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federal register

Thursday
April 17, 1986

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Environmental Protection Agency

Animal Diseases
Animal and Plant Health Inspection Service

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Presidential Documents

Title 3—

The President

Proclamation 5459 of April 14, 1986

Pan American Day and Pan American Week, 1986

By the President of the United States of America

A Proclamation

The peoples of the Western Hemisphere are bound together by a shared belief in peace, prosperity, justice, and freedom.

The Organization of American States is the embodiment of that common commitment to these basic principles through its Charter and the Rio Treaty. As one of the oldest international organizations in existence, the OAS has worked vigorously to broaden peaceful exchanges between the peoples it represents and the world community; to reduce the tensions and conflicts arising within the Hemisphere; and to stoutly resist aggressive threats from outside. The record of the OAS in the peaceful settlement of disputes, the promotion of democratic values, and the protection of human rights has earned worldwide respect and admiration.

The Charter of the OAS clearly expresses the belief of the peoples of the region in the effective exercise of representative democracy. There are currently more democratic states in this Hemisphere than at any other time in history, an eloquent witness to the solid progress in this area.

Recently, the OAS began an effort to revitalize the inter-American system, to enhance its peacekeeping role, to strengthen its dedication to human rights, and to increase its effectiveness in improving living conditions for all who dwell in this Hemisphere.

On this Pan American Day of 1986, the people of the United States extend a warm and friendly greeting to all our neighbors in the Americas. We reaffirm our active support for the Organization of American States and the goal of Hemispheric amity and solidarity. We renew our solemn commitment to those principles to which the members of the OAS wholeheartedly pledged themselves at the December 1985 General Assembly in Cartagena.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Monday, April 14, 1986, as Pan American Day, and the week beginning April 13, 1986, as Pan American Week. I urge the Governors of the fifty States, and the Governor of the Commonwealth of Puerto Rico, and officials of other areas under the flag of the United States of America to honor these observances with appropriate activities and ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

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Filed 4-15-86; 4:26 pm]
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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 701

Conservation and Environmental Programs; Definition Procedures

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule a proposed rule which was published in the **Federal Register** on October 8, 1985 (50 FR 40980). The proposed rule revised the Agricultural Stabilization and Conservation Service (ASCS) regulations found at 7 CFR § 701.73 which set forth the procedures used by ASCS to define an eligible person for maximum payment limitation purposes under the related Conservation and Environmental Programs contained in 7 CFR Part 701. The adoption of this rule provides a common procedure applicable to all programs administered by ASCS for determining eligible persons for maximum payment limitation purposes.

EFFECTIVE DATE: April 17, 1986.

FOR FURTHER INFORMATION CONTACT: Gordell A. Brown, Director, Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, telephone 202-447-6221.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed for compliance with Executive Order 12291 and Departmental Regulation No. 1521-1 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 milllion or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance Program to which this rule applies are: Title—Agricultural Conservation Program; Number—10.063; Title—Emergency Conservation Program (ECP), Number—10.054; Title—Forestry Incentives Program (FIP), Number—10.064; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Proposed Rule

On October 8, 1985, a proposed rule was published in **Federal Register** (50 FR 40980) which revised the Agricultural Stabilization and Conservation Service (ASCS) regulations found at 7 CFR 701.73. Those regulations provide the criteria used by ASCS to make determinations of "eligible persons" for maximum payment limitation purposes under the related Conservation and Environmental Programs contained in 7 CFR Part 701.

The provisions of 7 CFR Part 795 are used by the agency to make determinations of "eligible persons" for maximum payment limitation purposes for certain commodity payment programs which are administered by ASCS. The proposed rule set forth an amendment to 7 CFR 701.73 adopting the relevant provisions of 7 CFR Part 795, for making determinations of "eligible persons" for maximum payment limitation purposes under the related Conservation and Environmental Programs contained in 7 CFR Part 701. The proposed rule also set forth a technical amendment to correct the authority citation for 7 CFR Part 701.

A comment period with respect to the provisions of the proposed rule was provided through December 9, 1985. No comments were received with regard to the proposed rule. Accordingly, based upon a review of the provisions of the proposed rule, it has been determined that such provisions should be adopted as a final rule without change.

List of Subjects in 7 CFR Part 701

Disaster assistance, Forest and forest products, Grant programs, Natural resources, Rural areas, Soil conservation, Water resources, Wildlife.

Final Rule

Accordingly, the proposed rule published at 50 FR 40980 revising 7 CFR Part 701 is hereby adopted as a final rule as follows:

1. The authority citation for Part 701 is revised to read as follows:

Authority: Pub. L. 74-46, secs. 5, 7-15, 16(a), 16(f), 16A, 17, 49 Stat. 163, as amended (16 U.S.C. 590d, 590g-590o, 590p(a), 590q); Pub. L. 93-86, secs. 1001-1009, 87 Stat. 241 (16 U.S.C. 1501-1510); Pub. L. 95-313, secs. 4, 8(a), 10, 92 Stat. 365 (16 U.S.C. 1510, 1606, 2101-2111); Pub. L. 95-334, secs. 401-405, 92 Stat. 433 (16 U.S.C. 2201-2205).

2. Section 701.73 is amended by removing paragraph (c) and by revising paragraph (b) to read as follows:

§ 701.73 Applying cost-share limitations.

* * * * *

(b) The rules set forth in 7 CFR § 795.3 through § 795.22 shall apply in determining whether certain individuals or other entities are to be considered as separate persons for the purpose of applying any maximum payment limitations provided for in this Part. In cases where more than one rule would appear to be applicable, the rule which is most restrictive as to number of persons shall apply.

Signed at Washington, D.C. April 11, 1986.

Milton Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86-8492 Filed 4-16-86; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 760

Dairy Indemnity Payment Programs

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interm rule.

SUMMARY: The purpose of this interim rule is to amend the Dairy Indemnity Payment Program regulations to extend the operation of the program through September 30, 1990 and to provide that manufacturers of dairy products who receive a payment under the Dairy Indemnity Payment Program and are later compensated for the same loss by the person responsible for such loss, shall refund the amount of the indemnity payment to the Department of Agriculture.

EFFECTIVE DATE: This regulation shall become effective April 17, 1986. Comments must be received by May 19, 1986 in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Clarence Domire, Agricultural Program Specialist, Emergency Operations and Livestock Programs Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013; Telephone (202) 447-7673.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 760) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0560-0045.

This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "not major." This rule has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this rule applies are: Title: Dairy Indemnity Payments; Number: 10.053, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

The Dairy Indemnity Payment Program was originally authorized by section 331 of the Economic Opportunity Act of 1964 (78 Stat. 508). The statutory authority for the program has been extended several times, most recently by section 152 of the Food Security Act of 1985 (99 Stat. 1337) which authorizes the program to be carried out through September 30, 1990. The objective of the program is to indemnify dairy farmers and manufacturers of dairy products who, through no fault of their own, suffer income losses with respect to milk or milk products which is removed from commercial markets because such products contain certain harmful residues. In addition, dairy farmers can also be indemnified for income losses with respect to milk which is required to be removed from commercial markets due to residues of chemicals or toxic substances or contamination by nuclear radiation or fallout.

The Food Security Act of 1985 made no substantive changes with respect to the Dairy Indemnity Payment Program but merely extended the time period for conducting the program. The regulations governing the program (7 CFR Part 760) currently authorize the operation of the program through September 30, 1985. Accordingly, it is necessary to amend § 760.2 of these regulations to make them effective through September 30, 1990.

In addition, § 760.8 of the regulation has been revised to provide that, beginning with fiscal year 1986, all applications for payment must be filed with the county ASCS for the county where the farm headquarters are located no later than December 31 following the fiscal year in which the loss occurred, or such later date as the Deputy Administrator may specify.

The regulations governing the Dairy Indemnity Payment Program were revised in 1979 to pervent producers from receiving what is considered to be a "double indemnity," i.e., compensation for the same loss by the Department of Agriculture and the person (or the representative or successor in interest of such person) responsible for such loss. If the producer is compensated for the same loss by the person responsible for the loss, the procedure is required to refund the Department of Agriculture the amount of the indemnity payment which is equal to the amount of the compensation which is received by the producer. It has been determined that a similar provision should be made applicable to manufacturers of dairy products. Accordingly, a new § 760.23(c) has been added which provides that a manufacturer of any dairy products must refund the Department the amount of dairy indemnity payments which is received which is equal to the amount of any compensation which is later received by the manufacturer from the person responsible for the loss.

This regulation is being promulgated as an interim rule because of an immediate need to reimburse dairy farmers and manufacturers for losses incurred as a result of a serious heptachlor contamination in milk and dairy cattle in Arkansas, Missouri and Oklahoma. It is estimated that between 50 and 70 dairy farmers will have severe cash flow problems because of lost income from milk production if assistance is not made available immediately under the Dairy Indemnity Payment Program. A 30 day comment period is being provided to allow interested persons an opportunity to comment on the provisions of this interim rule. A final rule will be issued together with any changes which are necessary as a result of the comments received on the provisions of the interim rule.

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Pesticides and Pests.

Interim Rule

PART 760—[AMENDED]

Accordingly, the regulations at 7 CFR Part 760 are amended as follows:

1. The authority citation for 7 CFR Part 760 continues to read:

Authority: Secs. 1, 2, and 3, 99 Stat. 1337, as amended (7 U.S.C. 450j, k, and l).

§ 760.2 [Amended]

2. In § 760.2, paragraph (k) (1) and (2), (l), and (o) are amended by striking out "1985" and inserting in lieu thereof "1990".

§ 760.8 [Amended]

3. Section 760.8 is amended by striking out "October 7, 1985" and inserting in lieu thereof "December 31 following the

end of the fiscal year in which the loss occurred".

4. Section 760.23 is amended by adding a new paragraph (c) as follows:

§ 760.23 Other Requirements for Manufacturers.

* * * * *

(c) In the event that a manufacturer receives an indemnity payment under this subpart, and such manufacturer is later compensated for the same loss by the person (or the representative or successor in interest of such person) responsible for such loss, the indemnity payment shall be refunded by the manufacturer to the Department of Agriculture: *Provided,* That the amount of such refund shall not exceed the amount of other compensation received by the manufacturer.

Signed at Washington, D.C. on April 10, 1986.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86-8499 Filed 4-16-86; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 86-044]

Change in Disease Status of Great Britain Because of Hog Cholera

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations concerning the importation into the United States of swine, pork, and pork products by removing Great Britain (England, Scotland, Wales, and Isle of Man) from the lists of countries where hog cholera is not known to exist. The effect of this action is to impose certain prohibitions and restrictions on the importation of swine, pork, and pork products from Great Britain. This is necessary in order to help prevent the introduction of hog cholera into the United States.

DATES: Effective date is April 11, 1986. Written comments must be received on or before June 16, 1986.

ADDRESSES: 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. Comments should state that they are in response to Docket Number 86-044. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION:

Background

On April 11, 1986, the Department was notified by the Government of Great Britain that an outbreak of hog cholera has been diagnosed in swine in Great Britain. The diagnosis of hog cholera was based on clinical signs and laboratory confirmation. Hog cholera is an acute, highly infectious viral disease of swine characterized by sudden onset and a high mortality rate.

The regulations in 9 CFR Part 94 (the regulations) regulate the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases, including hog cholera. Section 94.9 of the regulations restricts the importation into the United States of pork and pork products from countries where hog cholera is known to exist. The restrictions include cooking, heating, or curing and drying procedures designed to ensure that the pork or pork products have been treated in a manner adequate to destroy organisms which could spread hog cholera. Section 94.10 of the regulations, with certain exceptions, prohibits the importation of swine which originate in or are shipped from or transit any country in which hog cholera is known to exist. Sections 94.9 and 94.10 of the regulations indicate that the disease is known to exist in all countries of the world except for certain countries listed in those sections.

Prior to the effective date of this document, Great Britain (England, Scotland, Wales, and Isle of Man) was included in the list in §§ 94.9 and 94.10. In order to help prevent the introduction of hog cholera into the United States, this document amends §§ 94.9 and 94.10 of the regulations by removing Great Britain from the lists of countries where hog cholera is not known to exist.

The effect of this action is to impose the prohibitions and restrictions referred to above on the importation into the United States of swine, pork, and pork products from Great Britain.

Emergency Action

Dr. John K. Atwell, Deputy Administrator for Veterinary Services, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. Under the circumstances explained above, it is necessary that the rule be made effective immediately in order to help prevent the introduction of hog cholera into the United States.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 533, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are unnecessary, and good cause is found for making this interim rule effective upon publication. Comments are being 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 12291 and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures for Executive Order 12291 with respect to this interim rule. Immediate action is warranted in order to help prevent the introduction of hog cholera into the United States.

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.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 94

African swine fever, Animal diseases, Exotic Newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog Cholera, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, Rinderpest, Swine vesicular disease.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, 9 CFR Part 94 is amended as follows:

PART 94—[AMENDED]

1. The authority citation for Part 94 continues to read as set forth below:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.9 [Amended]

2. In paragraph (a) of § 94.9, "Great Britain (England, Scotland, Wales, and Isle of Man)," is removed both times it appears.

§ 94.10 [Amended]

3. In § 94.10 "Great Britain (England, Scotland, Wales and Isle of Man)," is removed.

Done at Washingon, DC this 11th day of April 1986.

G.J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 86-8219 Filed 4-16-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ANE-13; Amdt. 39-5281]

Airworthiness Directive; CFM International CFM56-3/-3B Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections of the transfer gearbox for radial drive shaft oil distributor looseness and condition of the spirolock on CFM56-3 series turbofan engines. The AD is needed to prevent radial drive shaft disengagement which will result in an engine shutdown.

DATES: Effective April 15, 1986.

Compliance Schedule—As prescribed in the body of the AD.

Incorporation by reference—Approved by the Director of the Federal Register effective April 15, 1986.

ADDRESSES: The applicable service bulletin (SB) may be obtained from CFM International, 1 Neumann Way, Cincinnati, Ohio 45215.

A copy of the SB is contained in the Rules Docket Number 86-ANE-13, in the Office of the Regional Counsel, Room Number 311, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: GordonVertescher, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7087.

SUPPLEMENTARY INFORMATION: The FAA has determined that there have been two inflight shutdowns resulting from radial driveshaft disengagement. Shaft disengagement was caused by oil distributor/bevel gear looseness and spirolock wear. Sample inspection of 86 of 249 fleet engines revealed 22 engines with distributors that could result in an inflight shutdown. Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires an initial inspection of the oil distributor and spirolock. A repetitive inspection of the retaining ring is required if a loose oil distributor is found. Reinspection continues until the loose oil distributor is replaced.

It is noted that because of aircraft installation effects due to wing dihedral the Number 2 engine of the B737-300 is more susceptible to failure than the Number 1 engine. The above sample inspection revealed two aircraft with both engines having loose distributors.

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

Conclusion

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

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding to § 39.13 the following new airworthiness directive (AD):

CFM International: Applies to CFM International CFM56-3/-3B series turbofan engines.

Compliance is required within the next 50 hours time in service (TIS) after the effective date of this AD for engines installed in the Number 2 position and within 150 hours TIS after the effective date of this AD for engines installed in the Number 1 position on B737-300 aircraft unless already accomplished.

To prevent engine shutdown from radial drive shaft disengagement, accomplish the following:

Inspect oil distributor Part Number (P/N) 335-305-800-0 and spirolock P/N 649-363-137-0 in accordance with CFMI CFM56-3/-3B Service Bulletin (SB) 72-205 Revision 2, dated March 19, 1986, or FAA approved equivalent.

(a) If the oil distributor is loose and spirolock is serviceable, either re-inspect the spirolock for serviceability in intervals not to exceed 125 hours TIS since last inspection or replace the oil distributor in accordance with SB 72-205, Revision 2.

(b) If the oil distributor is loose and spirolock is not serviceable, replace the spirolock prior to further flight and either reinspect the spirolock for serviceability within 250 hours TIS or replace the oil distributor.

(c) If the oil distributor is tight no further inspections are required.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal

Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, Burlington, Massachusetts, may adjust the compliance time specified in this AD.

CFMI SB Number CFM56-3/-3B 72-205, Revision 2, dated March 19, 1986, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request, to CFM International, 1 Neumann Way, Cincinnati, Ohio 45215. This document also may be examined at the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on March 28, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86-8671 Filed 4-15-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-ANE-10; Amdt. 39-5275]

Airworthiness Directives; Garrett Turbine Engine Co., Model TPE331-25AA, -25AB, -25DA, -25DB, -25FA, -43A, -43BL, -47A, and -55B Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspection, and replacement as necessary, of the second stage turbine stator seal plate assembly on Garrett Turbine Engine Company (GTEC) TPE331 PreCentury Engines. The AD is needed to determine when severe warpage of seal plate assembly has occurred which could result in contact between the seal plate assembly and the second stage turbine rotor assembly. Contact between the assemblies has resulted in four cases of uncontained separation of the rotor assembly.

DATES: Effective April 18, 1986.

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

Incorporation by Reference approved by the Director of the Federal Register effective April 18, 1986.

ADDRESSES: The applicable Service Bulletin may be obtained from: Garrett General Aviation Service Company, Department H65-1, Building 601AD, P.O. Box 29003, Phoenix, Arizona 85038.

A copy of the Service Bulletin is contained in the Rules Docket, Docket No. 86-ANE-10, Federal Aviation Administration, New England Region, Room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Moring, Propulsion Section, ANM-174W, FAA, Northwest Mountain Region, Western Aircraft Certification Office, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007; telephone (213) 297-1380.

SUPPLEMENTARY INFORMATION: The FAA has determined that warpage of the second stage turbine stator seal plate assembly in certain GTEC Model TPE331 PreCentury turboprop engines could cause an uncontained separation of the second stage turbine rotor assembly. Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires repetitive inspection and replacement, as necessary, of the second stage turbine stator seal plate assembly on GTEC Model TPE331-25AA, -25AB, -25DA, -25DB, -25FA, -43A, -43BL, -47A, and -55B turboprop engines. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

2. By adding the following new AD to § 39.13:

Garrett Turbine Engine Company (GTEC, formerly AiResearch Manufacturing Company of Arizona): Applies to GTEC Model TPE331-25AA, -25AB, -25DA, -25DB, -25FA, -43A, -43BL, -47A, and -55B turboprop engines with Part Number 865037-10 through -70 second stage turbine stator seal plate assembly installed.

Compliance is required as prescribed in the body of the AD unless already accomplished.

To prevent interference between the second stage rotor and the second stage turbine stator seal plate assembly and possible uncontained failure of the second stage turbine rotor assembly, accomplish the following:

(a) Radiographically inspect the second stage turbine rotor and seal plate assemblies within the next 200 engine operating hours time in service after the effective date of this AD, or prior to the next 500 engine operating hours time in service after the last engine overhaul, whichever comes later, and at intervals not to exceed 300 engine operating hours thereafter. Inspect in accordance with procedures provided in Paragraph 2.A in Garrett Service Bulletin No. TPE331-72-0522 dated February 5, 1986.

(b) Remove from service prior to further flight warped second stage turbine stator seal plate assemblies which fail to meet the radiographic inspection standards. Replace with an assembly in serviceable condition.

Note.—Garrett has also provided instructions for accomplishing an interim rotational check of the engine in Paragraph 2.A in Service Bulletin No. TPE331-72-0522. The FAA has approved and encourages operators to perform this inspection at 25 hour intervals until the radiographic inspection is accomplished; however, the rotational check is not mandatory.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Western Aircraft Certification Office, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Western Aircraft Certification Office, P.O. Box 92007, Los Angeles, California 90007-

2007 may adjust the compliance times specified in this AD.

Garrett Service Bulletin No. TPE331-72-0522 dated February 5, 1986, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Garrett General Aviation Services Company, Department H65-1, Building 601AD, P.O. Box (29003, Phoenix, Arizona 85038. These documents also may be examined at the Office of the Regional Counsel, 86-ANE-10, Federal Aviation Administration, New England Region, Room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on March 25, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86-8668 Filed 4-16-86; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Parts 100 and 165

[CGD 86-027]

Ports and Waterways; Safety and Security Zones

AGENCY: Coast Guard, DOT

ACTION: Notice of Temporary Rules Issued.

SUMMARY: This document gives notice of temporary safety zones, security zones, and special local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time in limited areas. Safety Zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Security zones are temporary established in response to a risk to national security present in a particular area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes safety zones, security zones, and special local regulations that were established between January 1, 1986 and March 31, 1986 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the last published list.

ADDRESS: The complete text of any temporary regulations may be examined at, and is available on request from, Executive Secretary, Marine Safety Council (C-CMC), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, Deputy Executive Secretary, Marine Safety Council at (202) 426-1477.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since Marine events and emergencies usually take place without advance notice or warning, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulations, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary special local regulations, security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones, special local regulations, and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period January 1, 1986 through March 31, 1986 unless otherwise indicated:

Docket Number	Location	Type	Date
COTP Providence, RI, 86-01	Rhode Island Sound	Safety Zone	14 JAN 1986
COTP Memphis, TN, 85-16	Arkansas River, Mile 42	Safety Zone	25 DEC 1985
COTP Memphis, TN, 86-01	Arkansas River, Mile 42	Safety Zone	1 JAN 1986
COTP Memphis, TN, 86-02	Lower Mississippi River, Mile 732	Safety Zone	8 JAN 1986
3-86-3	Riverhead, L.I.	Safety Zone	17 JAN 1986
COTP Wilmington, NC, 86-01	Cape Fear River, Southport, NC	Safety Zone	27 JAN 1986
COTP Hampton Roads, VA, 86-01	James River, Newport News, VA	Safety Zone	15 MAR 1986
COTP Wilmington, NC, 86-02	Cape Fear River, Southport, NC	Safety Zone	6 MAR 1986
COTP Baltimore, MD, 86-02	Baltimore Harbor, MD	Security Zone	21 FEB 1986
COTP Miami, FL, 7-86-03	Miami Beach, FL	Safety Zone	10 JAN 1986
COTP Miami, FL, 7-85-02	New River, Ft. Lauderdale, FL	Safety Zone	13 JAN 1986
COTP Miami, FL, 7-86-13	25.37.3N, 080.05W, Atlantic Ocean	Safety Zone	28 MAR 1986
COTP Miami, FL, 7-86-09	Intracoastal Waterway, Bascule Bridge, Boca Raton, FL	Safety Zone	14 MAR 1986
COTP New Orleans, LA, 85-49	Mississippi River, Mile 145.9	Safety Zone	15 NOV 1985
COTP New Orleans, LA, 85-18	Mississippi River, Mile 126.5	Safety Zone	3 SEP 1985
COTP New Orleans, LA, 85-20	Lake Pontchartrain, LA	Safety Zone	18 DEC 1985
COTP Mobile, AL, 86-05	Chattahoochee River, Mile 25	Safety Zone	5 MAR 1986
COTP Mobile, AL, 86-04	Mobile Shipe, Channel	Safety Zone	7 FEB 1986
COTP Mobile, AL, 86-03	Alabama State Docks	Safety Zone	2 FEB 1986
COTP Mobile, AL, 86-02	Mobile Ship Channel	Safety Zone	2 FEB 1986
COTP Mobile, AL, 85-18	Bayou Grande	Safety Zone	15 NOV 1985
COTP Mobile, AL, 85-19	St. Joe, Panama City, FL & Intracoastal Waterway, Mile 331	Safety Zone	22 NOV 1985
COTP Mobile, AL, 85-21	Mississippi Sound, Horn Island Pass Channel	Safety Zone	2 DEC 1985
COTP Port Arthur, TX, 85-03	Port of Beaumont & Sabine, Neches Waterway	Security Zone	27 DEC 1985
COTP Galveston, TX, 85-01	Freeport, TX	Safety Zone	19 DEC 1985
COTP Houston, TX, 85-001	San Jacinto River, Baytown, TX	Safety Zone	4 NOV 1985
COTP Chicago, IL, 85-03	Indiana Harbor Canal	Safety Zone	10 DEC 1985
COTP San Diego, CA, 86-02	San Diego Bay, CA	Safety Zone	16 JAN 1986
COTP San Diego, CA, 85-18	San Diego Bay, CA	Safety Zone	11 JAN 1986
COTP San Diego, CA, 86-04	San Diego Bay, CA	Safety Zone	6 MAR 1986
11-86-04	Parker, AZ	Special Local Regulations	1 MAR 1986
11-86-05	Alamitos Bay, Long Beach, CA	Special Local Regulations	12 MAR 1986
11-86-06	Colorado River	Special Local Regulations	15 MAR 1986
12-86-03	Sacramento & San Joaquin River Deep Water	Safety Zone	18 FEB 1986
12-86-04	Sacramento & San Joaquin River Deep Water	Safety Zone	24 FEB 1986

Docket Number	Location	Type	Date
12-86-08	Sacramento & San Joaquin River Deep Water	Safety Zone	12 MAR 1986
COTP San Francisco, CA, 86-01	Carquinez Strait, CA	Safety Zone	4 JAN 1986

Dated: April 11, 1986.

