subpart 7.3.

307.307 Appeals.

The review and appeals procedures discussed in FAR 7.307 are addressed in GAM Chapter 18-10.

Subpart 307.70—Considerations in Selecting an Award Instrument

307.7000 Scope of subpart.

This subpart provides guidance on the appropriate selection of award

instruments consistent with the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224) and the OMB implementation of the Act as published in the **Federal Register** on August 18, 1978 (41 FR 36860). This subpart addresses acquisition relationships where the award instrument is the contract, and assistance relationships where the award instrument is either a grant or cooperative agreement.

307.7001 Applicability.

This subpart applies to the choice of award instrument—contract, grant, or cooperative agreement—for all program and individual transactions, except where specifically prohibited by law.

307.7002 Purpose.

This subpart provides guidance to assist in the determination of whether to use the acquisition or assistance process to fulfill program needs. The distinction between, and use of, grants and cooperative agreements is not discussed in detail. Detailed guidance may be found in Chapter 1–02 of the Grants Administration Manual.

307.7003 Distinction between acquisition and assistance.

(a) The Federal Grant and Cooperative Agreement Act of 1977 requires the use of contracts to acquire property or services for the direct benefit or use of the Government and grants or cooperative agreements to transfer money, property, services, or anything of value to recipients to accomplish a public purpose of support or stimulation authorized by Federal statute.

(b) A contract is to be used as the legal instrument to reflect a relationship between the Federal Government and a recipient whenever:

(1) The principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) The Department determines in a specific instance that the use of a type of contract is appropriate. That is, it is determined in a certain situation that specific needs can be satisfied best by using the acquisition process. However, this authority does not permit circumventing the criteria for use of acquisition or assistance instruments. Use of this authority is restricted to extraordinary circumstances and only with the prior approval of the Deputy Assistant Secretary for Procurement, Assistance and Logistics.

(c) A grant or cooperative agreement is to be used as the legal instrument to reflect a relationship between the Federal Government and a recipient whenever the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute.

(1) A grant is the legal instrument to be used when no substantial involvement is anticipated between the Department and the recipient during performance of the contemplated activity.

(2) A cooperative agreement is the legal instrument to be used when substantial involvement is anticipated between the Department and the recipient during performance of the contemplated activity.

(d) As a general rule, contracts are to be used for the following purposes:

(1) Evaluation (including research of an evaluative nature) of the performance of Government programs or projects or grantee activity initiated by the funding agency for its direct benefit or use.

(2) Technical assistance rendered to the Government, or on behalf of the Government, to any third party, including those receiving grants or cooperative agreements.

(3) Surveys, studies, and research which provide specific information desired by the Government for its direct activities, or for dissemination to the public.

(4) Consulting services or professional services of all kinds if provided to the Government or, on behalf of the Government, to any third party.

(5) Training projects where the Government selects the individuals or specific groups whose members are to be trained or specifies the content of the curriculum (not applicable to fellowship awards).

(6) Planning for Government use.

(7) Production of publications or audiovisual materials required primarily for the conduct of the direct operations of the Government.

(8) Design or development of items for Government use or pursuant to agency definition or specifications.

(9) Conferences conducted on behalf of the Government.

(10) Generation of management information or other data for Government use.

(e) As a general rule, grants or cooperative agreements are to be used for the following purposes:

(1) General financial assistance (stimulation or support) to eligible recipients under specific legislation authorizing the assistance.

(2) Financial assistance (stimulation or support) to a specific program activity eligible for assistance under specific legislation authorizing the assistance.

307.7004 Procedures.

(a) OPDIV, agency, and regional office program officials should use existing budget and program planning procedures to propose new activities and major changes in ongoing programs. It is the responsibility of these program officials to meet with the principal official responsible for acquisition and the principal grants management official, or their designees, to distinguish the relationships and determine whether award is to be made through the acquisition process or assistance process. This determination should be made prior to the time when the annual acquisition plan is reviewed and approved so that the plan will reflect all known proposed contract actions. The cognizant contracting officer will confirm the appropriateness of the use of the contract instrument when reviewing the request for contract.

(b) Shifts from one award instrument to another must be fully documented in the appropriate files to show a fundamental change in program purpose that unequivocably justifies the rationale for the shift.

(c) OPDIVs, agencies, and regional offices must ensure that the choice of instrument is determined in accordance with the Federal Grant and Cooperative Agreement Act of 1977 and applicable departmental policies. If, however, there are major individual transactions or programs which contain elements of both acquisition and assistance in such a way that they cannot be characterized as having a principal purpose of one or the other, guidance should be obtained from the Deputy Assistant Secretary for Procurement, Assistance and Logistics, through normal channels, before proceeding with a determination.

(d) Any public notice, program announcement, solicitation, or request for applications or proposals must indicate whether the intended relationship will be one of acquisition or assistance and specify the award instrument to be used.

Subpart 307.71—Phase II Advance Acquisition Planning (Scheduling)

307.7101 Background.

(a) Failure to properly plan individual acquisitions and failure to schedule the overall acquisition workload of an office, agency, or OPDIV tends to result in an inordinate percentage of contract awards being made in the closing weeks and even days of the fiscal year. This phenomenon, variously identified as

"The September Rush", "Hurry-up Spending", "End-of-Year Purchasing", and "Year-End Spending Abuses", in turn fosters rushed, noncompetitive, inadequately documented, and potentially wasteful acquisitions. Excessive year-end spending also invites increased intervention and/or scrutiny from Congress, the Office of Management and Budget, and the media. The end of the fiscal year, however, is usually too late to take corrective actions that are effective without being unduly damaging to necessary programs. The key is to begin advance acquisition planning far earlier.

(b) To avoid the historic pattern of wasteful and unnecessary year-end spending, the Department introduced the Acquisition Planning Initiative by Under Secretarial memorandum of February 19, 1980, Subject: New Procedures to Improve Planning and Scheduling of Contract Awards and Curb Last-Minute Year-End Procurement Spending. Phase II of this initiative, beginning with Fiscal Year 1981, established the present acquisition planning mechanism. Basic guidance on the Phase II mechanism is contained in the ASMB memorandum of March 28, 1980, Subject: Phase II of (Fiscal Year 1981) Procurement Planning Initiative—Guidelines for Program Funding Milestones. For the Public Health Service, the above guidance is supplemented by the ASMB memorandum of April 21, 1982, Subject: Phase II Annual Procurement Planning.

307.7102 Accountability and responsibility.

Phase II is a Department-wide monitoring and accountability system that requires early planning of acquisition requirements down to the individual project level. The Phase II mechanism includes the following:

(a) Accountability lies with the OPDIV and STAFFDIV heads who are required to coordinate overall schedules which plot the planned distribution of RFC deliveries and contract awards over an eighteen-month timeline extending to fiscal year-end.

(b) Each OPDIV and STAFFDIV retains the flexibility to schedule individual RFC deliveries and contract awards as desired, so long as the overall schedule presents a relatively even distribution of contract awards and workload across the fiscal year.

(c) The schedules are updated quarterly to compare actual versus planned progress and, when necessary, to revise the schedules for the remainder of the fiscal year.

(d) Project officers are responsible for initiating the project planning by coordinating with contracting activities prior to RFC preparation, and taking the lead in developing acquisition plans that establish the date(s) for delivering complete RFC packages to the contracting activity, and that establish the planned award dates for individual projects.

(e) The Office of Evaluation and Compliance in the Office of Procurement, Assistance and Logistics monitors the OPDIV and STAFFDIV Phase II plans throughout the year to assure that an even distribution of awards, dollar obligations, and workload is maintained.

307.7103 Purpose.

The Phase II Advance Acquisition Planning mechanism serves to avoid excessive year-end spending and distributes the contract workload as evenly as possible over the fiscal year, and provides a mechanism for planning at the program/acquisition operational level and a management tool for monitoring at the program, OPDIV, and departmental levels.

307.7104 Contracting activity actions.

The contracting activity shall take the following actions:

(a) Advise program and staff personnel of their responsibilities to ensure that:

(1) Year-end acquisitions of unplanned items are not entered into to use available balances of expiring appropriations (which would otherwise revert to the Treasury);

(2) Orders for supplies, materials, and equipment are kept to the minimum needed to carry on approved programs;

(3) Inventories are held to normal levels; and

(4) New contracts for future services and payments to contractors are made only in accordance with established plans.

(b) Determine closing dates for purchases to be made from appropriations ending on September 30.

(c) Expedite the preparation and processing of determinations and findings which require the approval of the Assistant Secretary for Management and Budget or the OPDIV head.

PART 309—CONTRACTOR QUALIFICATIONS

Subpart 309.1—Responsible Prospective Contractors

Sec.
309.104 Standards.
309.104-1 General standards.
309.105 Procedures.
309.105-1 Obtaining information.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 309.1—Responsible Prospective Contractors

309.104 Standards.

309.104-1 General standards.

(a) In determining the adequacy of a prospective contractor's financial resources for the performance of the proposed contract, particular attention shall be given to the ability of the contractor to discharge its full financial responsibility for charges and losses of Government-furnished material, when the contractor has responsibility for such material.

(b)-(d) [Reserved]

(e) The prospective contractor must have an established system of accounting and financial controls which are determined by the contracting officer to be adequate to permit the effective administration of the type of contract proposed, particularly if under its terms the costs incurred are a factor in determining the amount payable under the contract, or if advance or progress payments are requested.

309.105 Procedures.

309.105-1 Obtaining information.

(a) [Reserved]

(b) (1) [Reserved]

(2) (i) [Reserved]

(ii) To ensure that a prospective contractor has the necessary accounting and operational controls (see 309.104-1(e)), a written determination must be made by the contracting officer that the prospective contractor has an adequate accounting system for determining costs applicable to the contract and a billing system that satisfies the contractual payment provisions. The determination must explain the basis for this judgment.

(A) When dealing with high risk organizations, i.e., new organizations, those with known problems, and those with accounting system deficiencies, the contracting officer shall use every reasonable means available to protect the Government from the improper expenditure of Federal funds. Actions should include at least one of the following: preaward and postaward audits; direct identification of cost with deliverables; billing by contract phases or tasks; fidelity bonding or other guarantees by the parent company or principals of the organization; increased scrutiny of vouchers and financial reports; and frequent site visits to verify the incurrence of specific costs and the relationship of technical progress with the amount billed.

(B) If a prospective contractor's accounting or billing system (or both) is determined to be inadequate, corrective

action must be taken before that organization is awarded a contract. When corrective action cannot be completed until after the award and the contracting officer determines that the award must be made, the contracting officer shall consult with the cognizant cost advisor and take the appropriate actions set forth in FAR 16.104 to ensure that the Government's interests will be protected and the contract will be adequately costed and administered. Awards made under the preceding condition must be approved in writing by the principal official responsible for acquisition.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 313—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 313.1—General

Sec.

313.101 Definitions.
313.104 Procedures.
313.106 Competition and price reasonableness.
313.107 Solicitation and evaluation of quotations.

Subpart 313.2—Blanket Purchase Agreements

313.201 General.
313.204 Purchases under Blanket Purchase Agreements.

Subpart 313.4—Imprest Fund

313.403 Agency responsibilities.
313.404 Conditions for use.

Subpart 313.5—Purchase Orders

313.505 Purchase order and related forms.
313.505–3 Standard Form 44, Purchase Order—Invoice—Voucher.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 313.1—General

313.101 Definitions.

"Small purchase procedures"

(a)–(c) [Reserved]

(d) Acquisition of architect-engineer professional services of any dollar amount.

313.104 Procedures.

(a) Negotiated contracts or purchases aggregating $25,000 or less shall be made under the authority of 41 U.S.C. 252(c)(3) and FAR 15.203 rather than under any of the other sections in FAR Subpart 15.2.

(b)–(f) [Reserved]

(g) Small purchase methods are designed to acquire defined, off-the-shelf, standard supplies, equipment, or services which may be awarded on the basis of a fixed price quotation. Small purchase methods should not be used to acquire R & D, complex studies, services, and the like (which require judgmental technical evaluations and involve negotiations) where the award cannot be confidently made on the low price. Where requirements are not suitable for accomplishment using small purchase methods, more formal negotiation methods or formal advertising should be used.

(h) Small purchases accomplished in accordance with this Part may not be awarded on a cost-reimbursement basis.

(i) Small purchase methods should be used with great prudence for the acquisition of consultants to avoid the increased possibility of using consultants in an improper personal services capacity.

313.106 Competition and price reasonableness.

(a) *Purchases not over $1,000.* Purchases not over $1,000 are exempt from Subpart 315.71 which requires a written justification for a noncompetitive acquisition. However, purchases not over $1,000 shall not be made repetitively from one source except for reasons which clearly and convincingly justify a noncompetitive acquisition (see Subpart 315.71).

(b) [Reserved]

(c) *Data to support small purchases over $1,000.*

(1) [Reserved]

(2) Purchases in excess of $1,000 up to $25,000 which are made noncompetitively require justification as to why competition was not obtained. The justification, which may be in the form of a statement in the request for contract or requisition, must address the considerations in Subpart 315.71. The contracting officer may approve or disapprove the justification. Award of the contract or purchase order up to $10,000 by the contracting officer shall constitute approval of the justification.

313.107 Solicitation and evaluation of quotations.

(a)–(c) [Reserved]

(d) *Amendments.* (1) If after the issuance of a request for quotations but before the closing date of their receipt, it becomes necessary (i) to make significant changes in the quantity, specifications, or delivery schedule, (ii) to make any change in the closing date, or (iii) to correct a defect or ambiguity, the change shall be accomplished by issuance of an amendment to the request. Requests for quotations using the Standard Form 18 may be amended by letter. Oral requests for quotations may be amended orally.

(2) When it is considered necessary to issue an amendment to a request for quotations, the period of time remaining before closing and the need for extending this period by postponing the time set for closing must be considered. Where only a short time remains before the time set for closing, extension of time may be made by telegram or telephone. This notification should be confirmed in the amendment.

(3) Any information given to one potential quoter concerning a request for quotations shall be furnished promptly to all other potential quoters in an amendment to the request, if the information is necessary to potential quoters in submitting quotations, or if the lack of the information would be prejudicial to uninformed potential quoters.

(e) *Late quotations.* The policy in FAR 15.412 is applicable to written small purchase quotations received after the time set for receipt at the contracting activity. Any oral quotation received at the contracting activity after the time set for receipt shall not be accepted. Because late written quotations shall not be considered except as provided for in FAR 15.412, it is important to allow potential quoters sufficient time to submit their quotations.

Subpart 313.2—Blanket Purchase Agreements

313.201 General.

(a)–(d) [Reserved]

(e) Each blanket purchase arrangement (BPA) shall be documented by issuance of a contractual instrument which is appropriately numbered.

313.204 Purchases under Blanket Purchase Agreements.

(a)–(d) [Reserved]

(e) Delivery tickets signed by the Government employee receiving the item or service will be forwarded to the fiscal office or other paying office as designated by the OPDIV. Payment will be made on the basis of the signed delivery tickets and properly itemized invoice. Contracting activities will ensure that established procedures allowing for availability of funds are in effect prior to placement of orders.

Subpart 313.4—Imprest Fund

313.403 Agency responsibilities.

(a) The amount of each imprest fund shall be established on the basis of the estimated monthly payment and the need for replenishment. A review shall be made by the responsible official at least quarterly to insure that the fund is not in excess of needs, and appropriate adjustments are made accordingly.

(b) [Reserved]

(c) Requests to establish imprest funds shall be made to the responsible fiscal office. At larger activities where the cashier may not be conveniently located near the purchasing office, a Class C Cashier may be installed in the purchasing office. Documentation of cash purchases shall be in accordance with instructions contained in the HHS Voucher Audit Manual Part 1, Chapter 1-10.

313.404 Conditions for use.

(a) Small purchases made pursuant to imprest fund procedures may not exceed $300 for any one transaction ($500 under emergency conditions). This sentence supersedes the first sentence in FAR 13.404(a). The dollar limitations stated here have been approved by the Department of the Treasury and coordinated with the General Services Administration.

Subpart 313.5—Purchase Orders

313.505 Purchase order and related forms.

313.505-3 Standard Form 44, Purchase Order—Invoice—Voucher.

(d) Since the Standard Form 44 is an accountable form, a record shall be maintained of serial numbers of the form, to whom issued, and date issued. SF-44's shall be kept under adequate lock and key to prevent unauthorized use. A reservation of funds shall be established to cover total anticipated expenditures prior to use of the SF-44.

PART 314—FORMAL ADVERTISING

Subpart 314.4—Opening of Bids and Award of Contract

Sec.

314.406 Mistakes in bids.
314.406-3 Other mistakes disclosed before award.
314.406-4 Mistakes after award.
314.407 Award.
314.407-8 Protests against award.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 314.4—Opening of Bids and Award of Contract

314.406 Mistakes in bids.

314.406-3 Other mistakes disclosed before award.

(a)-(d) [Reserved]

(e) Authority has been delegated to the Protest Control Officer, Office of Evaluation and Compliance, OPAL-ASMB to make administrative determinations in connection with mistakes in bid alleged after opening and before award. This authority may not be redelegated.

(f) Each proposed determination shall have the concurrence of the Chief, Business Law Branch, Business and Administrative Law Division, Office of General Counsel.

(g) (1) and (2) [Reserved]

(g)(3) The data required by FAR 14.406-3(g)(3) shall be marked "IMMEDIATE ACTION—MISTAKE IN BID" and submitted through acquisition channels to the Protest Control Officer, Office of Evaluation and Compliance, OPAL-ASMB. The file shall be assembled in an orderly manner and shall include an index of enclosures. A single copy of the file is sufficient.

(4) Since examination of evidence is necessary to determine the proper course of action to be taken, no action will be taken on cases referred by telephone or telegraph.

(5) Where the evidence submitted by the bidder is incomplete or in need of clarification, the contracting officer shall document the file to indicate the effort made to obtain clear and convincing evidence to support the alleged mistake. Since the burden of providing such evidence lies with the bidder-claimant, repeated efforts to obtain such information are neither necessary nor desirable.

(h) [Reserved]

(i) Doubtful cases shall *not* be submitted by the contracting officer directly to the Comptroller General, but shall be submitted as indicated in 314.406-3(g)(3).

314.406-4 Mistakes after award.

(a)-(b) [Reserved]

(c) Authority has been delegated to the Protest Control Officer, Office of Evaluation and Compliance, OPAL-ASMB to make administrative determinations in connection with mistakes in bid alleged after award. This authority may not be redelegated.

(d) Each proposed determination shall have the concurrence of the Chief, Business Law Branch, Business and Administrative Law Division, Office of General Counsel.

(1) [Reserved]

(2) The data required by FAR 14.406-4(e)(2) shall be marked "IMMEDIATE ACTION—MISTAKE IN BID" and submitted as prescribed in 314.406-3(g)(3).

314.407 Award.

314.407-8 Protests against award.

(a) *General.* (1) Contracting officers shall consider all protests or objections regarding the award of a contract, whether submitted before or after award, provided the protests are filed in a timely manner and are submitted by interested parties. An interested party is one which has a substantial financial interest in the outcome of the acquisition. As used in this subsection, the term "filed" means receipt in the contracting office, the Office of the Secretary, or the General Accounting Office, as the case may be. In order to be considered timely, protests based on alleged improprieties in any type of solicitation which are apparent before bid opening or the closing date for receipt of proposals shall be filed prior to bid opening or the closing date for receipt of proposals. In the case of negotiated acquisitions, alleged improprieties which do not exist in initial solicitations, but which are subsequently incorporated by amendment, must be protested not later than the next closing date for receipt of proposals following the incorporation. In other cases, protests shall be filed not later than ten (10) Federal Government working days after the basis for protest is known or should have been known, whichever is earlier. If a protest has been filed initially with the contracting officer, any subsequent protest to the Secretary, Department of Health and Human Services or the General Accounting Office filed within ten (10) Federal Government working days of notification of adverse action will be considered provided the initial protest to the contracting officer was timely. Written confirmation of all oral protests shall be requested from protestants and must be timely filed.

(2) Reports concerning protests, whether before or after award, shall include the following documentation:

(i) A statement by the contracting activity's headquarters acquisition staff office, containing its recommendation, with supporting reasons, as to the merits of the protest.

(ii) The contracting officer's statement of facts and circumstances including a discussion of the merits.

(iii) The contracting officer's conclusions and recommendations including documentary evidence on which they are based.

(iv) A copy of the IFB or RFP.

(v) A copy of the abstract of bids or proposals.

(vi) A copy of the bid or proposal of the successful offeror to whom award has been made or is proposed to be made.

(vii) A copy of the bid or proposal of the protestant, if any.

(viii) The current status of award. When award has been made, this shall include whether performance has commenced, shipment or delivery has been made, or a stop work order has been issued.

(ix) A copy of any mutual agreement to suspend work on a no-cost basis, when appropriate (see FAR 14.407–8(c)).

(x) Copies of the notice of protest given offerors and other parties when the notice is appropriate (see FAR 14.407–8(a)(3)).

(xi) A copy of the technical evaluation report required by 315.608(i), when applicable, and a copy of each evaluator's rating for all proposals.

(xii) A copy of the negotiation memorandum when applicable (see 315.672).

(xiii) The name and telephone number of the person in the contracting office who may be contacted for information relevant to the protest.

The file shall be assembled in an orderly manner and shall include an index of enclosures.

(3) Copies of the views of interested parties submitted pursuant to FAR 14.407–8(a)(3) shall be furnished to the Departmental Protest Control Officer, Office of Evaluation and Compliance, OPAL, ASMB, whenever the protest is reviewed by the Departmental Protest Control Officer (including protests lodged with GAO).

(4) Whenever the contracting officer deems it desirable to obtain the views of higher authority or when submission is required by paragraph (b)(2) of this section, the file shall be forwarded, in duplicate, through acquisition channels to the contracting activity's cognizant protest control officer (see paragraph (a)(6), below) and then to the Departmental Protest Control Officer, by the most expeditious means. The file shall be marked "IMMEDIATE ACTION—PROTEST BEFORE AWARD".

(5) The Office of Evaluation and Compliance, OPAL–ASMB has been designated as the headquarters office which GAO should contact concerning protests. All reports on protests lodged with GAO shall be submitted to that office.

(6) Each contracting activity shall designate a protest control officer to serve as an advisor to the contracting officer and to monitor protests from the time of initial notification until the protest has been resolved. The protest control officer should be a senior acquisition specialist in the headquarters acquisition staff office. In addition, contracting activities should designate similar officials within their principal components to the extent practicable and feasible. A copy of each appointment and termination of appointment of protest control officers shall be forwarded to the Director, Office of Evaluation and Compliance. OPAL–ASMB.

(b) *Protests before award.* (1) The contracting officer shall require written confirmation of any oral protest. To be considered timely, the written confirmation must be filed in accordance with paragraph (a)(1) of this section.

(2) In the following cases, written protests received by the contracting officer shall be forwarded, through acquisition channels, to the Departmental Protest Control Officer. Files concerning these protests shall be submitted, in duplicate, by the most expeditious means and shall be marked "IMMEDIATE ACTION—PROTEST BEFORE AWARD":

(i) The protestant requests referral to the Secretary of Health and Human Services;

(ii) The protest is known to have been lodged with the Comptroller General or the Secretary; or

(iii) The contracting officer entertains some doubt as to the proper action regarding the protest or believes it to be in the best interest of the Government that the protest be considered by the Secretary or the Comptroller General.

Otherwise, submissions of protests to the Departmental Protest Control Officer may be dispensed with by the contracting officer if he/she is satisfied that the protest is without any reasonable degree of foundation. Except as modified in FAR 14.407–8(b)(3) and paragraph (b)(3) of this section, the contracting officer, with the concurrence of the contracting activity's protest control officer, and either the Office of General Counsel, Business and Administrative Law Division, or cognizant Regional Attorney, may disallow the protest.

(3) When it is known that a protest against the making of an award has been lodged directly with GAO, a determination to make award under FAR 14.407–8(b)(4) must be approved by the Director, Office of Evaluation and Compliance, OPAL–ASMB.

(4) [Reserved]

(5) If award is made pursuant to FAR 14.407–8(b)(4), the contracting officer shall document the file to explain the need for immediate award and shall notify the protestant and, as appropriate, others concerned, except GAO; Notice will be given to GAO by the Office of Evaluation and Complaince, OPAL–ASMB.

(c) *Protests after award.* (1) The contracting officer shall require written confirmation of any oral protest. To be considered timely, the written confirmation must be filed in accordance with paragraph (a)(1) of this section.

(2) Protests which have been lodged with the Secretary or the Comptroller General shall be forwarded, through acquisition channels, to the Departmental Protest Control Officer and shall be documented in accordance with paragraph (a)(2) of this section. The file shall be submitted, (in duplicate when GAO is involved) by the most expeditious means and shall be marked "Immediate Action—Protest After Award."

(3) Protests lodged with the contracting officer shall be handled in the manner described in 314.407–8(b)(2)(iii).

PART 315—CONTRACTING BY NEGOTIATION

Subpart 315.1—General Requirements for Negotiation

Sec.

315.105 Competition.

Subpart 315.2—Negotiation Authorities

315.201 National emergency.
315.202 Public exigency.
315.205 Services of educational institutions.
315.210 Impractical to secure competition by formal advertising.
315.211 Experimental, developmental, or research work.
315.212 Purchases not to be publicly disclosed.
315.215 Otherwise authorized by law.

Subpart 315.3—Determinations and Findings To Justify Negotiation

315.303 Class D & F's.
315.304 Content.
315.307 Signatory authority.
315.370 Sample D & F formats.

Subpart 315.4—Solicitation and Receipt of Proposals and Quotations

315.404 Presolicitation notices and conferences.
315.405 Solicitations for information or planning purposes.
315.405–1 General.
315.406 Preparing requests for proposals (RFP's) and requests for quotations (RFQ's).
315.406–1 Uniform contract format.
315.406–2 Part I—The Schedule..
315.406–3 Part II—Contract clauses.
315.406–5 Part IV—Representations and instructions.
315.407 Solicitation provisions.
315.408 Issuing solicitations.
315.409 Pre-proposal conferences.
315.410 Amendment of solicitations before closing date.
315.413 Disclosure and use of information before award.
315.413–1 Alternate I.
315.413–2 Alternate II.
315.470 Review of RFP.

Subpart 315.5—Unsolicited Proposals

Sec.
315.505 Content of unsolicited proposals.
315.506 Agency procedures.
315.506–1 Receipt and initial review.
315.507 Contracting methods.
315.509 Limited use of data.

Subpart 315.6—Source Selection

315.602 Applicability.
315.604 Responsibilities.
315.605 Evaluation factors.
315.607 Disclosure of mistakes before award.
315.608 Proposal evaluation.
315.609 Competitive range.
315.610 Written or oral discussions.
315.611 Best and final offers.
315.670 Negotiation with the selected source.
315.671 Post negotiation contract preparation and award.
315.672 Preparation of negotiation memorandum.

Subpart 315.8—Price Negotiation

315.805 Proposal analysis.
315.805–5 Field pricing support.

Subpart 315.9—Profit

315.900 Scope of subpart.
315.905–70 Structured approach.
315.905–71 Profit factors.
315.905–72 Contractor effort.
315.905–73 Other factors.
315.905–74 Facilities capital cost of money.

Subpart 315.10—Preaward and Postaward Notifications, Protests, and Mistakes

315.1001 Notifications to offerors.
315.1002 Debriefing of unsuccessful offerors.
315.1003 Protests against award.
315.1004 Discovery of mistakes.

Subpart 315.70—Requests for Contract

315.7000 Scope of subpart.
315.7001 General.
315.7002 Procedures.
315.7003 Responsibilities.
315.7004 Transmittal.
315.7005 Format and content.
315.7006 Review.

Subpart 315.71—Noncompetitive Acquisitions

315.7100 Scope of subpart.
315.7101 Policy.
315.7102 Exceptions.
315.7103 Criteria.
315.7104 Procedures.
315.7105 Format for the Justification for Noncompetitive Acquisition.
315.7106 Review and approval.
315.7107 Noncompetitive Review Board.
315.7108 Whole project buys.

Authority: 5 U.S.C. 301; 40 U.S.C. 486cc).

Subpart 315.–General Requirements for Negotiation

315.105 Competition.

(a) [Reserved]

(b) For detailed information concerning policies and procedures on noncompetitive acquisitions, see Subpart 315.71.

(c) For detailed information concerning policies and procedures on noncompetitive acquisitions, see Subpart 315.71.

Subpart 315.2—Negotiation Authorities

315.201 National emergency.

(a) and (b) [Reserved]

(c) *Limitations.* The applicable authority may be used by the contracting officer only for assistance to labor surplus areas or small business concerns. The applicable authority shall not be used for administration of the Balance of Payments program, or other programs, without the prior written approval of the principal official responsible for acquisition (not delegable).

315.202 Public exigency.

(a) and (b) [Reserved]

(c) *Limitations.* The contracting officer shall provide a copy of the D&F to the principal official responsible for acquisition.

315.205 Services of educational institutions.

(a) and (b) [Reserved]

(c) *Limitations.* (1) The applicable authority shall be used only for the acquisition of specialized noncommercial services which are customarily performed by educational institutions. Use of this authority for any service other than those listed in FAR 15.205(b) shall require a written determination with supporting facts by the contracting officer that the particular type of service is available only from educational institutions.

(2) Proposals shall be solicited from as many educational institutions as are known to possess the required capability. Solicitation of a single educational institution shall require a written "Justification for Noncompetitive Acquisition" in accordance with the requirements of Subpart 315.71.

(3) Where the circumstances of both (c) (1) and (2) above pertain in the same case, the required determination shall be combined and made by the official designated in 315.7106.

315.210 Impractical to secure competition by formal advertising.

(a) [Reserved]

(b) *Application.* Negotiation under the applicable authority shall be conducted on a competitive basis to the maximum practicable extent, except when negotiation is justified under the circumstances specified in FAR 15.210 (b) (1) or (16).

(1) The illustration specified in FAR 15.210(b)(3) shall apply only if the negotiation is for the identical requirements specified in the unresponsive bid. If specification deviations are authorized, or if delivery, quantity, or other requirements are changed, the revised requirements shall be readvertised or, if appropriate, negotiated under one of the other authorities prescribed in FAR Subpart 15.2.

(2) Cases of doubt in applying the illustration specified in FAR 15.210(b)(13) shall be resolved in favor of formal advertising.

315.211 Experimental, developmental, or research work.

(a) and (b) [Reserved]

(c) *Limitations.* Whenever more than single unit quantities of equipment or supplies are to be acquired under this authority, the quantity shall be justified as reasonable and essential by the program authority submitting the acquisition request (see FAR 15.211(c)(2)(iii)).

315.212 Purchases not to be publicly disclosed.

(a) and (b) [Reserved]

(c) *Limitations.* The applicable authority shall be used in preference to any other authority when competition is to be limited because of the need for nondisclosure (also see FAR 5.202(a)).

315.215 Otherwise authorized by law.

(a) [Reserved]

(b) *Application.* When other statutory authority is the basis for negotiation, the proper citation for the contract is 41 U.S.C. 252(c)(15) plus the section number, title of the Act, and the Public Law number (or U.S. Code citation) of the statute which permits negotiation.

Subpart 315.3—Determinations and Findings To Justify Negotiation

315.303 Class D & F's.

(a) Class D & F's shall be justified on the basis of need to avoid processing multiple determinations and findings when more than one contract must be negotiated under the same negotiation authority for the same program or project. The multiple acquisitions must be for items or services which are to be negotiated at or near the same time and so related as to constitute a logical and distinct class.

(b) [Reserved]

(c) All class D & F's shall be limited to a period of one (1) year or less, except that those determinations and findings required by FAR 15.211 may be authorized for three (3) years.

315.304 Content.

See 315.370 for guidance and formats regarding specific D & F's.

315.307 Signatory authority.

The following is a summarization of the officials authorized to sign D & F's as indicated in Table 15–1 of the FAR. It also designates officials authorized to sign D & F's for the agency head, as permitted.

(a) *Contracting officer.* Individual D & F's addressed in FAR 15.202, 15.207, 15.208, and 15.210 shall be signed by the contracting officer.

(b) *Principal official responsible for acquisition (PORA).* The PORA shall sign all class D & F's made under the negotiation authorities addressed in FAR 15.202, 15.207, 15.208, and 15.210. The PORA is authorized to sign individual D & F's addressed in FAR 15.211 when neither the contract nor any single modification will be over $25,000 (see FAR Table 15.1). The PORA is also authorized to sign both individual and class D & F's addressed in FAR 15.214.

(c) *Agency head.* The agency head shall sign individual D & F's made under the negotiation authority addressed in FAR 15.211 when more than $25,000 will be obligated, and all class D & F's made under the same authority. The agency head shall sign both individual and class D & F's made under the negotiation authorities addressed in FAR 15.212 and 15.213.

315.370 Sample D and F formats.

Principal officials responsible for acquisition shall prescribe formats for determinations and findings made under FAR 15.202, 15.207, and 15.208. The following formats shall be used for determinations and findings made under FAR 15.210 through 15.214.

(a) FAR 15.210 (Individual contract).

Department of Health and Human Services—Determination and Findings

Authority To Negotiate an Individual Contract Under 41 U.S.C. 252(c)(10)

I hereby find that:

(1) The (agency title) proposes to acquire (describe the work, service, or product and identify the program or project).

(2) It is impracticable to secure competition by formal advertising for the contract contemplated because:

(Set forth facts and circumstances which support a judgment that competition by formal advertising is impracticable. Facts and circumstances presented must conform to the FAR 15.210 subparagraph selected as justification for negotiation.)

I hereby determine that:

On the basis of the above findings, the proposed acquisition is for (work, services, or products *) for which it is impracticable to secure competition by formal advertising and that negotiation of a contract for such (work, services, or products *) is authorized pursuant to 41 U.S.C. 252(c)(10), as contemplated by FAR 15.210(b) **, provided, the required (work service, or product *) has been authorized by law.

Date ———

Signature ———

(b) FAR 15.211 (Individual contract).

Department of Health and Human Services—Determination and Findings

Authority To Negotiate an Individual Contract Under 41 U.S.C. 252(c)(11)

I hereby find that:

(1) The (agency title) proposes to acquire (describe work to be performed or product to be delivered, identify the program or project, and state the estimated contract price).

(2) The proposed acquisition is for (experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test *). (Set forth facts and circumstances which support a judgment that the work to be performed is in fact experimental, developmental, or research.)

(3) It is impracticable to secure competition by formal advertising for the contract contemplated because:

(Set forth reasons why the acquisition contemplated cannot be formally advertised; e.g., only ultimate objectives and general scope of work can be outlined, work cannot be described by definite drawings and specifications, etc.)

I hereby determine that:

On the basis of the above findings, the proposed acquisition is for (experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test *) and that negotiation of a contract for such (work or property *) is authorized pursuant to 41 U.S.C. 252(c)(11); provided, the (work or property *) has been authorized by law.

Date ———

Signature ———

(c) FAR 15.211 (Class of contracts).

Department of Health and Human Services—Determination and Findings

Authority To Negotiate a Class of Contracts Under 41 U.S.C. 252(c)(11)

I hereby find that:

(1) The (agency title) proposes to negotiate approximately (number) contracts in support of (identify the program or project, and state the anticipated funding level).

(2) The proposed acquisitions are for (experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test *).

(Set forth facts and circumstances which support a judgment that the work to be performed is in fact experimental, developmental or research).

(3) It is impracticable to secure competition by formal advertising for the contracts contemplated because:

(Set forth reasons why the acquisitions contemplated cannot be formally advertised; e.g., only ultimate objectives and general scope of work can be outlined, work cannot be described by definite drawings and specifications, etc.)

I hereby determine that:

On the basis of the above findings, the proposed acquisitions are for (experimental, developmental, or research work, for the manufacture or furnishing of property for experimentation, development, research, or test *) and that negotiation of contracts for such (work or property *) is authorized pursuant to 41 U.S.C. 252(c)(11); provided the required (work or property *) has been authorized by law.

This class determination shall remain in effect until (state terminal date (limit effective period not to exceed three (3) years)).

Date ———

Signature ———

(d) FAR 15.212 (Individual contract).

Department of Health and Human Services—Determination and Findings

Authority To Negotiate an Individual Contract Under 41 U.S.C. 252(c)(12)

I hereby find that:

(1) The (agency title) proposes to acquire (describe the work, service, or product and identify the program or project).

(2) This acquisition cannot be publicly disclosed because (explain either the basis for classification of the contract or the other considerations which the agency head should know in order to determine that the property or services should not be publicly disclosed).

(3) (Set forth reasons why the acquisition cannot be formally advertised).

I hereby determine that:

On the basis of the above findings, acquisition of the (property or services *) should not be publicly disclosed and the negotiation of a contract for such (property or services *) is authorized pursuant to 41 U.S.C. 252(c)(12); provided, the required (property or service *) has been authorized by law.

Date ———

Signature ———

(e) FAR 15.213 (Individual contract).

The following is an example of a D and F illustrative of the type and amount of information which may be considered sufficient to justify negotiation under FAR 15.213. Contracting activities are to develop the necessary D & F based upon the sample.

* Use applicable word, words, or statement.

** Insert appropriate FAR 15.210(b) subparagraph number.

Department of the Interior—Findings and Determination Under Section 302(c)(13) of the Federal Property and Administrative Services Act of 1949

Findings

In accordance with the requirements of sections 302(c)(13) and 307 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, I make the following findings:

(1) The Alaska Road Commission has stated that it has a requirement for 25 ————(make and type) trucks as set forth in (letter) or (requisition) dated ———, and has submitted, by letter dated ———; signed by ————(name and title), information in justification for such purchase under section 302(c)(13), as described or included in the findings set forth below.

(2) The trucks in question are required for use at ———— (district or area), Alaska. This location is accessible only by ———— (indicate: i.e. "boat" or "boat and air" etc.) and for several months each year is accessible only by ————.

The Government's operations which consist of ———— (general description only), require the use of trucks of this type. The location presently has ——— of these trucks with stocks of spare parts determined necessary from experience to maintain these trucks in proper operational efficiency. There are also ——— trucks of other manufacture with required stocks of spare parts which will gradually be eliminated by standardization. No commercial supply or service centers are maintained at this remote location or within approximately ——— miles thereof.

(3) It is impractical to provide service and repair facilities for numerous makes of vehicles and to maintain stocks of parts necessary to keep the various makes in operating condition. Each make of vehicle usually requires additional special equipment for proper servicing and repair. This results in added cost, housing, and related administrative expense. Similarly each additional make requires the maintenance of separate stocks of spare service and repair parts which require additional bins, storage, and clerical and administrative expenses. The annual savings in cost estimated to result from the maintenance of reduced stocks of parts made possible by standardizing on these trucks is ———.

(4) (State other factors and details as applicable.)

(5) Under these circumstances the Alaska Road Commission regards the standardization and interchangeability as necessary in the public interest.

Determination

(1) Based upon the foregoing findings, I hereby determine, within the meaning of section 302(c) (13) of the Federal Property and Administrative Services Act of 1949, that:

(A) The equipment described is technical equipment;

(B) Negotiation is necessary, in the situation and in the locality described, in order to assure standardization of the equipment and interchangeability of parts; and

(C) Such standardization and interchangeability is necessary in the public interest.

(2) Upon the basis of these findings and determinations, I hereby authorize the negotiation of a contract (or contracts) for acquisition of the equipment described in these findings pursuant to section 302(c)(13) of the Federal Property and Administrative Services Act of 1949.

————(Secretary of the Interior.)

(f) FAR 15.214 (Individual contact).

Department of Health and Human Services—Determination and Findings

Authority To Negotiate an Individual Contract Under 41 U.S.C. 252(c)(14)

I hereby find that:

(1) The (agency title) proposes to acquire (described work, service or product and identify the program or project).

(2) The proposed acquisition was solicited by formal advertising under IFB (No. and date). The lowest responsive bid offered a (unit or aggregate*) price of $ ——— which is considered excessive in relation to the prices ($———) estimated as reasonable by the (agency title).

(Note.—If applicable, use the following statement: "The prices of bids received were not independently arrived at in open competition." Set forth facts and circumstances to support this statement.)

I hereby determine that:

On the basis of the above findings, bid prices received under IFB (No. and date) (are unreasonable; have not been independently arrived at an open competition*) and that negotiation of a contract for (describe work, service or product) is authorized pursuant to 41 U.S.C. 252(c)(14); provided, the required (property or service*) has been authorized by law and the limitations under FAR 15.214 are complied with.

Date ———

Signature ———

Subpart 315.4—Solicitation and Receipt of Proposals and Quotations

315.404 Presolicitation notices and conferences.

(a) and (b) [Reserved]

(c) *Presolicitation conferences.* (1) The presolicitation conference may only be used when approved by the chief of the contracting office.

315.405 Solicitations for information or planning purposes.

315.405-1 General.

The determination approval required by FAR 15.405–1 that a solicitation for information or planning purposes is appropriate shall be made by the chief of the contracting office.

*Use applicable word, words, or statement.

315.406 Preparing requests for proposals (RFP's) and requests for quotations (RFQ's).

(a) The contracting officer is responsible for preparing the RFP with the assistance of the project officer. The purpose of the RFP is to convey information that prospective offerors need to prepare a proposal. The RFP includes the statement of work and the terms, conditions and provisions that will form the basis for the final definitive contract. It specifies all the information that prospective offerors must furnish to permit a meaningful and equitable evaluation of their offers. The RFP must be clear, complete, accurate, and consistent with the requirements of the acquisition so that it provides all who receive it with the same understanding of the requirements. Much of the information in the RFP is either derived directly from the request for contract or is otherwise furnished by the project officer. Therefore, it is important that the project officer develop a meaningful request for contract and supporting documentation during the initial presolicitation phase which will fully satisfy program needs and objectives when included in the RFP (see Subpart 315.70).

(b) Careful drafting of the RFP is vital to the proper working of the competitive process. The success of the acquisition depends, in large measure, on how well the work to be performed and the basic ground rules under which the competition will be conducted are described in the RFP. Particular effort must be made to develop a comprehensive and accurate statement of work (see 307.105–3 and FAR 35.007) to prevent ambiguities and to avoid misunderstandings which might otherwise surface at later stages of the acquisition.

(c) Care should be taken to avoid conflicting statements in the RFP. Clear distinctions must be made as to the contents and purpose of the statement of work, the instructions to offerors, and the evaluation criteria. Briefly:

(1) The statement of work must clearly specify the work to be done by the resultant contractor (or, if it is an R & D acquisition, present a clear statement of the requirements, see FAR Part 35);

(2) The general, technical, and business instructions must delineate all the essential information prospective offerors need to know in preparing their proposals (see 315.406–5(b)); and

(3) The evaluation criteria must clearly indicate the technical, management, personnel, and cost or pricing factors which are to be the major

considerations in selecting the successful offeror (see 315.406-5(c)).

(d) The RFP must require that proposals be submitted in two parts—a "Technical Proposal" and a "Business Proposal." Each part is to be separate and complete in itself so that evaluation of one may be accomplished independently of the other.

(e) The technical and business proposal instructions of the RFP must provide all the information deemed essential for proper evaluation of the proposals so that all prospective offerors are aware of all requirements, and so that differences in proposals will reflect each offeror's individual approach to the clear and unambiguous requirements and criteria stated in the RFP.

(f) The RFP must inform prospective offerors of all evaluation criteria and of the relative importance or weight attached to each criterion. Evaluation criteria must be described sufficiently enough in the RFP to inform prospective offerors of the significant matters which should be addressed in the proposals. Only the evaluation criteria set forth in the RFP shall be used in the evaluation of proposals, and the criteria can only be modified by a formal amendment to the RFP.

(g) Generally, the RFP will provide that the technical proposal not contain any reference to cost. However, resource information, such as data concerning labor hours and categories, materials, subcontracts, travel, computer time, etc., must be included in the technical proposal so that the offeror's understanding of the scope of work may be evaluated.

(h) The project officer should be offered the opportunity to review the finalized RFP before it is printed and released.

315.406-1 Uniform contract format.

The uniform contract format specified in FAR 15.406-1 and Table 15-2 shall be used by all contracting activities of the Department.

315.406-2 Part I—The Schedule.

(a) *Section A, Solicitation/contract form.*

(1) and (2) [Reserved]

(3) Contracting activities are encouraged to use SF 33 for RFPs. In those instances where a contracting activity believes the SF 33 is not appropriate, a transmittal letter may be used. However, it is essential that the transmittal letter contain the pertinent information that must be brought to the attention of prospective offerors, so the information contained in FAR 15.406-2(a)(3) shall be included in it. (In item (viii), the Employer's Identification Number (EIN) may be requested in place of the offeror's DUNS number.) The transmittal letter should also contain reference to the solicitation provision "Late Submissions, Modifications, and Withdrawals of Proposals or Quotations" and stress the importance of timeliness. The last paragraph of the transmittal letter should provide the name and complete telephone number of a contract specialist who can provide information concerning the solicitation.

315.406-3 Part II—Contract clauses.

Section I, Contract clauses.

This section should contain all the pertinent contract clauses applicable to the acquisition, to include those contained in the general provisions, any additions or modifications to the general provisions, and special contract clauses (see Part 352—Solicitation Provisions and Contract Clauses).

315.406-5 Part IV—Representations and Instructions.

(a) *Section K, Representations, certifications, and other statements of offerors or quoters.*

(1) This section shall begin with the following statements and continue with the applicable representations and certifications:

To Be Completed by the Offeror: (The Representations and Certifications must be executed by an individual authorized to bind the offeror.)

The offeror makes the following Representations and Certifications as part of its proposal (check or complete all appropriate boxes or blanks on the following pages).

Name of offeror ———

RFP No. ———

Signature of authorized individual ———

Date ———

Type name of authorized individual ———

Note.—The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

(2) The contracting officer shall insert in all solicitations the representations and certifications at—

(i) FAR 52.203-2, Certificate of Independent Price Determination;

(ii) FAR 52.203-4, Contingent Fee Representation and Agreement;

(iii) FAR 52.215-6, Type of Business Organization;

(iv) FAR 52.215-20, Place of Performance;

(v) FAR 52.219-1, Small Business Concern Representation;

(vi) FAR 52.219-2, Small Disadvantaged Business Concern Representation;

(vii) FAR 52.219-3, Women-Owned Small Business Representation;

(viii) FAR 52.222-19, Walsh-Healy Public Contracts Act Representation;

(ix) FAR 52.222-21, Certification of Nonsegregated Facilities;

(x) FAR 52.222-22, Previous Contracts and Compliance Reports;

(xi) FAR 52.222-25, Affirmative Action Compliance;

(xii) FAR 52.223-1, Clean Air and Water Certification;

(xiii) FAR 52.225-1, Buy American Certification;

(xiv) FAR 52.230-2, Cost Accounting Standards Notices and Certification (Nondefense);

(xv) FAR 15.804-4, Certificate of Current Cost or Pricing Data.

Note.—The following paragraph shall be inserted between the title and text of this certificate:

(When a certificate of cost or pricing data is required to be submitted in accordance with Federal Acquisition Regulation (FAR) 15.804-4, the Contracting Officer will request that the offeror complete, execute, and submit to the Contracting Officer a certification in the format shown in the following Certificate of Current Cost or Pricing Data. The certification shall be submitted only at the time negotiations are concluded. Offerors should complete the certificate set forth below and return it when requested by the Contracting Officer.)

(xvi) 352.215-70, Duplication of Cost Certification;

(xvii) 352.215-71, Employer's Identification Number; and

(xviii) 352.225-12, Country of Manufacturer Representation.

(b) *Section L, Instructions, conditions, and notices to offerors and quoters.* This section shall be comprised of the general instructions, technical proposal instructions, and business proposal instructions, as well as pertinent solicitation provisions (see FAR 15.407).

(1) *General instructions.*

(i) The general instructions provide basic guidance to prospective offerors that informs them of what is required in the preparation and submission of proposals. The general instructions must include the following statements and any instructions pertinent to the individual acquisition and applicable requirements of the OPDIV, agency, or regional office.

General Instructions

The following instructions establish the acceptable minimum requirements for the format and content of proposals:

Your special attention is directed to the requirements for technical and business proposals to be submitted in accordance with these instructions.

Any resultant contract shall include the general provisions applicable to the selected offeror's organization and type of contract awarded. Copies of general provisions may

be obtained by contacting the contracting officer. Any additional clauses required by public law, executive order, or acquisition regulations, in effect at the time of execution of the proposed contract, will be included.

The proposal must be prepared in two parts: a "Technical Proposal" and a "Business Proposal." Each of the parts shall be separate and complete in itself so that evaluation of one may be accomplished independently of evaluation of the other. The technical proposal must not contain reference to cost; however, resource information, such as data concerning labor hours and categories, materials, subcontracts, etc., must be contained in the technical proposal so that your understanding of the scope of the work may be evaluated. It must disclose your technical approach in sufficient detail to provide a clear and concise presentation that includes, but is not limited to, the requirements of the technical proposal instructions.

The proposal must be signed by an official authorized to bind your organization. (Number) copies of your technical proposal and (number) copies of your business proposal must be submitted to: (Insert complete address indicating where the proposal is to be sent and how it is to be marked. Provide similar information for hand-delivered proposals.)

You may, at your discretion, submit alternate proposals, or proposals which deviate from the requirements; *provided*, that you also submit a proposal for performance of the work as specified in the statement of work. These proposals may be considered if overall performance would be improved or not compromised, and if they are in the best interest of the Government. Alternate proposals, or deviations from any requirements of this RFP, must be clearly identified.

The Government will evaluate proposals in accordance with the evaluation criteria set forth in Section M of this request for proposals.

It is understood that your proposal will become part of the official contract file.

The RFP does not commit the Government to pay any cost for the preparation and submission of a proposal. In addition, the Contracting Officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with this proposed acquisition.

(ii) Include either of the following in the General Instructions if prospective offerors are to be informed of the Government's estimate of the level of effort necessary to accomplish the requirement:

The Government considers the level of effort to perform the resultant contract should take the following staff-hours: (insert a breakdown of the Government's staff-hour estimates by categories). These estimates are furnished for the offeror's information only and are not to be considered restrictive for proposal purposes; or

To assist you in the preparation of your proposal, the Government considers the effort to perform this contract to be approximately (insert the total number) staff-hours. This number is furnished for the offeror's information only and is not considered restrictive for proposal purposes.

(Note.—The first paragraph should only be used for term (e.g. level of effort task order), rather than completion type, contracts.)

(iii) If the proposed contract will involve performance or services on a Government installation, insert the following in the General Instructions:

Offerors are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the contract, to the extent such information is reasonably obtainable. In no event will failure to inspect the site constitute grounds for claims by the contractor after the award of a contract.

(iv) If reference material is to be provided for use in preparation of proposals, insert either of the following:

To assist offerors in preparing their proposals, reference material consisting of (insert title or description of publications, specifications, drawings, reports, or other documentation being made available as reference material) will be available for inspection at (insert name and address of building and room number).

Offerors are expected to examine all reference material prior to preparation and submission of their proposals. Failure to do so will be at the offeror's risk; or

To assist offerors in preparing their proposals, reference material consisting of (insert title or description of publications, specifications, drawings, reports, or other documentation being furnished as reference material) is enclosed. Offerors are expected to examine all reference material prior to preparation and submission of their proposal. Failure to do so will be at the offeror's risk.

(v) If the reference material being provided is to be returned to the Government, include the following statement:

All reference material furnished hereunder shall be returned within (insert number) days after the submission of proposals to (insert name and address of building and room number).

(vi) If an incentive type contract is being considered, a notice to the offeror of the Government's desire as to use of incentives considered applicable, objectives of the incentive performance goals, schedules, milestones, critical delivery parameters, and similar information must be included.

(2) *Technical proposal instructions.*

(i) The technical proposal instructions should clearly and concisely describe the information prospective offerors must provide in their technical proposals. The instructions should address the need for submission of a detailed work plan indicating how each aspect of the statement of work is to be accomplished, a discussion of how the work is to be organized, staffed, and managed, and statements of the qualifications and experience of the prospective offeror and its key personnel.

(ii) The technical proposal instructions must be specific enough to convey the information the program office will require from offerors to allow the technical proposal evaluators to determine whether a proposal is acceptable. Therefore, it is essential that the instructions are written to elicit the information necessary to fully address all the elements of the work plan with particular emphasis on the evaluation criteria, so that evaluators may readily evaluate each offer in the pertinent areas. The instructions should not require the submission of excessive information since this will complicate the evaluation process and could cause unnecessary proposal preparation costs for offerors.

(iii) The technical proposal instructions should require that technical proposals be prepared in a specified format to facilitate evaluation. A uniform format will minimize evaluators' efforts and should minimize the amount of extraneous and voluminous material sometimes included in proposals.

(iv) Since specific instructions must be developed to suit the needs of the individual acquisition, detailed guidance concerning the contents of the technical proposal instructions is not presented here. However, the following represents a sampling of general statements which may be helpful in the preparation of the instructions:

Technical Proposal Instructions

Proposals which merely offer to conduct a program in accordance with the requirements of the Government's scope of work will not be eligible for award. You must submit an explanation of the proposed technical approach in conjunction with the tasks to be performed in achieving the project objectives.

A detailed work plan must be submitted indicating how each aspect of the statement of work is to be accomplished. Your technical approach should be in as much detail as you consider necessary to fully explain your proposed technical approach or method. The technical proposal should reflect a clear understanding of the nature of the work being undertaken.

The technical proposal must include information on how the project is to be organized, staffed, and managed. Information should be provided which will demonstrate your understanding and management of important events or tasks. You must explain how the management and coordination of consultant and/or subcontractor efforts will be accomplished.

The technical proposal must include a list of names and proposed duties of the

professional personnel, consultants, and key subcontractor employees assigned to the project. Their résumés should be included and should contain information on education, background, recent experience, and specific scientific or technical accomplishments. The approximate percentage of time each individual will be available for this project must be included. The proposed staff hours for each of the above individuals should be allocated against each task or subtask for the project.

The technical proposal must provide the general background, experience, and qualifications of the organization. Similar or related contracts, subcontracts, or grants should be included and contain the name of the customer, contract or grant number, dollar amount, time of performance, and the names and telephone numbers of the project officer and contracting/grants officer.

The technical proposal must contain a discussion of present or proposed facilities and equipment which will be used in the performance of the contract.

The technical proposal must be prepared and submitted in the following format:

(Provide the required format.)

(3) *Business proposal instructions.* Business proposal instructions consist of cost and pricing data and administrative and management data.

(i) *Cost and pricing data.* Prospective offerors must be informed in the business proposal instruction that they are required to submit cost or pricing information in sufficient detail to allow a complete cost analysis. (See FAR 15.804 for requirements on cost or pricing data.) Categories and amounts of labor, materials, travel, computer time, overhead and other costs should be requested. Prospective offerors are to be provided Standard Form 1411, Contract Pricing Proposal Cover Sheet, for use in preparing the cost of pricing data, and are to be told to submit, as a minimum, cost proposals fully supported by cost and pricing data adequate to establish the reasonableness of the proposed amount. Prospective offerors are to comply with the instruction on the SF 1411 and fill in or check the appropriate boxes. In addition, they should be informed to itemize the cost for individual elements, each as analytical studies, reports, etc., and the estimated cost of each phase or segment of the offered performance.

(ii) *Administrative and management data.*

(A) The business proposal instructions must be written so that the contracting officer receives adequate information to evaluate each offeror's management capability and to determine whether each offeror is responsible. Therefore, under this section, information should be requested to allow the contracting officer to assess the following factors as they apply to the instant acquisition:

(1) The offeror's financial capability;

(2) The offeror's capability to meet delivery or performance schedules;

(3) The offeror's record of past performance;

(4) The offeror's record of business integrity;

(5) The offerors's possession of necessary organization, experience, and technical skills, or the ability to obtain them;

(6) The offeror's possession of required facilities; and

(7) Any other special consideration involved in the instant acquisition.

In some cases, these factors may duplicate evaluation criteria and may be adequately addressed in the technical proposal instructions. However, the contracting officer must ensure that they are covered in both the business proposal instructions and the technical proposal instructions.

(B) The contracting officer may determine that other administrative data in the form of additional business or cost information is necessary. Some examples of additional information include:

(1) A copy of the current agreement on indirect cost rates;

(2) A copy of the most recent financial statements;

(3) A discussion on the extent of proposed subcontracting with small and disadvantaged business enterprises;

(4) A request for pricing or cost breakdown tailored to the instant acquisition to provide information for a more thorough and complete cost analysis; and

(5) A request for explicit instructions on pricing of options and indivudal line items.

However, care should be taken to request additional information only when necessary to prevent excessive proposal preparation costs for offerors.

(c) The following are required statements which must be included in the RFP.

Your proposal must stipulate that it is predicated upon all the terms and conditions of this RFP. In addition, it must contain a statement to the effect that it is firm for a period of at least (insert number) days from the date of receipt by the Government.

It is HHS policy that contractors provide all equipment and facilities necessary for performance of contracts; however, in some instances, an exception may be granted to furnish Government-owned property or to authorize purchase with contract funds. If additional equipment must be acquired, you must include in your proposal the description and estimated cost of each item, and whether you propose to furnish the item with your own funds.

You must identify all Government-owned property in your possession and all property acquired from Federal funds, to which you have title, that is proposed to be used in the performance of the prospective contract.

The management and control of Government property must be in accordance with HHS Publication (OS) 74-115 entitled, "Control of Property in Possession of Contractors," a copy of which will be provided upon request.

(c) *Section M, Evaluation factors for award.—(1) General.* (i) The evaluation criteria must be developed by the project officer and submitted to the contracting officer in the request for contract (RFC) for inclusion in the RFP. Development of these criteria and the assignment of the relative importance or weight to each criterion require the exercise of judgment on a case-by-case basis because they must be tailored to the requirements of the individual acquisition. Since the criteria will serve as a standard against which all proposals will be evaluated, it is imperative that they be chosen carefully to emphasize those factors considered to be critical in the selection of a contractor.

(ii) The finalized evaluation criteria and indications of their relative importance or weights, as included in the RFP, cannot be changed except by a formal amendment to the RFP issued by the contracting officer. No factors other than those set forth in the RFP shall be used in the evaluation of proposals.

(2) *Review of evaluation criteria.*

(i) The evaluation criteria should be reviewed by the contracting officer in terms of the work statement. This review is not intended to dictate to the program office or project officer, but rather to ensure that the evaluation criteria are clear, concise, and fair so that all potential offerors are fully aware of the bases for proposal evaluation and are given an equal opportunity to compete.

(ii) The project officer and the contracting officer should then review the evaluation criteria together to ascertain the following:

(A) The criteria are described in sufficient detail to provide the offerors (and evaluators) with a total understanding of the factors to be involved in the evaluation process;

(B) The criteria address the key programmatic concerns which the offerors must be aware of in preparing proposals;

(C) The criteria are specifically applicable to the instant acquisition and are not merely restatements of criteria from previous acquisitions which are not relevant to this acquisition; and

(D) The criteria are selected to represent only the significant areas of importance which must be emphasized rather than a multitude of factors. (All criteria tend to lose importance if too many are included. Using too many criteria will prove as detrimental as using too few.)

(3) *Examples of topics that form a basis for evaluation criteria.* Typical examples of topics that form a basis for the development of evaluation criteria are listed in the following paragraphs. These examples are intended to assist in the development of actual evaluation criteria for a specific acquisition and should only be used if they are applicable to that acquisition. They are not to be construed as actual examples of evaluation criteria to be included in the RFP.

(i) Understanding of the problem and statement of work;

(ii) Method of accomplishing the objectives and intent of the statement of work;

(iii) Soundness of the scientific or technical approach for executing the requirements of the statement of work (to include, when applicable, preliminary layouts, sketches, diagrams, other graphic representations, calculations, curves, and other data necessary for presentation, substantiation, justification, or understanding of the approach);

(iv) Special technical factors, such as experience or pertinent novel ideas in the specific branch of science or technology involved;

(v) Feasibility and/or practicality of successfully accomplishing the requirements (to include a statement and discussion of anticipated major difficulties and problem areas and recommended approaches for their resolution);

(vi) Availability of required special research, test, and other equipment or facilities;

(vii) Managerial capability (ability to achieve delivery or performance requirements as demonstrated by the proposed use of management and other personnel resources, and to successfully manage the project, including subcontractor and/or consultant efforts, if applicable, as evidenced by the management plan and demonstrated by previouis experience).

(viii) Availability, qualifications, experience, education, and competence of professional, technical, and other personnel, to include proposed subcontractors and consultants (as evidenced by resumes, endorsements, and explanations of previous efforts); and

(ix) Soundness of the proposed staff time or labor hours, propriety of personnel classifications (professional, technical, others), necessity for type and quantity of material and facilities proposed, validity of proposed subcontracting, and necessity of proposed travel.

(4) *Relative importance or weight.*

(i) A statement or indication of the relative importance or weight must be assigned to each evaluation criterion to inform prospective offerors (and evaluators) of the specific significance of each criterion in comparsion to the other criteria. Similarly, if a criterion is subdivided into parts, each of the parts must be assigned a statement or indication of the relative importance or weight.

(ii) The two principal methods used to indicate the relative importance or weight are the numerical score and adjective description. The Department does not prescribe a single method for determining the relative importance or weight, but recommends the use of the numerical score method because it is more precise and informative. However, it is recognized that in some instances the use of the adjective description method be more appropriate and, hence, may be used when that determination is made.

(iii) Cost or price is not generally included as one of the evaluation criteria and is not assigned an indication of relative importance or weight. However, a statement must be included in the RFP to reflect the relationship of cost or price in comparison to the other criteria. The contracting officer must ensure that this statement accurately reflects the appropriate balance between cost or price and the technical factors. The contracting officer and project officer should work together in arriving at the final determination regarding the relationship. The following are examples of statements that may be used to reflect this relationship. However, since these examples represent only the two extremes and the middle position, another statement may be developed to reflect the relationship which applies to the instant acquisition.

(A) You are advised that paramount consideration shall be given to the evaluation of technical proposals rather then cost or price.

(B) You are advised that paramount consideration shall be given to cost or price rather than the evaluation of technical proposals.

(C) You are advised that the evaluation of technical proposals and cost or price are of approximately equal value.

315.407 Solicitation provisions.

(a) and (b) [Reserved]

(c)(1) [Reserved]

(2) The referenced provision (FAR 52.215–6, Type of Business Organization) is a representation, has been included under Section K (see 315.406–5(a)(2)(iii)), and need not be restated again.

(3)–(7) [Reserved]

(8) The provision at 352.215–12 shall be used in place of that specified at FAR 52.215–12.

(d)–(g) [Reserved]

(h) The referenced provision (FAR 52.215–20, Place of Performance) is to be considered a certification and is included under Section K (see 315.406–5(a)(2)(iv)); it need not be restated again.

315.408 Issuing solicitations.

The minimum proposal preparation or response time between the date of distribution of a RFP and the date set for receipt of proposals shall not be less than 30 calendar days. In urgent situations, the 30 calendar day requirement may be waived by the contracting officer.

315.409 Pre-proposal conferences.

If a pre-proposal conference is to be held, the provision at 352.215–72 shall be included in the solicitation.

315.410 Amendment of solicitations before closing date.

For additional information on amendments to solicitations, see FAR 15.606.

315.413 Disclosure and use of information before award.

315.413–1 Alternate I.

The Department shall not use Alternate I procedures.

315.413–2 Alternate II.

The Department shall use the Alternate II procedures as modified in this subsection and shall use the provision at 315.215–12, Restriction on Disclosure and Use of Data, rather than the similar provision at FAR 15.215–12 (see 315.407(c)(8)). Any reference in the FAR to the provision at FAR 15.215–12 shall apply to the provision at 315.215–12.

(a) [Reserved]

(b) The term "data," as used in this section and in 352.215–12, refers to trade secrets, business data, and technical data. Trade secrets, within the meaning of 18 U.S.C. 1905, include, for example, processes, formulas, and chemical compositions. Business data includes, for example, commercial information, financial information, and cost and pricing data. Technical data includes,

for example, plans, designs, suggestions, improvements and concepts.

The Department recognizes that requests for proposals may require the offeror, including its prospective subcontractor(s), if any, to submit data which the offeror does not want used or disclosed for any purpose other than for evaluation of the proposal. Each proposal containing data which the offeror desires to restrict must be marked on the cover sheet by the offeror with the legend set forth at 352.215–12. Proposals, or portions of proposals, so marked shall be handled in accordance with the provisions of the legend.

(c) Contracting officers receiving proposals which contain restrictive statements or legends not conforming to the referenced provision at 352.215–12 must carefully evaluate the form and substance of the restriction before making a determination to reject the proposal. Deviations in form which do not compromise the Government's rights may be accepted if approved by the activity's FOI official and the Office of General Counsel, Business and Administrative Law Division.

(d) [Reserved]

(e) The Government notice shown in FAR 15.413–2(e) shall be used by this Department and is to be placed on the cover sheet of each proposal or quotation upon its receipt. The Government notice shall be completed by adding the following to the end of the last sentence: "HHSAR paragraph 315.608(e)."

(f) The Department sometimes finds it necessary (and in some instances is required by law) to seek evaluation of proposals outside the Department (see 315.608(d)(6)). All conditions required by FAR 15.413–2(f) have been met and are covered in 315.608(e), Procedures for handling and disclosing proposals. In regard to item (f)(1) of FAR 15.413–2, the Department has found that the procedure stated in the first sentence of paragraph 315.608(e)(2) is best and considers it in compliance with the FAR requirement.

(g) See Subpart 324.2 for detailed procedures concerning FOIA requests.

315.470 Review of RFP.

The principal official responsible for acquisition shall establish procedures to ensure that an independent review of the RFP is made prior to releasing the synopsis to the Commerce Business Daily announcing the availability of the RFP. The individual selected to conduct the review must possess the acquisition knowledge necessary to readily ascertain whether the RFP contains the required information to be in conformance with all laws, regulations, and internal procedures and instructions. The individual selected to conduct the review must be a person other than the preparer of the RFP.

Subpart 315.5—Unsolicited Proposals

315.505 Content of unsolicited proposals.

(a)–(c) [Reserved]

(d) Certification by offeror—To ensure against contacts between Department employees and prospective offerors which would exceed the limits of advance guidance set forth in FAR 15.504 resulting in an unfair advantage to an offeror, the principal official responsible for acquisition (or designee) shall ensure that the following certification is furnished to the prospective offeror and the executed certification is included as part of the resultant unsolicited proposal:

Unsolicited Proposal Certification by Offeror

This is to certify, to the best of my knowledge and belief, that:

a. This proposal has not been prepared under Government supervision.

b. The methods and approaches stated in the proposal were developed by this offeror.

c. Any contact with employees of the Department of Health and Human Services has been within the limits of appropriate advance guidance set forth in FAR 15.504.

d. No prior commitments were received from departmental employees regarding acceptance of this proposal.

Date: _____

Organization: _____

Name: _____

Title: _____

(This certification shall be signed by a responsible official of the proposing organization or a person authorized to contractually obligate the organization.)

315.506 Agency procedures.

(a) The principal official responsible for acquisition is responsible for establishing procedures to comply with FAR 15.506(a).

(b) The principal official responsible for acquisition or his/her designee shall be the point of contact for coordinating the receipt and handling of unsolicited proposals. Contacts made outside the contracting activity shall be promptly coordinated with the principal official responsible for acquisition or the designee.

315.506-1 Receipt and initial review.

(a)–(c) [Reserved]

(d) An unsolicited proposal shall not be refused consideration merely because it was initially submitted as a grant application. However, contracts shall not be awarded on the basis of unsolicited proposals which have been rejected for grant support on the ground that they lack scientific merit.

315.507 Contracting methods.

(a)–(c) [Reserved]

(d) The program office shall prepare a "Justification for Acceptance of Unsolicited Proposal" which addresses the items in FAR 15.507(b). The "Justification for Acceptance of Unsolicited Proposal" shall be submitted to the contracting officer, together with, but as a separate document from, the request for contract, and shall be signed by the same official of the program office who signs the request for contract. Approval of the "Justification" shall be made at the same level as prescribed in 315.7106 for approval of a justification for noncompetitive acquisition.

315.509 Limited use of data.

The legend, Use and Disclosure of Data, prescribed in FAR 15.509(a) is to be used by the offeror to restrict the use of data for evaluation purposes only. However, data contained within the unsolicited proposal may have to be disclosed as a result of a request submitted pursuant to the Freedom of Information Act. Because of this possibility, the following notice shall be furnished to all prospective offerors of unsolicited proposals whenever the legend is provided in accordance with FAR 15.504(b)(7):

The Government will attempt to comply with the "Use and Disclosure of Data" legend. However, the Government may not be able to withhold a record (data, document, etc.) nor deny access to a record requested by an individual (the public) when an obligation is imposed on the Government under the Freedom of Information Act, 5 U.S.C. 552, as amended. The Government's determination to withhold or disclose a record will be based upon the particular circumstances involving the record in question and whether the record may be exempted from disclosure under the Freedom of Information Act. Records which the offeror considers to be trade secrets and commercial or financial information and privileged or confidential must be identified by the offeror as indicated in the referenced legend.

Subpart 315.6—Source Selection

315.602 Applicability.

(a) [Reserved]

(b) This subpart does not apply to contracts for architect-engineer services or contracts awarded to the Small Business Administration under section 8(a) of the Small Business Act.

315.604 Responsibilities.

(a)–(c) [Reserved]

(d) Personnel participating in the evaluation process must not discuss or reveal information concerning the evaluations except to an individual participating in the same evaluation

proceedings, and then only to the extent that the information is required in connection with the proceedings. Divulging information during the evaluation, selection, and negotiation phases of the acquisition to offerors or to personnel not having a need to know could jeopardize the resultant award. Therefore, the contracting officer must instruct personnel participating in the evaluations to observe these restrictions and insure that all personnel understand that unauthorized disclosure of information, no matter how innocent, could compromise the acquisition process and is prohibited.

(e) Only the contracting officer or his/her authorized representative within the contracting office shall conduct discussions with offerors relative to any aspect of the acquisition.

315.605 Evaluation factors.

(a)–(d) [Reserved]

(e) The evaluation criteria included in the solicitation serve as the standard against which all proposals are evaluated. Prospective offerors rely upon the evaluation criteria in the solicitation in developing proposals, and they must be assured that the evaluation is conducted in accordance with those criteria. All personnel involved in the evaluation process must make sure that the evaluation criteria contained in the solicitation are the *only* criteria used in conducting the evaluation. See FAR 15.406–5(c) and 315.406–5(c) for detailed guidance on evaluation criteria.

315.607 Disclosure of mistakes before award.

(a) The contracting officer shall require that offerors' clarifications are in writing.

(b) [Reserved]

(c) (1) and (2) [Reserved]

(3) The chief of the contracting office is authorized to make the written determination permitting a correction of a mistake in a proposal.

315.608 Proposal evaluation.

(a) *Cost or price evaluation.* (See paragraph (j) below.)

(b) *Technical evaluation.* (See paragraphs (h) and (i) below.)

(c) *Technical evaluation plan.*

(1) A technical evaluation plan may be required by the contracting officer, at his/her discretion, when an acquisition is sufficiently complex as to warrant a formal plan.

(2) The technical evaluation plan should include at least the following:

(i) A list of technical evaluation panel members, their organizations as well as a list of their major consulting clients (if applicable), their qualifications, and curricula vitae (if available);

(ii) A justification for using non-Government technical evaluation panel members. (Justification is not required if non-Government evaluators will be used in accordance with standard contracting activity procedure or policies);

(iii) A statement that there is no apparent or actual conflict of interest regarding any panel member;

(iv) A copy of each rating sheet, approved by the contracting officer, to be used to assure consistency with the evaluation criteria; and

(v) A brief description of the general evaluation approach.

(3) The technical evaluation plan must be signed by an official within the program office in a position at least one level above the project officer or in accordance with contracting activity procedures.

(4) The technical evaluation plan should be submitted to the contracting officer for review and approval before the solicitation is issued. The contracting officer shall make sure that the principal factors relating to the evaluation are reflected in the evaluation criteria when conducting the review of the plan.

(d) *Technical evaluation panel.*

(1) General.

(i) A technical evaluation panel is required for all acquisitions applicable to this subpart which are expected to exceed $250,000. The contracting officer, at his/her discretion, may require a technical evaluation panel for acquisitions not exceeding $250,000 based on the complexity of the acquisition.

(ii) The technical evaluation process requires careful and deliberate consideration as to the size, composition, expertise, and function of the technical evaluation panel. The efforts of the panel can result in the success or failure of the acquisition.

(2) Role of the project officer.

(i) The project officer is the contracting officer's technical representative for the acquisition action. The project officer may be a voting member of the technical evaluation panel and may also serve as the chairperson of the panel unless he/she is prohibited by law or contracting activity procedures from serving on the panel.

(ii) The project officer is responsible for recommending panel members who are knowledgeable of the technical aspects of the acquisition and who are competent to identify strengths and weaknesses of the various proposals. The program training requirements specified in 307.170 must be adhered to when selecting prospective panel members.

(iii) The project officer should ensure that persons possessing expertise and experience in addressing issues relative to sex, race, national origin, and handicapped discrimination be included as panel members in acquisitions which address those issues. The intent is to balance the composition of the panel so that qualified and concerned individuals may provide insight to other panel members regarding ideas and approaches to be taken in the evaluation of proposals.

(iv) The project officer is to submit the recommended list of panel members to an official within the program office in a position at least one level above the project officer or in accordance with contracting activity procedures. This official will review the recommendations, appoint the panel members, and select the chairperson.

(v) It is the responsibility of the project officer to arrange for adequate and secure working space for the panel.

(3) Role of the contracting officer.

(i) The contracting officer is the Department's official representative having delegated acquisition authority to enter into and administer contracts. The term "contracting officer," as used in this subpart, may be the contracting officer or his/her designated representative within the contracting office.

(ii) The contracting officer shall not serve as a member of the technical evaluation panel but should be available to:

(A) Address the initial meeting of the technical evaluation panel (see paragraph (g)(3) below);

(B) Provide assistance to the evaluators as required; and

(C) Ensure that the scores adequately reflect the written technical evaluation report comments (see paragraph (i) below);

(4) Conflicts of interest.

(i) If a panel member has an apparent or real conflict of interest related to a proposal under evaluation, he/she shall not serve on the technical evaluation panel and shall be replaced with another evaluator. If a suitable replacement is not available, the panel shall perform the review with one less evaluator.

(ii) For the purposes of this subpart, conflicts of interest are defined in the Department's Standards of Conduct set forth in 45 CFR Part 73 which incorporates 5 CFR Part 737, Post Employment Conflict of Interest. The Standards of Conduct shall be applicable to both in-house personnel

and outside evaluators serving on the technical evaluation panel.

(5) Continuity of evaluation process.

(i) The technical evaluation panel is responsible for evaluating the original proposals, making recommendations to the chairperson regarding clarifications and deficiencies of proposals, and, if required by the contracting officer, assisting the contracting officer during discussions and negotiations, and reviewing supplemental, revised and/or "best and final" offers. To the extent possible, the same evaluators should be available throughout the entire evaluation and selection process to ensure continuity and consistency in the treatment of proposals. However, the following are some examples of circumstances when it would not be necessary for the technical evaluation panel to evaluate any revised proposals submitted during the acquisition:

(A) The answers to the questions do not have a substantial impact on the proposal (see 315.609(i));

(B) The "best and final" offers are not materially different from the original proposals; or

(C) The rankings of the offerors are not affected because the revisions to the proposals are relatively minor.

(ii) The chairperson, with the concurrence of the contracting officer, may decide not to have the panel evaluate the revised proposals. Whenever this decision is made, it must be fully documented by the chairperson and approved by the contracting officer.

(iii) When technical evaluation panel meetings are considered necessary by the contracting officer, the attendance of evaluators is mandatory. When the chairperson determines that an evaluator's failure to attend the meetings is prejudicial to the evaluation, the chairperson may replace the individual after discussing the situation with the contracting officer and obtaining his/her concurrence and the approval of the program official responsible for appointing the panel members (see 315.608(d)(2)(iv)).

(iv) Whenever continuity of the evaluation process is not possible, and either new evaluators are selected or a reduced panel is decided upon, each proposal which is being reviewed at any stage of the acquisition should be reviewed at that stage by all members of the revised panel unless it is impractical to do so because of the receipt of an unusually large number of proposals.

(6) Use of outside evaluators.

(i) The technical evaluation panel shall be composed of Government employees except that outside evaluators may be used when expertise is required which is not available within the Government, or as required by law.

(ii) The National Institutes of Health (NIH) and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) are required to have a peer review of research and development contracts in accordance with Public Law (P.L.) 93-352 as amended by Pub. L. 94-63; 42 U.S.C. 289 1-4. This legislation requires peer review of projects and proposals, and not more than one-fourth of the members of a peer review group may be officers or employees of the United States. NIH and ADAMHA are therefore exempt from the provisions of 315.608(d) to the extent that 42 U.S.C. 289 1-4 applies.

(e) *Procedures for handling and disclosing proposals.*

(1) The procedures and notice specified in FAR 15.413-2 and 315.413-2 shall be used in handling solicited proposals and for disclosing proposals outside the Government for evaluation purposes. (For unsolicited proposals, see FAR 15.509 and 315.509.)

(2) Decisions to disclose proposals outside the Government for evaluation purposes shall be made by the chief official having programmatic responsibility for the acquisition, after consultation with the contracting officer and in accordance with operating division procedures. The decision to disclose either a solicited or unsolicited proposal outside the Government for the purpose of obtaining an evaluation shall take into consideration the avoidance of organizational conflicts of interest and any competitive relationship between the submitter of the proposal and the prospective evaluator(s).

(3) When it is determined to disclose a solicited proposal outside the Government for evaluation purposes, the following conditions, or similar appropriate conditions, shall be included in the written agreement with the evaluator(s) prior to disclosure (see FAR 15.413-2(f) and 315.413-2(f)). Also, a review must be made to ensure that the notice required by FAR 15.413-2(e) is affixed to the proposal before it is disclosed to the evaluator(s).

Conditions for Evaluating Proposals

The evaluator agrees to use the data (trade secrets, business data, and technical data) contained in the proposal only for evaluation purposes.

This requirement does not apply to data obtained from another source without restriction.

Any notice or legend placed on the proposal by either the Department or the submitter of the proposal shall be applied to any reproduction or abstract provided to the evaluator or made by the evaluator. Upon completion of the evaluation, the evaluator shall return the Government furnished copy of the proposal or abstract, and all copies thereof, to the Departmental office which initially furnished the proposal for evaluation.

Unless authorized by the Department's initiating office, the evaluator shall not contact the submitter of the proposal concerning any aspects of its contents.

The evaluator will be obligated to obtain commitments from its employees and subcontractors, if any, in order to effect the purposes of these conditions.

(f) *Receipt of proposals.*

(1) After the closing date set by the solicitation for the receipt of proposals, the contracting officer will use a transmittal memorandum to forward the technical proposals to the project officer or chairperson for evaluation. The business proposals will be retained by the contracting officer for evaluation (see 315.608(j)).

(2) The transmittal memorandum to the chairperson should include at least the following:

(i) A list, by name, of the organizations submitting proposals;

(ii) A reference to 315.604(d) on the need to preserve the integrity of the source selection process;

(iii) A requirement for a technical evaluation report in accordance with 315.608(i); and

(iv) The establishment of a date for receipt of the technical evaluation report.

(g) *Convening the technical evaluation panel.*

(1) Normally the technical evaluation panel will convene to evaluate the proposals. However, there may be situations when the contracting officer determines it is not feasible or practicable for the panel to convene. Whenever this decision is made, care must be taken to assure that the technical review is closely monitored to produce acceptable results.

(2) When a panel is convened, the chairperson is responsible for the control of the technical proposals provided to him/her by the contracting officer for use during the evaluation process. The chairperson will generally distribute the technical proposals at the initial panel meeting and will establish procedures for securing the proposals whenever they are not being evaluated to insure the confidentiality of the proposals. After the evaluation is complete, all proposals must be accounted for by returning them to the contracting officer, destroying them, or filing them in an appropriate manner to maintain the confidential nature of the data.

(3) The contracting officer should address the initial meeting of the panel

and state the basic groundrules for conducting the evaluation. The contracting officer shall provide written guidance to the panel if he/she is unable to attend the initial panel meeting. The guidance should include:

(i) Explanation of conflicts of interest (see 315.608(d)(4));

(ii) The necessity to reread and understand the solicitation, especially the statement of work and evaluation criteria, prior to reading the proposals;

(iii) The need for evaluators to restrict the review to only the solicitation and the contents of the technical proposals;

(iv) The need for each evaluator to review all the proposals;

(v) The need to watch for ambiguities, inconsistencies, errors, and deficiencies which should be surfaced during the evaluation process;

(vi) An explanation of the evaluation process and what will be expected of the evaluators throughout the process;

(vii) The need for the evaluators to be aware of the requirement to have complete written documentation of the individual strengths and weaknesses which affect the scoring of the proposals; and

(viii) An instruction directing the evaluators that, until the award is made, information concerning the acquisition must not be disclosed to any person not directly involved in the evaluation process.

(h) *Rating and ranking of proposals.* The evaluators will individually read each proposal, describe tentative strengths and weaknesses, and develop preliminary scores in relation to each evaluation criterion set forth in the solicitation. The evaluators will use the rating sheets either in the technical evaluation plan or approved by the contracting officer when a technical evaluation plan is not required (see 315.608(c)). After this has been accomplished, the evaluators should discuss in detail the individual strengths and weaknesses described by each evaluator and, if possible, arrive at a common understanding of the major strengths and weaknesses and the potential for correcting each offeror's weakness(es). Each evaluator will individually rate (score) each proposal, and then the technical evaluation panel will collectively rank the proposals. Generally, but depending on the rating plan employed, ranking will be accomplished by totaling the numerical scores assigned by each evaluator to the evaluation criteria and developing an average rating for each offeror. The evaluators should then identify each proposal as either acceptable or unacceptable. Predetermined cutoff scores shall not be employed.

(i) *Technical evaluation report.* A technical evaluation report shall be prepared and furnished to the contracting officer by the chairperson and maintained as a permanent record in the contract file. The report must reflect the ranking of the proposals and identify each proposal as acceptable or unacceptable in accordance with 315.608(h). The report must also include a narrative evaluation specifying the strengths and weaknesses of each proposal, a copy of each rating sheet, and any reservations, qualifications, or areas to be addressed that might bear upon the selection of sources for negotiation and award. Concrete technical reasons supporting a determination of unacceptability with regard to any proposal must be included. The report should also include specific points and questions which are to be raised in discussions or negotiations.

(j) *Evaluation of business proposals.*

(1) Concurrently with the evaluation of the technical proposals, the contracting officer shall begin the evaluation of the business proposals. The contracting officer must adhere to the requirements for cost or price analysis included in FAR 15.805–1 for each business proposal in the competitive range. An audit report may be required in accordance with FAR 15.805–5 and 315.805–5. The contracting officer must exercise judgment in determining the extent of analysis in each case depending on the amount of the proposal, the technical complexity and related cost or price, and cost realism. The contracting officer should request the project officer to analyze such items as: the number of labor hours proposed for various labor categories; the mix of labor hours and categories of labor in relation to the technical requirements of the project; the kinds and quantities of material, equipment, and supplies; types numbers, and hours/days of proposed consultants; logic of proposed subcontracting; analysis of the travel proposed including number of trips, locations, purpose, and travelers; and kinds and quantities of data processing. The project officer shall provide his/her opinion as to whether these elements are necessary and reasonable for efficient contract performance. Exceptions to proposed elements shall be supported by adequate rationale to allow for effective negotiations. The contracting officer should also request the assistance of a cost/price analyst when considered necessary. In all cases, the negotiation memorandum (see 315.672) must include the rationale used in determining that the price or cost is fair and reasonable.

(2) The contracting officer must appraise the management capability of the offeror to perform the required work in a timely manner. In making this appraisal, the contracting officer should consider factors such as the offeror's management organization, past performance, reputation for reliability, availability of the required facilities, and cost controls. This information is to be used by the contracting officer to determine the offeror's responsibility.

315.609 Competitive range.

(a) A proposal must be included in the competitive range unless there is no real possibility that it can be improved to the point where it becomes the *most* acceptable.

(b)–(d) [Reserved]

(e) In certain circumstances, when deciding which proposals should be included in the competitive range, the contracting officer may request that the technical evaluation panel review the cost or price data. Typical situations which may necessitate this review include a suspected "buy-in," large differences in cost or price among the proposals, proposals receiving high technical ratings which have relatively high costs, and proposals receiving low technical ratings which have relatively low costs. The resultant comparison of cost or price to technical factors and the determination of cost or price realism should assist the contracting officer in deciding which proposals are to be included in the competitive range.

(f) All determinations regarding the inclusion or exclusion of proposals in the competitive range must be completely documented, including the salient reasons for the determinations, and set forth in the negotiation memorandum.

(g) Some of the factors which the contracting officer should consider in determining the competitive range are:

(1) The relative importance of cost or price as compared to technical factors in accordance with the solicitation provisions required in 315.406–5(c);

(2) The susceptibility of significantly reducing a proposal with an unreasonable high price or cost without undermining the technical merit if the offeror otherwise has a reasonable chance to receive an award; and

(3) The likelihood of reducing cost or price of a proposal which exceeds the Government's requirements.

(h) The contacting officer shall conduct a thorough review of the technical evaluation report to be assured that:

(1) All determinations of unacceptability are supported by

concrete and comprehensive statements that are factual and convincing and are consistent with the evaluation criteria set forth in the solicitation. Every statement should be reviewed carefully to eliminate any doubts as to the unacceptability of a proposal;

(2) All recommendations to exclude proposals from the competitive range are supported by persuasive rationale and sufficient facts to substantiate a judgment that meaningful discussions are not possible or there is no reasonable chance of the proposal being selected for award;

(3) Those cases where only one organization is found to be technically acceptable are fully scrutinized; and

(4) Unacceptable proposals contain "information" deficiencies which are so material as to preclude any possibility of upgrading the proposal to a competitive level except through major revisions and additions which would be tantamount to the submission of another proposal.

(i) The contracting officer and project officer should discuss the uncertainties and/or deficiencies that are included in the technical evaluation report for each proposal in the competitive range. Technical questions should be developed by the project officer and/or the technical evaluation panel and should be included in the technical evaluation report. The management and cost or price questions should be prepared by the contracting officer with assistance from the project officer and/or panel as required. The method of requesting offerors in the competitive range to submit the additional information will vary depending on the complexity of the questions, the extent of additional information requested, the time needed to analyze the responses, and the time frame for making the award. However, to the extent practicable, all questions and answers should be in writing. Each offeror in the competitive range shall be given an equitable period of time for preparation of responses to questions to the extent practicable. The questions should be developed so as to disclose the ambiguities, uncertainties, and deficiencies of the offeror (see FAR 15.610(c)).

315.610 Written or oral discussions.

(a) [Reserved]

(b) The contracting officer, with the support of personnel who evaluated the technical proposals, and, if necessary, cost analysts, attorneys, etc., must conduct written or oral discussions with all responsible offerors within the competitive range.

(c) [Reserved]

(d) Careful judgment must be exercised in determining the extent of discussions. In some cases, more than one round of discussions with all the offerors within the competitive range may be required. The time available, the expense and administrative limitations, and the complexity, size, and significance of the acquisition should all be considered in deciding on the type, duration, and depth of the discussions.

315.611 Best and final offers.

(a) [Reserved]

(b) (1) through (4) [Reserved].

(5) Notice that confirmation of a prior offer should be specifically stated as a final offer; and

(6) Notice that all revisions to former offers should be submitted on Standard Form 1411, Contract Pricing Proposal Cover Sheet, and should be fully documented.

(c) "Best and final" offers are subject to a final evaluation of price or cost and other salient factors by the contracting officer and project officer with assistance from a cost/price analyst, and an evaluation of technical factors by the technical evaluation panel, as necessary. Proposals may be technically rescored and reranked by the technical evaluation panel and a technical evaluation report prepared. To the extent practicable, the evaluation shall be performed by the same evaluators who reviewed the original proposals (see 315.670—).

(d) [Reserved]

(e) Of particular importance in the award of research or development contracts, including those with educational institutions, is the competence of key personnel in the specific field of science or technology involved, as reflected in the proposal. However, awards should not be made for research and development capabilities that exceed those needed for the successful performance of the particular project.

351.670 Negotiation with the selected source.

(a) After selection of the successful proposal, a limited negotiation with the selected offeror may be conducted if deemed necessary. However, no factor which could have any effect on the selection process may be introduced into the negotiation after the common cutoff date for receipt of best and final offers. The negotiation shall not in any way prejudice the competitive interests or right of the unsuccessful offerors. Negotiations with the selected offeror shall be restricted to definitizing the final agreement on terms and conditions; e.g., assuming none of these factors were involved in the selection process, negotiation could include such topics as payment provisions, patent rights, rights in data, property provisions, labor rates, indirect cost rates, and fees. Prior to conducting the limited negotiation, the contracting officer shall approve a written determination citing both the specific issues to be discussed and the rationale showing that the negotiations shall not have any effect on the selection process.

(b) Caution must be exercised by the contracting officer to insure that the negotiation is not used to change the requirement contained in the solicitation, nor to make any other changes which would impact on the source selection decision. Whenever a material change occurs in the requirements as a result of the negotiation, the competition must be reopened and all offerors submitting "best and final" offers must be given an opportunity to resubmit proposals based on the revised requirements. Whenever there is a question as to whether a change is material, the contracting officer should obtain the advice of technical personnel and legal counsel before reopening the competition. Significant changes in the offeror's cost proposal may also necessitate a reopening of competition if such changes alter the factors involved in the original selection process.

(c) Should negotiations beyond those specified in (a) above be required for any reason, discussions must be reopened with all offerors submitting "best and final" offers.

(d) Upon completion of the negotiation, the contracting officer should obtain a confirmation letter from the successful offeror which includes any revisions to the technical proposal, the agreed to price or cost, and, as applicable, a certificate of current cost or pricing data.

315.671 Post negotiation contract preparation and award.

(a) The contracting officer must perform the following actions after negotiations have been completed:

(1) Prepare the negotiation memorandum in accordance with 315.672;

(2) Prepare the contract containing all agreed to terms and conditions and clauses required by law or regulation;

(3) Include in the contract file the pertinent documents referenced in FAR 4.803; and

(4) Obtain the appropriate approval of proposed contract awards in accordance with Subpart 304.71 and contracting activity procedures.

(b) After receiving the required approvals, the contract should be transmitted to the prospective contractor for signature. The prospective contractor must be informed that the contract is not effective until accepted by the contracting officer.

(c) The contract shall not be issued until the finance office certifies that the funds are available for obligation.

315.672 Preparation of negotiation memorandum.

The negotiation memorandum or summary of negotiations is a complete record of all actions leading to award of a contract and is prepared by the contract negotiator. It should be in sufficient detail to explain and support the rationale judgments, and authorities upon which all actions were predicated. The memorandum will document the negotiation process and reflect the negotiator's actions, skills, and judgments in concluding a satisfactory agreement for the Government. Negotiation memorandums shall contain discussion of the following or a statement of nonapplicability; however, information already contained in the contract file need not be reiterated. A reference to the document which contains the required information is satisfactory.

(a) *Description of articles and services and period of performance.* A description of articles and services, quantity, unit price, total contract amount, and period of contract performance should be set forth (if Supplemental Agreement—show previous contract amount as revised, as well as information with respect to the period of performance).

(b) *Negotiation authority.* Cite the particular paragraph of 41 U.S.C. 252 permitting the negotiations, and an indication of the date of approval of the required D & F authorizing the negotiation. If a class D & F is cited, indicate the expiration date.

(c) *Acquisition planning.* Summarize any acquisition planning activities that have taken place. Include items such as meetings with program and staff personnel and the development of acquisition planning schedules.

(d) *Synopsis of proposed acquisition.* A statement as to whether the acquisition has or has not been publicized in accordance with FAR Subpart 5.2. A brief statement of explanation should be included with reference to the specific basis for exemption under the FAR, if applicable.

(e) *Contract type.* Provide sufficient detail to support the type of contractural instrument recommended for the acquisition and cite any required D & F. If the contract is a cost-sharing type, explain the essential cost-sharing features.

(f) *Extent of competition.* The extent to which competition was solicited and obtained must be discussed. The discussion shall include the date of solicitation, sources solicited, and solicitation results. If a late proposal was received, discuss whether or not the late proposal was evaluated and the rationale for the decision. If the acquisition is to be awarded on a noncompetitive basis, discuss the rationale for the decision. The "Justification for Noncompetitive Acquisition" must be prepared and approved in accordance with Subpart 315.71.

(g) *Technical evaluation.* Summarize the results presented in the technical evaluation report and delineate the basis of acceptability or unacceptability of the proposals from a technical standpoint. Discussion should be in nontechnical terms.

(h) *Business evaluation.* Summarize the results presented in the business report and delineate the basis for the determination of acceptability or unacceptability of the buinsess proposals.

(i) *Competitive range.* If the acquisition is competitive, describe how the zone of consideration or competitive range was determined and state the offerors who were included in the competitive range and the ones who were not. Explain why any offeror who submitted a technically acceptable proposal was not included in further discussions. Comment on any changes made in the offeror's proposal as a result of the discussions.

(j) *Cost breakdown and analysis.* Include a complete cost breakdown together with the negotiator's analysis of the estimated cost by individual cost elements. The negotiator's analysis should contain such information as:

(1) A comparison of cost factors proposed in the instant case with actual cost factors used in earlier contracts, using the same cost centers of the same supplier or cost centers or other sources having recent contracts for the same or similar item.

(2) Any pertinent Government-conducted audit of the proposed contractor's records of any pertinent cost advisory report (see FAR 15.805).

(3) Any pertinent technical evaluation inputs as to necessity, allocability and reasonableness of labor, material and other direct expenses.

(4) Any other pertinent information to fully support the basis for and rationale of the cost analysis.

(5) If the contract is an incentive type, discuss the rationale for the following:

(i) Cost-plus-award-fee.

(A) Base fee.

(B) Maximum fee.

(C) Award fee.

(ii) Cost-plus-incentive-fee.

(A) Minimum fee.

(B) Target fee.

(C) Maximum fee.

(D) Incentives relative to performance and/or delivery.

(E) Sharing ratios.

(iii) Fixed-price incentives.

(A) Target profit.

(B) Target price.

(C) Ceiling price.

(D) Sharing rations.

(E) Incentives relative to performance and/or delivery.

(6) A justification of the reasonableness of the proposed contractor's estimated profit or fixed fee, considering such factors as any competitive elements, established efficiency or performance, extent of the risk assumed by the proposed contractor, character of the proposed contractor's normal business, the extent of subcontracting in the instant case and the reasons, capital employed, and other factors as are appropriate, including type of organization.

(k) *Government-furnished property and Government-provided facilities.* With respect to Government-furnished material or Government-provided facilities, equipment, tooling, or other property, include the following: (A separate D & F is required for facilities construction.)

(1) Where no property is to be provided, a statement to that effect.

(2) Where property is to be provided, a full description, the estimated dollar value, the basis of price comparison with competitors, and the basis of rental charge, if rental is involved.

(3) Where the furnishing of any property or the extent has not been determined and is left open for future resolution, a detailed explanation.

(l) *Negotiations.* Include a statement as to the date and place negotiations were conducted, and identify members of both the Government and contractor negotiating teams by area of responsibility. Include negotiation details relative to the statement of work, terms and conditions, and special provisions. The results of cost or price negotiations must include the information required by FAR 31.109 and 15.808. In addition, if cost or pricing data was required to be submitted and certified, the negotiation record must also contain the extent to which the contracting officer relied upon the

factual cost or pricing data submitted and used in negotiating the cost or price.

(m) *Other considerations.* Include coverage of areas such as:

(1) Financial data with respect to a contractor's capacity and stability.

(2) Determination of contractor responsibility.

(3) Details as to why the method of payment, such as progress payment, advance payment, etc., is necessary. Also cite any required D & F's.

(4) Information with respect to obtaining of a certificate of current cost or pricing data.

(5) Other required special approvals, such as those referenced in 307.105–2.

(6) If the contract represents an extension of previous work, the status of funds and performance under the prior contract(s) should be reflected. Also, a determination should be made that the Government has obtained enough actual or potential value from the work previously performed to warrant continuation with the same contractor. (Project officer should furnish the necessary information.)

(7) If the contract was awarded on a competitive basis, state where the unsuccessful offerors' proposals are filed.

(8) State that equal opportunity provisions of the proposed contract have been explained to the contractor, and it is aware of its responsibilities. Also state whether or not a clearance is required.

(9) If the contract is for services, a statement must be made, in accordance with FAR 37.103 and 337.103, that the services to be acquired are nonpersonal in nature.

(n) *Terms and conditions.* Identify the general provisions and any special clauses and conditions that are contained in the contract, such as option arrangements, incremental funding, anticipatory costs, deviations from the standard clauses, etc. The basis and rationale for inclusion of any special terms and conditions must be stated and, where applicable, the document which granted approval for its use identified.

(o) *Recommendation.* A brief statement setting forth the recommendations for award.

(p) *Signature.* The memorandum must be signed by the contract negotiator who prepared the memorandum.

Subpart 315.8—Price Negotiation

315.805 Proposal analysis.

315.805–5 Field pricing support.

(a)(1) [Reserved]

(2) When some or all information sufficient to determine the reasonableness of the proposed cost or price is already available or can be obtained by phone from the cognizant audit agency, contracting officers may request less-than-complete field pricing support (specifying in the request the information needed) or may waive in writing the requirement for audit and field pricing support by documenting the file to indicate what information is to be used instead of the audit report and the field pricing report.

(b) [Reserved]

(c)(1) When initiating audit and field pricing support, the contracting officer shall do so by sending a request to the cognizant administrative contracting officer (ACO), with an information copy to the cognizant audit office. When field pricing support is not available, the contracting officer shall initiate an audit by sending, in accordance with agency procedures, two (2) copies of the request to the OIG Office of Audits' Regional Audit Director. In both cases, the contracting officer shall, in the request:

(i) Prescribe the extent of the support needed;

(ii) State the specific areas for which input is required;

(iii) Include the information necessary to perform the review (such as the offeror's proposal and the applicable portions of the solicitations, particularly those describing requirements and delivery schedules);

(iv) Provide the complete address of the location of the offeror's financial records that support the proposal;

(v) Identify the office having audit responsibility if other than an HHS Regional Audit Office; and

(vi) Specify a due date for receipt of a verbal report to be followed by a written audit report. (If the time available is not adequate to permit satisfactory coverage of the proposal, the auditor shall so advise the contracting officer and indicate the additional time needed.) Normally, the Office of Audits will need 30 days after receipt of the proposal for submission of oral results. However, the Office of Audits' ability to conduct reviews by the due date will be influenced by the OPDIV's ability to properly plan its acquisitions. If the Office of Audits requires additional time to conduct the review, the contracting officer has the option, at the time the auditor acknowledges receipt of the request, to accept the revised due date or cancel the request and use cost advisory services within the agency to satisfy the requirement. In such cases, the contracting officer shall immediately advise the OIG/OA/Regional Audit Director and the OIG/OA/Division of Audit Coordination (OIG/OA/DAC) of the revised due date or cancellation of the request.

(2) and (3) [Reserved].

(4) One copy of the audit request letter that was submitted to the Regional Audit Director and a complete copy of the contract price proposal shall be submitted to OIG/OA/DAC.

(5) Whenever, an audit review has been conducted by the Office of Audits, two (2) copies of the memorandum of negotiation shall be forwarded to OIG/OA/DAC by the contracting officer (see FAR 15.808(b)).

Subpart 315.9—Profit

315.900 Scope of subpart.

This subpart—

(a) and (b) [Reserved].

(c) Prescribes a structured approach for establishing the profit or fee portion of the Government prenegotiation objective in all contracts requiring cost analysis except as stated in 315.905–70(b). The profit analysis factors set forth at FAR 15.905 shall be used in all excepted contracts requiring cost analysis.

315.905–70 Structured approach.

(a) *General.* (1) The structured approach for determining profit or fee (hereafter referred to as profit) provides contracting officers with a technique that will ensure consideration of the relative value of the appropriate profit factors described in 315.905–71 in the establishment of a profit objective for the conduct of negotiations. The contracting officer's analysis of these profit factors is based on information available to him/her prior to negotiations. Such information is furnished in proposals, audit data, assessment reports, preaward surveys and the like. The structured approach also provides a basis for documentation of this objective, including an explanation of any significant departure from this objective in reaching an agreement. The extent of documentation should be directly related to the dollar value and complexity of the proposed acquisition.

(2) The negotiation process does not require agreement on either estimated cost elements or profit elements. The profit objective is a part of an overall negotiation objective which, as a going-in objective, bears a distinct relationship to the cost objective and any proposed sharing arrangement. Since profit is merely one of several interrelated variables, the Government negotiator generally should not complete the profit negotiation without simultaneously agreeing on the other variables. Specific

agreement on the exact weights or values of the individual profit factors is not required and should not be attempted.

(b) *Exceptions.* (1) The profit-analysis factors set forth at FAR 15.905 shall be used for establishing profit objectives under the following listed circumstances. Generally, it is expected that this method will be supported in a manner similar to that used in the structured approach (profit factor breakdown and documentation of the profit objective); however, factors within FAR 15.905 considered inapplicable to the acquisition will be excluded from the profit objective.

(i) Contracts not expected to exceed $100,000;

(ii) Architect-engineer contracts;

(iii) Management contracts for operation and/or maintenance of Government facilities;

(iv) Construction contracts;

(v) Contracts primarily requiring delivery of material supplies by subcontractors;

(vi) Termination settlements; and

(vii) Cost-plus-award-fee contracts (However, contracting officers may find it advantageous to perform a structured profit analysis as an aid in arriving at an appropriate fee arrangement).

(2) Other exceptions may be made in the negotiation of contracts having unusual pricing situations. Such exceptions shall be justified in writing by the contracting officer in situations where the structured approach is determined to be unsuitable.

(c) *Limitation.* The maximum profit objective shall be the percentage allowed pursuant to statute or regulation (see FAR 15.903(d)).

(d) *Profit objective.* (1) A profit objective is that part of the estimated contract price objective or value which, in the judgment of the contracting officer, constitutes an appropriate amount of profit for the acquisition being considered. This objective should realistically reflect the total overall task to be performed and the requirements placed on the contractor.

(2) Development of a profit objective should not begin until the following actions have been accomplished:

(i) A thorough review of proposed contract work;

(ii) A review of all available knowledge regarding the contractor pursuant to FAR Subpart 9.1, including audit data, preaward survey reports and financial statements, as appropriate; and

(iii) An analysis of the contractor's cost estimate and comparison with the Government's estimate or projection of cost.

315.905-71 Profit factors.

(a) The following factors shall be considered in all cases in which profit is to be negotiated. The weight ranges listed after each factor shall be used in all instances where the structured approach is used.

Profit factors	Weight ranges (percent)
Contractor effort:	
Material acquisition	1 to 5
Direct labor	4 to 15
Overhead	4 to 9
General management (G&A)	4 to 8
Other costs	1 to 5
Other factors:	
Cost risk	0 to 7
Investment	−2 to +2
Performance	−1 to +1
Socioeconomic programs	−.5 to +.5
Special situations	

(b) Under the structured approach, the contracting officer shall first measure "Contractor Effort" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by the contracting officer. The amount calculated for the cost of money for facilities capital is not to be included for the computation of profit as part of the cost base. A complete discussion of how this cost is determined and how it will be applied and administered is set forth at Subpart 330.70.

(c) The suggested categories under "Contractor Effort" are for reference purposes only. Often individual proposals will be in a different format, but since these categories are broad and basic, they provide sufficient guidance to evaluate all other items of cost.

(d) After computing a total dollar profit for "Contractor Effort," the contracting officer shall then calculate the specific profit dollars assigned for cost risk, investment, performance, socioeconomic programs, and special situations. This is accomplished by multiplying the total Government Cost Objective, exclusive of any cost of money for facilities capital, by the specific weight assigned to the elements within the "Other Factors" category. Form HHS-674, Structured Approach Profit/Fee Objective, should be used, as appropriate, to facilitate the calculation of this profit objective. Form HHS-674 is illustrated in 353.301-674.

(e) In making a judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth in 315.905-72 and 315.905-73.

(f) The structured approach was designed for arriving at profit objectives for other than nonprofit organizations. However, if appropriate adjustments are made to reflect differences between profit and nonprofit organizations, the structured approach can be used as a basis for arriving at profit objectives for nonprofit organizations. Therefore, the structured approach, as modified in paragraph (f)(2) below, shall be used to establish profit objectives for nonprofit organizations.

(1) For purposes of this section, nonprofit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

(2) For contracts with nonprofit organizations where profit is involved, an adjustment of up to 3 percentage points will be subtracted from the total profit objective percentage. In developing this adjustment, it will be necessary to consider the following factors:

(i) Tax position benefits;

(ii) Granting of financing through advance payments; and

(iii) Other pertinent factors which may work to either the advantage or disadvantage of the contractor in its position as a nonprofit organization.

315.905-72 Contractor effort.

(a) *General.* Contractor effort is a measure of how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirement in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor must do to accomplish a conversion of ideas and material into the final service or product called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. A major consideration, particularly in connection with experimental, developmental, or research work, is the difficulty or complexity of the work to be performed, and the unusual demands of the contract, such as whether the project involves a new approach unrelated to existing technology and/or equipment or only refinements to these items. The

evaluation of this factor requires an anaylsis of the cost content of the proposed contract as follows:

(1) *Material acquisition.* (Subcontracted items, purchased parts, and other material.) Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required subcontracted items, purchased parts, material or services. The contracting officer shall determine whether the contractor will obtain the items or services by routine order from readily available sources or by detailed subcontracts for which the prime contractor will be required to develop complex specifications. Consideration shall also be given to the managerial and technical efforts necessary for the prime contractor to select subcontractors and to perform subcontract administration functions. In application of this criterion, it should be recognized that the contribution of the prime contractor to its purchasing program may be substantial. Normally, the lowest unadjusted weight for direct material is 2 percent. A weighting of less than 2 percent would be appropriate only in unusual circumstances when there is a minimal contribution by the contractor.

(2) *Direct Labor* (Professional, service, manufacturing and other labor). Analysis of the various labor categories of the cost content of the contract should include evaluation of the comparative quality and quantity of professional and semiprofessional talents, manufacturing and service skills, and experience to be employed. In evaluating professional and semiprofessional labor for the purpose of assigning profit dollars, consideration should be given to the amount of notable scientific talent or unusual or scarce talent needed in contrast to nonprofessional effort. The assessment should consider the contribution this talent will provide toward the achievement of contract objectives. Since nonprofessional labor is relatively plentiful and rather easily obtained by the contractor and is less critical to the successful performance of contract objectives, it cannot be weighted nearly as high as professional or semiprofessional labor. Service contract labor should be evaluated in a like manner by assigning higher weights to engineering or professional type skills and lower weights to semiprofessional or other type skills required for contract performance. Similarly, the variety of manufacturing and other categories of labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For purposes of evaluation, categories of labor (i.e., quality control, receiving and inspection, etc.) which do not fall within the definition for professional, service or manufacturing labor may be categorized as appropriate. However, the same evaluation considerations as outlined above will be applied.

(3) *Overhead and general management* (G&A). (i) Analysis of these overhead items of cost should include the evaluation of the makeup of these expenses and how much they contribute to contract performance. To the extent practicable, analysis should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit considerations that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses, such as utilities and maintenance, and hence given lesser profit consideration, or whether they are significant contributing elements. The composite of the individual determinations in relation to the elements of the overhead pools will be the profit consideration given the pools as a whole. The procedure for assigning relative values to these overhead expenses differs from the method used in assigning values of the direct labor. The upper and lower limits assignable to the direct labor are absolute. In the case of overhead expenses, individual expenses may be assigned values outside the range as long as the composite ratio is within the range.

(ii) It is not necessary that the contractor's accounting system break down overhead expenses within the classifications of research overhead, other overhead pools, and general administrative expenses, unless dictated otherwise by Cost Accounting Standards (CAS). The contractor whose accounting system reflects only one overhead rate on all direct labor need not change its system (if CAS exempt) to correspond with the above classifications. The contracting officer, in an evaluation of such a contractor's overhead rate, could break out the applicable sections of the composite rate which could be classified as research overhead, other overhead pools, and general and administrative expenses, and follow the appropriate evaluation technique.

(iii) Management problems surface in various degrees and the management expertise exercised to solve them should be considered as an element of profit. For example, a contract for a new program for research or an item which is on the cutting edge of the state of the art will cause more problems and require more managerial time and abilities of a higher order than a follow-on contract. If new contracts create more problems and require a higher profit weight, follow-ons should be adjusted downward because many of the problems should have been solved. In any event, an evaluation should be made of the underlying managerial effort involved on a case-by-case basis.

(iv) It may not be necessary for the contracting officer to make a separate profit evaluation of overhead expenses in connection with each acquisition action for substantially the same project with the same contractor. Where an analysis of the profit weight to be assigned to the overhead pool has been made, that weight assigned may be used for future acquisitions with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances, or the factors discussed in (iii) above are involved.

(b) *Other costs.* Analysis of this factor should include all other direct costs associated with contractor performance (e.g., travel and relocation, direct support, and consultants). Analysis of these items of cost should include:

(1) The significance of the cost of contract performance;

(2) Nature of the cost; and

(3) How much they contribute to contract performance. Normally, travel costs require minimal administrative effort by the contractor and, therefore, usually receive a weight no greater than 1 percent. Also, the contractor may designate individuals as "consultants" but in reality these individuals may be obtained by the contractor to supplement its workforce in the performance of routine duties required by contract. These costs would normally receive a minimum weight. However, there will be instances when the contractor may be required to locate and obtain the services of consultants having expertise in such fields as medicine or human services. In these instances, the contractor will be required to expend greater managerial and technical effort to obtain such services and, consequently, such costs should receive a much greater weight.

315.905-73 Other factors.

(a) *Contract cost risk.* The contract type employed basically determines the degree of cost risk assumed by the

contractor. For example, where a portion of the risk has been shifted to the Government through cost-reimbursement provisions, unusual contingency provisions, or other risk-reducing measures, the amount of profit should be less than where the contractor assumes all the risk. In developing the prenegotiation profit objective, the contracting officer will need to consider the type of contract anticipated to be negotiated and the contractor risk associated therewith when selecting the position in the weight range for profit that is appropriate for the risk to be borne by the contractor. This factor should be one of the most important in arriving at prenegotiation profit objectives.

(1) Evaluation of this risk requires a determination of:

(i) The degree of cost responsibility the contractor assumes;

(ii) The reliability of the cost estimates in relation to the task assumed; and

(iii) The complexity of the task assumed by the contractor. This factor is specifically limited to the risk of contract costs. Thus, such risks on the part of the contractor as reputation, losing a commercial market, risk of losing potential profits in other fields, or any risk which falls on the contracting office such as the risk of not acquiring a satisfactory report, are not within the scope of this factor.

(2) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk of contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-a-fixed-fee contract requiring the contractor to use its best efforts to perform a task and a firm fixed-price contract for a service or a complex item. A cost-plus-a-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas a firm fixed-price contract would reflect a complete assumption of cost responsibility. Where proper contract selection has been made, the regard for risk by contract type would usually fall into the following percentage ranges:

Percent

Cost-reimbursement type contracts—0–3
Fixed-price type contracts—2–7

(3) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. Prior experience assists the contractor in preparing reliable cost estimates on new acquisitions for similar related efforts. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the contractor's assumption of contract cost risk.

(4) The third determination is that of the difficulty of the contractor's task. The contractor's task can be difficult or easy, regardless of the type of contract.

(5) Contractors are likely to assume greater cost risk only if contracting officers objectively analyze the risk incident to proposed contracts and are willing to compensate contractors for it. Generally, a cost-plus-fixed fee contract will not justify a reward for risk in excess of 0.5 percent, nor will a firm fixed-price contract justify a reward of less than the minimum in the structured approach. Where proper contract-type selection has been made, the reward for risk, by contract type, will usually fall into the following percentage ranges:

(i) Type of contract and percentage ranges for profit objectives developed by using the structured approach for research and development and manufacturing contracts:

Percent

Cost-plus-fixed fee—0 to 0.5
Cost-plus-incentive fee:
  With cost incentive only—1 to 2
  With multiple incentives—1.5 to 3
Fixed-price-incentive:
  With cost incentive only—2 to 4
  With multiple incentives—3 to 5
Prospective price redetermination—3 to 5
Firm fixed-price—5 to 7

(ii) Type of contract and percentage ranges for profit objectives developed by using the structured approach for service contracts:

Percent

Cost-plus-fixed fee—0 to 0.5
Cost-plus-incentive fee—1 to 2
Fixed-price incentive—2 to 3
Firm fixed-price—3 to 4

(6) These ranges may not be appropriate for all acquisitions. For instance, a fixed-price-incentive contract that is closely priced with a low ceiling price and high incentive share may be tantamount to a firm fixed-price contract. In this situation, the contracting officer may determine that a basis exists for high confidence in the reasonableness of the estimate and that little opportunity exists for cost reduction without extraordinary efforts. On the other hand, a contract with a high ceiling and low incentive formula can be considered to contain cost-plus-incentive-fee contract features. In this situation, the contracting officer may determine that the Government is retaining much of the contract cost responsibility and that the risk assumed by the contractor is minimal. Similarly, if a cost-plus-incentive-fee contract includes an unlimited downward (negative) fee adjustment on cost control, it could be comparable to a fixed-price-incentive contract. In such a pricing environment, the contracting officer may determine that the Government has transferred a greater amount of cost responsibility to the contractor than is typical under a normal cost-plus-incentive-fee contract.

(7) The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a contract form. It could cause risk to increase or decrease in terms of both cost and performance. This consideration should be a part of the contracting officer's overall evaluation in selecting a factor to apply for cost risk. It may be determined, for instance, that the prime contractor has effectively transferred real cost risk to a subcontractor and the contract cost risk evaluation may, as a result, be below the range which would otherwise apply for the contract type being proposed. The contract cost risk evaluation should not be lowered, however, merely on the basis that a substantial portion of the contract costs represents subcontracts without any substantial transfer of contractor's risk.

(8) In making a contract cost risk evaluation in an acquisition action that involves definitization of a letter contract, unpriced change orders, and unpriced orders under BOA's, consideration should be given to the effect on total contract cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced. Under other circumstances it may be apparent that the contractor's cost risk remained substantially unchanged. To be equitable, the determination of profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances—not just the portion of costs incurred or percentage of work completed prior to definitization.

(9) Time and material and labor hour contracts will be considered to be cost-plus-a-fixed-fee contracts for the purpose of establishing profit weights unless otherwise exempt under 315.905–70(b) in the evaluation of the contractor's assumption of contract cost risk.

(b) *Investment.* HHS encourages its contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the

Government. As such, it is the purpose of this factor to encourage the contractor to acquire and use its own resources to the maximum extent possible. The evaluation of this factor should include an analysis of the following:

(1) *Facilities* (Including equipment). To evaluate how this factor contributes to the profit objective requires knowledge of the level of facilities utilization needed for contract performance, the source and financing of the required facilities, and the overall cost effectiveness of the facilities offered. Contractors who furnish their own facilities which significantly contribute to lower total contract costs should be provided with additional profit. On the other hand, contractors who rely on the Government to provide or finance needed facilities should receive a corresponding reduction in profit. Cases between the above examples should be evaluated on their merits with either positive or negative adjustments, as appropriate, in profit being made. However, where a highly facilitized contractor is to perform a contract which does not benefit from this facilitization or where a contractor's use of its facilities has a minimum cost impact on the contract, profit need not be adjusted. When applicable, the prospective contractor's computation of facilities capital cost of money for pricing purposes under CAS 414 (see Subpart 330.70) can help the contracting officer identify the level of facilities investment to be employed in contract performance.

(2) *Payments.* In analyzing this factor, consideration should be given to the frequency of payments by the Government to the contractor. The key to this weighting is to give proper consideration to the impact the contract will have on the contractor's cash flow. Generally, negative consideration should be given for advance payments and payments more frequent than monthly with maximum reduction being given as the contractor's working capital approaches zero. Positive consideration should be given for payments less frequent than monthly with additional consideration given for a capital turn-over-rate on the contract which is less than the contractor's or the industry's normal capital turn-over rate.

(c) *Performance.* (Cost-control and other past accomplishments.) The contractor's past performance should be evaluated in such areas as quality of service or product, meeting performance schedules, efficiency in cost control (including need for and reasonableness of cost incurred), accuracy and reliability of previous cost estimates, degree of cooperation by the contractor (both business and technical), timely processing of changes and compliance with other contractual provisions, and management of subcontract programs. Where a contractor has consistently achieved excellent results in the foregoing areas in comparison with other contractors in similar circumstances, such performance merits a proportionately greater opportunity for profit. Conversely a poor record in this regard should be reflected in determining what constitutes a fair and reasonable profit.

(d) *Federal socioeconomic programs.* This factor, which may apply to special circumstances or particular acquisitions, relates to the extent of a contractor's successful participation in the Government sponsored programs such as small business, small disadvantaged business, labor surplus area, and energy conservation efforts. The contractor's policies and procedures which energetically support Government socioeconomic programs and achieve successful results should be given positive considerations. Conversely, failure or unwillingness on the part of the contractor to support Government socioeconomic programs should be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(e) *Special situations.* (1) *Inventive and developmental contributions.* The extent and nature of contractor-initiated and financed independent development should be considered in developing the profit objective, provided that the contracting officer has made a determination that such effort will benefit the contract. The importance of the development in furthering health and human services purposes, the demonstrable initiative in determining the need and application of the development, the extent of the contractor's cost risk, and whether the development cost was recovered directly or indirectly from Government sources should be weighed.

(2) *Unusual pricing agreements.* Occasionally, unusual contract pricing arrangements are made with the contractor wherein it agrees to cost ceilings, e.g., a ceiling on overhead rates for conditions other than those discussed at FAR 42.707. In such circumstances, the contractor should receive favorable consideration in developing the profit objective.

(3) *Negative factors.* Special situations need not be limited to those which only increase profit levels. A negative consideration may be appropriate when the contractor is expected to obtain spin-off benefits as a direct result of the contract (e.g., products or services with commercial application).

315.905-74 Facilities capital cost of money.

When facilities capital cost of money (cost of capital committed to facilities) is included as an item of cost in the contractor's proposal, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital cost of money allowed in accordance with the Facilities Capital Cost-of-Money Cost Principal. If the contractor does not propose this cost, a provision must be inserted in the contract that facilities capital cost of money is not an allowable cost (see Subpart 330.70).

Subpart 315.10—Preaward and Postaward Notifications, Protests, and Mistakes

315.1001 Notifications to offerors.

Once a contract action has progressed through the evaluation process, and even after the selection of a contractor, all queries as to the relative merits of the submitted proposals shall be courteously but firmly directed to the contracting officer. All other personnel will avoid any exchange of comments with offerors.

315.1002 Debriefing of unsuccessful offerors.

(a) Any HHS employee who receives either a written or oral request for a debriefing from an unsuccessful offeror shall immediately refer the request to the contracting officer. If the request is made orally, the contracting officer shall require that the request be made in writing. The contracting officer or his/her designee shall be present at all debriefings and shall review written debriefings prior to release.

(b) A debriefing is intended to: (1) Tell an unsuccessful offeror which areas of its proposal were judged to be weak and deficient and whether the weaknesses or deficiencies were factors in its not having been selected; and

(2) Identify the factors which were the basis for selection of the successful contractor. If the quality of the successful offeror's proposal to satisfy the mission requirement was the basis, the unsuccessful offeror should be so informed, and given a general comparison of significant areas, but not a point-by-point comparison of all the elements considered in the evaluation criteria. If the successful offeror was selected on the basis of cost, the unsuccessful offeror should be told that

was the case. If selection was based on other factors, they should be specified.

(c) [Reserved]

(d) If an unsuccessful offeror feels that its failure to obtain the award was not justified, it will rely, at least in part, on the information given in the debriefing to determine whether it should seek recourse. Accordingly, it is essential that a debriefing be conducted in a scrupulously fair, objective, and impartial manner, and that the information given the unsuccessful offeror be absolutely factual and consistent with the findings of the contracting officer and the basis on which the award was made.

(e) In some cases, it may be necessary to arrange informal debriefings for an unsuccessful offeror's personnel by departmental technical evaluators. This determination will be made by, and meeting arrangements will be the responsibility of, the contracting officer.

(f) It is very important that all departmental personnel engaged in the evaluation and selection processes be aware of the policies and procedures in FAR Subpart 15.10 and this Subpart 315.10. Detailed and complete records of the acquisition will be maintained by key technical and contracting personnel in a manner which will facilitate either a written or an oral debriefing of any unsuccessful offeror.

315.1003 Protests against award.

See 314.407–8.

315.1004 Discovery of mistakes.

See 314.406 and 315.607.

Subpart 315.70—Requests for Contract

315.7000 Scope of subpart.

This subpart prescribes the format and contents of the request for contract and provides procedures for the preparation and submission of the request for contract document.

315.7001 General.

The program office's preparation of the request for contract (RFC) and submission to the contracting activity finalizes the presolicitation phase of the acquisition planning process and commences the solicitation phase. The RFC is the formal document which initiates the preparation of the request for proposals by the contracting activity and sets the acquisition process in motion. It represents the results of planning by the project officer and contract negotiator and contains much of the pertinent information necessary for the development of a sound, comprehensive RFP.

315.7002 Procedures.

(a) Requests for contract are required to be prepared by the program office for all proposed negotiated acquisitions estimated to exceed $10,000.

(b) The program office should submit the RFC as early as possible to the contracting activity. The proposed period of time between the date of submission of the RFC and the date of contract award (or date of delivery of the product, service, study, etc.) should be determined by the project officer, contract negotiator, and, if necessary, the contracting officer. The amount of leadtime should be determined on a case-by-case basis and should reflect the characteristics and complexities of the individual acquisition. When lengthy and/or involved clearances or special approval are required, for example, they must be taken into account when the leadtime is determined. If a formal acquisition planning document is used, (see Subpart 307.1), the RFC should be submitted in accordance with the timetable set forth in that document. OPDIV, agency, and regional office contracting activities may prescribe specific leadtimes for submission of RFC's in their implementation of this subpart.

315.7003 Responsibilities.

It is the responsibility of the project officer to prepare the RFC so that it complies with the requirements of this subpart and any OPDIV, agency, or regional office guidance issued in accordance with this subpart. Prior to the submission of the RFC to the contracting activity, the head of the program office sponsoring the project shall review the RFC to ensure that all required information is provided in the prescribed format and a technical review of the statement of work has been made. The level and extent of the technical review is to be commensurate with the estimated cost, importance, and complexity of the proposed acquisition, and must be thorough enough to ensure that vague and ambiguous language is eliminated, the statement of work is structured by phases or tasks, if appropriate, and methods are available for assessing the contractor's technical, cost, and delivery performances.

315.7004 Transmittal.

The RFC will be conveyed to the contracting activity by use of a covering memorandum or other form of transmittal. The transmittal document must be signed by the head of the sponsoring program office and include both a statement attesting to the conclusiveness of the review discussed in the preceding section and a list identifying all attachments to the RFC. A standard format for the transmittal document may be prescribed by the OPDIV, agency, or regional office contracting activity.

315.7005 Format and content.

The Department does not prescribe a standard format for the RFC document, but recommends the use of a format similar to what is provided in this section. The subject areas addressed in paragraphs (a) and (b) must be included in every RFC document, whereas the areas addressed in paragraph (c) need only be included if applicable. An OPDIV, agency, or regional office contracting activity may prescribe a standard format for the RFC document and may include additional subject areas that are pertinent to that activity's needs. Some of the information to be furnished in the RFC document may be repetitive of that found in the acquisition planning document. If this information has not changed since the development of the acquisition planning document, the RFC document may either restate the information as it appears in the acquisition planning document or cross reference the applicable portion where the information appears.

(a) The RFC document must contain the following:

(1) *Purpose of contract.* A brief, general description of requirements, including the citation of the legislation which authorizes the program or project, is to be provided, along with a statement as to the intended purpose/use of the proposed contract.

(2) *Background and need.* The background history and necessity for the proposed contract are to be described. This section is to include prior, present, and planned efforts by the program office in the same or related areas, and a description of efforts by other departmental activities and Federal agencies in the same or related program areas, if known. In addition, specific project information such as the relevance or contribution to overall program objectives, reasons for the need, priority, and project overlap are to be provided.

(3) *Period of performance.* The number of months (or other time period) required for total performance, and, if applicable, for each phase of work indicated in the statement of work, is to be specified. The program office must indicate the proposed starting date and the required date of delivery for each deliverable.

(4) *Estimated cost and fund citation.* The project officer's estimate of the total cost of the proposed contract, and, if

applicable, the estimate for each phase indicated in the statement of work, is to be provided. The project officer must provide a cost breakdown of all contributing cost factors, to include an estimate of the technical staff hours, direct materials, subcontracting, travel, etc. The project officer may consult with contracting and cost advisory personnel in developing this information. This section must include the certification of funds availability for the particular proposed acquisition, along with the appropriation and accounting information citations. When funds are not currently available but are anticipated, a statement indicating that the financial plan includes provision for the funds for the proposed acquisition but the funds are not yet available for obligation shall be included in lieu of the certification of funds availability. (Contracts cannot be awarded unless funds are available, but see FAR 32.703–2.)

(5) *Reference material.* A list, by title and description, of study reports, plans, drawings, and other data to be made available to prospective offerors for use in preparation of proposals and/or the contractor for use in performance of the contract is to be provided. The project officer must indicate whether this material is currently available or when it will be available.

(6) *Technical evaluation criteria and instructions.* The project officer is to include the technical evaluation criteria, which have been developed based on the requirements of the specific project, and any instructions and information which will assist in the preparation of prospective offerors' technical proposals. For example, critical areas discussed in the statement of work and the relative order of importance and weights assigned to each of these areas for technical evaluation purposes must be identified. These areas may include understanding of the problem, technical approach, experience, personnel, facilities, etc.

(7) *Sources for solicitation.* The project officer is to develop and include a list of known potential sources by name and mailing address. The project officer is encouraged to use trade and professional journals and publications to identify new prospective sources to supplement the list of known sources. Efforts to identify set-aside possibilities, i.e., small, disadvantaged, and labor surplus areas, and women-owned businesses, must be explained.

(8) *Special approvals, clearances, and requirements.* All special approvals, clearances, and requirements pertinent to the proposed acquisition are to be listed in this section. Copies of the actual documents are to be attached to the RFC. If the approval, clearance, or requirement has been requested and is being processed, a footnote to this effect, including all pertinent details, must be included in this section. A list of Government-wide and Department imposed approvals, clearances, and requirements is set forth in 307.105–2. Comprehensive checklists of these and any OPDIV, agency, regional office, etc. special approvals, clearances, and requirements shall be provided for reference purposes to program offices by the servicing contracting activity.

(9) *Identification and disposition of data.* The project officer must identify the data expected to be generated by the acquisition and specify the data to be delivered to the Department (see 315.7005(b)(2)) and that to be retained by the contractor. The project officer must also include information relative to the use, maintenance, disclosure, and disposition of data. The project officer must include a statement as to whether or not another acquisition, based upon the data generated by the proposed acquisition, is anticipated. The project officer must also include a statement indicating whether the proposed acquisition is or is not subject to the Privacy Act (see FAR Subpart 24.1 and Subpart 324.1).

(10) *Project officer and alternate.* The project officer's name, title, organization, mailing address, and telephone number are to be provided in this section, along with the same data for the project officer's alternate. In addition, a statement that the project officer has completed the Department's project officer training course is to be provided (see 307.170).

(b) The following must be submitted with every RFC but are to be prepared as separate attachments so they may be readily adopted into the request for proposal format:

(1) *Statement of work or specification.* The statement of work describes the requirements to be performed and may describe the methods to be used (see 307.105–3 and FAR 35.005 for a detailed explanation). A specification is used in lieu of a statement of work when a clear and accurate description of the technical requirements for a product, material, or service can be provided along with the procedure to determine that the requirements have been met. It is essential that a complete and comprehensive statement of work or specification be provided by the project officer.

(2) *Schedule of deliverables or reporting requirements.* The project officer must specifically describe what is to be delivered and when it is to be delivered to ensure proper contract monitoring. Usually, technical and financial progress reports and the final report are prescribed in this section. These reports should be tailored to the instant acquisition and should avoid unnecessary and burdensome reporting requirements.

(c) The following may not be applicable to all RFC's but must be included as attachments whenever any do apply:

(1) *Government property.* The project officer must identify, as referenced in the statement of work, the types, individual items, and quantities of Government property to be furnished to or allowed to be acquired by, the resultant contractor, if known. The project officer must specify when the Government property is to be made available to the resultant contractor.

(2) *Special terms and conditions.* The project officer may suggest inclusion of any special terms and conditions applicable to the proposed acquisition not already covered in the statement of work or the applicable contract general provisions.

(3) *Justification for noncompetitive acquisition.* If the proposed acquisition is to be noncompetitive, a justification, prepared in accordance with the format in 315.7105 and citing the applicable criteria in 315.7103, must be submitted as an attachment to the RFC.

(4) *Justification for acceptance of an unsolicited proposal.* When an RFC is being prepared as a result of an unsolicited proposal, a justification, prepared in accordance with 315.507(d), must be submitted as an attachment to the RFC. The justification for acceptance of an unsolicited proposal is used in place of the justification for noncompetitive acquisition.

(5) *Privacy Act "system notice."* When the project officer has determined that the requirements of the Privacy Act are applicable to the proposed acquisition, a copy of the "system notice" must be attached to the RFC (see 324.103(d)).

315.7006 Review.

Upon receipt of the RFC, the contracting activity should review the contents to ensure that all pertinent information has been provided by the program office. If pertinent information is missing or if there are discrepancies in previously agreed upon information, such as significant alterations in the statement of work, the contracting activity should obtain or clarify the information so that the acquisition schedule is met. If the program office delays furnishing the information or

clarification, the acquisition schedule may have to be changed. When this circumstance arises, the contracting activity should notify the head of the sponsoring program office of the problem, in writing, of the possible slippage in the acquisition schedule, and the need for an expeditious remedy. If the head of the sponsoring program office is not responsive to the request for expediency, the matter should be referred to higher management authorities for resolution.

Subpart 315.71—Noncompetitive Acquisitions

315.7100 Scope of subpart.

This subpart sets forth policies and procedures applicable to all noncompetitive acquisitions. It describes the criteria for use in determining whether an acquisition may be made noncompetitively, describes the justification documents required, and prescribes review and approval requirements.

315.7101 Policy.

(a) All negotiated acquisitions are to be conducted competitively, as required by FAR 15.105, unless there are compelling and convincing reasons and/or circumstances which justify a noncompetitive acquisition. When a proposed acquisition appears to be noncompetitive, that is, only one source has been identified, the contracting activity is responsible for ensuring that competition is definitely not feasible, and that positive actions are taken to avoid the need for subsequent or continuing noncompetitive acquisitions. These actions should include an analysis of the reasons and/or circumstances leading to the determination of why the noncompetitive acquisition has resulted, and what steps can be initiated to preclude noncompetitive acquisitions in the future.

(b) A noncompetitive acquisition may also result from the submission of an unsolicited proposal. In this circumstance, the responsible program office may recommend that a noncompetitive acquisition be made to the submitting organization or individual to perform work or services. This recommendation must be in writing and prepared in the "Justification for Acceptance of Unsolicited Proposal" format, as required by 315.507(d), setting forth the information stated in FAR 15.506–2 and 15.507(b). The "Justification for Acceptance of Unsolicited Proposal" is used in place of the "Justification for Noncompetitive Acquisition." Negotiations with a source that has submitted an acceptable unsolicited proposal shall not be initiated until approval is obtained in accordance with this subpart.

315.7102 Exceptions.

The provisions of this subpart apply to all negotiated acquisitions except:

(a) Acquisitions of $500 or less (see FAR 13.106(a)(1));

(b) Acquisitions of professional services; e.g., for physician, veterinarian, dentist, or legal services negotiated under the authority of 41 U.S.C. 252(c)(4), or where the foregoing kinds of services are for $10,000 or less and are negotiated under 41 U.S.C. 252(c)(3);

(c) Acquisition of architect-engineer services (see FAR Subpart 36.6);

(d) Acquisitions of utility services where the services are available from only one source; and

(e) Acquisitions from or through other Federal Government agencies; e.g., interagency agreements, and contracts with the Small Business Administration pursuant to section 8(a) of the Small Business Act.

315.7103 Criteria.

The criteria provided below are to be used in determining whether a proposed noncompetitive acquisition is justifiable. The critical question to be answered in each justification is why the opportunity to meet an acquisition requirement cannot be made available to more than one source. It is critical to the justification of a noncompetitive acquisition that reasonable, informed opinions, which are supported by available facts, be provided. Each of the criteria is illustrative of possible reasons. The more facts that are offered and the more knowledgeable the opinions about the marketplace are, the greater is the support to conclude that a noncompetitive acquisition is justified. If the contracting officer or the approving official concludes that the support offered to justify a noncompetitive acquisition is not convincing, or where there is some unresolved doubt, a sources sought synopsis should be issued to test the marketplace. (The term "sources sought synopsis," as used in this subpart, means the type of synopsis specified in 305.205(a). When the requirement is for other than research and development, the notice in 305.205(a) should be appropriately modified to describe the specific type of service or item to be acquired. The sources sought synopsis does not permit potential sources to request solicitations and, therefore, is merely an opportunity for the marketplace to indicate its interest in submitting bids, offers, or quotations for a future acquisition.) If there is only one source identified as a result of the sources sought synopsis, this data may be used to support a justification for noncompetitive acquisition. As each justification for noncompetitive acquisition is reviewed against the following criteria, the reviewer should ask: why the acquisition cannot be competed, are there sufficient grounds for excluding all other actual or potential offerors, what action can be taken to obtain competition in the instant procurement, and what action is needed to avoid the need for a subsequent or a continuing noncompetitive acquisition? Each applicable criterion cited below should be addressed in the justification, and specific rationale supporting each criterion must be provided.

(a) There is only one source in existence which can perform the contract requirements. The existence of one source for the purposes of this regulation should be a matter of fact, and not a matter dependent upon the relative and limited knowledge of sources known by the project and contracting officers. This criterion may not be used to justify a noncompetitive acquisition prior to testing the marketplace by issuing a sources sought synopsis. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive acquisition.

(b) One source controls copyrights, patent rights, trade secrets, technical data, secret processes, or other proprietary data which are essential to the performance of the contract requirements; the source refuses to license or otherwise make the foregoing data available to other sources; and the requirement cannot be revised to allow other sources to compete who do not have access to the foregoing data. Factual information should be provided to support the use of this criterion, such as the citation of copyrights, exactly what is covered by the copyright or other data which is necessary to the contract performance, and why the requirement cannot be revised to permit competition. The mere existence of the rights does not in and of itself justify a noncompetitive acquistion. It must be shown that the Government cannot meet its requirement(s) without the use of the proprietary data. Any doubts should be resolved by summarizing the requirement and issuing a sources sought synopsis. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive acquisition.

Note.—When this criterion is to be used, the contracting officer is required to obtain legal advice from OGC-BAL.

(c) One source or individual has a truly unique idea, approach, or equipment which has no like or equal, and this represents the only known item which can meet the Government's needs. (Unsolicited proposals are excluded from the provisions of this paragraph and shall be processed in accordance with FAR Subpart 15.5 and Subpart 315.5). Except in very rare cases, the fact that a proposer submits a proposal containing a unique idea or approach does not, in itself, justify a noncompetitive acquisition. Mere claims of uniqueness must not be cited in justifications to deviate from the competitive process. There may be other potential sources with equally suitable approaches or ideas which could accomplish the same end results. Except in cases which are convincingly supported by a panel opinion or a consensus of experts who are very familiar with the sources available in the marketplace, the opinion of uniqueness should be tested. The claim that the unique item is the only one which can meet the Government's needs should be based on the objective requirements of the Government, not the personal preferences of the originator. When a test of the claim of uniqueness is appropriate, the project officer should draft a description of the program requirement that does not compromise the unique idea or proprietary data of the proposer, and the contracting activity shall issue a sources sought synopsis. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive acquisition.

(d) A specific item of equipment must be obtained as part of an activity's program responsibility to test and evaluate certain kinds and types of products. This criterion is limited to testing and evaluation purposes only and may not be used for initial outfitting or repetitive acquisitions. Project officers should support the use of this criterion with citations from their agency's legislation and the technical rationale for the item or equipment required.

(e) Only one source has complex or specialized physical facilities and/or equipment which, by reason of exclusive use, access or ownership, or by reason of clear superiority to facilities and equipment available to other sources, is capable of adequately meeting the technical requirements of the proposed acquisition. It must be shown that the success of the proposed acquisition is critically dependent upon the use of the facilities and equipment of this one source. Specific details should be provided as to why the facilities and/or equipment are mandatory for the contract performance, and why the facilities and/or equipment of others cannot meet the contract requirements. This criterion should not be used to justify a noncompetitive acquisition without first defining what equipment and/or facilities are needed, and by issuing a sources sought synopsis asking for sources with comparable equipment and/or facilities. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive acquisition.

(f) Government-owned facilities which are essential to the performance of the contract are available to only one source. Efforts should be made to determine from the cognizant Government agency whether the Government-owned facilities can be made available to more than one source. If this is not possible, then a noncompetitive acquisition may be justified.

(g) Full and free competition is precluded because of geographic, socio-economic, or epidemiologic considerations necessarily associated with the acquisition. This criterion is intended to recognize certain limits to achieving full and free competition which sometimes follow from certain program legislation and special program requirements. This criterion may not be used in the absence of these established limits, and may be used only when it can be shown that there is only one source which can perform the particular acquisition.

(h) The required services must be acquired from a certain State, interstate, or local government unit, or from a nonprofit organization comprised of officers or representatives of these governmental units, and the organization or unit is unique in its ability to meet the contract requirements. This criterion is intended to recognize that, when dealing with governmental entities or their representatives, there are certain cases when only one entity is available to perform, and/or has a unique ability to accomplish, the work. This criterion should not be used to obtain supplies or services which are or can be provided from the commercial marketplace. Where there is more than one unit or organization which can meet the contract requirements, a noncompetitive acquisition cannot be justified, unless a Federal or State statute dictates the source. The fact that the governmental units or other nonprofit organizations may offer a lower price or agree to cost share is not adequate reason to justify a noncompetitive acquisition.

(i) Time is of the essence and only one known source can meet the Government's needs within the required time frame, and/or time will not permit the testing of a product offered by a source, other than a sole source, to meet the delivery schedule. However, the recognized extreme of public exigency in FAR 15.202 is not to be taken lightly. Public exigency, or other reasons causing situations where time is of the essence, may not be used to justify a noncompetitive acquisition without first showing that a limited competition using abbreviated procedures is impossible. If a limited competition is impossible, it must be shown that the recommended contractor possesses the unique capability to perform the required work on time to the exclusion of all other firms. The considerable latitude of the contracting officer to determine the method best suited to satisfy the urgent need is limited by the need to try and achieve a limited competition, if at all possible, and, if not, to determine that the proposed contractor is uniquely able to meet the Government's requirements in time.

(j) There is existing equipment which, for reasons of compatibility and interchangeability, requires an item which is manufactured only by one source. This criterion is for use in acquisitions where a particular brand name item is required, and an "or equal" will not meet the Government's requirements. This criterion may not be used when there are other manufacturers available which may be able to produce acceptable items even though their products might require some adjustments and modifications. These other manufacturers must be given the opportunity to compete.

(k) The segments of the project are so intertwined that it is impossible to successfully accomplish the project objectives if all segments are not acquired from the same contractor (see 315.7108). This criterion is intended for use under research and development acquisition and the acquisition of studies. It is only to be used when there is a necessity to acquire the total package in order to successfully complete the project. This criterion cannot be used when segments of the project can be completed separately by different contractors. The possibility that additional work may be done more conveniently or even at less expense by

the original contractor is not sufficient reason to justify a noncompetitive acquisition.