R.F. Ingraham,

Captain, U.S. Coast Guard, Executive Secretary Marine Safety Council.

[FR Doc. 86-8655 Filed 4-16-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 261

Possession, Storage, and Transportation of Food Materials; Prohibitions

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for public comment.

SUMMARY: Part 261 of Title 36 of the Code of Federal Regulations sets forth acts that are prohibited within the National Forest System. This interim rule provides forest officers immediate authority to prohibit or regulate the possession, storage, or transport of food, refuse, and plant and animal material that attracts bears. The rule is particularly needed in National Forest areas inhabited by grizzly bears, a threatened species. The interim rule may also be used to manage black bear, or other resources in specific areas. The intended effect is to reduce conflicts between bears and National Forest users and the unacceptable risk to each that results when such conflicts occur. The Forest Service invites public comment on the interim rule, which will be considered in the formulation of a final rule.

DATES: Effective April 17, 1986. Comments on the interim rule should be received by June 2, 1986.

ADDRESS: Send written comments on this rule to R. Max Peterson, Chief (2600), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

Comments received may be inspected during normal business hours in the office of the Director of Wildlife and Fisheries, Room 605, Rosslyn Plaza East Building, 1621 North Kent Street, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Kirk Horn, Threatened and Endangered Species Program Manager, Wildlife and Fisheries Staff, (703) 235-8015.

SUPPLEMENTARY INFORMATION: Part 261 lists prohibited acts within the National Forest System that are necessary to protect public health, safety, and forest resources. Subpart B authorizes Forest Service line officers to close or restrict the use of specific areas under their jurisdiction. Section 261.58 sets forth the various activities involved in occupancy and use of National Forest System lands that a line officer may prohibit.

This interim rule amends the list of prohibited acts to permit forest officers to prohibit the storage of animals or animal parts and tree or plant material and to prohibit the possession or storage of any food or refuse in designated areas, as specified in the order.

The absence of these prohibitions from the rule is a long-standing oversight which has come to the agency's attention as forest officers have sought effective means of reducing conflicts between humans and bears in National Forests. This need is particularly critical for reducing conflicts between forest users and recovery management for the grizzly bear.

The grizzly bear is listed as a Federally threatened species and as such requires affirmative management action by the Forest Service to protect the bear. The Forest Service is equally responsible for protecting public health and safety on National Forest lands. An important aspect of meeting both responsibilities is to reduce the likelihood of conflicts between bears and humans. This interim rule provides the necessary mechanism to restrict or prohibit altogether and enforce how hunters, campers, and other National Forest users store and transport materials that are a food source for bears, and therefore, attractive to them. The authority provided by the rule will play an important role in providing public safety and meeting recovery efforts for the grizzly bear in the Yellowstone grizzly bear ecosystem and in other National Forest areas where conflicts with other species of bear require administrative action. When needed, these orders will be posted for public review at access points to bear use areas, Forest Supervisor, and Ranger District offices.

Since bear populations will be emerging from hibernation soon, there is a need to make the rule effective immediately. However, public comments are invited and will be fully considered in develolping a final rule.

Regulatory Impacts and Review

This rule has been reviewed for its regulatory impact pursuant to E.O. 12291, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and implementing Departmental procedures. The Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this regulation is not a major rule and will not have a significant economic impact on a substantial number of small entities. To the best of the agency's knowledge, this rule will have, at most, only minor economic effect on the public or user groups as a result of requirements to store or move food and refuse. Basically, the rule fills an enforcement gap that resource management and public safety needs now dictate be corrected.

It has also been determined that this rule will not have any significant impact on the quality of the environment and that this determination is categorically excluded from documentation in an environmental assessment or impact statement.

This rule contains no information collection requirements as defined in 5 CFR 1320.

List of Subjects in 36 CFR Part 261

Law enforcement, National Forests.

Therefore, for the reasons set forth above, Part 261 of Title 36 of the Code of Federal Regulations is amended as follows:

PART 261—PROHIBITIONS

1. The authority citation continues to read as follows:

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended (7 U.S.C. 1011(f)); 82 Stat. 916 (16 U.S.C. 1246(i))); 92 Stat. 1650, as amended (16 U.S.C. 1133(c)-(d)(1)), unless otherwise noted.

2. Revise paragraphs (s) and (t) and add a new paragraph (cc) so that these paragraphs read as follows:

§ 261.58 Occupancy and use.

* * * * *

(s) Possessing, storing, or transporting any bird, fish, or other animal or parts thereof, as specified in the order.

(t) Possessing, storing, or transporting any part of a tree or other plant, as specified in the order.

* * * * *

(cc) Possessing or storing any food or refuse, as specified in the order.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

March 24, 1986.

[FR Doc. 86-8652 Filed 4-16-86; 8:45 am]

BILLING CODE 3410-11-M

POSTAL SERVICE

39 CFR Part 111

Sacking Regulations for Bulk Third-Class Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rulemaking changes mail preparation requirements for bulk third-class mail, generally increasing the minimum quantity of mail required in each sack of mail qualifying for bulk third-class rates to 125 pieces or 15 pounds. Although minimum sack fullness requirements increase under the new regulations, the relationship between sacking level and rate level is being relaxed. Thus, the overall effect of the regulations on rate eligibility is expected to be small. For example, the new regulations permit mailers to sack their carrier-route packages in sacks of mail directed to 3-digit destinations, in order to qualify for the carrier route rate in those instances where they do not have sufficient volumes to meet the minimum fullness requirements for 5-digit carrier route and carrier routes sacks. The number of pieces required for each carrier-route package would remain at 10 pieces, and the entire sack would qualify for the carrier-route rate, provided there were at least 125 pieces or 15 pounds of mail contained in the sack. The rulemaking also waives mandatory compliance with the new requirements for a period of approximately 4 months after implementation. During this period, mailers can elect to comply with either existing or new requirements.

EFFECTIVE DATE: April 20, 1985, on an optional basis; August 24, 1986, on a mandatory basis.

FOR FURTHER INFORMATION CONTACT: Thomas P. Shipe, (202) 268-2678.

SUPPLEMENTARY INFORMATION: On December 31, 1985, the Postal Service published in the **Federal Register**, for comment, a proposed rule concerning changes in the sacking regulations for bulk third-class mail set forth in the Domestic Mail Manual (DMM). 50 FR 53342-48. The change was proposed to eliminate inefficiencies associated with minimum sacking requirements that were found to be significantly below the most economical levels. As explained more fully in the supplementary information accompanying the proposed rule, sacking requirements for bulk third-class mail have changed from time to time, in response to changes in postal operations and mailer practices.

The current change in regulations can be traced to continuing growth in bulk third-class mail volumes, especially since the introduction of presortation discounts in the late 1970s and early 1980s. This growth has produced periodic, severe strains on sack-sorter capacity at a number of Bulk Mail Centers (BMCs). In 1984, the Postal Service began to explore noncapital solutions to growing capacity problems. Part of this effort was an extensive study of sack content characteristics. This study was conducted during 1984 and 1985 and was followed by an economic analysis. The proposed rule's basic 125-piece/15-pound minimum sacking requirement for bulk third-class mail was based on the results of that analysis.

The proposed rule advanced a general revision of the sacking requirements for bulk third-class mail, and also suggested that mailers be given a 60-day period for compliance with the new regulations. As an aid to the transition from the current requirements to the proposed ones, mailers would be permitted, but not required, to comply with the new regulations during that period.

The Postal Service received 24 comments in response to the proposed rule. Summaries of those comments, as well as the disposition of those comments in the final rule, are arranged by subject matter in the following paragraphs of this notice.

I. Transition Period

The transition period, the period during which compliance with the new regulations would be permitted but not required, was of concern to the greatest number of commenters. Among the 24 comments received, 10 firms or associations (one of which submitted four virtually identical comments) sought a transition period longer than the 60-day period suggested by the Postal Service in the proposed rule. The period requested by these commenters ranged from 4 to 9 months. In addition, one firm asked that the Postal Service create a waiver procedure, under which exceptions would be made for major mailings prepared far in advance of the date scheduled for mail deposit. Finally, one firm endorsed the creation of a transition period, but did not take issue with the 60-day period proposed by the Postal Service, or propose a transition period of its own.

The Postal Service is aware of the problems experienced by mailers in attempting to make a transition from one set of mail preparation requirements to another. As a number of commenters noted in explaining and defending their proposals for longer transition periods, compliance with new preparation requirements, in many cases, requires computer programming changes. In addition, the process of assembling a large bulk third-class mailing often involves a number of service providers, among them list preparers, printers, designers, and mail preparation firms. The Postal Service attempted to minimize the disruption caused by new requirements in the formulation of its proposed rule, through discussions held as early as July of last year with a variety of mailers and mailer groups.

In the final rule, the Postal Service is waiving mandatory compliance with the new regulations for two months beyond the originally proposed 60 days, in order to further accommodate mailers' needs. An extension to eight or nine months, as proposed by several commenters, is not available as a practical matter. The study described in the proposed rule indicated that current mail preparation requirements introduced substantial inefficiencies to postal processing of third-class mail. The Postal Service's responsibility to eliminate these inefficiencies, as envisioned in the proposed rule, is not consistent with an extension of current preparation methods through, or beyond, the high-volume autumn mailing period. Of more immediate concern is the strain on sack-sorting capacity, which was also described in the proposed rule. Projections for the peak autumn mailing period indicate that volumes will approach or exceed capacity at several major facilities in the absence of preparation requirement changes. Thus, new requirements must be in place, and new procedures made part of operational routine, by the end of the summer. The resultant cost reductions and the avoidance of system overloads are expected to generate benefits for both the Postal Service and the mailing public. Thus, the extended waiver of required compliance with the new requirements will end on August 24, 1986; compliance becomes mandatory for all bulk third-class mail entered on or after that date.

II. Criticisms of Minimum Quantities and Alternative Proposals

The proposed 125-piece/15-pound standard was questioned by two

commenters. One expressed doubt that the same standard should be valid for all categories of sacks, and suggested that the Postal Service could, under the proposed regulations, continue to receive "skin" sacks, for example, of 125 half-ounce pieces. This commenter is correct in noting that a set of sacking requirements determined strictly according to a mathematical formula would exhibit variations based upon, among other things, presortation level and origin-destination characteristics. The 125-piece standard is near the low end of a range of crossover points identified in the study referenced in the proposed rule. Thus, it provides for a uniform, simpler set of preparation requirements that permits mailers greater opportunities to prepare direct sacks than would a complex, multiple-level standard.

This commenter's concern about "skin" sacks is not directly related to the problems addressed in the proposed rule. The Postal Service has no precise definition for "skin" sacks, and none is being adopted in this rule. The basic problem being addressed is inefficiency resulting from the presence in the postal system of a large number of sacks containing very little mail. The Postal Service has determined that sound operations would be supported by separate handling of sacks of mail containing at least 125 pieces; that sacks containing the minimum number of pieces might not be bulky does not undermine that conclusion.

Another commenter indicated that its own tests called into question the Postal Service's conclusion that the proposed requirements would reduce the number of sack handlings as projected; this commenter also noted that the proposed regulations would result in an increase in package-handling operations. The Postal Service's study was based upon a sampling of tens of thousands of sacks, and there are undoubtedly mailers whose mailings would differ from an average. This would be especially true for mailers who are not entering nearly empty sacks of mail under the options offered by current regulations. This commenter correctly identifies an increase in package-handling operations. As discussed in section IV below, the costs of these operations were considered in the Postal Service study as expenses partially offsetting the savings resulting from a reduction in the number of sack-handling operations.

Two firms included in their comments an alternative proposal for changes in third-class mail preparation requirements. One suggested that (1) the 125-piece requirement for carrier-route sacks be changed to a minimum of 750 cubic inches; (2) the eligibility requirement for the five-digit rate be dropped from 50 to 25 pieces; and (3) sack preparation requirements for basic-rate mail be changed to a minimum of 9 packages per sack at all sacking levels. (This commenter cited difficulties in preparing basic rate sacks on the basis of piece-count or weight standards.)

This commenter's first and third suggestions propose a change not only in the quantity levels established for the preparation of various types of sacks, but a change in the units of measure according to which the standards are set. This commenter does not provide a rationale supporting its proposed switch from number of pieces to volume as a minimum for carrier-route sacks. The Postal Service has identified two shortcomings in this approach, in addition to its imposition of a change in measurement systems on mailers, with unknown effects on preparation activities and rate eligibility. First, the results of the Postal Service's study provide no support for a cubic-inch standard. Second, postal verification activities would be complicated by the addition of this standard, which could not be checked as readily as weight or piece count.

The commenter's proposal for a 9-package minimum for all basic-rate sacks would, like the 750-cubic inch proposal for carrier-route rate, add another factor to mailers' preparation processes. In the case of sacks barely meeting a 9-package standard, the contents could consist of as few as 90 pieces, well below the 125-piece minimum supported by the Postal Service's study. Finally, a preparation requirement based upon the number of packages could encourage mailers to prepare large numbers of minimum-size packages, which would have to be handled individually by the Postal Service. Although it is not adopting this alternative proposal, the Postal Service has eliminated the minimum quantity requirement for state sacks, which will limit the extent to which sacks will shift from one category to another.

This commenter's second suggestion, that the eligibility requirement for 5-digit rates be reduced from 50 to 25 pieces, is a variation on the rate-eligibility proposals discussed in section V., below. For reasons stated there, the Postal Service has designed preparation requirements which make its processing operations more efficient, and which have a minimal effect on rate eligibility.

The second commenter-sponsored alternative would extend the current 50-piece/10-pound minimum for 5-digit sacks to carrier-route sacks. The Postal Service is not adopting this approach for two reasons. First, the problem addressed by the proposed and final rules—inefficient sack handling for third-class mail—relates to the way mailers prepare third-class mailings, not simply to the carrier-route rate level. Second, because the current 50-piece/10-pound standard does not result in efficient postal processing, adoption of this proposal would simply expand and standardize an undesirable situation. This commenter also suggested maintenance of a 12-package guideline for basic rate mail. However, for reasons stated above, a standard based on the number of packages in a sack would not promote efficient postal processing.

One commenter suggested that the Postal Service focus on smaller mailers, encouraging them to use plastic sacks. This suggestion is not being adopted, as this rulemaking deals with problems related to processing of individual sacks, rather than the type of sack used by the mailer or the total number of pieces in the mailing.

III. Requested Exceptions to Fullness Requirements

Two commenters sought exceptions to the sacking requirements related to carrier-route and five-digit rates. One commenter sought a general exception under which a certain number or certain percentage of 3-digit sacks could fall below the 125-piece/15-pound minimum. This suggestion is not being adopted by the Postal Service. General allowances for underfilled sacks would undermine the economic basis for the new requirements, and would unnecessarily complicate the verification process. However, the final rule contains changes responsive to a number of specific needs noted by this commenter and others.

The second commenter raised two issues related to its saturation mailings. First, where there are one small carrier route and a number of larger routes at a 5-digit facility, a saturation mailer could be required to prepare a sack for each of the larger carrier routes, and be required, under the proposed rule, to place the remaining route's mail in a 3-digit sack. Thus, the mailer might be unable to sack all mail to the destination facility, despite saturation of the entire 5-digit area. This result would be especially unfortunate in the case of mail shipped directly to the 5-digit facility. The commenter suggested that the proposed rule's exception for small offices be extended to small carrier routes.

The commenter's second point related to the requirement that a separate sack be prepared if 15 pounds or more of mail were destined for the same carrier route within a 5-digit area. Because the commenter prepares its address files before it can determine the exact weight of the mail piece, the proposed rule could require it to alter the make-up of a mailing simply because there was a slight change in the weight of the mail piece. For example, if the mailer were preparing to send 59 4-ounce pieces to a particular carrier route, a slight increase in the weight of each piece could require a shift of that mail from a 5-digit carrier route sack to an individual carrier route sack. The commenter suggested changing the 15-pound element of the standard to a mailer option.

Another commenter stated that while the proposed requirements were designed to reduce the number of sacks handled by the Postal Service, it would require the preparation of more sacks labelled to individual carrier routes. In the final rule, DMM section 667.321 is revised and renumbered. Section 667.322 now specifies that individual carrier route sacks "should," rather than "must," be prepared when there are 125 pieces or 15 pounds of qualifying mail destined for the same carrier route. This change should also address all three problems identified in this section, as the regulations would not require the preparation of separate sacks for each carrier route. However, as the new language of section 667.321 indicates, the Postal Service encourages mailers to prepare carrier route sacks when 125 pieces or 15 pounds or more of mail are destined for a single carrier route. The Postal Service will monitor the number of 5-digit carrier route sacks submitted under the new requirements, and will make further adjustments in regulations if mailers unnecessarily consolidate mail for too many carrier routes for which separate sacks meeting the 125-piece/15-pound standard might have been prepared.

A similar modification of the minimum fullness requirements is being added to the final rule for mailers who use Express Mail service to drop ship bulk third-class mail to destination offices. Since such mailings are processed as Express Mail to the destination post office, avoiding most third-class sack-handling operations, the Postal Service wants to enable mailers to continue to use Express Mail service for drop shipping third-class mail. Therefore, sections 667.131, 667.321 and 667.42 have been modified in the final rule to provide that third-class mailings drop shipped under section 136.7 may be prepared in sacks containing fewer than 125 pieces or less than 15 pounds of mail.

IV. Effect of Preparation Requirements on Costs and Service; Mail Preparation Required of Basic Rate Mailers

Eight commenters expressed concern about the impact of the proposed regulations on costs and service performance for third-class mail. These concerns focused on two aspects of the changes proposed. First, several commenters were concerned about the effects on costs and service of the shifting of some carrier-route mail from carrier route to 5-digit sacks or from 5-digit sacks to 3-digit sacks. As the Postal Service acknowledged in the proposed rule, a shift from 5-digit sacks to 3-digit sacks will require additional package handlings at the destinating 3-digit facility, where the sack will be opened and the packages sorted. In many cases, mail shifting from a carrier route to a 5-digit carrier routes sack will also incur an additional package handling. The costs of performing these package distributions were thoroughly examined in arriving at the proposed preparation requirements. The Postal Service will generate savings net of these additional costs.

Two commenters were concerned about testing of the new regulations. The Postal Service has taken steps to assure that implementation of the provision calling for 3-digit sacking of carrier route and 5-digit mail will not degrade service provided to third-class mail. In order to prepare for the change, the Mail Processing Department, in conjunction with the Postal Service's five regions, has conducted a test at five sites. The test was performed to determine more fully the operational changes needed to implement the anticipated changes in preparation requirements, so that service will not be adversely affected when the changes are implemented. The results of the test will be used to assist in the implementation of the changes, and support postal management's earlier assessment. That is, the results have shown that only modest changes in workfloor operations will be required, and that the Postal Service's ability to achieve current service standards for this mail will not be impaired.

One commenter suggested postponement of new regulations applicable to basic rate mail, pending further study. This mailer believed that the sacking study did not address basic rate mail. In fact, the study examined sacking requirements for all rate categories. The Postal Service is proceeding to implement preparation requirements that are applicable to all rate categories.

The second service-related area addressed in the comments was service provided for basic rate mail not meeting the minimum requirements for a 3-digit sack. One commenter was concerned about service afforded basic rate mail which will shift under the new requirements to lower (less destination-specific) sack types. This mailer sequences its mail by BMC area; it foresaw difficulty in preparing state sacks of the requisite fullness where minimum requirements for 3-digit sacks could not be met. This commenter proposed the elimination of minimum fullness requirements for state sacks. These commenters were concerned about both difficulties in complying with the requirements and with effects of the proposed rule on service.

Where the proposed rule would require that relatively small quantities of mail be prepared in state sacks, some mail would be processed in an additional postal facility. In this connection, one commenter foresaw a need for increased, and more costly, tracking by mailers. While the routing of mail through additional facilities could add to the time required for delivery, there will be offsetting service relief of bottlenecks at BMCs. Also, mailers are encouraged to prepare optional SCF and SDC sacks after preparing 3-digit sacks. In many cases, these optional sacks avoid the routing of mail through additional facilities. In any event, the Postal Service expects that the quantity of mail so affected will be extremely small because very little of today's basic rate mail is contained in a sack falling below the new minimums. Finally, the Postal Service is adopting the proposal that the minimum fullness requirements for state sacks be eliminated. This change was specifically suggested by one commenter. This will limit the extent to which mail must be routed through additional facilities. However, for reasons stated in section III above, the Postal Service has generally maintained the 125-piece/15-pound minimum for 5-digit and 3-digit sacks at all rate levels in the final rule.

V. Effect of Requirements on Postage Levels

Questions or criticisms related specifically to 5-digit rate mail were raised by seven commenting parties. Two advocated a relaxation in the eligibility requirements for the 5-digit rate, citing the cost reductions that the Postal Service can achieve through more efficient processing. These commenters stated that they did not understand why

expanded eligibility, discussed by the Postal Service at an earlier time, was not included in the proposed rule. One of these two was concerned that mail preparation businesses would experience savings through reduced preparation effort, but may not pass savings along to users of third-class mail services. (This is a matter beyond the scope of this rulemaking.) Another commenter advocated a reduction in the 5-digit rate as compensation for a loss in carrier route discounts. An actual change in rates, however, would require proceedings before the Postal Rate Commission. Thus, this suggestion is beyond the scope of this rulemaking.

Although the issue of expanded discount eligibility was considered before publication of the proposed rule, the Postal Service did not include such a feature in the proposal, and has not altered that approach in the final rule. The Postal Service intends to capture, to the extent possible, potential cost savings stemming from more efficient operations; however, these savings do not relate to additional preparation work undertaken by third-class mailers. In fact, as one commenter noted, mail preparation should be less costly under the new requirements. Thus, the requirement should result in savings for many mailers, even without postage reductions.

Some comments referred to expanded discount eligibility as part of the "work sharing" concept underlying many discounted rate categories. This concept is not fully applicable to the instant rulemaking. Generally, "work sharing" involves a shift of functions from the Postal Service to the mailer, with a rate differential that reflects the costs avoided by the Postal Service when the mailer undertakes the new functions. In this case, the change does not require or encourage mailers to take on new functions; rather, it requires that mailers perform preparation functions differently, and in many cases, more cheaply. The savings achieved by the Postal Service are ultimately returned to rate payers, and the effects of the current changes will inevitably be reflected in future cost measurements and rate-setting processes.

Six of the commenters noted that the proposed rule would in some way not be strictly "revenue neutral," citing possible loss of carrier-route or 5-digit discounts. One urged that the Postal Service study the issue of postage impact, while another estimated the frequency of disqualification for its mailings at 2 percent of carrier-route volume, and 11 percent of 5-digit rate volume, another estimated a shift of approximately 5 percent of carrier-route mail to the 5-digit category. One of the four was concerned about a substantial loss of qualification for 5-digit rates, but noted that its concerns would be alleviated if the 5-digit rate were available for mail in 3-digit sacks, which is a feature of both the proposed and final rules. In addition, several commenters cited costs associated with computer programming efforts and other work associated with compliance with new regulations. One of these commenters asserted that beyond the costs associated with conversion to the new requirements, it would experience an increase in ongoing mail preparation costs in an amount equivalent to 1.6 percent of its annual third-class postage bill.

A loss in qualification levels would occur only where a mailer cannot assemble 125 pieces or 15 pounds of mail in a given category for an entire 3-digit area, inasmuch as the new requirements maintain the 50-piece/10-pound requirement for 5-digit rate eligibility and the 10-piece requirement for carrier route eligibility. Thus, the nation-wide incidence of this mailer difficulty should be small.

The Postal Service recognizes that regulation changes do entail some mailer costs. However, given the inefficiencies detected in postal operations, and the severe strain on sack-sorting capacity under current requirements, a change in preparation requirements is necessary. Beyond the costs of conversion, the Postal Service received comments indicating both higher and lower mailer preparation costs. As noted in section V above, even mailers with increased internal costs will share the benefits of more efficient mail processing in future rate proceedings. The approach taken in the proposed rule, as modified in the final rule, mitigates the effects on mailers in four respects.