315.7104 Procedures.

(a) The program office should discuss prospective noncompetitive acquisition requests with their supporting contracting activity as early as possible during the acquisition planning stage (see FAR Subpart 7.1 and Subpart 307.1), preferably before submitting the requisition or request for contract. The discussions may resolve uncertainties, provide program offices with names of other sources, allow proper scheduling of the acquisition, and avoid delays which might otherwise occur should it be determined that a noncompetitive acquisition is not justified.

(b) When a program office desires to obtain certain goods or services by contract without competition, it shall, at the time of forwarding the request for contract, furnish the contracting activity a "Justification for Noncompetitive Acquisition" prepared in accordance with this subpart. All justifications shall be submitted initially to the contracting officer.

(c) The contracting officer who receives a justification for processing shall ascertain whether the document is complete, shall request advice from pricing, audit, legal, and other staff offices as appropriate, and shall forward the justification, including his or her concurrence or nonconcurrence, to the appropriate approving official. When the contracting officer does not concur with the justification, a written explanation setting forth the reasons must be provided the approving official. If the noncompetitive acquisition is disapproved by the approving official, the contracting officer shall promptly notify the concerned program office.

(d) All required approvals shall be obtained prior to issuing a solicitation to, or commencement of contract negotiations with, the proposed contractor. Preliminary arrangements or agreements with the proposed contractor made by someone other than the contracting officer will have no effect or influence on the rationale to support a noncompetitive acquisition.

(e) It is the responsibility of the approving official to determine whether a contract may properly be awarded without competition. The program office and project officer are responsible for furnishing the contracting officer and approving official with pertinent factual information and opinions necessary to make such determinations. Other staff offices shall advise the contracting officer and approving official as requested.

315.7105 Format for the Justification for Noncompetitive Acquisition.

(a) The format for the justification for noncompetitive acquisition in excess of $10,000 will be a separate, self-contained document. Justifications for noncompetitive acquisitions of $10,000 or less may be in the form of a paragraph or paragraphs contained in the requisition or request for contract.

(b) Justifications for noncompetitive acquisition, whether over or under $10,000, shall fully express what is to be acquired and the reasons why the requirement should not be competed. Justifications must offer reasons which go beyond inconvenience and must explain why it is impossible to obtain competition. The justification will be documented only with information that is based on facts rather than untested and unsubstantiated conclusions or opinions. Documentation in the justification should be sufficient to permit an individual with technical competence in the area to follow the rationale.

(c) Justifications for noncompetitive acquisitions in excess of $10,000 will be presented in two parts.

(1) Part I will contain background information about the program and a description of the acquisition. The following information should be included:

(i) Date.

(ii) Agency, program office, and project officer (name, address, and telephone number).

(iii) Project identification (Program legislation including citations or other internal program identification data such as title, contract number, etc.)

(iv) Descriptive title of the project. (Attach a full description of the contract requirement. This may be a specification, purchase description, or statement of work.

If the acquisition, as contemplated at the outset, is a "whole project buy" (see 315.7108) and is expected to exceed $100,000, an acquisition plan, as required by Subpart 307.1, shall be prepared by the project officer and attached to the justification. The description of the whole project buy must include what is being acquired, the estimated cost of the whole and component parts, phases, options, continuations, etc., and the periods of time involved. The description is critical to the approving official's understanding of what he/she is being asked to approve, and for subsequent use by the contracting or project offices.)

(v) Explain whether the acquisition is an entity in itself, whether it is one in a series, or part of a related group of acquisitions.

(vi) Proposed contractor (name and address).

(2) Part II will include the facts and reasons to justify a noncompetitive acquisition.

(i) Part II will begin with the following statement:

I recommend that this acquisition be noncompetitively negotiated with ———— (name of proposed contractor) in the amount of ————(Amount) for the following reasons:

(ii) Immediately following the preceding statement, each of the applicable criteria listed in 315.7103 must be addressed, and specific support for each criterion's use must be included.

(iii) At the end of Part II, signatory lines should be provided as follows:

Recommended (Project Officer) ————
Date ————

Concur (Project Officer's Immediate Supervisor) ————
Date ————

Concur (Contracting Officer) ————
Date ————

Approved (Approving Official) ————
Date ————

315.7106 Review and approval.

Justifications for noncompetitive acquisitions shall be processed for review and approval as follows:

(a) For small purchases over $500, but not over $10,000, the justification, which must address the applicable criteria in 315.7103, may be in the form of a paragraph or paragraphs contained in the requisition or request for contract. The contracting officer is authorized to review and approve (or disapprove) the justification.

(b) For acquisitions over $10,000, but not over $99,999, the justification shall be submitted to the contracting officer for review. The contracting officer will either concur or nonconcur, and forward the justification to the principal official responsible for acquisition for approval. (When the contracting officer and principal official responsible for acquisition are the same individual, the approval will be made by the Noncompetitive Review Board or by the principal OPDIV or regional official responsible for administration (see (c), below)). The principal official responsible for acquisition may redelegate justification approval for acquisitions between $10,000 and $25,000 to the chief of the contracting office, provided that individual is at least one level above the contracting officer who will sign the contract.

(c) All justifications for noncompetitive acquisitions $100,000 or over shall be submitted through the

contracting officer to the Noncompetitive Review Board (see 315.7107) for approval, unless the OPDIV head or regional director has determined that the activity will not use a Noncompetitive Review Board. If the Board is not used, the justifications for $100,000 and over shall be submitted through the contracting officer for approval by the principal OPDIV or regional official responsible for administration.

(d) Each OPDIV or regional office may prescribe Board reviews for noncompetitive acquisitions under $100,000 if reduced levels of review would be more consistent with the dollar ranges of contracts awarded.

315.7107 Noncompetitive Review Board.

(a) The Noncompetitive Review Board, referred to as the "Board", is responsible for comparing the reasons given in justifications for noncompetitive acquisitions against the criteria cited in 315.7103 and for making judgments as to the applicability of the policy requirements for competition to specific acquisitions. If it is determined by the OPDIV head or regional director to use a Board, the Board shall be established and maintained in compliance with this section.

(b) Boards shall be established by the OPDIV head or regional director and be directly responsible to that individual. The OPDIV heads are responsible for establishing Boards as needed in their OPDIVs and respective elements. The Assistant Secretary for Management and Budget is responsible for establishing a Board in the Office of the Secretary. The regional directors are responsible for establishing Boards in their regional offices. The number and geographical location of Boards will be decided by the OPDIV heads based upon the volume of noncompetitive acquisitions to be reviewed and the need for timely decisions, provided that the composition of the Boards meet the requirements of the following paragraph.

(c) The OPDIV head or regional director, as appropriate, shall appoint the Board members. The Board shall be established and delegated the authority by the appointing official to represent and make decisions on behalf of the appointing official with respect to approving or disapproving certain justifications for noncompetitive acquisitions. The Board shall be comprised of five members, or their alternates, as specified below:

(1) *Chairperson.* There will be a permanent chairperson on the Board who shall be the principal official responsible for administration. The chairperson should represent the appointing official and be able to review actions submitted to the Board from an activity-wide point of view. The chairperson will designate which of the alternate members will attend individual Board meetings and will assure that the proceedings of each meeting are recorded.

(2) *Acquisition official.* There will be a key acquisition official appointed to the Board. This official will be the principal official responsible for acquisition. Where the activity has more than one contracting office, the principal officials responsible for acquisition of the respective contracting offices will be designated alternate members. In this case, a principal official responsible for acquisition will serve on the Board to review proposed noncompetitive acquisitions expected to be assigned to his/her office for acquisition action. Whenever the principal official responsible for acquisition and the contracting officer are the same individual, the official one administrative level above the principal official responsible for acquisition shall represent the contracting office in the Board actions.

(3) *Program officials.* Two representatives will be selected from officials at the activity level which have responsibility for program policy or operations, program planning and evaluation, scientific affairs, research, etc., and/or from the program divisions of the activity that sponsor contract projects. The members should be selected on the basis of their knowledge of a program as a whole, but should not ordinarily be involved in the initiation and management of particular or single projects.

(4) *Contracting officer.* The contracting officer responsible for the acquisition to which the justification for noncompetitive acquisition relates shall serve as a nonvoting member. When Board meetings consider justifications for acquisition involving more than one contracting officer, each contracting officer may attend and offer opinions on the justification pertinent to him/her. As a further note, the project officer, that individual in the program office who originated the justification and who will be responsible for the project management of the contract project, cannot be a member or alternate on the Board. However, the project officer may be invited by the chairperson to the Board meeting during which the justification will be discussed. The project officer should be prepared to answer questions raised by the Board.

(d) Meetings of the Board shall be conducted as follows:

(1) If the estimated amount of the acquisition is more than $500,000, a formal meeting of the Board is required. If the estimated amount of the acquisition is $500,000 or less, a formal meeting of the Board need not be held if the chairperson, acquisition official, and contracting officer concur that a noncompetitive acquisition is justified. If any one of these three persons is of the opinion that a noncompetitive acquisition is not justified, a formal meeting must be held. Formal meetings will include all appropriate members and will be convened by the chairperson. No action shall be considered by the Board unless the chairperson, acquisition official, and two program officials are present. Decisions of the Board will be by majority rule. In case of a tie vote, the action will be resolved in favor of seeking competition.

(2) The chairperson may seek independent counsel from any source inside or outside of the activity if he/she feels that additional advice is necessary for the Board to reach a sound decision.

(3) The Board shall maintain a written record of the justifications reviewed and the decision made on each. If a justification is approved, only Board approval need be indicated. If a justification is disapproved, the reasons should be stated in writing and forwarded to the originator of the justification. The written decision of the Board should be made a part of the contract file.

315.7108 Whole project buys.

(a) "Whole project buy" is a term used to describe an acquisition concept whereby a project consists of distinctly identifiable segments or phases which are so interdependent that they must be viewed as a total package and must be acquired from a single contractor to ensure consistency and to meet the overall project objectives. This concept is only to be used when it is necessary to acquire the whole project or total package from a single contractor in order to complete the project successfully; that is, the identifiable segments or phases cannot be separated and acquired individually from other than the single contractor without jeopardizing the successful completion of the project. The whole project buy concept serves as an excellent management tool in that it provides the Board or approving official with detailed and interrelated aspects of the proposed acquisition action of a complex project. It also serves to motivate program and contracting personnel to focus their attention on the various aspects of the

project and to plan and prepare an indepth analysis encompassing the total project and its component parts. This should result in the development of an acquisition plan which identifies all pertinent information concerning the segments or phases of a project, while providing a comprehensive overview of the total project.

(b) Any whole project buy which exceeds $100,000 in the aggregate and which contemplates any noncompetitive acquisition actions of any dollar value at any time during the project life shall be submitted to the Board or approving official for approval. This requirement applies even if the first of a series of related acquisitions in a whole project buy is less than $100,000. It applies to projects with several related acquisition actions where the first part of the project is either competitively or noncompetitively awarded, and there are to be subsesquent noncompetitive acquisitions with the original contractor. This requirement applies to all acquisitions regardless of whether the noncompetitive acquisition is called a renewal, follow-on, continuation, extension, etc., is to be effected by means of a contract modification, or is a new start.

(c) Justifications of whole project buys submitted to the Board or approving official shall fully describe what the complete requirement is, how the requirement will be divided into acquisition actions, the total estimated cost of the whole project and each individual acquisition action, the total period of time for the whole project and each acquisition action, and whether all or what parts of the whole project will be acquired noncompetitively. For projects where an end point cannot be forecast with certainty, as in the case of basic research, the whole project buy will be the circumscribed amount of time which the program office presently intends to continue the effort.

(d) If the Board or approving official clearly approves the noncompetitive acquisition action(s) at the outset of a whole project buy, and the whole project buy results in an original contract followed by either a noncompetitive new contract, or noncompetitive modification to the original contract for work, dollars, and time approved by the Board or approving official, these subsequent noncompetitive acquisition actions will not have to be resubmitted for approval. However, whole project buys may not be approved in excess of three (3) years, and approval is limited to that explicitly contained in the justification. If a part of the whole project buy is not included in the justification or there are changes in the project which would amend the whole project buy as approved, the excluded part and/or changes will require a separate review and approval. If there are questions as to what was approved, the questionable material shall be submitted to the Board or approving official for clarification.

(e) Once a whole project buy has been approved at an appropriate level, any RFP issued for the acquisition shall contain a notification to all potential offerors that the RFP is for the first phase of a whole project buy, the balance of which is projected to be awarded noncompetitively to the successful offeror. It shall also contain as complete a description as possible of the project so that potential offerors may gain an understanding of the full scope of the project. Finally, the notification shall also state that the Government reserves the right to conduct competitive acquisitions for the subsequent phases if this becomes possible.

PART 316—TYPES OF CONTRACTS

Subpart 316.3—Cost-Reimbursement Contracts

Sec.
316.301 General.
316.301–3 Limitations.
316.303 Cost-sharing contracts.

Subpart 316.6—Time-and-Materials, Labor-Hour, and Letter Contracts

316.601 Time-and-materials contracts.
316.603 Letter contracts.
316.603–2 Application.
316.603–3 Limitations.
316.603–70 Information to be furnished when requesting authority to issue a letter contract.
316.603–71 Approval for modifications to letter contracts.

Subpart 316.7—Agreements

316.702 Basic agreements.
316.770 Unauthorized types of agreements.
316.770–1 Letters of intent.
316.770–2 Memorandums of understanding.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 316.3—Cost-Reimbursement Contracts

316.301 General.

316.301–3 Limitations.

(a) and (b) [Reserved].

(c) The following format shall be used and executed by the contracting officer as the determination and findings authorizing the use of a cost-reimbursement contract:

Department of Health and Human Services—Determination and Findings

Authority to Use Cost-Reimbursement Contract

I hereby find that:

(1) The (agency title) proposes to contract with (name of proposed contractor) for (describe work, service, or product) (identify program or project). The estimated cost is ($———) (if contract is CPFF type, insert, "plus a fixed fee of ($———) which is —— percent of the estimated cost exclusive of fee").

(2) (Set forth facts and circumstances that show why it is impracticable to secure property or services of the kind or quantity required without the use of the proposed type of contract or why the proposed method of contracting is likely to be less costly than other methods.) I hereby determine that:

On the basis of the above findings, it is impracticable to secure the property or services of the kind or quality required without the use of a (cost, cost-sharing, or cost-plus-a-fixed fee*) type of contract, *or* the (cost, cost-sharing, or cost-plus-a-fixed fee*) method of contracting is likely to be less costly than other methods.

Date ———

Signature ———

316.303 Cost-sharing contracts.

For detailed information concerning the use of cost-sharing contracts, see 335.070.

Subpart 316.6—Time-and-Materials, Labor-Hour, and Letter Contracts

316.601 Time-and-materials contracts.

(a) and (b) [Reserved.]

(c) *Limitations.* The format prescribed in 316.301–3(c) shall be used and executed by the contracting officer as the determination and findings authorizing the use of either a time-and-materials contract or a labor-hour contract, except that the final paragraph shall be changed to read as follows:

I hereby determine that:

On the basis of the above findings, no other type of contract will suitably serve for the acquisition of the required work or services.

316.603 Letter contracts.

316.603–2 Application.

It is the policy of the Department to refrain from issuing letter contracts. Exceptions to this policy will be permitted only in those cases where all matters of a substantive nature, such as statements of work, delivery schedules, and general and special clauses have been resolved and agreed upon.

316.603–3 Limitations.

The principal official responsible for acquisition shall be the approving official who executes the prescribed

*Use applicable word, words, or statement.

determination and findings. However, if the principal official responsible for acquisition is to sign the letter contract as the contracting officer, the approving official becomes the head of the contracting activity.

316.603-70 Information to be furnished when requesting authority to issue a letter contract.

The following information should be included by the contracting officer in any memorandum requesting approval to issue a letter contract:

(a) Name and address of proposed contractor.

(b) Location where contract is to be performed.

(c) Contract number, including modification number, if possible.

(d) Brief description of work and services to be performed.

(e) Performance or delivery schedule.

(f) Amount of letter contract.

(g) Estimated total amount of definitized contract.

(h) Type of definitive contract to be executed (fixed price, cost-reimbursement, etc.)

(i) Statement of the necessity and advantage to the Government of the use of the proposed letter contract.

(j) Statement of percentage of the estimated cost that the obligation of funds represents. In rare instances where the obligation represents 50 percent or more of the proposed estimated cost of the acquisition, a justification for that obligation must be included which would indicate the basis and necessity for the obligation (e.g., the contractor requires a large initial outlay of funds for major subcontract awards or an extensive purchase of materials to meet an urgent delivery requirement). In every case, documentation must assure that the amount to be obligated is not in excess of an amount reasonably required to perform the work.

(k) Period of effectiveness of the proposed letter contract. If more than 180 days, complete justification must be given.

(l) Statement of any substantive matters that need to be resolved.

316.603-71 Approval for modifications to letter contracts.

All letter contract modifications (amendments) must be approved by the principal official responsible for acquisition. Requests for authority to issue letter contract modifications shall be processed in the same manner as requests for authority to issue letter contracts and shall include the following:

(a) Name and address of the contractor.

(b) Description of work and services.

(c) Date original request was approved and indicate approving official.

(d) Letter contract number and date issued.

(e) Complete justification as to why the letter contract cannot be definitized at this time.

(f) Complete justification as to why the level of funding must be increased.

(g) Complete justification as to why the period of effectiveness is increased beyond 180 days, if applicable.

(h) If the funding of the letter contract is to be increased to more than 50 percent of the estimated cost of the acquisition, the information required by 316.603-70(j) must be included.

Subpart 316.7—Agreements

316.702 Basic agreements.

(a) [Reserved]

(b) *Application.*

(1) [Reserved]

(2) Basic agreements shall continue in effect until termination, supersession, or expiration of the term.

(c) [Reserved]

(d) *Contracts incorporating basic agreements.*

(1) [Reserved]

(2) Any provision of a contract which conflicts with the terms of a basic agreement must be approved by the Director, Division of Procurement Policy.

(3) [Reserved]

(4) Basic agreements may include negotiated overhead rates for cost-reimbursement type contracts. Where negotiated overhead rates are included, the bases to which the rates apply and the period of applicability must also be stated. All pertinent provisions such as final rates for past periods, provisional rates for current or future periods, ceilings, and any specific items to be treated as indirect costs shall also be included as appropriate.

(e) *Content and format.* A basic agreement shall consist of an execution page(s), contents page, special provisions, and general provisions. The following is illustrative of an execution page:

Basic Agreement Number — Page 1 of—pages

Basic Agreement

Between the United States of America, as represented by the Department of Health and Human Services, and (Name of Contractor), this agreement, effective (Insert Date) by and between the United States of America, hereinafter called the "Government," as represented by the Department of Health and Human Services, and (Name of Contractor), a corporation organized and existing under the laws of the (State/Commonwealth) of _____ with its principal office in (City, State), hereinafter called the "Contractor".

Witnesseth That

Whereas, the Government and the Contractor desire to enter into a single basic agreement for use only in connection with negotiated (insert type of contract and categories of effort that the basic agreement will cover) entered into on or after the effective date of this Agreement, and prior to its termination; and

Whereas, the parties understand that this Agreement shall not in any manner provide for or imply any agreement on the part of the Government to place future orders or contracts with the Contractor.

Now therefore, the Government and the Contractor agree that the provisions and clauses of the Special Provisions, as set forth herein, and the General Provisions, as set forth and modified herein, shall be incorporated in and constitute the terms and conditions applicable to all negotiated (insert type of contract and categories of effort that the basic agreement will cover) entered into on or after the effective date of this Agreement, and prior to its termination.

In witness whereof, the parties hereto have executed this Agreement as of the day and year first above written.

United States of America

Name of Contractor _____

_____

Signature of Contracting Officer

By _____

Signature of Authorized Official

Typed name _____

Typed name _____

Date _____

(f) *Procedures.* (1) Negotiation of basic agreements may be undertaken by OPDIV contracting activities on behalf of the Department. When an OPDIV contracting activity decides to negotiate a basic agreement with an organization, prior authorization must be requested, in writing, from the Director, Division of Procurement Policy (DPP). When the Director, DPP, gives written authorization to the OPDIV contracting activity designated to conduct negotiations on behalf of the Department, all other OPDIVs will be notified of this designation. If another OPDIV elects, it may attend the negotiation or furnish special terms and conditions or provisions for inclusion in the proposed basic agreement by advising the designated negotiating activity in writing within ten (10) days from the date of the authorization. After review and resolution of all requests for inclusion of special terms and conditions or provisions, the designated negotiating activity will invite those OPDIVs which expressed an interest in attending the negotiations and make the necessary arrangements for the negotiation of the basic agreement.

(2) Prior to the conclusion of negotiations, the designated negotiating activity shall furnish the OPDIVs a draft copy of the proposed basic agreement together with:

(i) A resume of all salient features of the basic agreement which will facilitate review;

(ii) Any of the negotiating OPDIV's guides or procedures which are being considered for incorporation into the basic agreement by reference;

(iii) A listing of nonstandard clauses used, the genesis of such clauses, and the reasons for such clauses in the basic agreement; and

(iv) The contractor's comments, including the basis for requesting any deviation from the HHSAR and the designated negotiating activity's position with respect thereto.

(3) The OPDIVs shall have fifteen (15) days from the date of the memorandum transmitting the information to submit comments on the draft copy of the basic agreement. After receipt, analysis, and resolution of the comments of the OPDIVs, the designated negotiating activity will proceed to conclude the negotiation of the basic agreement.

(4) After conclusion of the negotiation, but prior to execution of the basic agreement, a copy of the basic agreement, together with the information specified in paragraph (f)(2) above, the comments of the OPDIVs, the designated negotiating activity's analysis of the OPDIV comments, and the basis for the action taken will be furnished to the Director, Division of Procurement Policy for review by DPP and the Office of General Counsel. Approval by the Director, DPP must be given prior to the execution of the basic agreement. After approval and execution of the basic agreement, the designated negotiating activity will distribute the executed document to the OPDIVs, Office of General Counsel, and the Director, DPP. The basic agreement is mandatory for use by all activities of the Department for all acquisitions falling within the scope of the basic agreement.

316.770 Unauthorized types of agreements.

316.770-1 Letters of intent.

A letter of intent is an informal unauthorized agreement between the Government and a prospective contractor which indicates that products or services will be produced after completion of funding and/or other contractual formalities. Letters of intent are often solicited by prospective contractors or may be originated by Government personnel. Letters of intent are not authorized by the FAR and are prohibited for use by Department personnel.

316.770-2 Memorandums of understanding.

A "memorandum of understanding" is an unauthorized agreement, usually drafted during the course of negotiations, to modify mandatory FAR and HHSAR provisions in such a manner as to make them more acceptable to a prospective contractor. It may be used to bind the contracting officer in attempting to exercise rights given the Government under the contract, or may contain other matters directly contrary to the language of the solicitation or prospective contractual document. Use of such memorandums of understanding is not authorized. Any change in a solicitation or contract shall be made by amendment or modification to that document. When a change to a prescribed contract clause is considered necessary, a deviation shall be requested.

PART 317—SPECIAL CONTRACTING METHODS

Subpart 317.2—Options

Sec.
317.201 Definition.
317.202 Use of options.
317.203 Solicitations.
317.206 Evaluation.

Subpart 317.70—Consolidated Acquisitions

317.7001 General.
317.7002 Policy.

Subpart 317.71—Supply and Service Acquisitions Under the Government Employees Training Act

317.7100 Scope of subpart.
317.7101 Applicable regulations.
317.7102 Methods of processing requests for training.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 317.2—Options

317.201 Definition.

(a) An option must:

(1) Identify the supplies or services as a discrete option quantity in addition to the basic quantity of supplies or services to be delivered under the initial contract award;

(2) Establish a price or specify a method of calculation which will make the price certain;

(3) Be agreed to and included in the initial contract award; and

(4) Permit the Government the right to exercise the option unilaterally.

(b) Contract provisions which provide the Government the right to buy additional requirements, subject to the written agreement of the contractor, do not meet the requirements of paragraph (a)(4) of this section and are not authorized. Further, any contract provision which merely extends the initial contract period without requiring delivery of additional supplies or services is not an option.

317.202 Use of options.

(a) and (b) [Reserved]

(c) (1)-(5) [Reserved]

(6) The primary purpose for inclusion would be the achievement of administrative convenience.

317.203 Solicitations.

(a)-(f) [Reserved]

(g)(1) [Reserved]

(2) When unusual circumstances exist, the principal official responsible for acquisition (not delegable) may approve a greater percentage (but see FAR 17.205).

317.206 Evaluation.

The determination referenced in FAR 17.206(a) shall be made by the chief of the contracting office.

Subpart 317.70—Consolidated Acquisitions

317.7001 General.

Studies have indicated that substantial savings can be realized through centralized and consolidated acquisitions of common use supplies, services, and equipment. The Department has identified common use items and has applied the principle of consolidated acquisition to these items.

317.7002 Policy.

(a) The following supplies, services, and equipment have been indentified as common use items and are to be acquired by the centralized contracting activity identified in paragraph (b):

(1) Administrative supplies, equipment, and services (i.e., general use office items or related services), as distinguished from functional or program requirements.

(2) Automated data processing services (but see ADP Systems Manual, Chapter 4).

(3) Stenographic reporting services.

(4) Visual arts, graphics, and supplementing services.

(5) Press clipping services.

(b) Activities within the metropolitan Washington, D.C. area are required to submit purchase requests for the above items to the applicable centralized contracting activity as follows:

(1) Activities located in the Southwest Washington complex; Procurement Branch, Division of Contract and Grant

Operations, Office of Management Services, Office of the Secretary.

(2) Parklawn Complex, Rockville, Maryland (Montgomery and Prince Georges Counties area); Division of Materiel Management, Administrative Services Center, Office of Management, Public Health Service.

(3) National Institutes of Health; Division of Administrative Services, National Institutes of Health.

(c) Activities outside the metropolitan Washington, D.C. area are encourage to establish centralized points to conduct acquisitions for common use items.

Subpart 317.71—Supply and Service Acquisitions Under the Government Employees Training Act

317.7100 Scope of subpart.

This subpart provides alternate methods for obtaining training in non-Government facilities under the Government Employees Training Act, 5 U.S.C. Chapter 41.

317.7101 Applicable regulations.

Basic policy, standards and delegations of authority to approve training are contained in HHS Personnel Manual Instructions 250–15 and 410–1. Travel expense instructions are contained in HHS Travel Manual Chapter 1–90.

317.7102 Methods of processing requests for training.

(a) HHS Form 350 may be processed as a request and authorization to the contracting office.

(b) As deemed desirable by OPDIVs and their subordinate elements, HHS Form 350 need not be processed through the contracting office provided the following conditions are met:

(1) The authorizing official has contracting authority delegated to his/her position.

(2) HHS Form 350 is acceptable to the OPDIV's fiscal office as an obligating document.

(c) Use of HHS Form 350 under the provisions of paragraph (b) above shall constitute an authorized deviation from the requirements of use of Optional Forms 347 and 348.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 319—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 319.2—Policies

Sec.

319.201 General policy.
319.201–70 Small and disadvantaged business utilization specialist.
319.270 Federal acquisition conferences.

Subpart 319.5—Set-Asides for Small Business

319.501 General.
319.503 Setting aside a class of acquisitions.
319.503–70 Small business class set-aside for construction, repair, and alteration work.
319.505 Rejecting set-aside recommendations.
319.506 Withdrawing or modifying set-asides.
319.570 Contract payments.

Subpart 319.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

319.705 Responsibilities of the contracting officer under the subcontracting assistance program.
319.705–2 Determining the need for a subcontracting plan.
319.705–3 Preparing the solicitation.
319.705–4 Reviewing the subcontracting plan.
319.705–5 Awards involving subcontracting plans.
319.705–6 Postaward responsibilities of the contracting officer.
319.706 Responsibilities of the cognizant administrative contracting officer.

Subpart 319.8—Contracting With the Small Business Administration (the 8(a) Program)

319.801 General.
319.803 Selecting acquisitions for the 8(a) program.
319.870 Acquisition of technical requirements.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 319.2—Policies

319.201 General policy.

(a) and (b) [Reserved]

(c) The functional management responsibilities for the Department's small business, disadvantaged business, and labor surplus area programs are delegated to the Director of the Office of Small and Disadvantaged Business Utilization (OSDBU).

(1) The Director, OSDBU is responsible for:

(i) Recommending to the Under Secretary overall Department-wide operating concepts and policies relating to the Department's small business, disadvantaged business, and labor surplus area programs;

(ii) Implementing policy decisions through the issuance of operating procedures (Operating Divisions (OPDIVs) may develop alternative procedures for achieving departmental policy goals, and objectives. However, any change in procedures must be approved by the Under Secretary);

(iii) Reviewing and evaluating the Department's policies, practices, and procedures pertaining to the disadvantaged business, small business, and labor surplus area programs, as well as recommending changes or corrective actions to the OPDIV heads or to the Under Secretary, as appropriate;

(iv) Providing the Under Secretary with regular appraisals of performance and quality of effort, including timely notification of significant problems, events, and accomplishments, and the need for changes in Department-wide objectives and policies; and

(v) Providing technical assistance and support to the small and disadvantaged business utilization specialists.

(2) The Director, OSDBU is authorized to:

(i) Establish standards, procedures and operating guidelines controlling the manner in which the small business, disadvantaged business, and labor surplus areas programs are conducted throughout the Department;

(ii) Provide advice on proposed allocations of personnel, funds, and other resources in light of the total needs of the Department;

(iii) Prescribe, after coordination with appropriate concerned personnel, reporting requirements necessary to preserve openness in reporting, identifying emerging problems, monitor Department-wide activity, and provide a basis for appraisal and evaluation of performance. To the maximum extent, these reporting requirements will be satisfied through existing Department-wide reporting systems or by making modifications to them;

(iv) Conduct surveys and review of operating practices in the OPDIVs and regional offices; and

(v) Communicate directly with the small and disadvantaged business utilization specialists to assist them in carrying out their individual and collective responsibilities.

§ 319.201–70 Small and disadvantaged business utilization specialist.

(a) The Head of each OPDIV shall appoint a qualified full time small and disadvantaged business utilization specialist (SADBUS) in the following activities: Office of Human Development Services (OHDS), Health Care Financing Administration (HCFA), Social Security Administration (SSA), Public Health Service (PHS), to include the Food and Drug Administration (FDA), Health Resources and Services Administration (HRSA), National Institutes of Health (NIH), Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), Centers for Disease Control (CDC), and Administrative Services Center (ASC). A SADBUS shall also be appointed for the Office of the Secretary (OS) and for each Regional Office. In the regions, a SADBUS shall also be appointed for each Regional Operations for Facilities

Engineering and Construction. As deemed necessary, additional small and disadvantaged business utilization specialists may be appointed in larger contracting activities.

(b) When the volume of contracting does not warrant assignment of a full-time SADBUS, an individual shall be appointed as the specialist on a part-time basis. The responsibilities of this assignment shall take precedence over other responsibilities. The specialist shall be responsible directly to the appointing authority and shall be at an organizational level outside the direct acquisition chain of command, i.e., should report directly to the principal official responsible for acquistion, where appropriate.

(c) The Director, OSDBU will exercise functional management authority over small and disadvantaged business utilization specialist regarding small business, disadvantaged business, and labor surplus area matters. Appointments of SADBUS's shall only be made after consultation with the Director, OSDBU. A copy of each appointment and termination of appointment of specialists shall be forwarded to the Director, OSDBU.

(d) The SADBUS shall perform the following duties, as determined to be appropriate to the activity by the appointing official or by the Director, OSDBU. The SADBUS shall:

(1) Maintain a program designed to locate capable small business, disadvantaged business, and labor surplus area business sources for current and future acquisitions, through SBA or by using other methods;

(2) Coordinate inquiries and requests for advice from small business, disadvantaged business, and labor surplus area business concerns on acquisition matters;

(3) Prior to the issuance of solicitations (or contract modifications for additional supplies or services) in excess of $10,000, which have not been reviewed, reserved, or set-aside by the contracting officer, review the contracting officer's justification for such action;

(4) Assure that small business, disadvantaged business, and labor surplus area concerns are provided adequate specifications or drawings by initiating actions, in writing, with appropriate technical and contracting personnel to ensure that all necessary specifications or drawings for current and future acquisitions, as appropriate, are available;

(5) Review proposed requirements for possible breakout of items suitable for acquisitions from small business, disadvantaged business and labor surplus area concerns;

(6) Assure that financial assistance, available under existing regulations, is offered, and that requests by small business concerns for proper assistance are not treated as a handicap in the award of contracts;

(7) Participate in determinations concerning responsibility of prospective contractors whenever small business concerns are involved;

(8) Participate in the evaluation of a prime contractor's small business, labor surplus area, and disadvantaged business subcontracting plans;

(9) Advise and assist contracting officers in discharging their responsibilities by:

(i) Monitoring and reviewing contractor performance to determine compliance with small and small disadvantaged business subcontracting plans, and

(ii) Developing and maintaining records and reports that reflect such compliance or noncompliance;

(10) Review and make appropriate recommendations to the contracting officer on proposals to furnish Government-owned facilities to contractors if this action may enhance the small business program;

(11) Assure that the participation of small businesses, disadvantaged businesses, and labor surplus area concerns is accurately reported;

(12) Make available to SBA copies of solicitations when so requested;

(13) When a bid or offer from a small business, disadvantaged business, or labor surplus area concern has been rejected for nonresponsiveness or nonresponsibility, upon request, aid, counsel and assist that firm in understanding requirements for responsiveness and responsibility so that the firm may be able to qualify for future awards;

(14) Participate in government-industry conferences to assist small business, disadvantaged business, and labor surplus area concerns, including Business Opportunity/ Federal Acquisition Conferences, Minority Business Enterprises Acquisition Seminars, and Business Opportunity Committee meetings;

(15) Advise potential sources how they can obtain information about formally advertised and negotiated acquisitions;

(16) Brief the head of the contracting activity at least once quarterly concerning the status of the activity's small business, disadvantaged business, and labor surplus area programs in relation to goals and objectives established;

(17) Participate in the development, implementation, and review of automated source systems to assure that the interests of small business, disadvantaged business and labor surplus area concerns are fully considered;

(18) Assure that the organization maintains a list of products and services which are categorized as repetitive small business set-aside;

(19) Provide small business, disadvantaged business, and labor surplus area concerns information regarding assistance available from Federal agencies such as the Small Business Administration, Minority Business Development Agency, Bureau of Indian Affairs, Economic Development Administration, National Science Foundation, Department of Labor, and others, including State agencies and trade associations;

(20) Be responsible for establishing an education and training program for personnel whose duties and functions affect the activity's small business, disadvantaged business and labor surplus areas programs; and

(21) Participate in interagency programs relating to small business, disadvantaged business, and labor surplus area matters as authorized by the Director, OSDBU.

319.270 Federal acquisition conference.

The Department of Commerce is responsible for coordinating the participation of Federal civilian agencies in a continuing series of conferences which are sponsored by members of Congress. The objectives of these conferences are:

(a) Location of additional acquisition sources to broaden the acquisition base of Federal agencies;

(b) Stimulation of local, regional, and national economic growth, national security, and cost reduction;

(c) Location of underutilized production capacity;

(d) Prevention or elimination of pockets of underemployment; and

(e) Assistance of small and small disadvantaged business concerns.

As notified by the OSDBU, contracting activities shall provide appropriate SADBUS or acquisition personnel to participate in person-to-person counseling at these conferences. Ordinarily, participation by contracting activities will be restricted to conferences held within the geographical areas adjacent to their officers. The brochure, "How To Do Business With DHHS" should be of great assistance in this counseling as it has been specifically prepared to assist

individuals, firms, and institutions who may wish to do business with this Department. It contains a brief description of the mission and programs of HHS and its Operating Divisions and provides a listing of contracting offices and the types of services and commodities acquired by each.

Subpart 319.5—Set-Asides for Small Business

319.501 General.

(a) and (b) [Reserved]

(c) Prior to the contracting officer's review, the SADBUS shall review each proposed acquisition to determine the feasibility of recommending award to the Small Business Administration (SBA) pursuant to section 8(a) of the Small Business Act. When it cannot be awarded to SBA pursuant to section 8(a), the SADBUS shall review the proposed acquisition to determine if it can be recommended as a set-aside under one of the set-aside priorities stated in FAR 19.504. The SADBUS's finding shall be entered on Form HHS–653, Small Business-Labor Surplus Set-Aside Review Form, with the reasons for the type of set-aside recommended, or the reasons for recommending against a set-aside, and provided to the contracting officer. Upon receipt of the Form HHS–653, the contracting officer shall promptly approve or disapprove the SADBUS's finding. If the SADBUS recommends against a set-aside and the contracting officer approves, the proposed acquisition will be handled as an open market acquisition. If the SADBUS recommends against a set-aside but the contracting officer disapproves, the contracting officer is to document his/her decision on the Form HHS–653, discuss the matter with the SADBUS, and attempt to agree on a decision; however, the contracting officer will make the final determination as to whether the proposed acquisition will be set-aside or not. If the contracting officer approves the SADBUS's set-aside recommendation, the proposed acquisition will be set-aside as specified. However, if the contracting officer disapproves the SADBUS's set-aside recommendation, the reasons must be documented on the Form HHS–653. (See 319.505 for options available to the SADBUS regarding the contracting officer's disapproval of a set-aside recommendation.) In all cases, the completed Form HHS–653 is to be retained by the contracting officer and placed in the contract file.

319.503 Setting aside a class of acquisitions.

319.503–70 Small business class set-aside for construction, repair, and alteration work.

A small business class set-aside is considered to have been made for each proposed acquisition for construction, repair, and alteration work in an estimated amount ranging from $2,500 to $2 million. Accordingly, the contracting officer shall set aside for small business each proposed acquisition. If, in his/her judgment, the particular acquisition falling within the dollar limits specified above is unsuitable for a set-aside for exclusive small business participation, the procedure set forth in FAR 19.506 shall apply. Proposed acquisitions for construction, repair, and alteration work in an estimated amount of more than $2 million shall be processed on a case by case basis.

319.505 Rejecting set-aside recommendations.

(a) If the contracting officer rejects the SADBUS's recommendation for a set-aside and an SBA procurement center representative (PCR) is not assigned or available, the SADBUS may appeal, in writing, to the head of the contracting activity (HCA) or his/her designee. The SADBUS shall provide the HCA or designee all the pertinent information concerning the set-aside disagreement, and the HCA shall respond in writing within seven business days. The HCA's decision is final and not appealable. The decision by the HCA shall be attached to the Form HHS–653 and placed in the contract file. After receipt of a final decision by the HCA, and if the decision approves the action of the contracting officer, the SADBUS shall forward, for information and management purposes, complete documentation of the case to the OSDBU Director. Documentation transmitted shall include, as a minimum, a copy of the appeal memorandum submitted to the HCA, a copy of the IFB or RFP, a list of proposed sources, a copy of the Form HHS–653 and attachments completed by the SADBUS and the contracting officer, a copy of the HCA's decision, and all other written material considered by the HCA in arriving at the decision. The SADBUS' transmittal memorandum shall contain an affirmative statement that the attachments constitute the complete file reviewed and considered by the HCA in making the final decision.

If the SADBUS refers the case to the SBA PCR, the SBA PCR may either concur with the decision of the contracting officer not to set-aside the proposed acquisition or recommend to the contracting officer that it be set-aside. In either instance, no further appeal action shall be taken by the SADBUS. (Refer to FAR 19.505 for the procedures available to the SBA PCR concerning a set-aside rejection.)

319.506 Withdrawing or modifying set-asides.

(a) [Reserved]

(b) If an SBA PCR is not assigned, the disagreement between the contracting officer and the SADBUS shall be referred to the HCA for resolution.

(c) [Reserved]

(d) Immediately upon notice from the contracting officer, the SADBUS shall provide telephone notification regarding all set-aside withdrawals to the OSDBU Director.

319.570 Contract payments.

Contract payments to small business concerns must be made on a timely basis. Payment of an invoice or voucher must be made within 30 days after receipt of the invoice or voucher or from acceptance of the goods or services. Each invoice or voucher from a small business concern not sent directly to the servicing finance office, but received by the contracting activity, shall be stamped or otherwise identified for expedited payment before it is forwarded to the servicing finance office.

Subpart 319.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

319.705 Responsibilities of the contracting officer under the subcontracting assistance program.

319.705–2 Determining the need for a subcontracting plan.

The dollar value of all proposed incremental funding actions shall be included in determining whether the acquisition meets the dollar threshold requiring a subcontracting plan. The subcontracting plan shall be based on the total value of the acquisition which will include the value of all option quantities or funding actions.

319.705–3 Preparing the solicitation.

The SBA PCR should be allowed a period of one to five business days for the review of the solicitation, depending upon the circumstances and complexity of the individual acquisition.

Whenever the clause "Small Business and Small Disadvantaged Business Subcontracting Program" (see FAR 52.219–9) is to be used in a solicitation for a negotiated acquisition, a notification must be included in the solicitation that advises prospective

offerors that subcontracting plans may be requested from all concerns determined to be in the competitive range for negotiation with the apparent successful offeror.

319.705-4 Reviewing the subcontracting plan.

The offeror's/bidder's subcontracting plan for small business concerns shall be judged independently of the subcontracting plan for small disadvantaged business concerns. If a subcontracting plan is not obtained, the contracting officer must document the contract file to substantiate the reasons why the plan was not obtained. The contracting officer must obtain a satisfactory subcontracting plan prior to awarding the contract.

(a) and (b) [Reserved].

(c) During the source selection process, subcontracting plans may be requested from all concerns determined to be in the competitive range for negotiation with the apparent successful offeror.

(d) If the contracting officer determines that the subcontracting plan submitted reflects the best effort by the offeror/bidder to award subcontracts to small and small disadvantaged business concerns, but the SADBUS disagrees with the contracting officer's determination, a final determination shall be made by the principal official responsible for acquisition. The SADBUS shall submit this final determination to the Director, OSDBU with the appropriate supporting documentation.

(1) The contracting officer may accept the terms of an overall or "master" company subcontracting plan if it is incorporated by reference into a specific subcontracting plan submitted by the apparent successful offeror/bidder for a specific contract, if:

(i) The master plan contains all the elements required by the statute;

(ii) Subcontracting goals for small and small disadvantaged business concerns are specifically set forth in each contract or modification over the statutory thresholds;

(iii) Any changes to the plan deemed necessary and required by the contracting officer in areas other than goals are specifically set forth in the contract or modification;

(iv) The contracting officer has copies of the entire plan; and

(v) The SBA PCR has had an opportunity to comment on the master plan.

(2) If the prime contract is for a commercial product, the required subcontracting plan may relate to the company's production of the item generally (both for the Government contract and for regular commercial sale) rather than solely to the item being acquired under the Government contract. In such cases, the contractor shall be required to submit one company-wide, annual plan to be reviewed for approval by the first agency with which it enters into a prime contract (which requires a subcontracting plan) during the fiscal year. The approved plan will remain in effect for the entire fiscal year and is applicable to all deliveries made under contracts entered into during the contractor's fiscal year, even though these deliveries are made in a succeeding fiscal year. The contractor shall submit a new plan to the first agency with which it enters into a contract (over the statutory threshold) during a succeeding fiscal year. The new plan shall apply to all deliveries made under contracts entered into during the succeeding fiscal year, no matter when the deliveries are made.

319.705-5 Awards involving subcontracting plans.

(a) (1) and (2) [Reserved].

(3) The SBA PCR shall be allowed a period of one to five business days to review the contract award package, depending upon the circumstances and complexity of the individual acquisition.

319.705-6 Postaward responsibilities of the contracting officer.

The SADBUS shall perform the distribution requirements stated in paragraphs (a) through (c) of FAR 19.705-6. A copy of any company-wide plans and associated approvals shall also be sent to the Director, OSDBU by the SADBUS. In addition, the SADBUS is responsible for summarizing and reporting to the Director, OSDBU, on a quarterly basis, all prime contracts $500,000 and over ($1 million for construction) using the following reporting format:

(a) Name of the OPDIV and program office;

(b) Number and dollar amount of contracts requiring subcontracting plans;

(c) Number of contracts with subcontracting plans;

(d) Number of contracts without subcontracting plans;

(e) Small and small disadvantaged business subcontracting goals; and

(f) Statements citing reasons why small and small disadvantaged business subcontracting plans were not included in the contracts.

319.706 Responsibilities of the cognizant administrative contracting officer.

Standard Form 294, Subcontracting Report for Individual Contracts, is to be used to monitor the contractor's progress.

Subpart 319.8—Contracting With the Small Business Administration (the 8(a) Program)

319.801 General.

The signing of the contract document may be accepted as SBA's certification that SBA is competent to perform a specific HHS requirement.

319.803 Selecting acquisitions for the 8(a) program.

Brochures of 8(a) concerns which have been interviewed by the Office of Small and Disadvantaged Business Utilization are forwarded to each SADBUS. These brochures are to be reviewed by the SADBUS to match HHS requirements with the capabilities of these concerns. The SADBUS will make the capabilities of these concerns known to program personnel and will obtain other information, as needed, by contacting OSDBU or the Small Business Administration.

319.870 Acquisition of technical requirements.

(a) *Source selection.* (1) The section 8(a) program is a business development program, and the policy expressed in FAR 15.105 does not apply. Additionally, SBA has ultimate responsibility for nomination of an 8(a) subcontrator for proposed 8(a) requirement and may elect to deviate from usual source nomination procedures.

(2) Except for cases where SBA selects a concern for an 8(a) award, or as provided in paragraph (a)(3) below, limited technical competition shall be conducted for requirements for consulting services, computer science and related services, research, development, test, evaluation, demonstration, and technical and professional services, where technical aspects, methodology, or approach are of primary importance rather than price. At the request of the program director, the contracting activity may, in consultation with the SBA, require that written technical proposals be submitted by the concerns participating in the limited technical competition. (However, SBA encourages the submission of "open requirements" (requirements without source recommendations) for most professional services so that assistance may be afforded to concerns having the greatest need that meet the requisite capabilities.

In particular, SBA has requested that requirements for CPA audit services be submitted as "open requirements" or as sole source offerings (see paragraph (a)(3), below). Only in extenuating circumstances will SBA accept CPA audit service requirements when technical evaluation of more than one concern is requested. SBA has also determined that the selection procedures outlined in the "Brooks Bill" must be utilized in the award of A & E requirements under the 8(a) program. Therefore, whenever feasible, at least three 8(a) A & E concerns shall be evaluated for each A & E acquisition. The contracting activity shall conduct the technical evaluation and transmit the results of the evaluation to SBA in writing, along with any source recommendation. Further, to the extent feasible and practical, A & E contracts awarded under the 8(a) program shall be made to concerns which have their home office located in the metropolitan area or state where the work is to be performed.)

(3) There may be circumstances where one 8(a) concern has exclusive or predominant capability among 8(a) concerns by reason of experience, specialized facilities, or technical competence to perform the work within the time required. In these circumstances, after coordinating with the SADBUS, the initiating program office may recommend, for approval by the contracting officer, that only that 8(a) concern be considered for nomination to SBA. This recommendation shall be in writing, setting forth full and complete justification for the nomination. The justification shall be submitted to the appropriate contracting officer, through the SADBUS, for concurrence and shall be maintained as a permanent record in the contract file. In addition, a copy of the justification shall be included in the offering letter to SBA.

(4) Where limited technical competition is required or is determined to be appropriate, the sources (i.e., concerns) which are to be included will be decided by the contracting activity in consultation with SBA. Consultation will be initiated by nomination of sources recommended by program officials and the SADBUS and, if SBA elects, by SBA.

(5) Each 8(a) concern or group of concerns nominated for a specific 8(a) requirement shall have been approved by SBA for that particular requirement prior to any discussion with the concern(s) about the requirement.

(6) It is conceivable that limited technical competition will assist in the development of 8(a) concerns. However, contracting activities should recognize that the policy expressed in FAR 15.105 does not apply to the process of identifying potential contractors to be nominated to SBA under the 8(a) program, and that to involve a large number of 8(a) concerns in a limited technical competition may have an adverse impact on the limited financial resources of these concerns. Usually, three to five concerns should be nominated, depending on the nature of the intended contract and subject to SBA's approval.

(7) When a limited technical evaluation is conducted, a technical evaluation report shall be prepared and signed by the technical evaluators, furnished the contracting officer and maintained as a permanent record in the contract file. The report shall reflect the ranking of the concerns and shall identify each as acceptable or unacceptable. The report shall also include a narrative evaluation specifying the strengths and weaknesses of each concern, and any reservations or qualifications that might bear upon the selection of a source for negotiation and award. Concrete technical reasons supporting a determination of unacceptability with regard to any concern shall be included.

(b) *Offering letter.* (1) When a decision has been made by the SADBUS, program director, and contracting officer to process an acquisition through the Small Business Administration, under provisions of section 8(a) of the Small Business Act, the contracting activity shall promptly furnish the applicable SBA office a letter offering the acquisition to the SBA, with an information copy to the SADBUS. The offering letter should transmit the complete acquisition package. Additionally, the offering letter should include, but not necessarily by limited to, the following:

(i) A description of work to be performed or items to be delivered;

(ii) The names of the concerns nominated for technical competition or the name of the concern nominated for award (For limited technical competition, indicate whether or not written technical proposals are desired. If only one concern is nominated, a written justification must be included to substantiate limiting the nomination to one source, as indicated in 319.870(a)(3));

(iii) Contracting activity dollar estimate of the requirement;

(iv) Acquisition history (e.g., first time offered, items or services not presently being provided by a small business concern, etc.);

(v) Period of performance;

(vi) Any special requirements, restrictions, or geographical limitations (e.g., turn-around time demands a concern within two hours travel time, etc.);

(vii) A statement to the effect that public solicitation for the acquisition has not been issued;

(viii) A statement to the effect that the acquisition cannot reasonably be expected to be won by an eligible 8(a) concern under normal competitive means;

(ix) Type of proposed contract (i.e., fixed-price, cost plus fixed-fee, requirements, etc.); and

(x) A list of contractors who have performed on the specific requirement during the previous 12 months.

(2) Within ten (10) business days after receipt of the offering letter, SBA is to acknowledge the offering letter and accept or reject the requirement. If SBA has not acknowledged the offering letter within this period, the contracting activity, after giving due regard to the urgency of the acquisition, may withdraw the offer by giving written notice to SBA.

(3) When the concerns to be included in the limited technical competition have been decided on by the contracting activity, in consultation with SBA, the contracting officer shall hold a technical competition among those concerns. Cost factors shall not be included in the technical proposals nor brought out in any manner during technical discussions of the proposals.

(4) The contracting officer has a greater latitude in holding discussions with the concerns solicited under an 8(a) acquisition than under a non-8(a) acquisition. The technical evaluation report required by 319.870(a)(7) must be carefully reviewed to determine if any source declared to be unacceptable is capable of being made acceptable; i.e., would the submission of clarifying data or obtaining additional information make an otherwise unacceptable proposal acceptable? Negotiations will normally proceed similarly to the process described in FAR 36.607. If it is determined that the highest rated concern cannot furnish the required goods or services, SBA will be notified, and, upon approval by SBA, negotiations will commence with the next highest rated concern. When extensive discussions with all sources fail to result in any acceptable proposals, the contracting officer will notify SBA. If within ten (10) business days, SBA has not notified the contracting officer of any additional sources or any methods of improving the existing source(s), the contracting

activity will proceed with the acquisition without further regard for the 8(a) procedures, unless additional time is requested by SBA and the additional time is granted by the contracting activity after giving due regard to the urgency of the acquisition.

(5) When requested by SBA, the contracting activity shall render all possible assistance to SBA with respect to SBA's negotiation of 8(a) subcontracts. However, SBA will usually delegate negotiation authority to the HHS contracting activity.

(6) Upon receipt of a delegation, the contracting activity will promptly negotiate with the selected 8(a) concern. After the conclusion of negotiations with the selected source, the contracting activity will prepare the contract between the contracting activity and SBA and the subcontract between SBA and the selected source. These documents will be prepared in accordance with FAR 19.809, and forwarded to SBA for signature. Contracting activities shall completely negotiate the 8(a) subcontract and prepare the definitive subcontract documents before submitting the prime contract to SBA for signature.

(7) The contracting officer is responsible for promptly notifying all offerors if an award is to be delayed beyond 30 days from the date of receipt of technical proposals. The contracting officer is also responsible for keeping the offerors informed of the situation if the delay persists or other problems arise which impede the award.

(c) *Debriefing.* Unsuccessful offerors shall be promptly notified of the contract award. A debriefing, when requested in writing, shall be provided by the cognizant contracting officer to an 8(a) concern that has been unsuccessful in an 8(a) limited technical competition.

(d) *Unacceptable offerors.* If it is determined during negotiations that the selected offeror is technically unacceptable, the contracting activity shall promptly notify the SBA. If it appears that an offeror would be unable to earn a profit if awarded the contract, both SBA and OSDBU shall be notified by the contracting officer.

(e) *Liaison with the Small Business Administration.* (1) Contracting activities will maintain a continuous liaison with the SBA to ensure that the overall goals of each activity are achieved. In the event there is a dispute between the contracting activity and an SBA representative regarding any aspects of 8(a) contracting, the contracting activity must promptly notify the OSDBU.

(2) The business development responsibility of SBA requires them to assist in and monitor the growth and development of all 8(a) concerns. Therefore, it is incumbent upon HHS to assist SBA in this effort by utilizing the source selection process in a manner that would make use of the largest possible number of 8(a) concerns.

(f) *Arriving at contract amount.* Contracts will be awarded at prices which are fair and reasonable (see FAR 19.805 and 19.806).

(g) *Advance payments.* 8(a) concerns requesting advance payments should be advised to submit the request to the SBA, in writing, in accordance with SBA operating procedures. SBA is responsible for reviewing and approving requests, and for making funds available, for advance payments under 8(a) contracts.

(h) *Contract modifications, inspections, etc.* The responsibility for subcontract administration and field inspection will, in most cases, be delegated by SBA to the contracting activity. The contracting activity shall keep SBA apprised of all contract modifications, progress payments, and any other pertinent data requested by SBA.

(i) *Subcontract administration.* Some concerns may need additional management expertise for optimal performance and completion of a particular contract. Therefore, when subcontract administration is delegated to HHS by SBA, the contracting activity shall promptly apprise the SBA, the SADBUS, and OSDBU whenever the contractor is experiencing problems. SBA should provide necessary technical assistance so the contractor can successfully complete the contract.

(j) *Contract termination.* The OSDBU, SADBUS, and SBA are to be notified prior to initiating final action to terminate an 8(a) contract.

PART 320—LABOR SURPLUS AREA CONCERNS

Subpart 320.1—General

320.102 General policy.

Contracting activities should obtain appropriate publications and other information identifying labor surplus areas from:

U.S. Department of Labor, Employment and Training Administration, Office of Policy Evaluation and Research, Division of Labor Market Information, Washington, D.C. 20530.

Contracting officers shall use the "Directory of Labor Surplus Area Contractors," provided by the Office of Small and Disadvantaged Business Utilization, as a source to identify labor surplus area concerns and to augment other labor surplus area source lists. Contracting officers should also seek to identify concerns from labor surplus areas by placing sources sought synopses in the Commerce Business Daily. Small and disadvantaged business utilization specialists shall assist contracting officers in developing and maintaining source lists of small business and other concerns in labor surplus areas. Department of Commerce and SBA regional and field offices should be contacted for assistance in identifying labor surplus area concerns.

(5 U.S.C. 301; 40 U.S.C. 486(c))

PART 323—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

Subpart 323.70—Safety and Health

Sec.

323.7000 Scope of subpart.
323.7001 General.
323.7002 Policy.
323.7003 Actions required.
323.7004 Contract clause.
323.7005 Solicitation notice—construction.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 323.70—Safety and Health

323.7000 Scope of subpart.

This subpart prescribes the use of a safety and health clause in contracts involving hazardous material or operations, and procedures for developing and administering safety and health provisions.

323.7001 General.

Various statutes and regulations (e.g., Walsh-Healey Act; Service Contract Act) require adherence to minimum safety and health standards by contractors engaged in potentially hazardous work. Positive action to reduce accidents and conditions hazardous to health under all contracts is in the Government's interest since the cost of such accident and health hazards is borne by the Government through higher prices and sometimes by direct indemnification of contractors against liability claims.

323.7002 Policy.

(a) The guidance contained in FAR Subpart 23.3 shall be used for hazardous material as a first line of reference. When that guidance is judged insufficient or does not meet the safety and health situation in the instant acquisition, this subpart is to be followed.

(b) Whenever the performance of a contract will require use of hazardous materials or operations, the contracting

activity shall require the prime contractor and subcontractors to:

(1) Provide protection for the life and health of HHS employees, contractor employees, other persons involved with work on HHS programs and projects, and the public;

(2) Avoid accidental work interruptions which could delay progress of HHS programs and projects;

(3) Maintain controls for the prevention of damage and loss to property; and

(4) Accumulate and provide data necessary for analysis of risk and loss factors relating to HHS programs and projects.

323.7003 Actions required.

(a) *Contracting activities.* Contracting activities shall use the clause set forth in 352.223–70 as a guide in developing appropriate safety and health clauses for use in prospective contracts involving the following:

(1) Services or products;

(2) Research, development, or test projects;

(3) Transportation of hazardous materials; and

(4) Construction, including construction of facilities on the contractor's premises.

(b) *Safety officers.* OPDIV safety officers shall advise and assist initiators of acquisition requests and contracting officers in:

(1) Determining whether safety and health provisions should be included in a prospective contract;

(2) Selecting or developing safety and health clause provisions for incorporation in a prospective contract;

(3) Evaluating a prospective contractor's safety and health programs; and

(4) Conducting post-award review and surveillance to the extent deemed necessary.

(c) *Initiators.* Initiators of acquisition requests for items described in paragraph (a) of this section shall:

(1) During the preparation of a request for contract, and in the RFP or IFB:

(i) Ensure that hazardous materials and operations to be utilized in the performance of the contract are clearly identified; and

(ii) Coordinate with the appropriate safety officer to ensure that all hazardous materials and operations are evaluated and that adequate safety requirements are established in the RFP or IFB.

(2) During the period of performance:

(i) Apprise the contracting officer of any noncompliance with safety and health provisions identified in the contract; and

(ii) Cooperate with the safety officer in conducting review and surveillance activities.

323.7004 Contract clause.

All contracts which require the use of hazardous materials or operations shall include a clause to provide adherence to minimum safety and health standards. The clause set forth in 352.223–70 may be used or appropriately modified to meet the needs of the individual contract.

323.7005 Solicitation notice—Construction.

The contracting officer is to include the notice in 352.223–71 in all solicitations for construction and construction services. A similar notice is to be included in all contracts resulting from those solicitations.

PART 324—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 324.1—Protection of Individual Privacy

Sec.
324.100 Scope of subpart.
324.102 General.
324.103 Procedures.

Subpart 324.2—Freedom of Information Act

324.201 Authority.
324.270 Applicability.
324.271 Availability and nonavailability of specific records.
324.272 Procedures.

Subpart 324.70—Confidentiality of Information

324.7001 General.
324.7002 Policy.
324.7003 Applicability.
324.7004 Required clause.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 324.1—Protection of Individual Privacy

324.100 Scope of subpart.

This subpart implements 45 CFR Part 5b, Privacy Act Regulations, and FAR Subpart 24.1, Protection of Individual Privacy, which implement the Privacy Act of 1974 (Pub. L. 93–579, December 31, 1974; 5 U.S.C. 552a) and OMB Circular No. A–108, July 9, 1975.

324.102 General.

(a) It is the Department's policy to protect the privacy of individuals to the maximum possible extent while permitting the exchange of records required to fulfill the Department's administrative and program responsibilities and its responsibilities for disclosing records to which the general public is entitled under the Freedom of Information Act (5 U.S.C. 552). The Privacy Act of 1974 and the Department's implementation under 45 CFR Part 5b apply "when an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish any agency function . . ." The key factor is whether a departmental function is involved. Therefore, the Privacy Act requirements apply to a departmental contract when, under the contract, the contractor must maintain or operate a system of records to accomplish a departmental function.

(b)–(d) [Reserved.]

(e) The program official, and, as necessary, the official designated as the activity's Privacy Act Coordinator and the Office of General Counsel, shall determine the applicability of the Act to each proposed acquisition. The program official is required to include a statement in the request for contract indicating whether the Privacy Act is or is not applicable to the proposed acquisition.

(f) Whenever the contracting officer is informed that the Privacy Act is not applicable, but the resultant contract will involve the collection of individually identifiable personal data by the contractor, the contracting officer shall include provisions to protect the confidentiality of the records and the privacy of individuals identified in the records (see Subpart 324.70).

324.103 Procedures.

(a) All requests for contract shall be reviewed by the contracting officer to determine whether the Privacy Act requirements are applicable. If applicable, the contracting officer shall include the solicitation notification and contract clause required by FAR 24.104 in the solicitation, and the contract clause in the resultant contract. In addition, the contracting officer shall ensure that the solicitation notification, contract clause, and other pertinent information specified in this subpart are included in any contract modification which results in the Privacy Act requirements becoming applicable to a contract.

(b)(1) The contracting officer shall identify the system(s) of records on individuals in solicitations, contracts, and contract modifications to which the Privacy Act and the implementing regulations are applicable.

(2) The contracting officer shall include a statement in the contract notifying the contractor that the contractor and its employees are subject to criminal penalties for violations of the Act (5 U.S.C. 552a(i)) to the same extent as employees of the Department. The statement shall require that the

contractor assure that each contractor employee knows the prescribed rules of conduct, and each contractor employee is aware that he/she can be subjected to criminal penalties for violations of the Act. The contracting officer shall provide the contractor with a copy of the rules of conduct and other requirements set forth in 45 CFR 5b.

(c) The contracting officer shall include in the contract the disposition to be made of the system(s) of records on individuals upon completion of performance of the contract. For example, the contract may require the contractor to completely destroy the records, to remove personal identifiers, to turn the records over to the Department, or to keep the records but take certain measures to keep the records confidential and protect the individuals' privacy.

(d) Whenever an acquisition is determined to be subject to the Privacy Act requirements, a "system notice," prepared by the program official and describing the Department's intent to establish a new system of records on individuals, to make modifications to an existing system, or to disclose information in regard to an existing system, is required to be published in the **Federal Register.** A copy of the "system notice" shall be attached to the request for contract or purchase request. If a "system notice" is not attached, the contracting officer shall inquire about its status and shall obtain a copy from the program official for inclusion in the contract file. If a "system notice" has not been published in the **Federal Register,** the contracting officer may proceed with the acquisition but shall not award the contract until the "system notice" is published, and publication is verified by the contracting officer.

Subpart 324.2—Freedom of information Act

324.201 Authority.

The Department's regulation implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, is set forth in 45 CFR Part 5. This subpart implements those aspects of the FOIA and 45 CFR Part 5 that apply to acquisition and contract records.

324.270 Applicability.

(a) The FOIA and 45 CFR Part 5 provide that Government records (see 45 CFR 5.5 for the definition of "records") are generally to be made available to the public after receipt of a request. However, the Department may withhold records if they fall within one or more of the specific categories exempted from disclosure by the FOIA.

(b) The FOIA exemption most often cited to deny disclosure of acquisition and contract records is exemption (b)(4)(5 U.S.C. 552(b)(4)), i.e., "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Trade secrets, within the meaning of 18 U.S.C. 1905, are exempt from disclosure. Commercial and financial information can be exempted from disclosure only if it is privileged and confidential and is obtained from a person (source) by the Government. Commercial or financial information is generally considered confidential under exemption (b)(4) if disclosure is likely to have either of the following effects:

(1) It would impair the Government's ability to obtain necessary information in the future; or

(2) It would cause substantial harm to the competitive position of the source from whom the information was obtained.

(c) Use of a restrictive legend on a document by the submitter of the document that purportedly identifies confidential information does not by itself place the document under an exemption. (See 324.272, below, for procedures to be followed by the contracting officer, and 315.413 for the treatment of data in proposals.)

324.271 Availability and nonavailability of specific records.

Subpart F of 45 CFR Part 5 identifies specific types of records that may or may not be disclosed under the FOIA. Refer to 5.71 (c) and (d) for general guidance and 5.72 (c), (d), and (e) for details on specific acquisition records. In addition, the Appendix to 45 CFR Part 5 provides a list of examples of specific records or information concerning contracts which are generally available and those which are not generally available under the FOIA. Note that these are general guidelines and application may vary based upon the circumstances of each individual case.

324.272 Procedures.

(a) The contracting officer, upon receiving an FOIA request, shall follow Department and operating division procedures. As necessary, actions should be coordinated with the cognizant Freedom of Information (FOI) and the Office of General Counsel.

(b) When evaluating a FOIA request for a contract or acquisition record which was obtained wholly or in part from a source outside the Department, the contracting officer must consider the origin of the record, its subject matter, and whether it was submitted under a restrictive legend. In instances when it is not certain whether a record or a portion of a record is to be withheld or disclosed under the FOIA, the following procedures shall be followed.

(1) If there is reason to believe the source may object to release of the record or part of the record, the contracting officer or FOI official shall notify the source in writing that a request has been received, and the Department is considering release of the requested material. The written notification must advise the source of the specific requested material and require that the source provide a justification for withholding the material under an exemption of the FOIA if the source objects to its release. The notification must inform the source that the justification should explain in detail how disclosure of the requested material would result in significant harm to the competitive position of the source or benefit its competitors. The notification must also advise the source that the justification must be provided to the contracting officer or FOI official within five (5) working days from the date of the written notification.

(2) Based on the justification submitted by the source in response to the notification described above and any other pertinent information, the contracting officer and the cognizant FOI official, in consultation with the Office of General Counsel, if necessary, shall consider whether to withhold the record or portions of the record from disclosure. Only the FOI official is authorized to make the determination to withhold the record or portions of the record from disclosure.

(3) If the source objects to the release of the information but the FOI official disagrees with the justification for withholding, the FOI official will notify the source and the requestor in writing of the determination. The notification to the source must include a copy of the material marked as the Department proposes to release it and must state that release will be made five (5) working days from the date of that notification.

Subpart 324.70—Confidentiality of Information

324.7001 General.

In the performance of certain HHS contracts, it is necessary for the contractor to generate data, or be furnished data by the Government, which is about individuals, organizations, or Federal programs. This subpart and the accompaying contract

clause require contractors to prudently handle disclosure of certain types of information not subject to the Privacy Act or the HHS human subject regulations set forth in 45 CFR Part 46. This subpart and contract clause address the kinds of data to be generated by the contractor and/or data to be furnished by the Government that are considered confidential and how it should be treated.

324.7002 Policy.

It is the policy of HHS to protect personal interests of individuals, corporate interests of non-governmental organizations, and the capacity of the Government to provide public services when information from or about individuals, organizations, or Federal agencies is provided to or obtained by contractors in performance of HHS contracts. This protection depends on the contractor's recognition and proper handling of such information. As a result, the "Confidentiality of Information" contract clause was developed.

324.003 Applicability.

(a) The "Confidentiality of Information" clause, set forth in 352.24–70, should be used in solicitations and resultant contracts whenever the need exists to keep information confidential. Examples of situations where the clause may be appropriate include:

(1) Studies performed by the contractor which generate information or invlove Government-furnished information that is personally identifiable, such as medical records, vital statistics, surveys, and questionnaires;

(2) Contracts which involve the use of salary structures, wage schedules, proprietary plans or processes, or confidential financial information of organizations other than the contractor's; and

(3) Studies or research which may result in preliminary or unvalidated findings which, upon disclosure to the public, might create erroneous conclusions which, if acted upon, could threaten public health or safety.

(b) With regard to protecting individuals, this subpart and contract clause are not meant to regulate or control the method of selecting subjects and performing studies or experiments involving them. These matters are dealt with in the HHS regulation entitled "Protection of Human Subjects," 45 CFR Part 46. If a system of records under contract, or portions thereof, is determined to be subject to the requirements of the Privacy Act, in accordance with FAR 24.1 and 324.1 and Title 45 CFR Part 5b, the procedures cited in those references are applicable and the Privacy Act contract clause shall be included in the contract. If the contract also involves confidential information, as described herein, which is not subject to the Privacy Act, the contract shall include the "Confidentiality of Information" clause in addition to the Privacy Act clause.

324.7004 Required clause.

The clause set forth in 352.224–70 shall be included in any RFP and resultant contract(s) where it has been determined that confidentiality of information provisions may apply. Any REP announcing the intent to include this clause in any resultant contract(s) shall indicate, as specifically as possible, the types of data which would be covered and requirements for handling such data.

PART 325—FOREIGN ACQUISITION

Subpart 325.1—Buy American Act—Supplies

Sec.
325.102 Policy.
325.108 Excepted articles, materials, and supplies.
325.108–70 Formats for nonavailability determinations.

Subpart 325.3—Balance of Payments Program

325.302 Policy.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 325.1—Buy American Act—Supplies

325.102 Policy.

(a) [Reserved]

(b) The head of the contracting activity shall make the determination required by FAR 25.102(a) (4) (see FAR 25.108 and 325.108). All other determinations shall be made by the agency head.

325.108 Excepted articles, material, and supplies.

(a) [Reserved]

(b) Articles, materials, and supplies not listed in FAR 25.108(d) may be excepted only after a written determination has been made by the head of the contracting activity. These determinations are required only in instances where it has been determined that only suppliers of foreign source end items shall be solicited. However, approvals and determinations covering individual acquisitions in the following categories may be made by the contracting officer:

(1) Acquisition of spare and replacement parts for foreign manufactured items, if the acquisition must be restricted to tghe original manufacturer or its supplier; and

(2) Acquisition of foreign drugs when it has been determined, in writing, by the responsible program official, that only the requested foreign drug will fulfill the requirement.

Formats for the above referenced written determinations are shown in 325.108–70.

325.108–70 Formats for nonavailability determinations.