First, the Postal Service has taken a new approach to changes in third-class preparation requirements. In the historical regulations changes summarized in the proposed rule, the Postal Service altered sacking and eligibility requirements simultaneously. Thus, for example, the shift from a 10-piece to a 50-piece standard for 5-digit mail required 5-digit sacks of greater fullness, and also represented a fivefold increase in the eligibility requirement. Under the approach taken here, eligibility for discounted rates changes very slightly, and only insofar as mailers are unable to meet the basic limitations on the size of qualifying 3-digit sacks. Under the earlier approach, considerable volumes of mail might be denied eligibility for discounted rates.

Second, the effect of change on mailers has been mitigated through extension of the optional compliance period to 4 months. Third, the quantitative analysis approach that forms the basis of the new regulations should enable the Postal Service to avoid future disruptive, successive changes in regulations, based on trial and error.

Finally, while mailers will have to adapt to new requirements, the result will be a reduction in the number of sacks prepared overall. Thus, the Postal Service expects, based upon mailer comments, that many mailers will experience ongoing savings in mail preparation.

VI. Relationship Between Preparation Requirements and Domestic Mail Classification Schedule Changes

Seven comments pertained to a change in the Domestic Mail Classification Schedule (DMCS), which will take effect on a temporary basis on April 20, 1986 (51 FR 12409), pending the completion of proceedings before the Postal Rate Commission in its Docket No. MC86–2. While the DMCS change was not a prerequisite for increases in minimum sack sizes, it was necessary for implementation of the regulations in their proposed and final forms.

In the proposed rule, the Postal Service noted that it would consider implementing changes in preparation requirements in two stages, in order to achieve greater efficiencies in the processing of basic and carrier-route rate bulk third-class mail without unnecessary delay. Five comments objected to a two-stage implementation, suggesting that the Postal Service await completion of proceedings before the Postal Rate Commission. A sixth commenter noted that ready acceptance of the new requirements by mailers would depend upon Rate Commission approval of the Postal Service's proposal. The seventh commenter simply reported its confusion about the relationship between the rulemaking and the Rate Commission's classification docket.

This rulemaking and Postal Rate Commission Docket No. MC86–2 are related, but neither is wholly dependent on the other. This rulemaking is similar to those making past changes in third-class sacking requirements, which were summarized in the proposed rule. None of those changes required classification change proceedings before the Postal Rate Commission. The need for the current change prompted the Postal

Service to seek a classification change because an uncommon feature of the proposed and final rules coincided with a peculiar feature of the DMCS. Under the new requirements, some mail in 3-digit sacks will qualify for 5-digit rates. Under the section of the DMCS which is the subject of Docket No. MC86-2, the 5-digit category is defined—in part—by the facility at which pieces and packages are handled individually by the Postal Service. The new minimum fullness requirements could have been implemented without a classification schedule change, but only if eligibility for 5-digit rates were significantly restricted in the process. The classification schedule change at issue before the Rate Commission, and now implemented on a temporary basis, effective April 20, 1986, would be appropriate and important to the Postal Service even in the absence of new preparation requirements; it rests on general principles of the division of responsibilities and functions between the Postal Service and the Commission. The classification schedule change is being pursued at this time in order to avoid potentially disruptive changes in postage charges for mailers using the 5-digit category.

Implementation of the DMCS change on a temporary basis, as noted above, obviates consideration of two-step implementation of the new regulations. Since the final rule is fully consistent with the proposal being considered by the Rate Commission, final approval of the proposed DMCS change would not require any changes, so that the effects of two-stage implementation could be avoided. Adoption of this final rule on the basis of the temporary DMCS change enables the Postal Service to begin achieving processing efficiencies without awaiting the completion of Rate Commission proceedings. Thus, the Postal Service has been able to avoid a two-step implementation procedure without a substantial sacrifice in cost savings, and without imposing a significant rate burden on bulk third-class mailers.

VII. Sack Labels

One commenter praised the extended list of permissible abbreviations provided in the proposed rule, and suggested further additions to that list. The final rule contains an expanded list of appropriate sack label abbreviations in DMM section 667.

VIII. Provisions Related to Machinable Parcels

Two commenters raised questions about the changes in preparation requirements for machinable parcels. One requested that a provision be added to section 667.2 or 667.4 of the DMM, making it explicit that a sack or other container of machinable parcels meeting the 10 pound requirement would be eligible for the 5-digit rate. In the final rule, the Postal Service has added language to section 622.12a which makes this clear. Thus, no changes have been made in section 667, which covers mail preparation.

The second commenter, which enters machinable parcels at the basic third-class bulk rate, addressed the proposed requirement that a sack be prepared when the quantity of small parcels for a 5-digit area reached or exceeded 10 pounds. This commenter requested relief from this requirement, as it prefers the simpler preparation requirements associated with the higher basic rate. In order to give the commenter and similarly situated mailers an opportunity to remain in the basic-level rate for small parcel mailings, the Postal Service is altering the final rule to provide that preparing five-digit sacks of machinable parcels at the 10-pound level is optional.

IX. Other Issues and Questions

One commenter asked how the Postal Service would verify compliance with the terms of the exception for portions of saturation mailings destined for small offices, and asked whether a list of offices to which the exception applies would be made available. A list of post offices serving areas for which the exception will be available is currently being developed. Details on acquiring this list, and its use in verification, along with conforming DMM changes, will be published in the *Postal Bulletin* in advance of the mandatory August 24, 1986, compliance date.

Verification will be facilitated by a requirement, added to sections 667.131, 667.321 and 667.42, that bulk third-class mailers indicate on their mailing statements whether the weight or piece-count standard, or both, were applicable to the preparation of the mailing. This will enable acceptance personnel to verify the mailing using the correct procedures.

The Postal Service has also modified the exception for saturation mailings to make it clear that sacks for the portion of the mailing falling under the exception would not be subject to a minimum weight criterion, as the exception applies on the basis of the number of residential deliveries in a 5-digit area. The relevant portion of section 667.323 is being revised to state that mailers may prepare 5-digit sacks containing "fewer than 125 pieces or less than 15 pounds of mail for those 5-digit ZIP Code areas that do not have a sufficient number of residential deliveries to meet the 125 piece minimum at a 90 percent saturation level."

A number of questions about the proposed rule were raised by one of the commenters, including a request for a critique of a chart (which was provided in the course of reviewing the commenter's questions). First, this commenter asked whether the current minimum quantity for a carrier-routes sack was actually 20 pieces. This is correct; there must be at least 10 pieces per carrier route, so that a sack directed to more than one carrier route would have to contain at least twenty pieces. The commenter also asked about the differences between a unique and non-unique 3-digit sack of 5-digit mail and for a definition of "optional sack." An optional sack is optional in that, while the decision to prepare such a sack is recommended, it is not required. City, SCF, and SDC sacks are the sack types which are optional to mailers. Ten or more pieces presorted to 5-digit destinations can qualify for the 5-digit rate when placed in a unique 3-digit city sack as long as the sack contains a minimum of 125 pieces or 15 pounds of mail. For non-unique 3-digit sacks, there also must be a minimum of 125 pieces or 15 pounds of 5-digit presorted mail to qualify for the 5-digit rate; however, there must also be a minimum of 50 pieces or 10 pounds of mail for each 5-digit ZIP Code area contained in the sack.

Another commenter asked for an explanation of the difference between 5-digit sacks prepared under the 5-digit rate and 5-digit sacks prepared under the basic rate. In most cases, mail in a 5-digit sack will qualify for the 5-digit rate. Only where a mailing failed to satisfy the requirement of 200 pieces or 50 pounds of qualifying mail presorted to 5-digit destinations (DMM 622.12a), would a 5-digit sack be ineligible for the 5-digit rate.

Yet another commenter objected to the "less onerous" sacking requirements applicable to second-class mail. This commenter asserted that second-class mail had handling and sacking characteristics identical to those of third-class mail. This assertion is incorrect. For example, BMC facilities are used extensively for the handling of third-class mail, while second-class mail largely bypasses BMCs. Moreover, to the extent that this comment seeks a change in second-class preparation requirements, it is beyond the scope of this rulemaking.

The Postal Service became aware, in the process of responding to comments

on the proposed rule, that proposed section 667.13 did not deal efficiently with the appropriate designation of the last sack of basic-rate mail prepared by the mailer. This is a single sack below the 125-piece/15-pound minimum, prepared after all sacks meeting minimum standards have been prepared. If this last sack prepared contains mail destined for more than one state, the sack should be labelled as a Mixed States sack, as provided in the proposed rule. However, if all the mail in the last sack is destined for a single 3-digit area, the sack should be labeled accordingly. This change will result in the preparation of sacks handled most expeditiously by the Postal Service.

A number of editorial changes have been made in the preparation of the final rule. General provisions have been added to the beginning of sections 667.13, 667.32 and 667.42. These general provisions bring together references to existing requirements and exceptions, which are not affected by this rulemaking, except where noted above. The introduction of these general provisions has also resulted in renumbering of some subsections. Other editorial changes provide greater consistency of usage throughout the sacking regulations.

A separate provision for unique 3-digit city sacks has been added in section 667.422. This clarifies the availability of this sacking method for 5-digit rate mail.

X. Effective Date

The Postal Service is making the new regulations effective on an optional basis on April 20, 1986, rather than setting the effective date 30 days after publication. Because existing mail preparation requirements for bulk third-class mail will remain valid and available to mailers until compliance with the new requirements becomes mandatory on August 24, 1986, the early effective date offers mailers a new option, and permits mailers to begin the process of adapting to the new requirements immediately.

The Postal Service hereby adopts the following final regulations on this subject as an amendment to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408, 3001–3011, 3201–3219, 3403–3405, 3621, 5001; 42 U.S.C. 1973cc-13, 1973cc-14.

PART 622—THIRD-CLASS BULK MAIL

2. In 622, 622.11a, 622.11b and 622.12a are revised to read as follows:

* * * * *

622.1 Eligibility.

.11 Carrier Route Presort Level

a. Minimum Quantity. Each mailing must consist of at least 200 pieces or 50 pounds of mail presorted to carrier routes in accordance with 667.3. Each piece must be part of a group of 10 or more pieces packaged to the same carrier route, rural route, highway contract route, post office box section, or general delivery unit. Packages must be placed in either a carrier route, 5-digit carrier routes, or 3-digit carrier routes sack. Each sack must contain a minimum of 125 pieces or 15 pounds of qualifying carrier route packages to be eligible for the carrier route presort level rate.

Exception: Saturation mailers of carrier route presorted mail may, at their option, prepare 5-digit carrier routes sacks containing fewer than the 125 pieces of 15 pounds of mail for those 5-digit ZIP Code areas that do not have a sufficient number of residential deliveries to meet the 125 piece minimum at a 90 percent saturation level. A saturation mailing is defined as a mailing sent to at least 90 percent of the total residential addresses within a 5-digit ZIP Code area.

b. Residual. Those pieces not part of a group of 10 or more pieces packaged to a particular carrier route, or those which are part of a group of 10 or more pieces packaged to a particular carrier route but which cannot be placed in a sack containing a minimum of 125 pieces or 15 pounds of qualifying mail, are residual pieces. Residual pieces may be included in a carrier route presort rate mailing and may bear the Carrier Route Presort endorsement subject to the following provisions:

(1) Residual pieces do not count towards the minimum quantity requirements for the carrier route presort level rate.

(2) The number of residual pieces to any single 5-digit ZIP Code area may not exceed 5 percent of the total qualifying presorted carrier route pieces addressed to that 5-digit area.

(3) Residual pieces are not eligible for the carrier route presort level rate and must have postage paid at the appropriate third-class "basic" level bulk rate.

(4) Residual pieces must be prepared in accordance with 667.3.

* * * * *

622.12 Five-Digit Presort Level.

.12 Five-Digit Presort Level

a. Minimum Quantity. Each mailing must consist of at least 200 pieces or 50 pounds of qualifying mail presorted to 5-digit destinations. Each piece must be part of a package of 10 or more pieces to the same 5-digit ZIP Code destination and the packages must be placed in a 5-digit, unique 3-digit city or 3-digit sack as follows:

(1) Five-digit sacks must contain a minimum of 125 pieces or 15 pounds of mail.

Exception: Five-digit sacks containing 10 or more pounds of mail which are part of a machinable parcel mailing prepared in accordance with 667.2, will qualify for the 5-digit presort rate level.

(2) For unique 3-digit multi-ZIP Code cities listed in Exhibit 122.63b, mailers may commingle different 5-digit packages of 10 or more pieces in unique 3-digit city sacks providing:

(a) Each sack contains at least 125 pieces or 15 pounds of mail,

(b) Three-digit city packages are NOT included in the sack, and

(c) 125 pieces or 15 pounds of mail for a single 5-digit ZIP Code (within the unique 3-digit city) must be sacked separately.

(3) Three-digit sacks must contain a minimum of 125 pieces or 15 pounds of mail with a minimum of 50 pieces or 10 pounds to each 5-digit ZIP Code destination contained within the 3-digit sack.

Sacks containing fewer than 125 pieces or less than 15 pounds of mail will NOT be accepted. Fifty pieces or 10 pounds of mail for a 5-digit destination will qualify for the 5-digit presort level rate when prepared in packages and bundles presented on pallets in accordance with 667.

* * * * *

PART 667—PREPARATION OF BULK RATE MAILINGS

3. In 677, 667.131, 667.132, 667.221, 667.222, 667.312, 667.32, and 667.42 are revised to read as follows:

667.1 Preparation Requirements for Basic Rate

* * * * *

.13 Sacking Requirements.

.131 General.

a. Sack Preparation. Packages must be sorted and sacked to destinations in accordance with 667.132a through 667.132h. Mailers must note on the mailing statement submitted with the

mailing whether the 125 piece or 15 pound minimum, or both, were used as the basis for preparing the entire mailing in sacks.

Exceptions:

(1) If authorized to bundle or palletize, mailers must prepare packages and bundles in accordance with 667.5 or 667.6.

(2) Mailers who Express Mail drop ship bulk third-class mailings in accordance with 136.7 may prepare sacks containing fewer than 125 pieces or less than 15 pounds of mail.

b. Sack Label Color. Sack labels must be white or manila (other colors will not be accepted).

c. Sack Weight. No more than 70 pounds of mail may be placed in any sack.

.132 Sortation.

a. 5-Digit Sacks. When there are 125 pieces or 15 pounds of mail packaged to the same 5-digit ZIP Code destination, the packages MUST be placed in a 5-digit sack labeled to the 5-digit destination. Five-digit sacks containing fewer than 125 pieces or less than 15 pounds of mail will NOT be accepted. Each sack must be labeled in the following manner:

Line 1: City, State and 5-digit destination.

Line 2: Contents.

Line 3: Office of Mailing.

Sample: PHILADELPHIA PA 19118,
3C FLATS,
BOSTON MA.

Note.—If a mailing consists of both machinable parcels and irregular parcels as defined in 128 and as provided for in 622.14, the contents line of 5-digit sack labels must read "3C MACH and IRREG." When there are 10 pounds of material for a 5-digit ZIP Code destination, it must be placed in a 5-digit sack. Sacks containing less than 10 pounds of mail may be prepared. Pieces in a 5-digit sack that contains machinable and irregular parcels need not be packaged as required by 667.121b.

b. Optional City Sacks. If after preparing required 5-digit sacks, there are 125 pieces or 15 pounds of mail packaged to the multi-ZIP Coded cities listed in Exhibit 122.63a, mailers are encouraged to place those packages into city sacks. City sacks containing fewer than 125 pieces or less than 15 pounds will NOT be accepted. Each sack must be labeled in the following manner:

Line 1: City, State and Lowest 5-Digit ZIP Code.

Line 2: Contents.

Line 3: Office of Mailing.

Sample: AURORA IL 60504,
3C LTRS,
BOSTON MA.

Note.—An optional city sack may contain both machinable and irregular parcels (as defined in 128) when there are at least 10 pounds of material for the optional city sack. The contents line for optional city sack labels for sacks which are part of a mailing containing machinable and irregular parcels must read "3C MACH AND IRREG." Pieces in an optional city sack that contains both machinable and irregular parcels need not be packaged as required by 667.121c.

c. 3-Digit Sacks. When, after preparing required 5-digit and optional city sacks, there are 125 pieces or 15 pounds of mail packaged to the same 3-digit ZIP Code destination, the packages MUST be placed in a 3-digit sack labeled to the 3-digit destination. Three-digit sacks containing fewer than 125 pieces or less than 15 pounds of mail will NOT be accepted. Each sack must be labeled in the following manner:

Line 1: City, State and 3-Digit ZIP Code prefix.

Line 2: Contents.

Line 3: Office of Mailing.

Sample: PHILADELPHIA PA 191,
3C FLTS,
ROCHESTER NY

d. Optional SCF Sacks. When, after preparing required 5-digit, optional city, and required 3-digit sacks, there are 125 pieces or 15 pounds of mail packaged to post offices in the same sectional center facility (SCF) service areas listed in 122.63d, mailers are encouraged to place the packages into SCF sacks. SCF sacks containing fewer than 125 pieces or less than 15 pounds of mail will NOT be accepted. Each sack must be labeled in the following manner:

Line 1: Name and State of SCF and Lowest 3-Digit ZIP Code for that SCF.

Line 2: Contents.

Line 3: Office of Mailing.

Sample: SCF PHILADELPHIA PA 190,
3C FLATS,
BOSTON MA.

Note.—A list of all SCFs serving more than one 3-digit ZIP Code area, the first three digits of all ZIP Codes served by these facilities, and the principal 3-digit ZIP Code prefix that is to be used on SCF sack labels is contained in Exhibit 122.63d.

e. Optional SDC Sacks. When, after preparing required 5-digit, optional city, required 3-digit and optional SCF sacks, there are 125 pieces or 15 pounds of mail addressed to post offices in the same state distribution center (SDC) service areas listed in Exhibits 122.63g and 122.63h, mailers are encouraged to prepare SDC sacks. SDC sacks containing fewer than 125 pieces or less than 15 pounds will NOT be accepted. Each sack must be labeled in the following manner:

Line 1: Name and 2-Letter State Abbreviation of SDC for Destination Area and ZIP Code (3-digit of 5-digit as appropriate).

Line 2: Contents and 2-Letter State Abbreviation.

Line 3: Office of Mailing.

Sample: DIS PITTSBURGH PA 150,
3C FLTS PA,
SAN FRANCISCO CA.

f. State Sacks. When, after preparing required 5-digit, optional city, required 3-digit, optional SCF, and optional SDC sacks, there are 125 pieces or 15 pounds of mail packaged to the same state, the packages MUST be placed into state sacks. Sacks containing fewer than 125 pieces or less than 15 pounds may be prepared. Each sack must be labeled in accordance with Exhibits 122.63j, 122.63k, or 122.631, as applicable, and in the following manner:

Line 1: Name and 2-Letter State Abbreviation of SDC for State of Destination and ZIP Code (3-digit or 5-digit as appropriate).

Line 2: Contents and 2 Letter State Abbreviation.

Line 3: Office of Mailing.

Sample: DIS KANSAS CITY MO 640,
3C LTRS MO,
SCRANTON PA.

g. Mixed States Sacks. If, after all required and optional sacks have been prepared, there are packages remaining for more than one state, the mail must be placed into MIXED STATES sacks. Each MIXED STATES sack must be labeled in the following manner:

Line 1: Mixed States Distribution Location.

Line 2: Contents followed by the words "MIXED STATES".

Line 3: Office of Mailing.

Sample: DIS CHICAGO IL 606,
3C LTRS MXD STATES,
CHICAGO IL

Note.—The last sack in a mailing may not necessarily be a MIXED STATES sack. For example, if there are 10 pieces remaining for a 3-digit ZIP Code area, which could not be placed in any of the required or optional sacks prepared, those pieces must be placed in a sack and labeled to the 3-digit ZIP Code destination. Equally, the last sack of a mailing could be for any level of sortation and is dependent upon the mail remaining after all required and optional sacks have been prepared. The last sack must be labeled to the appropriate destination depending on the mail for which the sack was prepared.

h. Loose Pack Sack. The term "loose pack sack" refers to the placement of unpackaged, unbound mail pieces in a receptacle such as a mail sack. Management Sectional Center (MSC) managers may authorize mailers to loose pack pieces in full No. 3 sacks without packaging when all material in a sack would normally be "worked" at the point where the sack is opened, e.g., if a 3-digit sack contains no more than nine pieces for any one 5-digit

destination. Pieces must be placed to maintain orientation of the pieces while in transit. Mailers desiring to loose pack pieces must request authorization through the post office of mailing.

Note.—The following abbreviations may be used on the contents line of sack and pallet labels for basic rate level mailings:

LETTERS.....LTRS
FLATS.....FLTS
MIXED.....MXD
DIGIT.....DG

* * * * *

667.2 Machinable Parcel Preparation Requirements.

* * * * *

.22 Sacking Requirements.

.221 5-Digit Sacks. When there are 10 or more pounds of mail addressed to the same 5-digit ZIP Code destination, it may be placed in 5-digit sacks. Sacks containing less than 10 pounds of mail will NOT be accepted. Each sack must be labeled in the following manner:

Line 1: City, State and 5-Digit Destination.

Line 2: Contents.

Line 3: Office of Mailing.

Sample: BINGHAMTON NY 13901,
3C MACH,
WASHINGTON DC.

.222 Destination Bulk Mail Center (BMC) Sacks.

If, after preparing 5-digit sacks there are 10 pounds or more of mail to a destination BMC delivery area, it must be placed in a destination BMC sack. Each sack must be labeled in the following manner:

Line 1: Destination BMC and 2-Letter State Abbreviation and ZIP Code.

Line 2: Contents.

Line 3: Office of Mailing.

Sample: BMC CHICAGO IL 608,
3C MACH,
ATLANTA GA.

* * * * *

667.3 Preparation Requirements for Carrier Route Presort Level Rate.

.31 Packaging.

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.312 Residual Packages. All residual packages MUST be labeled with a Red label "D" to facilitate postal verification and handling and be placed in 3-digit carrier routes sacks. Residual packages MUST be prepared in one of the following ways:

a. Residual packages of 10 or more pieces to the same carrier (those which could not be placed in a sack containing at least 125 pieces or 15 pounds of mail) must be labeled with a Red Label "D" and placed in a 3-digit carrier routes sack. In addition to the Red Label "D", residual carrier packages may also be labeled to the carrier route in accordance with 667.311a or b.

b. Residual pieces of fewer than 10 pieces to a single carrier route may be secured in packages in accordance with 667.311. In addition to the Red Label "D" residual carrier packages may also be labeled to the carrier route in accordance with 667.311a or b.

c. Residual pieces for an individual carrier route not packaged to a carrier route as provided in 667.312a or 667.312b, must be made up into 5-digit packages.

.32 Sacking.

.321 General.

a. Sack Preparation. All qualifying packages of 10 or more pieces to the same carrier route must be placed in sacks in accordance with 667.322 through 667.324.

Mailers must note on the mailing statement submitted with the mailing whether the 125 piece or 15 pound minimum, or both, were used as the basis for preparing the entire mailing in sacks.

Exceptions:

(1) If authorized to bundle or palletize, mailers must prepare packages and bundles in accordance with 667.5 or 667.6.

(2) Mailers who Express Mail drop ship bulk third-class mailings in accordance with 136.7 may prepare sacks containing fewer than 125 pieces or less than 15 pounds of mail.

b. Sack Label Color. Sack labels must be white or manila (other colors will not be accepted).

c. Sack Weight. No more than 70 pounds of mail may be placed in any sack.

.322 Carrier Route Sacks. When there are 125 pieces or 15 pounds of qualifying mail to the same carrier route the mail should be placed in a Carrier Route sack. Carrier Route sacks containing fewer than 125 pieces or less than 15 pounds of mail for the same carrier route will NOT be accepted. Each sack must be labeled in the following manner:

Line 1: City, State and 5-Digit ZIP Code Destination.

Line 2: Contents and Carrier Route, Rural Route, Post Office Box Section, Highway Contract Route, or General Delivery Unit.

Line 3: Office of Mailing.

Sample: SAN FRANCISCO CA 94133,
3C LTRS—CR 18,
PORTLAND OR.