(a) The following is the format for a nonavailability determination made by a contracting officer:

Determination of Nonavailability

Pursuant to the authority contained in section 2, Title III, of the Act of March 3, 1933, popularly called the Buy American Act (41 U.S.C. 10(a–d)), and authority delegated to me by 325.108(b), I hereby find that:

(a) (Insert a description of the item or items to be acquired, including unit, quantity, and estimated cost inclusive of duty and transportation costs to destination.)

(b) (Enter the name and address of the proposed contractor or supplier, and country of origin of the item or items.)

(c) (Include a statement of the necessity for the acquisition.)

(d) (Include a statement of facts establishing the nonavailability of a similar item or items of domestic origin. If there is no known domestic item or items which can be used as a reasonable substitute, a statement to this effect will be made.)

Based upon these findings, it is determined that the above-described item(s) is (are) not mined, produced, or manufactured, or the articles, materials, or supplies from which it (they) is (are) manufactured, are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Accordingly, the requirement of the Buy American Act that acquisition be made from domestic sources and that it be of domestic origin is not applicable to this acquisition, since the referenced acquisition is within the nonavailability exception stated in the Buy American Act. Authority is granted to acquire the above-described item(s) of foreign origin (country of origin) at an estimated total cost of $———, including duty and transportation cost to destination.

(Date)———————————

———————————

(Contracting Officer)

(b) The following is the format for a nonavailability determination made by the head of the contracting activity. Part 1 of the determination shall be signed by the preparing authority (contracting officer of official with contracting authority), and Part 2 shall be signed by the approving authority.

Determination of Nonavailability

Part 1

Date ———————————

Pursuant to the authority contained in Section 2, Title III, of the Act of March 3, 1933, popularly called the Buy American Act (41 U.S.C. 10(a–d)), I hereby find:

(a) (Insert a description of the item or items to be acquired, including unit, quantity, and estimated cost inclusive of duty and transportation costs to destination.)

(b) (Insert a brief statement of the necessity for the acquisition.)

(c) (Include a statement of facts establishing the nonavailability of a similar item or items of domestic origin.)

Based upon the above showing of fact, it is determined that the above described item(s) is (are) not mined, produced, or manufactured, or the articles, materials, or supplies from which it (they) is (are) manufactured, are not mined, produced or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(Signature) ———————————

Part 2

The requirement of the Buy American Act that acquisition be made from domestic sources and that it be of domestic origin is not applicable to the above described acquisition, since the referenced acquisition is within the nonavailability exception stated in the Act. The feasibility of foregoing the requirement or providing a United States substitute has been considered. Authority is granted to acquire the above described item(s) of foreign origin (country of origin) at an estimated total cost of $———, including duty and transportation costs to destination.

(Signature) ———————————

Subpart 325.3—Balance of Payments Program

325.302 Policy.

All determinations addressed in FAR 25.302 shall be made by the principal official responsible for acquisition (not delegable).

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 330—COST ACCOUNTING STANDARDS

Subpart 330.70—Cost of Money for Capital Employed on Facilities In Use and Capital Assets Under Construction

Sec.

330.7000 Scope and applicability.
330.7001 Cost of money for capital employed on facilities in use.
330.7001–1 Policy.
330.7001–2 Definitions, measurement, and allocation.
330.7001–3 Estimating business unit facilities capital and cost of money.
330.7001–4 Contract facilities capital estimates.
330.7001–5 Preaward facilities capital applications.
330.7001–6 Postaward facilities capital applications.
330.7001–7 Administrative procedures.
330.7002 Cost of money for capital employed on capital assets under construction.
330.7002–1 Policy.
330.7002–2 Definitions.
330.7002–3 Measurement.
330.7002–4 Composition and allocation of costs.
330.7002–5 Limitations.
330.7002–6 Preaward capital employed application.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 330.70—Cost of Money for Capital Employed on Facilities In Use and Capital Assets Under Construction

330.7000 Scope and applicability.

This subpart sets forth policies and procedures related to implementation of the "cost of money" cost principle set forth in FAR 32.205–10. This cost principle deals with costs provided for under Cost Accounting Standard 414, Cost of Money as an Element of the Cost of Facilities Capital, and Cost Accounting Standard 417, Cost of Money as an Element of the Cost of Capital Assets Under Construction. Although these standards may not be specifically applicable to all contracts subject to the cost principles set forth in FAR Subpart 31.2, they have been extended to all such contracts by FAR 32.205–10 and the provisions of this subpart (but see FAR 15.902(b)).

330.7001 Cost of money for capital employed on facilities in use.

330.7001–1 Policy.

(a) It is Government policy to recognize facilities capital cost of money for facilities in use as an allowable cost on negotiated contracts subject to FAR Subpart 31.2 that are priced on the basis of cost analysis (see FAR 15.902(b) and 31.205–10(a)).

(b) This policy shall apply to new contracts and contract modifications adding new work awarded on or after June 15, 1981. It shall apply in the same manner to any tier subcontracts or modifications thereto, upon the subcontractor's request, provided the prime contract or modification was eligible as of the date of award for facilities capital cost of money in accordance with this paragraph.

330.7001–2 Definitions, measurement, and allocation.

Cost Accounting Standard (CAS) No. 414, Cost of Money as an Element of the Cost of Facilities Capital, reprinted in 4 CFR Part 414 establishes criteria for the measurement and allocation of the cost of capital committed to facilities as an element of contract cost for historical cost determination purposes. Important features of the CAS are its definitions, techniques for application, and a prescribed Form CASB–CMF (Facilities Capital Cost of Money Factors Computation) with instructions. This 330.7001 adopts the techniques of CAS 414 as the approved method of measurement and allocation of facilities capital cost of money to overhead pools at the business unit level, and adds only supplementary procedures as are necessary to extend those techniques for contract forward pricing and administration purposes. Therefore, these procedures are intended to be completely compatible with, and an extension of, the definitions, criteria, and techniques of CAS 414. Contractors who computerize their financial data are encouraged to meet the requirements of both CAS 414 and this 330.7001 from the same data bank and programs.

330.7001–3 Estimating business unit facilities capital and cost of money.

The method of estimating the business unit facilities capital and cost of money uses the techniques of CAS 414. Cost of money factors (CMF) by overhead pools at the business unit are developed using Form CASB–CMF. Three elements are required to develop cost of money factors: business unit facilities capital data, overhead allocation base data, and the interest rate promulgated by the Secretary of the Treasury under Pub. L. 92–41. These elements are discussed in this section.

(a) *Business unit facilities capital data.* The net book value (acquisition cost less accumulated depreciation) is used for each cost accounting period. The net book value used is the total of: (1) The net book value of facilities recorded on the accounting records of the business unit, (2) the capitalized value of leases (see FAR 31.205–2 and 31.205–6), and (3) the net book value of facilities at the corporate or group level that support depreciation charges allocated to the business unit in accordance with the provisions of CAS 403. Projections of facilities capital will be supported by budget plans and/or similar type documentation and the estimated depreciation will be the same as used in projected overhead rates. Projections will accommodate changes in the level of facilities net book value, e.g., facilities additions, deletions of facilities by sale, abandonment or other disposal, idle facilities (see FAR 31.205–17).

(b) *Overhead allocation bases.* The base data used to compute the CMF must be the same as that used to

compute the proposed overhead rates. CMF's should be submitted and evaluated as part of the proposal.

(c) *Interest rate.* For purposes of projection, the most recent interest rate promulgated by the Secretary of the Treasury under Pub. L. 92–41 will be used as the cost of money rate in Column 1 of Form CASB–CMF. Where actual costs are used in definitization actions, the actual treasury rate(s) applicable to the period(s) of the incurred costs will be recognized by development of a composite rate.

(d) *Determination of final cost of money.* CMF's estimated in accordance with the above procedures are used to develop the facilities investment base used in forward pricing. Actual CMF's are required when it is necessary to determine final allowable costs for cost settlement and/or repricing in accordance with CAS 414 and FAR 31.205–10(a).

330.7001–4 Contract facilities capital estimates.

(a) After the appropriate Forms CASB–CMF have been analyzed and CMF's have been developed, the contracting officer is in a position to estimate the facilities capital cost of money and capital employed for a contract proposal. DD Form 1861, Contract Facilities Capital and Cost of Money, is to be used for this purpose. An evaluated contract cost breakdown reduced to the contracting officer's prenegotiation cost objective, must be available. The procedure is similar to applying overhead rates to appropriate overhead allocation bases to determine contract overhead costs.

(b) DD Form 1861 provides for listing overhead pools and direct-charging service centers (if used) in the same structure they appear on the contractor's cost proposal and Forms CASB–CMF. The structure and allocation base units-of-measure must be compatible on all three displays. The base for each overhead pool must be broken down by year to match each separate Form CASB–CMF. Appropriate contract overhead allocation base data are extracted by year from the evaluated cost breakdown or prenegotiation cost objective, and are listed against each separate Form CASB–CMF. Each allocation base is multiplied by its corresponding cost of money factor to get the facilities capital cost of money estimated to be incurred each year. The sum of these products represents the estimated contract facilities capital cost of money for the year's effort. Total contract facilities capital cost of money is the sum of the yearly amounts.

(c) Since the facilities capital cost of money factors reflect the applicable cost of money rate in Column 1 of Form CASB–CMF, the contract facilities capital employed can be determined by dividing the contract cost of money by the same rate. DD Form 1861 is designed to record and compute all the above in the most direct way possible, and the end result is the contract facilities capital cost of money and capital employed. The capital employed amount may be used to identify the level of facilities investment to be employed in contract performance (see FAR 15.905–1(d)(1) and 315.905–73(b)(1)).

330.7001–5 Preaward facilities capital applications.

Facilities capital cost of money and capital employed as determined in 330–7001–4 are applied in establishing cost and price objectives as follows:

(a) *Cost of money.* (1) *Cost objective.* This special, imputed cost of money shall be used together with normal, booked costs, in establishing a cost objective or the target cost when structuring an incentive type contract. Target costs thus established at the outset, shall not be adjusted as actual cost of money rates become available for the periods during which contract performance takes place.

(2) *Profit objective.* Cost of money shall not be included as part of the cost base when measuring the contractor's effort in connection with establishing a prenegotiation profit objective. The cost base for this purpose shall be restricted to normal, booked costs (see 315.900–72(b) and 315.900–74(b)).

(b) *Facilities capital employed.* The profit objective as it relates to the risk associated with facilities capital employed shall be assessed in accordance with the profit guidelines set forth in 315.905–73(b)(1).

330.7001–6 Postaward facilities capital applications.

(a) *Interim billings based on costs incurred.* Contract facilities capital cost of money may be included in cost reimbursement and progress payment invoices. The amount that qualifies as cost incurred for purposes of the "Cost Reimbursement, Fee and Payment" or "Progress Payment" clause of the contract is the result of multiplying the incurred portions of the overhead pool allocation bases by the latest available cost of money factors. Like applied overhead at forecasted overhead rates, such computations are interim estimates subject to adjustment. As each year's data are finalized by computation of the actual cost of money factors under CAS 414 and FAR 31.205–10(a) the new factors should be used to calculate contract facilities capital cost of money for the next accounting period.

(b) *Final settlement.* Contract facilities capital cost of money for final cost determination or repricing is based on each year's cost of money factors determined under CAS 414 and supported by separate Forms CASB–CMF. Contract cost must be separately computed in a manner similar to yearly final overhead rates. Also like overhead costs, the final settlement will include an adjustment from interim to final contract cost of money. However, estimated or target cost will not be adjusted.

330.7001–7 Administrative procedures.

(a) Contractor submission of Forms CASB–CMF will normally be initiated under the same circumstances as forward pricing rate agreements (see FAR 15.809) and evaluated as complementary documents and procedures. Separate forms are required for each prospective cost accounting period during which Government contract performance is anticipated. If the contractor does not annually negotiate forward pricing rate agreements, submissions may nevertheless be made annually or with individual contract pricing proposals, as agreed to be the contractor and the contracting officer. The contracting officer shall, with the assistance of the cognizant auditor, evaluate the cost of money factors, and retain approved factors with other negotiated forward pricing data and rates.

(b) The contracting officer will complete a DD Form 1861, Contract Facilities Capital and Cost of Money, after evaluating the contractor's cost proposal and determining the Government prenegotiation cost objective, but before determining the Government prenegotiation profit objective.

(c) A final Form CASB–CMF must be submitted by the contractor under CAS 414 as soon after the end of each cost accounting period as possible, for the purpose of final cost determinations and/of repricing. The submission should accompany the contractor's proposal for actual overhead costs and rates, and be evaluated as complementary documents and procedures.

330.7002 Cost of money for capital employed on capital assets under construction.

330.7002–1 Policy.

(a) It is Government policy to recognize a contractor's investment in capital assets while these are being

constructed, fabricated, or developed for the contractor's own use (see FAR 31.205–10(b)). This recognition is made through the allowance of an imputed cost of money amount which is (1) calculated in accordance with Cost Accounting Standard (CAS) 417, Cost of Money as an Element of the Cost of Capital Assets Under Construction (see 4 CFR Part 417), and the instructions in 330.7002–3, (2) capitalized along with the other costs of the asset for which the investment is made, and (3) allocated to Government contracts in accordance with 330.7002–4.

330.7002–2 Definitions.

The following definitions have been taken or developed from CAS 417 which is reprinted in 4 CFR Part 417.

(a) *Intangible capital asset.* An asset that has no physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the benefit it yields.

(b) *Tangible capital asset.* An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the service it yields.

(c) *Cost of money rate.* The cost of money rate is either the interest rate determined by the Secretary of the Treasury under Pub. L. 92–41 (85 Stat. 97), or the time-weighted average of such rates for each cost accounting period during which the asset is being constructed, fabricated, or developed. The time-weighted average interest rate is calculated by multiplying the various rates in effect during the months of construction by the number of month(s) each rate was in effect. The sum of the products is divided by the total number of months in which the rates were experienced.

(d) *Representative investment.* The representative investment is the calculated amount considered invested by the contractor in the project to construct, fabricate, or develop the asset during the cost accounting period. In calculating the representative investment, consideration must be given to the rate or expenditure pattern of the investment, i.e., if most of the investment was at the end of the cost accounting period, the representative investment calculation must reflect this fact.

(1) If the contractor experiences an irregular or uneven expenditure pattern in the construction, fabrication, or development of a capital asset, i.e., a majority of the construction costs were incurred toward the beginning, middle, or end of the cost accounting period, the contractor must either:

(i) Determine a representative investment amount for the cost accounting period by calculating the average of the month-end balances for that cost accounting period, or

(ii) Treat month-end balances as individual representative investment amounts.

(2) If the construction, fabrication, or development costs were incurred in a fairly uniform expenditure pattern throughout the construction period, the contractor may:

(i) Determine a representative investment amount for the cost accounting period by averaging the beginning and ending balances of the construction, fabrication, or development cost account for the cost accounting period; or

(ii) Treat month-end balances as individual representative investment amounts.

330.7002–3 Measurement.

(a) The imputed cost of money for an asset under construction, fabrication, or development is calculated by applying a cost of money rate (see 330.7002–2(c)), to the representative investment amount (see 330.7002–2(d)).

(1) When a representative investment amount is determined for a cost accounting period in accordance with 330.7002–2(d)(1)(i) or 330.7002–2(d)(2)(i), the cost of money rate used shall be the time-weighted average rate.

(2) When a monthly representative investment amount (see 330.7002–2(d)(1)(ii) or 330.7002–2(d)(2)(ii)) is used, the cost of money rate shall be the rate in effect each month.

(Note.—Under this method, the cost of money calculation is made monthly and the total for the cost accounting period is the sum of the monthly calculations.)

(b) The method chosen by a contractor for determining the representative investment amount may be different for each capital asset being contructed, fabricated, or developed as long as the method fits the expenditure pattern of the construction costs incurred.

(c) The imputed cost of money will be capitalized only once in any cost accounting period, either at the end of the period or at the end of the construction period, whichever comes first.

(d) When the construction of an asset takes more than one cost accounting period, the cost of money capitalized for the first cost accounting period will be included in determining the representative investment amount for any future cost accounting periods.

330.7002–4 Composition and allocation of costs.

(a) The cost of money for a tangible capital asset determined in accordance with 330.7002–2 and 330.7002–3 shall be capitalized along with the other construction, fabrication, or development costs of that asset for purposes of depreciation under FAR 31.205–11.

(b) The cost of money for an intangible capital asset determined in accordance with 330.7002–2 and 330.7002–3 shall be capitalized along with other construction, fabrication, or development costs of that asset and amortized over appropriate cost accounting periods.

(c) Where CAS 414 cost of money is allocated to construction, fabrication, or development effort in accordance with 330.7001, it will be recognized and considered an element of total construction costs and be included in all calculations of the asset's representative investment amount.

330.7002–5 Limitations.

If substantially all activities necessary to get an asset ready for its intended use are discontinued, cost of money shall not be capitalized for the period of discontinuance, except when such discontinuance arises out of causes beyond the control and without the fault or negligence of the contractor.

330.7002–6 Preaward capital employed application.

An offset to the profit objective as discussed in 315.905–74 for CAS 414 cost of money is not required for CAS 417 cost of money.

PART 332—CONTRACT FINANCING

Subpart 332.4—Advance Payments

Sec.

332.402 General.
332.403 Applicability.
332.406 Letters of credit.
332.407 Interest.
332.409 Contracting officer action.
332.409–1 Recommendation for approval.

Subpart 332.7—Contract Funding

332.702 Policy.
332.703 Contract funding requirements.
332.703–1 General.
332.704 Limitation of cost or funds.
332.705 Contract clauses.
332.705–2 Clauses for limitation of costs or funds.
332.770 Prohibition against use of HHS funds to influence legislation or appropriations.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 332.4—Advance Payments

332.402 General.

(a)–(d) [Reserved]

(e) The determination that the making of an advance payment is in the public interest (see FAR 32.402(c)(1) (iii)(A)) shall be made by the OPDIV, OS, and regional office officials as follows:

HCFA—Director, Office of Management and Budget
OHDS—Director, Office of Management Services
OS—Director, Office of Management Services
PHS—Director, Office of Management
SSA—Associate Commissioner, Office of Management, Budget, and Personnel
RO—Regional Director

This authority is not delegable by the referenced officials.

332.403 Applicability.

All contracts for research work with educational institutions located in the United States shall provide for financing by use of advance payments, in reasonable amounts, unless otherwise prohibited by law.

332.406 Letters of credit.

(a) and (b) [Reserved]

(c)(1) A blanket determination and findings authorizing interest free advance payments under a single letter of credit has been executed and remains in effect for each of the nonprofit organizations listed in Appendix A "Single Letter of Credit Recipients and Central Point Addressees." These determinations and findings are applicable to all existing and future contracts entered into by the Department, its operating divisions, OS staff offices, and regional offices. All contracts with the listed organizations which require advance payments (whether under section 305 of the Federal Property and Administrative Services Act of 1949, as amended, or other statutory authority) shall provide for payment to be made under the appropriate letter of credit. The clause set forth in 352.232–73 shall be included in all such contracts and the cognizant fiscal office shall be apprised of its inclusion.

(2) In those instances where it is practical and feasible to finance an advance payment under a letter of credit other than one which is incorporated under a single letter of credit described in paragraph (c)(1) above, a determination and findings shall be executed by the appropriate official indicated in 332.402(e) if the cited authority is to be section 305 of the Federal Property and Administrative Services Act. In cases where an authority other than section 305 is to be used, a determination and findings shall be submitted to the appropriate official authorized by the cited statute to approve the advance payment.

(3) The Treasury Department's letter of credit method of financing advance payments shall be employed, whenever feasible. Department-wide blanket letters of credit, which apply to the financing of research contracts and grants between the institution and all activities of the Department, shall be utilized to the maximum extent practicable. Where a particular educational institution is supported by research contracts and grants with only one operating division of the Department, a single letter of credit, applicable to all research contracts and grants between the institution and that operating division may be employed.

332.407 Interest.

(a)–(c) [Reserved]

(d) In addition to the interest-free advance payments for the types of contracts listed in FAR 32.407(d), advance payments without interest may be approved for nonprofit contracts which are without fee with educational institutions and other nonprofit organizations, whether public or private, which are for the performance of work involving health services, educational programs, or social service programs, including, but not limited to, programs such as:

(1) Community health representative services for an Indian Tribe or Band;

(2) Narcotic addict rehabilitative services;

(3) Comprehensive health care service program for Model Neighborhood programs;

(4) Planning and development of health maintenance organizations;

(5) Dissemination of information derived from educational research;

(6) Surveys or demonstrations in the field of education;

(7) Producing or distributing educational media for handicapped persons including captioned films for the deaf;

(8) Operation of language or area centers;

(9) Conduct of biomedical research and support services;

(10) Research surveys or demonstrations involving the training and placement of health manpower and health professionals, and dissemination of related information; and

(11) Surveys or demonstrations in the field of social service.

332.409 Contracting officer action.

332.409–1 Recommendation for approval.

The information in FAR 32.409–1 (or FAR 32.409–2) shall be transmitted to the approving official cited in 332.402(e) or referenced in 332.406(c)(2) in the form of a briefing letter.

Subpart 332.7—Contract Funding

332.702 Policy.

An incrementally funded contract is a contract in which the total work effort is to be performed over multiple time periods and funds are allotted to cover discernible phases or increments of performance.

(a) The incremental funding technique shall only be applied to cost-reimbursement type contracts for the acquisition of research and development services and other types of nonpersonal services such as studies, surveys, and socioeconomic demonstration projects. It shall not be applied to construction services, architect-engineer services, or services subject to the Service Contract Act of 1965, as amended. The incremental funding technique allows for contracts to be awarded for periods in excess of one year even though the total estimated amount of funds expected to be obligated for the contract are not available at the time of the contract award.

(b) It is departmental policy that contracts for projects of multiple year duration be fully funded, whenever possible, to cover the entire project. However, incrementally funded contracts may be used when:

(1) A project, which is part of an approved program, is anticipated to be of multiple year duration, but funds are not currently available to cover the entire project;

(2) The project represents a valid need of the fiscal year in which the contract is awarded and of the succeeding fiscal years of the project's duration, during which additional funds may be obligated by increasing the allotment to the contract;

(3) The project is so significant to the approved program that there is reasonable assurance that it will command a high priority for proposed appropriations to cover the entire multiple year duration; and

(4) The statement of work is specific and is defined by separate phases or increments so that, at the completion of each, progress can be effectively measured.

332.703 Contract funding requirements.

332.703-1 General.

(a) [Reserved]

(b) The following general guidelines are applicable to incrementally funded contracts:

(1) The estimated total cost of the project (all planned phases or increments) is to be taken into consideration when determining the requirements which must be met before entering into the contract; i.e., justification for noncompetitive acquisition, approval of award, etc.

(2) The RFP and resultant contract are to include a statement of work which describes the total project covering the proposed multiple year period of performance and indicating timetables consistent with planned phases or increments and corresponding allotments of funds.

(3) Offerors will be expected to respond to RFPs with technical and cost proposals for the entire project indicating distinct break-outs of the planned phases or increments.

(4) Negotiations will be conducted based upon the total project, including all planned phases or increments, and the multiple year period of performance.

(5) Sufficient funds must be obligated under the basic contract to cover no less than the first year of performance, unless the contracting officer determines it is advantageous to the Government to fund the contract for a lesser period. In that event, the contracting officer shall ensure that the obligated funds are sufficient to cover a complete phase or increment of performance representing a material and measurable part of the total project, and the contract period shall be reduced accordingly.

(6) Because of the magnitude of the scope of work and multiple year period of performance under an incrementally funded contract, there is a critical need for careful program planning. Program planning must provide for appropriate surveillance of the contractor's performance and adequate controls to ensure that projected funding will not impinge on the program office's ability to support, within anticipated appropriations, other equally important contract or grant programs.

(7) An incrementally funded contract must contain precise requirements for progress reports to enable the project officer to effectively monitor the contract. The project officer should be required to prepare periodic performance evaluation reports to facilitate the program office's ultimate decision to allot additional funds under the contract.

332.704 Limitation of cost or funds.

For detailed instruction regarding administrative actions in connection with anticipated cost overruns, see Subpart 342.71.

332.705 Contract clauses.

332.705-2 Clauses for limitation of costs or funds.

(a) and (b) [Reserved]

(c) (1) When using the Limitation of Funds clause (FAR 52.232-22) in the solicitation and resultant incrementally funded contract, the contracting officer shall insert the following legend between the clause title and the clause text:

(This clause supersedes the Limitation of Cost clause found in the General Provisions of this contract.)

(2) The contracting officer shall also include a clause reading substantially as that shown in 352.232-74 in the Special Provisions of the resultant incrementally funded contract.

(3) The request for proposals must inform prospective offerors of the Department's intention to enter into an incrementally funded contract. Therefore, the contracting officer shall include the provision at 352.232-75 in the request for proposals whenever the use of incremental funding is contemplated.

332.770 Prohibition against use of HHS funds to influence legislation or appropriations.

(a) This section provides guidance on the implementation of section 407 of the Title IV General Provisions of the Departments of Labor and Health, Education, and Welfare FY 1979 Appropriations Act (Pub. L. 95-480). Section 407, in part, prohibits the use of appropriated funds to pay the salaries or expenses of grantees and contractors, or their agents, incurred while engaging in activities to influence legislation or appropriations pending before Congress.

(b) The clause set forth in 352.232-72 implements this provision of section 407 and is to be included in every invitation for bids, request for proposals, contract, and small purchase funded in whole or in part under the FY 1979 Appropriations Act, or any succeeding Appropriations Act which contains the referenced provision.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 334—MAJOR SYSTEM ACQUISITION

334.003 Agency head responsibilities.

The Department's implementation of OMB Circular No. A-109 may be found in Chapter 1-150 of the General Administration Manual.

(5 U.S.C. 301; 40 U.S.C. 486(c))

PART 335—RESEARCH AND DEVELOPMENT CONTRACTING

Sec.

335.070 Cost-sharing.
335.070-1 Policy.
335.070-2 Amount of cost-sharing.
335.070-3 Method of cost-sharing.
335.070-4 Institutional cost-sharing agreements.
335.070-5 Contract clauses.
335.070-6 Contract award.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

335.070 Cost-sharing.

335.070-1 Policy.

(a) In addition to utilizing cost-sharing type contracts when required by statute, the desirability of utilizing this type of contract should also be considered under certain circumstances when not required by statute. Contractors should be encouraged to contribute to the cost of performing research where there is a probability that the contractor will receive present or future benefits from participation, such as, increased technical know-how, training to employees, acquisition of equipment, use of background knowledge in future contracts, etc. Cost-sharing is intended to serve the mutual interest of the Government and the performing organization by helping to assure efficient utilization of the resources available for the conduct of research projects and by promoting sound planning and prudent fiscal policies by the performing organization. If cost-sharing is not required by statute, encouragement should be given to organizations to contribute to the cost of performing research under research contracts unless the contracting officer determines that a request for cost-sharing would not be appropriate because of the following circumstances:

(1) The particular research objective or scope of effort for the project is specified by the Government rather than proposed by the performing organization. This would usually include any formal Government requests for proposals for a specific project.

(2) The research effort has only minor relevance to the non-Federal activities of the performing organization, and the organization is proposing to undertake the research primarily as a service to the Government.

(3) The organization has little or no non-Federal sources or funds from which to make a cost contribution. Cost-sharing should generally not be

requested if cost-sharing would require the Government to provide funds through some other means (such as fees) to enable the organization to cost-share. It should be recognized that those organizations which are predominantly engaged in research and development and have little or no production or other service activities may not be in a favorable position to make a cost contribution.

(b) Cost-sharing may be negotiated in either of two ways. When cost-sharing is negotiated on a contract by contract basis, the responsibility for negotiating the cost-sharing arrangement is that of the contracting officer. In the case of institutional cost-sharing arrangements (see 335.070–4), the responsibility for negotiating cost-sharing is that of the Office of the Assistant Secretary for Health. Each research contract file should show whether the contracting officer considered cost-sharing appropriate for that particular contract and, except when an institutional cost-sharing agreement is applicable, in what amount. If cost-sharing was not considered appropriate, the file must indicate the factual basis for that decision, e.g., "Because the contractor will derive no benefits from this award that can be applied to its commercial activities, cost-sharing is not considered appropriate." The contracting officer may wish to coordinate with the project officer before documenting this decision.

(c) If the contracting officer considers cost-sharing to be appropriate for a research contract and the contractor refuses to accept this type of contract, the award may be made without cost-sharing, except when cost-sharing is required by statute, if the contracting officer concludes that payment of the full cost of the research effort is necessary in order to obtain the services of that particular contractor.

335.070–2 Amount of cost-sharing.

When cost-sharing is required by statute or determined to be appropriate, the following guidelines shall be utilized in determining the amount of cost participation by the contractor, except where an institutional cost-sharing agreement is applicable:

(a) Cost participation by educational institutions and other not-for-profit or nonprofit organizations should normally be at least 1 percent of the total project cost. In many cases, cost-sharing of less than 5 percent of the total project cost would be appropriate in view of the organizations' nonprofit status and their normally limited ability to recover the cost of such participation from non-Federal sources. However, in some cases, it may be appropriate for educational institutions to provide a higher degree of cost-sharing, such as when the cost of the research consists primarily of the academic year salary of faculty members (or when the equipment acquired by the institution for the project will be of significant value to the institution in its educational activities). The percentages stated above are not intended as a substitution for those set forth in any legislation and are not to be used in lieu of those contained in that legislation.

(b) The amount of cost participation by commercial or industrial organizations should depend to a large extent on whether the research effort or results are likely to enhance the performing organization's capability, expertise, or competitive position, and the value of such enhancement to the performing organization. It should be recognized that those organizations which are predominantly engaged in research and development and have little or no production or other service activities may not be in a favorable position to derive a monetary benefit from their research under Federal agreements. Therefore, cost participation by commercial or industrial organizations could reasonably range from as little as 1 percent or less of the total project cost, to more than 50 percent of the total project cost.

(c) If the performing organization will not acquire title to or the right to use inventions, patents, or technical information resulting from the research project, it would generally be appropriate to obtain less cost-sharing than in cases in which the performer acquires such rights.

(d) When cost-sharing is required by statute, cost participation of less than 1 percent may be appropriate if consistent with the provisions of the statute, and:

(1) A formal request for proposal is issued;

(2) The contractor proposes to perform the research primarily as a service to the Government; or

(e) The contractor has little or no non-Federal sources of funds from which to make a cost contribution.

(3) A fee or profit will usually not be paid to the performing organization if the organization is to contribute to the cost of the research effort, but the amount of cost-sharing may be reduced to reflect the fact that the organization is foregoing its normal fee or profit in the research. However, if the research is expected to be of only minor value to the performing organization and if cost-sharing is not required by statute, it may be appropriate for the performer to make a contribution in the form of a reduced fee or profit rather than sharing the costs of the project.

(f) The organization's participation may be considered over the total term of the project so that a relatively high contribution in one year may be offset by a relatively low contribution in another.

(g) A relatively low degree of cost-sharing may be appropriate if, in the view of the operating divisions or their subordinate elements, an area of research requires special stimulus in the national interest.

(h) In the final analysis, the amount of cost participation should reflect the mutual agreement of the parties, provided that it is consistent with any statutory requirements.

335.070 Method of cost-sharing.

Cost-sharing on individual contracts may be accomplished either by a contribution of part or all of one or more elements of allowable cost of the work being performed, or by a fixed amount or stated percentage of the total allowable costs of the project. Costs so contributed may not be charged to the Government under any other grant or contract (including allocations to other grants or contracts as part of any independent research and development program).

335.070–4 Institutional cost-sharing agreements.

(a) An institutional cost-sharing agreement covers the aggregate of some or all of the research projects supported by HHS research contracts and grants at a given performing organization. With respect to contracts, these agreements will apply only to cost-sharing type contracts resulting from unsolicited proposals and awarded without fee or profit. Eligibility for institutional cost-sharing agreements is limited to nonprofit institutions of higher education and other public or private nonprofit or not-for-profit organizations. Usually, a single agreement will cover all applicable research projects at a given performing organization; however, in unusual cases, separate agreements for individual departments or locations of the performing organization may be negotiated if deemed advantageous.

(b) The institutional cost-sharing agreements establish an overall sharing ratio applicable to the aggregate of all covered projects. Individual awards will incorporate the institutional agreement by reference, but will not establish a specific sharing ratio for the individual project. The amount of sharing on any particular project will therefore be left to the discretion of the performing

organization, and relatively high contributions on some projects may offset relatively low contributions on other projects, provided that the agreed aggregate contribution is made during each of the contractor's fiscal years, and a contribution, even if nominal, is made to each covered project.

(c) The Public Health Service shall be responsible for negotiating all HHS institutional cost-sharing agreements. Agreements, when negotiated, will be binding upon all HHS activities. Eligible contractors wishing to negotiate institutional cost-sharing agreements should contact the Division of Grants and Contracts, Office of Resource Management, Public Health Service, Room 18 A 19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

(1) All necessary implementing instructions to cover matters such as content of proposals, format of agreements, documentation, etc. shall be issued by the Public Health Service, subject to the prior approval of the Office of Procurement, Assistance and Logistics.

(2) The Public Health Service shall provide the Office of Procurement, Assistance and Logistics and the Department's operating divisions with current listings of all institutional cost-sharing agreements, indicating the date on which they became effective with respect to contracts. Copies of individual agreements will be made available to the Department's other activities upon request. Each activity shall designate only one individual who shall be authorized to make such requests.

(d) The amount of cost-sharing negotiated under an institutional cost-sharing agreement will be determined in accordance with the appropriate guidelines contained in "A Guide to Institutional Cost Sharing Agreements" issued by the Office of Resource Management, PHS. The extent to which the performing organization shared in the costs of HHS-sponsored research in the past, and its anticipated ability to do so in the future, should also be taken into account.

335.070-5 Contract clauses.

Clauses for cost sharing in individually negotiated contracts or under institutional agreements are set forth in 352.232-71.

335.070-6 Contract award.

In consonance with the Department's objectives of competition and support of the small business program, award of contracts should not be made solely on the basis of ability or willingness to cost-share. Awards should be made primarily on the contractor's competence and only after adequate competition has been obtained among large and small business organizations whenever possible. The offeror's willingness to share costs should not be considered in the technical evaluation process but as a business consideration, which is secondary to selecting the best qualified source.

PART 337—SERVICE CONTRACTING

Subpart 337.1—Service Contracts—General

Sec.

337.101 Definitions.
337.103 Contracting officer responsibility.
337.104 Personal services contracts.
337.109 Services of quasi-military armed forces.

Subpart 337.2—Consulting Services

337.204 Policy.
337.270 Consulting services reporting.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 337.1—Service Contracts—General

337.101 Definitions.

"Service contract." A contract may require the furnishing of both property and services, such as a research and development contract which requires a final report. In a case such as this, this subpart will apply to the extent that the furnishing of services is involved. Other examples of service contracts include training and education, surveys and data collection, data processing, medical services, and stenographic services.

337.103 Contracting officer responsibility.

(a) [Reserved]

(b) Contract actions for the services of experts and consultants are also exempt from the requirements of FAR Part 37.103(a)(3); they are to be certified in accordance with the provisions in General Administration Manual Chapter 8-15.

(c) For negotiated acquisitions, the determination shall be included as a statement in the negotiation memorandum. For formally advertised acquisitions, the determination shall be included as a separate statement in the contract file.

(d) In most cases, gathering the information and data on which to base the determination should be a joint effort between contracting and program personnel. The contracting officer shall request the advice of the Office of General Counsel and/or the personnel office before processing any request to acquire services if there is doubt as to whether an employer-employee relationship would be involved in performance of the contract.

337.104 Personal services contracts.

(a) As indicated in FAR 37.104, the paramount consideration in determining if an employer-employee relationship exists is the presence of direction or supervision by Government personnel of contractor employees, as a result of either the inherent nature of the service or the manner in which the service is provided. A personal service relationship exists if this direction or supervision is necessary to:

(1) Adequately protect the Government's interest;

(2) Retain control of the function involved; and/or

(3) Retain full personal responsibility by a duly authorized Federal officer or employee for the function supported.

(b) [Reserved]

(c) (1) [Reserved]

(2) The degree of supervision necessary to establish an employer-employee relationship is relatively continuous, close supervision. Sporadic supervision is not sufficient to constitute an employer-employee relationship. (In determining whether the Government rather than the contractor exercises "relatively continuous, close supervision" of contractor personnel, the fact that an engineer, for example, may require less supervision and may exercise more independence of judgment than a food service worker is not itself determinative. If the Government takes over that degree of supervision that the contractor would otherwise exercise over either individual, the relationship created between the Government and either individual is tantamount to that of employer and employee.)

(d) The likelihood of the existence of an employer-employee relationship increases as the number and extent of the elements in FAR 37.104(d) increases. However, the mere existence of these elements does not constitute an employer-employee relationship unless continuous, close supervision exists. In determining the presence of the referenced elements, relevant factors including the following shall be considered:

(1) *The nature of the work.*

(i) If the Government can use Federal personnel to perform the required work, or if the Government has rights to the specialized knowledge or equipment which is needed to perform the work;

(ii) Whether the services represent the discharge of a Government function which calls for the exercise of personal judgment and discretion on behalf of the Government (This factor, if present in sufficient degree, may alone render the service personal in nature.); and/or

(iii) If the services are to be a one-time occurrence (or a continuing requirement of short term duration).

(2) *Contractual provisions concerning the contractor's employees.*

(i) To what extent the Government specifies the qualifications of, or has the right to approve, individual contractor employees (other than the Government's right to approve or disapprove new key personnel, remove key personnel, grant or deny security clearances, and provide for necessary health qualifications). (Also, it is permissible for the Government to specify the technical and experience qualifications of contractor employees, if this is necessary to assure satisfactory performance.);

(ii) To what extent the Government can assign tasks to, and prepare work schedules for, contractor employees during performance of the contract. (This does not preclude inclusion in the contract of work schedules for the contractor—but not individual employees—or the establishment of a time of performance for orders issued under a requirement or other indefinite delivery-type contract.);

(iii) To what extent the Government can supervise or control the method in which the contractor performs the service, the number of people that will be employed, the specific duties of individual employees, and similar details. (However, it is permissible to require that contractor employees comply with regulations for the protection of life and property. Also, it is permissible to recommend a specific number of people the contractor may employ, if this is necessary to assure performance; but in that event, the contract must specify that this does not in any way minimize the contractor's obligation to use as many employees as are necessary for proper contract performance.);

(iv) If the Government can review performance of each individual contractor employee (as opposed to reviewing the final product after completion of the work.); and/or

(v) If the Government has the right to have contractor employees removed from the job for reasons other than misconduct or security.

(3) *Other provisions of the contract.*

(i) Whether the contractor undertakes a specific task or project that is definable either at the inception of the contract or at some point during performance, or whether the work is defined on a day-to-day basis. (However, this does not preclude use of a requirement or other indefinite delivery-type contract, provided the nature of the work is specifically described in the contract, and orders are formally issued to the contractor rather than to individual employees.);

(ii) Whether payment will be for results accomplished or solely according to time worked. (This is a factor which might be useful in a doubtful case, but should not in itself create doubt about services which are otherwise clearly nonpersonal.); and/or

(iii) Whether Government office or working space, facilities, equipment, and supplies will be used for contract performance. (This is a factor which might be useful in a doubtful case, but should not in itself create doubt about services which are otherwise clearly nonpersonal.).

(4) *Administration of the contract.*

(i) If contractor employees are used interchangeably with Government personnel; and/or

(ii) If contractor employees are integrated into the Government's organizational structure.

(e) and (f) Reserved.

(g) The following are examples of personal and nonpersonal services, but are illustrative only and are not to be used as the basis for determination in any specific case.

(1) The following are examples of personal services contracts:

(i) A contract to furnish ordinary, day-to-day, stenographic and secretarial services in a Government office under direct Government supervision.

(ii) A contract for the testing of a substance where the project officer visits the contractor's facility several times each week to consult with the principal investigator, review data, specify methods of quality control, specify testing to be done, and provide instruction to investigators.

(iii) A contract for the performance of a function which management must perform in order to retain essential control over the conduct of agency programs (e.g., negotiating contract amounts).

(2) The following are examples of nonpersonal services contracts:

(i) A contract for technical assistance work requiring specialized equipment and trained personnel unavailable to the Government. The contractor performs work described in the contract free of Government supervision, and does not act on behalf of the Government.

(ii) A contract with an individual for delivery of lectures without Government supervision (even if they are to be given on specific dates, or on specialized subjects, or if payment will be by the hour).

(iii) A fixed price contract for janitorial services which provides for specific tasks to be performed in specific places, free of Government direction, supervision, and control over the contractor's employees.

(iv) A research and development contract providing for a level of effort which will be performed by the contractor independent of Government direction, supervision, and control.

337.109 Services of quasi-military armed forces.

As distinguished in FAR 37.109, solicitations for protective services shall include the following certification:

The bidder/offeror certifies it is not a detective agency, nor an employee of such agency as contemplated by 5 U.S.C. 3108.

Subpart 337.2—Consulting Services

337.204 Policy.

General Administration Manual Chapter 8-15 prescribes policies and procedures concerning approvals required before contracting for expert or consulting services.

(a)-(d) [Reserved].

(e) Services of experts or consultants may be acquired by contract only when:

(1) The services will be nonpersonal in nature, are critical to the planning, development, operation, or evaluation of a Department program, cannot be accomplished by Government employees, and are economically available from the private sector; or

(2) The performance of the work by a consultant is directed by statute.

337.270 Consulting services reporting.

The clause set forth in 352.237-70 shall be included in every contract for expert or consulting services.

PART 339—MANAGEMENT, ACQUISITION, AND USE OF INFORMATION RESOURCES

Subpart 339.70—ADP Clearances and Systems Security

Sec.

339.7001 ADP Clearances.

339.7002 ADP systems security.

Authority: 5 U.S.C. 301; 40 U.S.C. 486 (c).

Subpart 339.70—ADP Clearances and Systems Security

339.7001 ADP clearances.

In accordance with Chapter 4-10 of the HHS ADP Systems Manual, the Office of Management Analysis and Systems (OMAS), OASMB-OS, is responsible for the review and approval of all requests for proposed automatic data processing (ADP) systems and modifications to existing ADP systems which require the acquisition of ADP hardware, software packages, and

services, and telecommunications equipment, which exceed the dollar thresholds stated in Chapter 4–10.

(a) It is the responsibility of the program office to obtain written approval from OMAS on proposed ADP acquisitions which exceed the thresholds stated in Chapter 4–10 prior to submitting the request for contract to the contracting activity.

(b) The OMAS approval document is to be attached to the request for contract when it is submitted by the program office to the contracting activity. The contracting activity shall not initiate action on the request for contract until a properly executed approval document is obtained.

339.7002 ADP systems security.

(a) *Program responsibilities.* Whenever a proposed contract action requires the design, development, maintenance, or use of an ADP system or the use of ADP resources, the program office is required to designate a responsible individual to serve as the ADP system manager who is to ensure, in coordination with the cognizant systems security officer, that ADP security requirements are met and that each contractor maintains an acceptable security program.

(b) *Contracting responsibilities.* (1) The contracting officer is responsible for ensuring that a certification of ADP systems security requirements, signed by both the ADP system manager and the ADP systems security officer, is submitted with the request for contract. The contracting officer shall not initiate action on the request for contract until the properly executed certification is received. The certification will state that the security requirements specified are reasonably sufficient for the intended application and that they comply with current Federal and HHS computer security policies, procedures, standards, and guidelines.

(2) When developing the request for proposals, the contracting officer shall include in the technical proposal instructions a statement requiring that the offeror present a detailed outline of its proposed ADP system security program which complies with the requirements of the statement of work and applicable portions of Part 6, ADP Systems Security, of the HHS ADP Systems Manual.

(3) The contracting officer shall include a special provision reading substantially as follows in all applicable solicitations and resultant contracts:

The Contractor agrees to comply with the ADP system security requirements set forth in the system of work and applicable portions of Part 6, ADP Systems Security, of the HHS ADP Systems Manual. The Contractor further agrees to include this provision in any subcontract awarded pursuant to this prime contract.

(4) The contracting officer shall ensure that a properly executed certification confirming that the offerors comply with the necessary security requirements is attached to the technical evaluation report received from the evaluation panel before proceeding with the acquisition process. This certification must be countersigned by the officials designated in paragraph (b)(1) above and must contain a similar statement of compliance.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 342—CONTRACT ADMINISTRATION

Subpart 342.5—Postaward Orientation

Sec.
342.504 Postaward letters.

Subpart 342.7—Indirect Cost Rates

342.705 Final indirect cost rates.

Subpart 342.70—Contract Monitoring

342.7001 Purpose.
342.7002 Contract monitoring responsibilities.
342.7003 Withholding of contract payments.
342.7003–1 Policy.
342.7003–2 Procedures.
342.7003–3 Withholding payments.

Subpart 342.71—Administrative Actions for Cost Overruns

342.7100 Scope of subpart.
342.7101 Applicability.
342.7102 General.
342.7103 Contract administration.
342.7103–1 General.
342.7103–2 Procedures.
342.7104 Contract modifications.

Subpart 342.72—Payments to Contractors

342.7200 Scope of subpart.
342.7201 Definitions.
342.7202 Policy and responsibilities.
342.7203 Exemptions.
342.7204 Contract clause-general.
342.7205 Payment terms in contracts.
342.7205–1 General requirements.
342.7205–2 Invoice requirements.
342.7205–3 Receiving reports.
342.7205–4 Processing invoices.
342.7205–5 Interest penalty payments.
342.7206 Method of payment.
342.7206–1 General.
342.7206–2 Method of payment.
342.7206–3 Coordination with paying offices.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 342.5—Postaward Orientation

342.504 Postaward letters.

To the extent practicable, contracting officers should use letters to accomplish postaward orientation objectives. A postaward orientation conference should only be arranged when letters cannot resolve key issues.

Subpart 342.7—Indirect Cost Rates

342.705 Final indirect cost rates.

The Director, Division of Cost Allocation of the Regional Administrative Support Center within each HHS regional office has been delegated the authority to establish indirect cost rates, research patient care rates, and, as necessary, fringe benefit, computer, and other special costing rates for use in contracts and grants awarded to State and local governments, colleges and universities, hospitals, and other nonprofit organizations.

Subpart 342.70—Contract Monitoring

342.7001 Purpose.

Contract monitoring is an essential element of contract administration and the acquisition process. This subpart describes the Department's operating concepts regarding contract monitoring, performed jointly by the project officer and the contracting officer, to ensure that the required monitoring is performed, timely remedial action is taken when necessary, and a determination is made that contract objectives have been met.

342.7002 Contract monitoring responsibilities.

(a) Upon execution of the contract, the mutual obligations of the Government and the contractor are established by, and limited to, the written stipulations in the contract. Unless authorized by the contracting officer, HHS personnel shall not direct or request the contractor to assume any obligation or take any actions not specifically required by the contract. Only the contracting officer may impose a requirement which will result in a change to the contract. All contract changes must be directed in writing or confirmed in writing by the contracting officer.

(b) The contracting officer is responsible for assuring compliance with all terms of the contract, especially the statutory, legal, business, and regulatory provisions. Whether or not a postaward conference is held, the contracting officer shall inform the contractor by letter (if not already stipulated by contract provisions) of the authorities and responsibilities of the Government personnel with whom the contractor will be dealing throughout the life of the contract.

(c) The contracting officer must depend on program, technical, and other

personnel for assistance and advice in monitoring the contractor's performance, and in other areas of postaward administration. The contracting officer must assure that responsibilities assigned to these personnel are understood and carried out. The individual roles and corresponding responsibilities typically involve, but are not limited to, the following:

(1) The role of program and technical personnel in monitoring the contract to assist or advise the contracting officer (or act as his/her representative when so designated by the contracting officer) in activities such as:

(i) Providing technical monitoring during contract performance, and issuing letters to the contractor and contracting officer relating to delivery acceptance, or rejection in accordance with the terms of the contract;

(ii) Assessing contractor performance, including inspection and testing of products and evaluation of reports and data;

(iii) Recommending necessary changes to the schedule of work and period of performance in order to accomplish the objectives of the contract. This shall be accomplished by a written request to the contracting officer, together with an appropriate justification and funds availability citation;

(iv) Reviewing invoices/vouchers and recommending approval/disapproval action by the contracting officer, to include comments regarding anything unusual discovered in the review;

(v) Reviewing and recommending approval or disapproval of subcontracts, overtime, travel, and key personnel changes; and

(vi) Participating, as necessary, in various phases of the contract closeout process.

(2) The role of the project officer in performing required aspects of the contract monitoring process. In addition to those applicable activities set forth in (c)(1) above, the project officer shall:

(i) Submit periodic reports to the contracting officer that concisely explain the status of the contract, and include recommended actions for any problems reported. Provide the contracting officer with written notification of evaluation and approval/disapproval of contract deliverables and of completion of tasks or phases. The contracting officer will, in turn, provide the contractor with written notification of approval or disapproval unless the responsibility has been delegated by the contracting officer, in which case the person responsible for such action will notify the contractor and provide a copy to the contracting officer for inclusion in the contract file;

(ii) Monitor the technical aspects of the contractor's business and technical progress, identify existing and potential problems that threaten performance, and immediately inform the contracting officer of deviations from contract objectives, or from any technical or delivery requirements, so that remedial measures may be instituted accordingly;

(iii) Provide immediate notification to the head of the program office responsible for the program whenever it is determined that program objectives are not being met, together with specific recommendations of action to be taken. A copy of the project officer's report and recommendations shall be transmitted to the contracting officer for appropriate action;

(iv) Submit, within 120 days after contract completion, a final assessment report to the contracting officer. The report should include an analysis of the contractor's performance, including the contract and program objectives achieved and missed. A copy of the final assessment report shall be forwarded to the head of the program office responsible for the program for management review and followup, as necessary; and

(v) Accompany and/or provide, when requested, technical support to the HHS auditor in the conduct of floor checks.

(3) The role of the contract administrator, auditor, cost analyst, and property administrator in assisting or advising the contracting officer in postaward administration activities such as:

(i) Evaluation of contractor systems and procedures, to include accounting policies and procedures, purchasing policies and practices, property accounting and control, wage and salary plans and rate structures, personnel policies and practices, etc.;

(ii) Processing of disputes under the Disputes clause and any resultant appeals;

(iii) Modification or termination of the contract; and

(iv) Determination of the allowability of cost charges to incentive or cost-reimbursement type contracts and progress payments under fixed-price contracts. This is especially important when award is made to new organizations or those with financial weaknesses.

(d) The contracting officer is responsible for assuring that contractor performance and contract monitoring are carried out in conformance with contract provisions. If performance is not satisfactory or if problems are anticipated, it is essential that the contracting officer take immediate action to protect the Government's rights under the contract. The contracting officer shall notify his/her immediate supervisor of problems that cannot be resolved within contract limitations and whenever contract or program objectives are not met. The notification shall include a statement of action being taken by the contracting officer.

342.7003 Withholding of contract payments.

342.7003-1 Policy.

(a) All solicitations and resultant contracts shall contain a withholding of contract payments clause and an excusable delays clause or a clause which incorporates the definition of excusable delays. These clauses are contained in the Department's contract general provisions.

(b) The transmittal letter used to convey the contract to each contractor shall contain a notice which highlights the contractor's agreement with the withholding of contract payments clause.

(c) No contract payment shall be made when any report required to be submitted by the contractor is overdue, or the contractor fails to perform or deliver work or services as required by the contract.

(d) The contracting officer shall issue a ten-day cure notice or initiate appropriate termination action for any failure in the contractor's performance as stated in the preceding paragraph (c).

342.7003-2 Procedures.

(a) The contracting officer is responsible for initiating immediate action to protect the Government's rights whenever the contractor fails to comply with either the delivery or reporting provisions of the contract. Compliance with the reporting provisions includes those reports to be submitted directly to the payment office. If such a report is not submitted on time, the contracting officer is to be notified promptly by the payment office.

(b) When the contract contains a termination for default clause, the contractor's failure to either submit any required report when due or perform or deliver services or work when required by the contract is to be considered a default in performance. In either circumstance, the contracting officer is to immediately issue a formal ten-day cure notice pursuant to the default clause. The cure notice is to follow the format prescribed in FAR 49.607 and is to include a statement to the effect that contract payments will be withheld if

the default is not cured or is not determined to be excusable.

(1) If the default is cured or is determined to be excusable, the contracting officer is not to initiate the withholding action.

(2) If the default is not determined to be excusable or a response is not received within the allotted time, the contracting officer is to initiate withholding action on all contract payments and is to determine whether termination for default or other action would be in the best interest of the Government.

(c) When the contract does not contain a termination for default clause, the contractor's failure to either submit any required report when due or perform or deliver services or work when required by the contract is to be considered a failure to perform. In either circumstance, the contracting officer is to immediately issue a written notice to the contractor specifying the failure and providing a period of ten days, or a longer period as determined necessary by the contracting officer, in which the contractor is to cure the failure or establish an excusable delay. The contracting officer is to include a statement in the written notice to the effect that contract payments will be withheld if the failure is not cured or is not determined to be excusable.

(1) If the failure is cured or is determined to be excusable, the contracting officer is not to initiate the withholding action.

(2) If the failure is not determined to be excusable or a response is not received within the allotted time, the contracting officer is to initiate withholding action on all contract payments and is to determine whether termination for convenience or other action would be in the best interest of the Government.

(d) The contracting officer should consult FAR Subpart 49.4 for further guidance before taking any of the actions described in this section.

342.7003-3 Withholding payments.

(a) When making the determination that contract payments should be withheld in accordance with the Withholding of Contract Payments clause, the contracting officer is to immediately notify the servicing finance office in writing of the determination to suspend payments. The notice of suspension is to contain all elements of information required by the payment office to properly identify the contract and the applicable accounts involved.

(b) The contracting officer is to immediately notify the contractor in writing that payments have been suspended until the default or failure is cured.

(c) When the contractor cures the default or failure, the contracting officer is to immediately notify, in writing, all recipients of the notice of suspension that the suspension is to be lifted and contract payments are to be resumed.

(d) When exercising actions regarding the withholding of payment procedures, the contracting officer must be careful not to waive any of the Government's rights when corresponding with the contractor or when taking any other actions.

Subpart 342.71—Administrative Actions for Cost Overruns

342.7100 Scope of subpart.

This subpart sets forth the procedures to be followed when a cost overrun is anticipated; i.e., the allowable actual cost of performing a cost-reimbursement type contract is expected to exceed the total estimated cost specified in the contract.

342.7101 Applicability.

This subpart applies to the administration of cost-reimbursement type contracts and the cost-reimbursement portion of other types of contracts. Nothing in this subpart shall be construed to relieve contractors from compliance with the Limitation of Cost clause or any other provisions of contracts.

342.7102 General.

Reimbursement for costs incurred under cost-reimbursement contracts shall not exceed the amount of funds obligated by the contract, unless increased by the contracting officer. Cost overruns shall be held to an absolute minimum, compatible with accomplishment of the statement of work.

342.7103 Contract administration.

342.7103-1 General.

Upon receipt of information that a contractor's accumulated cost and projected expenditures will exceed the limit of funds obligated by the contract, the contracting officer shall coordinate immediately with the appropriate program office to determine whether the contract should be modified or terminated. If the contracting officer receives information from a source other than the contractor that a cost overrun is anticipated, the contracting officer shall verify the information with the contractor, and remind the contractor of the notification requirements of the Limitation of Cost clause.

342.7103-2 Procedures.

(a) Upon notification that a cost overrun is anticipated, the contracting officer shall inform the contractor to submit a request for additional funds which is to include:

(1) Name and address of contractor.

(2) Contract number and expiration date.

(3) Contract item(s) and amount(s) creating the overrun.

(4) The elements of cost which changed from the original estimate (i.e., labor, material, travel, overhead, etc.) to be furnished in the following format:

(i) Original estimate,

(ii) Costs incurred to date,

(iii) Estimated cost to completion,

(iv) Revised estimate, and

(v) Amount of adjustment.

(5) The factors responsible for the increase, i.e., error in estimate, changed conditions, etc.

(6) The latest date by which funds must be available for commitment to avoid contract slippage, work stoppage, or other program impairment.

(b) When the contractor submits a notice of an impending overrun, the contracting officer shall:

(1) Immediately advise the appropriate program office and furnish a copy of the notice and any other data received;

(2) Request audit or cost advisory services, and technical support, as necessary, for evaluation of information and data received; and

(3) Maintain continuous follow-up with the program office in order to obtain a timely decision as to whether the work under the contract should be continued and additional funds provided, or the contract terminated. The decision of the program office must be supported by an appropriate written statement and funding authority, or a formal request for termination, when applicable. After a programming and funding decision is received from the program office, the contracting officer shall promptly notify the contractor in writing that:

(i) A specified amount of additional funds has been allotted to the contract by a contractual instrument; or

(ii) Work will be discontinued when the funds allotted to the contract have been exhausted, and that any work performed after that date is at the contractor's risk; or

(iii) The Government is considering whether additional funds should be allotted to the contract and will notify the contractor as soon as possible, but that any work performed after the funds then allocated to the contract have been exhausted is at the contractor's risk.

Timely, formal notification of the Government's intention is essential in order to preclude loss of contractual rights in the event of dispute, termination, or litigation.

(c) If program requirements permit, contracting officers should refrain from issuing any contractual documents which will require new work or an extension of time, pending resolution of an overrun or additional fund request.

342.7104 Contract modifications.

(a) Modifications to contracts containing the Limitation of Cost clause shall include either:

(1) A provision increasing the estimated or ceiling amount referred to in the Limitation of Cost clause of the contract and stating that the clause will thereafter apply in respect to the increase amount; or

(2) A provision stating that the estimated or ceiling amount referred to in the contract is not changed by the modification and that the Limitation of Cost clause will continue to apply with respect to the amount in effect prior to the modification.

(b) A fixed-fee provided in a contract shall not be changed when funding a cost overrun. Changes in fixed-fee will be made only to reflect changes in the scope of work which justify an increase or decrease in fee.

Subpart 342.72—Payments to Contractors

342.7200 Scope of subpart.

This subpart prescribes policies and procedures relating to: (a) The requirements of the Prompt Payment Act (Pub. L. 97–177), (b) the implementation of Pub. L. 97–177 by the Office of Management and Budget (OMB) Circular No. A–125, (c) invoice requirements and matters concerning payments to contractors, and (d) wire transfer payment procedures.

342.7201 Definitions.

The terms used in this subpart have the meanings set forth below:

"Applicable interest rate" means the interest rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611).

"Business concern (Contractor)" means any person or organization engaged in a profession, trade or business; and nonprofit entities (including State and local governments, Federally recognized Indian Tribal governments, and educational institutions, but excluding Federal entities) operating as contractors.

"Contract" means any enforceable agreement, including rental and lease agreements and purchase orders. This definition also includes basic ordering agreements, blanket purchase agreements and other types of agreements under which calls or orders may be issued.

"Designated payment office" means the place named in the contract where invoices will be forwarded for payment, or in certain instances, for approval.

"Due date" means the date on which Federal payment should be made.

"Discount date" means the date by which, if payment is made, a specified discount can be taken.

"Payment date" means the date on which a check for payment is dated or a wire transfer of funds is made.

"Proper invoice" means a bill or written request for payment provided by a business concern for property delivered or services rendered. A proper invoice must contain the data required by the contract.

"Receipt of invoice" means the later of:

—The date a proper invoice is actually received in the designated payment office, or

—The date on which HHS accepts the property or service.

"Receiving report" means written evidence of acceptance of property or services by the designated receiving official. Receiving reports must meet the requirements of 342.7205–3.

"Designated receiving official" means the individual designated:

—Pursuant to 103–27.5018 of the HHS Materiel Management Manual to receive property for his/her activity, or

—In the contract, e.g., the project officer, or by the agency to accept services rendered under a contract.

"Fiscal office" means the office responsible for: (a) Determining whether interest penalties are due a contractor and, if so, the amount, (b) determining whether an invoice offers a financially advantageous discount, (c) maintaining records for and submission of prompt payment reports to the Deputy Assistant Secretary, Finance (DASP), ASMB, OS, and (d) processing payments to the Treasury Department to allow for payment to a contractor when due.

342.7202 Policy and responsibilities.

(a) Each OPDIV and STAFFDIV head and regional director is responsible for ensuring timely payment and the payment of interest penalties when required.

(b) Contracting officers shall include payment provisions in all contracts and purchase orders and, when necessary, participate in the processing of invoices in a timely manner so that payment may be made as close as possible to, but not later than, the due date or, if appropriate, the discount date. Payment will be based on receipt of proper invoices and satisfactory performance of contract terms.

(c) Notice of an apparent error, defect, or impropriety in an invoice shall be given to a business concern within 15 days of receipt of an invoice (3 days for meat or meat food products and 5 days for perishable agricultural commodities). The notice shall be suitably documented.

(d) OPDIV and STAFFDIV heads and regional directors shall ensure that receipt and acceptance are executed as promptly as possible. Receiving reports shall be forwarded in time to be received by the designated payment office by the fifth business day after acceptance, unless other arrangements are made. Designated payment offices shall stamp receiving reports and invoices with the date received in those offices.

(e) Any OPDIV, STAFFDIV or regional office which acquires property or services from a business concern, but which does not make payment for each complete delivered item of property or service by the required payment date, shall pay an interest penalty to the business concern as provided in the Payment Due Date clause in the contract.

(f) It is the policy of the Government to defer payment until as close as administratively possible to the due date for payment or, if appropriate, the discount date. In addition, payments shall not be expedited to earn discounts for early payment unless discounts are determined to be economical. These practices will tend to maximize cash balances available to the Treasury, reduce the need for borrowing, and thus contribute to lowering the public debt.

(g) If a business concern offers an activity a discount from the amount otherwise due under a contract for property or services in exchange for payment within a specified period of time, the activity may make payment in an amount equal to the discounted price only if payment is made within the specified period of time. Each activity which violates this provision shall pay an interest penalty on any amount which remains unpaid and on which the agency fails to correct the underpayment within 15 days of the expiration of the discount period (3 days for meat and meat food products, and 5 days for perishable agricultural commodities).

(h) Interest penalties will be paid without the need for business concerns requesting them, except as provided in 342.7205–5. Interest penalty payments will be absorbed within funds available for the administration or operation of the program for which the penalty was incurred.

342.7203 Exemptions.

The provisions of this Subpart 342.72 are not applicable to the following types of contracts:

(a) Contracts when payments are made for financing purposes before receipt of complete delivered items of property or service.

(b) Contracts for utilities (gas, water, electricity, etc.) that include provisions for late payment charges established by tariff or State regulatory commissions.

(c) Informal contracts for the purchase of utilities under a tariff when the tariff provides for late payment charges.

(d) Cost-reimbursement contracts are exempt from the clause required by 342.7204, but must contain the clause required by 342.7205–(1)(d).

342.7204 Contract clause—general.

The contracting officer shall insert the clause at 352.242–72, Interest on Overdue Payments, in solicitations and contracts unless exempted by 342.7203.

342.7205 Payment terms in contracts.

342.7205–1 General requirements.

The contracting officer shall include the Government's terms of payment in each nonexempt contract and purchase order (see 342.7203) in accordance with the guidelines in this section. The clauses established by this section may be modified provided the basic features are included in the payment terms. For example, the contracting officer may modify the clause to provide for special billing instructions or other administrative matters or to allow for a due date for payment beyond 30 days if, in consultation with the designated receiving official, it is determined that the property or services may require additional time for inspection review (see 342.7205–3(c)).

(a) *Payment due dates based on receipt for invoices under purchase orders and fixed-price type contracts.* (1) The contracting officer should insert the clause at 352.242–73, Invoice Payment, in solicitations and contracts when invoices required to be furnished by contractors may be received before the Government has had an opportunity to inspect and accept the supplies or services. It shall be stipulated in the payment terms that payment will be due on the later of receipt of the invoice, or acceptance of the supplies or services.

(2) The contracting officer should insert the clause at 352.242–74, Payment Due Date, in solicitations and contracts when invoices may be required to reflect that delivery (or performance) and acceptance has already occurred. This would be the situation in the case of supplies purchased on an f.o.b. origin basis, with inspection and acceptance at source, and proof of shipment (e.g., a Government bill of lading) required to be furnished with the invoice. This may also be the case with respect to various contracts for services.

(b) *Due dates based on delivery.* (1) The Prompt Payment Act requires payment to be made not later than 7 days after the date of delivery of meat and meat food products, as defined in section 2(a)(3) of the Packers and Stockyards Act of 1921 (7 U.S.C. 182(3)). Contracts for these commodities should require invoices to be furnished with each shipment, and payment terms may stipulate that supplies will not be deemed to be delivered until the later of the date of actual delivery or the date of receipt of a proper invoice. The contracting officer should insert the clause at 352.242–75, Invoice Payment, in solicitations and resultant contracts for the acquisition of meat and meat food products as discussed in this 342.7205–1(b)(1).

(2) The circumstances regarding meats, as described in the preceding paragraph, also apply to perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), except that the required time for payment is 10 calendar days after delivery. This period is subject to changes based on any amendment to the Perishable Agricultural Commodities Act of 1930, or any implementing regulations issued thereunder. Contracts for these commodities should require invoices to be furnished with each shipment, and payment terms may stipulate that supplies will not be deemed to be delivered until the later of the day of actual delivery or the date of receipt of a proper invoice. The contracting officer should insert the clause at 352.242–76, Invoice Payment, in solicitations and resultant contracts for the acquisition of perishable agricultural commodities as discussed in this 342.7205–1(b)(2).

(c) *Recurring payments under leases of real property.*

Leases of real property usually provide for payment in arrears of a fixed amount, due on the first day of each month. Payment terms should provide that payment is due on a workday early in the month, but not in excess of the fifth workday.

(d) *Cost-reimbursement type contracts.* The contracting officer should insert the clause set forth at 352.242–77, Invoice Payment, in solicitations for which award of a cost-reimbursement type contract is contemplated and in resultant cost-reimbursement type contracts.

§ 342.7205–2 Invoice requirements.

(a) *Basic requirements of a proper invoice.*

(1) Public Law 97–177 provides, in section 6(3), that "an invoice shall be considered a 'proper invoice' when it contains or is accompanied by such substantiating documentation:

(i) As the Director of the Office of Management and Budget may require by regulation, and (ii) as the Federal agency involved may require by regulation or contract."

(2) OMB Circular A–125 provides that the following data must be included in an invoice for it to constitute a proper invoice:

(i) Name of the business concern and invoice date.

(ii) Contract number, or other authorization for delivery of property or services.

(iii) Description, price, and quantity of property and services actually delivered or rendered.

(iv) Shipping and payment terms.

(v) Name (where practicable), title, phone number, and complete mailing address of responsible official to whom payment is to be sent.

(vi) Other substantiating documentation or information as required by the contract.

(b) *Invoice requirements clause.* The contracting officer should insert the clause set forth at 352.242–78, Invoice Submission, in nonexempt solicitations and contracts (see 342.7203). The clause may be modified to provide for agency needs.

§ 342.7205–3 Receiving reports.

(a) Employees responsible for the inspection and acceptance of property or services are to complete their actions and forward the necessary paperwork to the fiscal office within 5 Government working day of the receipt of the property or rendering of the service, or upon completion of special contract requirements, e.g., installation or testing.

(b) Programmatic review of invoices will be completed by the project officer and forwarded to the contracting officer within five calendar days of their receipt.

(c) The above employees must inform the contracting officer, prior to award, of any extraordinary inspection/review

requirements that may not allow for their effort to be completed within the five days period so that these requirements may be included in the contract.

(d) The contracting officer shall ensure that the contract file contains adequate documentation to substantiate the basis for extraordinary inspection/review requirements.

(e) Receiving reports for property must include:

(1) Contract or other authorization number.

(2) Name of contractor.

(3) Product or service description.

(4) Quantities received and accepted, if applicable.

(5) Date(s) property or services were accepted.

(6) Signature, printed name, title, phone number, and mailing address of the designated receiving official.

342.7205-4 Processing invoices.

(a) *Submission of invoices.*

(1) The "Invoice Submission" article of the contract shall instruct the contractor where all invoices will be submitted.

(2) Normally, the invoice will be submitted directly to the fiscal office. Immediately upon receipt, the payment officer shall date stamp and review the invoice to determine whether it is proper. If the invoice contains an apparent error, defect, or impropriety, written notification shall be given to the contractor as early as possible but in no event later than 15 calendar days of the receipt of the invoice (3 days for meat or meat food products and 5 days for perishable agricultural commodities).

(3) If the invoice is considered proper, the payment officer shall place it in a system where periodic follow-up action can be taken and forward a copy to the contracting officer if his/her approval is required before payment can be made so that the contracting officer can return the approved invoice in sufficient time for payment to be made by the payment due date. In the latter case, close coordination is essential between the paying office and the approving official.

(4) Fiscal and contracting officers may agree to allow for invoices requiring contracting officer approval to be submitted by the fiscal office directly to the project officer for review and subsequent submission to the contracting officer for approval. If a receiving report or invoice requiring contracting officer approval is not received in the fiscal office when due, the payment officer will request immediate submission from the responsible office.

(5) OPDIVs, STAFFDIVs and regional offices may elect to require contractors to submit invoices directly to the contracting officer for processing. However, when this option is used, the OPDIV, STAFFDIV, or regional office shall develop procedures to assure prompt approval and payment of invoices and shall maintain standards against which timely payment of invoices can be evaluated. These procedures and standards shall be developed in conjunction with the fiscal office and a copy shall be submitted through acquisition channels to the Director, Division of Procurement Policy (DPP), OPAL–OS. The Director, DPP, will submit a copy of the procedures and standards to the Director, Division of Cash Management Policy and Procedures (DCMPP), OS.

(b) *Receipt and processing invoices by the contracting officer.*

(1) Immediately upon receipt, the contracting officer shall date stamp each invoice and review it to determine if the submission is in accordance with the terms of the contract. This date will establish the payment due date or defective invoice notification date when the contracting office is identified as the designated payment office.