.323 Five-Digit Carrier Routes Sacks. When, after preparing all Carrier Route sacks, there are 125 pieces or 15 pounds of qualifying mail to different carrier routes within the same 5-digit ZIP Code area the mail must be placed in 5-digit Carrier Routes sacks labeled to the 5-digit ZIP Code destination. Five-Digit Carrier Routes sacks containing fewer than 125 pieces or less than 15 pounds of mail may only be prepared under the following exception:

Exceptions: Saturation mailers of carrier route presorted mail may, at their option, prepare 5-digit Carrier Routes sacks containing fewer than 125 pieces or less than 15 pounds of mail for those 5-digit ZIP Code areas that do not have a sufficient number of residential deliveries to meet the 125 piece minimum at a 90 percent saturation level. A saturation mailing is defined as a mailing sent to at least 90 percent of the total residential addresses within a 5-digit ZIP Code area.

Five-Digit Carrier Routes sacks must be labeled in the following manner:

Line 1: City, State and 5-Digit ZIP Code Destination.

Line 2: Contents followed by the words CARRIER ROUTES.

Line 3: Office of Mailing.

Sample: SAN FRANCISCO CA 94133,
3C LTRS CR RTS,
SYRACUSE NY.

.324 Three-Digit Carrier Routes Sacks. When, after preparing all Carrier Route and required 5-digit Carrier Routes sacks, there are 125 pieces or 15 pounds or more of qualifying mail to different carrier routes within the same 3-digit ZIP Code area, they MUST be placed in 3-digit Carrier Routes sacks and labeled to the 3-digit ZIP Code destination.

Note.—All packages of residual pieces must be placed in 3-digit Carrier Routes sacks labeled to the 3-digit ZIP Code destination.

Each 3-digit Carrier Routes sack must be labeled in the following manner:

Line 1: City, State and 3-Digit ZIP Code Prefix.

Line 2: Contents followed by the words MIXED CARRIER ROUTES.

Line 3: Office of Mailing.

Sample: BINGHAMTON NY 137,
3C FLATS MXD CR RTS,
WASHINGTON DC.

Note.—The following abbreviations may be used on the contents line of sack and pallet labels for carrier route presort rate level mailings:

LETTERS.....LTRS
FLATS.....FLTS
MIXED.....MXD
DIGIT.....DG
CARRIER ROUTE.....CR
CARRIER ROUTES.....CR RTS
RURAL ROUTE.....RR
POST OFFICE BOX SECTION...PO BOX SECT
HIGHWAY CONTRACT ROUTE.....HC
GENERAL DELIVERY UNIT.....GD

* * * * *

667.4 Preparation Requirements for 5-Digit Presort Level Rate.

* * * * *

.42 General.

a. Sack Preparation. All packages of 10 or more pieces to the same 5-digit ZIP Code destination must be placed in sacks containing a minimum of 125 pieces or 15 pounds of mail and must be prepared in accordance with 667.421 through 667.423. Mailers must note on the mailing statement submitted with the mailing whether the 125 piece or 15 pound minimum, or both, were used as the basis for preparing the entire mailing in sacks.

Exceptions:

(1) If authorized to bundle or palletize, mailers must prepare packages and bundles in accordance with 667.5 or 667.6.

(2) Mailers who Express Mail drop ship bulk third-class mailings in accordance with 136.7 may prepare sacks containing fewer than 125 pieces or less than 15 pounds of mail.

However, all other preparation requirements must be met to qualify for the 5-digit presort rate level.

b. Sack Label Color. Sack labels must be white or manila (other colors will not be accepted).

c. Sack Weight. No more than 70 pounds of mail may be placed in any sack.

.421 5-Digit Sacks. When there are 125 pieces or 15 pounds of qualifying 5-digit mail for the same 5-digit destination, it MUST be placed in a 5-digit sack. Five-digit sacks containing fewer than 125 pieces or less than 15 pounds of qualifying mail will NOT be accepted. Each sack must be labeled in the following manner:

Line 1: City, State and 5-Digit ZIP Code destination.

Line 2: Contents.

Line 3: Office of Mailing.

Sample: ARLINGTON VA 22202,
3C LTRS,
BOSTON MA.

.422 Unique 3-Digit City Sacks. Mailers may commingle different 5-digit packages of 10 or more pieces for unique 3-digit cities listed in Exhibit 122.63b into unique 3-digit city sacks providing:

(a) Each sack contains at least 125 pieces or 15 pounds of mail, and

(b) Three-digit city packages are NOT included in the sack, and

(c) 125 pieces or 15 pounds of mail for a single 5-digit ZIP Code (within the unique 3-digit city) must be sacked separately.

Each unique 3-digit city sack must be labeled in the following manner:

Line 1: City, State and unique 3-digit ZIP Code Prefix.

Line 2: Contents followed by the words "MIXED 5-DIGIT PKGS".

Line 3: Office of Mailing.

Sample: BINGHAMTON NY 139,
3C LTRS MXD 5-DG PKGS,
PHILADELPHIA PA.

.423 3-Digit Sacks. When, after preparing all required 5-digit and unique 3-digit city sacks, there are 125 pieces or 15 pounds of qualifying 5-digit mail to different 5-digit ZIP Code destinations within a 3-digit ZIP Code area, it MUST be placed in 3-digit sacks. To qualify for the 5-digit presort level rate there must be a minimum of 50 pieces or 10 pounds of 5-digit mail for any 5-digit ZIP Code separation within the 3-digit sack. ONLY qualifying 5-digit packages may be placed in these 3-digit sacks. Each 3-digit sack must be labeled in the following manner:

Line 1: City, State and 3-digit ZIP Code Prefix.

Line 2: Contents followed by the words "MIXED 5-DIGIT PKGS".

Line 3: Office of Mailing.

Sample: BINGHAMTOM NY 137,
3C LTRS MXD 5-DG PKGS,
PHILADELPHIA PA.

Note.—The following abbreviations may be used on the contents line of sack and pallet labels for 5-digit presort rate level mailings:

LETTERS	LTRS
FLATS	FLTS
MIXED	MXD
DIGIT	DG

* * * * *

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-8666 Filed 4-16-86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 1753; A-7-FRL-3002-9]

Approval and Promulgation of State Implementation Plans, Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In this document, EPA approves a revision to the Missouri air pollution control regulations as part of the State Implementation Plan (SIP). The purpose of this revision is to require sources of air pollution to submit emission information and to provide that this emission data be correlated with allowable emission rates and made publicly available as required by the Clean Air Act. Approval of these rules makes them enforceable against individual sources of air pollution by the federal government as well as by the State.

EFFECTIVE DATE: This action will be effective May 19, 1986.

ADDRESSES: Copies of the State submission and EPA's technical evaluation are available at the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101, and at the Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101. A copy of the State's submission is also available at the Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C., and the Office of the **Federal Register**, 1100 L Street, NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler, (913) 236-2893, FTS 757-2893.

SUPPLEMENTARY INFORMATION: On September 24, 1985, EPA proposed to approve a new Missouri regulation as a part of the Missouri SIP. The purpose of this regulation is to require that sources of air pollution submit data concerning their air pollution emissions. The regulation further provides that emission data correlated with allowable emission rates will be made available to the public. These provisions in a state plan are required by section 110 of the Clean Air Act. EPA proposed to find that the State regulation meets the EPA requirements and to approve it as part of the SIP. No comments were received on this proposal. EPA is now taking final action to approve this State regulation.

The State of Missouri previously had four area-specific rules requiring data submission and four separate area-specific rules providing for public availability of data. These latter rules were not approved by EPA because they did not provide that emission data would be publicly available in all cases. As discussed in the proposed rulemaking document, EPA finds that the revised and consolidated State rule, 10 CSR 10-6.110, Submission of Emission Data and Process Information, meets the requirements of the Clean Air Act and of 40 CFR 51.11(a)(6). EPA is therefore removing the disapproval for failure to meet those requirements found at 40 CFR 52.1325(a). For a further explanation of the action, the reader is referred to the September 24, 1985, proposed rulemaking. (See 50 FR 38675.)

This State submission constitutes a proposed revision to the Missouri SIP. The Administrator's decision to approve or disapprove a proposed revision is based on the comments received and on

a determination of whether or not the revision meets the requirements of section 110 of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans. I hereby find the portions of the Missouri SIP described above to be approvable.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements.

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

Incorporation by reference of the SIP for the State of Missouri was approved by the Director of the Office of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Reporting and recordkeeping requirements, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Dated: April 10, 1986.

Lee Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1320 is amended by adding a new paragraph (c)(53) as follows (the introductory text of paragraph (c) is reprinted without change for the convenience of the reader):

§ 52.1320 Identification of Plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(53) A rule requiring sources to keep records and report data and requiring emission data to be made public was submitted January 22, 1985, by the Department of Natural Resources. This rule replaces previous rules 10 CSR 10-2.130, 3.130, 4.120, and 5.210, all entitled "Submission of Emission Information" which were approved as parts of the State Implementation Plan; and previous rules 10 CSR 10-2.180, 3.120, 4.170, and 5.270, all entitled "Public Availability of Emission Data" which were not approved prior to the submission of this replacement rule.

(i) *Incorporation by Reference.* A new regulation 10 CSR 10-6.110 published in the Missouri Register November 1, 1984.

§ 52.1325 [Amended]

3. Section 52.1325 is amended by removing and reserving paragraph (a).

[FR Doc. 86-8612 Filed 4-16-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 205

General Administration of Public Assistance Programs; Federal Financial Participation in the Cost of a Statewide Mechanized Claims Processing and Information Retrieval System in the Aid to Families With Dependent Children Program

AGENCY: Social Security Administration (SSA), HHS.

ACTION: Final rule.

SUMMARY: These final rules at 45 CFR Part 205 implement the new Statewide mechanized claims processing and information retrieval system, hereafter referred to as an Automated Application Processing and Information Retrieval System (AAPIRS), provisions in section 406 of Pub. L. 96-264. These rules increase Federal Financial Participation (FFP) to 90 percent for the costs of the planning, design, development, or installation of an approved AAPIRS. They also specify that FFP is available at the 90 percent rate for the purchase or rental of related equipment and software used in the operation of an AAPIRS. The rules also add a new State plan requirement to Part 205 which specifies the requirements which an AAPIRS must meet in order to be eligible for Federal matching at the 90 percent rate. In addition, the rules: (1) specify criteria for approving an Advance Planning Document (APD) for a system funded at 90 percent FFP; (2) state that an approved AAPIRS funded at 90 percent FFP must be reviewed and evaluated by SSA on a continuing basis; and (3) describe the conditions under which SSA will suspend approval of APD's for systems funded at 90 percent FFP. An AAPIRS developed under these rules is expected to result in improved program operations.

EFFECTIVE DATE: These final regulations are effective April 17, 1986. The statutory changes which these regulations reflect (section 406 of Pub. L. 96-265) were effective July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Levering, Social Security Administration, Office of Family Assistance, Office of Intergovernmental Communications, Trans Point Building, 2100 Second Street, SW., Washington, DC 20201, (202) 245-2637.

SUPPLEMENTARY INFORMATION: We published Interim Final Regulations in the **Federal Register** on September 30, 1981 (46 FR 47784). The public was invited to submit data, views, or arguments pertaining to the interim regulations within a period of 60 days from the date of publication. We have carefully considered all the comments we received during the comment period. We have addressed the issues raised in the comments later in the preamble.

Statutory Provisions

Section 406 of Pub. L. 96-265 amends title IV-A of the Social Security Act (the Act) regarding an AFDC AAPIRS. First, the amendment provides a new paragraph 403(a)(3)(B) in the Act which requires the Secretary to provide Federal funding at the 90 percent rate for costs attributable to the planning, design, development, or installation of an AAPIRS that meets the requirements in section 402(a)(30). This new section 402(a)(30) provides States with the option to amend their State plans to establish an AAPIRS in accordance with an APD approved under section 402(e)(1) of the Act. Section 406 of Pub. L. 96-265 also adds section 402(e)(2)(A) to the Act which requires SSA to review the development and operation of an AAPIRS funded at 90 percent FFP to determine whether it meets the requirements specified in an approved APD and the other conditions for an approvable system specified in paragraph 402(a)(30) of the Act. The statute also adds section 402(e)(2)(B) to the Act which requires SSA to suspend approval of any APD for a system funded at 90 percent FFP if SSA determines that the AAPIRS fails to comply substantially with the requirements in the APD. Finally, section 413 was added to the Act, to require SSA to provide technical assistance considered necessary to assist the States in developing, implementing and providing security for any approved AAPIRS. All of these amendments have an effective date of July 1, 1981.

New Regulations

These regulations: (1) Make FFP available at the 90 percent rate for the costs of planning, design, development or installation of an AAPIRS that meets the requirements in the regulations, including the purchase or rental of computer equipment and software; (2) specify criteria SSA will use in determining whether to approve an initial and annually updated APD so that the system will receive 90 percent FFP; (3) specify that SSA must review any approved AAPIRS funded at 90 percent on a continuing basis; and (4) specify the conditions under which SSA will suspend approval of an APD for systems funded at 90 percent FFP. To implement section 406 of Pub. L. 96-265, interim final rules were published in September 30, 1981 (46 FR 47784), which amended the SSA regulations by adding the following new sections: §§ 205.35 205.36, 205.37, and 205.38.

We have made some minor changes to the interim final rules to make these final regulations more compatible with regulations governing enhanced funding for mechanized management information systems under title IV-D at 45 CFR Part 304 and title XIX at 42 CFR Part 433, Subpart C and 432.50. This will eliminate redundant and/or conflicting term definitions from the regulations governing ADP systems.

In addition, § 205.38 of the interim rules, "Responsibilities of the Social Security Administration" has been redesignated as § 205.37, and § 205.37 of the interim rules, "Federal financial participation (FFP) for establishing a statewide mechanized system" has been redesignated § 205.38 in these final rules.

When we issued the interim final version of this regulation we indicated that in instances where a State does not complete development of a system under an approved APD, FFP at the higher matching rate shall not be allowed. Some States interpreted this to mean that funds would be disallowed back to the date of suspension. However, we intended that the funding would be disallowed back to the beginning date of development and that SSA would get back all 90 percent FFP. Therefore, since there was some misunderstanding regarding this issue we have specifically stated in this final rule that should SSA suspend approval of an APD or should a State voluntarily withdraw its approved APD all Federal incentive funds invested to date that exceed the normal administrative FFP rate (50 percent) are not allowable. Clarifications which reflect these policies are set forth below in §§ 205.37(c) and 205.38 (c) and (d).

Discussion of Specific Provisions

45 CFR 205.35 contains definitions of technical terms used in the automated data processing field. These definitions are compatible with definitions used by other programs within the Department of Health and Human Services as expressed in 45 CFR 95.600.

45 CFR 205.36 permits the State to amend its State plan to establish an AAPIRS that meets certain specified requirements. In order to receive 90 percent operational Federal funding for an AAPIRS, a State must elect to amend its State plan as specified in 45 CFR 205.36.

The regulation at 45 CFR 205.36(a) requires each AAPIRS funded at 90 percent FFP to control and account for all the eligibility and payment factors under the State plan.

We would like to point out a very important provision that is found in 45 CFR 205.36(a)(1)(i) (A) and (B) which states that the AAPIRS must assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction.

Another important provision requires interface with certain other programs. 45 CFR 205.36(b) requires that the system be designed so that appropriate State officials administering Child Support, Food Stamp, Social Services and Medicaid programs can be notified whenever a case/recipient becomes ineligible for aid or services or the amount of aid or services is changed.

45 CFR 205.37 contains the requirements which the initial and updated APD for a 90 percent federally funded AAPIRS must meet in order to be approvable.

45 CFR 205.37(a)(1) requires the APD to show how the results of the requirements analysis study will be incorporated into the proposed system design, development, or installation. A requirements analysis is an essential first step in the development of a computerized data system. A requirements analysis defines the scope of a proposed system and sets forth the functions it would perform. It is, in essence, a needs assessment. This requirement is included because, in the environment of a specific State's AFDC program, an effective systems development effort must be based on and be consistent with a requirements analysis in order to meet the needs of the State program that it will serve. This will encourage States to use the results of the requirements study in determining the kind of system they propose, which is the purpose of such a study.

45 CFR 205.37(a)(4) requires the APD to contain a projected resource requirements study that includes estimates of expenditures anticipated for systems at 90 percent FFP. We consider a projected requirements study necessary in assessing the reasonableness of the State's overall system plan. As discussed below, the APD budget figures will also be used by SSA to determine the relative merits of developing or installing the proposed AAPIRS. If cost projections outlined in the approved APD should change, a modified APD must be submitted for approval.

45 CFR 205.37(a)(5) requires the APD to contain a cost benefit analysis describing alternative systems which were considered, as well as the advantages of the proposed system over the alternatives. The purpose of the proposed requirement is to insure that States select the most advantageous and cost-effective system available. The alternatives discussed must include any systems identified by SSA, OFA certified systems in place in other States, and any system already in place in the State that might be enhanced to meet the requirements for 90 percent FFP. We believe this process will help States to make sounder judgments concerning their proposed AAPIRS activity. In addition, the APD should indicate the period of time the system will be operated to justify the funds invested.

We would like to point out that several States now have OFA certified systems which may be suitable for transfer to other States. We strongly encourage such transfers, since they can be less costly, more timely, and more effective than designing entirely new systems which have no record of past performance. Accordingly, we will give expedited, fast-track consideration of the APD for any State that elects to transfer another State system for use in that State.

45 CFR 205.37(a)(6) states that the APD must specify the basis for determining direct and indirect costs of the AAPIRS both during development and operations. We believe this is necessary to ensure that costs associated with the AAPIRS can be derived and apportioned appropriately.

45 CFR 205.37(b) specifies that SSA will, on a continuing basis, review, assess, and inspect the planning, design, and operation of an AAPIRS to determine whether the system continues

to meet the requirements of the approved APD.

45 CFR 205.37(c) prescribes that SSA will suspend approval of an APD if a system funded at 90 percent FFP fails to comply substantially with criteria, requirements, and other undertakings, prescribed by this approved advance automated data processing planning document. In this case, the suspension of approval of an APD will result in the termination of FFP at the 90 percent rate with respect to the AAPIRS involved. The State will be given written notice of the suspension. This notice will state the reason for the suspension, the actions required for future Federal funding, and the effective date of the suspension.

In addition, any 90 percent funding that has been made available to the State will be subject to disallowance when a suspension of approval of an APD has occurred. During the suspension period a State may qualify for 50 percent FFP if it meets the conditions under part 95 of this title. Similarly, when a State voluntarily withdraws its approved APD and ceases development of the system, all FFP at 90 percent will be disallowed.

To implement section 413 of the Act, SSA will make staff available to assist State agencies in: (1) Planning, designing, developing, or installing an AAPIRS; and (2) providing security for an AAPIRS.

45 CFR 205.38 makes FFP available at the 90 percent rate in expenditures for the planning, design, development, or installation of an AAPIRS that meets the requirements in an approved APD and certain other conditions found in this section. We wish to emphasize that despite the fact that a system complies substantially with an approved APD, FFP is not available for any expenditures which are inconsistent with an approved APD. In addition, funds claimed for the planning, design, development, or installation are subject to disallowance if an approved APD is voluntarily withdrawn by a State or if a State's FFP is suspended by SSA. The 90 percent FFP includes the purchase or rental of computer equipment and software directly required for and used in the operation of this system.

45 CFR 205.38(b)(5)(iii) specifies that the State IV-A agency must agree to use the system for a period of time consistent with the APD. This requirement will protect both Federal and State governments from paying for systems that are not cost-effective and will ensure an adequate return on Federal and State dollars invested.

Requests for technical assistance must be submitted by the State IV-A agency to: Mr. John Gallagher, Social Security Administration, Office of Family Assistance, Office of State Operations, Division of State Systems Management, Transpoint Building, 2100 Second Street, SW., Washington, DC 20201.

SSA prepared a title IV-A (AFDC) Automated Application Processing and Information Retrieval System Guide that was distributed to assist States in applying for higher level matching under this regulation. The guide does not impose any new major requirements beyond those mandated by the statute. The guide translates the statutory requirements into data processing systems functions.

In addition, SSA has prepared and distributed a general systems design called the Family Assistance Management Information System (FAMIS) as a model to assist the State agencies in meeting the basic functional requirements of the law.

Public Comments

We published an Interim Final Rule in the **Federal Register** on September 30, 1981 (46 FR 47784). We asked for public comments within a period of 60 days. The comment period closed on November 30, 1981. We received comments from seven interested parties. For ease of comprehension and for perspective, we have grouped comments according to the issues raised. Although some of the comments to the interim final rule are condensed, summarized or paraphrased, we have responded to each of the issues raised.

Issue: Federal Financial Participation (FFP)

Comment: One commenter indicated the stages for which increased FFP is available penalize States which do not have the resources to implement their system statewide immediately after testing. This commenter stated that States which must convert local departments to the automated system piece-meal are not eligible for the 90 percent funding for operations during the implementation period. This commenter believes the State should be able to claim 90 percent funding for hardware and software for those areas in which the system is operational before it is implemented statewide and certified.

Response: Under the policy in the interim regulation, incentive funding for a phased implementation is provided only until a local system is operational. Once it is operational, 50 percent FFP is provided for the local system until the system is implemented statewide and certified, at which time 90 percent FFP is provided for the hardware and software to operate the system. This is not a penalty. It is intended to act as a further incentive to expedite the implementation of the system statewide, thereby reducing future State and federal expenditures and also improving service to recipients. Therefore, no changes in this policy are planned.

Comment: One commenter asked whether, in anticipation of major policy changes requiring an update to SSA's criteria and to the States' APD, States would be protected from suspension of 90 percent FFP if the automated system is unable to accommodate the changes.

Response: If a major Federal policy change results in enhancements that are required, SSA will determine if those changes will be covered under 90 percent FFP. If we determine that they are, these enhancements would then be submitted as a revision of the APD. The States would continue to receive the higher level funding while the change is being entered into the system provided that it is accomplished in accordance with Federal policy.

Issue: State Plan Requirements

Comment: One commenter indicated that the costs for planning, design, development, installation, and operation are seldom neatly divisible by program, and guidelines are needed to clarify the issue so that States are better able to properly claim FFP.

Response: We understand that the distribution of costs for planning, design, development, installation, and operation by program is a rather complicated procedure. HHS is identifying alternative methods of distributing development costs and will make its findings available as soon as possible.

Comment: Several commenters indicated that the State income maintenance agency should not be made responsible for controlling and accounting for the cost, quality and delivery of services since they cannot be held responsible for activities in areas not in their department.

Response: The wording in 45 CFR 205.36(a)(2) which deals with the State income maintenance agency being responsible for controlling and accounting for the costs, quality and delivery of data information services under the AFDC program, flows directly from the statutory language of Pub. L. 96-265 and is therefore, required. It should be pointed out that "service" in 45 CFR 205.36(a)(2) refers to data information services performed under the State's AFDC plan when operating an AFDC Statewide Mechanized Claims Processing and Information Retrieval System and should not be construed to be services under a State's title XX

program or any other program administered by the State.

Comment: One commenter indicated that 45 CFR 205.36(a)(1)(i) would require State agencies to obtain a Social Security number (SSN) for ineligible grantees, applicants and recipients. The commenter indicated current federal enumeration policy does not require enumeration of applicants who are denied coverage or are ineligible grantees.

Response: We have looked carefully at the wording in 45 CFR 205.36(a)(1)(i) that would require State agencies to be able to automatically control and account for ". . . among other data items—Social Security numbers for all applicants and recipients." We do not interpret that to mean that Social Security numbers of applicants who are denied coverage should be included in that requirement.

Issue: Responsibilities of the Social Security Administration

Comment: One commenter questioned § 205.38 in regard to whether any Federal funding is available if there is a suspension of approval of a State's APD.

Response: Once a State is suspended the State may be eligible for 50 percent FFP provided it meets the requirements in 45 CFR Part 95. In order to make this clear, we have changed what was 45 CFR 205.38(c) in the interim final rule (now § 205.37(c)) to read "The notice of suspension will state the reason for the suspension, whether the suspended system complies with criteria for 50 percent FFP under 45 CFR Part 95, the actions required for future Federal funding, and the effective date of the suspension".

Comment: One commenter was of the opinion that the discussion in the preamble did not adequately encourage States to compare alternative solutions from the private sector, but only "State systems identified by SSA".