(2) When the contract identifies the contracting office as the designated payment (approval) office and a submission is deficient, the contracting officer shall give the contractor written notice of the apparent error, defect, or impropriety within 15 calendar days of the receipt of the invoice (3 days for meat or meat food products and 5 days for perishable agricultural commodities). A copy of the notice will be submitted to the fiscal office. However, payment of an invoice should not be delayed because a minor amount is in question. Generally, a minor amount is considered to be less than 10% of the invoiced amount. The contractor should be informed of the problems in writing and, if appropriate, the amount deleted from the invoice and payment made. The contract file should be documented as to the action taken.

(3) The contracting officer, with assistance from the project officer, must insure that payments are commensurate with technical progress under the contract.

(4) With respect to contracts where the work is budgeted by phase or task, payment to the contractor shall be limited to the amount specified for each phase or task. Approval of invoices is thus controlled by these incremental limitations. Special care should be exercised to assure payments are not made prematurely, e.g., when authorizations to proceed to subsequent tasks are contingent upon approval of the prior task. It is, therefore, mandatory that those contracts susceptible to phasing require billing and financial reporting by tasks or phases.

(5) The Fixed-Fee clause prescribed at FAR 52.216–8 provides that after payment of 85% of the fixed-fee the contracting officer may withhold further payment of fee, within specified limits, only if he/she considers withholding necessary to protect the interests of the Government. Fees shall not be withheld unless the contracting officer makes a determination that such action is in the best interest of the Government and informs the contractor in writing of the reasons for withholding within the time periods set forth in (b)(2) above. A copy of the notification shall be submitted to the fiscal office.

(6) The Allowable Cost and Payment clause prescribed at FAR 52.216–7 requires the contracting officer to make payment in amounts determined to be allowable. The contracting officer shall notify a contractor in writing, within the time periods set forth in (b)(2) above, of any determination to withhold costs. Notification shall be made orally and confirmed in writing if it cannot be made timely. A copy of the notification shall be submitted to the fiscal office. The contracting officer shall follow the procedures in FAR 42.801 if, during the course of contract performance, costs are withheld because they are determined to be unallowable (see FAR 31.001). The notice of intent to disallow costs shall contain the appropriate elements set forth in FAR 42.801(c).

(7) When a contract requires payment to be made within 30 days after receipt of a proper invoice, the contracting officer shall submit the approved invoice to the fiscal office no later than sixteen (16) calendar days from receipt of a proper invoice by the designated payment office. However, when a contract provides for a payment due date other than 30 days after receipt of a proper invoice, and if contracting officer approval of the invoice is required before payment can be made, the contracting officer shall reach agreement with the fiscal office prior to award, as to when the invoice must be received in the designated payment office.

(8) When an invoice offers a financially advantageous discount, the contracting officer shall submit the approved invoice to the fiscal office in sufficient time to insure payment within the discount period. The fiscal office is responsible for determining if a discount is financially advantageous to take in

accordance with Federal Cash Management Guidelines.

(c) *Alternative procedures for invoice processing.* In the event an OPDIV, STAFFDIV, or regional office is consistently unable to meet the prior review and approval requirements, it may submit an alternative plan to the Assistant Secretary for Management and Budget for approval that provides for:

(1) Submission of SF-1166, Voucher and Schedule of Payments, to the Treasury Department to allow for payment to be made when due or within the discount period;

(2) Review by the project officer and approval by the contracting officer of the invoice within 15 days after payment;

(3) Any necessary adjustments in the subsequent voucher payments; and

(4) Payment of completion and final vouchers only after approval by the contracting officer.

The plan must explain why the OPDIV, STAFFDIV, or regional office is unable to meet the review and approval period. All approved alternative payment plans will be subject to periodic review and reevaluation.

342.7205-5 Interest penalty payments.

(a) An interest penalty will be determined and paid automatically by the fiscal office when all of the following conditions are met:

(1) There is a contract or purchase order with a business concern which contains the Interest on Overdue Payments clause set forth in 352.242-72.

(2) Federal acceptance of property or services has occurred and there is no disagreement over quantity, quality, or other contract provisions.

(3) A proper invoice has been received (except where no invoice is required, e.g., some periodic lease payments) or the activity fails to give notice that the invoice is not proper within 15 days of receipt of an invoice (3 days for meat or meat food products, and 5 days for perishable agricultural commodities).

(4) Payment is made to the business concern more than 15 days after the due date (3 days for meat or meat food products, and 5 days for perishable agricultural commodities).

(b) An interest penalty for contracts containing the Interest on Overdue Payments clause set forth at 352.242-72 will also be paid if an activity takes a discount after the discount period has expired, and fails to correct the underpayment within 15 days of the expiration of the discount period (3 days for meat and meat food products, and 5 days for perishable agricultural commodities).

(c) Interest penalties are not required when payment is delayed because of a disagreement between a Federal agency and a business concern over the amount of the payment or other issues concerning compliance with the terms of a contract; nor are they required when payments are made solely for financing purposes, or for a period when amounts are withheld temporarily in accordance with the contract. Claims concerning disputes, and any interest that may be payable with respect to the period while the dispute is being settled, will be resolved in accordance with the provisions in the Contract Disputes Act of 1978 (41 U.S.C 601 *et seq.*).

342.7206 Method of payment.

342.7206-1 General.

(a) The Department of the Treasury has initiated a program to make contract payments by wire transfer through the Treasury Financial Communications System (TFCS). During its initial phases, payments will be made by both check and wire transfer. The determination of the method of payment will be directed by the Department of Treasury through establishment of a vendor payment amount threshold above which TFCS payments will be required.

(b) Procedures for processing payments through the TFCS may be found in Chapter 2500, Part 4, Volume 1, of the Treasury Fiscal Requirements Manual.

(c) To accommodate payments by either of the payment methods discussed in paragraph (a) of this section, it is necessary that the check payment address and appropriate bank account information be obtained from Government contractors. The contract clause discussed at 342.7206-2 is designed to elicit the necessary information.

342.7206-2 Method of payment.

(a) The contracting officer shall insert the clause set forth at 352.242-79, Method of Payment, in each solicitation and contract to give the Government the option to pay by check or wire transfer and require contractors to furnish the address where check payments should be sent and the appropriate bank account information needed to accomplish wire transfers.

(b) The office making payment shall be identified in the Method of Payment clause as the office designated to receive payment information. Payment information on assigned contracts will be obtained from the assignee by the office making payment if the contractor is unable to obtain it from the assignee.

342.7206-3 Coordination with paying offices.

The office designated to receive payment information shall establish procedures for handling the information and appropriate internal controls to preclude release of the information to unauthorized individuals. If the documented information is not received within five working days after it is due, the payment officer will request the contracting officer to require the contractor to submit the information in sufficient time to avoid a delay in payment.

PART 345—GOVERNMENT PROPERTY

Subpart 345.3—Providing Government Property to Contractors

Sec.

345.370 Providing Government property (in general).

Subpart 345.4—Contractor Use and Rental of Government Property

345.405 Contracts with foreign governments or international organizations.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 345.3—Providing Government Property to Contractors

345.370 Providing Government property (in general).

(a) A contractor may be provided Government property or allowed to acquire such property at Government expense upon determination that:

(1) No practicable or economical alternative exists; e.g., acquisition from other sources, utilization of subcontractors, rental of property, or modification of program project requirements, etc.;

(2) The Government receives adequate consideration for providing the property; or

(3) Furnishing Government property is likely to result in substantially lower cost to the Government for the items produced or services rendered when all costs involved (e.g., transportation, installation, modification, maintenance, etc.) are compared with the cost to the Government of the contractor's use of privately-owned property.

(b) The determination that it is necessary to provide a contractor or subcontractor with property will be made by the contracting officer with the advice of the agency property official.

(c) If the program office is aware, prior to the submission of the request for contract, that it will be necessary to provide prospective contractors with property, a written justification must accompany the request for contract to the contracting activity.

Subpart 345.4—Contractor Use and Rental of Government Property

345.405 Contracts with foreign governments or international organizations.

Upon the request of a foreign government or international organization, or a contractor certifying that it is acting on behalf of a foreign government or international organization, the contracting officer, with advice from the agency property official cognizant of Government property located in the United States, its possessions, or Puerto Rico, may give written approval for its use without charge on contracts or subcontracts thereunder if:

(a) The foreign government or international organization would be authorized to place the contract with the activity concerned under the Foreign Assistance Act of 1961, as amended, or such use is authorized by an agreement with the foreign government;

(b) The foreign government's placement of the contract directly with the contractor is consistent with the best interests of the United States;

(c) It appears that the foreign government will place the contract with the contractor whether or not use is authorized, and no competitive pricing advantage will accrue to the contractor by virtue of its use;

(d) The contractor agrees that no charge for the use of the property will be included in the price charged the foreign government under the contract; and

(e) The use will not interfere with foreseeable requirements of the United States.

SUBCHAPTER H—CLAUSES AND FORMS

PART 352—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 352.2—Texts of Provisions and Clauses

Sec.

352.202–1 Definitions.
352.208–70 Printing.
352.215–12 Restriction on Disclosure and Use of Data.
352.215–70 Duplication of Cost Certification.
352.215–71 Employer's Identification Number.
352.215–72 Pre-Proposal Conference.
352.216–7 Allowable Cost and Payment.
352.216–70 Negotiated Overhead Rates—Fixed.
352.216–71 Cost Principles—Hospitals.
352.223–70 Safety and Health.
352.223–71 Safety and Health—Construction.
352.224–70 Confidentiality of Information.
352.225–12 Country of Manufacturer Representation.
352.227–1 Rights in Data.
352.228–70 Required Insurance.
352.232–9 Withholding of Contract Payments.
352.232–70 Additional Payment Provision.
352.232–71 Cost Sharing.
352.232–72 Prohibition Against Use of HHS Funds to Influence Legislation or Appropriations.
352.232–73 Method of Payment—Letter of Credit.
352.232–74 Estimated Cost and Fixed Fee-Incrementally Funded Contract.
352.232–75 Incremental Funding.
352.233–70 Litigation and Claims.
352.237–70 Consulting Services Reporting.
352.237–71 Services of Consultants.
352.242–70 Notice to the Government of Delays.
352.242–71 Final Decisions on Audit Findings.
352.242–72 Interest on Overdue Payments.
352.242–73 Invoice Payment.
352.242–74 Payment Due Date.
352.242–75 Invoice Payment.
352.242–76 Invoice Payment.
352.242–77 Invoice Payment.
352.242–78 Invoice Submission.
352.242–79 Method of Payment.
352.242–80 HHS Contract Financial Report.
352.243–70 Summarization Statements for Contracts Modifications.
352.247–70 Foreign Travel.
352.249–14 Excusable Delays.
352.252–2 Clauses Incorporated by Reference.
352.270–1 Accessibility of Meetings, Conferences, and Seminars to Persons with Disabilities.
352.270–2 Indian Preference.
352.270–3 Indian Preference Program.
352.270–4 Pricing of Adjustments.
352.270–5 Key Personnel.
352.270–6 Publication and Publicity.
352.270–7 Paperwork Reduction Act.
352.270–8 Advertising of Awards.

Subpart 352.3—Provision and Clause Matrices

352.370 General.

General Provisions for A Cost-Plus-A-Fixed-Fee Contract

General Provisions for A Negotiated Cost-Reimbursement Contract with Nonprofit Institutions Other Than Educational Institutions.

General Provisions for A Negotiated Fixed-Price Research and Development Contract

General Provisions for A Negotiated Fixed-Price Supply Contract

General Provisions for A Negotiated Cost-Reimbursement Contract with Educational Institutions

General Provisions for A Cost-Reimbursement Supply Contract

General Provisions for A Formally Advertised Contract

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 352.2—Texts of Provisions and Clauses

352.202–1 Definitions.

Insert the following clause in solicitations and resultant fixed price contracts instead of the clause in FAR 52.202–1 except when contemplating (a) a fixed price research and development contract that is expected to be $2,500 or less or (b) a purchase order.

Definitions (Apr 1984)

(a) The term "Secretary" or "Head of the Agency" (also called "Agency Head") means the Secretary, Under Secretary, or any Assistant Secretary, Administrator or Commissioner, of the Department of Health and Human Services; and the term "his/her duly authorized representative" means any person, persons, or board authorized to act for the Secretary.

(b) The term "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical monitoring of contract performance. The Project Officer is not authorized to issue any instructions or directions which effect any increases or decreases in the scope of work or which would result in the increase or decrease of the price of this contract or a change in the delivery dates or performance period of this contract.

(d) The term "Department" means the Department of Health and Human Services.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase order under this contract.

(End of clause)

Alternate I (Apr 1984). For cost-reimbursement contracts other than purchase orders, delete paragraph (c) above and replace with the following paragraph (c):

(c) The term "Project Officer" means the person representing the Government for the purpose of technical monitoring of contract performance. The Project Officer is not authorized to issue any instructions or directions which effect any increases or decreases in the scope of work or which would result in the increase or decrease of the cost of this contract or a change in performance period of this contract. In addition, the Project Officer is not authorized to receive or act upon the Contractor's notification of a revised cost estimate pursuant to the Limitation of Cost or Limitation of Funds clause of this contract.

352.208–70 Printing.

Insert the following clause in solicitations and contracts other than purchase orders:

Printing (Apr 1984)

Unless otherwise specified in this contract, the Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract; except, that performance of a requirement under this contract involving the reproduction of less than 5,000 production units of any one page or less than 25,000 production units in the aggregate of multiple pages will not be deemed to be printing. A production unit is defined as one sheet, size 8½ by 11 inches one side only, one color.

(End of clause)

352.215-12 Restriction of Disclosure and Use of Data.

Insert the following provision in all requests for proposals, and all requests for quotations other than those for information or planning purposes. This provision shall be used in lieu of the provision in FAR 52.215-12.

Restriction on Disclosure and Use of Data (Apr 1984)

The proposal submitted in response to this request may contain data (trade secrets; business data, e.g., commercial information, financial information, and cost and pricing data; and technical data) which the offeror, including its prospective subcontractor(s), does not want used or disclosed for any purpose other than for evaluation of the proposal. The use and disclosure of any data may be so restricted; *provided,* that the Government determines that the data is not required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, as amended, and the offeror marks the cover sheet of the proposal with the following legend, specifying the particular portions of the proposal which are to be restricted in accordance with the conditions of the legend. The Government's determination to withhold or disclose a record will be based upon the particular circumstances involving the record in question and whether the record may be exempted from disclosure under the Freedom of Information Act:

Unless disclosure is required by the Freedom of Information Act, 5 U.S.C. 552, as amended, (the Act) as determined by Freedom of Information (FOI) Officials of the Department of Health and Human Services, data contained in the portions of this proposal which have been specifically identified by page number, paragraph, etc. by the offeror as containing restricted information shall not be used or disclosed except for evaluation purposes.The offeror acknowledges that the Department may not be able to withhold a record (data, document, etc.) nor deny access to a record requested pursuant to the Act and that the Department's FOI Officials must make that determination. The offeror hereby agrees that the Government is not liable for disclosure if the Department has determined that disclosure is required by the Act.

If a contract is awarded to the offeror as a result of, or in connection with, the submission of this proposal, the Government shall have the right to use or disclose the data to the extent provided in the contract. Proposals not resulting in a contract remain subject to the Act.

The offeror also agrees that the Government is not liable for disclosure or use of unmarked data and may use or disclose the data for any purpose, including the release of the information pursuant to requests under the Act.

The data subject to this restriction are contained in pages (insert page numbers, paragraph designations, etc. or other identification).

In addition, the offeror should mark each page of data it wishes to restrict with the following legend:

Use or disclosure of data contained on this page is subject to the restriction on the cover sheet of this proposal or quotation.

Offerors are cautioned that proposals submitted with restrictive legends or statements differing in substance from the above legend may not be considered for award. The Government reserves the right to reject any proposal submitted with a nonconforming legend.

(End of Provision)

352.215-70 Duplication of Cost Certification.

Insert the following in all solictations:

Duplication of cost (Apr 1984)

The offeror represents and certifies that any changes contemplated and included in its estimate of cost for performance are not duplicative of any charges against any other Government contract, subcontract, or other Government source.

(End of provision)

352.215-71 Employer's Identification Number.

Insert the following in all solicitations:

Employer's Identification Number (Apr 1984)

The offeror's Internal Revenue Service "Employer's Identification Number" is _____.

(End of provision)

352.215-72 Pre-Proposal Conference.

If a pre-proposal conference is to be held as indicated in FAR 15.409, insert the following provision in the affected solicitation:

Pre-Proposal Conference (Apr 1984)

A pre-proposal conference will be held with prospective offerors at (insert local prevailing time) on (insert date) in room (insert room number) at (insert name and location of building).

The pre-proposal conference will be held for the purpose of providing information concerning the Government's requirements which may be helpful in the preparation of proposals and for answering any questions which you have regarding this solicitation.

The success of this type of conference depends largely on the leadtime available to the Government for research in connection with questions submitted by prospective offerors. Therefore, you are requested to mail written questions concerning any areas of uncertainty which, in your opinion, require clarification or correction, in sufficient time to be received on or before (insert date).

Your questions should be submitted to the Contract-Officer, (insert name of Contracting Officer), and the envelope should be marked "Pre-Proposal Conference, RFP No. (insert number of RFP)." A set of questions and answers will be furnished to all prospective offerors whether or not they are in attendance.

Because of space limitations, each prospective offeror will be limited to a total of (insert number) representatives.

Attendance at the pre-proposal conference is recommended; however, attendance is not a prerequisite for proposal submission and will not be considered a factor in proposal evaluation.

(End of provision)

352.216-7 Allowable Cost and Payment.

Insert this clause in all cost-reimbursement contracts with nonprofit institutions other than educational institutions.

Allowable Cost and Payment (Apr. 1984)

(a) *Invoicing.* The Government shall make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with:

(1) 45 CFR Part 78 for hospitals; or

(2) Subpart 31.6 of the FAR in effect on the date of this contract for State, local, and federally recognized Indian tribal governments; or

(3) Subpart 31.7 of the FAR in effect on the date of this contract for nonprofit organizations other than those identified in OMB Circular A-122, Attachment C; or

(4) Subpart 31.2 of the FAR in effect on the date of this contract for nonprofit organizations identified in OMB Circular A-122, Attachment C, except that costs of independent research and development and its proportionate share of indirect costs shall not be allowed.

In addition, the following shall apply:

(1) *Bid and proposal costs.* Bid and proposal costs are the immediate costs of preparing bids, proposals, and applications for potential Federal and non-Federal grants, contracts, and agreements, including the development of scientific, cost, and other data needed to support the bids, proposals and applications. Bid and proposal costs of the current accounting period are allowable as indirect costs.

Bid and proposal costs of past accounting periods are unallowable in the current period. However, if the organization's established practice is to treat these costs by some other method, they may be accepted if they are found to be reasonable and equitable. Bid and proposal costs do not include independent research and development costs covered by the following paragraph, or preaward costs covered by Paragraph 33 of Attachment B to OMB Circular A-122.

(2) *Independent research and development costs.*

Independent research and development is research and development conducted by an organization which is not sponsored by Federal or non-Federal grants, contracts, or other agreements. Independent research and development shall be allocated its proportionate share of indirect costs on the same basis as the allocation of indirect costs to sponsored research and development. The costs of independent research and development, including its proportionate share of indirect costs, are unallowable.

The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(b) *Reimbursing costs.* (1) For the purpose of reimbursing allowable costs (except as provided in subparagraph (2) below, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only:

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for:

(A) Materials issued from the Contractor's inventory and placed in the production process for use on the contract;

(B) Direct labor;

(C) Direct travel;

(D) Other direct in-house costs; and

(E) Properly allocable and allowable indirect costs, as shown in the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of progress payments that have been paid to the Contractor's subcontractors under similar cost standards.

(2) Contractor contributions to any pension, profit-sharing, or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; *provided,* that the Contractor pays the contribution to the fund within 30 days after the close of the period covered. Payments made 30 days or more after the close of a period shall not be included until the Contractor actually makes the payment. Accrued costs for such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until the Contractor actually makes the payment.

(3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) below, allowable indirect costs under this contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) below.

(4) Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor's expense or at no cost to the Government shall be disregarded for purposes of cost-reimbursement under this clause.

(c) *Small business concerns.* A small business concern may be paid more often than every 2 weeks and may invoice and be paid for recorded costs for items or services purchased directly for the contract, even though the concern has not yet paid for those items or services.

(d) *Final indirect cost rates.* (1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal.

(2) The Contractor shall, within 90 days after the expiration of each of its fiscal years, or by a later date approved by the Contracting Officer, submit to the cognizant Contracting Officer responsible for negotiating its final indirect cost rates and, if required by agency procedures, to the cognizant audit activity proposed final indirect cost rates for that period and supporting cost data specifying the contract and/or subcontract to which the rates apply. The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify: (i) The agreed-upon final annual indirect cost rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific indirect cost items treated as direct costs in the settlement, and (v) the affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

(4) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

(e) *Billing rates.* Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established.

These billing rates:

(1) Shall be the anticipated final rates; and

(2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(f) *Quick-closeout procedures.* When the Contractor and Contracting Officer agree, the quick-close-out procedures of Subpart 42.7 of the FAR may be used.

(g) *Audit.* At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be: (1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.

(h) *Final payment.* (1) The Contractor shall submit a completion invoice or voucher, designated as such, promptly upon completion of the work, but no later than one year (or longer, as the Contracting Officer may approve in writing) from the completion date. Upon approval of that invoice or voucher, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

(2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver:

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except:

(A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;

(B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parites arising out of the performance of this contract; *provided,* that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and

(C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

(End of clause)

352.216-70 Negotiated Overhead Rates—Fixed.

Insert the following clause in all cost-reimbursement contracts with educational institutions and nonprofit organizations when fixed rates subject to carryforward adjustments are used.

Negotiated Overhead Rates—Fixed (Apr 1984)

(a) Notwithstanding the provisions of the clause entitled "Allowable Cost and Payment," the allowable indirect costs under this contract shall be obtained by applying negotiated fixed overhead rates for the applicable period(s) to bases agreed upon by the parties, as specified below. A negotiated fixed rate(s) is based on an estimate of the costs which will be incurred during the period for which the rate(s) applies. When the application of the negotiated fixed rates against the actual bases during a given fiscal period produces an amount greater or less than the indirect costs determined for such period, such greater or lesser amount(s) will be carried forward to a subsequent period.

(b) The Contractor, as soon as possible but no later than six months after the close of its fiscal year, or such other period as may be specified in the contract, shall submit to the Secretary or the duly authorized representative, with a copy to the cognizant audit activity, a proposed fixed overhead rate or rates based on the Contractor's actual cost experience during the fiscal year, including adjustment, if any, for amounts carried forward, together with supporting cost data. Negotiation of fixed overhead rates, including carryforward adjustments, if any, by the Contractor and the Secretary, or the duly authorized representative, shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Part 31 of the Federal Acquisition Regulation (FAR) as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in an amendment to this contract, which shall specify: (1) The agreed fixed overhead rates, (2) the bases to which the rates apply, (3) the fiscal year, unless the parties agreed to a different period, for which the rates apply, and (4) the specific items treated as direct costs or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of fixed overhead rates for any fiscal year or different period agreed to by the parties, the Contractor shall be reimbursed either at the rates fixed for the previous fiscal year or other period or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that fiscal year or other period are established.

(f) Any failure of the parties to agree on any fixed overhead rate or rates or to the amount of any carryforward adjustment under this clause shall not be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period specified in the contract, the parties fail to agree to a fixed overhead rate or rates, it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Allowable Cost and Payment" clause set forth in FAR 52.216-7, as in effect on the date of this contract.

(g) Submission of proposed fixed, provisional, and/or final overhead rates, together with appropriate data in support thereof, to the Secretary or the duly authorized representative and agreements on fixed, provisional, and/or final overhead rates entered into between the Contractor and the Secretary or the duly authorized representative, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of paragraphs (b), (d), and (e), of this clause.

(End of clause)

352.216-71 Cost Principles—Hospitals.

Insert the following clause in all cost-reimbursement contracts with profit-making hospitals:

Cost Principles—Hospitals (Apr 1984)

If this contract is with a profit-making hospital, the cost principles referenced in the "Allowable Cost and Payment" clause of this contract are replaced by the cost principles for hospitals set forth in 45 CFR Part 78.

(End of clause)

352.223-70 Safety and Health.

The following clause is covered by the policy set forth in Subpart 323.70 and is to be used in accordance with the instructions set forth in 323.7002 and 323.7003.

Safety and Health (Apr 1984)

(a) In order to provide safety controls for protection to the life and health of employees and other persons; for prevention of damage to all property; and for avoidance of work interruptions in the performance of the contract; the Contractor will comply with the following standards: (Insert the codes, standards, and criteria (including any applicable State and local requirements) prescribed by the Safety Officer). Further, the Contractor shall take or cause to be taken such additional safety measures as the Contracting Officer may determine to be reasonably necessary; *Provided,* that, if compliance with such additional safety measures results in a material increase in the cost or time of performance of the contract, an equitable adjustment will be made in accordance with clause of this contract entitled "Changes."

(b) Prior to commencement of work, the Contractor will submit in writing its plan for complying with the safety and health provisions of this contract, and will meet with the Contracting Officer or his/her designated representative to discuss and develop a mutual understanding relative to administration of the overall safety program.

(c) During the performance of work under this contract, the Contractor shall comply with all procedures prescribed by the Contracting Officer for the control and safety of persons visiting the job site and will comply with such requirements to prevent accidents as may be prescribed by the Contracting Officer.

(d) The Contractor will maintain an accurate record of, and report to the Contracting Officer in such manner as the Contracting Officer may prescribe, all accidents and incidents resulting in death, traumatic injury, occupational disease, and/or damage to all property incident to work performed under the contract.

(e) The Contracting Officer shall notify (if otherwise, confirm in writing) the Contractor of any noncompliance with the provisions of this clause and corrective action to be taken. After receipt of such notice, the Contractor shall immediately take such corrective action. (Such notice, when delivered to the Contractor or its representative at the site of the work, shall be deemed sufficient for the purpose.) If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop order shall be the subject of claim for extension of time or for costs or damages by the Contractor.

(f) The Contractor shall insert the substance of this clause in each subcontract involving the use of hazardous materials or operations. Compliance with the provisions of this clause by subcontractors will be the responsibility of the Contractor.

(End of clause)

352.223-71 Safety and Health—Construction

Insert the following provision in all solicitations for construction and construction services, as required by 323.7005. In addition, a similar provision is to be included in all contracts resulting from the solicitations.

Safety and Health—Construction.

Your attention is invited to the regulations issued by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) entitled "Safety and Health Regulations for Construction" (29 CFR Part 1926). The Contractor is required to comply with the referenced regulations to the extent that the resultant contract involves construction.

(End of provision)

352.224-70 Confidentiality of Information.

The following clause is covered by the policy set forth in Subpart 324.70 and is to be used in accordance with the instructions set forth in 324.7004.

Confidentiality of Information (Apr 1984)

(a) Confidential information, as used in this clause, means (1) information or data of a personal nature about an individual, or (2) proprietary information or data submitted by or pertaining to an institution or organization.

(b) In addition to the types of confidential information described in (a)(1) and (2) above, information which might require special consideration with regard to the timing of its disclosure may derive from studies or research, during which public disclosure of preliminary unvalidated findings could create erroneous conclusions which might threaten public health or safety if acted upon.

(c) The Contracting Officer and the Contractor may, by mutual consent, identify elsewhere in this contract specific information and/or categories of information

which the Government will furnish to the Contractor or that the Contractor is expected to generate which is confidential. Similarly, the Contracting Officer and the Contractor may, by mutual consent, identify such confidential information from time to time during the performance of the contract. Failure to agree will be settled pursuant to the "Disputes" clause.

(d) If it is established elsewhere in this contract that information to be utilized under this contract, or a portion thereof, is subject to the Privacy Act, the Contractor will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. 552a, and implementing regulations and policies, with respect to systems of records determined to be subject to the Privacy Act.

(e) Confidential information, as defined in (a)(1) and (2) above, that is information or data of a personal nature about an individual, or proprietary information or data submitted by or pertaining to an institution or organization, shall not be disclosed without the prior written consent of the individual, institution, or organization.

(f) Written advance notice of at least 45 days will be provided to the Contracting Officer of the Contractor's intent to release findings of studies or research, which have the possibility of adverse effects on the public or the Federal agency, as described in (b) above. If the Contracting Officer does not pose any objections in writing within the 45-day period, the Contractor may proceed with disclosure. Disagreements not resolved by the Contractor and the Contracting Officer will be settled pursuant to the "Disputes" clause.

(g) Whenever the Contractor is uncertain with regard to the proper handling of material under the contract, or if the material in question is subject to the Privacy Act or is confidential information subject to the provisions of this clause, the Contractor should obtain a written determination from the Contracting Officer prior to any release, disclosure, dissemination, or publication.

(h) Contracting Officer determinations will reflect the results of internal coordination with appropriate program and legal officials.

(i) The provisions of paragraph (e) of this clause shall not apply when the information is subject to conflicting or overlapping provisions in other Federal, State or local laws.

(End of clause)

352.225-12 Country of Manufacturer Representation.

Insert the following representation in all solicitations and all contract awards which exceed $10,000:

Country of Manufacturer Representation (Apr 1984)

The product which the offeror proposes to furnish ☐ is, ☐ is not manufactured, mined, or grown in the United States. If the product is not manufactured, mined, or grown in the United States, the country of manufacturer is _____.

(End of provision)

352.227-1 Rights in Data.

Insert the following clause in all solicitations and contracts other than purchase orders:

Rights in Data (Apr 1984)

(a) *Subject Data.* As used in this clause, the term "Subject Data" means writings, sound recordings, pictorial reproductions, drawings, designs, or other graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are specified to be delivered under this contract. The terms does not include financial reports, cost analyses, and similar information incidental to contract administration.

(b) *Government rights.* Subject only to the provision of (c) below, the Government may use, duplicate or disclose in any manner, and for any purpose whatsoever, and have or permit others to do so, all Subject Data delivered under the contract.

(c) *License to copyright data.* In addition to the Government rights as provided in (b) above with respect to any Subject Data which may be copyrighted, the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive, and irrevocable license throughout the world to uses, duplicate or dispose of such data in any manner and for any purpose whatsoever, and to have or permit others to do so; *Provided,* however, that such licenses shall be only to the extent that the Contractor now has, or prior to completion or final settlement of this contract may require, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(d) *Relation to patients.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(3) *Marking and identification.* The Contractor shall mark all Subject Data with the number of this contract and the name and address of the contractor or subcontractor who generated the data. The Contractors shall not affix any restrictive markings upon any Subject Data, and if such markings are affixed, the Government shall have the right at any time to modify, remove, obliterate, or ignore any such markings.

(f) *Subcontractor data.* Whenever any Subject Data is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's rights in that subcontractor Subject Data.

(g) *Deferred ordering and delivery of data.* The Government shall have the right to order, at any time during the performance of this contract, or within two years from either acceptance of all items (other than data) to be delivered under this contract or termination of this contract, whichever is later, any Subject Data and any data not called for in the schedule of this contract but generated in performance of the contract, and the Contractor shall promptly prepare and deliver such data as is ordered. If the principal investigator is no longer associated with the Contractor, the Contractor shall exercise its best efforts to prepare and deliver such data as is ordered. The Government's right to use data delivered pursuant to this paragraph (g) shall be the same as the rights in Subject Data as provided in (b) above. The Contractor shall be relieved of the obligation to furnish data pertaining to an item obtained from a subcontractor upon the expiration of two years from the date it accepts such items. When data, other than Subject Data, is delivered pursuant to this paragraph (g), payment shall be made, by equitable adjustment or otherwise, for converting the data into the prescribed form; reproducing it or preparing it for delivery.

(End of clause)

352.228-70 Required Insurance.

Insert the following clause in all solicitations and resultant cost-reimbursement contracts.

Required Insurance (Apr 1984)

(a) The Contractor shall procure and maintain such insurance as is required by law or regulation, including but not limited to the requirements of Subpart 28.3 of the Federal Acquisition Regulation or by the written direction of the Contracting Officer. Prior written approval of the Contracting Officer shall be required with respect to any insurance policy the premiums for which the Contractor proposes to treat as a direct cost under this contract and with respect to any proposed qualified program of self-insurance. The terms of any other insurance policy shall be submitted to the Contracting Officer for approval upon request.

(b) Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall not procure or maintain for its own protection any insurance covering loss or destruction of or damage to Government property.

(End of clause)

352.232-9 Withholding of Contract Payments.

Insert the following clause in all solicitations and contracts other than purchase orders:

Withholding of Contract Payments (Apr 1984)

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays" or "Default", as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

(End of clause)

352.232-70 Additional Payment Provision.

The following clause is to be included in all solicitations and resultant contracts for construction which contain the "Payments Under Fixed-Price Construction Contracts" clause set forth in FAR 52.232-4:

Additional Payment Provision (Apr 1984)

Unless otherwise stated in this contract, there will be taken into consideration in computing progress payments material that will be incorporated into the structure if such material is delivered at the site, or is delivered to the Contractor and properly stored by it in a suitable warehouse, storage yard, or similar place either within 25 miles of the site or as otherwise approved by the Contracting Officer. Before each payment is made, the Contractor shall furnish to the Contracting Officer such evidence as he/she may require of the quantity and value of such material and that it will be incorporated into the structure. If such material is stored off the site, the Contractor shall also furnish to the Contracting Officer, before payment, properly executed bills of sale to the Government for the delivered material upon which such payment is to be made.

(End of clause)

352.232-71 Cost Sharing.

The policy relative to cost sharing is set forth in 335.070.

(a) In contracts for which cost-sharing has been individually negotiated, the clause set forth in FAR 52.232-20 shall be used. Also, an article reading substantially as follows, which includes a cost-sharing formula agreed upon by the contracting officer and the contractor that provides for the ratio of cost-sharing for both the originally established estimated cost and any increase pursuant to the FAR clause, shall be included in the contract.

Cost Sharing (Apr 1984)

The Contractor agrees to share in the cost of the work hereunder to the extent of not less than (indicate percent of the total cost or dollar amount, etc.) and shall maintain records of all costs so contributed, as well as costs to be paid by the Government. Such records shall be subject to audit. Costs contributed by the Contractor shall not be charged to the Government under any other grant or contract (including allocation to other grants or contracts as part of an independent research and development program).

(End of clause)

(b) In contracts for which cost-sharing will be in accordance with a previously negotiated institutional agreement, the clause set forth in FAR 52.232-20 shall also be used. However, instead of specifying a cost-sharing formula, the following shall be included as a special provision.

Cost Sharing Under Institutional Agreement (Apr 1984)

This contract is subject to an Institutional Cost-Sharing Agreement which became effective with respect to HHS research contracts on (date), and the Contractor agrees that the Government shall not bear the entire cost of the work hereunder.

(End of clause)

352.232-72 Prohibition Against Use of HHS Funds to Influence Legislation or Appropriations.

The following clause is to be used in accordance with 332.770:

Prohibition Against Use of HHS Funds to Influence Legislation or Appropriations (Apr 1984)

No part of any funds under this contract shall be used to pay the salary or expenses of any Contractor, or agent acting for the Contractor, to engage in any activity designed to influence legislation or appropriations pending before the Congress.

(End of clause)

352.232-73 Method of Payment—Letter of Credit.

When authorized by an individual or blanket determination, findings, and authorization for advance payment, under a letter of credit, the following clause shall be used: (See 332.406 for further instructions regarding use of the clause.)

Method of Payment—Letter of Credit (Apr 1984)

(a) The Contractor shall be paid with funds made available under the Federal Reserve Letter of Credit No. ——, established by ———— Department of Health and Human Services, against which the Contractor will withdraw funds pursuant to Federal Reserve Letter of Credit procedures contained in Treasury Department Circular 1075 (31 CFR Part 205).

(b) At the request of the Contractor and subject to the following conditions, the Government shall make an advance payment, or advance payments, from time to time, to the Contractor. No advance payment shall be made: (1) Without the approval of the office administering advance payments (hereinafter called the "Administering Office" and designated in paragraph (g)(2)) as to the financial necessity therefor (except in the case of educational institutions); (2) in an amount which, together with all advance payments made, exceeds the contract amount, and (3) without a properly certified invoice. The Contractor shall (1) initiate cash drawdowns only when actually needed for its disbursements, (2) report timely the case disbursements and balances as required by the Administering Office, and (3) impose the same standards of timing and amount upon any subcontractors including the furnishing of reports of cash disbursements and balances. Failure to adhere to these material provisions will be considered an event under paragraph (f) of this clause.

(c) The funds drawn by the Contractor against the Federal Reserve Letter of Credit shall be only for current allowable expenditures necessary for the performance of this contract.

(d) When requested in writing by the Contracting Officer, the Contractor shall repay to the Government such part of the unliquidated balance of the advance payments as shall, in the opinion of the Contracting Officer, be in excess of the Contractor's current needs or in excess of the contract price.

(e) If, upon completion or termination of this contract, all amounts obtained by the Contractor under this letter of credit have not been fully liquidated by authorized charges under the contract, the balance thereof shall be deducted from any sums otherwise due to the Contractor from the Government, and any excess funds shall be repaid by the Contractor to the Government upon demand.

(f) Upon the happening of any of the following events of default: (1) A finding by the Administering Office that the Contractor (i) has failed to observe any of the covenants, conditions, or warranties of these provisions or has failed to comply with any material provisions of this contract, or (ii) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, or (iii) has allocated inventory to this contract substantially exceeding reasonable requirements, or (iv) is delinquent in payment of taxes or of the costs of performance of this contract in the ordinary course of business; (2) appointment of a trustee, receiver or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization, arrangement or liquidation proceedings by or against the Contractor; (3) service of any writ of attachment, levy of execution, or commencement of garnishment proceedings; or (4) the commission of an act of bankruptcy; the Government, without limiting any rights it may otherwise have, may, in its discretion and upon written notice to the Contractor, withhold further withdrawals under the Letter of Credit and withhold further payments on this contract. Payment can also be stopped for lack of submission of timely and accurate reports in accordance with contract requirements. Upon the continuance of any such events of default for a period of thirty (30) days after such written notice to the Contractor, the Government may, in its discretion, and without limiting any other rights which the Government may have, take the following additional actions as it may deem appropriate in the circumstances:

(1) Charge interest on advance payments outstanding during the period of any such default at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 80 Stat. 97 for the Renegotiation Board;

(2) Demand immediate repayment of the unliquidated balance of advance payments hereunder; and/or

(3) Take possession of and, with or without advertisement, sell at public sale at which the Government may be purchaser, or at a private sale, all or any part of the property on which the Government has a lien under this contract, and after deducting any expenses

incident to such sale, apply the net proceeds of such sale in reduction of the unliquidated balance of advance payments hereunder and in reduction of any other claims of the Government against the Contractor.

(g)(1) No interest shall be charged for advance payments made hereunder, except interest during a period of default as provided in paragraph (f)(2). The Contractor shall charge interest at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41 85 Stat. 97 for the Renegotiation Board on subadvances or downpayments to subcontractors and such interest will be credited to the account of the Government. However, interest need not be charged on subadvances on subcontracts with educational or research institutions provided such subcontracts are awarded without profit or fee for research, development or experimental work.

(2) The office administering advance payments is designated as ————————.

(End of clause)

352.232-74 Estimated Cost and Fixed Fee—Incrementally Funded Contract.

The following clause, or one reading substantially as it, shall be included in the Special Provisions of an incrementally funded contract:

Consideration—Estimated Cost and Fixed Fee (Apr 84)

(a) It is estimated that the total cost to the Government for full performance of this contract will be $———, of which the sum of $——— represents the estimated reimbursable costs and $——— represents the fixed-fee.

(b) Total funds currently available for payment and allotted to this contract are $———, of which $——— represents the estimated reimbursable costs and $——— represents the fixed-fee. For further provisions on funding, see the Limitation of Funds clause.

(c) It is estimated that the amount currently allotted will cover performance of Phase I which is scheduled to be completed by (date) ————————.

(d) The Contracting Officer may allot additional funds to the contract without the concurrence of the Contractor.

(End of clause)

352.232-75 Incremental Funding.

The following provision shall be included in all requests for proposals whenever the use of incremental funding is contemplated:

Incremental Funding (Apr 84)

(a) Sufficient funds are not presently available to cover the total cost of the complete multiple year project described in this solicitation. However, it is the Government's intention to negotiate and award a contract using the incremental funding concepts described in the clause entitled Limitation of Funds. Under that clause, which will be included in the resultant contract, initial funds will be obligated under the contract to cover the first year of performance. Additional funds are intended to be allotted to the contract by contract modification, up to and including the full estimated cost of the contract, to accomplish the entire project. While it is the Government's intention to progressively fund this contract over the entire period of performance up to and including the full estimated cost, the Government will not be obligated to reimburse the Contractor for costs incurred in excess of the periodic allotments, nor will the Contractor be obligated to perform in excess of the amount allotted.

(b) The Limitation of Funds clause to be included in the resultant contract shall supersede the Limitation of Cost clause found in the General Provisions.

(End of provision]

352.233-70 Litigation and Claims.

Insert the following clause in all solicitations and resultant cost-reimbursement contracts:

Litigation and Claims (Apr 1984)

The Contractor shall give the Contracting Officer immediate notice in writing of (a) any action, including any proceeding before an administrative agency, filed against the Contractor arising out of the performance of this contract, including, but not limited to the performance of any subcontract hereunder; and (b) any claim against the Contractor the cost and expense of which is allowable under the clause entitled "Allowable Cost and Payment." Except as otherwise directed by the Contracting Officer, the Contractor shall furnish immediately to the Contracting Officer copies of all pertinent papers received by the Contractor with respect to such action or claim. To the extent not in conflict with any applicable policy of insurance, the Contractor may, with the Contracting Officer's approval, settle any such action or claim. If required by the Contracting Officer, the Contractor shall (a) effect an assignment and subrogation in favor of the Government of all the Contractor's rights and claims (except those against the Government) arising out of any such action or claim against the Contractors; and (b) authorize representatives of the Government to settle or defend any such action or claim and to represent the Contractor in, or to take charge of, any action. If the settlement or defense of an action or claim is undertaken by the Government, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense. Where an action against the Contractor is not covered by a policy of insurance, the Contractor shall, with the approval of the Contracting Officer, proceed with the defense of the action in good faith. The Government shall not be liable for the expense of defending any action or for any costs resulting from the loss thereof to the extent that the Contractor would have been compensated by insurance which was required by law or regulation or by written direction of the Contracting Officer, but which the Contractor failed to secure through its own fault or negligence.

In any event, unless otherwise expressly provided in this contract, the Contractor shall not be reimbursed or indemnified by the Government for any liability loss, cost or expense, which the Contractor may incur or be subject to by reason of any loss, injury, or damage, to the person or to real or personal property of any third parties as may accrue during, or arise from, the performance of this contract.

(End of clause)

352.237-70 Consulting Services Reporting.

The contracting officer shall include the following clause in every contract for consulting services, as defined in the General Administration Manual Chapter 8-15 and as required by 337.270.

Consulting Services Reporting (Apr 1984)

The Contractor shall set forth on the cover of every report submitted pursuant to this contract the following information: (a) Name and business address of the Contractor; (b) Contract number; (c) Contract dollar amount; (d) Whether the contract was competitively or noncompetitively awarded; (e) Name of the Department's project officer and complete office identification and address; and (f) Names of the managerial and professional personnel responsible for the content and preparation of the report.

(End of clause)

352.237-71 Services of Consultants.

Insert the following clause in all solicitation and resultant cost-reimbursement contracts.

Services of Consultants (Apr 1984)

Except as otherwise expressly provided elsewhere in this contract, and notwithstanding the provisions of the clause of this contract entitled "Subcontracts Under Cost-Reimbursement and Letter Contracts," the prior written approval of the Contracting Officer shall be required:

(a) Whenever any employee of the Contractor is to be reimbursed as a "consultant" under this contract; and

(b) For the utilization of the services of any consultant under this contract exceeding the daily rate set forth elsewhere in this contract or, if no amount is set forth, $150, exclusive of travel costs, or where the services of any consultant under this contract will exceed 10 days in any calendar year.

Whenever Contracting Officer approval is required, the Contractor will obtain and furnish to the Contracting Officer information concerning the need for such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultant to others for performing consultant services of a similar nature.

(End of clause)

352.242-70 Notice to the Government of Delays.

Insert the following clause in all solicitations and contracts other than purchase orders.

Notice to the Government of Delays (Apr 1984)

Whenever the Contractor has knowledge that any actual or potential situation, including but not limited to labor disputes, is delaying or threatens to delay the timely performance of work under this contract, the Contractor shall immediately give written notice thereof, including all relevant information with respect thereto to the Contracting Officer.

(End of clause)

352.242-71 Final Decisions on Audit Findings.

Insert the following clause in all solicitations and resultant cost-reimbursement contracts.

Final Decisions on Audit Findings (Apr 1984)

For the purpose of issuing final decisions under the Disputes clause of this contract concerning monetary audit findings, the Contracting Officer shall be that person with ultimate responsibility for making that decision in accordance with Chapter 1-105, Resolution of Audit Findings, of the Department's Grants Administration Manual.

(End of clause)

352.242-72 Interest on Overdue Payments.

As prescribed in 342.7204, insert the following clause in solicitations and contracts unless it is determined the contract will be one or more of the categories specified in 342.7203:

Interest on Overdue Payments (Apr 1984)

(a) The Prompt Payment Act, Public Law 97-177 (96 Stat. 85, 31 U.S.C. 1801) is applicable to payments under this contract and requires the payment to contractors of interest on overdue payments and improperly taken discounts.

(b) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125.

(End of clause)

352.242-73 Invoice Payment.

As prescribed in 342.7205-1(a)(1), insert the following clause in solicitations and contracts when invoices may be received before the Government has had an opportunity to inspect and accept the supplies or services:

Invoice Payment (Apr 1984)

(a) Payment will be made on this contract as close as possible to but not later than 30 calendar days after an invoice containing the information set forth in the Invoice Submission article of this contract is received in the payment office designated in this contract. An invoice will be deemed to have been received on the later of:

(1) The date the invoice is actually received in the designated payment office, or

(2) The date on which the Government accepts the property or service required under this contract.

(b) Unless a different time period is stated elsewhere in this contract, inspection/acceptance required by this contract will be completed by the Government no later than five Government working days after the goods are delivered or the service is rendered.

(c) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of clause)

352.242-74 Payment Due Date.

As prescribed in 342.7205-1(a)(2), insert the following clause in solicitations and contracts when invoices may be required to reflect that delivery (or performance) and acceptance has already occurred:

Payment Due Date (Apr 1984)

(a) Payments under this contract will be due on the ——* calendar day after the date of actual receipt of a proper invoice in the office designated to receive the invoice.

(b) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of clause)

352.242-75 Invoice Payment.

As prescribed in 342.7205-1(b)(1), insert the following clause in solicitations and contracts for the acquisition of meat and meat products:

Invoice Payment (Apr 1984)

(a) Payment for the delivery of products required by this contract as defined in Section 2(a)3 of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)) will be made as close as possible to, but not later than, the seventh calendar day after the date of delivery.

(b) A proper invoice covering the supplies delivered is required to be submitted with the shipment. Delivery will be deemed to be made on the later of the actual date of delivery, or the date a proper invoice is received in the office designated to receive the invoice.

(c) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of clause)

352.242-76 Invoice Payment.

As prescribed in 342.7205-1(b)(2), insert the following clause in solicitations and resultant contracts for the acquisition of perishable agricultural commodities:

Invoice Payment (Apr 1984)

(a) Payment for the delivery of the commodities required by this contract as defined in Section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a (4)), will be made as close as possible to, but not later than, the tenth calendar day after the date of delivery, unless another date is specified elsewhere in this contract.

(b) A proper invoice covering the supplies delivered is required to be submitted with the shipment. Delivery will be deemed to be made on the later of the actual date of delivery, or the date a proper invoice is received in the office designated to receive the invoice.

(c) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of clause)

352.242-77 Invoice Payment.

As prescribed in 342.7205-1(d), insert the following clause in solicitations for which award of a cost-reimbursement type contract is contemplated and in resultant cost-reimbursement type contracts:

Invoice Payment (Apr 1984)

(a) The target date for payment pursuant to the provisions of the allowable cost, fee (if any) and payment clause of this contract shall be 30 calendar days after an invoice containing the information set forth in the Invoice Submission article of this contract is received in the payment office designated in this contract.

(b) Upon receipt of the Contractor's "Completion Invoice" in the payment office designated in the Invoice Submission article of this contract, payment of any remaining cost and fee determined to be allowable pursuant to the allowable cost, fee (if any) and payment clause of this contract shall be due 30 calendar days after the Contracting Officer approves the completion invoice for payment.

(c) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of clause)

352.242-78 Invoice Submission.

As prescribed in 342.7205-2(b), insert the following clause in solicitations and contracts to specify documentation required to constitute a proper invoice:

Invoice Submission (Apr 1984)

(a) The Contractor shall submit an original and ( ) copies of its invoice(s) to (Insert required number of copies of the invoice, name where practicable, title, phone number, and complete mailing address of official in the designated payment office.)

(b) The Contractor agrees to include the following information on each invoice:

(1) Contractor's name and invoice date;

(2) Contract number, or other authorization for delivery of property and/or services;

*Contracting Officer to insert number of days.

(3) Description, cost or price, and quantity of property and/or services actually delivered or rendered;

(4) Shipping and payment terms;

(5) Other substantiating documentation or information as required by the contract; and

(6) Name where practicable, title, phone number, and complete mailing address of responsible official to whom payment is to be sent.

(End of clause)

352.242-79 Method of Payment.

As prescribed in 342.7206-2, insert the following clause in solicitations and contracts to require the contractor to provide necessary payment information:

Method of Payment (Apr 1984)

(a) Payments under this contract will be made either by check or by wire transfer through the Treasury Financial Communications System at the option of the Government.

(b) The Contractor shall forward the following information in writing to ——— * not later than seven days after receipt of notice of award.

(1) Full name (where practicable), title, phone number, and complete mailing address of responsible official(s) to whom check payments are to be sent, and who may be contacted concerning the bank account information requested below.

(2) The following bank account information required to accomplish wire transfers:

(i) Name, address, and telegraphic abbreviation of the receiving financial institution.

(ii) Receiving financial institution's nine-digit American Bankers Association (ABA) identifying number for routing transfer of funds. (Provide this number only if the receiving financial institution has access to the Federal Reserve Communications System.)

(iii) Recipient's name and account number at the receiving financial institution to be credited with the funds.

(iv) If the receiving financial institution does not have access to the Federal Reserve Communications System, provide the name of the correspondent financial institution through which the receiving financial institution receives electronic funds transfer messages. If a correspondent financial institution is specified, also provide the address and telegraphic abbreviation of the correspondent financial institution, and the correspondent financial institution's nine-digit ABA identifying number for routing transfer of funds.

(c) Any changes to the information furnished under paragraph (b) of this clause shall be furnished to ——— * in writing at least 30 days before the effective date of the change. It is the Contractor's responsibility to furnish these changes promptly to avoid payments to erroneous addresses or bank accounts.

(d) The document furnishing the information required in paragraphs (b) and (c) must be dated and contain the signature, title, and telephone number of the Contractor official authorized to provide it, as well as the Contractor's name and contract number.

(End of clause)

* Enter the name and address of the agency office designated to receive the information (see 342.7206-2).

352.242-80 HHS Contract Financial Report.

Financial reports are required on all cost-reimbursement type contracts financed under letter of credit or Departmental Federal Assistance Financing System (DFAFS) methods of payment regardless of dollar value, and all other cost-reimbursement type contracts of $100,000 or more. The reports should be required not less than quarterly. Financial reports can be required on cost-reimbursement contracts under $100,000 when financed by other than the letter of credit or DFAFS methods only if they are considered necessary for effective contract monitoring and administration. When financial and manpower information is to be submitted on Form HHS-646, Financial Report of Individual Project/Contract, the contracting officer shall insert the clause set forth below in the RFP and resultant contract. The contracting officer should insert appropriate wording to specify the reporting period agreed to, and should develop paragraph (d).

Contract Financial Report (Apr 1984)

(a) Financial reports on Form HHS-646, Financial Report of Individual Project/Contract, shall be submitted by the Contractor in accordance with the instructions which accompany the form, in an original and two copies, not later than thirty (30) working days after the close of the reporting period. The line entries for subdivisions of work and elements of cost (expenditure categories) to be reported within the total contract shall be stated in paragraph (d) below. Subsequent changes and/or additions in the line entries shall be made in writing.

(b) The first financial report shall cover the period consisting of the (*first full calendar month/first full three calendar months*) following the date of the contract, in addition to any fractional part of the initial month.

(c) If the final payment of this contract is to be made on the basis of a desk audit, the Contracting Officer may require the Contractor to submit detailed support for costs contained in one or more interim financial reports.

(d) (To be developed by the Contracting Officer.)

(End of clause)

352.243-70 Summarization Statements for Contract Modifications.

The statements set forth below shall be used as appropriate in contract modifications as concluding provisions of the modification.

(a) The contract amount is hereby (increased) (decreased) by $———, from $——— to $———, by reason of this modification.

(b) The contract amount is neither increased nor decreased by reason of this modification.

(c) The contract completion date is hereby changed from ——— to ——— by reason of this modification.

(d) Neither the contract amount nor the contract completion date is changed by reason of this modification.

352.247-70 Foreign Travel.

Insert the following clause in all solicitations and resultant cost-reimbursement contracts.

Foreign Travel (Apr 1984)

Foreign travel shall not be performed without the prior written approval of the Contracting Officer. As used in this clause "Foreign Travel" means travel outside the United States, its Territories and Possessions, and Canada.

(End of clause)

352.249-14 Excusable Delays.

Insert the following clause in all solicitations and resultant contracts other than purchase orders which do not have either a default or excusable delays clause.

Excusable Delays (Apr 1984)

(a) Except with respect to failures of subcontractors, the Contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor.

(b) Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to have failed in performance of the contract, unless: (1) The supplies or services to be furnished by the subcontractor were obtainable from other sources, (2) The Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources, and (3) The Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he/she shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms

"subcontractor" and "subcontractors" mean subcontractor(s) at any tier.)

(End of clause)

352.252-2 Clauses Incorporated by Reference.

Using the format set forth in FAR 52.252-2, insert the applicable HHSAR general provisions found in the matrices in Subpart 352.3 into solicitations and contracts to incorporate the clauses by reference.

352.270-1 Accessibility of Meetings, Conferences, and Seminars to Persons with Disabilities.

The following clause is to be used in accordance with 370.102:

Accessibility of Meetings, Conferences, and Seminars to Persons with Disabilities (Apr 1984)

The Contractor agrees as follows:

(a) *Planning.* The Contractor will develop a plan to assure that any meeting, conference, or seminar held pursuant to this contract will meet or exceed the minimum accessibility standards set forth below. This plan shall include a provision for ascertaining the number and types of disabled individuals planning to attend the meeting, conference, or seminar. The plan shall be submitted to the project officer for approval prior to initiating action. (A consolidated or master plan for contracts requiring numerous meetings, conferences, or seminars may be submitted in lieu of separate plans.)

(b) *Facilities.* Any facility to be utilized for meetings, conferences, or seminars in performance of this contract shall be accessible to persons with disabilities. The Contractor shall determine, by an on-site inspection if necessary, that the following minimum accessibility requirements are met, or suitable modifications are made to meet these requirements, before the meeting:

(1) *Parking.* (i) Where parking is available on or adjacent to the site, one 12' wide space must be set aside for the care of each mobility impaired attendee. The space need not be permanently striped but may be temporarily marked by signs, ropes, or other means satisfactory to carry out this provision.

(ii) Where parking is not available on or adjacent to the site, valet parking or other alternative means to assist a person who has a mobility impairment may be used. Alternate means must be satisfactory in the judgment of the Government project officer.

(2) *Entrances.* (i) "Entrances" shall include at least one accessible entrance from the street/sidewalk level, and at least one accessible entrance from any available parking facility.

(ii) The entrance shall be level or accessible by ramp with an incline that allows independent negotiation by a person in a wheelchair. In general, the slope of the incline shall be no more than 1" rise per foot of ramp length (1:12).

(iii) Entrance doorways shall be at least 30" in clear width and capable of operation by persons with disabilities. Revolving doors, regardless of foldback capability, will not meet this requirement.

(3) *Meeting Rooms.* (i) Meeting room access from the main entrance area must be level or at an independently negotiable incline (approximately 1:12) and/or served by elevators from the main entrance level. All elevators shall be capable of accommodating a wheelchair 29" wide by 45" long.

(ii) Meeting rooms shall be on one level or, if on different levels, capable of being reached by elevators or by ramps that can be independently negotiated by a person in a wheelchair. Doorways to all meeting rooms shall be at least 30" in clear width.

(iii) The interior of the meeting room shall be on one level or ramped so as to be independently negotiable for a person in a wheelchair.

(iv) Stages, speaker platforms, etc. which are to be used by persons in wheelchairs must be accessible by ramps or lifts. When used, the ramps may not necessarily be independently negotiable if space does not permit. However, any slope over 1:12 must be approved by the project officer. Each case is to be judged on its own merits.

(v) If a meeting room with fixed seating is utilized, seating arrangements for persons in wheelchairs shall be made so that these persons are incorporated into the group rather than isolated on the perimeter of the group.

(4) *Restrooms.* (i) Restrooms shall have level access, signs indicating accessibility, and doorways at least 30" in clear width.

(ii) Sufficient turning space within restrooms shall be provided for independent use by a person in a wheelchair 29" wide by 45" long. A space 60" by 60" or 63" by 56" of unobstructed floor space as measured 12" above the floor is acceptable by standard; other layouts will be accepted if it can be demonstrated that they are usable as indicated.

(iii) There will be a restroom for each sex or a unisex restroom with at least one toilet stall capable of accommodating a wheelchair 29" wide by 45" long (by standard, the minimum is 3'-0" by 4'-8") with outswinging doors or privacy curtains. Wall mounted grab bars are required.

(iv) When separate restrooms have been set up for mobility impaired persons, they shall be located adjacent to the regular restrooms and shall be fully accessible.

(5) *Eating Facilities.* (i) Eating facilities in the meeting facility must be accessible under the same general guidelines as are applied to meeting rooms.

(ii) If the eating facility is a cafeteria, the food service area (cafeteria line) must allow sufficient room for independent wheelchair movement and accessibility to food for persons in wheelchairs, and cafeteria staff shall be available to assist disabled persons.

(6) *Overnight Facilities.* If overnight accommodations are required:

(i) Sufficient accessible guest rooms to accommodate each attendee who is disabled shall be located in the facility where the meeting, conference, or seminar is held, or in a facility housing the attendees which is conveniently located nearby, whichever is satisfactory to the project officer.

(ii) Overnight facilities shall provide for the same minimum accessiblity requirements as the facility utilized for the meeting, conference, or seminar. In addition, guest room access from the main entrance area shall be level, ramped at an independently negotiable incline (1:12), and/or served by elevators capable of accommodating a wheelchair 29" wide by 45" long.

(iii) Doorways to guest rooms, including the doorway to the bathroom, shall be at least 30" in clear width.

(iv) Bathrooms shall have wall mounted grab bars at the tub and water closet.

(v) Guest rooms for persons with a disability shall be provided at the same rate as a guest room for other attendees.

(7) *Water Fountains.* Water fountains shall be accessible to disabled persons, or have cup dispensers for use by persons in wheelchairs.

(c) *Provisions of Services for Sensory Impaired Attendees.* (1) The Contractor, in planning the meeting, conference, or seminar, shall include in all announcements and other materials pertaining to the meeting, conference, or seminar a notice indicating that services will be made available to sensory impaired persons attending the meeting, if requested within five (5) days of the date of the meeting, conference, or seminar. The announcement(s) and other material(s) shall indicate that sensory impaired persons may contact a specific person(s), at a specific address and phone number(s), to make their service requirements known. The phone number(s) shall include a teletype number for the hearing impaired.

(2) The Contractor shall provide, at no cost to the individual, those services required by persons with sensory impairments to insure their complete participation in the meeting, conference, or seminar.

(3) As a minimum, when requested in advance, the Contractor shall provide the following services:

(i) For hearing impaired persons, qualified interpreters. Provisions will also be made for volume controlled phone lines and, if necessary, transportation to local teletype equipment to enable hearing impaired individuals to receive and send meeting related calls. If local teletype equipment is not available, the Contractor shall provide on site teletype equipment. Also, the meeting rooms will be adequately illuminated so signing by interpreters can be easily seen.

(ii) For vision impaired persons, readers and/or cassette materials, as necessary, to enable full participation. Also, meeting rooms will be adequately illuminated.

(iii) Agenda and other conference material(s) shall be translated into a usable form for the visually and hearing impaired. Readers, braille translations, and/or tape recordings are all acceptable. These materials shall be available to sensory impaired individuals upon their arrival.

(4) The Contractor is responsible for making every effort to ascertain the number of sensory impaired individuals who plan to attend the meeting, conference, or seminar. However, if it can be determined that there will be no sensory impaired person (deaf and/or blind) in attendance, the provision of those services under paragraph (c) for the

nonrepresented group, or groups, is not required.

(End of clause)

352.270-2 Indian Preference.

The following clause shall be used as prescribed in 370.202(a):

Indian Preference (Apr 1984)

(a) The Contractor agrees to give preference in employment opportunities under this contract to Indians who can perform required work, regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation. To the extent feasible and consistent with the efficient performance of this contract, the Contractor further agrees to give preference in employment and training opportunities under this contract to Indians who are not fully qualified to perform regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation. The Contractor also agrees to give preference to Indian organizations and Indian-owned economic enterprises in the awarding of any subcontracts to the extent feasible and consistent with the efficient performance of this contract. The Contractor shall maintain statistical records as are necessary to indicate compliance with this paragraph.

(b) In connection with the Indian employment preference requirements of this clause, the Contractor shall provide opportunities for training incident to such employment. Such training shall include on-the-job, classroom or apprenticeship training which is designed to increase the vocational effectiveness of an Indian employee.

(c) If the Contractor is unable to fill its employment and training opportunities after giving full consideration to Indians as required by this clause, those needs may be satisfied by selection of persons other than Indians in accordance with the clause of this contract entitled "Equal Opportunity."

(d) If no Indian organizations or Indian-owned economic enterprises are available under reasonable terms and conditions, including price, for awarding of subcontracts in connection with the work performed under this contract, the Contractor agrees to comply with the provisions of this contract involving utilization of small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, or labor surplus area concerns.

(e) As used in this clause:

(1) "Indian" means a person who is a member of an Indian Tribe. If the contractor has reason to doubt that a person seeking employment preference is an Indian, the Contractor shall grant the preference but shall require the individual to provide evidence within thirty (30) days from the Tribe concerned that the person is a member of that Tribe.

(2) "Indian Tribe" means an Indian Tribe, pueblo, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451); and

(4) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, provided that such Indian ownership shall constitute not less than 51 percent of the enterprise, and that ownership shall encompass active *operation* and *control* of the enterprise.

(f) The Contractor agrees to include the provisions of this clause, including this paragraph (f), in each subcontract awarded at any tier under this contract.

(g) In the event of noncompliance with this clause, the Contracting Officer may terminate the contract in whole or in part or may impose any other sanctions authorized by law or by other provisions of the contract.

(End of clause)

352.270-3 Indian Preference Program.

The following clause shall be used as prescribed in 370.202(b):

Indian Preference Program (Apr 1984)

(a) In addition to the requirements of the clause of this contract entitled "Indian Preference," the Contractor agrees to establish and conduct an Indian preference program which will expand opportunities for Indians to receive perference for employment and training in connection with the work to be performed under this contract, and which will expand the opportunities for Indian organizations and Indian-owned economic enterprises to receive a preference in the awarding of subcontracts. In this connection, the Contractor shall:

(1) Designate a liaison officer who will (i) Maintain liaison with the Government and the Tribe(s) on Indian perference matters; (ii) Supervise compliance with the provisions of this clause; and (iii) Administer the Contractor's Indian perference program.

(2) Advise its recruitment sources in writing and include a statement in all advertisements for employment that Indian applicants will be given preference in employment and training incident to such employment.

(3) Not more than twenty (20) calendar days after award of the contract, post a written notice in the Tribal office of any reservations on which or near where the work under this contract is to be performed that sets forth the Contractor's employment needs and related training opportunities. The notice shall include the approximate numbers and types of employees needed; the approximate dates of employment; the experience or special skills required for employment, if any; training opportunities available; and other pertinent information necessary to advise prospective employees of any other employment requirements. The Contractor shall also request the Tribe(s) on or near whose reservation(s) the work is to be performed to provide assistance to the Contractor in filling its employment needs and training opportunities. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to contact in regard to the posting of notices and requests for Tribal assistance.

(4) Establish and conduct a subcontracting program which gives preference to Indian organizations and Indian-owned economic enterprises as subcontractors and suppliers under this contract. The Contractor shall give public notice of existing subcontracting opportunities and, to the extent feasible and consistent with the efficient performance of this contract, shall solicit bids or proposals only from Indian organizations or Indian-owned economic enterprises. The Contractor shall request assistance and information on Indian firms qualified as suppliers or subcontractors from the Tribe(s) on or near whose reservation(s) the work under the contract is to be performed. The Contracting Officer will advise the contractor of the name, location, and phone number of the Tribal officials to be contacted in regard to the request for assistance and information. Public notices and solicitations for existing subcontracting opportunities shall provide an equitable opportunity for Indian firms to submit bids or proposals by including:

(i) A clear description of the supplies or services required, including quantities, specifications, and delivery schedules which facilitate the participation of Indian firms; (ii) A statement indicating that preference will be given to Indian organizations and Indian-owned economic enterprises in accordance with section 7(b) of Public Law 93-638 (88 Stat. 2205; 25 U.S.C. 450e(b)); (iii) Definitions for the terms "Indian organization" and "Indian-owned economic enterprise" as prescribed under the "Indian Preference" clause of this contract; (iv) A representation to be completed by the bidder or offeror that it is an Indian organization or "Indian-owned economic enterprise; and (v) A closing date for receipt of bids or proposals which provides sufficient time for preparation and submission of a bid or proposal. If after soliciting bids or proposals from Indian orgnizations and Indian-owned economic enterprises, no responsive bid or acceptable proposal is received, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference" clause of this contract. If one or more responsive bids or acceptable proposals are received, award shall be made to the low responsible bidder or acceptable offeror if the price is determined to be reasonable. It the low responsive bid or acceptable proposal is determined to be unreasonable as to price, the Contractor shall attempt to negotiate a reasonable price and award a subcontract. If a reasonable price cannot be agreed upon, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference" clause of this contract. (5) Maintain written records under this contract which indicate: (i) The numbers of Indians seeking employment for each employment position available under this contract; (ii) the number and types of positions filled by Indians and non-Indians, and the total number of Indians employed under this contract; (iii) For those positions where there

are both Indian and non-Indian applicants, and a non-Indian is selected for employment, the reason(s) why the Indian applicant was not selected; (iv) Actions taken to give preference to Indian organizations and Indian-owned economic enterprises for subcontracting opportunities which exist under this contract; (v) Reasons why preference was not given to Indian firms as subcontracators or suppliers for each requirement where it was determined by the Contractor that such preference would not be consistent with the efficient performance of the contract; and (vi) The number of Indian organizations and Indian-owned economic enterprises contacted, and the number receiving subcontract awards under this contract.

(6) Submit to the Contracting Officer for approval a quarterly report which summarizes the Contractor's Indian preference program and indicates the number and types of available positions filled by Indians and non-Indians, and the dollar amounts of all subcontracts awarded to Indian organizations and Indian-owned economic enterprises, and to all other firms.

(7) Maintain records pursuant to this clause and keep them available for review by the Government until expiration of one (1) year after final payment under this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(b) For purposes of this clause, the following definitions of terms shall apply:

(1) The terms "Indian," "Indian Tribe," "Indian Organization," and "Indian-owned economic enterprise" are defined in the clause of this contract entitled "Indian Preference."

(2) "Indian reservation" includes Indian reservations, public domain Indian Allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.)

(3) "On or near an Indian Reservation" means on a reservation or reservations or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

(c) Nothing in the requirements of this clause shall be interpreted to preclude Indian Tribes from independently developing and enforcing their own Indian preference requirements. Such requirements must not conflict with any Federal statutory or regulatory requirement dealing with the award and administration of contracts.

(d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in each subcontract awarded at any tier under this contract and to notify the Contracting Officer of such subcontracts.

(e) In the event of noncompliance with this clause, the Contracting Officer may terminate the contract in whole or in part or may impose any other sanctions authorized by law or by other provisions of the contract.

(End of clause)

352.270-4 Pricing of Adjustments.

Insert the following clause in all solicitations and resultant fixed-priced contracts other than purchase orders.

Pricing of Adjustments (Apr 1984)

When costs are a factor in determination of a contract price adjustment pursuant to the "Changes" clause or any provision of this contract, such costs shall be determined in accordance with the applicable cost principles and procedures set forth below:

Principles	Types of organizations
(a) Subpart 31.2 of the Federal Acquisition Regulation.	Commercial.
(b) Subpart 31.3 of the Federal Acquisition Regulation.	Education.
(c) Subpart 31.6 of the Federal Acquisition Regulation.	State or local governments.
(d) 45 CFR Part 78	Hospitals.
(e) Subpart 31.7 of the Federal Acquisition Regulation.	Other nonprofit institutions.

(End of clause)

352.270-5 Key Personnel.

Insert the following clause in all solicitations and resultant cost-reimbursement contracts.

Key Personnel (Apr 1984)

The personnel specified in this contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer; *provided,* that the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by the clause. The contract may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

(End of clause)

352.270-6 Publication and Publicity.

Insert the following clause in all solicitations and contracts other than purchase orders.

Publication and Publicity (Apr 1984)

(a) Unless otherwise specified in this contract, the Contractor is encouraged to publish and make available through accepted channels the results of its work under this contract. A copy of each article submitted by the Contractor for publication shall be promptly sent to the Project Officer. The Contractor shall also inform the Project Officer when the article or other work is published and furnish a copy of it as finally published.

(b) The Contractor shall acknowledge the support of the Department of Health and Human Services whenever publicizing the work under this contract in any media. To effectuate the foregoing, the Contractor shall include in any publication resulting from work performed under this contract an acknowledgment substantially as follows:

This project has been funded at least in part with Federal funds from the Department of Health and Human Services under contract number———. The content of this publication does not necessarily reflect the views or policies of the Department of Health and Human Services, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

(End of clause)

352.270-7 Paperwork Reduction Act.

Insert the following clause in all solicitations and contracts.

Paperwork Reduction Act (Apr 1984)

(a) In the event that it subsequently becomes a contractual requirement to collect or record information calling either for answers to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is outside the scope of their employment, for use by the Federal government or disclosure to third parties, the Paperwork Reduction Act of 1980 (Pub. L. 96-511) shall apply to this contract. No plan, questionnaire, interview guide or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Assistant Secretary for Management and Budget (ASMB) within the Department of Health and Human Services (HHS) and the Office of Management and Budget (OMB). Contractors and Project Officers should be guided by the provisions of 5 CFR Part 1320, Controlling Paperwork Burdens on the Public, and seek the advice of the HHS operating division or Office of the Secretary Reports Clearance Officer to determine the procedures for acquiring ASMB and OMB clearance.

(b) The Contractor shall obtain the required ASMB and OMB clearance through the Project Officer before expending any funds or making public contacts for the collection of data. The authority to expend funds and proceed with the collection of information shall be in writing by the Contracting Officer. The Contractor must plan at least 120 days for ASMB and OMB clearance. Excessive delay caused by the Government which arises out of causes beyond the control and without the fault or negligence of the Contractor will be considered in accordance with the Excusable Delays or Default clause of this contract.

(End of clause)

352.270-8 Advertising of Awards.

Insert the following clause in all solicitations and contracts including purchase orders.

Advertising of Awards (Apr 1984)

The Contractor agrees not to refer to awards issued by the Department of Health and Human Services in commercial advertising in such a manner as to state or

imply that the product or service provided is endorsed by the Federal Government or is necessarily considered by the Government to be superior to other products or services.

(End of clause)

Subpart 352.3—Provision and Clause Matrices

352.370 General.

(a) Contracting officers shall include additional clauses or substitute alternate clauses for those included in the general provisions in accordance with applicable instructions in Subpart 352.2 and FAR Part 52.

(b) Written deviation requests shall be submitted through acquisition channels to the Director, Division of Procurement Policy (DPP); Office of Procurement and Assistance Policy (OPAP); Office of Procurement, Assistance and Logistics (OPAL); Office of the Assistant Secretary for Management and Budget (OASMB–OS). The Director (DPP) will inform the contracting officer through acquisition channels of the disposition of the request. In the event expeditious action is required, contracting officers are authorized to request oral or written approval directly from the Director (DPP) who will notify the contracting officer of this disposition of the request.

(c) The general provisions for negotiated cost-reimbursement contracts with non-profit institutions other than educational institutions shall be utilized with the following modifications whenever a contract with a nonprofit institution provides for the payment of a fixed fee:

(1) Add the clause entitled "Facilities Capital Cost of Money" (APR 1984) (See FAR 52.215–30 for the text of the clause).

(2) Add the clause entitled "Fixed Fee" (APR 1984). (See FAR 52.216–8 for the text of the clause.)

(3) Delete "Alternate I" (APR 1984) of clause 36 entitled "Government Property (Cost-Reimbursement, Time and Material, or Labor-Hour Contract)" (APR 1984).

GENERAL PROVISIONS FOR A COST-PLUS-A-FIXED-FEE CONTRACT

Required

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES

No.	FAR Clause No.	Title and date
1	52.203–1	Officials Not to Benefit (April 1984).
2	52.203–3	Gratuities (April 1984).
3	52.203–5	Covenant Against Contingent Fees (April 1984).
4	52.215–1	Examination of Records by Comptroller General (April 1984).
5	52.215–2	Audit-Negotiation (April 1984).
6	52.215–22	Price Reduction for Defective Cost or Pricing Data (over $500,000) (April 1984)
7	52.215–24	Subcontractor Cost of Pricing Data (Over $500,000) (April 1984).
8	52.215–30	Facilities Capital Cost of Money (April 1984).
9	52.215–31	Waiver of Facilities Capital Cost of Money (April 1984).
10	52.216–7	Allowable Cost and Payment (April 1984).
11	52.216–8	Fixed Fee (April 1984).
12	52.219–8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (April 1984).
13	52.219–13	Utilization of Women-Owned Small Businesses (April 1984).
14	52.220–3	Utilization of Labor Surplus Area Concerns (April 1984).
15	52.222–3	Convict Labor (April 1984).
16	52.222–20	Walsh-Healy Public Contracts Act (April 1984).
17	52.222–26	Equal Opportunity (April 1984).
18	52.222–35	Affirmative Action for Special Disabled and Vietnam Era Veterans (April 1984).
19	52.222–36	Affirmative Action for Handicapped Workers (April 1984).
20	52.223–2	Clean Air and Water (Over $100,000) (April 1984).
21	52.225–3	Buy American Act—Supplies (April 1984).
22	52.232–9	Limitation on Withholding of Payments (April 1984).
23	52.232–17	Interest (April 1984).
24	52.232–20	Limitation of Cost (April 1984).
25	52.232–23	Assignment of Claims (April 1984).
26	52.233–1	Disputes (April 1984).
27	52.242–1	Notice of Intent to Disallow Costs (April 1984).
28	52.243–2	Changes—Cost-Reimbursement (April 1984)—Alternate V (April 1984).
29	52.244–2	Subcontracts Under Cost-Reimbursement and Letter Contracts (April 1984).
30	52.244–5	Competition in Subcontracting (April 1984).
31	52.245–5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contract) (April 1984).
32	52.246–9	Inspection of Research and Development (Short Form) (April 1984).
33	52.246–23	Limitation of Liability (April 1984).
34	52.249–6	Termination (Cost-Reimbursement) (April 1984).
35	52.249–14	Excusable Delays (April 1984).

II. DEPARTMENT OF HEALTH AND HUMAN SERVICES ACQUISITION REGULATION (HHSAR) (48 CFR CHAPTER 3) CLAUSES

No.	HHSAR Clause No.	Title and date
1	352.202–1	Definitions (April 1984)—Alternate I (April 1984).
2	352.208–70	Printing (April 1984).
3	352.227–1	Rights in Data (April 1984).
4	352.228–70	Required Insurance (April 1984).
5	352.232–9	Withholding of Contract Payments (April 1984).
6	352.233–70	Litigation and Claims (April 1984).
7	352.237–71	Services of Consultants (April 1984).
8	352.242–70	Notice to the Government of Delays (April 1984).
9	352.242–71	Final Decisions on Audit Findings (April 1984).
10	352.247–70	Foreign Travel (April 1984).
11	352.270–5	Key Personnel (April 1984).
12	352.270–6 *	Publication and Publicity (April 1984).
13	352.270–7	Paperwork Reduction Act (April 1984).
14	352.270–8	Advertising of Awards (April 1984).

GENERAL PROVISIONS FOR A NEGOTIATED COST-REIMBURSEMENT CONTRACT WITH NONPROFIT INSTITUTIONS OTHER THAN EDUCATIONAL INSTITUTIONS

Required

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES

No.	FAR clause No.	Title and date
1	52.203–1	Officials Not to Benefit (April 1984).
2	52.203–3	Gratuities (April 1984).
3	52.203–5	Covenant Against Contingent Fees (April 1984).
4	52.215–1	Examination of Records by Comptroller General (April 1984).
5	52.215–2	Audit-Negotiation (April 1984).
6	52.215–22	Price Reduction for Defective Cost or Pricing Data (Over $500,000) (April 1984).
7	52.215–24	Subcontractor Cost or Pricing Data (Over $500,000) (April 1984).
8	52.216–11	Cost Contract—No Fee (April 1984).
9	52.219–8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (April 1984).
10	52.219–13	Utilization of Women-Owned Small Businesses (April 1984).
11	52.220–3	Utilization of Labor Surplus Area Concerns (April 1984).
12	52.222–3	Convict Labor (April 1984).
13	52.222–20	Walsh-Healy Public Contracts Act (April 1984).
14	52.222–26	Equal Opportunity (April 1984).
15	52.222–35	Affirmative Action for Special Disabled and Vietnam Era Veterans (April 1984).
16	52.222–36	Affirmative Action for Handicapped Workers (April 1984).
17	52.223–2	Clean Air and Water (Over $100,000) (April 1984).
18	52.225–3	Buy American Act—Supplies (April 1984).
19	52.232–9	Limitation on Withholding of Payments (April 1984).
20	52.232–20	Limitation of Costs (April 1984).
21	52.232–23	Assignment of Claims (April 1984).
22	52.233–1	Disputes (April 1984).
23	52.242–1	Notice of Intent to Disallow Costs (April 1984).
24	52.243–2	Changes—Cost-Reimbursement (April 1984)—Alternate V (April 1984).
25	52.244–2	Subcontracts Under Cost-Reimbursement and Letter Contracts (April 1984).
26	52.244–5	Competition in Subcontracting (April 1984).
27	52.245–5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contract) (April 1984)—Alternate I (April 1984).
28	52.246–9	Inspection of Research and Development (Short Form) (April 1984).
29	52.246–23	Limitation of Liability (April 1984).
30	52.249–5	Termination for Convenience of the Government (Educational and Other Nonprofit Institutions) (April 1984).

II. DEPARTMENT OF HEALTH AND HUMAN SERVICES ACQUISITION REGULATION (HHSAR) (48 CFR CHAPTER 3) CLAUSES

No.	HHSAR clause No.	Title and date
1	352.202–1	Definitions (April 1984)—Alternate I (April 1984).
2	352.208–70	Printing (April 1984).
3	352.216–7	Allowable Cost and Payment (April 1984).
	(The following clause is applicable when fixed rates subject to carryforward are used):	
4	352.216–70	Negotiated Overhead Rates—Fixed (April 1984).
5	352.227–1	Rights in Data (April 1984).
6	352.228–70	Required Insurance (April 1984).
7	352.232–9	Withholding of Contract Payments (April 1984).
8	352.233–70	Litigation and Claims (April 1984).
9	352.237–71	Services of Consultants (April 1984)

II. DEPARTMENT OF HEALTH AND HUMAN SERVICES ACQUISITION REGULATION (HHSAR) (48 CFR CHAPTER 3) CLAUSES—Continued

No.	HHSAR clause No.	Title and date
10	352.242-70	Notice to the Government of Delays (April 1984).
11	352.242-71	Final Decisions on Audit Findings (April 1984).
12	352.247-70	Foreign Travel (April 1984).
13	352.249-14	Excusable Delays (April 1984).
14	352.270-5	Key Personnel (April 1984).
15	352.270-6	Publication and Publicity (April 1984).
16	352.270-7	Paperwork Reduction Act (April 1984).
17	352.270-8	Advertising of Awards (April 1984).

GENERAL PROVISIONS FOR A NEGOTIATED FIXED-PRICE RESEARCH AND DEVELOPMENT CONTRACT

Required

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES

No.	FAR Clause No.	Title and date
1	52.203-1	Officials Not to Benefit (April 1984).
2	52.203-3	Gratuities (April 1984).
3	52.203-5	Covenant Against Contingent Fees (April 1984).
4	52.215-1	Examination of Records by Comptroller General (April 1984).
5	52.215-2	Audit-Negotiation (April 1984).
6	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $500,000) (April 1984).
7	52.215-24	Subcontractor Cost or Pricing Data (Over $500,000) (April 1984).
8	52.215-30	Facilities Capital Cost of Money (April 1984).
9	52.215-31	Waiver of Facilities Capital Cost of Money (April 1984).
10	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (April 1984).
11	52.219-13	Utilization of Women-Owned Small Businesses (April 1984).
12	52.220-3	Utilization of Labor Surplus Area Concerns (April 1984).
13	52.222-3	Convict Labor (April 1984).
14	52.222-20	Walsh-Healy Public Contracts Act (April 1984).
15	52.222-26	Equal Opportunity (April 1984).
16	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (April 1984).
17	52.222-36	Affirmative Action for Handicapped Workers (April 1984).
18	52.223-2	Clean Air and Water (Over $100,000) (April 1984).
19	52.225-3	Buy American Act—Supplies (April 1984).
20	52.229-3	Federal, State, and Local Taxes (April 1984).
21	52.232-2	Payments Under Fixed-Price Research and Development Contracts (April 1984).
22	52.232-9	Limitation on Withholding of Payments (April 1984).
23	52.232-17	Interest (April 1984).
24	52.232-23	Assignment of Claims (April 1984).
25	52.233-1	Disputes (April 1984).
26	52.243-1	Changes—Fixed Price (April 1984)—Alternate V (April 1984).

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES—Continued

No.	FAR Clause No.	Title and date
27	52.244-1	Subcontracts Under Fixed-Price Contracts (Over $500,000) (April 1984).
28	52.244-5	Competition in Subcontracting (April 1984).

(If the contract prices are not based on adequate price competition, established catalogue or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the following clause is applicable):

29	52.245-2	Government Property (Fixed-Price Contracts) (April 1984)—Alternate I (April 1984).

or

(If the contract prices are not based on adequate price competition, established catalogue or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the following clause is applicable):

29	52.245-2	Government Property (Fixed-Price Contracts) (April 1984)—Alternate II (April 1984).
30	52.246-7	Inspection of Research and Development—Fixed Price (April 1984).
31	52.246-16	Responsibility for Supplies (April 1984).

(If the contract is awarded to other than an educational or nonprofit institution on a no-profit basis, the following clause is applicable):

32	52.249-2	Termination for Convenience of the Government (Fixed-Price) (April 1984).

or

(If the contract is awarded to an educational or nonprofit institution on a no-profit basis, the following clause is applicable):

32	52.249-5	Termination for Convenience of the Government (Educational and Other Nonprofit Institutions) (April 1984).

(This clause is not applicable if the contract is awarded on a no-fee basis to an educational or nonprofit institution):

33	52.249-9	Default (Fixed-Price Research and Development) (April 1984).

(If the contract is awarded on a fee basis, the following clause is applicable):

34	52.249-14	Excusable Delays (April 1984).

II. DEPARTMENT OF HEALTH AND HUMAN SERVICES ACQUISITION REGULATION (HHSAR) (48 CFR CHAPTER 3) CLAUSES

No.	HHSAR Clause No.	Title and date
1	352.202-1	Definitions (April 1984).
2	352.208-70	Printing (April 1984).
3	352.227-1	Rights in Data (April 1984).
4	352.232-9	Withholding of Contract Payments (April 1984).
5	352.242-70	Notice to the Government of Delays (April 1984).

(If the contract is awarded on the basis of no-profit to an educational or nonprofit institution, the following clause is applicable):

6	352.249-14	Excusable Delays (April 1984).
7	352.270-4	Pricing of Adjustments (April 1984).
8	352.270-6	Publication and Publicity (April 1984).

II. DEPARTMENT OF HEALTH AND HUMAN SERVICES ACQUISITION REGULATION (HHSAR) (48 CFR CHAPTER 3) CLAUSES—Continued

No.	HHSAR Clause No.	Title and date
9	352.270-7	Paperwork Reduction Act (April 1984).
10	352.270-8	Advertising of Awards (April 1984).

GENERAL PROVISIONS FOR A NEGOTIATED FIXED-PRICE SUPPLY CONTRACT

Required

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES

No.	FAR Clause No.	Title and date
1	52.203-1	Officials Not to Benefit (April 1984).
2	52.203-3	Gratuities (April 1984).
3	52.203-5	Covenant Against Contigent Fees (April 1984).
4	52.212-15	Government Delay of Work (April 1984).
5	52.215-1	Examination of Records by Comptroller General (April 1984).
6	52.215-2	Audit-Negotiation (April 1984).
7	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $500,000) (April 1984).
8	52.215-24	Subcontractor Cost or Pricing Data (Over $500,000) (April 1984).
9	52.215-30	Facilities Capital Cost of Money (April 1984).
10	52.215-31	Waiver of Facilities Capital Cost of Money (April 1984).
11	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (April 1984).
12	52.219-13	Utilization of Women-Owned Small Businesses (April 1984).
13	52.220-3	Utilization of Labor Surplus Area Concerns (April 1984).
14	52.222-3	Convict Labor (April 1984).
15	52.222-20	Walsh-Healy Public Contracts Act (April 1984).
16	52.222-26	Equal Opportunity (April 1984).
17	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (April 1984).
18	52.222-36	Affirmative Action for Handicapped Workers (April 1984).
19	52.223-2	Clean Air and Water (Over $100,000) (April 1984).
20	52.225-3	Buy American Act—Supplies (April 1984).
21	52.229-3	Federal, State, and Local Taxes (April 1984).
22	52.232-1	Payments (April 1984).
23	52.232-8	Discounts for Prompt Payments (April 1984).
24	52.232-9	Limitation on Withholding of Payments (April 1984).
25	52.232-11	Extras (April 1984).
26	52.232-17	Interest (April 1984).
27	52.232-23	Assignment of Claims (April 1984).
28	52.233-1	Disputes (April 1984).
29	52.243-1	Changes—Fixed Price (April 1984).
30	52.244-1	Subcontracts Under Fixed-Price Contracts (Over $500,000) (April 1984).
31	52.244-5	Competition in Subcontracting (April 1984).
32	52.245-2	Government Property (Fixed-Price Contracts (April 1984).

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES—Continued

No.	FAR Clause No.	Title and date
		or
		(If the contract prices are not based on adequate price competition, established catalogue or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the following clause is applicable):
32	52.245-2	Government Property (Fixed-Price Contracts) (April 1984)—Alternate I (April 1984).
33	52.246-2	Inspection of Supplies-Fixed Price (April 1984).
34	52.246-16	Responsibility for Supplies (April 1984).
35	52.249-2	Termination for Convenience of the Government (Fixed-Price) (April 1984).
36	52.249-8	Default (Fixed-Price Supply and Service) (April 1984).

II. DEPARTMENT OF HEALTH AND HUMAN SERVICES ACQUISITION REGULATION (HHSAR) (48 CFR CHAPTER 3) CLAUSES

No.	HHSAR Clause No.	Title and date
1	352.202-1	Definitions (April 1984).
2	352.208-70	Printing (April 1984).
3	352.227-1	Rights in Data (April 1984).
4	352.232-9	Withholding of Contract Payments (April 1984).
5	352.242-70	Notice to the Government of Delays (April 1984).
6	352.270-4	Pricing of Adjustments (April 1984).
7	352.270-6	Publication and Publicity (April 1984).
8	352.270-7	Paperwork Reduction Act (April 1984).
9	352.270-8	Advertising of Awards (April 1984).

GENERAL PROVISIONS FOR A NEGOTIATED COST-REIMBURSEMENT CONTRACT WITH EDUCATIONAL INSTITUTIONS

Required

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES

No.	FAR Clause No.	Title and date
1	52.203-1	Officials Not to Benefit (April 1984).
2	52.203-3	Gratuities (April 1984).
3	52.203-5	Covenant Against Contingent Fees (April 1984).
4	52.215-1	Examination of Records by Comptroller General (April 1984).
5	52.215-2	Audit-Negotiation (April 1984).
6	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $500,000) (April 1984).
7	52.215-24	Subcontractor Cost or Pricing Data (Over $500,000) (April 1984).
8	52.216-7	Allowable Cost and Payment (April 1984).
9	52.216-11	Cost Contract—No Fee (April 1984).
		(The following clause is applicable when predetermined rates are used):
10	52.216-15	Predetermined Indirect Cost Rates (April 1984).
11	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (April 1984).
12	52.219-13	Utilization of Women-Owned Small Businesses (April 1984).
13	52.220-3	Utilization of Labor Surplus Area Concerns (April 1984).
14	52.222-3	Convict Labor (April 1984).
15	52.222-20	Walsh-Healy Public Contracts Act (April 1984).
16	52.222-26	Equal Opportunity (April 1984).

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES—Continued

No.	FAR Clause No.	Title and date
17	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (April 1984).
18	52.222-36	Affirmative Action for Handicapped Workers (April 1984).
19	52.223-2	Clean Air and Water (Over $100,000) (April 1984).
20	52.225-3	Buy American Act—Supplies (April 1984).
21	52.232-9	Limitation on Withholding of Payments (April 1984).
22	52.232-20	Limitation of Cost (April 1984).
23	52.232-23	Assignment of Claims (April 1984).
24	52.233-1	Disputes (April 1984).
25	52.242-1	Notice of Intent to Disallow Costs (April 1984).
26	52.243-2	Changes—Cost-Reimbursement (April 1984)—Alternate V (April 1984).
27	52.244-2	Subcontracts Under Cost-Reimbursement and Letter Contracts (April 1984).
28	52.244-5	Competition in Subcontracting (April 1984).
29	52.245-5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contract) (April 1984)—Alternate I (April 1984).
30	52.246-9	Inspection of Research and Development (Short Form) (April 1984).
31	52.246-23	Limitation of Liability (April 1984).
32	52.249-5	Termination for Convenience of the Government (Educational and other Nonprofit Institutions) (April 1984).

II. DEPARTMENT OF HEALTH AND HUMAN SERVICES ACQUISITION REGULATION (HHSAR) (48 CFR CHAPTER 3) CLAUSES

No.	HHSAR Clause No.	Title and date
1	352.202-1	Definitions (April 1984)—Alternate I (April 1984).
2	352.208-70	Printing (April 1984).
		(The following clause is applicable when fixed rates subject to carryforward are used):
3	352.216-70	Negotiated Overhead Rates—Fixed (April 1984).
4	352.227-1	Rights in Data (April 1984).
5	352.228-70	Required Insurance (April 1984).
6	352.232-9	Withholding of Contract Payments (April 1984).
7	352.233-70	Litigation and Claims (April 1984).
8	352.237-71	Services of Consultants (April 1984).
9	352.242-70	Notice to the Government of Delays (April 1984).
10	352.242-71	Final Decisions on Audit Findings (April 1984).
11	352.247-70	Foreign Travel (April 1984).
12	352.249-14	Excusable Delays (April 1984).
13	352.270-5	Key Personnel (April 1984).
14	352.270-6	Publication and Publicity (April 1984).
15	352.270-7	Paperwork Reduction Act (April 1984).
16	352.270-8	Advertising of Awards (April 1984).

GENERAL PROVISIONS FOR A COST-REIMBURSEMENT SUPPLY CONTRACT

Required

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES

No.	FAR Clause No.	Title and date
1	52.203-1	Officials Not to Benefit (April 1984)
2	52.203-3	Gratuities (April 1984).
3	52.203-5	Covenant Against Contingent Fees (April 1984).
4	52.215-1	Examination of Records by Comptroller General (April 1984).
5	52.215-2	Audit-Negotiation (April 1984).

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES—Continued

No.	FAR Clause No.	Title and date
6	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $500,000) (April 1984).
7	52.215-24	Subcontractor Cost or Pricing Data (Over $500,000) (April 1984).
8	52.215-30	Facilities Capital Cost of Money (April 1984).
9	52.215-31	Waiver of Facilities Capital Cost of Money (April 1984).
10	52.216-7	Allowable Cost and Payment (April 1984).
11	52.216-8	Fixed Fee (April 1984).
12	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (April 1984).
13	52.219-13	Utilization of Women-Owned Small Businesses (April 1984).
14	52.220-3	Utilization of Labor Surplus Area Concerns (April 1984).
15	52.222-3	Convict Labor (April 1984).
16	52.222-20	Walsh-Healy Public Contracts Act (April 1984).
17	52.222-26	Equal Opportunity (April 1984).
18	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (April 1984).
19	52.222-36	Affirmative Action for Handicapped Workers (April 1984).
20	52.223-2	Clean Air and Water (Over $100,000) (April 1984).
21	52.225-3	Buy American Act—Supplies (April 1984).
22	52.232-9	Limitation on Withholding of Payments (April 1984).
23	52.232-17	Interest (April 1984).
24	52.232-20	Limitation of Cost (April 1984).
25	52.232-23	Assignment of Claims (April 1984).
26	52.233-1	Disputes (April 1984).
27	52.242-1	Nature of Intent to Disallow Costs (April 1984).
28	52.243-2	Changes—Cost-Reimbursement (April 1984).
29	52.244-2	Subcontracts Under Cost-Reimbursement and Letter Contracts (April 1984).
30	52.244-5	Competition in Subcontracting (April 1984).
31	52.245-5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contract) (April 1984).
32	52.246-3	Inspection of Supplies—Cost-Reimbursement (April 1984).
33	52.246-23	Limitation of Liability (April 1984).
34	52.249-6	Termination (Cost-Reimbursement) (April 1984).
35	52.249-14	Excusable Delays (April 1984).

II. DEPARTMENT OF HEALTH AND HUMAN SERVICES ACQUISITION REGULATION (HHSAR) (48 CFR CHAPTER 3) CLAUSES

No.	HHSAR Clause No.	Title and date
1	352.202-1	Definitions (April 1984)—Alternate I (April 1984).
2	352.208-70	Printing (April 1984).
3	352.227-1	Rights in Data (April 1984).
4	352.228-70	Required Insurance (April 1984).
5	352.232-9	Withholding of Contract Payments (April 1984).
6	352.233-70	Litigation and Claims (April 1984).
7	352.237-71	Services of Consultants (April 1984).
8	352.242-70	Notice to the Government of Delays (April 1984).
9	352.242-71	Final Decisions on Audit Findings (April 1984).
10	352.247-70	Foreign Travel (April 1984).
11	352.270-5	Key Personnel (April 1984).
12	352.270-6	Publication and Publicity (April 1984).
13	352.270-7	Paperwork Reduction Act (April 1984).
14	352.270-8	Advertising of Awards (April 1984).

GENERAL PROVISIONS FOR A FORMALLY ADVERTISED CONTRACT

Required

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1)

No.	FAR Clause No.	Title and date
1	52.203-1	Officials Not to Benefit (April 1984).
2	52.203-3	Gratuities (April 1984).
3	52.203-5	Covenant Against Contingent Fees (April 1984).
4	52.212-15	Government Delay of Work (April 1984).
5	52.214-26	Audit—Formal Advertising (Over $100,000) (April 1984).
6	52.214-27	Price Reduction for Defective Cost of Pricing Data—Modifications—Formal Advertising (Over $500,000) (April 1984).
7	52.214-28	Subcontractor Cost or Pricing Data—Modifications—Formal Advertising (Over $500,000) (April 1984).
8	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (April 1984).
9	52.219-13	Utilization of Women-Owned Small Businesses (April 1984).
10	52.220-3	Utilization of Labor Surplus Area Concerns (April 1984).
11	52.222-3	Convict Labor (April 1984).

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1)—Continued

No.	FAR Clause No.	Title and date
12	52.222-20	Walsh-Healy Public Contracts Act (April 1984).
13	52.222-26	Equal Opportunity (April 1984).
14	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (April 1984).
15	52.222-36	Affirmative Action for Handicapped Workers (April 1984).
16	52.223-2	Clean Air and Water (Over $100,000) (April 1984).
17	52.225-3	Buy American Act—Supplies (April 1984).
18	52.229-3	Federal, State, and Local Taxes (April 1984).
19	52.232-1	Payments (April 1984).
20	52.232-8	Discounts for Prompt Payments (April 1984).
21	52.232-9	Limitation on Withholding of Payments (April 1984).
22	52.232-11	Extras (April 1984).
23	52.232-17	Interest (April 1984).
24	52.232-23	Assignment of Claims (April 1984).
25	52.233-1	Disputes (April 1984).
26	52.243-1	Changes—Fixed-Price (April 1984).
27	52.244-1	Subcontracts Under Fixed-Price Contracts (Over $500,000) (April 1984).
28	52.245-2	Government Property (Fixed-Price Contracts) (April 1984).

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1)—Continued

No.	FAR Clause No.	Title and date
29	52.246-2	Inspection of Supplies—Fixed-Price (April 1984).
30	52.246-16	Responsibility for Supplies (April 1984).
31	52.249-2	Termination for Convenience of the Government (Fixed-Price) (April 1984).
32	52.249-8	Default (Fixed-Price Supply and Service) (April 1984).

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR Clause No.	Title and date
1	352.202-1	Definitions (April 1984).
2	352.208-70	Printing (April 1984).
3	352.227-1	Rights in Data (April 1984).
4	352.232-9	Withholding of Contract Payments (April 1984).
5	352.242-70	Notice to the Government of Delays (April 1984).
6	352.270-6	Publication and Publicity (April 1984).
7	352.270-7	Paperwork Reduction Act (April 1984).
8	352.270-8	Advertising of Awards (April 1984).

BILLING CODE 4150-04-M

PART 353—FORMS

Subpart 353.3—Illustrations of Forms

353.370–674 Form HHS 674, Structured Approach Profit/Fee Objective.

528

Structured Approach Profit/Fee Objective

CONTRACTOR	RFP/CONTRACT NO.
BUSINESS UNIT	CONTRACT TYPE
ADDRESS	

CONTRACTOR EFFORT

1. COST CATEGORY	GOVERNMENT'S COST OBJECTIVE (a)	WEIGHT RANGE (b)	ASSIGNED WEIGHT (c)	WEIGHTED PROFIT/FEE ((a) x (c)) (d)
MATERIAL ACQUISITION		1% to 5%		
DIRECT LABOR		4% to 15%		
OVERHEAD		4% to 9%		
OTHER COSTS		1% to 5%		
GENERAL MANAGEMENT (G & A)		4% to 8%		
1. A TOTAL				

2 OTHER FACTORS

FACTOR	MEASUREMENT BASE (a)	WEIGHT RANGE (b)	ASSIGNED WEIGHT (c)	WEIGHTED PROFIT/FEE 1.A (a) x (c) (d)
COST RISK	TOTAL COST OBJECTIVE 1.A (a)	0% TO 7%		
INVESTMENT		-2% TO +2%		
PERFORMANCE		-1% TO +1%		
SOCIO ECONOMIC PROGRAMS		-.5% TO +.5%		
SPECIAL SITUATIONS				
2 A TOTAL OTHER FACTORS				

3	SUBTOTAL PROFIT/FEE LINES (1.A) + (2.A)	
4.	*LESS FACILITIES CAPITAL COST OF MONEY*	
5	TOTAL PROFIT/FEE OBJECTIVE LINE (3) – (4)	

FORM HHS–674 (12/81)

(5 U.S.C. 301; 40 U.S.C. 486(c))

BILLING CODE 4150–04–C

SUBCHAPTER T—HHS SUPPLEMENTATIONS

PART 370—SPECIAL PROGRAMS AFFECTING ACQUISITION

Subpart 370.1—Accessibility of Meetings, Conferences, and Seminars to Persons With Disabilities

Sec.
370.101 Policy.
370.102 Responsibilities.

Subpart 370.2—Indian Preference in Employment, Training, and Subcontracting Opportunities

370.201 Statutory requirements.
370.202 Applicability.
370.203 Definitions.
370.204 Compliance enforcement.
370.205 Tribal preference requirements.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 370.1—Accessibility of Meetings, Conferences, and Seminars to Persons With Disabilities

370.101 Policy.

(a) It is the policy of HHS that all meetings, conferences, and seminars be accessible to individuals with disabilities. For the purposes of this policy, accessibility is defined as both physical access to meeting, conference, and seminar sites, and aids and services to enable individuals with sensory disabilities to fully participate in meetings, conferences, and seminars.

(b) In regard to acquisition, the policy is applicable to all contracts where the statement of work requires the contractor to conduct meetings, conferences, or seminars that are open to the public or involve HHS personnel, but not to ad hoc meetings that may be necessary or incidental to contract performance.

370.102 Responsibilities.

(a) The contracting officer shall include the clause in 352.270–1 in every solicitation and resulting contract when the statement of work requires the contractor to conduct meetings, conferences, or seminars in accordance with 370.101(b).

(b) The project officer shall be responsible for obtaining, reviewing, and approving the contractor's plan, which is to be submitted in response to paragraph (a) of the contract clause in 352.270–1. A consolidated or master plan for contracts requiring numerous meetings, conferences, or seminars will be acceptable. The project officer, prior to approving the plan, shall consult with the Office of Facilities Engineering, OMS, OS, or the Office of Regional Operations for Facilities Engineering and Construction in the region where the meeting, conference, or seminar is to be held, to assure that the contractor's plan meets the accessibility requirements of the contract clause. The Office of Facilities Engineering or the Office of Regional Operations for Facilities Engineering and Construction shall make a determination on the adequacy of the contractor's plan, and notify the project officer, in writing, within ten (10) working days of receiving the request from the project officer.

Subpart 370.2—Indian Preference in Employment, Training, and Subcontracting Opportunities

370.201 Statutory requirements.

Section 7(b) of the Indian Self-Determination and Education Assistance Act, Public Law 93–638, 88 Stat. 2205; 25 U.S.C. 450e(b) requires:

> Any contract, subcontract, grant, or subgrant pursuant to this Act, the Act of April 16, 1934 (48 Stat. 596), as amended, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible—
>
> (1) Preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and
>
> (2) Preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (88 Stat. 77).

370.202 Applicability.

The Indian Preference clause set forth in 352.270–2 and the Indian Preference Program clause set forth in 352.270–3 have been developed to implement section 7(b) of Public Law 93–638 for all activities of the Department. The clauses shall be used by any affected departmental contracting activity as follows, except solicitations issued and contracts awarded pursuant to Title I of Public Law 93–638 (25 U.S.C. 450 et seq.) are exempted:

(a) The Indian Preference clause (352.270–2) shall be included in each solicitation and resultant contract, regardless of dollar amount:

(1) When the contract is to be awarded pursuant to an act specifically authorizing contracts with Indian organizations; or

(2) Where the work to be performed under the contract is specifically for the benefit of Indians and is in addition to any incidental benefits which might otherwise accrue to the general public.

(b) The Indian Preference Program clause (352.270–3) shall be included in each solicitation and resultant contract when:

(1) The dollar amount of the acquisition is expected to equal or exceed $50,000 for nonconstruction work or $100,000 for construction work;

(2) The Indian Preference clause is to be included in the solicitation and resultant contract; and

(3) The determination is made, prior to solicitation that the work to be performed under the resultant contract will take place in whole or in substantial part on or near an Indian reservation(s). In addition, the Indian Preference Program clause may be included in any solicitation and resultant contract below the $50,000 or $100,000 level for nonconstruction or construction contracts, respectively, but which meet the requirements of paragraphs (b) (2) and (3) of this section, and, in the opinion of the contracting activity, offer substantial opportunities for Indian employment, training, and subcontracting.

370.203 Definitions.

For purposes of this Subpart 370.2, the following definitions shall apply:

(a) "Indian" means a person who is a member of an Indian Tribe. If the contractor has reason to doubt that a person seeking employment preference is an Indian, the contractor shall grant the preference but shall require the individual to provide evidence within thirty (30) days from the Tribe concerned that the person is a member of that Tribe.

(b) "Indian Tribe" means an Indian Tribe, pueblo, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(c) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451).

(d) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, provided that such Indian ownership shall constitute not less than 51 percent of the enterprise, and that ownership shall encompass active *operation* and *control.*

(e) "Indian reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.).

(f) "On or near an Indian Reservation" means on a reservation or reservations or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

370.204 Compliance enforcement.

(a) The concerned contracting activity shall be responsible for conducting periodic reviews to insure contractor compliance with the requirements of the clauses set forth in 352.270–2 and 352.270–3. These reviews may be conducted with the assistance of the Indian Tribe(s) concerned.

(b) Complaints of noncompliance with the requirements of the clauses set forth in 352.270–2 and 352.270–3 which are filed in writing with the contracting activity shall be promptly investigated and resolved by the contracting officer.

370.205 Tribal preference requirements.

(a) Where the work under a contract is to be performed on an Indian reservation, the contracting activity may supplement the clause set forth in 352.270–3 by adding specific Indian preference requirements of the Tribe on whose reservation the work is to be performed. The supplemental requirements shall be jointly developed for the contract by the contracting activity and the Tribe. Supplemental preference requirements must represent a further implementation of the requirements of section 7(b) of Public Law 93–638 and must be approved by the affected program director and approved for legal sufficiency by the Business and Administrative Law Division, OGC, or a regional attorney before being added to a solicitation and resultant contract. Any supplemental preference requirements to be added to the clause in 352.270–3 shall be included in the solicitation and clearly identified in order to ensure uniform understanding of the additional requirements by all prospective bidders or offerors.

(b) Nothing in these regulations shall be interpreted to preclude Tribes from independently developing and enforcing their own tribal preference requirements. Such independently developed tribal preference requirements shall not, except as provided in paragraph (a) above, become a requirement in contracts covered under this Subpart 370.2, and must not conflict with any Federal statutory or regulatory requirement concerning the award and administration of contracts.

APPENDIX A.—SINGLE LETTER OF CREDIT RECIPIENTS AND CENTRAL POINT ADDRESSES

State	Organization and payee No.	Recipient CRS-EIN [1]	Letter of credit
Alabama	University of Alabama Medical Center, 1-636005396-A4	1-636001138-A2, 1-636001138-A3, 1-636001138-A4, 1-636001138-A5,	750080110
	Director, Office of Grants and Contracts Accounting, University of Alabama, University Station, Birmingham, Alabama 35296.	1-636001138-B1, 1-636005396-A3 1-636005396-A4, 1-636005396-A5, 1-636005396-A6, 1-636005396-A7, 1-636005396-A8.	
	University of Alabama, 1-636001138-A1	1-636001138-A1, 1-636001138-A6	75080115
	Comptroller, University of Alabama, P.O. Box M, University, Alabama	1-636001138-A7, 1-636001138-A8, 1-636001138-A9, 1-636001138-B2, 1-636001138-B3, 1-636001138-B4.	
	Southern Research, Institute, 1-630288868-A2	1-630288868-A1, 1-630288868-A2	75083532
	Financial Officer, Southern Research Institute, 2000 9th Avenue, South, Birmingham, Alabama 35205.		
Alaska	State of Alaska, 1-900001517-A1	1-000700389-A1, 1-926001185-A2, 1-926001185-A3	75080021
	Director, Division of Finance, Department of Administration, Pouch C, Juneau, Alaska 99801.	1-926001185-A4, 1-926001185-A5, 1-926001185-A7, 1-926001185-B1, 1-926001185-B2, 1-926001185-B3, 1-926001185-B6, 1-926001185-B7, 1-926001185-B8, 1-926001185-B9, 1-926001185-C1, 1-926001185-C2.	
Arizona			
	State of Arizona, 1-866004791-B7	1-866004791-A1, 1-866004791-A2, 1-866004791-A3	75080628
	State Treasurer's Office, State Capitol, Phoenix, Arizona, 85007	1-866004791-A4, 1-866004791-A5, 1-866004791-A6, 1-866004791-A7, 1-866004791-A8, 1-866004791-A9, 1-866004791-B2, 1-866004791-B3, 1-866004791-B7, 1-866004791-B8, 1-866004791-C2, 1-866004791-C5, 1-866004791-C7, 1-866004791-C8, 1-866004791-C9, 1-866004791-D1, 1-866004791-D2, 1-866004791-D3, 1-866004791-D5, 1-866004791-D6, 1-866004791-D7, 1-866004791-D8, 1-866004791-D9, 1-866004791-E3, 1-866004791-E5, 1-866004791-E6, 1-866004791-E7, 1-866004791-E8, 1-866004791-E9.	
California	County of San Diego, 1-95000934-A2	1-956000924-A1 1-956000924-A2	75080386
	Auditor and Controller, County of San Diego, County Administration Center, 1600 Pacific Highway, San Diego, California 92101.		
	University of California, 1-900001727-A1		75081471
	Letter of Credit, Universities of California, Berkeley, California 94720		
	Santa Barbara	1-956006145-A1 1-956006145-A2	75081471
	San Diego	1-956006144-A1, 1-956006144-A2, 1-956006144-A3	75081471
	Davis	1-946036494-A1	75081471
	Los Angeles	1-956006143-A1, 1-956006143-A2, 1-956006143-A3, 1-956006143-A4, 1-956006143-A6.	75081471
	Irvine	1-952226406-A1, 1-952226406-A2	75081471
	Berkeley	1-946002133-A1, 1-946002133-A2	75081471
	Riverside	1-237361894-A1, 1-956006142-A1	75081471
	Santa Cruz	1-941539563-A1	75081471
	San Francisco	1-946036493-A1, 1-946036493-A6, 1-946036493-A7, 1-946036493-A8	75081471
	Los Alamos Lab	1-856004458-A1	75081471
	Lawrence Livermore Lab	1-946031193-A1	75081471
	Scripps Clinic and Res. Fndn	1-951684089-A1	75087560
	Comptroller, Scripps Clinic and Res. Fndn. 476 Prospect Street, La Jolla, California 92037.		
Connecticut	Yale University, 1-060646973-A1	1-060646973-A1, 1-060646973-A2, 1-060646973-A4	75089755
	Treasurer, Yale University, Grants and Contracts, 155 Whitney Avenue, New Haven, Conn. 05611.	1-060646973-A5, 1-060646973-A6, 1-060646973-A7, 1-060646973-A8	
District of Columbia.	Georgetown University, 1-530196603-A1	1-530196603-A1, 1-530196603-A2, 1-530196603-A3	75083450
	Treasurer, Georgetown University, 37th and O Streets NW., Washington, D.C. 20007.	1-530196603-A4, 1-530196603-A5, 1-530196603-A6, 1-530196603-A7	
	George Washington University, 1-530196584-A1	1-530196584-A1, 1-530196584-A3	75083441
	Treasurer, George Washington University, Rice Hall, Washington, D.C. 20006		
	Gorgas Memorial Institute, 1-530196518-A1	1-530196518-A1	75083522

APPENDIX A.—SINGLE LETTER OF CREDIT RECIPIENTS AND CENTRAL POINT ADDRESSES—Continued

State	Organization and payee No.	Recipient CRS-EIN [1]	Letter of credit
-	Treasurer, Gorgas Memorial Institute, 2007 I Street NW., Washington, D.C. 20007.		
	National Academy of Sciences, 1-530196932-A1	1-530196932-A1, 1-530196932-A2	75085992
	Treasurer, National Academy of Sciences, 2101 Constitution, Avenue NW., Washington, D.C. 20037.		
Florida	University of Florida, 1-596001874-C7, Fiscal Contract Officer, University of Florida, Room 106, R. Johnson Hall, Gainesville, Florida 32611.	1-596001874-C7, 1-596001874-F2	75083326
	University of Miami, 1-590624458-A1	1-590624458-A1, 1-590624458-A2, 1-590624458-A3	75085253
	Chief Accountant, University of Miami, P.O. Box 9057, Coral Gables, Florida 33124.	1-590624458-A6	
Georgia	State of Georgia, 1-581130678-A1	1-580973190-A2, 1-581130678-A1, 1-581130678-A5,	75083462
	Director, Department of Adm. Services, Fiscal Division, Pryor-Mitchell Building, Atlanta, Georgia 30334.	1-581130678-A6, 1-586000246-A2, 1-586002042-A1, 1-586002042-A2, 1-586002042-A3, 1-586002042-A4, 1-586002042-A6, 1-900000257-A1, 1-900000848-A1.	
Guam	Territory of Guam, 1-980018947-E6	1-000040215-A1, 1-000040218-A1, 1-000040228-A1	7508B368
	Department of Administration, P.O. Box 884, Government of Guam, Agana, Guam 96110.	1-000040238-A1,1-000307495-A1,1-000313462-A1,1-900000270-A1,1-900000273-A1,1-900000274-A1,1-980018947-A1,1-980018947-A2,1-980018947-A3,1-980018947-A4,1-980018947-A7,1-980018947-A8,1-980018947-A9,1-980018947-B1,1-980018947-B2,1-980018947-B3,1-980018947-B5,1-980018947-D1,1-980018947-E5,1-980018947-E7,1-980018947-F1.	
Illinois	University of Illinois Medical Center, 1-376000511-A5	1-376000511-A1,1-376000511-A3,1-376000511-A5,1-376000511-A8	75083885
	Business Manager, University of Illinois, Chicago, Illinois, P.O. Box 6998, Chicago, Illinois 60680.	01-376000511-A9,1-376000511-B2,1-376000511-B4,1-376000511-B5,1-376000511-C1,1-376000511-C2,1-376000511-C3.	
Kansas	Kansas State University 1-480771751-A1, Comptroller, Kansas State, University of Agriculture & Applied Sciences, Anderson Hall, Manhattan, Kansas 66502.	1-480771751-A1,1-480771751-A2	75084200
Louisiana	State of Louisiana, 1-900001516-A1,	1-000014399-A1,1-000014607-A1,1-237208290-A1	75080020
	Assistant State Treasurer, State Treasurer's Office, P.O. Box 44154, Capital Station, Baton Rouge, Louisiana 70804.	1-237208290-A2,1-720591509-A1,1-720637038-A1,1-720637038-A2,1-720645546-A1,1-720650883-A1,1-720695435-A1,1-720707278-A1,1-726000720-A1,1-726000733-A1,1-726000734-A1,1-726000734-A2,1-726000734-A3,1-726000743-A1,1-726000745-A1,1-726000756-A1,1-726000766-A1,1-726000800-A1,1-726000800-A2,1-726000813-A1,1-726000821-A1,1-726000821-A2,1-726000821-A3,1-726000821-A4,1-726000821-A5,1-726000826-A1,1-726001901-A1,1-726011595-A1,1-726011595-A3,1-726011595-A5,1-726011595-A6,1-726011595-A8,1-726011595-A9,1-726012498-A1,1-726014571-A1,1-726101595-A1,1-900001256-A1,1-900001342-A1,1-900002575-A1.	
Maine	Jackson Laboratories, 1-010211513-A1	1-01211513-A1	75087315
	Financial Officer, The Jackson Laboratories, Otter Creek Road, Bar Harbor, Maine 04609.		
Massachusetts	Boston University, 1-042103547-A1	1-042103547-A1, 1-042103547-A2, 1-042103547-A4	75081272
	Comptroller, Boston University, 755 Commonwealth Avenue, Boston, Mass. 02215.		
	Forsyth Dental Center, 1-042104230-A2	1-042104230-A1, 1-042104230-A2	75083375
	Assistant Treasurer, Forsyth Dental Center, 140 Fenway, Boston, Mass. 02115.		
	Harvard University 1-042103580-B1	1-042103580-A2, 1-042103580-A3, 1-042103580-A4	75083630
	Office of the Comptroller	1-042103580-A5, 1-042103580-A6	
	President & Fellows of Harvard College Cambridge, Mass. 02138	1-042103580-A7, 1-042103580-A8, 1-042103580-A9, 1-042103580-B1	
	Massachusetts General Hospital, 1-041564655-A4	1-041564300-A1, 1-041564655-A3, 1-041564655-A4	75084810
	Treasurer, Massachusetts General Hospital, 45 Milk Street, Boston, Mass. 02114.	1-041564655-A5	
	Massachusetts Institute of Technology, 1-042103594-A1	1-042103594-A1, 1-042103594-A2	75084836
	Fiscal Officer, Division of Sponsored Research, Massachusetts Institute of Technology, Cambridge, Mass. 02139.		
	Worcester Foundation, 1-042121658-A1	1-042121658-A1	75089680
	Finance Officer, Worcester Foundation for Experimental Biology, Inc., 222 Maple Avenue, Shrewsbury, Massachusetts 01545.		
Maryland	Johns Hopkins University, 1-520595110-A5, University Budget Officer Johns Hopkins University, Garland Hall, Rm 327, Charles and 34th Streets, Baltimore, Md. 21218.	1-000701501-A1, 1-520595110-A1, 1-520595110-A2, 1-520595110-A3, 1-520595110-A4, 1-520595110-A5.	75084130
Michigan	University of Michigan, 1-386006309-A1	1-386006309-A1, 1-386006309-A2, 1-386006309-A3	75085301
	University Cashier, Regents of the University of Michigan, 1015 L.S. & A. Bldg., Ann Arbor, Michigan 48104.	1-386006309-A4, 1-386006309-A5, 1-386006309-A6, 1-386006309-A7, 1-386006309-A8, 1-386006309-A9, 1-386006309-B1,1-386006309-B2.	
Minnesota	Mayo Foundation, 1-416011702-A1	1-4160011702-A1, 1-4160011702-A2	75084875
	Treasurer, Mayo Foundation, 200 First Street, SW., Rochester, Minnesota 55901.		
	University of Minnesota, 1-416007513-A5	1-416007513-A1, 1-416007513-A2, 1-416007513-A3	75085448
	Director, Research Administration, 105 Admin. Servs. Building, 2610 University Avenue, St. Paul, Minnesota 55114.	1-416007513-A5, 1-416007513-A8, 1-416007513-B2, 1-416007513-B3, 1-416007513-B4, 1-416007513-B5, 1-416007513-B7.	
Missouri	Midwest Research Institute, 1-440545878-A1	1-440545878-A1	75085361
	Treasurer, Midwest Research Institute, 425 Volker Blvd., Kansas City, Missouri 64110.		
Nebraska	State of Nebraska, 1-470491233-C5	1-000021900-A1, 1-210674761-A1, 1-470491233-A1	75086320
	State of Nebraska Accounting Dept., Administrative Services Office, State Capitol Bldg., Lincoln, Nebraska 68509.	1-470491233-A3, 1-470491233-A4, 1-470491233-A6, 1-470491233-A7, 1-470491233-A8, 1-470491233-A9, 1-470491233-B1, 1-470491233-B2, 1-470491233-B3, 1-470491233-B4, 1-470491233-B5, 1-470491233-B6, 1-470491233-B7, 1-470491233-B8, 1-470491233-B9, 1-470491233-C1, 1-470491233-C2, 1-470491233-C3, 1-470491233-C4, 1-470491233-C5, 1-470491233-C6, 1-470491233-C7, 1-470491233-C8, 1-470491233-C9, 1-470491233-D1, 1-470491233-D2, 1-470491233-D4, 1-476000479-A1, 1-476000535-A1, 1-476000535-A8, 1-741699874-A1, 1-900001910-A1, 1-900001919-A1, 1-900002209-A1, 1-900002333-A1, 1-900003427-A1, 1-900003437-A1.	
New York	Adelphi University, 1-111630741-A1	1-111630741-A1	75080040
	Business Manager, Adelphi University, South Avenue, Garden City, New York 11530.		
	Albany Medical Center, 1-141338310-A1,	1-141338310-A1	75080150
	Assistant Treasurer, Albany Medical College of Union University, 47 New Scotland Avenue, Albany, New York 12208.		

APPENDIX A.—SINGLE LETTER OF CREDIT RECIPIENTS AND CENTRAL POINT ADDRESSES—Continued

State	Organization and payee No.	Recipient CRS-EIN [1]	Letter of credit
	Children's Hospital of Buffalo, 1-160748423-A1	1-160748423-A1	75082160
	Comptroller, Children's Hospital of Buffalo, 219 Bryant Street, Buffalo, N.Y. 14222.		
	New York Medical College, 1-131099420-A1	1-131099420-A1	75086270
	Treasurer, New York Medical College, Flower/Fifth Avenue Hospitals, 1 East 105th Street, New York, N.Y. 10029.		
	New York University, 1-135562308-A1	1-135562308-A1, 1-135562308-A3, 1-135562308-A4	75086330
	Assistant Controller, New York University, 500 Kimball Hall, Washington Square, New York, New York, 10003.	1-135562308-A5, 1-135562308-A6	
	New York University Medical Center, 1-135562309-A1	1-135562308-A2, 1-135562308-B1, 1-135562309-A1, 1-135562309-A2	75086333
	Comptroller, New York University Medical Center, 550 First Avenue, New York, New York 10016.	1-135562309-A3, 1-229124053-A1	
	University of Rochester, 1-160743209-A1, Research Accountant University of Rochester, River Campus, Rochester, New York 14627.	1-160743209-A1, 1-160743209-A2, 1-160743209-A3, 1-160743209-A4, 1-160743209-A5.	7508272
	Research Foundation of the State, University of New York, 1-14136861-J3, Comptroller, Research Foundation of State University of New York, P.O. Box 7126, Albany, New York 12224.	1-131819472-A1, 1-132633612-A1, 1-141363361-A1, 1-141368361-A1, 1-141368361-A2, 1-141368361-J3, 1-146013200-E4, 1-146013200-E5, 1-146013200-E6, 1-146013200-E7, 1-146013200-E8, 1-146013200-E9, 1-146013200-F1, 1-146013200-F2, 1-146013200-F3, 1-146013200-F4, 1-146013200-F5, 1-146013200-F6, 1-146013200-F7, 1-146013200-F8, 1-146013200-F9, 1-146013200-G1, 1-146013200-G2, 1-146013200-G3, 1-146013200-G4, 1-146013200-G5, 1-146013200-G6, 1-146013200-G7, 1-146013200-G8, 1-146013200-G9, 1-146013200-H1, 1-146013200-H2, 1-146013200-H3, 1-146013200-H4, 1-146013200-J3, 1-146013200-K4, 1-146013200-L5, 1-146013200-L6, 1-146013200-L7.	75087210
	Research Foundation of the City, University of New York, 1-131988190-A1	1-131988190-A1, 1-131988190-A8	75082337
	Treasurer, Research Foundation of the City, University of New York, 1411 Broadway, New York, New York 10018.		
	State of New York, 1-146013200-J7	1-146013200-A1, 1-146013200-A2, 1-146013200-A3	75086340
	Director, State Accounts, Alfred E. Smith, Building, Albany, New York 12225	1-146013200-A4, 1-146013200-A5, 1-146013200-A6, 1-146013200-A7, 1-146013200-A8, 1-146013200-A9, 1-146013200-B1, 1-146013200-B2, 1-146013200-B3, 1-146013200-B4, 1-146013200-B5, 1-146013200-B6, 1-146013200-B7, 1-146013200-B8, 1-146013200-B9, 1-146013200-C1, 1-146013200-C2, 1-146013200-C3, 1-146013200-C4, 1-146013200-C5, 1-146013200-C6, 1-146013200-C8, 1-146013200-C9, 1-146013200-D1, 1-146013200-D2, 1-146013200-D3, 1-146013200-D4, 1-146013200-D5, 1-146013200-D6, 1-146013200-D7, 1-146013200-D9, 1-146013200-E1, 1-146013200-E2, 1-146013200-E3, 1-146013200-H5, 1-146013200-H6, 1-146013200-H7, 1-146013200-H8, 1-146013200-H9, 1-146013200-I1, 1-146013200-I2, 1-146013200-I3, 1-146013200-I4, 1-146013200-I7, 1-146013200-I8, 1-146013200-J1, 1-146013200-J4, 1-146013200-J5, 1-146013200-J6, 1-146013200-J7, 1-146013200-J8, 1-146013200-J9, 1-146013200-K1, 1-146013200-K2, 1-146013200-K3, 1-146013200-K6, 1-146013200-K7, 1-146013200-K9, 1-146013200-L3, 1-146013200-L4, 1-146013200-L8.	
Ohio	Case Western Reserve University, 1-341018992-A1	1-341018992-A4, 1-341018992-A1, 1-341018992-A2	75089472
	Comptroller Case Western Reserve University, 2040 Adelbert Road, Cleveland, Ohio 44106.		
Tennessee	St. Jude's Children's Research Hospital, 1-620646012-A1	1-62646012-A1	75083427
	Treasurer, St. Jude's Children's Hospital, 332 N. Lauderdale, Memphis, Tennessee 38101.		
Texas	Baylor University College of Medicine, 1-741613878-A2	1-741613878-A1, 1-741613878-A2	75081070
	Business Manager, Baylor College of Medicine, 1200 Moursund Ave., Houston, Texas 77025.		
	University of Texas at Houston Health Center, 1-741761309-A4	1-741761309-A4, 1-741761309-A6	75088056
	Associate Dean for Business Affairs, University of Texas, Medical School, P.O. Box 20036 Houston, Texas 77025.		
	University of Texas Medical School, 1-756002868-A4	1-756002868-A3, 1-756002868-A4, 1-756002868-A5	75088130
	Business Manager, University of Texas, Southwestern Medical Schools, 5323 Harry Hines Blvd., Dallas, Tex 75235.		
	University of Texas, M.D. Anderson Hospital, 1-746001118-A1	1746001118-A1	75088910
	Supervisor, Grant Reporting, M.D. Anderson Hospital, University of Texas, 6723 Bertner Ave., Houston, Texas 77025.		
	University of Texas Medical Branch, Galveston, Texas, 1-74600949-A1	1-74600949-A1	75088916
	Business Manager, University of Texas, Medical Branch, 1000 Strand, Galveston, Texas 77550.		
Utah	University of Utah and University of Utah Research 1-876000525-A6	1-876000525-A1, 1-876000525-A2, 1-876000525-A3, 1-876000525-A6, 1-876000525-A7,.	75089067
	Controller, University of Utah, 122 Park Building, Salt Lake City, Utah 84112	1-876000525-A8	
Washington	University of Washington, 1-916001537-A5, Director, Office of Grant/Contract Services, University of Washington, 211 Administration Building, Seattle, Washington 98195.	1-916001537-A1, 1-916001537-A2, 1-916001537-A4, 1-916001537-A5, 1-916001537-A6, 1-916001537-A9.	75089320
Wisconsin	State of Wisconsin, 1-396006469-B1	1-000039594-A1, 1-000702000-A1, 1-390808464-A1	7508H610
	Budget Operations, State Budget Office, One West Wilson St., Madison Wisconsin 53607.	1-391051231-A1, 1-396006436-A1, 1-396006443-A3, 1-396006447-A1, 1-396006461-A1, 1-396006461-A2, 1-396006461-A3, 1-396006461-A4, 1-396006461-A5, 1-396006461-A6, 1-396006461-A7, 1-396006461-A8, 1-396006461-A9, 1-396006461-B1, 1-396006466-A1, 1-396006469-A1, 1-396006469-A5, 1-396006469-A6, 1-396006469-A7, 1-396006469-B1, 1-396006469-B5, 1-396006487-A1, 1-396006487-A2, 1-396006488-A1, 1-396006492-A1, 1-396006492-A2, 1-396006492-A3, 1-396006492-A5, 1-396006492-A6, 1-396006492-A7, 1-396006492-A8, 1-396006492-B1, 1-396006492-B2, 1-396006492-B3, 1-396006492-B4, 1-396006492-B5, 1-396006492-B6, 1-396006492-B7, 1-396006492-B8, 1-396006492-B9, 1-396006492-C1, 1-396006492-C2, 1-396006492-C3, 1-396006492-C4, 1-396006492-C5, 1-396006492-C6, 1-396006492-C7, 1-396006492-C8, 1-396006492-C9, 1-396006492-D1, 1-396028867-A1, 1-396028867-A2, 1-396091677-A1, 1-396091677-A2, 1-396320507-A1, 1-900000022-A1, 1-900002012-A1, 1-900002564-A1, 1-900002665-A1, 1-900003134-A1.	

[1] Central Registry-System Entity Identification Number (CRS-EIN).

CRS-EIN is a twelve digit number used to identify a recipient organization/individual in the HHS Central Registry System (CRS). This system utilizes a standard identification number within HHS to identify recipients of Federal assistance-like programs. The first digit identifies whether the recipient is an organization (1) or individual (2). The next nine (9) digits uniquely associate the organization/individual to an Employer Identification Number assigned by the Internal Revenue Service in the case of an organization, or a Social Security Number assigned by the Social Security Administration in the case of an individual. A two character suffix code is assigned by the Central Registry System, HHS, to identify component levels within the recipient organization, such as: School of Medicine, Research Division, Department of Biology, etc. A suffix is not applied to a Social Security Number since that number is unique to each individual.

[FR Doc. 84-9297 Filed 4-4-84; 2:54 pm]

BILLING CODE 4150-04-M

Federal Register

Monday
April 9, 1984

Part III

Department of the Treasury

Office of the Assistant Secretary for International Affairs

31 CFR Part 129

Portfolio Investment Survey Regulations; Final Rule

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary for International Affairs

31 CFR Part 129

Portfolio Investment Survey Regulations

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This notice promulgates final regulations for a portfolio investment survey which, together with forms and instructions, implement the President's responsibilities under the International Investment Survey Act of 1976 (22 U.S.C. 3101 et seq., as amended) regarding studies, analyses, and mandatory surveys of foreign portfolio investment in the United States. The President's responsibilities concerning portfolio investment were delegated to the Secretary of the Treasury on January 19, 1977, pursuant to Executive Order 11961 (42 FR 4321), as amended. The final regulations set out below replace Part 129 of 31 CFR, which is hereby revoked because it pertains to a 1978 foreign portfolio investment survey that has been completed.

EFFECTIVE DATE: April 9, 1984.

FOR FURTHER INFORMATION CONTACT: Bertram Wolfe, Foreign Portfolio Investment Project, Office of the Assistant Secretary, International Affairs, U.S. Department of the Treasury, Washington, D.C. 20220, Telephone: (202) 566-8263.

SUPPLEMENTARY INFORMATION: On October 11, 1976, the President signed into law the International Investment Survey Act of 1976 (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101, et seq., as amended [the "Act"]), which requires the collection and analysis of data relating to international investment and its effect upon the national security, commerce, employment, inflation, general welfare, and foreign policy of the United States. The Act requires, *inter alia*, that a comprehensive benchmark survey be conducted at least once every five years to determine, as necessary and feasible, the magnitude and aggregate value of foreign portfolio investment, form of investments, types of investors, nationality and residence of investors, diversification of holdings by economic sector, and holders of record. The previous Foreign Portfolio Investment Survey [the "Survey"] collected data as of December 31, 1978, and the report on that Survey was issued by the Department of the Treasury [the "Treasury"] in December 1980. These final regulations are being promulgated to authorize the new Survey, as required by the Act, and they contain no substantive changes from the current regulations in Part 129 of 31 CFR that they revoke and replace.

The President designated the Secretary of the Treasury as the Federal executive responsible for collecting the required data on portfolio investment pursuant to Executive Order 11961 dated January 19, 1977 (42 FR 4321) as amended. The Secretary of the Treasury has delegated the day-to-day responsibility for the Survey to the Assistant Secretary for International Affairs. These final regulations implement new Forms TD F 90-19.1 and TD F 90-19.2, related forms, and their instructions [the "Forms"], which will reduce the number of legal persons having to report; allow persons reporting to use modern data processing techniques; and reduce the cost to the Government of carrying out the data collection programs provided for by the Act.

Notice and Comment

The Treasury finds that notice and public procedures and the general requirement for a delayed effective date under the provisions of 5 U.S.C. 553 are "impractical, unnecessary, or contrary to the public interest." Specifically, such procedures are unnecessary because these final regulations make no substantive changes in the current Part 129 of 31 CFR. These final regulations merely permit the use of specified reporting forms for the Survey, are minor in scope, and serve generally to reduce the reporting burden upon the public by reducing the number of respondents.

The means by which the reporting burden on the public has been reduced is chiefly by setting exemption levels in the proposed Survey forms and instructions, which will be published in the **Federal Register** in the near future, at higher levels than were used on the most recent survey. For purposes of the first survey to be carried out under this new regulation, the proposed forms and instructions contain an exemption level which requires a bank or non-bank with assets greater than $2 billion and $1 billion, respectively, to file a report as an issuer of U.S. securities. Also some issuers with assets of at least $100 million but less than the aforementioned levels might be asked to report as well. A holder of record is exempt if the combined investments of all its foreign customers amount to less than $10 million. For each successive survey under these regulations, the Department of the Treasury will provide notice of the applicable exemption levels.

In the one procedural change from the current regulations, these final regulations require that respondents submit some data requested by the Forms in machine readable format in order to reduce the cost to the Government of processing the data while not increasing the costs to respondents. However, respondents may file a written certified claim for exemption, included among the forms available from the Treasury, requesting that the Secretary of the Treasury grant a waiver from this requirement, and for good cause the Secretary shall grant the request.

Regulatory Flexibility Analysis

The provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 et seq.) are not applicable to this final rule because no notice of proposed rulemaking is required by 5 U.S.C. 553 or by any other statute.

Executive Order 12291

The Treasury has determined that this rule is not a major rule for the purpose of Executive Order 12291 signed on February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, in a major increase in costs to consumers, individual industries, Federal, State or local government agencies, or geographic regions, or in significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 31 CFR Part 129

Banks, Banking, Foreign investment in the United States, Reporting and recordkeeping requirements, Securities.

Accordingly, 31 CFR Part 129 is revised to read as follows:

PART 129—PORTFOLIO INVESTMENT SURVEY REGULATIONS

Subpart A—Basic Requirements

Sec.

129.1 Purpose.
129.2 General definitions.
129.3 Recordkeeping requirements.
129.4 Reporting requirements.
129.5 Response required.
129.6 Confidentiality.
129.7 Penalties.
129.8 Miscellaneous.

Subpart B—Rules and Regulations for Survey of Foreign Portfolio Investment in U.S. Securities

129.9 Basic requirements.
129.10 Form TD F 90-19.1 Report for U.S. Issuers of Securities (Form FPI-1).
129.11 Form TD F 90-19.2 Report for U.S. Holders of Record (Form FPI-2).

Authority: The provisions of this Part 129 are issued under Pub. L. 94–472, 90 Stat. 2059 (22 U.S.C. 3101, et seq.), as amended; E.O. 11961, 42 FR 4321, as amended.

Subpart A—Basic Requirements

§ 129.1 Purpose.

The purpose of this part is to set forth the rules and regulations necessary to implement the data collection programs and analyses with respect to portfolio investment provided for by the International Investment Survey Act of 1976 (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101, et seq., as amended [the "Act"]). The overall purpose of the Act is to provide comprehensive and reliable information concerning international investment, including portfolio investment, while minimizing the reporting burden on respondents.

§ 129.2 General definitions

(a) "United States", when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(b) "Foreign", when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States.

(c) "Person" means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency).

(d) "United States person" means any person resident in the United States or subject to the jurisdiction of the United States.

(e) "Foreign person" means any person resident outside the United States or subject to the jurisdiction of a country other than the United States.

(f) "Foreign parent", for purposes of this Survey, means any foreign person who owns or controls, directly or indirectly, 10 percent or more of the voting securities of an incorporated United States business enterprise, or an equivalent interest in an unincorporated United States business enterprise.

(g) "Securities", for purposes of this Survey, means long-term marketable United States public and private issues of debt and equity. Long-term securities have no contractual maturity (stocks) or have an original maturity of more than one year from date of issue. Marketable securities include both bearer and registered securities that are publicly traded or privately placed in United States and/or foreign markets. The term "securities" includes common and preferred stocks or investment company shares, including rights, warrants, and scrip; bonds, debentures, equipment trust certificates and similar long-term corporate debt instruments; marketable long-term corporate debt instruments; marketable long-term debt obligations of the United States Treasury, Federal financing institutions, United States Government corporations and Federally-sponsored agencies; and marketable long-term debt obligations of State and local governments, including any agencies, corporations, financing institutions, or other instrumentalities thereof. Also included are certificates or receipts representing an interest in particular coupon or principal payments of marketable U.S. Treasury securities. Examples of such instruments are Treasury Investment Growth Receipts (TIGRs) issued by Merrill Lynch White Weld Capital Markets Group, Certificates of Accrual on Treasury Securities (CATS) issued by Salomon Brothers Inc., and Zero Coupon Treasury Bond Receipts (TBRs) issued by E.F. Hutton Inc.

(h) "United States issuer" means any United States person who issues, through public or private distribution, any security.

(i) "United States holder of record" means any United States person who is carried on stock transfer records or other ownership records as having title to any security of a United States issuer which is held on behalf of another person. United States holders of record include such persons as nominees, custodians, agents, trustees, other fiduciaries, banks, brokers, or other intermediaries, who hold title to investments on behalf of another person. The term also extends to any United States person acting as a custodian for bearer securities, even though such person is not carried on ownership records as holding title to such securities.

(j) "Reporter" means the United States person required to file a report, or for which the report is required to be filed, in this Survey.

(k) "Foreign official institutions" means central governments of foreign countries and their possessions, including recognized central banks of issue, including the following:

(1) The treasuries, including ministries of finance, or corresponding departments of national governments; central banks, including all departments thereof; stabilization funds, including official exchange stabilization funds, exchange control offices, or other governmental exchange authorities; and fiscal agents of the national governments which have as an important part of their functions, activities similar to those of a treasury, central bank, or stabilization fund (except that branches or agencies of foreign official banking institutions which are located in the United States shall not be considered foreign official institutions for purposes of these instructions).

(2) Diplomatic and consular establishments and other departments and agencies of national governments, such as military departments, purchasing commissions and state trading organizations except that the term "foreign official institution" does *not* include the following:

(i) Nationalized or other government-owned banks or corporations (nationalized or other government-owned banks should be regarded as "foreign banks" and nationalized or other government-owned corporations should be regarded as "other business firms" unless such banks or corporations fall within one of the categories set forth in paragraphs (k)(1) or (k)(2) of this section); and

(ii) Personal accounts of foreign diplomatic and other official representatives of foreign countries.

(3) Any international or regional organization, or subordinate or affiliated agency thereof, created by treaty or convention between sovereign states.

(l) "Treasury" means U.S. Department of the Treasury.

§ 129.3 Recordkeeping requirements.

Persons subject to the jurisdiction of the United States shall maintain all information as required by the Act (22 U.S.C. 3104(b)(1)). No person, however, shall be required to maintain such information for longer than three years from the date of submission of any reports and other information required pursuant to the Act and this Title.

§ 129.4 Reporting requirements.

Persons subject to the jurisdiction of the United States shall furnish under oath any report containing information which is determined to be necessary to carry out the surveys and studies provided for by the Act. Such reports may be required from U.S. persons in which foreign persons hold portfolio investment and U.S. holders of record which hold, on behalf of foreign persons, portfolio investment in U.S. persons, as provided for in §§ 129.10 and 129.11.

§ 129.5 Response required.

Reports, as specified in Subpart B of this part, are required from all persons subject to the reporting requirements, regardless of whether they are contacted by the Treasury. In addition, any person that the Treasury contacts, either by sending reporting forms or by inquiring in writing whether the person is subject to the reporting requirements of a survey conducted pursuant to this Part, must reply in writing. The response must be made either by filing the properly completed reporting form or else by filing a written certified claim for exemption from filing a report. A claim for exemption must be filed within 30 days after the date for which forms are to be prepared or 30 days after the receipt of the forms, whichever is later.