Response: Although the regulations at 45 CFR 205.38 of the interim final are designed to include alternative systems from all sectors, we found that the wording in the preamble was not clear. Accordingly, in the preamble to this regulation we have made appropriate clarification in explaining the meaning of this provision. We expect States to review alternate systems that are already OFA certified in other States and to prepare detailed comparisons of such systems. As indicated above, those States that elect to transfer OFA certified systems that are already in place in other States will receive expedited consideration of their APD's.

Comment: Another commenter suggested that the referral to 45 CFR 95.600 in § 205.38(e) of the interim final rule may be overly broad and that we should reference the appropriate subparts.

Response: We agree and have changed the reference to 45 CFR 95.600 in § 205.38(e) in the interim final rule (now § 205.37(e)) to read "The requirements of 45 CFR Part 95 Subpart E and Subpart F apply".

Comment: One commenter stated that since the decision to suspend 90 percent FFP will be made unilaterally and could have substantial impact on the State funding and development activity, States should have some clear avenue of appeal.

Response: Any disallowance issued as a result of a claim for 90 percent FFP for expenditures made after the effective date of suspension can be appealed to the Grant Appeals Board in accordance with section 1116(d) of the Act and regulations at 45 CFR Parts 16 and 74. We do not believe that another avenue of appeal would serve any useful purpose.

Comment: One commenter felt that sufficient technical assistance would not be available to assist him in preparing the APD.

Response: Both the preamble and regulation (205.37(d)) indicate that technical assistance would be available during planning, design, etc. Preparation of an APD is considering planning. SSA will provide technical assistance in accordance with these regulations.

Issue: Annually Updated APD.

Comment: One commenter asked about the requirements of the annually updated ADP.

Response: An APD for incentive funding must be updates at least annually. This would include submitting to OFA any modifications or updated to the proposed system and to sections of the APD.

Issue: Compatibility with Other Systems.

Comment: Two commenters asked about compatibility with title XIX and XX systems if the AFDC system is further along in development.

Response: The burden of documenting compatibility would rest with the AFDC system. However, in systems analysis for automated systems, compatibility simply means the ability to pass data. As stated in § 205.36(b) "to notify the appropriate State officials of child support, food stamp, social services, and medical assistance programs . . . whenever a case/recipient for aid and services becomes ineligible or the amount of aid or services is changed."

Issue: Meaning of Quality of Funds or Services.

Comment: One commenter stated that they cannot ascertain the meaning of "quality of funds or services" expressed in § 205.36(a)(2).

Response: This is taken from part of the actual wording in the law, which states that the system must automatically control and account for "the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid." Therefore, the quality of funds or services has to do with the automated capability of the system as it relates to providing control and accounting for the distribution of funds and services.

Issue: Ability to Supply Information.

Comment: One commenter was concerned about requiring more information in an APD (§ 205.38(a)(1)–(8)) than may be possible for most States to supply.

Response: These requirements are the same as those already in force under guidelines issued to the States for 45 CFR Part 95. In addition, some 27 States have already submitted APD's with the required data. Accordingly, we believe it is possible for States to submit this information.

Issue: Facilitation of Integrated Systems.

Comment: One commenter believed that these regulations did not facilitate the development of integrated systems.

Response: Under the law we are authorized to issue regulations only for AFDC. However, we are supportive or integrated systems. The Secretary of HHS convened a special task force in 1982 consisting of representatives from the AFDC, Medicaid, Child Support, and Food Stamp programs to combine the requirements for all programs involved in eligibility and recordkeeping systems. The result of that task force is the Statewide Integrated Eligibility Determination and Recordkeeping System (SIEDRS) General System Design (GSD). The intent of SIEDRS is that it be used as a guideline for AFDC and other programs when developing an integrated system.

Issue: Inconsistency with other FFP Regulations.

Comment: One commenter was concerned about the inconsistency in matching rates with FFP regulations of other programs.

Response: Section 406 of Pub. L. 96–265 is not consistent with FFP incentive funding laws of the Medicaid, Child Support and Food Stamp programs and

had to be interpreted according to its contents. For example, the Food Stamp program allows 75 percent FFP for development and 50 percent FFP for all operations in their incentive funding laws. The Secretary's task force is also examining this area.

Issue: Guidelines for Cost Allocation.

Comment: One commenter stated that guidelines are needed to address cost allocation.

Response: These guidelines are being developed by the Department of HHS as part of the guidelines to be used when implementing 45 CFR Part 95, Subpart E.

Issue: Delaying Implementation.

Comment: One commenter recommended that the implementation of Pub. L. 96-265 nationwide be delayed until the general systems design is fully tested in several locations.

Response: The statute was effective July 1, 1981 and contains no provision for delay of implementation. Moreover, 28 States are already actively developing their systems according to their approved APD and the general systems design in accordance with the statute. Therefore, it is not feasible to delay implementation of the statute until the general system design is fully tested.

Issue: Cost Benefit Analysis.

Comment: One commenter recommended that certain provisions, such as the requirement to use error-prone profiling, be subject to a cost benefit analysis since they may not be effective techniques in every State.

Response: Our experience has shown the error-prone profile to be a new valuable tool in forecasting error types in a caseload. Therefore, we are thoroughly committed to the use of error-prone profiles in any new systems development under section 406 of Pub. L. 96-265, and these profiles will remain a requirement for approval of an APD for incentive funding.

Issue: Performance Standards.

Comment: One commenter recommended that performance standards and the method for their review be more specifically spelled out.

Response: Our performance standards are quite specific as they appear in section 62 of the Title IV-A Statewide Automated Application Processing and Information Retrieval System Guide (AAPIRS). Further explanation can be found in the Questions and Answers section of the AAPIRS Guide. Certification review procedures have been developed and released to the Regional Offices of OFA.

Regulatory Procedures

Executive Order 12291

These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Specifically, under the existing rule neither systems costs nor savings in program expenditures in any year approach the $100 million threshold for a major regulation. Regardless, the interim rule, and for the most part this final rule simply codifies legal requirements.

Regulatory Flexibility Act

For the reasons given above, and because the impacts of this rule fall on States and individuals rather than small entities, we certify that these regulations will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

We believe that the informational requirements imposed by these regulations on States that wish to receive 90 percent Federal matching fall within the general scope of the Departmental regulations governing FFP in costs of automatic data processing equipment and services as specified at 45 CFR Part 95, Subpart F. The application requirements for submission of an APD for 90 percent funding are more specific than the general ADP requirements of Part 95. These specific APD requirements are established by the statutory language of section 406 of Pub. L. 96-265. 45 CFR Part 95, Subpart F has been approved by the Office of Management and Budget under number 0990-0058 with respect to the informational burden it places on the States. The additional requirement for submission of system status reports has been approved by OMB under number 0960-0374. The requirement for submission of expenditure reports has been approved by OMB under number 0960-0373.

(Sections 402, 403 and 1102 of the Social Security Act, as amended; 49 Stat. 647, as amended; 49 Stat. 628, as amended; 53 Stat. 1398, as amended; 42 U.S.C. 602, 603, 1302, and section 406 of Pub. L. 96-265, 94 Stat. 465))

(Catalog of Federal Domestic Assistance Program No. 13.808, Public Assistance—Maintenance Assistance (State Aid).)

List of Subjects in 45 CFR Part 205

Administrative practice and procedure, Aid to Families with Dependent Children, Family assistance office, Grant programs—social programs, Public assistance programs, Reporting requirements.

Dated: January 28, 1985.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: May 21, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

1. The authority citation for Part 205 continues to read as follows:

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

2. Chapter II, Title 45, Part 205 of the Code of Federal Regulations is amended by revising §§ 205.35 through 205.38 to read as follows:

§ 205.35 Mechanized claims processing and information retrieval systems; definitions.

Sections 205.35 through 205.38 contain State plan requirements that an automated statewide management information system must meet in order to be eligible for FFP at the 90 percent rate, conditions for approval and responsibilities of the Social Security Administration (SSA) for purposes of §§ 205.35 through 205.38—

"A mechanized claims processing and information retrieval system" hereafter referred to as an "automated application processing and information retrieval system" (AAPIRS), or the " "system", means a system of software and hardware used:

(a) To introduce, control and account for data items in providing public assistance under the Aid to Families with Dependent Children (AFDC) State plan; and

(b) To retrieve and produce utilization and management information about such aid and services as required by the single State agency and Federal government for program administration and audit purposes.

"Design" or *"system design"* means a combination of narrative and diagrams describing the structure of the AAPIRS. This includes the use of hardware to the extent necessary for the design phase.

"Development" means the definition of system requirements, detailing of system and program specifications, programming and testing. This includes the use of hardware to the extent necessary for the development phase.

"Hardware" means automatic data processing equipment used for an application processing and information retrieval system. This equipment accepts data input, stores data, performs calculations and other processing steps

and produced information. This includes—

(a) Electronic digital computers;

(b) Peripheral or auxiliary equipment used in support of electronic computers;

(c) Data transmission or communications equipment;

(d) Data input equipment.

"Installation" means the integrated testing of programs and subsystems, systems conversion, and turnover to operational status. This includes the use of hardware to the extent necessary for the installation phase.

"Operations" means the automated processing of AFDC applications, payments, and reports on a continuing basis for use by AFDC agency personnel in carrying out functions covered under approved State plans. This includes, but is not limited to, such elements as intake processing, eligibility determinations, verification procedures, WIN program referral, title IV-D program interface, the issuance of warrants, reconciliation of warrants, fiscal budgeting and reporting quality control processing, and management reporting. Operations include the use of purchased or rented computer equipment and software directly required for and used in the operation of the automated system. Pilot testing and parallel processing for test purposes shall not be considered as operations.

"Planning" means—

(a) The preliminary project activity to determine the requirements necessitating the project, the activities to be undertaken, and the resource required to complete the project;

(b) The preparation of the APD;

(c) The preparation of a detailed project plan describing when and how the computer system will be designed and developed;

(d) The preparation of a detailed implementation plan describing specific training, testing, and conversion plans to install the computer system.

"Software" means a set of programs, procedures and associated documentation used to operate the hardware.

§ 205.36 State plan requirements.

A State plan under title IV-A of the Social Security Act shall, at the option of the State, provide for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved by SSA, of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of an approved AFDC State plan. The submission process to amend the State plan is explained in § 201.3. This system must be designed:

(a) To automatically control and account for—

(1) All the factors in the total eligibility determination process under the plan for aid, including but not limited to:

(i) Identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of AFDC and the relative with whom any child who is an applicant or recipient is living)).

(A) To assure sufficient compatibility among the systems of different jurisdictions, and

(B) To permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction.

(ii) Checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra and inter-state, for eligibility determination, verification and payment as required by other provisions of the Social Security Act.

(2) The costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid.

(b) To notify the appropriate State officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever a case/recipient for aid and services becomes ineligible or the amount of aid or services is changed.

(c) To provide for security against unauthorized access to, or use of, the data in the system.

§ 205.37 Responsibilities of the Social Security Administration (SSA).

(a) SSA shall not approve the initial and annually updated advance automatic data processing planning document unless the document, when implemented, will carry out the requirements of the law and the objectives of title IV-A (AFDC) Automated Application Processing and Information Retrieval System Guide. This document must include—

(1) A requirements analysis, including consideration of the program mission, functions, organization, services, constraints and current support relating to such system;

(2) A description of the proposed statewide management system, including the description of information flows, input data formats, output reports and uses;

(3) The security and interface requirements to be employed in such statewide management system;

(4) A description of the projected resource requirements including staff and other needs; and the resources available or expected to be available to meet these requirements;

(5) A cost benefit analysis of alternative systems designs, data processing services and equipment in terms of qualitative and quantitative measures. The alternative systems considered should include the advantages of the proposed system over the alternatives and should indicate the period of time the system will be operated to justify the funds invested. OFA certified systems that are already in place in other States must be included in the alternatives to be considered and evaluated;

(6) A plan for distribution of costs, containing the basis for rates, both direct and indirect, to be in effect under such a statewide management system;

(7) An implementation plan with charts of development events, testing description, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of a system; and

(8) Evidence that the State's system will be compatible with those of the SSA to facilitate the exchange of data between the State and Federal system.

(b) SSA shall on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems, with a view to determining whether, and to what extent, these systems meet and continue to meet the requirements under these regulations.

(c) If SSA finds that any statewide management information system referred to in § 205.38 fails to comply substantially with criteria, requirements, and other undertakings prescribed by the approved advance automatic data processing planning document, approval of such document shall be suspended. The State will be given written notice of the suspension. The notice of suspension will state the reason for the suspension, whether the suspended system complies with the criteria for 50 percent FFP under 45 CFR Part 95, the actions required for future Federal funding, and the effective date of the suspension. The suspension shall be effective as of the date that the system failed to comply substantially with the approved APD. The suspension shall remain in effect until SSA makes a determination that such system complies with prescribed criteria, requirements, and other undertakings for future Federal funding. Should a State cease development of their approved system, either by voluntary withdrawal or as a result of

Federal suspension, all Federal incentive funds invested to date that exceed the normal administrative FFP rate (50 percent) will be subject to recoupment.

(d) SSA shall provide technical assistance to States as is deemed necessary to assist States to plan, design, develop, or install and provide for the security of the management information systems.

(e) Approvals of the systems by SSA under the provisions of this section will be undertaken only as a result of State applications for increased matching. The requirements of 45 CFR 95, Subpart E and Subpart F apply.

§ 205.38 Federal financial participation (FFP) for establishing a statewide mechanized system.

(a) Effective July 1, 1981, FFP is available at 90 percent of expenditures incurred for planning, design, development or installation of a statewide automated application processing and information retrieval system which are consistent with an approved ADP. The 90 percent FFP includes the purchase or rental of computer equipment and software directly required for and used in the operation of this system.

(b) SSA will approve the system provided the following conditions are met—

(1) SSA determines that the system is likely to provide more efficient, economical, and effective administration of the AFDC program.

(2) The system is compatible with the claims processing and information retrieval systems used in the administration of State plans approved under title XIX, and State programs where there is FFP under title XX.

(3) The system meets the requirements referred to in § 205.36.

(4) The system meets criteria established in the title IV-A (AFDC) Automated Application Processing and Information Retrieval System Guide issued by SSA and which provides specific standard requirements for major functions, such as automated eligibility determination, grant computation, verification, referral, management control, compability, and data security.

(5) The State agency certifies that—

(i) The State will have all ownership rights in software or modifications thereof and associated documentation designed or developed with 90 percent FFP under this section, except that the Department of Health and Human Services reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for Federal government purposes, such software, modifications, and documentation;

(ii) Methods and procedures for properly charging the cost of all systems whether acquired from public or private sources shall be in accordance with Federal regulations in Part 74 of this title and the applicable SSA title IV-A (AFDC) Automated Application Processing and Information Retrieval System Guide;

(iii) The complete system planned, designed, developed, installed, and hardware acquired, with FFP under these regulations will be used for a period of time which is consistent with the advance planning document as approved, or which SSA determines is sufficient to justify the Federal funds invested;

(iv) Information in the system will be safeguarded in accordance with applicable Federal law; and

(v) Access to the system in all of its aspects, including design, development, and operation, including work performed by any source, and including cost records of contractors and subcontractors, shall be made available to the Federal Government by the State at intervals deemed necessary by SSA to determine whether the conditions for approval are being met and to determine its efficiency, economy and effectiveness.

(c) If SSA suspends approval, as described in § 205.37, of the advance automated data processing planning document and/or system, FFP at the higher matching rate shall not be allowed for any costs incurred, until such time as the conditions for approval are met. Should the State fail to correct the deficiencies which led to the suspension within 90 days of the date of notification of suspension or within a longer period of time agreed to by both the State and SSA, all Federal incentive funds invested to date that exceed the normal administrative FFP rate (50 percent) will be disallowed.

(d) Should a State voluntarily withdraw its approved APD and cease development of the approved system, all Federal incentive funds invested to date that exceed the normal administrative FFP rate (50 percent) will be disallowed.

(e) Once a State is certified as having met the requirements referred to in § 205.36 incentive funding will not be allowable for enhancements or other modifications unless these modifications are authorized by the Office of Family Assistance as a result of Federal legislative or regulatory change.

[FR Doc. 86-8419 Filed 4-16-86; 8:45 am]

BILLING CODE 4190-11-M

Proposed Rules

Federal Register
Vol. 51, No. 74
Thursday, April 17, 1986

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Pistachio Nuts in the Shell

Correction

In FR Doc. 86-8042 beginning on page 12522 in the issue of Friday, April 11, 1986, make the following corrections:

1. On page 12524, first column, in § 51.2545(e)(1)(iii), last line, "one-eight" should read "one-eighth". In § 51.2545(e)(2), third line, "(e)(2)(Ii)" should read "(e)(2)(i)". In § 51.2545(e)(2)(iii), second line, insert a period at the end of the line.

2. On the same page, in the second column, in § 51.2545(f)(3), third line, insert a comma between "rocks" and "insects". In the sixth line, the word "tolerance" was misspelled. In § 51.2545(f)(4), last line, "5/16" should read "5/64."

BILLING CODE 1505-01-M

Farmers Home Administration

7 CFR Part 1980

Guaranteed Loan Programs; Administration Provisions

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its General and Business and Industrial Loan Program (B&I) regulations pertaining to the administration of the guaranteed loan programs. The changes are of two types: those that are contained in various sections of the regulations and affect the public and those which are administrative and involve internal Agency procedures which do not affect the public. These amendments are being proposed to further Administration objectives which are: (1) To assure more viable projects and (2) eliminate various loopholes and terminology which have caused the Agency considerable time and expense and potential increased liability for losses in the event of default. These actions are being taken in response to recommendations made by Agency and program managers to correct these deficiencies. The effect of the proposed changes is to strengthen overall credit terms, evaluations and servicing requirements of the FmHA B&I guaranteed loan program specifically and other FmHA guaranteed programs generally.

DATE: Written comments are to be received on or before May 19, 1986.

ADDRESSES: Submitt written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, South Agriculture Building, Room 6346, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above.

FOR FURTHER INFORMATION CONTACT: Dwight A. Carmon, Loan Specialist, Business and Industry Division, USDA, and FmHA, 14th and Independence Avenue, SW., Washington, DC 20250—Telephone: (202) 475-3811.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291 and has been determined to be "non-major" since the annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumers, individual industries, organizations, governmental agencies, or geographic regions. There will be 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 FmHA guaranteed programs and projects which are affected by this action are outlined in the Catalog of Federal Domestic Assistance (CFDA) and include: CFDA Number 10.422 Business and Industrial Loans, 10.404 Emergency Loans, 10.416 Soil and Water Loans, 10.406 Farm Operating Loans, 10.407 Farm Ownership Loans.

The activities covered by this proposed rule are subject to the requirements for intergovernmental consultation as stated in 7 CFR Part 3015 Subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities."

This proposed action has been reviewed in accordance with FmHA Instruction 1940-G, "Environmental Program." FmHA has determined that this proposed 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.

Discussion of Proposed Rule: Since there are a considerable number of changes, only those that have an effect upon the public and are considered more substantial will be discussed in this section. Internal administrative and procedural changes set forth in the regulations as "Administrative" which do not affect the public will not be discussed. FmHA has included in this proposed rule a number of changes which relate to the B&I regulations (Part 1980-E). FmHA's experience over the past 2 years has brought to management's attention the need to revise and strengthen the processing and servicing provisions. Previous guaranteed loans will not be affected by any proposed amendment inconsistent with previously issued regulations.

Many of the processing and servicing actions currently provided for in Subpart A and Subpart E of Part 1980 are completed by the County Supervisor and District Director.

The relative infrequency of submission of B&I loans to the County Supervisor and/or District Director for processing and servicing makes it impractical for these people to maintain a current knowledge of all aspects of the program. Upon implementation of the proposed changes to Subpart A and Subpart E of Part 1980, the focal point for B&I loan processing and servicing will be the State Office.

Throughout the proposed revisions of Subpart A and Subpart E of Part 1980 there are editorial changes to clarify the

language so as to better communicate the intent of the regulations.

The proposed revisions to Subpart E of Part 1980 will provide for B&I loan servicing actions that are more compatible with those practices that are customary and normal in the banking industry, upon which the B&I program relies for loan servicing. In addition, there is an inconsistent use of the term "applicant" throughout this Part. "Applicant" is used to mean either "lender" or "borrower" in different sections. In the final rule "applicant" will be changed to either "lender" or "borrower" as applicant for the purpose of clarity.

Discussion of Proposed Rule—Subpart A.

Section 1980.11—Full faith and credit

The proposed change clarifies that the lender is the only party that will bear any loss occasioned by negligent servicing. Several inquiries in the past had incorrectly interpreted the regulation to mean that guaranteed loan holders and lenders would bear a loss occasioned by the lender's negligent servicing. This was never the intent of the Agency.

Section 1980.12—Case and identification (ID) number

Section 1980.12 (a)(3) of the regulations provides that the County Supervisor will provide the lender with the case numbers to identify the loan. The proposed change would place the responsibility of providing borrower case numbers with the State Director for cases involving B&I loans.

An administrative determination has been made that the major portion of B&I loan processing and servicing will be performed at the State Office level. This determination was made based on the relative infrequency in which B&I loan requests are received in the County and District Offices and the need for current, practical experience in processing such requests. Since the principal contact with loan applicants will be made at the State Office, the proposal that case numbers be provided by the State Director seemed a logical step.

Section 1980.41—(b)(3)(iii)(A)

Section 1980.41 (b)(3)(iii)(A) of the regulations provides that the County Suprvisor will sign and provide Form FmHA 400-3, "Notice to Contractors and Applicants," to the contractor in certain case involving construction financed with FmHA guaranteed loan funds. It is proposed that this function will be performed by the State Director or where permitted his/her delegate for cases involving B&I guaranteed loans since the State Office will be performing most of the functions for Business and Industry guaranteed loans.

Section 1980.46—Right to Financial Privacy Act of 1978

Section 1980.46 (a)(2) of the regulations provides that the County Supervisor will sign a notice to the lender and other financial institutions to which FmHA makes a direct request for financial records that FmHA has complied with the applicable provisions of Title XI, Pub. L. 95-630, in seeking financial information regarding the proposed borrower. It is proposed that this function will be performed by the State Director or where permitted his/her delegate for cases involving B&I guaranteed loans. This proposed change conforms to the shift in emphasis from County Supervisors to the State Office for Business and Industry guaranteed loan activities.

Section 1980.61—Issuance of Lender's Agreement, Loan Note Guarantee and Assignment Guarantee Agreement

Section 1980.61(b)(4) of the regulations provides that the County Supervisor may reissue a new Loan Note Guarantee in exchange for the original Loan Note Guarantee in the event the lender requests a series of new notes to replace those previously issued.

It is proposed that this function will be performed by the State Director for cases involving B&I guaranteed loans.

Section 1980.61(g) of the regulations provides that State Directors, District Directors, State Program Loan Chiefs, and County Supervisors are authorized to execute the Lender's Agreement, Loan Note Guarantee, or Assignment Guarantee Agreement. It is proposed that only the State Director or State Program Loan Chief will perform this function for cases involving B&I guaranteed loans, thus making the State Office the focal point for B&I guaranteed loans.

Section 1980.63—Defaults by borrowers

Section 1980.63 of the regulations provides that the County Supervisor will coordinate requests from the holder for repurchase of the guaranteed portion of the loan and will prepare Form FmHA 1980-37, "FmHA Purchase of a Guaranteed Loan." It is proposed that the State Director, B&I Chief or C&BP Chief will perform these functions in cases involving B&I guaranteed loans, thereby shifting the point of activity involving B&I guaranteed loans from the County Supervisor to the State Office.

Section 1980.67—Lender's request to terminate loan Note Guarantee

Section 1980.67 of the regulations provides that the lender will provide the County Suprvisor with a written notice that the loan(s) is paid in full and/or the Loan Note Guarantee is terminated. It is proposed that the State Director will be notified instead of the County Supervisor for cases involving B&I guaranteed loans, thereby making the State Office the primary contact point for B&I guaranteed loans.

Section 1980.80—Appeals

Section 1980.80(a) of the regulations provides that all appeals must be made jointly by the borrower and lender. It is proposed that an appeal of an adverse decision by FmHA must be made jointly by the borrower and lender except after the issuance of any Loan Note Guarantee(s). FmHA has found there are instances where it is not possible or practical for both the lender and borrower to appeal an adverse decision. For example, in liquidation cases the lender may appeal the denial of a claim for reimbursement of certain expenses. In such a situation it is not practical to expect the cooperation of the borrower. The borrower may not longer exist.

Section 1980.85—Exception authority

Section 1980.85 is proposed to provide that the Administrator may in individual cases make an exception to any requirement or provision to this Subpart which is not inconsistent with any applicable law or opinion of the Comptroller General so long as such an exception is in the best interests of the Government. The change will provide the administrative discretion necessary to deal with unusual circumstances in a manner consistent with the best interests of the Government.

Discussion of Proposed Rule Subpart E

Section 1980.401—Introduction

The change to § 1980.401(c) is proposed to indicate the B&I loan program is to be administered by the Administrator through a State Director for each State and that the State Director is the focal point and contact person for processing and servicing activities.

Section 1980.402—Definitions

Section 1980.402 is proposed to be changed by adding the definition of the following terms:

(1) Loan classification system

(2) Problem loan

(3) Seasoned loan

The definition of these terms is necessary to clarify servicing provisions

added to other sections later in the regulation.

Section 1980.412—Ineligible loan purposes

It is proposed to change § 1980.412 by adding language that will prohibit the use of guaranteed loan funds for any line of credit. This change merely clarifies the fact that lines of credit have never been guaranteed under the B&I program.

Section 1980.413—Transactions which will not be guaranteed

It is proposed to change § 1980.413(a)(3) by adding language which will state, in part, that the aggregate of initial and subsequent B&I guaranteed loans made to any one borrower will not exceed $10 million.

Section 1980.443—Collateral, personal and corporate guarantee, and other requirements

Proposed § 1980.443 (a)(4)(i) will detail the conditions under which a release of collateral for a B&I guaranteed loan(s) would be considered by FmHA.

Proposed § 1980.443 (a)(4)(ii) will require that the sale of collateral of a going concern to the borrower, borrower's stockholder(s) or officer(s), the lender, lender's stockholder(s) or officer(s) must be based on an arm's-length transaction.

This change will aid in procuring a fair return on the sale of collateral.

Section 1980.443(b)(1) is proposed to be changed to eliminate unconditional personal guarantees of limited partnerships. This proposed change wold make the program requirements more consistent with laws regarding limited partnership liabilities.

Section 1980.443 (b)(3) provides that personal or corporate guarantees are not required for a B&I guaranteed loan. Section 1980.433 (b)(4) provides that as a general rule stockholders of publicly traded corporations would not be required to provide a guarantee on a B&I guaranteed loan.

Section 1980.451—Filing and processing applications

Section 1980.451 (i)(7) is proposed to be changed by requiring the business, to receive the benefit of a B&I guarantee, to submit a current balance sheet with a debt schedule of any debts to be refinanced and an income statement to the FmHA, through the lender, every 90 days from the time of application to the time of issuance of the Loan Note Guarantee. This proposed change ensures that the lender will have the information necessary to make a timely loan application processing determination and assure that FmHA will have the information necessary to decide whether to guarantee the loan.

Section 1980.469 is proposed to be amended by adding the requirement of a loan classification system for B&I guaranteed loans. The loan classification system is to be maintained by the guaranteed lender and is similar to systems currently in use. Such a system should assist the lender in monitoring the B&I guaranteed loans and help prevent losses on loans due to negligent servicing.

Section 1980.471—Liquidation

Proposed § 1980.471 (a)(1) would provide for the abandonment of collateral that has been acquired by the lender provided the cost of sale of the collateral exceeds the potential recovery value. This change would enhance the cost effectiveness of the program by providing for the timely disposition of the collateral which has no net value after sales expenses.

Proposed § 1980.471 (a)(2) would require that the sale of collateral to the former borrower, former borrower's stockholder(s) or officer(s) or the lender, lender's stockholder(s) or officer(s) must be based on an arm's-length transaction. This requirement would enhance the cost effectiveness of the program by helping to ensure a fair return on the sale of collateral.

Section 1980.475—Bankruptcy

Section 1980.475 (c) is proposed to be changed by adding the provision that expenses on Chaper 7 cases are not to be deducted from the collateral proceeds unless that lender is directly handing the liquidation. This action is a clarification of existing provisions of the regulations to point out that if the bankruptcy court handles the liquidation of the business, then the lender would could incur normal servicing expenses which are not recoverable under the terms of the guarantee.

Section 1980.496—Exception authority

It is proposed that a new § 1980.496 be added to the regulations. This section would provide that the Administrator may in individual cases make an exception to any requirement or provision to this Subpart which is not inconsistent with any applicable law or opinion of the Comptroller General as long as such an exception is in the best interests of the Government. The change provides the administrative discretion necessary do deal with unusual circumstances in a manner consistent with the best interests of the Government.

Section 1980.497—General administrative

Section 1980.497 is proposed to contain the provisions of the currently unnumbered General Administrative section of this Subpart.

Section 1980.497 (c) is proposed to provide that the lender's legal counsel will furnish certain information and assurance regarding the legal counsel's examination of the terms and conditions of the B&I guaranteed loan prior to the issuance of the guarantee. This material will be reviewed by the Regional Attorney prior to issuance of the guarantee. This action will affect the lender and borrower and enhance the cost effectiveness of the program by ensuring the proposed borrower's business is in compliance with the requirements of the loan(s).

Appendix C—Guidelines for Loan Guarantees for Alcohol Fuel Production Facilities

Appendix C (4) is proposed to be changed to clarify that the aggregate of all B&I loans to any one entity will not exceed $20,000,000.

Appendix H—Suggested Format for the Opinion of the Lender's Legal Counsel

Appendix H is the proposed suggested format for use by the lender's legal counsel in providing the information required by section 1980.497 (c).

List of Subjects in 7 CFR Part 1980

Agriculture, Loan programs—Agriculture, Loan programs—Business and industry—Rural development assistance, Loan programs—Housing and community development, Rural areas.

Therefore, as proposed, Title 7, Chapter XVIII of the Code of Federal Regulations is amended as follows:

PART 1980—GENERAL

1. The authority citation for Part 1980 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1490; 5 U.S.C. 301; Sec. 10, Pub. L. 93-357, 88 Stat. 392; 7 CFR 2.23, 2.70.

Subpart A—General

1. Section 1980.11, the sixth sentence is revised to read as follows:

§ 1980.11 Full faith and credit.

* * * Any losses occasioned will be unenforceable by the lender to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Conditional Commitment for Guarantee. * * *

2. Section 1980.12, paragraph (a) (1) and (3) are revised to read as follows:

§ 1980.12 Case and identification (ID) number.

(a) * * *

(1) If such party is an individual, his or her Social Security number will be used. If such party is husband and wife, the Social Security number of either one as designated by the spouses will be used.

* * * * *

(3) The applicant's Social Security or IRS tax number preceded by State and County Code numbers will constitute the entire case number to be used on all FmHA forms. The County Supervisor will provide the lender with these numbers, except for B&I cases where the State Director will provide the lender with these numbers.

* * * * *

3. In 1980.41, paragraph (b)(3)(iii)(A) is revised to read as follows:

§ 1980.41 Equal opportunity and nondiscrimination requirements.

* * * * *

(b) * * *

(3) * * *

(iii) * * *

(A) Form FmHA 400–3, "Notice to Contractors and Applicants," signed by the County Supervisor (State Directors for B&I) with an attached Equal Opportunity Poster. Posters in and displayed where a significant portion of the population is Spanish speaking.

* * * * *

4. In § 1980.46, paragraph (a)(2) is revised to read as follows:

§ 1980.46 Right to Financial Privacy Act of 1978.

(a * * *

(2 Notification must also be given to the lender and any other financial institutions to which FmHA makes a direct request for financial records. The notification to the lender and other financial institutions will read as follows:

"I certify that the United States Department of Agriculture, acting through the Farmers Home Administration, has complied with the applicable provisions of Title XI, Public Law 95–630, in seeking financial information regarding _____."

(applicant)

Date _____

County Supervisor (State Director for B&I) _____

* * * * *

5. In § 1980.61, paragraphs (b)(4) and (h) are revised to read as follows:

§ 1980.61 Issuance of Lender's Agreement, Loan Note Guarantee, Contract of Guarantee and Assignment Guarantee Agreement.

* * * * *

(b) * * *

(4) If the lender requests a series of new notes to replace previously issued guaranteed notes as provided in paragraph III A 2 (b) of the Lender's Agreement, the County Supervisor (State Director for B&I) may reissue the new Loan Note Guarantees in exchange for the original Loan Note Guarantees.

* * * * *

(h) *Authorized FmHA representatives to execute forms.* State Directors, District Directors, State Program Loan Chiefs, and County Supervisors are authorized to execute the Lender's Agreement, Loan Note Guarantee, or Assignment Guarantee Agreement within their respective loan approval authorities, except for B&I where the State Director and State B&I or C&BP Chief will excute these forms.

6. Section 1980.63 is revised to read as follows:

§ 1980.63 Defaults by borrower.

(a) Refer to paragraph X of Form FmHA 449–35 or paragraph X of Form FmHA 1980–38.

(b) FmHA may be required to purchase the guaranteed portion of a loan(s) from holder(s) in the event of default or servicing problems. The County Supervisor (State Director for B&I) will coordinate any requests from holder(s) located in close proximity to the local lender. If several holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor (except for B&I). The County Supervisor (State Director for B&I) will prepare a Form FmHA 1980–37, "FmHA Purchase of a Guaranteed Loan Portion," for each holder(s) and follow the instructions on the reverse of the form.

7. Section 1980.67 is revised to read as follows:

§ 1980.67 Lender's request to terminate Loan Note Guarantee or Contract of Guarantee.

If the Loan Note Guarantee has not automatically terminated, the lender may request FmHA to terminate the Loan Note Guarantee(s) or Contract of Guarantee(s), for any reason, provided the lender holds all the guaranteed portions of the loan. (See paragraph 12 of Form FmHA 449–34, or paragraph 5 of Form FmHA 1980–27.) The lender will provide the County Supervisor (State Director for B&I) with a written notice that the loan(s) or line(s) of credit is paid in full and/or termination of the Loan Note Guarantee(s) or Contract of Guarantee(s), enclosing the original Form(s) FmHA 449–34 or Form FmHA 1980–27 for cancellation. Within 30 days, the County Supervisor (State Director for B&I) will forward a memorandum to the Finance Office through the State Director. The memorandum will indicate that: "the loan(s) or line(s) of credit is paid in full," and/or "the Loan Note Guarantee or Contract of Guarantee has been cancelled at the request of the lender."

8. Section 1980.80 is amended by removing the first sentence and inserting the following four sentences in its place.

§ 1980.80 Appeals.

Any adverse decision made by FmHA which affects the borrower or lender may be appealed upon written request of the aggrieved parties in accordance with this section. Only the borrower and lender can appeal an FmHA decision, and they must jointly participate in the written request for review of the alleged adverse decision made by FmHA except, after the issuance of the Loan Note Guarantee(s) either party may be allowed to file an appeal without the other party's participation so long as a good faith effort by the appealing party has been made to secure the other party's cooperation. Parties aggrieved with decisions made prior to the effective date of this provision shall have 30 days to file a request for review under these regulations if neither party has personally filed a request for review. A holder may only appeal an FmHA decision not to honor the holder's request for repurchase of the guaranteed portion of the loan, in its possession, on grounds of fraud or misrepresentation by the holder (see paragraph 3 of Form FmHA 449–34).* * *

9. In § 1980.83, paragraph (b) is amended by adding the following to the end of the list of forms:

§ 1980.83 FmHA forms.

* * * * *

(b) * * *

FmHA Form No.	Title of Form	Purpose and Code [1]
*	* *	* *
1980–56.....	Guaranteed Loan Borrower Deferment.	Used by FmHA to document deferral of payments and adjustments to interest rates and guaranteed loans. (1)
1980–57.....	Reverse Guaranteed Loan Borrower Deferment.	Used by FmHA to update accounting system records for reversal of deferment of payments. (1)

[1] Code: (1) FmHA use only, (2) FmHA and lender use, (3) Lender use only.

10. Section 1980.85 is added to read as follows:

§ 1980.85 Exception authority.

The Administrator may in individual cases make an exception to any requirement or provision of this Subpart which is not inconsistent with any

applicable law or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. Requests for exceptions must be made in writing by the State Director and submitted through the appropriate Assistant Administrator. Requests must be supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

Subpart E—Business and Industrial Loan Program

11. In § 1980.401, paragraph (c) is revised to read as follows:

§ 1980.401 Introduction.

* * * * *

(c) The B&I loan program is administered by the Administrator through a State Director serving each State. The State Director is the focal point for the program and the local contact person for processing and servicing activities, although this Subpart refers in various places to the duties and responsibilities of other FmHA employees.

* * * * *

12. Section 1980.402 is amended by redesignating paragraph (e) as (g), paragraph (f) as (h) and paragraphs (g) and (h) as (j) and (k) respectively; and by adding new paragraphs (e), (f), and (i) to read as follows:

§ 1980.402 Definitions.

* * * * *

(e) *Loan classification system.* The process by which loans are examined and categorized by degree of potential for loss in the event of default.

(f) *Problem loan.* A loan which is not performing according to its original terms and conditions or which is not expected in the future to perform according to those terms and conditions.

* * * * *

(i) *Seasoned loan.* A loan which:

(1) Has a remaining principal guaranteed loan balance of two-thirds or less of the original aggregate of all existing B&I guaranteed loans made to that business.

(2) Is in compliance with all loan conditions and B&I regulations.

(3) Has been current on the B&I guaranteed loan(s) payments for 24 consecutive months.

(4) Is secured by collateral which is determined to be adequate to ensure there will be no loss on the B&I guaranteed loan.

* * * * *

13. Section 1980.412, paragraph (o) is added to read as follows:

§ 1980.412 Ineligible loan purposes.

* * * * *

(o) For any line of credit.

* * * * *

14. In § 1980.413, paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 1980.413 Transactions which will not be guaranteed.

(a) * * *

(3) The guarantee or making of any B&I loan(s), to any one borrower, when the total amount of the B&I loan(s) requested plus the outstanding balance of any existing B&I loan(s) is in excess of $10 million.

(4) The guarantee or making of any B&I alcohol production facilities loan(s), to any one borrower, when the total amount of the B&I alcohol production facilities loan(s) requested plus the outstanding balance of any existing B&I loan(s) is in excess of $20 million.

* * * * *

15. In § 1980.424, paragraph (a) is revised to read as follows:

§ 1980.424 Terms of loan repayment.

(a) Principal and interest on the loan will be due and payable as provided in the promissory note except, any interest accrued as the result of the borrower's default on the guaranteed loan(s) over and above that which would have accrued at the normal note rate on the guaranteed loan(s) will not be guaranteed by FmHA. The lender will structure repayment as established in the loan agrement between the lender and borrower. Ordinarily, such installments will be scheduled for payment as agreed upon by the lender and applicant but on terms that reasonably assure repayment of the loan. However, the first installment to include a repayment of principal may be scheduled for payment after the project is operable and has begun to generate income, but such installment will be due and payable within 3 years from the date of the promissory note and at least annually thereafter. Interest will be due at least annually from the date of the note. Ordinarily, monthly payments will be expected, except for seasonal-type businesses.

* * * * *

16. Section 1980.443 is revised to read as follows:

§ 1980.443 Collateral, personal and corporate guarantee, and other requirements.

(a) *Collateral.* (1) The lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(2) Collateral must be of such nature that repayment of the loan is reasonably assured when considered with the integrity and ability of project management, soundness of the project, and applicant's prospective earnings. Collateral may include, but is not limited to the following: land, buildings, machinery, equipment, furniture, fixture, inventory, accounts receivable, cash or special cash collateral accounts, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.

(3) All collateral must secure the entire loan. The lender will not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The lender will not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances as used in the ordinary course of business may be used.

(4) Release of collateral of a going concern is based on a complete analysis of the proposal.

(i) Release of collateral prior to payment in full of the FmHA guaranteed debt must be requested by the lender and concurred with by the State Director as prescribed in § 1980.469 *Admnistrative* D.2. of this Subpart, subject to the following conditions:

(A) Collateral taken initially or subsequenlty may not be released prior to the payoff, in full, of the loan balance without adequate consideration for the value of that collateral. Adequate consideration may include but is not limited to:

(*1*) Application of the net proceeds from the sale of the collateral to the note in inverse order of maturity. All *or* part of the total proceeds, if approved by the Administrator, may be applied to the payment of current or delinquent principal and interest on the note.

(*2*) Use of the net proceeds from the sale of collateral to purchase of equal or greater value for which the lender will obtain a first lien position.

(*3*) Applicaton of net proceeds from the sale of collateral to the borrower's business operations in such a manner

that enhancement of the borrower's business debt service ability can be clearly demonstrated; for example, the payoff or reamortization of the loan as the result of a large extra payment which reduces subsequent installments on the loan, and

(4) Assurance that the release of collateral will contribute to the success of the borrower and repayment of the loan; and

(B) FmHA must not be adversely affected by the release of collateral; and

(C) If the release of collateral does not involve a reduction of the guaranteed debt equal to the net proceeds of the disposition of the collateral, then it must be determined that the remaining collateral is sufficient to provide for the recovery of the FmHA guaranteed loan(s).

(ii) Sale of collateral of a going concern to the borrower, borrower's stockholder(s) or officer(s), the lender or lender's stockholder(s) or officer(s) must be based on an arm's-length transaction with the written concurrence of FmHA.

(b) *Personal and corporate guarantees.* (1) Unconditional personal/corporate guarantees (i.e., absolute guarantees of full and punctual payment and performance by the borrower) from owners or major stockholders as determined by FmHA and all partners of partnerships (except for limited partnerships) unless restricted by law *will* be required unless exempted as provided for in paragraph (b)(2) of this section. Guarantees of parent, subsidiaries, or affiliated companies and/or secured guarantees may also be required. FmHA is not a co-guarantor with the personal or corporate guarantors. The personal and corporate guarantees are part of the collateral for the loan.

(2) An exception to the requirement for personal or corporate guarantees may be made by FmHA when requested by the lender and if:

(i) The borrower has a satisfactory and current (not over 90 days old) credit report, proven management, evidence of the market necessary to support projections, profitable historical performance of no less than 3 years, abundant collateral to protect the lender and FmHA, sufficient cash flow to service its debts, and meet key industry standards such as those of Robert Morris Associates, Dun and Bradstreet, or the like; or

(ii) The borrower's stock is widely enough held so that no one individual can exercise control. Examples of control would include but are not limited to: holding sufficient proxies and maintaining sufficient family or special interest voting blocks; or

(iii) A borrower which has a parent, subsidiary, or affiliate which is legally restricted from guaranteeing, or if the guarantee would conflict with existing contractual obligations of the entity from whom a guarantee would be otherwise required. Examples of existing contractual obligations include but are not limited to restrictions in loan agreements or in credit lines which may preclude guaranteeing.

(3) No guarantees are required from any partners in a limited partnership.

(4) As a general rule, stockholders of publicly traded corporations will not be required to guarantee. However, such guarantees can be required from some of the stockholders where such guarantees are determined necessary to adequately protect the interest of the Government.

(5) If the guarantee would conflict with existing contractual restrictions, the Administrator will have the authority to grant exceptions to the above restrictions upon a finding by the Administrator that such a guarantee is not necessary to adequately protect the Government's interest. Relief would only be granted as to contractual restrictions existing at the time the lender filed an application with FmHA.

(6) Unsecured personal guarantees, while collateral, will not be consider for purposes of adequacy of security. Personal guarantees will be secured by collateral when business collateral offered is determined by FmHA to be insufficient or when the applicant's credit does not meet the program's normal requirements or anytime the lender deems such security should be taken.

(7) Guarantors of borrower's loan will:

(i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors, which make a clear disclosure of community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(iii) When applicable, provide written evidence to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(c) *Other requirements.* (1) The lender will ascertain that no claim or liens of laborers, material men, contractors, subcontractors, suppliers of machinery and equipment or other parties are against the collateral of the borrower, and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(2) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(3) Ordinarily, life insurance, which may be decreasing term insurance, is required for the principals and key employees of the borrower and will be assigned or pledged to the lender. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(4) Worker's compensation insurance is required in accordance with State law.

Administrative

A. *Par (a)(2).* FmHA's credit analysis of collateral will consist of the following:

(1) Little or no value will be assigned to unsecured personal or corporate guarantees.

(2) A maximum of 80 percent of current market value will be given to real estate. Special purpose real estate should be assigned less value.

(3) FmHA at its option may permit a maximum of 60 percent of book value to be assigned to acceptable accounts receivable; however, all accounts over 90 days past due, contra accounts, affiliated accounts and other accounts deemed by the FmHA official not to be acceptable for collateral purposes will be omitted from the total of acceptable receivables. Calculations to determine the percentage to be applied in the analysis are to be based on the realizable value of the accounts receivable taken from a current aging of accounts receivable from the borrower's most recent financial statement.

(4) A maximum of 60 percent of book value will be assigned to inventory.

(5) Collateral value assigned to machinery and equipment, furniture and fixtures will be based upon its marketability, mobility, useful life and alternative uses, if any.

B. *Par. (b).* The State Director will assure that the collateral values and personal and corporate guarantees are fully reviewed, analyzed and the loan file is documented as to the facts and reasons for decisions reached.

17. In § 1980.451, paragraph Administrative B is removed, paragraph Administrative C is redesignated as Administrative B, and paragraphs (a), the introductory paragraph of paragraph (f), paragraphs (i)(7), (i)(8), Administrative A and newly designated paragraphs Administrative B 2 and B 4 are revised to read as follows:

§ 1980.451 Filing and processing applications.

(a) *Borrowers' and lenders' contact.* Borrowers and lenders desiring FmHA assistance as provided in this subpart may file preapplications or applications with the County Supervisor or District Director servicing the area in which the project is to be located. In either case, the requirements of § 1980.46 of Subpart A of this Part must be met. The County Supervisor or District Director receiving the request for assistance will promptly notify the State Director of the nature and facts of the request. The FmHA State Director will promptly arrange an early meeting with the borrower and lender representatives to discuss assembly, preparation, and processing of preapplications and applications. The State Director may call upon the County Supervisor and District Director to assist the State Office in any way necessary.

* * * * *

(f) *Preapplications.* Borrowers may file preapplications with the County, District or State Office including:

* * * * *

(i) * * *

(7) For existing businesses, a pro forma balance sheet at startup and for at least 3 additional projected years, indicating the necessary startup capital, operating capital and short-term credit based on financial statements for the last 3 years, or more (if available); and projected cash flow and earnings statements for at least 3 years supported by a list of assumptions showing the basis for the projections. The business should submit a current balance sheet with a debt schedule of any debts to be refinanced and an income statement to FmHA, through the lender, every 90 days from the time the application is filed with the lender to the time the application is approved or rejected by FmHA. If debt refinancing is requested, a debt schedule is to be prepared (correlated to the latest balance sheets) reflecting the debts to be refinanced including the name of the creditor, the original loan amount and loan balance, date of loan, interest rate, maturity date, monthly or annual payments, payment status, and collateral that secured such loans.

(8) For new businesses, a pro forma balance sheet at startup and for the next 3 years, projected cash flow (monthly first year, quarterly for 2 additional years) and projected earnings statements for 3 years supported by a list of assumptions showing the basis for the projections.

* * * * *

Administrative

A. *The State Director.*

1. Determines if material and information submitted is complete and signed by the appropriate party in the appropriate capacity.

2. May request the comments and recommendations of the County Supervisor and District Director. Such comments will include but are not limited to the following: Community attitude toward project; a summary of comments regarding the proposal by the lender, county leaders, and other interested parties; whether the project is likely to result in the need for additional community facilities such as schools, water, sewer, and health care services, and if so, the community's plan for providing such facilities; availability of any required additional labor force and training plans for such force, if needed; an economic forecast of the effect on the community should the project fail, if financed.

3. Will furnish all individuals acting in a personal capacity at the time of filing a preapplication or application with two copies of Form FmHA 410-9. The individual will sign both copies, retaining one and provide FmHA with the other copy which becomes a part of the loan file.

4. Will provide any source from whom FmHA obtains information concerning an individual with two copies of Form FmHA 410-10. The source will sign both copies, retain one and provide FmHA with the other copy which becomes a part of the loan file.

5. Will prepare Form FmHA 2033-34, "Management System Card-Business and Industry," in accordance with FmHA Instruction 2033-F. Form FmHA 2033-34 will be used as the resource document to input the necessary data via data terminal screens into the Rural Community Facility Tracking Systems (RCFTS). The RCFTS data structure consists of three sets: Applicant/Borrower (BOR), Facility (FAC), and Fund Request (FRQ) sets. There are multiple screens for the FAC and FRQ sets.