§ 129.6 Confidentiality.

Information collected pursuant to this Part will be kept in confidence.

(a) Access to this information shall be available only to officials and employees (including consultants and contractors and their employees) designated by the President, or the Secretary of the Treasury, to perform functions under the Act.

(b) Subject to paragraph (d) of this section, the President, or the Secretary of the Treasury, may authorize the exchange between agencies or officials designated by him of this information as he deems necessary to carry out the purposes of the Act.

(c) Nothing in this Part shall be construed to require any Federal Agency to disclose information otherwise protected by law.

(d) No person can compel the submission or disclosure of reports, or constituent parts thereof, or copies of such reports, or constituent parts thereof, prepared pursuant to this Part, without the prior written consent of the person who maintained or who furnished the report and the customer of the person who furnished the report where the information supplied is identifiable as being derived from the records of the customer. As required by the Act, any published reports issued by the Treasury based upon the information obtained by this Survey will only contain data aggregated in such a way that the person supplying the information and the customer of the person supplying the information cannot be identified.

§ 129.7 Penalties.

(a) Whoever fails to furnish any information required under the Act or by any other rule, regulation, order, or instruction promulgated under the Act may be subject to civil penalty not exceeding $10,000 or to injunctive relief commanding such person to comply, or both.

(b) Whoever willfully violates any rule, regulation, order, or instruction promulgated under this Act, upon conviction, shall be fined not more than $10,000 and, if an individual, may be imprisoned for not more than one year, or both, and any officer, director, employee, or agent of any corporation who knowingly participates in such violation, upon conviction, may be punished by a like fine, imprisonment or both.

§ 129.8 Miscellaneous.

(a) *Time and place of filing reports.* Reports shall be filed no later than the "Due date" specified on the Form. Reports shall be mailed to: Foreign Portolio Investment Project, Office of the Assistant Secretary (International Affairs), U.S. Department of the Treasury, Washington D.C. 20220.

(b) *Method of filing reports.* Reporters submitting a large amount of data on Part II of Form FPI–2 (referred to below) are required to file this report in a machine readable format produced by data processing equipment according to the instructions and annexes to the Form. Reporters may request a waiver of this requirement by filing a written certified claim for exemption. The Secretary of the Treasury will grant the waiver of this requirement for good cause.

(c) *Required information not available.* All reasonable efforts should be made to obtain information required for reporting. Every question on the appropriate reporting form must be answered. However, line items and columns on schedules which are not applicable to a particular Reporter should be left entirely blank.

(d) *Estimates.* When actual information cannot be obtained, estimates will be acceptable but must be labeled as such.

(e) *Extension of reporting deadline.* Reporters may request an extension of time for filing the required information on the form provided by the treasury. A request for an extension of time will be considered by the Treasury provided it is received at least 15 days prior to the due date of the report.

(f) *Authorized Signature for the certification of Forms FPI–1 and FPI–2.* Each form should be signed by an authorized officer of the Reporter submitting the report.

(g) *Other.* Anyone desiring copies of the Forms or having any questions concerning preparation of reports should direct inquiries to the address in paragraph (c) of this section.

Subpart B—Rules and Regulations for Survey of Foreign Portfolio Investment in U.S. Securities

§ 129.9 Basic requirement.

In addition to the requirements contained in Subpart A herein, specific additional rules and regulations are given below for filing the required reporting forms.

§ 129.10 Form TD F 90–19.1—Report for U.S. Issuers of Securities (Form FPI–1).

(a) *Who must report.* The reporting obligations of United States issuers are governed by the following classifications:

(1) *Bank and nonbank issuer exemption level—asset test.* A report is required on Form FPI–1 from every United States business enterprise issuer (irrespective of whether it has evidence of foreign investment in its securities) which, as of the latest available closing date of its accounting records, has essets larger than the applicable exemption level as defined in the Form.

(2) *Seclective small issuer reporters—response required when contracted.* Except as otherwise provided in paragraph (a)(3) of this section, a report on Form FPI–1 is required from every United states issuer that is not a routine Reporter under paragraph (a)(1) of this section, and that is informed by Treasury that it must report. This requirement applies without regard to the size of the issuer's assets determined under paragraphs (a)(1) of this section.

(3) *Total exemption—asset test.* A report on Form FPI–1 is not required from any United States issuer, who, as of the latest available closing date of its books, had total consolidated assets less than the total exemption level as defined in the Form.

(b) *Consolidated reports.* Where several United States corporations are affiliated with or under the control of a single United States parent corporation, the parent corporation shall file a consolidated Form FPI–1 following generally accepted U.S. accounting principles as required for reports to shareholders. United States affiliates or subsidiaries that are not normally consolidated in the parent corporation's reports to shareholders must file their own Form FPI–1 if they meet the requirements above. When a United States corporation files a consolidated report, a list of the United States affiliates and subsidiaries consolidated in the report, including name, address, and Employer's Identification Number, must be filed with Form FPI–1.

§ 129.11 Form TD F 90-19.2—Report for U.S. Holders of Record Form FPI-2.

(a) *United States holders of record.* Except as otherwise provided in these instructions, a report on Form FPI-2 is required from any United States person who acts on behalf of a foreign person as a holder of record of any security of a United States issuer (including United States trustees who hold securities in United States trusts created by foreign insurance companies and other foreign companies or foreign governments). For example, a United States trust created by a foreign company or foreign government under indentures relating to the issuance of amortization of foreign dollar bonds or payments of interest thereon must be reported; however, a trust created by a U.S. branch or agency of a foreign insurance company should not be reported since the creator and beneficiary is not a foreign person. A United States holder of record may also be a United States issuer. In these cases two reports are required to be filed: Form FPI-1 and Form FPI-2.

(b) *Combined report.* Where several nominees, trustees, or other holders of record are affiliated with or under the common control of a single bank, broker, or other institution, the United States parent institution may file a combined Form FPI-2 on behalf of all such holders of record. When a United States entity files a combined report, a list of the covered United States holders of record specifying each holder's name, address, and Employer's Identification Number must be filed with Form FPI-2.

(c) *Holders of record exemption level—asset test.* A report on Form FPI-2 is not required from any holder of record who held for all its foreign customers combined investments in securities of United States issuers aggregating to less than the holder of record exemption level as defined in the Form. This exemption does not apply to holders of record under common management or control as described in paragraph (b) of this section, except where aggregate holdings of all holders of record under a single parent institution total to an amount less than or equal to the holder record exemption level as defined in the Form.

Dated: February 24, 1984.

George R. Hoguet,

Acting Assistant Secretary for International Affairs.

[FR Doc. 84-9307 Filed 4-6-84; 8:45 am]

BILLING CODE 4810-25-M

federal register

Monday
April 9, 1984

Part IV

Department of Energy

Federal Energy Regulatory Commission

National Gas Policy Act; Determinations by Jurisdictional Agencies; Notices

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1097]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: April 2, 1984.

Note.—By final rule issued by the Commission on Febuary 22, 1984 (Order No. 362, Docket RM83-50-000, 49 F.R. 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, will not be published in the **Federal Register.** Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, D.C. 20426, to inquire about a subscribing to these notices. Copies of Order No. 362 are avilable from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated anual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
Section 102-2: New well (2.5 mile rule)
Section 102-3: New well (1000 ft rule)
Section 102-4: New onshore reservoir
Section 102-5: New res. on old OCS lease
Section 103: New onshore production well
Section 107-DP: 15,000 ft or deeper
Section 107-GB: Geopressured brine
Section 107-DV: Devonian shale
Section 107-CS: Coal seam gas
Section 107-PE: Production enhancement
Section 107-TF: New tight formation
Section 107-RT: Recompletion tight formation
Section 108: Stripper well
Section 108-SA: Seasonally affected
Section 108-ER: Enhanced recovery
Section 108-PB: Temporary pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1097
ISSUED APRIL 2, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION									
-ALVIN PETROLEUM INC				RECEIVED:	03/13/84	JA: OK			
8424417	26874	3511100000		103		CALVERT/DAVIE #2 111-82236-1	SCHULTER FIELD	103.3	SCHULTER GATHERI
8424418	26875	3511100000		103		SHANNON/DAVIE #1 OTC UT #111-82236	SCHULTER FIELD	20.4	SCHULTER GATHERI
8424419	26876	3511100000		103		WESTMINISTER/WESTMORELAND #2	SCHULTER FIELD	13.0	SCHULTER GATHERIN
-AMERICAN NAT GAS PROD CO				RECEIVED:	03/13/84	JA: OK			
8424370	23913	3509320491		108		CONDREAY #1	N SEILING	14.0	MICHIGAN WISCONSI
-AMES OIL AND GAS CORP				RECEIVED:	03/13/84	JA: OK			
8424405	24976	3511721491		102-2		MYRTIS R WILLS #2	PAWNEE "A" PROSPECT	12.8	COLORADO GAS COMP
8424398	24974	3511721690		102-2		RICHARD AMES BRYANT #14-1	PAWNEE "A" PROSPECT	9.0	COLORADO GAS COMP
-AN-SON CORPORATION				RECEIVED:	03/13/84	JA: OK			
8424436	24813	3503920914		102-2		NELDA RUTH #1-13	E CLINTON	3759.5	
-ARCO OIL AND GAS COMPANY				RECEIVED:	03/13/84	JA: OK			
8424375	3158	3507700000		108-PB		DAVIS "A" UNIT #1	WILBURTON	7.0	ARKANSAS LOUISIAN
8424376	12142	3505100000		108-PB		THOMAS CHARLSON #6	CHICKASHA	12.0	ARKANSAS LOUISIAN
-BARNES OIL CO				RECEIVED:	03/13/84	JA: OK			
8424411	26831	3503700000		103		MACHIR #2-B	OLIVE	7.2	ARCO OIL & GAS CO
-BOGERT OIL CO				RECEIVED:	03/13/84	JA: OK			
8424381	24646	3501121773		102-2		KATIE #1-6	SOONER TREND	300.0	ARKANSAS LOUISIAN
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	03/13/84	JA: OK			
8424441	25042	3509322535		103		JOSEPH WILSON #2 (RECOMPLETION)	E CHANEY DELL	0.0	CHAMPLIN PETROLEU
8424393	26161	3500300000		103		VOORHEES-WRIGHT #2	CHANEY DELL MISS	0.0	CHAMPLIN PETROLEU
-CLARK RESOURCES INC				RECEIVED:	03/13/84	JA: OK			
8424459	25675	3515321445		103		HOLLOWAY 13-1		210.0	NORTHERN NATURAL
8424461	25821	3507323792		103		MARY 3-1	SOONER TREND	10.0	EXXON CO USA
-CRAWLEY PETROLEUM CORPORATION				RECEIVED:	03/13/84	JA: OK			
8424384	26859	3508322334		103		MARCELLA #2A	SOONER TREND	80.0	EXXON CORP
-DAVIS OIL COMPANY				RECEIVED:	03/13/84	JA: OK			
8424437	24821	3512920837		102-4		BEULAH #1		529.9	UNITED GAS PIPELI
8424435	24801	3501121767		102-4		BUCKMASTER #1		803.0	TRANSOK PIPELINE
-DLB ENERGY CORP				RECEIVED:	03/13/84	JA: OK			
8424380	24432	3501722512		102-4	103	WITTROCK #14-13	SOONER TREND	200.0	PHILLIPS PETROLE
-EARLSBORO ENERGIES CORP				RECEIVED:	03/13/84	JA: OK			
8424410	26821	3509322767		103		JORDAN #1-23	CHEYENNE VALLEY	60.0	AMINOIL INC
-EL PASO EXPLORATION CO				RECEIVED:	03/13/84	JA: OK			
8424425	22294	3515320416		108-PB		MCFEETERS #5	QUINLAN NW	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	03/13/84	JA: OK			
8424377	14512	3500935560		108-PB		PUCKETT #2	ERICK SOUTH	0.0	EL PASO NATURAL G
8424378	19132	3500920130		108-PB		PUCKETT A #2	ERICK SOUTH	0.0	EL PASO NATURAL G
8424442	25049	3500935438		108-PB		VANNERSON #1	ERICK SOUTH	0.0	EL PASO NATURAL G
8424446	26399	3500906811		108		WATERS #1	ERIC SOUTH - BROWN DO	14.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	03/13/84	JA: OK			
8424429	24675	3508720900		103		MIKE BASHARA #2-6	BLANCHARD	216.0	LONE STAR GAS CO
-EQUITY DRILLING CO INC				RECEIVED:	03/13/84	JA: OK			
8424403	24840	3511721905		102-4		DECKER #2 NW/4 S27-T21N-R6E	EAST CASEY	22.0	H J D CATTLE CO
8424402	24839	3511700000		102-4		DECKER #3 NW/4 S27-T21N-T6E	EAST CASEY	68.0	H J D CATTLE CO I
-EXXON CORPORATION				RECEIVED:	03/13/84	JA: OK			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8424379	24037	3500735082		108-PB		STATE-RICARDS C 490 #1	MOCANE-LAVERNE	0.0	COLORADO INTERSTA
8424457	24827	3514920345		102-2		STATE-SCHMIDT B #1	EAST BURNS FLAT	46.0	EL PASO NATURAL G
8424456	24825	3512920643		102-2		SWEETWATER UNIT B #1	WEST REYDON	7.0	
-FRED HARRIS				RECEIVED:	03/13/84	JA: OK			
8424412	26835	3511720665		108		HEWITT #3	LAUDERDALE	8.9	HJD GAS CO
8424413	26836	3511720665		108		HEWITT #5	LAUDERDALE	8.9	HJD GAS CO
-FUNK EXPLORATION INC				RECEIVED:	03/13/84	JA: OK			
8424452	24724	3500722511		102-4	103	BOBBITT #1-35	DOMBEY	182.0	GULF STATES UTILI
8424451	24723	3500722466		102-4	103	EVANS #1-21	DOMBEY	365.0	NORTHWEST PIPELIN
-GRACE PETROLEUM CORPORATION				RECEIVED:	03/13/84	JA: OK			
8424420	27489	3501521550		107-DP		DONALD GRAY 1-28	SICKLES EXTENSION	0.0	OKLAHOMA GAS & EL
-HAMM PRODUCTION CO				RECEIVED:	03/13/84	JA: OK			
8424389	26626	3507323426		108		RUTH #21-1	SOONER TREND	5.1	CONOCO INC
-HILLIARD OIL & GAS INC				RECEIVED:	03/13/84	JA: OK			
8424382	24691	3504922077		102-4		KNAPP #1		90.0	LONE STAR GAS CO
-HOLD OIL CORP				RECEIVED:	03/13/84	JA: OK			
8424438	24838	3506120612		102-2		CARMEN MACE #1-7	BROOKEN FIELD	200.0	ARKANSAS LOUISIAN
-HOLDEN ENERGY CORP				RECEIVED:	03/13/84	JA: OK			
8424467	26540	3501922822		103		DILLARD 6-1	ATLEE	2.0	AMINOIL USA INC
-INEXCO OIL COMPANY				RECEIVED:	03/13/84	JA: OK			
8424439	24841	3512921003		102-2		GENEVA #1-29	NORTH EAST STRONG CIT	365.0	DELHI GAS PIPELIN
8424404	24842	3512920978		102-4		NANNETTE #1-6	N E STRONG CITY	365.0	DELHI GAS PIPELIN
-INTREPID OIL CO				RECEIVED:	03/13/84	JA: OK			
8424371	24300	3511122931		103		MINNIE TIGER #2	MOUNDS	58.4	PHILLIPS PETROLEU
-JET OIL COMPANY				RECEIVED:	03/13/84	JA: OK			
8424460	25797	3504723451		103		BENNETT "B" #2		0.0	EASON OIL CO
8424444	25796	3504723455		103		MURPHY "B" #1		0.0	EASON OIL CO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	03/13/84	JA: OK			
8424443	25311	3505120717		108-PB		HURST #1		0.0	ARKANSAS LOUISIAN
-LOU PETROLEUM CORP				RECEIVED:	03/13/84	JA: OK			
8424469	26788	3508322346		103		WILFONG 2-20 08322346	SOONER TREND	0.0	CONOCO INC
-M M RESOURCES INC				RECEIVED:	03/13/84	JA: OK			
8424390	26822	3511721816		103		EVANS #2		54.8	EMPIRE PIPELINE C
-MARLINE OIL CORP				RECEIVED:	03/13/84	JA: OK			
8424396	25822	3505921130		103		MCNAUGHTON #1	MOCANE-LAVERNE	182.0	TRANSWESTERN PIPE
8424391	26817	3500722459		103		SLATTEN #1	MOCANE LAVERNE	36.0	NORTHERN NATURAL
-MCMORAN-FREEPORT OIL CO				RECEIVED:	03/13/84	JA: OK			
8424406	24990	3512900000		102-2		SCHOU #1-22	WILDCAT	180.0	
-MID-SOUTH PETROLEUM CO				RECEIVED:	03/13/84	JA: OK			
8424385	26866	3512121039		103		REEDER #1		87.2	ARKANSAS LOUISIAN
-MOBIL OIL CORP				RECEIVED:	03/13/84	JA: OK			
8424468	26776	3501900000		108		S SHOLEM ALECHEM DEESE #1-2 E SMITH	SHO VEL TUM	0.0	LONE STAR GAS CO
-MR CJ OIL CO				RECEIVED:	03/13/84	JA: OK			
8424408	26740	3511900000		103		WILLIAMS 1-33		7.0	ENTERPRISE DEVELO
-NATURAL GAS COMPRESSION CORP				RECEIVED:	03/13/84	JA: OK			
8424462	25972	3500700000		108		WOODSON #1	MOCANE	0.0	MICHIGAN WISCONSI
-OXLEY PETROLEUM CO				RECEIVED:	03/13/84	JA: OK			
8424466	26468	3505100000		108		GOODWIN #8-1		2.9	TRANSOK PIPE LINE
-PELICAN PRODUCTION CORP				RECEIVED:	03/13/84	JA: OK			
8424414	26842	3508322265		103		CLEEK #2	S E GUTHRIE	0.2	BUCKEYE NATURAL G
8424415	26844	3508322174		103		HOPKINS #1	S E GUTHRIE	0.4	BUCKEYE NATURAL G
8424416	26845	3508322234		103		TOTTEN #1	S E GUTHRIE	0.2	BUCKEYE NATURAL G
-PETRA PETROLEUM CORP				RECEIVED:	03/13/84	JA: OK			
8424427	24370	3505121344		102-4	103	DRISKILL #20-1	GOLDEN TREND	300.0	TRANSOK PIPELINE
-PETROLEUM RESOURCES CO				RECEIVED:	03/13/84	JA: OK			
8424372	26794	3505300000		103		MCGIVNEY 053-80161	WILDCAT	11.0	UNION TEXAS PETRO
-PETROLIA DRILLING-OKLA INC				RECEIVED:	03/13/84	JA: OK			
8424463	26113	3501700000		103		WALLIS #1-16	MUSTANG	30.0	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	03/13/84	JA: OK			
8424422	11232	3501720394		108-ER		CROSE A #1	PIEDMONT	14.5	PANHANDLE EASTERN
8424423	13318	3504721469		108-ER		EHLERS "C" #2	SOONER TREND	8.6	TRANSOK PIPELINE
8424445	25974	3504721307		108-PB		KOSTED A #1	SOONER TREND	16.0	TRANSOK PIPELINE
8424424	14222	3501721506		108-ER		KUNNEMAN "A" #1		0.0	PANHANDLE EASTERN
8424426	23120	3504721571		108-PB		SLOUP B #2	SOONER TREND	14.2	TRANSOK PIPELINE
8424394	26052	3501721976		108-ER		TRUITT A #1	WATONGA	10.0	ONG WESTERN INC
8424397	25107	3504721622		108-PB		WHEELER U #2	SOONER TREND	15.0	TRANSOK PIPELINE
8424421	10150	3501720718		108-ER		WIEWEL "A" #1	NEMACK	7.5	OKLAHOMA NATURAL
-RH OPERATING CO				RECEIVED:	03/13/84	JA: OK			
8424399	24810	3514321883		102-4		J RYAN #5	SAND SPRINGS FIELD	1.1	COLORADO GAS COMP
-S K TUTHILL & B J BARBEE				RECEIVED:	03/13/84	JA: OK			
8424369	22718	3515120401		102-4		KERR #1-4	CAMPBELL	511.0	PANHANDLE EASTERN
-SANGUINE LTD				RECEIVED:	03/13/84	JA: OK			
8424401	24816	3501521544		102-4	103	SMITH #1		54.8	PIONEER GAS PRODU
-SANTA FE-ANDOVER OIL CO				RECEIVED:	03/13/84	JA: OK			
8424430	24773	3501121871		102-4	103	SCHOOL LANDS #36-4		370.0	OKLAHOMA GAS PIPE
-SENECA OIL CO				RECEIVED:	03/13/84	JA: OK			
8424450	24690	3512120090		102-4		HACKLER #1-21		98.6	ARKANSAS LOUISIAN
8424428	24607	3504321717		102-4		PERCY #1-17		250.8	
-SHAR-ALAN OIL CO				RECEIVED:	03/13/84	JA: OK			
8424464	26215	3515321448		103		CLYDE RICHMOND 1-24	CEDARDALE NE	0.0	MICHIGAN WISCONSI
8424447	26590	3515100000		103		JULIA JULIAN 2-1	N E CEDARDALE	0.0	DELHI GAS PIPELIN
8424465	26375	3505921225		103		ORMA COTTER 1-17	LAVERNE	0.0	TRANSWESTERN PIPE
-SOUTHWESTERN EXPLOR CONSULTANTS INC				RECEIVED:	03/13/84	JA: OK			
8424448	26701	3508322383		103		FARLEY #1	CRESCENT	0.0	EASON OIL CO
-SPRING TIDE PETROLEUM INC				RECEIVED:	03/13/84	JA: OK			
8424395	25864	3511182995		108		KOERNER "C" #1	NORTH BEGGS	19.3	PHILLIPS PETROLEU
-STATEX PETROLEUM INC				RECEIVED:	03/13/84	JA: OK			
8424434	24794	3510920654		102-4		GROSS #3-17		23.9	PHILLIPS PETROLEU
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	03/13/84	JA: OK			
8424386	26854	3505100000		108		NORGE MARCHAND UNIT TR 25 #1	CHICKASHA NW	4.0	PUBLIC SERVICE CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	03/13/84	JA: OK			
8424383	26856	3504722798		108		ANDERSON -BROOKS #2	SOONER TREND (MISS)	9.0	EXXON CO USA
8424407	26711	3510920716		103		HENRY J DAHL #1	EDMOND WEST	174.0	CONOCO INC
8424388	26847	3504700000		108		HUDDLESTON 'B' #1	CHITWOOD	19.0	MOBIL OIL CORP
8424392	26312	3505100000		108-PB		MARIE MEYER #1	S E FLYNN	0.0	CHAMPLIN PETROLEU
8424387	26848	3504700000		108		S E FLYNN UNIT #22-2	FLYNN SE (OSWEGO)	9.0	EXXON CO USA
-TEXACO INC				RECEIVED:	03/13/84	JA: OK			
8424409	26791	3507323867		103		C E MITCHELL #2	SOONER TREND	0.0	EXXON CO USA
8424455	24824	3505321130		102-2		J N LEFORCE #1-10		13.4	
-TEXAS AMERICAN OIL CORP				RECEIVED:	03/13/84	JA: OK			
8424431	24776	3504723372		102-2		MABLE #1	SOONER TREND	369.0	UNION TEXAS PETRO
8424432	24777	3504723373		102-2		MABLE ESTILL #2	SOONER TREND	328.5	UNION TEXAS PETRO
-TOWNER PETROLEUM CO				RECEIVED:	03/13/84	JA: OK			
8424433	24786	3501722529		102-4		BORNEMANN #1-3		0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TREND GAS & OIL INC				RECEIVED:	03/13/84	JA: OK			
8424453	24803	3513120867		102-2		WARD #7-1		18.0	DIAMOND "S" GAS S
8424454	24804	3513120868		102-2		WARD #7-2		18.0	DIAMOND "S" GAS S
-TXO PRODUCTION CORP				RECEIVED:	03/13/84	JA: OK			
8424440	24848	3505321099		102-2	103	HARDIMAN #1	WILDCAT	81.0	
8424458	25414	3500722554		103		MILLER-RAYNOR #1	SIX MILE	0.0	DELHI GAS PIPELIN
8424400	24812	3512121045		102-4	103	TRAVIS "C" #1		177.0	
-UNION OIL COMPANY OF CALIF				RECEIVED:	03/13/84	JA: OK			
8424374	26813	3501900000		108		HAMPTON #1-32	WEST ARDMORE	15.0	LONE STAR GAS CO
8424373	26812	3500700000		108		JUDY "A" UNIT #2	MOCANE	7.0	COLORADO INTERSTA
-WESSELY ENERGY CORPORATION				RECEIVED:	03/13/84	JA: OK			
8424449	24674	3504922104		102-4		BELL #3-A 049-80793	S STORY	250.0	WARREN PETROLEUM
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ALAMCO INC				RECEIVED:	03/09/84	JA: WV			
8424368		4704102049		108		A-576	HACKERS CREEK	39.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC				RECEIVED:	03/09/84	JA: WV			
8424353		4703903796		108		BRIAR MTN COAL & COKE #9 - 092841	PAINT CREEK	16.0	COLUMBIA GAS TRAN
8424366		4701900143		108		EASTERN GAS & FUEL #38 - 039560	PAINT CREEK	18.0	COLUMBIA GAS TRAN
-B & F EXPLORATION				RECEIVED:	03/09/84	JA: WV			
8424367		4708506475		103		PAUL PRUNTY #1	UNION DISTRICT	0.0	CONSOLIDATED GAS
-B & T EXPLORATION INC				RECEIVED:	03/09/84	JA: WV			
8424352		4708506142		103		KIRKPATRICK #3	UNION DISTRICT	0.0	CONSOLIDATED GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	03/09/84	JA: WV			
8424344		4700121642		108		DURNAL #1	VALLEY	14.5	CONSOLIDATED GAS
8424346		4700121628		108		N PRICE #1	VALLEY	7.0	CONSOLIDATED GAS
8424345		4700121640		108		SFAMENI #1	VALLEY	19.0	CONSOLIDATED GAS
-BRAXTON OIL AND GAS CORP				RECEIVED:	03/09/84	JA: WV			
8424337		4702103661		108		J HUGH JOHN #1	ROSEDALE	10.0	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	03/09/84	JA: WV			
8424354		4709702574		103		D L M COAL CO 12823	WASHINGTON	18.0	GENERAL SYSTEM PU
8424338		4703302777		108		E E YOUNG 12754	ELK	12.0	GENERAL SYSTEM PU
8424349		4703301070		108		JOHN HURST 12294	SARDIS	20.0	GENERAL SYSTEM PU
8424348		4704101662		108		N A LOVETT 11155	FREEMANS CREEK	5.0	GENERAL SYSTEM PU
8424361		4709702567		103		WOODY LUMBER CO 12826	WASHINGTON	39.0	GENERAL SYSTEM PU
-CONTINENTAL PETROLEUM CO				RECEIVED:	03/09/84	JA: WV			
8424363		4700101684		108		GERALD CLEAVENGER #1	PHILIPPI	25.0	CONSOLIDATED GAS
-FIVE STAR GAS CO				RECEIVED:	03/09/84	JA: WV			
8424340		4708703553		108		LLOYD LEE WELL #1	LOONEYVILLE GAS FIELD	0.0	COLUMBIA GAS TRAN
-FMF OIL & GAS PROPERTIES				RECEIVED:	03/09/84	JA: WV			
8424342		4708300565		107-DV		DON PHILLIPS #2	MIDDLE FORK DISTRICT	43.0	COLUMBIA GAS TRAN
8424343		4708300573		107-DV		EMIGH #1A	ROARING CREEK DISTRIC	40.0	COLUMBIA GAS TRAN
8424341		4700101552		107-DV		THACKER/LUFF #1	VALLEY DISTRICT	42.0	COLUMBIA GAS TRAN
-GRUBSTAKE PRODUCTION CO				RECEIVED:	03/09/84	JA: WV			
8424351		4707901017		108		LINCOLNOGGER #1 47-079-1017	HURRICANE CREEK	16.3	PENNZOIL CO
8424350		4707901049		108		LINCOLNOGGER #3 47-079-1049	HURRICANE CREEK	16.3	PENNZOIL CO
-KEY OIL COMPANY				RECEIVED:	03/09/84	JA: WV			
8424355		4701702319		108		BETTY LANGFITT #1	UNION	0.0	COLUMBIA GAS TRAN
8424356		4701702317		108		J M L SMITH #1	UNION	5.6	COLUMBIA GAS TRAN
8424358		4701702283		108		J N MARKEY #1	UNION	6.0	COLUMBIA GAS TRAN
8424357		4701702284		108		J N MARKEY #2	UNION	6.0	COLUMBIA GAS TRAN
-LAWRENCE CARL H & WILLIAMS JERRY L				RECEIVED:	03/09/84	JA: WV			
8424339		4708506193		103		JOHN GOFF #2 WEST PALM #1	UNION DISTRICT	0.0	CARNEGIE NATURAL
-M & M INDUSTRIES INC				RECEIVED:	03/09/84	JA: WV			
8424362		4708503240		108		T-4	HARRISVILLE	0.0	CONSOLIDATED GAS
-PETRO-AM				RECEIVED:	03/09/84	JA: WV			
8424360		4708506263		107-DV		LANGFORD #1B	UNION DISTRICT	20.0	
-ROSS-WHARTON GAS CO				RECEIVED:	03/09/84	JA: WV			
8424333		4704103094		108		SPIKER #4	HACKERS CREEK	25.0	CONSOLIDATED GAS
-SHELDON & SHELDON INC				RECEIVED:	03/09/84	JA: WV			
8424359		4708506618		103		SHIELDS S-1	SCHULTZ	80.0	CONSOLIDATED GAS
-STONEWALL GAS CO				RECEIVED:	03/09/84	JA: WV			
8424347		4701702891		108		REX CUMPSTON #1 (27-S)	NEW MILTON	5.0	CONSOLIDATED GAS
-SWIFT ENERGY CO				RECEIVED:	03/09/84	JA: WV			
8424365		4709100343		102-2		A MATTHEWS #1	FETTERMAN DISTRICT	25.0	TENNESSEE GAS PIP
8424364		4709100353		102-2		A MCGUINNESS #1	FETTERMAN DISTRICT	25.0	TENNESSEE GAS PIP
-UNITED PETRO LTD				RECEIVED:	03/09/84	JA: WV			
8424336		4701303392		108		MAUDE BAILEY #3	MINNORA GAS	14.0	CONSOLIDATED GAS
8424335		4701303393		108		MAUDE BAILEY #4	MINNORA GAS	14.0	CONSOLIDATED GAS
8424334		4701303395		108		MAUDE BAILEY #5	MINNORA GAS	14.0	CONSOLIDATED GAS
-WEINER ENTERPRISES				RECEIVED:	03/09/84	JA: WV			
8424332		4700700940		108		KELLEY #2	WALKER FORK	8.3	EQUITABLE GAS CO

[FR Doc. 84-9427 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1098]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: April 2, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, will not be published in the Federal Register. Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New res. on old OCS lease

Section 103: New onshore production well

Section 107-DP: 15,000 ft or deeper
107-GB: Geopressured brine
107-DV: Devonian shale
107-CS: Coal seam gas
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Temporary pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1098
ISSUED APRIL 2, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MISSISSIPPI OIL & GAS BOARD									
-SHELL WESTERN E&P INC				RECEIVED:	03/13/84	JA: MS			
8424570	1-84-607	2312720084		107-DP		BOARD OF EDUCATION UNIT #1	HARRISVILLE	3000.0	TRANSCONTINENTAL
8424569	76-83-591	2300520234		102-4		JOHNSTON AND OWEN UNIT #1	LIBERTY	50.0	
8424568	75-83-591	2300520245		102-4		JOHNSTON UNIT #1	LIBERTY	300.0	
NORTH DAKOTA INDUSTRIAL COMMISSION									
-TEXACO INC				RECEIVED:	03/13/84	JA: ND			
8424572	907	3305301742		102-3		SILURIAN UNIT #21-1	CHARLSON	925.0	BRIDGELINE GAS DI
8424573	908	3305301753		102-3		SILURIAN UNIT #22-1	CHARLSON	353.0	BRIDGELINE GAS DI
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	03/13/84	JA: ND			
8424571	906	3305301724		102-4		ALMA #1-20	KEENE	703.5	AMINOIL USA INC
OHIO DEPARTMENT OF NATURAL RESOURCES									
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED:	03/14/84	JA: OH			
8424470		3411926709		103	107-TF	OHIO POWER 2-B	MEIGS	193.4	TEXAS EASTERN TRA
8424472		3411926913		103	107-TF	OHIO POWER 42-A	RICH HILL	289.4	TEXAS EASTERN TRA
8424471		3411926869		103	107-TF	OHIO POWER 50-A	RICH HILL	124.0	TEXAS EASTERN TRA
-DOME OIL & GAS 83				RECEIVED:	03/14/84	JA: OH			
8424473		3409321243		107-TF		BIGLER #1	COLUMBIA	8.0	
-DORSET CO INC				RECEIVED:	03/14/84	JA: OH			
8424477		3400720996		108		CAL HAINES #1		0.0	JONES & LAUGHLIN
8424476		3400720995		108		CAL HAINES #2		0.0	JONES & LAUGHLIN
8424480		3400721123		108		GORDON #1		0.0	JONES & LAUGHLIN
8424481		3400721124		108		GORDON #2		0.0	JONES & LAUGHLIN
8424482		3400721148		108		GORDON #3		0.0	JONES & LAUGHLIN
8424475		3400720989		108		RIPKA #4		0.0	JONES & LAUGHLIN
8424478		3400721012		108		RIPKA #5		0.0	JONES & LAUGHLIN
8424479		3400721013		108		RIPKA #6		0.0	JONES & LAUGHLIN
8424474		3400720666		108		RIPKA WINDECKER #3		6.0	EAST OHIO GAS CO
-ENVIROGAS INC				RECEIVED:	03/14/84	JA: OH			
8424483		3400922887		103	107-TF	PEABODY COAL #15D	DOVER	18.2	
-KEN-TRAK IX				RECEIVED:	03/14/84	JA: OH			
8424492		3410522857		107-TF		SHOEMAKER/DYKE #5 SOUTH	LOWER MISSISSIPPIAN	0.0	
-LANGASCO ENERGY CORP				RECEIVED:	03/14/84	JA: OH			
8424493		3402920964		107-TF		JESSE RUFENER #1	BUTLER	45.0	YANKEE RESOURCES
8424494		3402920971		107-TF		STEPHEN KNIZAT #1	BUTLER	47.0	YANKEE RESOURCES
-LIBERTY OIL & GAS CORP				RECEIVED:	03/14/84	JA: OH			
8424495		3410522424		107-TF		LAURA & O C GILPIN #2	OLIVE	18.0	COLUMBIA GAS TRAN
-MORGAN-PENNINGTON INC				RECEIVED:	03/14/84	JA: OH			
8424496		3403124438		107-TF		HERSHBERGER #1	CRAWFORD	18.6	EAST OHIO GAS CO
-POI ENERGY INC				RECEIVED:	03/14/84	JA: OH			
8424499		3400722207		103	107-TF	BURNETT #RM-2	ROME	26.0	
-POSTON OPERATING CO INC				RECEIVED:	03/14/84	JA: OH			
8424500		3407322309		108		WILLARD KIEFFER #3	BRENHOLTS	4.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-RED HILL DEVELOPMENT			RECEIVED: 03/14/84 JA: OH						
8424490		3406720591	103		107-TF	B BERRY #1	STOCK	5.0	
8424484		3406720552	103		107-TF	H MCCONNELL #3	WASHINGTON	14.0	
8424491		3415723720	103		107-TF	J GARDNER #1	PERRY	5.0	
8424485		3406720556	103		107-TF	J P DAVIS #1	FRANKLIN	4.0	
8424487		3406720561	103		107-TF	J PENSO #1	FRANKLIN	9.0	
8424486		3406720559	103		107-TF	OUR LAND CO #2	MONROE	4.0	
8424489		3406720567	103		107-TF	W HAMILTON #2	NOTTINGHAM	5.0	
8424488		3406720566	103		107-TF	X GREZLIK #1	MONROE	4.0	
-THE MUTUAL OIL & GAS COMPANY			RECEIVED: 03/14/84 JA: OH						
8424498		3415723967	103		107-TF	KADERLY-SEIKEL #3	GOSHEN	6.0	EAST OHIO GAS CO
8424497		3415723923	103		107-TF	MASTEN #3	UNION	5.5	EAST OHIO GAS CO
-WHITACRE ENTERPRISES			RECEIVED: 03/14/84 JA: OH						
8424501		3411123043	107-DV			D PIATT #2	GRAYSVILLE	15.0	
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-APACHE CORP			RECEIVED: 03/15/84 JA: OK						
8424621	24991	3512920996	102-2			HARDEN #1-28		292.0	TRANSOK PIPE LINE
8424622	24992	3512920948	102-2			RUTHER #1-32		47.0	TRANSOK PIPELINE
-ASSOCIATES RESOURCE CORP			RECEIVED: 03/15/84 JA: OK						
8424605	23943	3510526226	102-2			LIEBERT #1		8.0	REH INDUSTRIES
8424607	23941	3510526227	102-2			LIEBERT #2		10.0	REH INDUSTRIES
8424608	23940	3510526301	102-2			LIEBERT #3		10.0	REH INDUSTRIES
8424609	23939	3510526313	102-2			LIEBERT #4		9.0	REH INDUSTRIES
8424606	23942	3510526302	102-2			LIEBERT #5		9.0	REH INDUSTRIES
8424610	23938	3510526294	102-2			LIEBERT #6		9.0	REH INDUSTRIES
-BAMCO OIL & GAS INC			RECEIVED: 03/15/84 JA: OK						
8424598	24873	3504723395	102-2			JBB #36-1	CARRIER	1.0	UNION TEXAS PETRO
8424599	24872	3504723393	102-2			MEIBERGEN #27-1	CARRIER	1.0	UNION TEXAS PETRO
-BROWN & BORELLI INC			RECEIVED: 03/15/84 JA: OK						
8424615	25737	3507323839	103			MARJORIE #1	SOONER TREND	73.0	EXXON CORP
-DAVIS OIL COMPANY			RECEIVED: 03/15/84 JA: OK						
8424602	24987	3512920806	102-4			FRANCINE #1	WASHITA CREEK	31.8	
-EXXON CORPORATION			RECEIVED: 03/15/84 JA: OK						
8424604	24037	3500735082	108-PB			STATE RICHARDS C490 #1		0.0	COLORADO INTERSTA
-FLINT & ASSOCIATES			RECEIVED: 03/15/84 JA: OK						
8424618	26880	3510721437	103			LOOKOUT #1	WEST ALABAMA	185.0	PUBLIC SERVICE CO
-INCA OIL CO			RECEIVED: 03/15/84 JA: OK						
8424623	24999	3510321851	102-2			ZEMP #3		7.3	ARCO OIL & GAS CO
-INDREX INC			RECEIVED: 03/15/84 JA: OK						
8424624	25619	3503920742	102-2			SNIDER #1-36	SNIDER	200.0	
-L W HOLSHOUSER JR			RECEIVED: 03/15/84 JA: OK						
8424612	13579	3510500000	103			ROGERS #2	NOWATA CLAGGETT	15.0	NOWATA GATHERING
-MAGIC CIRCLE ENERGY CORP			RECEIVED: 03/15/84 JA: OK						
8424619	23532	3515121364	103			FRAZER #2-10	S E WAYNOKA	125.0	
8424617	26827	3507323798	103			MCCARTHY #1-33	OKARCHE	75.0	PHILLIPS PETROLEU
-PALM-COOK PRODUCTION CO			RECEIVED: 03/15/84 JA: OK						
8424614	25598	3509722740	103			EHLERS #10		0.0	UNION TEXAS PETRO
8424613	25593	3504723416	103			YOUNG #5		0.0	UNION TEXAS PETRO
-RED STONE ENERGIES LTD			RECEIVED: 03/15/84 JA: OK						
8424601	26861	3501722308	102-2			REDING #20-2		0.0	
8424600	26862	3501722398	102-2			REDING #20-3		0.0	
-SANGUINE LTD			RECEIVED: 03/15/84 JA: OK						
8424620	24875	3501521454	102-4	103		CHARLES OPITZ #1		0.0	PIONEER GAS PRODU
-TENNECO OIL COMPANY			RECEIVED: 03/15/84 JA: OK						
8424603	24984	3507720278	102-3	103		ARKANSAS KRAFT #1-26	WILBURTON	360.0	
-WHITMAR EXPLORATION CO			RECEIVED: 03/15/84 JA: OK						
8424611	16634	3515121224	102-4			VORE #1-23	SOUTH DACOMA	0.0	PANHANDLE EASTERN
-WICKLUND PETROLEUM CORP			RECEIVED: 03/15/84 JA: OK						
8424616	26112	3501700000	103			ROBBERSON RANCH #9-1	MUSTANG	30.0	PHILLIPS PETROLEU
**********									
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
**********									
-ADOBE OIL & GAS CORPORATION			RECEIVED: 03/15/84 JA: PA						
8424561	22530	3706327653	103			GLENN ELLISON "C" #1	BRUSH VALLEY "D"	24.0	
8424560	22529	3703321690	103			JOHN RIGG #1	MCGEES MILLS "F"	24.0	
8424566	22551	3702120228	103			PAUL LAST #1	BARNESBORO "B"	22.0	
-ANGERMAN ASSOCIATES INC			RECEIVED: 03/15/84 JA: PA						
8424534	22421	3712922257	103			FRANK LUKAS #1 - WES-22257	W PA UPPER DEVONIAN S	45.0	PEOPLES NATURAL G
-ATLAS RESOURCES INC			RECEIVED: 03/15/84 JA: PA						
8424559	22520	3703900000	107-TF			ROGERS #1	SPRING	80.0	COLUMBIA GAS TRAN
-CNG DEVELOPMENT CO			RECEIVED: 03/15/84 JA: PA						
8424562	22536	3703321642	103			A FERGUSON #1 CNGD #113	FERGUSON	20.0	
8424546	22492	3702120231	102-3			WILLIAM BUTERBAUGH #2 CNGD #280	SUSQUEHANNA	15.0	
8424563	22538	3702120238	103			WILLIAM BUTERBAUGH #5 CNGD #402	SUSQUEHANNA	8.0	
8424564	22539	3702120239	103			WILLIAM BUTERBAUGH #6 CNGD #403	SUSQUEHANNA TWP	7.0	
8424558	22518	3702120240	103			WILLIAM BUTERBAUGH #7 CNGD #404	SUSQUEHANNA	36.0	
8424526	22334	3703321667	102-3			WILLIAM SOMERVILLE #1 CNGD #84	BURNSIDE	4.0	
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED: 03/15/84 JA: PA						
8424503	20034	3702120085	108			ROY D LEAMER #1 WN-1794	SUSQUEHANNA	12.0	GENERAL SYSTEM PU
-DORAN & ASSOCIATES INC			RECEIVED: 03/15/84 JA: PA						
8424520	22269	3712922158	103			ANNA STEEL #2 KK-7	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
8424512	22130	3712922239	103			ROBERT OTT #1 KK-6	UPPER DEVIONAN SANDS	25.0	T W PHILLIPS GAS
-DORSO ENERGY			RECEIVED: 03/15/84 JA: PA						
8424549	22499	3712922299	103			FRANCIS J STERF #1 #186	PLEASANT - UNITY	35.0	PEOPLES NATURAL G
8424550	22500	3712922304	103			FRED ZARANEK #1 #185	SALTSBURG	30.0	T W PHILLIPS GAS
-ENERGY PRODUCTION CO			RECEIVED: 03/15/84 JA: PA						
8424510	21172	3706326501	108			EASTERN ORTHODOX #1	NOLO MOUNTAIN	4.3	COLUMBIA GAS TRAN
8424509	21171	3706326814	108			PHILIP NIBERT #1	NOLO MOUNTAIN	6.1	COLUMBIA GAS TRAN
-ENERGY QUEST INC			RECEIVED: 03/15/84 JA: PA						
8424516	22250	3706325438	108			RICHARD W OVERDORFF #1	STRONGSTOWN	9.0	COLUMBIA GAS TRAN
8424517	22251	3706325939	108			RICHARD W OVERDORFF #2	STRONGSTOWN	9.0	COLUMBIA GAS TRAN
8424518	22252	3706325940	108			RICHARD W OVERDORFF #3	STRONGSTOWN	9.0	COLUMBIA GAS TRAN
-ENVIROGAS INC			RECEIVED: 03/15/84 JA: PA						
8424504	20674	3704922633	107-TF			H MIKOVCH #5	ELK CREEK	18.0	
-FLANIGAN BROTHERS			RECEIVED: 03/15/84 JA: PA						
8424502	17200	3703921462	107-TF			RUSSELL #1	CUSSEWAGO	15.0	NATIONAL FUEL GAS
-KRIEBEL GAS CO INC			RECEIVED: 03/15/84 JA: PA						
8424524	22323	3706327651	103			RELLICK #6	FULTON RUN	25.0	
-KRIEBEL WELLS 83			RECEIVED: 03/15/84 JA: PA						
8424523	22322	3706327652	103			RELLICK #7	FULTON RUN	15.0	
-MARK RESOURCES CORP			RECEIVED: 03/15/84 JA: PA						
8424547	22496	3712135804	102-3			ALLIO #1	BORO OF COOPERSTOWN	30.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8424548	22497	3712135804		107-TF		ALLIO #1	BORO OF COOPERSTOWN	30.0	NATIONAL FUEL GAS
8424545	22464	3705325259		103		SWANSON-FOX TRUST #6	HOWE	12.0	UNITED GAS INDUST
-MERIDIAN EXPLORATION CORP				RECEIVED:	03/15/84	JA: PA			
8424513	22192	3703922020		102-2		BUNTING UNIT #680-2	ROCKDALE	0.0	COLUMBIA GAS TRAN
8424514	22193	3703922020		107-TF		BUNTING UNIT #680-2	ROCKDALE	0.0	COLUMBIA GAS TRAN
8424535	22428	3703922011		102-2		GOURLEY #715-2	ROCKDALE	0.0	COLUMBIA GAS TRAN
8424536	22429	3703922011		107-TF		GOURLEY #715-2	ROCKDALE	0.0	COLUMBIA GAS TRAN
-MERIDIAN OIL & GAS ENT INC				RECEIVED:	03/15/84	JA: PA			
8424543	22458	3703921917		103		A T BOBAN SR WELL #2	BEAVER	12.0	NATIONAL FUEL GAS
8424544	22459	3703921917		107-TF		A T BOBAN SR WELL #2	BEAVER	12.0	NATIONAL FUEL GAS
8424528	22370	3703922021		103		A T BOBAN SR WELL #3	BEAVER	11.0	NATIONAL FUEL GAS
8424529	22371	3703922021		107-TF		A T BOBAN SR WELL #3	BEAVER	11.0	NATIONAL FUEL GAS
8424530	22372	3703922022		107-TF		W J HYDE SR - S T D CO WELL #1	BEAVER	11.0	NATIONAL FUEL GAS
8424531	22373	3703922022		103		W J HYDE SR - S T D CO WELL #1	BEAVER	11.0	NATIONAL FUEL GAS
8424532	22374	3703922023		107-TF		W J HYDE SR - S T D CO WELL #2	BEAVER	11.0	NATIONAL FUEL GAS
8424533	22375	3703922023		103		W J HYDE SR - S T D CO WELL #2	BEAVER	11.0	NATIONAL FUEL GAS
8424539	22454	3703921916		103		W J HYDE SR WELL #2	SPRING	12.0	NATIONAL FUEL GAS
8424540	22455	3703921916		107-TF		W J HYDE SR WELL #2	SPRING	12.0	NATIONAL FUEL GAS
8424541	22456	3703921918		103		WANDA S WORDEN WELL #1	BEAVER	12.0	NATIONAL FUEL GAS
8424542	22457	3703921918		107-TF		WANDA S WORDEN WELL #1	BEAVER	12.0	NATIONAL FUEL GAS
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	03/15/84	JA: PA			
8424527	22340	3706500000		108		FRAZIER BROTHERS 3461	HEATH	0.6	GENERAL SYSTEM PU
-NEA CROSS CO				RECEIVED:	03/15/84	JA: PA			
8424551	22506	3704923389		102-2		A E HAKKARAINEN #2	WATERFORD	10.0	NATIONAL FUEL GAS
8424552	22507	3704923389		107-TF		A E HAKKARAINEN #2	WATERFORD	10.0	NATIONAL FUEL GAS
8424553	22508	3704923065		102-2		LOUIS & RALPH BIZZARRO #2	WATERFORD	10.0	NATIONAL FUEL GAS
8424554	22509	3704923065		107-TF		LOUIS & RALPH BIZZARRO #2	WATERFORD	10.0	NATIONAL FUEL GAS
-NRM PETROLEUM CORPORATION				RECEIVED:	03/15/84	JA: PA			
8424507	20785	3704922619		107-TF		BOLERATZ #1	UNION CITY	0.0	COLUMBIA GAS TRAN
8424508	20786	3704922619		102-2		BOLERATZ #1	UNION CITY	0.0	COLUMBIA GAS TRAN
8424505	20779	3704922623		102-2		STYBORSKI #1	UNION CITY	26.0	COLUMBIA GAS TRAN
8424506	20780	3704922623		107-TF		STYBORSKI #1	UNION CITY	26.0	COLUMBIA GAS TRAN
-PC EXPLORATION INC				RECEIVED:	03/15/84	JA: PA			
8424519	22266	3712922287		103		BERNARD A CORNALI #1	LOYALHANNA	35.0	
-PEOPLES NATURAL GAS CO				RECEIVED:	03/15/84	JA: PA			
8424521	22282	3712922228		103		ANDREW A METZ #3 - WES-22228	W PENNA - UPPER DEVON	16.0	PEOPLES NATURAL G
8424522	22285	3712922219		103		EDWARD E ROSS #3 - WES-22219	W PENNA - UPPER DEVON	22.0	PEOPLES NATURAL G
-QUESTA PETROLEUM CO				RECEIVED:	03/15/84	JA: PA			
8424525	22331	3712922250		103		SUPER-VALU FOODS	NEW STANTON BORD	25.0	
-T W PHILLIPS GAS & OIL CO				RECEIVED:	03/15/84	JA: PA			
8424565	22548	3703100000		108		J M MCCORMICK #1	LIMESTONE	1.6	T W PHILLIPS GAS
-THO-JO ENTERPRISES INC				RECEIVED:	03/15/84	JA: PA			
8424567	22554	3706320900		108		ORVILLE M WATSON #1	CENTER	0.0	PEOPLES NATURAL G
-TRI-COUNTY OIL & GAS INC				RECEIVED:	03/15/84	JA: PA			
8424555	22510	3705900000		108		CHAMBERS WELL #1	ALEPPO	1.5	COLUMBIA GAS TRAN
8424556	22511	3705900000		108		CHAMBERS WELL #2	ALEPPO	1.5	COLUMBIA GAS TRAN
8424557	22512	3705900000		108		CHAMBERS WELL #3	ALEPPO	1.5	COLUMBIA GAS TRAN
-VICTORY ENERGY CO				RECEIVED:	03/15/84	JA: PA			
8424515	22231	3703321644		103		BARNES #2 CLE-21644	BELL	36.0	CONSOLIDATED GAS
8424511	22092	3703321604		103		ELLENBERGER #1 GLE-21604	BRADY	36.0	T W PHILLIPS OIL
-WAINOCO OIL & GAS CO				RECEIVED:	03/15/84	JA: PA			
8424537	22444	3703921979		107-TF		DONALD J PIER #1 (W-172A)	ATHENS	16.0	COLUMBIA GAS TRAN
8424538	22445	3703921979		102-3		DONALD J PIER #1 (W-172A)	ATHENS	16.0	COLUMBIA GAS TRAN
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	03/14/84	JA: WV			
8424587		4703300615		108		HIRAM BURNSIDE 5631	GRANT	1.0	GENERAL SYSTEM PU
8424582		4705900801		108		W W MCDONALD LAND CO 11212	STAFFORD	18.0	GENERAL SYSTEM PU
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	03/14/84	JA: WV			
8424580		4704103039		107-DV		LOUDIN #2	COURTHOUSE	40.0	COLUMBIA GAS TRAN
-FMF OIL & GAS PROPERTIES				RECEIVED:	03/14/84	JA: WV			
8424585		4708300409		107-DV		CLARK TAHANEY #1	ROARING CREEK	50.0	COLUMBIA GAS TRAN
8424586		4708300395		107-DV		RICOTTILLI #1	ROARING CREEK	45.0	COLUMBIA GAS TRAN
8424584		4708300485		107-DV		RICOTTILLI #81-22	ROARING CREEK DISTRIC	53.0	COLUMBIA GAS TRAN
-HAUGHT INC				RECEIVED:	03/14/84	JA: WV			
8424591		4710701120		103		C E ELLIOTT H-1191	WALKER DISTRICT	15.0	CONSOLIDATED GAS
8424592		4708505030		103		J CUMMINGS H-896	GRANT DISTRICT	15.0	CONSOLIDATED GAS
8424596		4708504494		103		JOHN CUMMINGS H-897	GRANT DISTRICT	15.0	CONSOLIDATED GAS
8424595		4708504866		103		KARL C KNIGHT H-1032	CLAY DISTRICT	15.0	CONSOLIDATED GAS
8424588		4707301399		103		R UTTERBACK H-1301	JEFFERSON	21.0	CONSOLIDATED GAS
8424594		4708504989		103		W H SHIELDS H-1136	GRANT DISTRICT	15.0	CONSOLIDATED GAS
8424593		4708504990		103		W H SHITLDS HRS 1137	GRANT DISTRICT	15.0	CONSOLIDATED GAS
-J C BAKER AND SON INC				RECEIVED:	03/14/84	JA: WV			
8424583		4700701804		103		L J SHOCK	SALT LICK DIST	15.0	CONSOLIDATED GAS
-JAMES F SCOTT				RECEIVED:	03/14/84	JA: WV			
8424589		4704900739		102-4		ROGER CUNNINGHAM S-445	UNION	0.7	CONSOLIDATED GAS
8424590		4701703127		102-4		STONEYBROOK S-430	GREENBRIER	0.2	CONSOLIDATED GAS
8424597		4704900736		102-4		TERRY SAURBORN S-427	UNION	0.7	CONSOLIDATED GAS
-NRM PETROLEUM CORPORATION				RECEIVED:	03/14/84	JA: WV			
8424581		4709702030		103		HANZIAN #3	WASHINGTON	0.0	COLUMBIA GAS TRAN
**********									
** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, DENVER, CO									
**********									
-COSEKA RESOURCES (USA) LIMITED				RECEIVED:	03/13/84	JA: CO F			
8424575	CD 0195-83	0510308603		108		FEDERAL #2-34-4-101	TRAIL CANYON	50.0	SOUTHWEST GAS COR
8424574	CD 0194-83	0510308451		108		FEDERAL 5-31-4-101	WILDCAT	74.2	SOUTHWEST GAS COR
-MITCHELL ENERGY CORPORATION				RECEIVED:	03/13/84	JA: CO F			
8424576	CD 0203-83	0510309104		103		FEDERAL #1-11-2-104 C-26940	HELLS HOLE CANYON (DA	112.5	
8424577	CD 0206-84	0510309104		102-2		FEDERAL #1-11-2-104 C-26940	HELLS HOLE CANYON (DA	112.5	
-TXO PRODUCTION CORP				RECEIVED:	03/13/84	JA: CO F			
8424578	CD 0200-83	0510308983		103		TEXAS MOUNTAIN	TEXAS MOUNTAIN	100.0	NORTHWEST PIPELIN
-UNICON PRODUCING CO				RECEIVED:	03/13/84	JA: CO F			
8424579	CD 0198-83	0506705030		108		UTE #4	MESA VERDE BLANCO	8.0	PEOPLES NATURAL G

[FR Doc. 84-9428 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1099]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: April 2, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, will not be published in the Federal Register. Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New res. on old OCS lease

Section 103: New onshore production well

Section 107-DP: 15,000 ft or deeper
107-GB: Geopressured brine
107-DV: Devonian shale
107-CS: Coal seam gas
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Temporary pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED APRIL 2, 1984

VOLUME 1099

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADOBE OIL & GAS CORPORATION				RECEIVED: 03/16/84		JA: TX			
8424854	F-09-077722	4209732459		102-4	103	BURRELL #6	DELAWARE BEND NO (HAN	110.0	LONE STAR GAS CO
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED: 03/16/84		JA: TX			
8424737	F-02-075350	4205731239		103		KNIPLING GAS UNIT #4	SHERIFF EAST (8400' S	90.0	ESPERANZA TRANSMI
-ARCO OIL AND GAS COMPANY				RECEIVED: 03/16/84		JA: TX			
8424739	F-04-075385	4213136178		102-4		HAZELWOOD GAS UNIT #3	E SEVEN SISTERS (0-55	500.0	TEXAS EASTERN TRA
8424774	F-04-076428	4213136311		103		J R FOSTER #67	HAGIST RANCH (WILCOX	44.0	NATURAL GAS PIPEL
-ARLEDGE TERRY				RECEIVED: 03/16/84		JA: TX			
8424712	F-03-074552	4204130924		102-4		ARNOLD #1	BRYAN (BUDA) FIELD	90.0	FERGUSON CROSSING
-ATI OIL CO				RECEIVED: 03/16/84		JA: TX			
8424673	F-7B-073498	4204933689		102-4		HORACE THOMPSON #6	TRICKHAM	7.0	EL PASO HYDROCARB
8424672	F-7B-073497	4204900000		102-4		HORACE THOMPSON #7	TRICKHAM (CAPPS)	7.0	EL PASO HYDROCARB
-AZMUTH PRODUCTION CO				RECEIVED: 03/16/84		JA: TX			
8424834	F-02-077310	4246932078		102-4		A SANDHOP #1	WILDCAT (PROPOSED) WI	127.8	HOUSTON PIPE LINE
-B & N PETROLEUM INC				RECEIVED: 03/16/84		JA: TX			
8424787	F-06-076892	4240131731		103	107-DP	BUFORD & BLOW #2	OAK HILL S (COTTON VA	360.0	TEXAS EASTERN TRA
-BARNHART CO				RECEIVED: 03/16/84		JA: TX			
8424727	F-03-074991	4247330403		102-3		JAMES W PARKER	KATY (FIRST WILCOX)	365.0	HOUSTON PIPE LINE
-BEARD OIL COMPANY				RECEIVED: 03/16/84		JA: TX			
8424852	F-06-077688	4241930322		102-2		CRANE A-95 #1	EARNEST HILL	100.0	
-BETTIS BOYLE & STOVALL				RECEIVED: 03/16/84		JA: TX			
8424642	F-03-067461	4248132466		103		HERRMANN #1 (NOT ASSIGNED)	LOUISE NORTH (4790)	75.0	DELHI GAS PIPELIN
8424641	F-09-067062	4250300000		108		KUNKLE #2	GARVEY	0.0	MID-STATE GAS COR
-BILL FORNEY INC				RECEIVED: 03/16/84		JA: TX			
8424869	F-03-077858	4248132531		102-4		ANIELA PITTS #2-C	SE BONUS (FRIO 3750)	602.0	VENTURE PIPELINE
-BJB EXPLORATION CO				RECEIVED: 03/16/84		JA: TX			
8424749	F-02-075776	4246900000		103		SALINAS #A-1-C	COLOGNE (4250)	100.0	
8424750	F-02-075777	4246900000		102-4		SALINAS #A-1-T	COLOGNE (4350)	100.0	
-BTA OIL PRODUCERS				RECEIVED: 03/16/84		JA: TX			
8424812	F-08-077161	4231732723		103		GRAVES #2	SPRABERRY (TREND AREA	29.2	PHILLPS PETROLEUM
-BURNETT OIL CO INC				RECEIVED: 03/16/84		JA: TX			
8424761	F-01-076011	4231131904		102-4	103	H D TAYLOR #1	AWP (OLMOS)	0.0	HPI TRANSMISSION
-C & K PETROLEUM INC				RECEIVED: 03/16/84		JA: TX			
8424683	F-03-073781	4237330516		102-4		WIRT DAVIS #4	WILDCAT LEGGETT (AUST	216.0	VAL-CAP INC
-C F LAWRENCE & ASSOC INC				RECEIVED: 03/16/84		JA: TX			
8424726	F-7C-074971	4210534558		103		TODD "R" #2	TODD SW (SAN ANDRES L	0.0	APACHE GAS CORP
-CABOT PETROLEUM CORP				RECEIVED: 03/16/84		JA: TX			
8424745	F-03-075639	4215700000		102-4		N JUNKER #1	BEASLEY (Y-4)	550.0	HOUSTON PIPELINE
-CAL ENERGY PROPERTIES INC				RECEIVED: 03/16/84		JA: TX			
8424647	F-7B-069462	4242933619		102-4		VAN WINKLE "B" #1 (19767)	VAN WINKLE (CADDO)	70.0	WARREN PETROLEUM
-CASS OIL CO				RECEIVED: 03/16/84		JA: TX			
8424799	F-7C-077050	4243532979		103	107-TF	ALLISON MIERS 7408	SAWYER (CANYON)	90.0	EL PASO NATURAL G
8424795	F-7C-077046	4243533006		103	107-TF	ALLISON-MIERS 7003	SAWYER (CANYON)	140.0	EL PASO NATURAL G
8424796	F-7C-077047	4243533011		103	107-TF	ALLISON-MIERS 7005	SAWYER (CANYON)	120.0	EL PASO NATURAL G
8424794	F-7C-077045	4243532980		103	107-TF	ALLISON-MIERS 7103	SAWYER (CANYON)	80.0	EL PASO NATURAL G
8424800	F-7C-077051	4242532977		103	107-TF	ALLISON-MIERS 7302	SAWYER (CANYON)	55.0	EL PASO NATURAL G