6. Will forward immediately to the National Office on all projects:

(a) Form FmHA 449-22 (7 copies) for loans over $1,000,00 and when direct employment increases more than 50 employees.

(b) For insured loans were the borrower leases facilities to another, submit Form FmHA 449-22 for such borrower. The lessor(s) will also be required to provide Form FmHA 449-22. Subsequent loan requests require resubmisson of Form FmHA 449-22.

(c) Form FmHA 449-4 (5 copies) for all loans over $1,000,000 or for loans, regardless of size, when the State Director believes a character evaluation check is advisable. Borrowers should be advised that this clearance will take approximately 60 days to process and the National Office will take no action to expedite such processing.

Note.—Form FmHA 449-22 and 449-4 should *only* be processed if a *complete* preapplication or application has been received.

B. *Miscellaneous-Administrative provisions:*

1. * * *

2. *Par (g).* Upon receipt of all preapplications in excess of $5 million, the State Director will transmit to the National Office the material required under § 1980.451 (f)(1), (4), and (5) of this Subpart together with recommendations and observations including an analysis of the quality and permanency of the employment opportunities involved in the project. The National Office will review the proposed project in relation to objectives, priorities, and intent of the program and will advise the State Director. After receiving the National Office advice or for loans less than $5 million, the State Director will inform the borrower of the decision.

3. * * *

4. *Par (i)(9). Credit reports.*

(a) The National Office has a contract to provide credit reports for preapplications, applications and in instances after the loan(s) is made, where a credit report is needed.

(b) States should first try to have the lender provide such a report because credit reports are the responsibility of the lender.

(c) Any State needing a credit report should telephone the National Office, Director B&I, and give the name of the business and the city and State location. The report will be mailed to you the same day, if possible.

* * * * *

18. In § 1980.452, paragraphs Administrative D5 and D6 are redesignated as D6 and D7 respectively and revised, a new paragraph D5 is added, and the introductory paragraph of paragraph Administrative D and paragraph D4 are revised to read as follows:

§ 1980.452 FmHA evaluation of application.

* * * * *

Administrative: * * *

D. Applications will be analyzed by an FmHA State Loan Reveiw Board before execution of Form FmHA 449-14. When analyzing the B&I loan request, the State Loan Review Board will specifically address the issue of the guarantee percentage to be approved. Consideration of reducing the maximum guarantee to less than 90 percent is appropriate when the loan has sufficient strength to warrant further participation by the private sector or refinancing of existing lender debts to the borrower is involved. Ordinarily, B&I loan guarantees should be structured so that the lender bears a significant portion of the risk of loss from default. "Significant" means equal to or greater than 20 percent of the loss stemming from default. All review board meetings will be fully documented, including the review and decision concerning the guarantee percentage, and will be signed by those FmHA employees serving on the board in favor of the determination. A copy of such documentation will be retained in the loan file.

* * * * *

4. The State Director may request the County Supervisor and/or District Director to attend the review board meeting whenever it is determined they may have special knowledge or the proposed loan which may affect the board's decision.

5. Prior to submission of a B&I guaranteed loan(s) request to the National Office for loan processing review and prior to loan approval, the appropriate loan processing official must visit the project site and discuss the loan proposal with the lender and borrower. In the event there are multiple project sites, the official should visit a representative sample of project sites to develop a deeper understanding of the project operation. For businesses without a developed project site, a visit is not necessary; however, a visit with the lender and borrower is still required. The findings of the visit should be documented in the loan docket submitted to the National Office.

6. The State Director will prepare an original and two copies of Form FmHA 1940–1 for each loan to be obligated. Also, for each initial loan, Form FmHA 1980–50, "Add, Delete, or Change Guaranteed Loan Borrower Information," will be prepared. The State Director will sign the original and one copy and comform the second copy. Form FmHA 1940–1 will not be mailed to the Finance Office. Notice of approval to the lender will be accomplished by providing or sending the lender the signed copy of Form FmHA 1940–1 and Form FmHA 449–14 on the obligation date, unless the Administrator has given prior authorization to the Finance Office to obligate before the 6-day reservation period and directs the State Director to forward Form FmHA 1940–1 to the lender in advance of issuance of Form FmHA 449–14. The State Director or designee will record the actual date of lender notification on the original of the Form FmHA 1940–1 and retain the original of the form as a permanent part of the FmHA case file. The State Director may retain the remaining conformed copy of Form FmHA 1940–1. The State Director or designee will use the State Office terminal to request reservation/obligation of funds. Use of the telephone for the reservation/obligation of funds is restricted to those instances when the State Office terminal is inoperative. Form FmHA 1980–50 will be prepared and distributed for initial loans only.

7. State Director notifies the lender and borrower if he/she will not issue the Form FmHA 449–14.

19. In § 1980.454, paragraph Administrative A 1 is amended in the first sentence by removing the words "County Supervisor" and inserting in their place the words "State Director."

20. Section 1980.454 is further amended by revising Administrative paragraph F to read as follows:

§ 1980.454 Conditions precedent to issuance of the Loan Note Guarantee.

* * * * *

F. *Par (c) Changes in terms and conditions in Form FmHA 449–14.* The State Director will review any requests for changes to Form FmHA 449–14 and forward such request with a memorandum of facts and recommendations to the National Office for a decision. The National Office will approve only minor changes which do not materially affect the project, its capacity, employment, original projections or credit factors. Changes in legal entities or where tax considerations are the reason for change will not be approved. When modifying any loan covenants or conditions of guarantee, in order to identify the number and types of action taken, the following procedures are to be followed when action of this type is approved by FmHA:

1. Starting with the Number 1, when each modification is approved, enter a number in the upper right hand corner of the Letter of Concurrence and onto the related "Modification or Administrative Action" sheet.

2. Next to the modified wording on the work copy of the Conditional Commitment for Guarantee and the Term Loan Agreement or any form which has been modified, pencil in a short cross reference to the modification and identify the number given it.

3. File the copies of the "Modification or Administrative Action" sheet and related Letters of Concurrence numerically in the docket directly on top of the affected original documents of conditions.

4. This order of recordkeeping should include any requests which were declined by the National Office.

21. Section 1980.461 is revised to read as follows:

§ 1980.461 Issuance of Lender's Agreement, Loan Note Guarantee, and Assignment Guarantee Agreement. [See Subpart A, § 1980.61]

Administrative

A. *Par (a) of Subpart A, § 1980.61.* The original Form FmHA 449–35 will be retained in the FmHA loan file.

B. *Par (b)(1) of Subpart A, § 1980.61.* Copies of all issued Loan Note Guarantees will be kept in the FmHA loan file.

C. *Par (b)(2) of Subpart A, § 1980.61.* The State Director will approve all substitutions of Loan Note Guarantees or Contracts of Guarantee.

D. It is imperative that the original loan covered by a Contract of Guarantee is current.

E. *The Registered Holder will transmit to the State Director:*

1. Request for substitution together with the original Contract of Guarantee.

2. Copies of notes with lender's identification number. (All requirements of the Lender's Agreement will be complied with before any new notes are issued.)

3. Certification that the loan is current and in good standing.

4. Certification of outstanding principal amount of the loan.

5. Executed Lender's Agreement. (FmHA provides form to lender.)

6. Executed Form FmHA 1980–19. (See § 1980.21 of Subpart A for calculation of fee due).

7. Payment for appropriate guarantee fee.

F. *State Director will:*

1. Review all the requirements of Paragraph E of this section.

2. Verify the submitted request and if in order, send the guarantee fee and Form FmHA 1980–19 to the Finance Office with a notation of the date the new Loan Note Guarantee will be issued. (Note: The substitution of a Loan Note Guarantee for the Contract of Guarantee is not to be considered as a new loan for recordkeeping purposes.)

3. Complete the Loan Note Guarantee (appropriate number for attachment to each note), date and sign the instrument. The following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of Contract of Guarantee dated _____." The State Director will transfer from the Contract of Guarantee all information pertaining to the Loan Note Guarantee.

4. Execute Lender's Agreement.

5. Cancel the original Contract of Guarantee.

6. Transmit to the lender the original Loan Note Guarantee and a copy of the executed Lender's Agreement and retain in the loan file copies of the Loan Note Guarantee with attached original cancelled Contract of Guarantee, a copy of Form FmHA 1980–19 and the original Lender's Agreement.

All applicable provisions of this Subpart and Subpart A of this Part apply to the loan when the Loan Note Guarantee is signed.

G. *Alternate Procedure:*

If the Registered Holder does not want to deliver the original Contract of Guarantee with his/her request for substitution, the State Director will accept a copy of the Contract of Guarantee and proceed as above. However, the Loan Note Guarantee will be delivered only upon receipt of the original Contract of Guarantee.

H. *Par (b)(3) of Subpart A, § 1980.61.* For reporting purposes where multi-notes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

I. *Par (b)(4) of Subpart A, § 1980.61.* The State Director will notify the Finance Office of the transaction.

J. *Par (d) of Subpart A, § 1980.61.* A copy of Form FmHA 449–36 will be kept and a copy of the executed Lender's Agreement retained in the loan file along with copies of the Loan Note Guarantee with attached original cancelled Contract of Guarantee, copy of Guarantee Fee Report and the original Lender's Agreement.

K. *Par (e) of Subpart A, § 1980.61.* State Director signs all Forms FmHA 449–13, "Denial Letter."

L. *Par (f) of Subpart A, § 1980.61.* The State Director will:

1. Review Form FmHA 1980–19 for completeness.

2. Deposit the guarantee fee through concentration banking and include the amount in the total collections on the Daily Activity Report.

3. Submit Form FmHA 1980–19, "Guaranteed Loan Closing Report," with the Daily Activity Report and other attachments to Finance Office in the salmon envelope marked "CB." This form is used *in lieu of* the 451–2, "Schedule of Remittance."

4. On the Daily Activity Report, Form 1980–19 will be counted as one in the item count as if it were a card or coupon.

5. Ascertain that originals or copies, as appropriate, are retained in the FmHA loan file.

22. Section 1980.469 is revised to read as follows:

§ 1980.469 Loan servicing.

The lender is responsible for loan servicing and for notifying the FmHA of any violations in the lender's Loan Agreement. (See Paragraph X of Form FmHA 449-35.)

(a) All B&I guaranteed loans will be classified by the lender with a written copy of the classification and justification to the FmHA State Office according to the following criteria:

(1) *Substandard Classifications*—Those loans which are inadequately protected by the current sound worth and paying capacity of the obligor or of the collateral pledged, if any. Loans in this category must have a well-defined weakness or weaknesses that jeopardize the payment in full of the debt. If the deficiencies are not corrected, there is a distinct possibility that the lender and FmHA will sustain some loss.

(2) *Doubtful Classifications*—Those loans which have all the weaknesses inherent in those classified Substandard with the added characteristic that the weaknesses make collection or liquidation in full, based on currently known facts, conditions and values, highly questionable and improbable.

(3) *Loss Classification*—Those loans which are considered uncollectible and of such little value that their continuance as bankable loans is not warranted. Even though partial recovery may be effected in the future, it is not practical or desirable to defer writing off these basically worthless loans.

(b) There is a close relationship between classifications, and no classifications category should be viewed as more important than the other. The uncollectibility aspect of Doubtful and Loss classifications are of obvious importance; however, the function of the Substandard classification is to indicate those loans that are unduly risky which may result in future claims against the B&I guarantee.

(c) Substandard, Doubtful and Loss are adverse classifications. There are other classifications for loans which are not adversely classified but which require the attention and followup of the lenders and FmHA. These classifications are:

(1) *Special Mention Classification*—Those loans which do not presently expose the lender and FmHA to a sufficient degree of risk to warrant a Substandard classification but do possesss credit deficiencies deserving the lender's close attention. Failure to correct those deficiencies could result in greater credit risk in the future. This classification would include loans that the lender is unable to supervise properly because of lack of expertise, an inadequate loan agreement, the condition of or lack of control over the collateral, failure to obtain proper documentation or any other deviations from prudent lending practices. Adverse trends in the borrower's operation or an imbalanced position in the balance sheet which has not reached a point that jeopardizes the repayment of the loan should be assigned to this designation. Loans in which actual, not potential, weaknesses are evident and significant should be considered for a Substandard classification.

(2) *Seasoned Loan Classification. A loan which:*

(i) Has a remaining principal guaranteed loan balance of two-thirds or less of the original aggregate of all existing B&I guaranteed loans made to that business.

(ii) Is in compliance with all loan conditions and B&I regulations.

(iii) Has been current on the B&I guaranteed loan(s) payments for 24 consecutive months.

(iv) Is secured by collateral which is determined to be adequate to ensure there will be no loss on the B&I guaranteed loan.

(3) *Current Non-problem Classification*—Those loans which have been current for 23 or fewer months and are in compliance with the loan conditions and B&I regulations. These loans would not be considered as posing a credit risk to the lender or FmHA. All loans not classified as Seasoned or Current Non-problem will be reported on the quarterly status report with documentation of the details of the reason(s) for the assigned classification.

Administrative:

Refer to Appendix G of FmHA Instruction 1980-E (available in any FmHA Office) for advice on how to interact with the lender on liquidations and property management.

A. While the lender has the primary responsibility for loan servicing and protecting the collateral, the State Director is responsible for seeing that servicing as required by the Lender's Agreement and regulation is properly accomplished. Loan servicing is intended to be a preventive rather than a curative action. Prompt followup on delinquent accounts and early recognition of potential problems and pursuing a solution to them are keys to resolving many problem loan cases.

B. *Paragraph II of the Lender's Agreement.*

1. The Loan Note Guarantee is unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. As used herein, the phrase "use of loan funds for unauthorized purposes" refers to the situation in which the lender in fact agrees with the borrower that loan funds are to be used so and the phrase "unauthorized purposes" means any purpose not listed by the lender in the completed application as approved by FmHA.

2. With respect to negligent servicing and/or use of loan funds for unauthorized purposes, the Loan Note Guarantee is unenforceable by the lender to the extent any loss is occasioned by negligent servicing and use of loan funds for unauthorized purposes regardless of the time FmHA acquires knowledge of the negligent servicing by the lender. Only the amount of the loss caused by negligent servicing and use of loan funds for unauthorized purposes can be withheld from the final loss claim submitted by the lender. The dollar amount withheld from the final loss claim must be ascertainable. In order to determine the final loss amount, the guaranteed loan collateral and any collateral of the guarantor(s) must be liquidated and settled or a settlement with the guarantor(s) reached. In the event there is reason to suspect the lender of negligent servicing and use of loan funds for unauthorized purposes during the life of the loan, the lender should be notified, in writing, that: (i) the acts of negligent servicing and/or use of loan funds for unauthorized purposes will cause the guarantee to be unenforceable by the lender to the extent these acts cause a loss; (ii) any decision not to honor any part of the guarantee is not possible until the loan has been liquidated and a loss established; (iii) if any loss occurs, FmHA will consider whether negligent acts of the lender and/or use of loan funds for unauthorized purposes caused a loss after the liquidation is complete; and (iv) at the time FmHA determines a loss has occurred as the result of negligent servicing and/or use of loan funds for unauthorized purposes, the lender may appeal any adverse decision.

3. When FmHA believes that fraud has occurred, the matter should be brought to the attention of OGC. A borrower or lender can be sued even though criminal fraud is not present. If FmHA has good reason to believe that, for example, a borrower or a lender has made a false statement to obtain a loan or guarantee, or a lender submitted a loss claim to FmHA which was false or fraudulent, it should promptly call the matter to the attention of OGC—even if no payment of the loss claim has occurred. (This would include those situations in which a borrower lied to the lender in order to get the loan, the lender believed the borrower and made the loan—which was guaranteed by FmHA—and then the lender presented a loss claim to FmHA for payment after the borrower defaulted on the loan.) Sometimes it might be necessary to ask OIG to do an investigation to establish all the aspects of the fraud. If at all possible, this should be done prior to referral to OGC.

4. There are two methods the Government could use to seek relief for the fraud. One of the ways the Government could seek redress for the fraud is to sue under the False Claims Act (31 U.S.C. Sections 3729-3731). If fraud is proven to have occurred, the False Claims Act provides for the recovery of double damages and a $2,000 penalty (and the costs of the civil suit) for each act involving, for

example: (i) knowingly submitting to a Government employee a false or fraudulent claim for payment or approval, (ii) knowingly making or using a false record or statement to get a false or fraudulent claim paid or approved, or (iii) conspiring to defraud the United States by getting a false or fraudulent claim allowed or paid. Suit under the False Claims Act must be filed within 6 years from the date of the commission of the act (e.g., presentation of the claim to FmHA for payment). The double damage feature ought to be a good incentive to convince OIG to undertake any necessary investigations to help establish the fraud.

5. In order to decide whether to file suit, the Department of Justice will need to know such things as: What was the amount of the loan or the losses paid to the lender or holder? How much did the scheme cost the Government? What is the difference in money between what the Government paid out and what it should have paid out? Does the borrower or lender have enough assets to make it worth suing? If FmHA can answer these questions before referral to OGC—either on its own or by using OIG—then OGC can refer the matter that much more quickly to the Justice Department.

6. There is also a way to bring suit for civil fraud by alleging that "common law" fraud occurred. This would just involve proving that a borrower or a lender falsely represented, by their words or actions, a matter of fact either by alleging something in a false or misleading manner or by concealing something that should have been disclosed; and that FmHA was deceived by this conduct, and relied on it to its detriment. Under "common law" fraud, only single damages could be recovered, and there would be no $2,000 penalty assessed. The actions would generally have to be brought within 3 years from the date of the discovery of the fraud.

7. Neither the False Claims Act nor the right to bring a "commonlaw" action for fraud precludes the Government from just suing to recover the money wrongfully or mistakenly paid by its employees. If the Justice Department decides not to pursue a civil fraud claim under the False Claims Act or "common law," it will return the matter to OGC. Depending on what stage the proceedings were in when the matter was first referred, FmHA could then continue to negotiate with the lender or OGC could re-refer the case to Justice for any contract-based actions, including fraud or misrepresentation based on the terms of the guarantee.

C. *The State Director will assure that:*

1. The lender understands upon initial contact during loan application and in particular at loan closing that the lender is responsible for loan servicing and that *annual audited financial statements are required.*

2. A timetable for routine site, borrower and lender visitations by FmHA personnel is established before the Loan Note Guarantee is issued. As a guide, visits to newly established borrowers with the lender represented should be scheduled monthly. Visits to established, nonproblem borrowers must be made at least annually except for seasoned loans which will be visited at least bi-annually. Special attention problem accounts should be visited as frequently as the need demands. If possible, these visitations should be coordinated with the lender's visits.

3. During or in preparation for field visits, the following functions are to be performed:

(a) Current financial information is obtained in advance and analyzed for trends.

(b) Any issues revealed or problems not resolved from the last visitation are included in the agenda.

(c) Collateral is observed and its condition maintenance, protection and utilization by the borrower appears to be satisfactory.

(d) A report of the visit is made on Form FmHA 449–39, "Field Visit Review (Business and Industry Loans)," or otherwise documented and included in the loan file. The report should include an opinion of the borrower's status based upon observations made during the visit.

(e) Any instructions or directions made to the lender should be confirmed by letter.

4. The Program Chief or Loan Specialist will conduct an annual meeting with each lender or its agent with whom a Loan Note Guarantee(s) or Contract of Guarantee(s) is outstanding. *This cannot be redelegated.* These meetings may be scheduled at the time FmHA makes periodic field inspections to the borrower's place of business. At the meeting, a review will be made of the lender's performance in loan servicing, including enforcement of conditions and covenants in the loan agreements. The observations and results of the meeting will be documented. Form FmHA 449–39 may be used for this purpose. Servicing exceptions on the part of the lender which are noted by FmHA will be confirmed by letter to the lender.

5. The lender performs an adequate analysis of borrower financial statements for FmHA. FmHA in turn will evaulate the lender's analysis and follow up with the lender on servicing action(s) required or negative observations not detected through the lender's analysis. The financial statement analysis of the lender, the financial statement and a memorandum reflecting FmHA's analysis, including a comparison to previous and projected performance of the borrower, will be forwarded to the National Office, Attention: Business and Industry Division, only for the following loans:

(a) All loans within the first year of loan closing.

(b) Loans over 1 year old as determined by the State Director or a National Office assigned loan reviewer who is participating in a field review. In the event of a disagreement between the State Director and an assigned loan reviewer as to which loans should be included, the assigned loan reviewer's decision will take precedence.

(c) All problem and delinquent loans.

(d) Loans that the State Director would like reviewed by the National Office.

6. Meetings are arranged between the lender, borrower and FmHA to resolve any problems of late payment, etc.

D. *State Director Authorities.*

1. The State Director may delegate authority for the conduct of all functions listed in Section 1980.469 Administrative C, except item C 4.

2. The State Director may approve B&I guaranteed loan servicing actions as authorized in separate written approval authorities issued in accordance with Subpart A of Part 1901 of this Chapter.

3. Servicing actions on loans which exceed the State Director's loan approval authority are to be referred together will the State Director's recommendations to the Director, Business and Industry Division, for prior review and concurrence.

23. Section 1980.470 is revised to read as follows:

§ 1980.470 Defaults by borrower. [See Subpart A, § 1980.63]

Administrative:

Refer to Appendix G of FmHA Instruction 1980–E (available in any FmHA Office) for advice on how to interact with the lender on liquidations and property management.

A. In case of any monetary or significant non-monetary default under the loan agreement, the lender is responsible for arranging a meeting with the State Director, or FMHA designee, and borrower to resolve the problem. A memorandum of the meeting, individuals who attend, a summary of the problem and proposed solution will be prepared by the FmHA representative and retained in the loan file. When the State Director receives a notice of default on a loan, he/she will immediately notify the National Office in writing of the details and will subsequently report the problem loan to the National Office on the quarterly status report. [The State Director will notify the lender and borrower of any decision reached by FmHA.]

B. In considering servicing options, some of which are identified in paragraph X A of Form FmHA 449–35, the prospects for providing a permanent cure without adversely affecting the risks of the FmHA and the lender must become the paramount objective. Within the State Director's authorities, temporary curative actions such as payment deferments, moratoriums on payments or collateral subordination, if approved, must strengthen the loan and be in the best interests of the lender and FmHA. Some of these actions may require concurrence of the holder(s). A deferral, rescheduling, reamortization or moratorium is limited only by the period of time authorized by this Subpart for the purpose for which the loan(s) is made or the remaining useful life of the collateral securing the loan. For example, if the promissory note on a working capital loan is scheduled to mature in 2 years, the loan could be rescheduled for 7 years or the remaining life of the collateral whichever is the lesson of the two.

C. Subsequent loan guarantee requests will be processed in accordance with provisions of § 1980.473 of this Subpart.

D. If the loan was closed with the multi-note option, the lender may need to possess all notes to take some servicing actions. In these situations when FmHA is holder of some of the notes, the State Director may endorse the notes back to the lender after the

State Director has sought the advice and guidance of OGC, provided a proper receipt is received from the lender which defines the reason for the transfer. Under no circumstances will FmHA endorse the original Form FmHA 449-34 to the lender.

E. The State Director's authority to approve servicing actions is defined in § 1980.469, Administrative D 2.

F. Consultant services may be recommended by the State Director to assist FmHA and the lender in determining which servicing action is appropriate. Requests for consultant services should be made by the State Director and addressed to the Administrator, Attn: Business and Industry Division. A full explanation of the loan history, an evaluation and scope of the proposed study and the need should be included in the request.

G. When the National Office determines it is necessary on individual cases, due to some special servicing requirements, it may, at its option, assume the servicing responsibility of individual cases.

H. The State Director will report all delinquent and problem loans quarterly to the Director, Business and Industry Division, by the 10th day of January, April, July and October.

I. The State Director will notify the Finance Office by memorandum of any change in payment terms such as reamortizations or interest rate adjustments and effective dates of any changes resulting from servicing actions.

24. Section 1980.471 is revised to read as follows:

§ 1980.471 Liquidation. [See § 1980.64 of this Part.]

Collateral acquired by the lender can only be released after a complete review of the proposal.

(a) Abandonment of acquired collateral. There may be instances when the lender acquires the collateral of a business where the cost of liquidation exceeds the potential recovery value of the collateral. Whenever this occurs, the lender with the concurrence of FmHA can abandon the collateral in lieu of liquidation.