BILLING CODE 6717-01-M

JD NO	JA DKT.	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8424803	F-7C-077054	4243532970		103	107-TF	ALLISON-MIERS 7403	SAWYER (CANYON)	120.0	EL PASO NATURAL G
8424801	F-7C-077052	4243532975		103	107-TF	ALLISON-MIERS 7404	SAWYER (CANYON)	120.0	EL PASO NATURAL G
8424797	F-7C-077048	4243532985		103	107-TF	ALLISON-MIERS 7406	SAWYER (CANYON)	120.0	EL PASO NATURAL G
8424798	F-7C-077049	4243532986		103	107-TF	ALLISON-MIERS 7407	SAWYER (CANYON)	100.0	EL PASO NATURAL G
8424802	F-7C-077053	4243532971		103	107-TF	ALLISON-MIERS 7907	SAWYER (CANYON)	220.0	EL PASO NATURAL G
8424714	F-7C-074650	4243532877		103	107-TF	DRAKE "71" - RRC #108059	SAWYER (CANYON)	120.0	
8424680	F-7C-073686	4238332549		103		HUGHES 1210 #2	SPRABERRY (TREND AREA	36.0	EL PASO NATURAL G
-CENERGY EXPLORATION CO				RECEIVED:	03/16/84	JA: TX			
8424674	F-06-073532	4200100000		103		HANKS #1	BLACKFOOT N	0.0	ESPERANZA PIPELIN
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	03/16/84	JA: TX			
8424720	F-03-074787	4204130470		102-2		E M DANSBY #1	BRYAN (BUDA)	0.0	
8424848	F-03-077582	4204131049		102-2		P RUFFINO JR "C" #1	KURTEN (BUDA)	40.9	
-CHENOWETH GROVER L				RECEIVED:	03/16/84	JA: TX			
8424772	F-7B-076392	4213335222		103		J WILLIAMSON #3 (GAS)	EASTLAND COUNTY REGUL	292.0	LONE STAR GAS CO
-COMANCHE RESOURCES INC				RECEIVED:	03/16/84	JA: TX			
8424753	F-7B-075818	4204053206		102-4		D B GUNN #8	DALE (CADDO) FIELD	10.0	EL PASO HYDROCARB
8424751	F-7B-075816	4204933292		102-4		D B GUNN #9	DALE (CADDO) FIELD	10.0	EL PASO HYDROCARB
8424752	F-7B-075817	4204933288		102-4		D B GUNN "A" #7-A	DALE (CADDO) FIELD	10.0	EL PASO HYDROCARB
-CONOCO INC				RECEIVED:	03/16/84	JA: TX			
8424871	F-08-077905	4213534360		103		GIST UNIT #139 ID 19373	FOSTER	0.7	EL PASO HYDROCARB
8424754	F-04-075833	4247933698		102-4	103	JOHN MARTIN JR #1	WILDCAT	529.0	E I DUPONT DE NEM
8424721	F-04-074803	4247933670		102-4	107-TF	P M FROST #3	RUFFLE (LOBO)	392.0	UNITED TEXAS TRAN
8424765	F-04-076182	4247932600		102-2	107-TF	VAQUILLAS RANCH A #1	VAQUILLAS RANCH (UPPE	69.0	E I DUPONT DE NEM
8424740	F-04-075390	4247933671		102-4	103	VAQUILLAS RANCH STATE - SEA #1	VAQUILLAS RANCH (CARR	239.0	HOUSTON PIPELINE
-CORDOVA RESOURCES INC				RECEIVED:	03/16/84	JA: TX			
8424693	F-08-074035	4210333074		108		SHELL-MOSLEY #9	BAYVIEW	5.4	PHILLIPS PETROLEU
-COSEKA RESOURCES (USA) LIMITED				RECEIVED:	03/16/84	JA: TX			
8424781	F-7C-076741	4246132071		103		COSEKA/SAXON DAVIDSON #4	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
8424742	F-08-075458	4232931213		103		COSEKA/SAXON GRAHAM #1	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
8424780	F-7C-076739	4238332754		103		COSEKA/SAXON UNIVERSITY "3-2" #2	SPRABERRY TREND	0.0	PHILLIPS PETROLEU
-COSTA RESOURCES INC				RECEIVED:	03/16/84	JA: TX			
8424645	F-08-069291	4237100000		102-4		ZAPALAC #1	VALENTINE	0.0	PERRY PIPELINE CO
-COTTON PETROLEUM CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424738	F-10-075355	4229531240		102-4		BECKER #1	MAMMOTH CREEK NW	0.0	
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	03/16/84	JA: TX			
8424711	F-06-074550	4206730427		102-4		CRYSTAL RAMBO #1-L	RODESSA	0.0	BRECKENRIDGE GASO
8424762	F-06-076058	4206730424		102-4		WALKER "A" #1-U	RODESSA (6320) PETTIT	127.5	BRECKENRIDGE GASO
-D L WHITAKER OIL CO				RECEIVED:	03/16/84	JA: TX			
8424773	F-7B-076420	4244733714		102-4		R G LITTLE WELL #1-A	KINGS CREEK CADDO	70.0	WOODSON GAS INC
-DELTA DRILLING CO				RECEIVED:	03/16/84	JA: TX			
8424843	F-8A-077471	4203300000		103		ROY REEDER #3 64052	MYRTLE W (STRAWN)	0.0	SUN EXPLORATION &
-DIRECTION ENERGY CORP				RECEIVED:	03/16/84	JA: TX			
8424703	F-10-074471	4223331666		103		SANFORD COON "A" #1	PANHANDLE HUTCHINSON	60.0	PANHANDLE PRODUCI
-DON H HANVEY OIL INTERESTS INC				RECEIVED:	03/16/84	JA: TX			
8424686	F-7B-073837	4213335046		102-4		HANVEY-FEE #4 LEASE NO 108365	ARDINGER (LAKE SAND U	72.0	EL PASO HYDROCARB
8424748	F-7B-075718	4221333454		102-4		PITTS-MURDOCK #1	HANVEY (LAKE SAND)	119.0	EL PASO HYDROCARB
-DYNE OIL & GAS INC				RECEIVED:	03/16/84	JA: TX			
8424835	F-10-077316	4217931559		103		MCCONNELL #8 (RRC #00287)	PANHANDLE	0.0	KERR-MCGEE CORP
-EDEN EXPLORATION INC				RECEIVED:	03/16/84	JA: TX			
8424729	F-7B-075009	4236732360		102-4		A HARRISON UNIT #1 (NEW)	DENNIS WEST (STRAWN)	130.0	PARKER GAS INC
-ENSERCH EXPLORATION INC				RECEIVED:	03/16/84	JA: TX			
8424630	F-06-051437	4220300000		108-ER		HENRY ONEY #1	WHELAN	0.0	TEXAS EASTERN TRA
8424839	F-05-077353	4221300000		103		J E RYON #2	TRI-CITIES	0.0	TEXAS UTILITIES F
8424817	F-7B-077254	4242900000		103		J W STOUARD UNIT 5 #5	IVADELL	0.0	
-ENSOURCE INC				RECEIVED:	03/16/84	JA: TX			
8424628	F-06-027238	4220330705		102-4		MARY KAY STRODE #1	LANSING NORTH TRAVIS	138.7	ARKANSAS LOUISIAN
-ETERNAL EXPLORATION				RECEIVED:	03/16/84	JA: TX			
8424699	F-7B-074253	4213335151		102-4		LEAH BROWN "A" #3	LEERAY (LAKE SAND)	274.0	ODESSA NATURAL CO
-EXPORT PETROLEUM CORP				RECEIVED:	03/16/84	JA: TX			
8424662	F-09-072588	4223730855		108		WORTHINGTON EDWARDS #1	BOONESVILLE (BEND CON	2.7	SOUTHWESTERN GAS
-EXXON CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424816	F-08-077211	4249531664		103		BROWN-ALTMAN B #42	EMPEROR EAST (CLEAR F	60.0	WESTAR TRANSMISSI
8424838	F-7C-077332	4243131332		103		LOU E JOHNSON ESTATE A/C 1 #53	JAMESON (STRAWN)	0.0	
8424837	F-8A-077328	4216532528		103		ROBERTSON CLEARFORK UNIT #1603	ROBERTSON N (CLEAR FO	15.0	PHILLPS PETROLEUM
-FARGO ENERGY CORP				RECEIVED:	03/16/84	JA: TX			
8424700	F-03-074359	4214931527		102-2		BYLER "C" UNIT #1	GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
8424701	F-03-074360	4214931583		102-2		MOORE #1	GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
-FARGO TRADING CO INC				RECEIVED:	03/16/84	JA: TX			
8424660	F-04-072479	4248930694		102-4		YTURRIA CATTLE CO #4	LA SARA	0.0	TENNESSEE GAS PIP
-FUNK EXPLORATION INC				RECEIVED:	03/16/84	JA: TX			
8424668	F-10-073328	4235700000		102-4		JAMES #2-A	RICKS UPPER MORROW	100.0	HIGH PLAINS NATUR
-G E M INC				RECEIVED:	03/16/84	JA: TX			
8424676	F-7B-073556	4213332985		103		GAINES #1 18248	EASTLAND COUNTY (REG)	12.6	LONE STAR GAS CO
-GATHINGS OIL INC				RECEIVED:	03/16/84	JA: TX			
8424776	F-03-076523	4248132350		102-4		KUTAC #1 - 107322	HIBO FIELD	0.0	LONE STAR GAS CO
-GENE POWELL INVESTMENTS INC				RECEIVED:	03/16/84	JA: TX			
8424691	F-06-074001	4218330587		103	107-TF	A J MONEY GAS UNIT #1	GLADEWATER S (HAYNESV	750.0	TEJAS GAS CORP
-GENERAL PRODUCTION CO INC				RECEIVED:	03/16/84	JA: TX			
8424734	F-03-075200	4228731456		102-2		ALCOCER "A" #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GETTY OIL COMPANY				RECEIVED:	03/16/84	JA: TX			
8424636	F-06-066034	4236500000		108-ER		R P DAVIDSON #2	CARTHAGE	0.0	UNITED GAS PIPELI
-GHR ENERGY CORP				RECEIVED:	03/16/84	JA: TX			
8424648	F-04-069487	4250531627		102-4	107-TF	MCMURREY #34	MCMURREY (LOBO)	900.0	NATURAL GAS PIPEL
8424675	F-04-073547	4247933504		102-4	107-TF	R MARTINEZ #2	LA MANGANA (LOBO 8800	250.0	GHR PIPELINE CORP
-GILLRING OIL CO				RECEIVED:	03/16/84	JA: TX			
8424844	F-04-077475	4235532162		102-4		JOE MCNAIR #1	BRAYTON N	419.7	HOUSTON PIPE LINE
-GORDON OIL CO INC				RECEIVED:	03/16/84	JA: TX			
8424657	F-09-072185	4218100000		108-ER		W N GARR #1	SHERMAN SOUTHEAST	0.0	LONE STAR GAS CO
-GRACE PETROLEUM CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424688	F-09-073897	4218130591		102-4	103	D L SHANKLES #1	GRACE - MAG (PENN COR	0.0	CHEVRON USA INC
-GRAHAM ENERGY LTD				RECEIVED:	03/16/84	JA: TX			
8424682	F-7C-073769	4235331404		103		JAMESON C-3	SILVER CANYON (SAND)	0.0	SUN OIL CO
-GULF OIL CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424815	F-08-077199	4200333705		103		STATE "XK" #1	FUHRMAN MASCHO	0.0	
-GULF SANDS OIL CO				RECEIVED:	03/16/84	JA: TX			
8424804	F-02-077058	4202531442		102-4		KARSCH-HARTZENDORF #1 107490	TYNAN (4025)	21.0	UNITED GAS PIPELI
-H & S OPERATING INC				RECEIVED:	03/16/84	JA: TX			
8424635	F-7B-063736	4236700000		103		CHRISTENBERRY #1	RENO (CONGL)	120.0	SOUTHWESTERN GAS
-HANLEY PETROLEUM INC				RECEIVED:	03/16/84	JA: TX			
8424717	F-7C-074724	4210534569		103	107-TF	UNIVERSITY 30-34B #1	OZONA (CANYON)	0.0	INTRATEX GAS CO
-HEFLIN OIL CO				RECEIVED:	03/16/84	JA: TX			
8424728	F-06-075008	4206730404		103		BEAVER GAS UNIT #1	QUEEN CITY (SMACKOVER	650.0	PRODUCER'S GAS CO
-HNG OIL COMPANY				RECEIVED:	03/16/84	JA: TX			
8424735	F-04-075274	4247900000		102-4	107-TF	HIRSCH ESTATE "240" #1	JUANITA (LOBO)	200.0	HOUSTON PIPE LINE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HOME PETROLEUM CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424634	F-03-060958	4220130963		102-4	103	WILLIAM VAN VORST #1	N CLINTON (YEGUA 8360	362.0	HOUSTON PIPELINE
-HOUSTON OIL & GAS CO INC				RECEIVED:	03/16/84	JA: TX			
8424767	F-7C-076234	4239933026		102-4		PORCH & CLARY #2 (10405)	GRODY ROBERTS (GRAY)	78.0	UNION TEXAS PETRO
-HPC OPERATING INC				RECEIVED:	03/16/84	JA: TX			
8424777	F-06-076653	4236500000		108		CLAUDIA KELLER #1-C	BETHANY (PETTIT)	42.0	ARKANSAS LOUISIAN
-HUFO PRODUCTION CORP				RECEIVED:	03/16/84	JA: TX			
8424646	F-10-069308	4206500000		103		ELLER #12	PANHANDLE (CARSON COU	0.0	CABOT PIPELINE CO
-HUGHES & HUGHES OIL AND GAS				RECEIVED:	03/16/84	JA: TX			
8424741	F-04-075430	4235531928		102-4		BERNSEN WELTY #2	AS OF YET UNDETERMINE	91.0	FERGUSON CROSSING
8424764	F-04-076171	4250531704		102-4		L A HINNANT G-2	GLEN SOUTH (WILCOX 92	920.0	HOUSTON PIPE LINE
-J C MCCABE				RECEIVED:	03/16/84	JA: TX			
8424710	F-04-074535	4250531536		102-4		J AUSTIN TAYLOR #1	HINNANT RANCH FIELD	36.0	HOUSTON PIPE LINE
-J M HUBER CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424678	F-10-073646	4223300000		108-ER		PURE #2	WEST PANHANDLE	0.0	COLORADO INTERSTA
-J R HAMILTON				RECEIVED:	03/16/84	JA: TX			
8424778	F-01-076675	4212732429		103		KOTHMAN - BARNARD WELL #5	EAST ROCKY CREEK 2-B	100.0	VALERO TRANSMISSI
-JAKE L HAMON				RECEIVED:	03/16/84	JA: TX			
8424725	F-10-074940	4221131551		103		SHALLER #4	CANADIAN S E (DOUGLAS	545.0	NORTHWEST CENTRAL
-JOSEPH T DAWSON				RECEIVED:	03/16/84	JA: TX			
8424845	F-04-077509	4235532226		102-4		ANDERSON TRUST #4	SHELL POINT (6-B)(PRO	0.0	HOUSTON PIPE LINE
-KATLACO OPERATING CO INC				RECEIVED:	03/16/84	JA: TX			
8424651	F-7B-070459	4213333962		102-4		J B BOGGS "A" #1 (20636)	HANVEY (LAKE SAND)	38.0	EL PASO HYDROCARB
8424644	F-7B-068256	4213334342		102-4	103	J B BOGGS "B" #1	HANVEY (LAKE SAND)	20.0	EL PASO HYDROCARB
8424650	F-7B-070164	4213300000		102-4		KATLACO FEE "B" #6	WILDCAT	0.0	EL PASO HYDROCARB
-KERR-MCGEE CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424882	F-10-077944	4223300000		108		PITTS #1	PANHANDLE (HUTCHINSON	4.0	GETTY OIL CO
8424877	F-10-077936	4223300000		108		PITTS #2	PANHANDLE (HUTCHINSON	2.5	GETTY OIL CO
8424881	F-10-077941	4223300000		108		PITTS #21	PANHANDLE (HUTCHINSON	3.5	GETTY OIL CO
8424879	F-10-077938	4223300000		108		PITTS #22	PANHANDLE (HUTCHINSON	2.8	GETTY OIL CO
8424874	F-10-077928	4223300000		108		PITTS #30	PANHANDLE (HUTCHINSON	2.8	GETTY OIL CO
8424873	F-10-07792Y	4223300000		108		PITTS #31	PANHANDLE (HUTCHINSON	6.0	GETTY OIL CO
8424880	F-10-077939	4223300000		108		PITTS #33	PANHANDLE (HUTCHINSON	1.0	GETTY OIL CO
8424878	F-10-077937	4223300000		108		PITTS #7	PANHANDLE (HUTCHINSON	7.2	GETTY OIL CO
8424872	F-10-07792	4223300000		108		PITTS NO 18	PANHANDLE (HUTCHINSON	3.7	GETTY OIL CO
-KILROY CO OF TEXAS				RECEIVED:	03/16/84	JA: TX			
8424766	F-03-076197	4236130473		102-4		E W BROWN #1	KELLY (HARTBURG) (PRO	29.0	UNITED TEXAS TRAN
8424806	F-03-077097	4208931383		102-4		M COLEMAN #1	LAMBDA (FRIO)	730.0	VALERO TRANSMISSI
-LEWIS & ATKINS OIL & GAS INC				RECEIVED:	03/16/84	JA: TX			
8424733	F-08-075163	4231732748		103		HASTING #1	SPRABERRY (TREND AREA	54.0	ADOBE OIL & GAS C
-LOUTEX-ASOCO				RECEIVED:	03/16/84	JA: TX			
8424724	F-03-074906	4204130864		102-2		LOUTEX-ASOCO SBY #1	WILDCAT	0.0	FERGUSON CROSSING
-MABEE PETROLEUM CORP				RECEIVED:	03/16/84	JA: TX			
8424755	F-08-075872	4231732756		103		BREEDLOVE "D" #3	BREEDLOVE SOUTH (SPRA	0.0	NORTHERN NATURAL
-MAHADA ENERGY CORP				RECEIVED:	03/16/84	JA: TX			
8424670	F-03-073433	4220131622		103		MAHADA #1 BLANCHE FOLEY	FAIRBANKS N (YEGUA 70	64.0	
-MAJOR PETROLEUM CORP				RECEIVED:	03/16/84	JA: TX			
8424875	F-7C-077929	4239932997		103		C R DEAN #1 10353	WINGATE W (GARDNER)	32.0	UNION TEXAS PETRO
-MARIANAS OPERATING CO INC				RECEIVED:	03/16/84	JA: TX			
8424860	F-7B-077792	4208333557		103		MARY FRANCES JOHNSON ESTATE #1 GAS	CRESSWELL (MORRIS)	182.0	UNION TEXAS PETRO
-MARSHALL EXPLORATION INC				RECEIVED:	03/16/84	JA: TX			
8424757	F-06-075933	4222530477		103		CROWSON "A" #2 (11121)	PEARSON CHAPEL (EDWAR	75.0	SOUTH TEXAS GATHE
8424744	F-03-075591	4231330457		102-4	103	M Y VICK #4 (LEASE NO 16781)	MADISONVILLE N E (GEO	200.0	LONE STAR GAS CO
-MAYFIELD ENGINEERING SERVICE				RECEIVED:	03/16/84	JA: TX			
8424692	F-09-074011	4223700000		108		FLO COOP - EASTER UNIT #1	SAM EASTER (CONGL)	0.0	SOUTHWESTERN GAS
-MEG PETROLEUM CORP				RECEIVED:	03/16/84	JA: TX			
8424876	F-7C-077931	4232730540		102-4	103	PFLUGER RANCH SOUTH #1	CELERY (STRAWN 2975-G	224.1	J L DAVIS
-MEWBOURNE OIL COMPANY				RECEIVED:	03/16/84	JA: TX			
8424731	F-10-075074	4235700000		103	102-6	NORMAN #1 ID #N/A	TURNER (CLEVELAND)	20.0	TRANSWESTERN PIPE
8424731	F-10-075074	4235700000		107-TF		NORMAN #1 ID #N/A	TURNER (CLEVELAND)	20.0	TRANSWESTERN PIPE
8424654	F-10-071795	4229530753		103	107-TF	PEERY #8 ID # N/A	PEERY (CLEVELAND) FIE	0.0	TRANSWESTERN PIPE
-MICHAEL PETROLEUM CORP				RECEIVED:	03/16/84	JA: TX			
8424846	F-03-07757	4204131012		102-2		FRANZE R F #1	KURTEN (BUDA) FIELD	0.0	FERGUSON CROSSING
-MITCHELL ENERGY CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424629	F-03-042223	4237300000		108-ER		ARBRA BAILEY #1	LEGGETT	0.0	HOUSTON PIPELINE
8424637	F-09-066554	4249700000		108		B B POORE #2 #101358	GENTRY-PERKINS (STRAW	0.0	NATURAL GAS PIPEL
8424811	F-7B-077148	4236732579		103		C L CAVNESS UNIT "D" #2	RENO (CONGLOMERATE)	223.4	NATURAL GAS PIPEL
8424649	F-09-069888	4249700000		108		GEORGE W BORING TRUST #1 057274	BOONSVILLE (BEND CONG	0.0	BRAZOS FUEL CO
8424626	F-09-020722	4249700000		108-ER		J J WILSON #1	BOONSVILLE	0.0	NATURAL GAS PIPEL
8424694	F-05-074056	4229330682		103	107-TF	R F JACKSON "C" #1	NORTH PERSONVILLE (CO	547.5	SOUTHWESTERN GAS
8424625	F-09-004235	4249700000		108-ER		T J TINNEY B #1	ALVORD	0.0	NATURAL GAS PIPEL
-MONSANTO COMPANY				RECEIVED:	03/16/84	JA: TX			
8424849	F-02-077613	4205700000		107-PE		STATE TRACT 38 NO 2	LAVACA BAY (F-36)	64.0	ALUMINUM CORP OF
-MONSANTO OIL CO				RECEIVED:	03/16/84	JA: TX			
8424666	F-10-073281	4235700000		108-ER		CLEM #1	PARSELL	0.0	TRANSWESTERN PIPE
-MONTERO OPERATING INC				RECEIVED:	03/16/84	JA: TX			
8424805	F-7C-077068	4208131205		103		HIGGINS #4	JAMESON (STRAWN)	18.3	SUN EXPLORATION &
-MORROW RESOURCES INC				RECEIVED:	03/16/84	JA: TX			
8424658	F-7C-072304	4245131253		102-2	103	BROWN "E" #1	K W B (STRAWN)	0.0	LONE STAR GAS CO
-MOSELEY PETROLEUM CORP				RECEIVED:	03/16/84	JA: TX			
8424792	F-02-076982	4246932108		102-4		CRABTREE #2-T	HEYSER EAST (8040) FI	0.0	HOUSTON PIPE LINE
-OXOCO OIL & GAS INC				RECEIVED:	03/16/84	JA: TX			
8424847	F-03-077578	4231330476		103		SCHOLZ #4	FT TRINIDAD - BARRETT	36.5	PECOS PRODUCING &
-PARKER & PARSLEY INC				RECEIVED:	03/16/84	JA: TX			
8424627	F-08-025174	4231732149		103		COGGINS #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
8424770	F-08-076341	4231700000		103		HAZELWOOD - 1	SPRAYBERRY (TREND ARE	0.0	
8424769	F-08-076337	4231700000		103		HAZLEWOOD - 2	SPRABERRY (TREND AREA	0.0	
8424809	F-7C-077110	4238300000		103		HICKMAN #4	PRICE (GRAYBURG)	1.0	CROCKETT COUNTY G
8424808	F-7C-077109	4238300000		103		HICKMAN #5	PRICE (GRAYBURG)	1.0	CROCKETT COUNTY G
8424807	F-08-077101	4232900000		103		MCALISTER "G" WELL #1	SPRABERRY (TREND AREA	1.5	PHILLIPS PETROLEU
-PETROLEUM CORP OF DELAWARE				RECEIVED:	03/16/84	JA: TX			
8424732	F-08-075140	4230130453		103		BASS 46 #5	WHEAT/CHERRY CANYON	20.1	
-PETRUS OPERATING CO INC				RECEIVED:	03/16/84	JA: TX			
8424870	F-03-077888	4224531720		102-4		WALTER CO "C" WELL #1	CHINA SE FIELD	0.0	SOUTHWESTERN GAS
-PIONEER PRODUCTION CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424713	F-10-074569	4248300000		102-4	103	EVANS #1-7	BUFFALO WALLOW (A-PRI	0.0	WESTAR TRANSMISSI
-Q E D EXPLORATION INC				RECEIVED:	03/16/84	JA: TX			
8424855	F-7C-077725	4223532164		102-2	103	FARMAR-SUGG 21 #2	ROCK PEN (CANYON)	91.3	FARMLAND INDUSTRI
-QUINTANA PETROLEUM CORP				RECEIVED:	03/16/84	JA: TX			
8424643	F-02-067950	4239131605		103		MAUDE WILLIAMS ET AL "A" D-121	LAKE PASTURE (H-440 S	14.6	UNITED TEXAS TRAN
-RALPH L WAY INC				RECEIVED:	03/16/84	JA: TX			
8424853	F-08-077707	4237134229		102-4	103	CROWLEY-STATE #1	HEINER S (WICHITA ALB	540.2	
8424883	F-08-077961	4237135479		102-4	103	CROWLEY-STATE #2	HEINER S (WICHITA-ALB	0.0	INTRATEX GAS CO
-RANCHO RESOURCES CORP				RECEIVED:	03/16/84	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8424864	F-04-077822	4204700000		102-4		RANCHO - N B RUPP #1	ANN - MAG FIELD	450.0	AMERICAN PIPELINE
-RETWELL CORP				RECEIVED:	03/16/84	JA: TX			
8424829	F-7B-077288	4225332252		102-4		AKERS #1	COTTONWOOD (BLUFF CRE	0.0	LONE STAR GAS CO
8424828	F-7B-077287	4225332381		102-4		AKERS #2	COTTONWOOD (BLUFF CRE	0.0	LONE STAR GAS CO
8424827	F-7B-077286	4225332455		102-4		AKERS #3	COTTONWOOD (BLUFF CRE	0.0	LONE STAR GAS CO
8424826	F-7B-077285	4225332412		102-4		AKERS #4	COTTONWOOD (BLUFF CRE	0.0	LONE STAR GAS CO
8424825	F-7B-077284	4225332519		102-4		AKERS #7	COTTONWOOD (BLUFF CRE	0.0	LONE STAR GAS CO
8424824	F-7B-077283	4225332316		102-4		BRADSHAW "B" #3	NUGENT NW (COOK SAND)	14.0	LONE STAR GAS CO
8424823	F-7B-077282	4225332450		102-4		FLACHE #1	COTTONWOOD (BLUFF CRE	0.0	LONE STAR GAS CO
8424822	F-7B-077281	4225332484		102-4		FLACHE #2	COTTONWOOD (BLUFF CRE	0.0	LONE STAR GAS CO
8424821	F-7B-077280	4225332483		102-4		FLACHE #3	COTTONWOOD (BLUFF CRE	0.0	LONE STAR GAS CO
8424820	F-7B-077279	4225332485		102-4		FLACHE #4	COTTONWOOD (BLUFF CRE	0.0	LONE STAR GAS CO
8424818	F-7B-077264	4225332568		102-4		J HOBBS #5	COTTONWOOD ANNIE (BLU	0.0	LONE STAR GAS CO
8424819	F-7B-077270	4225332128		102-4		M GUIN "B" #1	NUGENT NW (BLUFF CREE	10.0	LONE STAR GAS CO
-RICHEY & CO INC				RECEIVED:	03/16/84	JA: TX			
8424783	F-7B-076855	4213335301		102-4		C J KLEINER ESTATE #1	REB	0.0	ENSERCH EXPLORATI
8424784	F-7B-076856	4213335335		102-4		C J KLEINER ESTATE "A" #1	REB	0.0	ENSERCH EXPLORATI
8424840	F-7B-077411	4213335460		102-4		J I BARTON "A"	REB (MARBLE FALLS)	32.0	SOUTHWESTERN GAS
-RIDGE OIL CO				RECEIVED:	03/16/84	JA: TX			
8424716	F-7B-074718	4213300000		102-4	103	J R DAVIS #1	RANGER NW (MARBLE FAL	9.1	COMPRESSOR RENTAL
-ROSELAND OIL & GAS INC				RECEIVED:	03/16/84	JA: TX			
8424685	F-06-073799	4221330372		102-4	103	TURLINGTON #1 RRC PERMIT NO 195200	TURLINGTON	0.0	
-ROSENTHAL STANLEY H				RECEIVED:	03/16/84	JA: TX			
8424663	F-03-072606	4232100000		102-4		LUCRETIA RANSOM #1	HAMMAN	0.0	HOUSTON PIPELINE
-ROYAL OIL & GAS CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424659	F-01-072453	4228330954		102-4	103	STOCKTON #1	SUN TSH (OLMOS) FIELD	183.0	HOUSTON PIPE LINE
-SAGE ENERGY CO				RECEIVED:	03/16/84	JA: TX			
8424653	F-03-071744	4214931537		102-2		DEVERS UNIT #1 RRC #16880	GIDDINGS (AUSTIN CHAL	35.8	PHILLIPS PETROLEU
-SAMSON RESOURCES COMPANY				RECEIVED:	03/16/84	JA: TX			
8424789	F-06-076914	4236500000		108		PAUL P ROGERS #1-T	CARTHAGE	0.0	TEXAS GAS TRANSMI
-SBO CORP				RECEIVED:	03/16/84	JA: TX			
8424775	F-8A-076492	4207900000		103		D S WRIGHT #1	LEVELLAND	18.3	CITIES SERVICE CO
-SENTINEL PETROLEUM CORP				RECEIVED:	03/16/84	JA: TX			
8424793	F-7B-076995	4213335028		102-2		SPENCER A-1	EASTLAND COUNTY REGUL	0.0	EL PASO HYDROCARB
-SHAR-ALAN OIL CO				RECEIVED:	03/16/84	JA: TX			
8424677	F-03-073589	4231330437		102-2		T COLEMAN #1	MADISONVILLE NE (GEOR	0.0	LONE STAR GAS CO
-SHELL WESTERN E&P INC				RECEIVED:	03/16/84	JA: TX			
8424702	F-04-074434	4250531597		107-DP		G L LEYENDECKER #2	FANDANGO (WILCOX UPPE	800.0	UNITED TEXAS TRAN
-SHIELD RESOURCES INC				RECEIVED:	03/16/84	JA: TX			
8424736	F-03-075311	4247130243		102-4		J H PAINTER #1	HUNTSVILLE NE	0.0	SOUTH TEXAS GATHE
-SOHIO PETROLEUM CO				RECEIVED:	03/16/84	JA: TX			
8424865	F-04-077828	4240931718		102-4		BARTOSH GAS UNIT #3	MIDWAY EAST (10700 -	1800.0	HOUSTON PIPE LINE
8424866	F-04-077829	4240931364		102-4		MAX M FLOERKE JR ET AL WELL #2-R	MIDWAY EAST (10700-FA	252.0	TEXAS EASTERN TRA
-STEPHENSON OIL & GAS INC				RECEIVED:	03/16/84	JA: TX			
8424861	F-7B-077793	4213335340		102-4		LYERLA #1 (108627)	SMD (FRY)	109.0	FLATWOOD GAS INC
-STEVE STAMPER				RECEIVED:	03/16/84	JA: TX			
8424746	F-09-075670	4223735484		103		T D WILLIAMS #5	JACK COUNTY REGULAR	42.7	SOUTHWESTERN GAS
-SUE-ANN OIL & GAS CO				RECEIVED:	03/16/84	JA: TX			
8424862	F-03-077815	4203900000		107-PE		JOSEPH M HEIM JR #3	CHENANGO (8700)	80.0	AMOCO GAS CO
8424863	F-03-077816	4203900000		107-PE		R J KELLY COMMUNITY #1	CHENANGO (8700)	80.0	AMOCO GAS CO
-SUN-KEY OIL CO INC				RECEIVED:	03/16/84	JA: TX			
8424684	F-7B-073792	4214330791		102-4		MCDONALD M D IU	JAY-JAY 2050	1160.7	CHRISTIE GAS TRAN
-TACKETT PRODUCTION				RECEIVED:	03/16/84	JA: TX			
8424758	F-7B-075964	4204900000		108		GEER J R "A" #6	BROWN COUNTY REGULAR	25.0	EL PASO HYDROCARB
-TED TRUE INC				RECEIVED:	03/16/84	JA: TX			
8424760	F-10-075973	4234131092		103		BRENT 20-01	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8424759	F-10-075972	4234131124		103		BRENT 20-04	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8424704	F-10-074514	4234100000		103		BRENT 20-2	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8424705	F-10-074515	4234100000		103		BRENT 20-3	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8424706	F-10-074517	4234100000		103		BRENT 21-2	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8424707	F-10-074518	4234100000		103		BRENT 21-3	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8424708	F-10-07451	4234100000		103		BRENT 21-4	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8424709	F-10-074525	4234100000		103		BROWN 22-5	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
-TEE OPERATING CO				RECEIVED:	03/16/84	JA: TX			
8424664	F-03-072988	4236130470		102-4		HEARD #1	PEYETO (9600)	0.0	DOW PIPELINE CO
8424719	F-03-074728	4236130471		102-4		MALONE #1	PEYETO (9600)	0.0	DOW PIPELINE CO
-TENNECO OIL COMPANY				RECEIVED:	03/16/84	JA: TX			
8424842	F-10-077450	4239330967		103		BRAINARD 2-177	HANSFORD (LOWER MORRO	350.0	TRANSWESTERN GAS
-TEXACO INC				RECEIVED:	03/16/84	JA: TX			
8424786	F-8A-076881	4221900000		103		BOB SLAUGHTER BLOCK #343	SLAUGHTER	0.0	AMOCO PRODUCTION
8424858	F-8A-077776	4221934139		103		BOB SLAUGHTER BLOCK #344	SLAUGHTER	1.8	AMOCO PRODUCTION
8424814	F-10-077187	4217931390		103		J E WILLIAMS #58	PANHANDLE GRAY COUNTY	1.8	COLTEXO CORP
8424850	F-8A-077615	4221934095		103		MONTGOMERY ESTATE DAVIES NCT-2 #108	LEVELLAND	13.1	AMOCO PRODUCTION
8424788	F-8A-076896	4221934094		103		MONTGOMERY ESTATE-DAVIES NCT-2 #113	LEVELLAND	18.3	AMOCO PRODUCTION
8424813	F-7C-077183	4210534673		103		STATE OF TEXAS "CQ" #5	WEGER NORTH	63.2	
8424859	F-08-077779	4243131401		103		STERLING "E" FEE #15	BIG SALUTE (LEONARD "	23.7	REATA INDUSTRIAL
8424715	F-08-074663	4243131375		103		STERLING "J" FEE #8	CONGER (PENN)	0.4	REATA INDUSTRIAL
8424756	F-08-075917	4243131370		103		STERLING "N" FEE #7	CONGER (PENN)	305.9	VALERO TRANSMISSI
8424851	F-08-077666	4243131419		102-4		STERLING "U" FEE #2	CONGER SW	51.5	REATA INDUSTRIAL
-THOMAS C CANAN				RECEIVED:	03/16/84	JA: TX			
8424841	F-7B-077423	4242933743		103		FAMBROUGH 35 #1 - RRC #20263	STEPHENS COUNTY REGUL	17.5	SOUTHWESTERN GAS
-THRIFTY ENERGY				RECEIVED:	03/16/84	JA: TX			
8424669	F-7B-07336	4204900000		103		LEO GEORGE "A" #2	BROWN COUNTY REGULAR	0.0	EL PASO HYDROCARB
-TRINITY RESOURCES INC				RECEIVED:	03/16/84	JA: TX			
8424785	F-02-076872	4220995700		102-4		DUGGER-FITCH 1-T	PALMETTO BEND W (B-5)	8.0	LONE STAR GAS CO
-TUCKER DRILLING COMPANY INC				RECEIVED:	03/16/84	JA: TX			
8424791	F-7C-076971	4223531947		102-2	103	MERTZ "11" #1	MERTZ (CANYON)	110.0	FARMLAND INDUSTRI
-TXO PRODUCTION CORP				RECEIVED:	03/16/84	JA: TX			
8424665	F-03-073228	4248132523		103		ALLENSON #9	LOUISE NORTH (4600' E	0.0	TENNESSEE GAS PIP
8424679	F-02-073680	4229700000		102-4		BARTLETT A-1	OAKVILLE	0.0	DELHI GAS PIPELIN
8424656	F-04-072151	4226130413		102-4		ERCK 6	MCGILL	0.0	CHANNEL INDUSTRIE
8424856	F-10-077762	4235731445		102-4		GRAMSTORFF #4	BOOKER N (MORROW UPPE	183.0	DELHI GAS PIPELIN
8424695	F-06-074147	4245930586		103	107-TF	HERRMANN #1	GILMER (BOSSIER SAND)	0.0	DELHI GAS PIPELIN
8424652	F-05-071570	4229330670		103	107-TF	JOBE #1	POKEY (COTTON VALLEY	0.0	DELHI GAS PIPELIN
8424779	F-08-07670	4237100000		103		MCDONALD "6" #2	PUTNAM (WICHITA - ALB	182.0	DELHI GAS PIPELIN
8424747	F-03-075681	4219931900		102-4		MCRAE "A" #5	ARRIOLA (YEGUA 9100)	0.0	
8424723	F-10-074901	4239330960		102-4		MORRISON "A" #2	UNDESIGNATED	1500.0	DIAMOND CHEMICALS
8424687	F-04-073868	4240931793		103		PERSON #3	WILLMANN (STILLWELL)	0.0	UNITED GAS PIPELI
8424661	F-02-072544	4223931882		103		POWERS G-2	MORALES (FRIO 0-1)	0.0	DELHI GAS PIPELIN
8424698	F-02-074233	4223931904		102-4		POWERS G-4	MORALES	0.0	DELHI GAS PIPELIN
8424697	F-02-074232	4223931902		102-4		POWERS G-5	MORALES	0.0	DELHI GAS PIPELIN
8424722	F-02-074808	4217500000		102-4		SWICKHEIMER A-1	TERRELL POINT	0.0	DELHI GAS PIPELIN
8424730	F-7B-075018	4241735447		102-4		WALKER-BUCKLER 79 #3	ROCKWELL (PALO PINTO)	30.0	DELHI GAS PIPELIN
8424763	F-7B-076072	4241735557		102-4		WALKER-BUCKLER 79 #4	ROCKWELL (PALO PINTO)	30.0	DELHI GAS PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8424810	F-7B-077126	4241735568		102-4		WALKER-BUCKLER 79 #6	ROCKWELL (PALO PINTO)	30.0	DELHI GAS PIPELIN
8424655	F-7B-071982	4241735224		102-4		WINDHAM #2	ROCKWELL E (CONGL)	35.0	DELHI GAS PIPELIN
8424790	F-7B-076917	4236732619		103		WOODY "B" #2	DICEY (CONGLOMERATE)	250.0	TEXAS UTILITIES F
-UNION OIL COMPANY OF CALIF				RECEIVED:	03/16/84	JA: TX			
8424671	F-03-07346	4270830263		102-4		HIGH ISLAND 55L #2	HIGH ISLAND BLOCK 55L	50.0	HIGH ISLAND PIPE
-UNION TEXAS PETROLEUM				RECEIVED:	03/16/84	JA: TX			
8424867	F-02-077830	4228531751		102-4		O A LAMPLEY #3	DRY HOLLOW (FRIO 'B')	0.0	HOUSTON PIPE LINE
8424868	F-7C-077853	4223532130		102-2	103	SUGG "6" #1	ANDREW A (CANYON)	210.0	FARMLAND INDUSTRI
-UTX EXPLORATION INC				RECEIVED:	03/16/84	JA: TX			
8424768	F-02-076298	4202531986		102-4	103	KATHLEEN D ROCHE B 4-T	HEARD RANCH (4330) PR	550.0	TRUNKLINE GAS CO
8424718	F-02-074725	4202531987		103		KATHLEEN D ROCHE C-1	HEARD RANCH (4750)	146.0	HOUSTON PIPE LINE
-VALWOOD PRODUCTION CO				RECEIVED:	03/16/84	JA: TX			
8424633	F-03-056905	4205131864		102-2	103	GERALD ZERNIAL #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-W C S PETROLEUM INC				RECEIVED:	03/16/84	JA: TX			
8424743	F-03-075499	4205132473		102-2		BLM UNIT #2	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-W J WHITT				RECEIVED:	03/16/84	JA: TX			
8424638	F-7B-066836	4204933214		102-4		4-WB #1	WHITT (CADDO MIDDLE)	24.0	EL PASO HYDROCARB
8424639	F-7B-066837	4204933213		102-4		4-WB #3	WHITT (CADDO MIDDLE)	31.0	EL PASO HYDROCARB
8424640	F-7B-06683	4204933321		102-4		4-WB #4	WHITT (CADDO MIDDLE)	20.0	EL PASO HYDROCARB
-W R EDWARDS JR				RECEIVED:	03/16/84	JA: TX			
8424833	F-10-077295	4223300000		103		BARNHILL #401	PANHANDLE HUTCHINSON	0.0	TRANS-PAN PIPELIN
8424832	F-10-077293	4234100000		103		WITHERBEE #3	PANHANDLE MOORE CO	0.0	DIAMOND CHEMICALS
8424831	F-10-077292	4234100000		103		WITHERBEE #4	PANHANDLE MOORE CO	0.0	DIAMOND CHEMICALS
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	03/16/84	JA: TX			
8424836	F-08-077319	4200333740		103		TRIPLE-N GRAYBURG CONS #A-9-P	TRIPLE-N (GRAYBURG)	0.0	PHILLPS PETROLEUM
-WCS PETROLEUM CO				RECEIVED:	03/16/84	JA: TX			
8424771	F-03-076376	4214931626		102-2		LUCKY 13 UNIT #2	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-WHITLEY & YOCHAM OIL CO				RECEIVED:	03/16/84	JA: TX			
8424632	F-7C-055556	4238331585		103		SCOTT #1	JOHN SCOTT (GRAYBURG)	11.8	NEW ENERGY CO
8424631	F-7C-055551	4238331990		103		SCOTT B-2A	JOHN SCOTT (GRAYBURG)	2.2	NEW ENERGY CO
-WINCHESTER PRODUCTION CO				RECEIVED:	03/16/84	JA: TX			
8424782	F-06-076831	4220331068		103	107-TF	JONESVILLE #7	WASKOM (COTTON VALLEY	0.0	TEXAS EASTERN TRA
-WINN EXPLORATION/DULCE CO				RECEIVED:	03/16/84	JA: TX			
8424830	F-01-077290	4250731173		102-4		JACKSON #3	JUDGE MILLS	0.0	NORTHERN NATURAL
8424667	F-01-073321	4250731827		102-4		PRYOR RANCH-#138	WINN-DULCE (OLMOS LOW	0.0	DOS ARCOS CORP
-WOODS PETROLEUM CORPORATION				RECEIVED:	03/16/84	JA: TX			
8424689	F-8A-073923	4207931738		102-4		RJR RANCH #701	BONANZA (SAN ANDRES)	13.0	WARREN PETROLEUM
8424681	F-8A-073737	4207931709		102-4		ROBB #901	BONANZA (SAN ANDRES)	30.0	WARREN PETROLEUM
8424696	F-8A-074191	4207931727		102-4		ROBB #902	BONANZA (SAN ANDRES)	18.0	WARREN PETROLEUM
8424690	F-8A-073924	4207931714		102-4		WELLS #1	BONANZA (SAN ANDRES)	13.0	WARREN PETROLEUM
-ZINN PETROLEUM CO				RECEIVED:	03/16/84	JA: TX			
8424857	F-02-077753	4212300000		102-4		ZINGERLE #1	ANNA BARRE (YEGUA 485	5.0	TEXAS EASTERN TRA

[FR Doc. 84-8429 Filed 4-6-84; 8:45 am]

BILLING CODE 6717-01-C

federal register

Monday
April 9, 1984

Part V

Department of Education

34 CFR Part 503

Bilingual Education; State Educational Agency Projects for Coordinating Technical Assistance; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 503

Bilingual Education; State Educational Agency Projects for Coordinating Technical Assistance

AGENCY: Office of Bilingual Education and Minority Languages Affairs, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations to amend the existing regulations for the State Educational Agency Projects for Coordinating Technical Assistance. This program provides financial assistance through grants to State educational agencies (SEAs) to coordinate technical assistance provided by other agencies to elementary and secondary schools that are carrying out or proposing to carry out programs of bilingual education funded under the Bilingual Education Act in their States.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. Luis Catarineau, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 421, Reporters Building), Washington, D.C. 20202. Telephone (202) 245–2922.

SUPPLEMENTARY INFORMATION: The State Educational Agency Projects for Coordinating Technical Assistance Program is authorized under section 721(b)(5) of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561), 20 U.S.C. 3221.3261.

Regulations for this program were published initially in the **Federal Register** on April 4, 1980 (45 FR 23219). The Secretary recently reviewed those regulations for regulatory burden reduction. Based on that review, the Secretary proposed revisions to the regulations on October 31, 1983 (48 FR 50122).

These final regulations clarify and revise the types of activities eligible for assistance. These regulations add to the list of eligible activities in §503.10 an activity that authorizes an SEA to provide non-degree training to increase the skills of SEA personnel in coordinating technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act. This training activity will enhance the capacity of SEAs to coordinate technical assistance provided by other agencies to improve programs of bilingual education funded under the Act.

These final regulations delete the activity proposed under § 503.10(d) of the current regulations because dissemination of information on State certification requirements for teachers of bilingual education is more properly a State function and does not constitute the type of coordination activity for which Federal funds are made available under the Act.

These regulations delete the provision in §503.10(h) of the current regulations because this activity has rarely been proposed for support in the past and is not considered critical to the successful implementation of this program.

These final regulations require an SEA to include in its application an assurance that the SEA will work cooperatively with, and coordinate with, the support centers, such as the Support Services Projects Centers and the Multifunctional Support Centers, serving the local educational agencies (LEAs) in the State under the Act. This assurance is needed to clarify the role and responsibility of the SEA in accepting assistance under this program.

The selection criteria used to award a grant are contained in § 503.31. These final regulations modify slightly the language of the selection criteria to make it more consistent with the language of the generally applicable selection criteria in 34 CFR Part 75 (Direct Grant Programs) of the Education Department General Administrative Regulations (EDGAR). In addition, these regulations revise the selection criterion on capacity building in §503.31(b) so that the evaluation made under this criterion will be made only on the extent to which the project will increase the capacity of the SEA to coordinate technical assistance provided by other agencies when assistance under the Act is reduced or no longer available.

In response to a number of public comments which demonstrated misunderstanding of the purpose of assistance under this program, these regulations add language to clarify that the SEA serves as a coordinator of technical assistance provided to programs of bilingual education by other agencies, rather than as a direct provider of technical assistance. These regulations also add language to clarify that the SEA program is aimed only at programs of bilingual education in elementary and secondary schools that are assisted under the Act, not at all activities and services assisted under the Act. Finally, these regulations add a new provision §503.30(a) to explain that an award to an SEA under this program is based on the need for the coordination of technical assistance to elementary and secondary programs of bilingual education assisted under the Act, subject to the maximum for the award established by the Act.

These regulations will govern the award of new grants in Fiscal Year 1984. Noncompeting continuation awards will be governed by regulations in effect for Fiscal Year 1983. The following are the comments received on the NPRM and the Secretary's responses:

Section 500.4 What definitions apply to these programs?

Comment. One commenter recommended that a definition of "coordination" be added to 34 CFR Part 500, the Bilingual Education General Provisions.

Response. No change has been made. However, the final regulations revise the descriptions of the activities permitted under this program to clarify that the SEA's role is to coordinate technical assistance provided by other agencies to elementary or secondary schools that are carrying out or proposing to carry out programs of bilingual education assisted under the Act within the State.

Comment. One commenter recommended that a definition of a "State Plan" for the provision of services to limited English proficient (LEP) children be added to 34 CFR Part 500, the Bilingual Education General Provisions.

Response. No change has been made. The purpose of the SEA program is not to provide services, but to coordinate technical assistance provided by other agencies. Also, the SEA program is aimed only at "programs of bilingual education" in elementary or secondary schools within the States that are assisted under the Act, not to all activities and services assisted under the Act.

Section 503.10 What activities are eligible for assistance?

Comment. One commenter stated that the activities permitted under § 503.10 allow only for the coordination of assistance to LEA projects and not to other bilingual programs funded under the Act. The commenter stated further that this is a change from the present regulations. The commenter

recommended that the activities remain unchanged to allow other than LEA projects to participate in the activities of the SEA projects.

Response. No substantive change has been made. Both the current regulations and the NPRM authorize an SEA to coordinate technical assistance to "programs of bilingual education"; the statute has similar language. The statute and the Title VII regulations further define a program of bilingual education as a program in elementary or secondary schools. To clarify the purpose of this program, the final regulations make explicit that an SEA may coordinate technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act. This includes coordinating technical assistance provided by other agencies to institutions of higher education (IHEs) carrying out or proposing to carry out a program of bilingual education jointly with one or more LEA(s), elementary and secondary schools operated or funded by the Bureau of Indian Affairs (BIA), and elementary and secondary schools operated predominantly for Indian children by non-profit organizations of an Indian Tribe.

Comment. One commenter stated that the proposed regulations focus the activities under this program on the needs of LEAs and ignore the needs of IHEs that provide training for personnel who are participating in or planning to participate in bilingual education programs. The commenter recommended that IHEs be a part of SEA activities.

Response. No change has been made. The final regulations do not specifically identify IHEs as direct recipients of coordination services. However, as noted in the preceding response, SEAs may coordinate the provision of technical assistance by other agencies to IHEs carrying out or proposing to carry out, jointly with one or more LEA(s), programs of bilingual education that are assisted under the Act in elementary or secondary schools within the State.

Comment. One commenter stated that elimination of data gathering activities from the allowable activities will effectively signal the Education Department's lack of interest in improving data collection efficiency. The commenter recommended that data gathering activities be retained.

Response. No change has been made. The final regulations eliminate this activity from the list of allowable activities because it was rarely proposed by the SEAs. The Education Department recognizes the importance of data gathering. Although it is not listed as an activity, data gathering may be proposed under paragraph (j) (performing other activities approved in advance by the Secretary that are designed to further the coordination of technical assistance).

Comment. One commenter stated that the review of grant applications and grantee performance of LEAs would exclude the review of projects not operated by LEAs. The commenter recommended that this activity be eliminated because it does not appear consistent with the SEA review procedures of 34 CFR 500.20 of the Bilingual Education General Provisions and it would increase the burden on SEAs.

Response. No substantive change has been made. The final regulations include this activity to allow the SEA to make on-site reviews of programs of bilingual education in elementary or secondary schools for the purpose of determining the need to coordinate technical assistance to these programs. These final regulations revise the description of this activity to clarify that an SEA is permitted to use funds made available under this program to review programs of bilingual education that are assisted under the Act in elementary or secondary schools within the State. This may include elementary or secondary schools that are not within an LEA, such as elementary or secondary schools operated or funded by the BIA.

Comment. One commenter stated that the activity of coordinating assistance to LEAs to select instruments includes only the selection of instruments to evaluate trainees at IHEs, rather than the selection of instruments for all projects served under the Act. The commenter recommended that previous language be retained.

Response. No substantive change has been made. However, the final regulations revise the description of this activity to clarify that SEAs may coordinate technical assistance provided by other agencies to elementary or secondary schools for the selection and use of instruments to measure the language proficiency of trainers in bilingual education programs at IHEs that are carrying out or proposing to carry out, jointly with one or more LEA(s), programs of bilingual education that are assisted under the Act. We note again that the SEA program is aimed only at "programs of bilingual education" in elementary or secondary schools that are assisted under the Act, not at all activities and services assisted under the Act.

Comment. One commenter recommended that the new provision for non-degree training for SEA personnel should be removed from the allowable activities unless additional funds for its implementation are made available.

Response. No change has been made. Participation in the SEA Projects program is voluntary; in addition, of the activities listed in § 503.10, no one particular activity is required. An SEA may select one or more of the activities listed, or propose a different activity under § 503.10(j), depending on the priorities of that SEA. If an SEA feels that training of staff is a priority, funds may be budgeted and a plan developed for that purpose. If the SEA does not wish to use funds from this program for staff training, the SEA simply does not select this activity.

Comment. One commenter recommended the addition of an eligible activity for "coordinating the provision of technical assistance to LEAs in cooperation with the support centers in accordance with the approved State Plan."

Response. No change has been made. We note again that the SEA Project program authorizes SEAs to coordinate technical assistance provided by other agencies, but does not authorize the actual provision of technical assistance or any other services. Therefore, any reference to the provision of services by SEAs is inappropriate under this program.

Comment. One commenter recommended the addition of an eligible activity for "Coordinating procedures to identify promising practices or exemplary approaches in funded projects which can document effectiveness."

Response. No change has been made. An SEA may propose this activity, as it relates to programs of bilingual education in elementary and secondary schools, under § 503.10(j).

Section 503.20 What are the requirements when applying for a grant?

Comment. One commenter stated that the assurance required by § 503.20(b) of the proposed regulations which requires, in part, the SEA to assure it will work cooperatively with and coordinate with support services centers serving the State under the Act, appears duplicative and unnecessary because this requirement is readily accepted and traditionally accomplished by the State. The commenter recommended that this requirement be deleted.

Response. No change has been made. An assurance that the SEA cooperate and coordina e with support services

centers serving the State under the Act is necessary to ensure that the activities authorized under this program increase the effectiveness of, and do not counteract, other programs funded under the Act designed to enable other agencies to provide technical assistance to elementary or secondary schools carrying out or proposing to carry out programs of bilingual education.

Comment. One commenter recommended that the assurance required by § 503.20(b) be changed to make the SEA responsible for the overall State plan of providing services to LEP students and for reviewing and commenting on the delivery of services plan of the support centers.

Response. No change has been made. We note again that the statute authorizes SEAs only to coordinate technical assistance provided by other agencies. To include an assurance that would allow the SEA to be responsible for providing services to LEP students would not be consistent with the statute. Although it is neither obligated nor authorized to review and comment on the service delivery plan of the support services centers serving LEAs of its State, an SEA participating in this program may, on its own initiative and with its own funds, conduct such a review and provide its comments both to the support services centers and to the Department.

Section 503.30 How are funds distributed to State educational agencies?

Comment. One commenter asked why § 503.30 of the regulations does not state how the Department will determine the amount of an individual award to an SEA under this program.

Response. A change has been made. The final regulations add a new paragraph to § 503.30 to explain that an award to an SEA under this program is based on the need for coordination of technical assistance to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act, subject to the maximum for such an award established by the Act.

Section 503.31 What selection criteria does the Secretary use?

Section 503.31(a) Impact.

Comment. One commenter recommended that the selection criteria should not include a determination of whether the SEA's project will increase the quantity of technical assistance because quantity does not necessarily increase quality and the SEA itself does not provide the technical assistance or control the budgets of those providers that do.

Response. A change has been made. The final regulations revise this section of the criteria to describe more fully and accurately the results that the Secretary intends SEA projects to achieve. The Secretary intends that SEA projects for the coordination of technical assistance (1) prevent duplication in the provision of technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act; (2) increase the effectiveness of technical assistance; (3) increase the cooperation between SEAs, in their role as coordinators, and other agencies that provide technical assistance; and (4) increase the quantity and quality of technical assistance. The Secretary intends that an SEA focus its coordination activities assisted with funds made available under the Act on the achievement of these four purposes.

Section 503.31(b) Capacity building.

Comment. One commenter stated that a major function of a Title VII grant is to increase the capacity of local school districts to provide a program of bilingual education when assistance under the Act is reduced or no longer available and that the proposed modification of the capacity building criterion will not allow for SEA oversight of this important function. The commenter recommended that present language be retained.

Response. No substantive change has been made. The final regulations, as did the proposed regulations, modify the capacity building criterion so that it focuses only on the SEA's own capacity to coordinate technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act. The Secretary believes that SEAs must build their own capacity to coordinate technical assistance. Although the capacity building criterion used to evaluate an SEA's project refers only to an SEA's capacity, § 503.10(d) allows an SEA to use grant funds to coordinate technical assistance to LEAs with programs of bilingual education assisted under the Act to develop the LEAs' capacity to provide a program of bilingual education.

Section 503.31(d) Plan of operation.

Comment. One commenter stated that the addition of the requirements for high quality in the plan of operation statements does not add to the quality of the design of the project but rather increases the time necessary to write a proposal. The commenter recommended that present language be retained.

Response. No change has been made. In determining whether an application is of sufficient quality to be selected for funding, the Secretary considers, in part, the quality of the design of the project. The Secretary believes that the quality of the design of the project is one of several accurate predictors of the probable future success of the project and should be included as a selection criterion.

Section 503.31(f) Personnel.

Comment. On commenter stated that the strongest element in the SEA project—the description of the project administration—was removed from the personnel criterion in favor of the description of qualifications. The commenter recommended retaining the present language.

Response. No change has been made. The final regulations strengthen this criterion by ensuring that an application is evaluated based on the minimum qualifications established by an applicant for the director of the project and other key personnel rather than on the resume(s) of a person(s) who may or may not be hired by the applicant.

Comment. One commenter recommended the addition of a new section establishing "a national plan for coordinating services delineating the role of the Office of Bilingual Education and Minority Languages Affairs (OBEMLA)."

Response. No change has been made. The Act establishes the functions and responsibilities of OBEMLA. Within the statutory parameters, the Secretary has broad discretion to establish specific goals and policies for the administration and operation of the Act. These goals and policies may change from year to year. The Secretary believes that it would be unwise to establish these goals and policies in regulations.

Paperwork Reduction Act of 1980

The information collection requirements are approved under OMB Control Number 1885–0003 under the Paperwork Reduction Act of 1980. Expiration Date 10/85.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 28158, June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a

strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

List of Subjects in 34 CFR Part 503

Bilingual education, Education, Elementary and secondary education, Grant program—education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance Number 84.003, Bilingual Education Program)

Dated: April 4, 1984.

T. H. Bell,

Secretary of Education.

The Secretary revises Part 503 of Title 34 of the Code of Federal Regulations to read as follows:

PART 503—BILINGUAL EDUCATION: STATE EDUCATIONAL AGENCY PROJECTS FOR COORDINATING TECHNICAL ASSISTANCE

Subpart A—General

Sec.

503.1 What general provisions apply to this program?

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

503.10 What activities are eligible for assistance?

Subpart C—How Does a State Educational Agency Apply for a Grant?

503.20 What are the requirements when applying for a grant?

Subpart D—How Does the Secretary Make a Grant?

503.30 How are funds distributed to State educational agencies?

503.31 What selection criteria does the Secretary use?

Subpart E—What Conditions Must Be Met by a Grantee?

503.40 What requirements apply to all grantees?

Authority: Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561 (20 U.S.C. 3221-3261; 92 Stat. 2268-2284), unless otherwise noted.

Subpart A—General

§ 503.1 What general provisions apply to this program?

The general provisions of 34 CFR Part 500 apply to this program.

(20 U.S.C. 3231(b)(5))

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 503.10 What activities are eligible for assistance?

Through the following activities, an SEA is authorized to coordinate technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out a program of bilingual education assisted under the Act:

(a) Coordinating assistance provided by other agencies to elementary and secondary schools within the State to improve the quality and adequacy of instruction and management of programs of bilingual education assisted under the Act.

(b) Coordinating the evaluation by other agencies of programs of bilingual education assisted under the Act in elementary and secondary schools within the State to determine their effectiveness.

(c) Coordinating the exchange of information among elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act and with elementary and secondary schools within the State that are carrying out or proposing to carry out State, local, and Federal programs that share similar purposes, goals, and approaches.

(d) Coordinating assistance provided by other agencies to elementary and secondary schools within the State in developing budget and funding strategies for continuing programs of bilingual education assisted under the Act when assistance under the Act is reduced or no longer available.

(e) Coordinating assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act to improve the assessment and use of curriculum materials developed under the Act.

(f) Reviewing grant applications and grantee performance of elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act to determine the need for coordination of technical assistance.

(g) Coordinating assistance provided by other agencies to elementary and secondary schools within the State in the selection and use of instruments in programs of bilingual education assisted under the Act to measure the language proficiency of—

(1) Children of limited English proficiency;

(2) Personnel employed in these programs; and

(3) Trainers in bilingual education training programs at institutions of higher education that have applied jointly with one or more LEA(s) to carry out a program of bilingual education assisted under the Act.

(h) Coordinating the development by other agencies of formal assessment procedures to determine the need for training elementary and secondary school personnel who are participating in, or preparing to participate in, programs of bilingual education assisted under the Act within the State and communicating the identified training needs to the support service centers serving the State under the Act, such as the Support Services Projects Centers and Multifunctional Support Centers serving the State.

(i) Providing non-degree training to increase the skills of State educational agency (SEA) personnel in carrying out their responsibilities with regard to coordinating technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act.

(j) Performing other activities approved in advance by the Secretary that are designed to further the coordination of technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act.

(20 U.S.C. 3231(b)(5)(A))

Subpart C—How Does a State Educational Agency Apply for a Grant?

§ 503.20 What are the requirements when applying for a grant?

An SEA must include the following assurances in its application:

(a) An assurance that it will comply with "the supplement, not supplant" requirement in section 721(b)(5)(A) of the Act.

(b) An assurance that the SEA will work cooperatively with and coordinate with support services centers serving the State under the Act, such as the Support Services Projects Centers and Multifunctional Support Centers providing services to elementary and secondary schools within the State that

are carrying out or proposing to carry out programs of bilingual education assisted under the Act.

(20 U.S.C. 3231(b)(5)(A))

(Approved by the Office of Management and Budget under OMB control number 1885–0003, expiration date 10/85)

Subpart D—How Does the Secretary Make a Grant?

§ 503.30 How are funds distributed to State educational agencies?

(a) Section 721(b)(5)(B) of the Act limits the amount of funds that may be awarded to an SEA under this program to a maximum of five percent of the total amount paid to LEAs within the State under Part A of the Act during the fiscal year preceding the year for which assistance is sought. Within this limit, the actual amount of an award to an SEA is based on the need to coordinate technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act during the same fiscal year for which assistance is sought.

(b) The Secretary awards a grant to each SEA that applies if the SEA—

(1) Meets the applicable requirements in the Act and in these regulations; and

(2) Submits an application that achieves a score of at least 50 points under the selection criteria.

(c) The Secretary permits an SEA to modify and resubmit an application that has been disapproved under paragraph (b)(2) of this section.

(20 U.S.C. 3231(b)(5))

§ 503.31 What selection criteria does the Secretary use?

In reviewing an SEA application for assistance the Secretary uses the following criteria worth a total of 100 possible points:

(a) *Impact.* (25 points)

(1) The Secretary considers the extent to which the project will improve the coordination of technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act.

(2) In making this determination the Secretary considers the extent to which the project—

(i) Prevents duplication in the technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act;

(ii) Increases the effectiveness of technical assistance;

(iii) Increases the cooperation between SEAs, in their roles as coordinators, and other agencies that provide technical assistance; and

(iv) Increases the quality and quantity of technical assistance.

(b) *Capacity building.* (25 points)

The Secretary considers the extent to which the project activities will increase the capacity of the SEA to coordinate technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act when assistance under the Act is reduced or no longer available.

(c) *Evaluation plan.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and will produce data that are quantifiable.

(d) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program; and

(iv) A clear description of the way the applicant plans to use its resources and personnel to achieve each objective.

(e) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Personnel.* (20 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications established for the position of the project director;

(ii) The qualifications established for each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (f)(2) (i) and (ii) of this section will commit to the project, and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) The Secretary also considers the quality of the applicant's plan to recruit and employ bilingual personnel for the project.

(4) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(20 U.S.C. 3231 (b)(3)(H), (b)(5))

(Approved by the Office of Management and Budget under OMB control number 1885–0003, expiration date 10/85)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 503.40 What requirements apply to all grantees?

(a) A grantee shall use funds made available under this Part to supplement and, to the extent practical, increase the level of funds that, in the absence of the grant, would be made available by the State for activities authorized under § 503.10 for the coordination of technical assistance provided by other agencies to elementary and secondary schools within the State that are carrying out or proposing to carry out programs of bilingual education assisted under the Act, and in no case to supplant those funds.

(b) A grantee shall employ bilingual personnel for the project, to the extent possible.

(20 U.S.C. 3231 (b)(3)(H), (b)(5))

[FR Doc. 84-9395 Filed 4-6-84; 8:45 am]

BILLING CODE 4000-01-M

Reader Aids

Federal Register

Vol. 49, No. 69

Monday, April 9, 1984

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, APRIL

13001-13098.....2
13099-13332.....3
13333-13464.....4
13465-13670.....5
13671-13860.....6
13861-14076.....9

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11888 (Amended by EO 12471).....13101
12002 (See EO 12470).....13099
12046 (Amended by EO 12472).....13471
12214 (See EO 12470).....13099
12413 (Amended by EO 12471).....13101
12470.....13099
12471.....13101
12472.....13471

Proclamations:
4707 (Amended by EO 12471).....13101
4768 (Amended by EO 12471).....13101
5170.....13129
5171.....13465
5172.....13467
5173.....13469

7 CFR

28.....13861
301.....13131
421.....13132
440.....13671
510.....13668
631.....13133
713.....13479
907.....13481
910.....13675, 13861
989.....13133
1942.....13862

Proposed Rules:
53.....13704
54.....13704
989.....13883
800.....13148
1004.....13541
1033.....13541
1036.....13541
1040.....13543
1049.....13541
1062.....13541
1064.....13541
1065.....13541
1124.....13887

8 CFR

100.....13134
103.....13134

9 CFR

81.....13863

12 CFR

226.....13482

13 CFR

107.....13864
121.....13675

14 CFR

39.....13486-13488
71.....13333, 13334, 13489
93.....13676

Proposed Rules:
36.....13375
39.....13543, 13545
47.....13375
71.....13545
91.....13375
255.....13156

15 CFR

385.....13135
399.....13135
924.....13335
929.....13335
935.....13335
936.....13335
937.....13335
938.....13335

16 CFR

13.....13676
305.....13136
436.....13677
1115.....13820

Proposed Rules:
1700.....13888

17 CFR

200.....13678, 13865
230.....13336
240.....13867

Proposed Rules:
3.....13378
4.....13378
140.....13378

19 CFR

18.....13490
162.....13492
271.....13337

Proposed Rules:
271.....13378
Ch. II.....13379

20 CFR

404.....13872
416.....13872

Proposed Rules:
404.....13710

21 CFR

1.....13338
73.....13137
74.....13138, 13339

81.....13138, 13339–13344
82.....13138, 13339
101.....13338, 13679
136.....13690
175.....13138
177.....13138
178.....13345
182.....13139
184.....13139, 13346
442.....13492
510.....13493
522.....13872
529.....13483
556.....13872
558.....13142, 13348, 13494

Proposed Rules:
100.....13157
131.....13713
161.....13157
182.....13157
184.....13157

22 CFR
301.....13692
502.....13693

26 CFR
31.....13143

Proposed Rules:
1.....13157

29 CFR
1601.....13873

Proposed Rules:
1910.....13380
1928.....13714

30 CFR
913.....13494
942.....13349

Proposed Rules:
904.....13157
913.....13380
914.....13691
934.....13158
935.....13159
942.....13546

31 CFR
103.....13548
129.....14054

32 CFR
701.....13350
840.....13521
888.....13521
889.....13522

Proposed Rules:
865.....13382

33 CFR
100.....13522
165.....13695, 13696

Proposed Rules:
100.....13715
110.....13160
401.....13551

34 CFR
503.....14072

36 CFR

Proposed Rules:
13.....13160
50.....13387

37 CFR
1.....13462
5.....13462

38 CFR
36.....13350, 13553

Proposed Rules:
21.....13892

39 CFR
601.....13352

40 CFR
52.....13144, 13145, 13522
60.....13646, 13874–13878
61.....13658, 13875–13878
81.....13145, 13352
145.....13525
271.....13526, 13697
461.....13879
600.....13832

Proposed Rules:
52.....13174, 13893
60.....13392, 13654
271.....13716

41 CFR
14–2.....13353

42 CFR
420.....13698
435.....13526
436.....13526

43 CFR
4.....13353

44 CFR
64.....13879
67.....13353

46 CFR
310.....13364

47 CFR
Ch. I.....13366
0.....13366
73.....13370, 13371, 13534

48 CFR
Ch. 1.....13881
Ch. 3.....13960
7.....13236

49 CFR
1310.....13881

Proposed Rules:
Ch. VII.....13719
175.....13717
394.....13555

50 CFR
23.....13538
602.....13372
655.....13373
671.....13373

Proposed Rules:
17.....13556, 13558, 13720

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List April 6, 1984

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $550 domestic, $137.50 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at **(202) 783-3238** from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	$6.00	Jan. 1, 1984
3 (1982 Compilation and Parts 100 and 101)	6.00	Jan. 1, 1983
*4	12.00	Jan. 1, 1984
5 Parts:		
*1-1199	13.00	Jan. 1, 1984
1200-End, 6 (6 Reserved)	6.00	Jan. 1, 1983
7 Parts:		
0-45	9.00	Jan. 1, 1983
*46-51	12.00	Jan. 1, 1984
*52	14.00	Jan. 1, 1984
53-209	7.50	Jan. 1, 1983
210-299	7.00	Jan. 1, 1983
300-399	7.50	Jan. 1, 1984
400-699	6.50	Jan. 1, 1983
700-899	6.50	Jan. 1, 1983
900-999	8.50	Jan. 1, 1983
1000-1059	7.50	Jan. 1, 1983
*1060-1119	9.00	Jan. 1, 1984
1120-1199	7.00	Jan. 1, 1983
1200-1499	7.00	Jan. 1, 1983
1500-1899	6.50	Jan. 1, 1983
1900-1944	8.00	Jan. 1, 1983
1945-End	7.00	Jan. 1, 1983
8	6.50	Jan. 1, 1983
9 Parts:		
1-199	7.50	Jan. 1, 1983
200-End	9.50	Jan. 1, 1984
10 Parts:		
0-199	9.00	Jan. 1, 1983
200-399	12.00	Jan. 1, 1984
400-499	6.50	Jan. 1, 1983
500-End	7.00	Jan. 1, 1983
11	5.50	July 1, 1983
12 Parts:		
1-199	7.00	Jan. 1, 1983
200-299	8.00	Jan. 1, 1983
300-499	7.00	Jan. 1, 1983
500-End	8.00	Jan. 1, 1983
13	8.00	Jan. 1, 1983
14 Parts:		
1-59	7.00	Jan. 1, 1983
60-139	7.00	Jan. 1, 1983
140-199	7.00	Jan. 1, 1984
200-1199	7.00	Jan. 1, 1983
1200-End	7.50	Jan. 1, 1984
15 Parts:		
0-299	6.50	Jan. 1, 1983
300-399	7.00	Jan. 1, 1983
400-End	7.50	Jan. 1, 1983

Title	Price	Revision Date
16 Parts:		
0-149	7.00	Jan. 1, 1983
150-999	7.00	Jan. 1, 1983
1000-End	7.00	Jan. 1, 1983
17 Parts:		
1-239	8.00	Apr. 1, 1983
240-End	7.00	Apr. 1, 1983
18 Parts:		
1-149	7.00	Apr. 1, 1983
150-399	8.00	Apr. 1, 1983
400-End	6.50	Apr. 1, 1983
19	8.50	Apr. 1, 1983
20 Parts:		
1-399	5.50	Apr. 1, 1983
400-499	7.00	Apr. 1, 1983
500-End	7.50	Apr. 1, 1983
21 Parts:		
1-99	6.00	Apr. 1, 1983
100-169	6.50	Apr. 1, 1983
170-199	6.50	Apr. 1, 1983
200-299	4.75	Apr. 1, 1983
300-499	8.00	Apr. 1, 1983
500-599	6.50	Apr. 1, 1983
600-799	5.00	Apr. 1, 1983
800-1299	6.00	Apr. 1, 1983
1300-End	5.00	Apr. 1, 1983
22	8.50	Apr. 1, 1983
23	7.00	Apr. 1, 1983
24 Parts:		
0-199	6.00	Apr. 1, 1983
200-499	8.00	Apr. 1, 1983
500-799	5.00	Apr. 1, 1983
800-1699	6.50	Apr. 1, 1983
1700-End	6.00	Apr. 1, 1983
25	8.00	Apr. 1, 1983
26 Parts:		
§§ 1.0-1.169	8.00	Apr. 1, 1983
§§ 1.170-1.300	7.50	[1] Apr. 1, 1982
§§ 1.301-1.400	6.00	Apr. 1, 1983
§§ 1.401-1.500	7.00	Apr. 1, 1983
§§ 1.501-1.640	6.50	Apr. 1, 1983
§§ 1.641-1.850	7.50	[1] Apr. 1, 1982
§§ 1.851-1.1200	8.00	Apr. 1, 1983
§§ 1.1201-End	8.50	Apr. 1, 1983
2-29	7.00	Apr. 1, 1983
30-39	6.00	Apr. 1, 1983
40-299	7.50	Apr. 1, 1983
300-499	6.00	Apr. 1, 1983
500-599	8.00	[2] Apr. 1, 1980
600-End	5.00	Apr. 1, 1983
27 Parts:		
1-199	6.50	Apr. 1, 1983
200-End	6.50	Apr. 1, 1983
28	7.00	July 1, 1983
29 Parts:		
0-99	8.00	July 1, 1983
100-499	5.50	July 1, 1983
500-899	8.00	July 1, 1983
900-1899	5.50	July 1, 1983
1900-1910	8.50	July 1, 1983
1911-1919	4.50	July 1, 1983
1920-End	8.00	July 1, 1983
30 Parts:		
0-199	7.00	July 1, 1983
200-699	5.50	Oct. 1, 1983
700-End	13.00	Oct. 1, 1983
31 Parts:		
0-199	6.00	July 1, 1983
200-End	6.50	July 1, 1983

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	8.50	July 1, 1983
1–39, Vol. II	13.00	July 1, 1983
1–39, Vol. III	9.00	July 1, 1983
40–189	6.50	July 1, 1983
190–399	13.00	July 1, 1983
400–699	12.00	July 1, 1983
700–799	7.50	July 1, 1983
800–999	6.50	July 1, 1983
1000–End	6.00	July 1, 1983
33 Parts:		
1–199	14.00	July 1, 1983
200–End	7.00	July 1, 1983
34 Parts:		
1–299	13.00	July 1, 1983
300–399	6.00	July 1, 1983
400–End	15.00	July 1, 1983
35	5.50	July 1, 1983
36 Parts:		
1–199	6.50	July 1, 1983
200–End	12.00	July 1, 1983
37	6.00	July 1, 1983
38 Parts:		
0–17	7.00	July 1, 1983
18–End	6.50	July 1, 1983
39	7.50	July 1, 1983
40 Parts:		
0–51	7.50	July 1, 1983
52	14.00	July 1, 1983
53–80	14.00	July 1, 1983
81–99	7.50	July 1, 1983
100–149	6.00	July 1, 1983
150–189	6.50	July 1, 1983
190–399	7.00	July 1, 1983
400–424	6.50	July 1, 1983
425–End	13.00	July 1, 1983
41 Chapters:		
1, 1–1 to 1–10	7.00	July 1, 1983
1, 1–11 to Appendix, 2 (2 Reserved)	6.50	July 1, 1983
3–6	7.00	July 1, 1983
7	5.00	July 1, 1983
8	4.75	July 1, 1983
9	7.00	July 1, 1983
10–17	6.50	July 1, 1983
18, Vol. I, Parts 1–5	6.50	July 1, 1983
18, Vol. II, Parts 6–19	7.00	July 1, 1983
18, Vol. III, Parts 20–52	6.50	July 1, 1983
19–100	7.00	July 1, 1983
101	14.00	July 1, 1983
102–End	6.50	July 1, 1983
42 Parts:		
1–60	12.00	Oct. 1, 1983
61–399	7.50	Oct. 1, 1983
400–End	17.00	Oct. 1, 1983

Title	Price	Revision Date
43 Parts:		
1–999	9.00	Oct. 1, 1983
1000–3999	14.00	Oct. 1, 1983
4000–End	7.50	Oct. 1, 1983
44	12.00	Oct. 1, 1983
45 Parts:		
1–199	9.00	Oct. 1, 1983
200–499	6.00	Oct. 1, 1983
500–1199	12.00	Oct. 1, 1983
1200–End	9.00	Oct. 1, 1983
46 Parts:		
1–40	9.00	Oct. 1, 1983
41–69	9.00	Oct. 1, 1983
70–89	5.00	Oct. 1, 1983
90–139	9.00	Oct. 1, 1983
140–155	8.00	Oct. 1, 1983
156–165	9.00	Oct. 1, 1983
166–199	7.00	Oct. 1, 1983
200–399	12.00	Oct. 1, 1983
400–End	7.00	Oct. 1, 1983
47 Parts:		
0–19	12.00	Oct. 1, 1983
20–69	14.00	Oct. 1, 1983
70–79	13.00	Oct. 1, 1983
80–End	13.00	Oct. 1, 1983
48	1.50	[3] Sept. 19, 1983
49 Parts:		
1–99	7.00	Oct. 1, 1983
*100–177	14.00	Nov. 1, 1983
178–199	13.00	Nov. 1, 1983
200–399	12.00	Oct. 1, 1983
400–999	13.00	Oct. 1, 1983
1000–1199	12.00	Oct. 1, 1983
1200–1299	12.00	Oct. 1, 1983
1300–End	7.50	Oct. 1, 1983
50 Parts:		
1–199	9.00	Oct. 1, 1983
200–End	13.00	Oct. 1, 1983
CFR Index and Findings Aids	17.00	Jan. 1, 1984
Complete 1983 CFR set	615.00	1983
Complete 1984 CFR set	550.00	1984
Microfiche CFR Edition:		
Complete set (one-time mailing)	155.00	1982
Subscription (mailed as issued)	250.00	1983
Subscription (mailed as issued)	200.00	1984
Individual copies	2.25	1983

[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).