(b) Sale of acquired collateral to the former borrower, former borrower's stockholder(s) or officer(s), the lender or lender's stockholder(s) or officer(s) must be based on an arm's-length transaction with the concurrence of FmHA.

Administrative:

Refer to Appendix G of FmHA Instruction 1980-E (available in any FmHA Office) for advice on how to interact with the lender on liquidations and property management.

A. State Director determines which FmHA personnel will attend meetings with the lender.

B. *Introduction to Paragraph XI and Paragraph XI B of the Lender's Agreement.* FmHA will exercise the option to liquidate only when there is reason to believe the lender is not likely to initiate liquidation efforts that will result in maximum recovery. When there is reason to believe the lender will not initiate efforts that will maximize recovery through liquidation, the State Director will forward the lender's liquidation plan, if available, with appropriate recommendations, along with the State Director's exceptions to the lender's plan, if any, to the Director, Business and Industry Division, for evaluation and approval or rejection of the State Director's recommendation regarding liquidation. Only when compromose cannot be reached between FmHA and the lender on the best means of liquidation will FmHA consider conducting the liquidation. The State Director has no authority to exercise the option to liquidate without National Office approval. When FmHA liquidates, reasonable liquidation expenses will be assessed against the proceeds derived from the sale of the collateral. In such instances the State Director will send to the Finance Office Form FmHA 1980-45, "Notice of Liquidation Responsibility."

C. State Directors are authorized to approve lender liquidation plans as authorized on separate written approval authorities issued in accordance with Subpart A of Part 1901 of this Chapter. Within delegated authorities, the State Director may approve a written partial liquidation plan submitted by the lender covering collateral that must be immediately protected or cared for in order to preserve or maintain its value. Approval of the partial liquidation plan must be in the best interest of the Government. The approved partial liquidation plan is only good for those actions necessary to immediately preserve and protect the collateral and must be followed by a complete liquidation plan prepared by the lender in accordance with the requirements of paragraph XI A of the Lender's Agreement.

D. *Paragraph XI D,* State Directors are responsible for review and acceptance of accounting reports as submitted by lenders and for submission of such reports to lenders when FmHA is conducting liquidation, after they have been submitted with the State's recommendations to the Director, Business and Industry Division, for prior review.

E. *Paragraph XI E 2.* State Directors are authorized to approve final reports of loss from the lender in separate written approval authorities issued in accordance with Subpart A of Part 1901 of this Chapter. The State Director will submit to the Finance Office for payment any loss claims of the lender on Form FmHA 449-30, "Loan Note Guarantee Report of Loss." The Finance Office forwards loss payment checks to the State Director for delivery to the lender. When a loss claim is involved on a particular loan guarantee, ordinarily one "Estimated Loss Report" will be authorized. Only one final "Report of Loss" will be authorized. A final Form FmHA 449-30 must be filed with the Finance Office at the completion of all liquidations. Finance Office will use this form to close out the account.

F. *Paragraph XI E 3.* Final loss payments will be made within the 60 days required but only after a review by FmHA to assure that all collateral for the loan has been properly accounted for and liquidation espenses are reasonable and within approved limits. State Directors are responsible to see that such reviews are accomplished by the State within 30 days and final loss claims in excess of the State Director's approval authority are forwarded to be accepted or otherwise resolved by the Director, Business and Industry Division, within the 60-day period. Any estimated loss payments made to the lender must be taken into consideration when paying a final loss on the FmHA guaranteed loan. The estimated loss payment must be treated as a deduction from the principal amount of the loan and interest cannot be accrued on the principal amount of the loan that is equal to the estimated loss payment. Community and Business Program Chiefs (C&BP), Business and Industry Chiefs, or Loan Specialists will conduct such reviews. The State Director may request National Office assistance in the conduct of any review. All reviews for final loss claim in excess of the State Director's approval authority (see Subpart A of Part 1901 of this Chapter) will be submitted to the National Office, Business and Industry Division, for concurrence prior to the State Director's approval of the claim. Close scrutiny of liquidation proceeds and their application in accordance with lien priorities is required. Before final loss payments are approved and to assist in the required review, the C&BP Chief, B&I Chief, or Loan Specialist will prepare a narrative history of the guarantee transaction which will serve as the summary of occurrence which led to failure of the borrower and actions taken to maximize loan recovery. The original of this report will be filed in the loan case file. A copy of the report together with the review of the final loss claim will be included in the material sent to the Director, B&I Division, for review prior to approval of final loss payments.

25. In § 1980.475 paragraph (c) and "Administrative" C are revised to read as follows:

§ 1980.475 Bankruptcy.

* * * * *

(c) Expenses on Chapter 11 reorganization, Liquidating Chapter 11 or Chapter 7 (unless the lender is directly handling the liquidation) cases are not to be deducted from the collateral proceeds.

Administrative:

* * * * *

C. Chapter 11 pertains to a reorganization of a business contemplating an ongoing business rather than a termination and dissolution of the business where legal protection is afforded to the business as defined under Chapter 11 of the Bankruptcy Code. Consequently, expenses incurred by the lender in a Chapter 11 reorganization can never be liquidation expenses unless the proceeding becomes a Liquidating 11. If the proceeding should become a Liquidating 11, reasonable and customary liquidation expenses from that point forward may be shared as provided by the Lender's Agreement provided the lender is liquidating the assets. Chapter 7 pertains to a liquidation of the borrower's assets. If, and when,

liquidation of the borrower's assets under Chapter 7 is conducted by the bankruptcy trustee, then the lender cannot claim expenses incurred under Chapter 7. If the lender directly handles the liquidation, then reasonable and customary liquidation expenses from that point forward may be shared as provided by the Lender's Agreement.

* * * * *

26. In § 1980.495, paragraph (g) is added to read as follows:

§ 1980.495 FmHA forms and guides.

* * * * *

(g) "Suggested Format for the Opinion of the Lender's Legal Counsel" is referred to as "Appendix H."

27. Section 1980.496 is added to read as follows:

§ 1980.496 Exception authority.

The Administrator may in individual cases grant an exception to any requirement or provision of this subpart which is not inconsistent with an applicable law or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. Requests for exceptions must be in writing by the State Director and submitted through the Assistant Administrator, Community and Business Programs. Requests must be supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

28. Section 1980.497 is added to read as follows:

§ 1980.497 General Administrative.

Refer to Appendix G of FmHA Instruction 1980–E (available in any FmHA Office) for advice on how to interact with the OGC on liquidations and property management.

(a) *Office of the General Counsel (OGC).* In performing the FmHA functions with respect to B&I loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the lender's resolution of these matters, OGC should be consulted. Assistance of OGC will be requested on all loans as specified in the section and on all major liquidations and workouts.

(b) *Contact with OGC.* Initial informal contact with OGC should be made as soon as possible. FmHA State Directors should use the following format in formally requesting legal assistance on workouts.

(1) *Origination:* All written requests should come from the State Director.

(2) *Method:* Request should be made by referral memorandum to the Regional Attorney setting forth a brief statement of the facts, the reason assistance is requested, the extent of legal assistance sought, the date when FmHA's response to the lender's liquidation plan (if any) is due, and:

(i) *Projected losses on collateral:* e.g., projected losses on collateral are expected to be significant.

(ii) *Unusual or complex nature of primary collateral:* e.g., multi-state foreclosures or foreclosure of leases or general intangibles.

(iii) *Presence of other major creditors or of senior creditors:* e.g., guaranteed loan collateral may be subject to a prior lien or other creditors may have rights in other assets of borrower, such as inventory and accounts receivable.

(iv) *Litigation is pending or threatened:* e.g., bankruptcy, other foreclosure suits.

(3) *Materials to submit:* Referral memorandums will be accompanied by a copy of lender's liquidation plan together with a copy of FmHA's planned response and principal loan papers, conditional commitment for guarantee, guarantee documents and any comments from the National Office. If lender refuses to prepare a plan, the State Director should so state. DO NOT SEND DOCKETS unless specifically requested by OGC.

(c) *Reviews prior to issuance of the loan note guarantee.* After the conditional commitment for guarantee has been issued and proposed closing documents prepared by the lender and forwarded to FmHA with the lender's legal counsel opinion in the suggested format of Appendix H of this subpart, but prior to issuing the loan note guarantee, the State Director will forward the loan docket to the Regional Attorney for review. After an administrative review, the State Director will include with the docket a letter with recommendations and indicating any special items, documents or problems that need to be addressed specifically which may have a significant impact upon the loan or may be contrary to the regulation. The docket will be assembled for OGC review in accordance with § 1980.451 Administrative C5 of this Subpart and indexed and tabbed.

(d) *Submit for OGC review.* Copies of:

(1) Letter from FmHA National Office authorizing loan guarantee containing conditions (if applicable);

(2) Form FmHA 449–14, "Conditional Commitment for Guarantee," including any amendments;

(3) Loan Agreement;

(4) Promissory Notes;

(4) Security documents—Real Estate Mortgage, Security Agreement, Financing Statements, and Leases (If applicable);

(6) Personal or corporation guarantees with related security documents;

(7) Proposed Form FmHA 449–35, "Lender's Agreement";

(8) Proposed Form FmHA 449–34, "Loan Note Guarantee";

(9) Proposed Form FmHA 449–36, "Assignment Guarantee Agreement," if any;

(10) Proposed Lender's Certification (Section 1980.60); and

(11) Opinion of Lender's Counsel in form prescribed by OGC.

(e) *Do not submit for OGC review.* Feasibility studies, title information, or the original application unless specifically requested to do so.

(f) *OGC advice.* The Regional Attorney will review the docket and furnish advise to FmHA on whether it may issue the LOAN NOTE GUARANTEE AFTER THE LOAN IS CLOSED. SUCH ADVICE IS FOR THE BENEFIT OF FmHA ONLY AND DOES NOT RELIEVE THE LENDER OF ITS RESPONSIBILITIES UNDER FmHA REGULATIONS. The Regional Attorney at his/her option may attend the loan closing. Upon receipt of the Regional Attorney's advice, the State Director will correct or cause to be corrected any noted deficiencies before issuing the Loan Note Guarantee.

(g) *Delegation of authority.* The State Director may delegate those administrative duties and responsibilities as authorized in the Administrative sections of this subpart, except those specifically reserved to the State Director.

29. The "GENERAL ADMINISTRATIVE" paragraph following reserved § 1980.499 is removed.

30. In Appendix C of Subpart E of Part 1980; paragraph (4) is revised to read as follows:

Appendix C—Guidelines for Loan Guarantees for Alcohol Fuel Production Facilities

* * * * *

(4) The maximum B&I alcohol production facilities loan(s) requested plus the outstanding balance of any existing B&I loan(s), to any one borrower, will not exceed $20 million.

* * * * *

31. Appendix H of Subpart E of Part 1980 is added to read as follows:

Appendix H

Suggested Format for the Opinion of the Lender's Legal Counsel

(Legal Opinion to be Retyped on Lender's Counsel's letterhead)

To: (Name of Lender)

I/We have acted as counsel to (Lender) in connection with a $ (amount) (type) loan by the (Lender) (hereinafter "the Lender") to (Borrower) (hereinafter "Borrower"), the terms of which loan are set forth in a certain Loan Agreement (hereinafter "the Loan Agreement") executed by the Lender and Borrower On (date).

In connection with this loan, I/we have examined:

1. The corporate records of Borrower including its Articles of Incorporation, By-laws and Resolutions of its Board of Directors.

2. The loan Agreement between the Lender and Borrower.

3. The Security Agreement executed by Borrrower on (date).

4. The Guaranty (where applicable) executed on (dates) by (personal guarantors).

5. Financing Statements executed by Borrower and the Lender.

6. Real Estate Mortgages dated _____ amd/or other security documents dated _____ executed by (personal guarantors) in favor of the Bank.

7. Real Estate Mortgages dated _____ and/or other security documents dated _____ executed by (personal guarantors) in favor of the Bank.

8. The appropriate title and/or lien searches relating to Borrower's property.

9. The pledge of stock and instruments related thereto.

10. Such other materials, including relevant provisions of the laws of this states as I/we have deemed pertinent as a basis for rendering the opinion hereafter set forth.

[In Some Circumstances]

11. Lease(s) between Borrower and (lessor's name) for the rental of (property being rented), (if real property, give the address of the premises; if machinery, equipment, etc., give brief, precise discription of property) for a (length of lease) term commencing on (date).

Based on the foregoing examinations, I am/we are of the opinion and advise you that:

1. Borrower is a duly organized corporation in good standing under the laws of the Commonwealth/State of (State).

2. Borrower has the necessary corporate power to authorize and has taken the necessary corporate action to authorize the Loan Agreement and to execute and deliver the Note, Security Agreement, Financing Statement, and Mortgage. Said instruments hereinafter collectively referred to as the "Loan Instruments."

3. The Loan Instruments were all duly authorized, executed, and delivered and constitute the valid and legally binding obligations of the Borrower and collectively create a valid (first) lien upon or valid security interest in favor of the Lender, in the security covered thereby, and are enforceable in accordance with their terms, except to the extent that the enforceability (but not the validity) thereof may be limited by laws of bankruptcy, insolvency, or other laws generally affecting creditors' rights.

4. The execution and delivery of the Loan Instruments and compliance with the provisions thereof under the circumstances contemplated thereby did not, do not and will not in any material respect conflict with constitute default under, or contravene and contract or agreement or other instrument to which the Borrower is a party or any existing law, regulation, court order, or consent decree or device to which the Borrower is subject.

5. All applicable Federal, State and local tax returns and reports as required have been duly filed by Borrower and all Federal, State and local taxes, assessments and other governmental charges imposed upon Borrower or its respective assets, which are due and payable, have been paid.

6. The Guaranty has been duly executed by the Guarantors and is a legal, valid and binding joint and several obligations of the Guarantors, enforceable in accordance with its terms, except to the extent that the enforceability (but not the validity) thereof may be limited by laws of bankruptcy, insolvency, or other laws generally affecting creditors' rights.

7. All necessary consents, approvals, or authorizations of any governmental agency or regulatory authority or of stockholders which are necessary have been obtained. The improvements and the use of the property comply in all respects with all Federal, State, and local laws applicable thereto.

8. (In cases involving subordinate or other than first lien position) That the mortgage/deed of trust on Borrower's real estate and (fixtures, e.g., machinery and equipment) and the security interest on (type of collateral, e.g., machinery and equipment, accounts receivable and inventory) both given as security to the Lender for the Loan, will be subordinate to (first mortgagee) given as security for a loan in the amount of $_____ and the security interest in Borrower's (type of collateral, e.g., accounts receivable and inventory) given to (secured creditor) as security for a loan (state type of loan, i.e., revolving line of credit, if known) in the amount of $_____.

9. That there are no liens, as of the date hereof, on record with respect to the property of Borrower other than those set forth above.

10. There are no actions, suits or proceedings pending or, to the best of our knowledge, threatened before any court or administrative agency against Borrower which could materially adversely affect the financial condition and operations of Borrower.

11. Borrower has good and marketable title to the real estate security free and clear of all liens and encumbrances other than those set forth above. I/We have no knowledge of any defect in the title of the Borrower to the property described in the Loan Instruments.

12. Borrower is the absolute owner of all property given to secure the repayment of the loan, free and clear of all liens, encumbrances, and security interests.

13. Duly executed and valid financing statements have been filed in all offices in which it is necessary to file financing statements to fully perfect the security interests granted in the Loan Instruments.

14. Duly exeucted real estate mortgages/deeds of trust have been recorded in all offices in which it is necessary to record to fully perfect the security interested in the Loan Instruments.

15. IN SOME OTHER CIRCUMSTANCES, The Indemnification Agreement has been duly executed by the Indemnitors and is a legal, valid and binding joint and several obligation of the Indemnitors, enforceable in accordance with its terms, except to the extent that the enforceability (but not the validity) thereof may be limited by laws of bankruptcy, insolvency, or other laws generally affecting creditors' rights.

16. That the lease contains a valid and enforceable right of assignment and right of reassignment, enforceable in accordance with its terms, except to the extent the enforceability (but not the validity) thereof may be limited by laws of bankruptcy, insolvency, or ther laws generally affecting creditors' rights.

17. The Lender's lien has been duly noted on all motor vehicle titles, stock certificates or other instruments where such notations are required for proper perfection of security interests therein.

18. That a valid pledge of the outstanding and unissued stock and/or shares of Borrower has been obtained and the Lender has a validly perfected and enforceable security interest in the shares/stock of Borrower, except to the extent that the enforceability (but not the validity) thereof may be limited by laws of bankruptcy, insolvency, or other laws generally affecting creditors' rights.

Dated: February 6, 1986.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 86-8496 Filed 4-16-86; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL TRADE COMMISSION

16 CFR Part 113

[File No. 841-0097]

Michigan Watchmakers' Guild, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Royal Oak, MI trade association to not take any future action to fix or maintain prices or

establish suggested prices for cleaning or repair services for watches, clocks, or jewelry.

DATE: Comments will be received until June 16, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, H-136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: James McCarty, B-851, Washington, DC 20580 (202) 724-1279.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comments is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Watch repair, Trade practices.

In the matter of Michigan Watchmakers' Guild, Inc., a corporation, Agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Michigan Watchmakers' Guild, Inc. ("Guild"), a corporation, and it now appearing that the Guild, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between the Guild, by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. The Guild is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 1202 Catalpa Drive, Royal Oak, Michigan 48067.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event the Commission will take such action as it may consider appropriate, or it may issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent Michigan Watchmakers' Guild, Inc., a corporation, its successors and assigns, and respondent's officers, directors, agents, representatives, and employees, directly or indirectly, through any corporation, subsidiary, affiliate, committee, division or other device, in connection with the conduct of its business in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Taking any action the purpose or effect of which is to fix, maintain, stabilize, or increase the price of cleaning or repair services for watches, clocks, or jewelry;

B. Adopting or disseminating suggested prices for the cleaning or repairing of watches, clocks, or jewelry, *provided that* nothing in this Order prohibits the collection or dissemination of information regarding past cleaning or repair prices, so long as such information is aggregated before dissemination in such a way that neither the identity of the parties providing the underlying informtion nor information relating to specific transactions is disclosed or otherwise reasonably ascertainable.

II

It Is Further Ordered That:

A. Within 45 days after this Order becomes final, the Guild shall mail to each of its members a copy of this Order and a letter in the form shown as "Appendix A" to this Order.

B. For a period of two (2) years after the date of service of this Order, the Guild shall also provide a copy of this Order and a letter in the form shown as "Appendix A" hereto to:

1. Each new Guild member at the time the member is accepted into membership; and

2. Each person who makes a request for suggested minimum price lists.

III

It Is Further Ordered that, for a period of three (3) years following the effective date of this Order, the Guild shall maintain in its files a copy of the

minutes of each meeting of its membership and of each meeting of its board of directors and a copy of all correspondence relating to prices for the cleaning or repairing of watches, clocks, and jewelry, and that such copies of minutes and correspondence be made available for inspection by representatives of the Federal Trade Commission upon written request.

IV

It Is Further Ordered that, within sixty (60) days after service of this Order, respondent shall file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order. Thereafter, additional reports shall be filed at such other times as the Commission may, by written notice to respondent, require.

V

It Is Further Ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in it, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this Order.

Appendix A

(Respondent's Letterhead)

Dear

As you may be aware, the Federal Trade Commission (FTC) has investigated our practice of annually publishing suggested minimum cleaning and repair prices for watches, clocks, and jewelry.

In all the years we have done our surveys, it was never drawn to our attention that the issuance of such lists is considered illegal. However, under U.S. Supreme Court rulings, the manner in which we have conducted our price surveys could be shown to be an attempt to control prices which, if proven true, would be a violation of the Federal Trade Commission Act.

Therefore, in order to avoid lengthy and costly litigation with the FTC, we have voluntarily entered into an agreement with the Commission which resulted in the issuance by the Commission of a Complaint and the entry of a Consent Order. The Order requires that you be sent a copy of the Order and this letter.

Under the terms of the FTC's Order, the Guild is required to refrain from taking any action whose purpose or effect is to fix, maintain, stabilize, or increase the price of cleaning or repair services for watches, clocks, or jewelry. The Guild is also required to cease and desist from publishing suggested cleaning or repair prices for watches, clocks, and jewelry, but the Order does not prohibit the Guild from publishing statistical information on historical prices.

The agreement is for settlement purposes only and does not consititute an admission by the Guild that the law has been violated as alleged in the Complaint.

A copy of the Order is enclosed.

Yours truly,

Marx E. Cooper,

President

Enclosure

[Michigan Watchmakers' Guild, Inc.; File No. 841-0097]

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Michigan Watchmakers' Guild, Inc. ("Guild").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

The Guild is an incorporated trade association whose member "watchmakers" are engaged in the business of cleaning and repairing clocks, watches, and jewelry for a fee. The complaint prepared for issuance by the Commission along with the proposed order charges that the Guild has acted as a combination of its members, or in conspiracy with at least some of its members, to restrain price competition among watchmakers in Michigan and increase or maintain the price of cleaning and repairing watches, clocks, and jewelry by establishing and distributing suggested minimum price levels. In furtherance of this combination or conspiracy, the complaint alleges that the Guild has held annual meetings at which suggested minimum retail and "tradeshop" prices are determined by a majority vote of all Guild members and nonmembers present. The complaint further alleges that the Guild then prepares and distributes the suggested minimum price lists to watchmakers throughout the United States, thereby restraining price competition among watchmakers, in violation of the Federal Trade Commission Act.

The Proposed Order

Section I.A. of the proposed order requires the Guild to cease and desist from taking any action the purpose or effect of which is to fix, maintain, stabilize, or increase the price of cleaning or repair services for watches, clocks, or jewelry.

Section I.B. of the proposed order requires the Guild to cease and desist from adopting or disseminating suggested prices for the cleaning or repair of watches, clocks or jewelry. However, the section contains a proviso that allows the Guild to collect and disseminate information regarding past cleaning or repair prices so long as such information is aggregated before dissemination in such a way that neither the identity of the parties providing the underlying information nor information relating to specific transactions is disclosed or otherwise reasonably ascertainable.

The remainder of the proposed order is procedural. Section II of the order requires the Guild to provide a copy of the order and a letter in the form shown as "Appendix A" attached to the order to each current member and, for two years, to each new member and each person who makes a request for suggested minimum price lists. The letter in Appendix A notifies receipients of the order and explains its provisions. Section III requires the Guild, for three years, to maintain in its files a copy of the minutes of each meeting of its membership and of its board of directors, as well as a copy of all correspondence relating to prices for the cleaning or repairing of watches, clocks, and jewelry. Such copies of minutes and correspondence are to be made available for inspection by representatives of the Federal Trade Commission upon written request. Section IV requires the filing of a compliance report and such additional reports as the Commission may, by written notice to the Guild, require. Section V mandates notification to the Commission of any relevant changes in the Guild's structure.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 86-8622 Filed 4-16-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket Nos. 85N-0367 and 85N-0368]

Withdrawal of Certain Proposed Rules on Medical Devices

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposals.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing two proposed rules that it published in the **Federal Register** before 1975 that relate to medical devices. The agency's decision to withdraw these proposals is based on the passage of the Medical Device Amendments of 1976, which imposed new statutory requirements for promulgation of regulations of the kind contained in the proposed rules.

DATE: Comments by June 16, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: FDA is announcing the withdrawal of two proposed rules that relate to medical devices. The two proposed rules that are being withdrawn were published in the **Federal Register** before 1975. Because of the time that has passed since the proposals were issued, as well as changes that have occurred in the statutory requirements under which regulations of the kind proposed are to be promulgated, the agency believes that it would be inappropriate to proceed further with any action on these proposals.

The withdrawal of a proposed rule neither means that FDA has necessarily lost interest in the issues addressed by the proposal nor precludes the agency from reinstituting proceedings to promulgate a rule concerning those issues. Should the agency decide to undertake such a rulemaking, it will repropose the action and provide opportunity for comment.

For the reasons set out above, and under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq., as amended), and under 21 CFR 5.10, the agency is withdrawing the followng proposed rules, published in the **Federal Register** on the dates indicated:

Title	Docket No.	FEDERAL REGISTER publication date and cite
Oxygen and its delivery systems; policy statement.	85N-0367	Mar. 16, 1972 (37 FR 5504).

In 1972, FDA published a proposed policy to require that medical and emergency oxygen administration devices meet, among other things, certain labeling requirements and be capable of supplying an oxygen flow rate of at least 6 liters of oxygen, U.S.P., per minute for at least 15 minutes. Since publication of the proposed policy, the Medical Device Amendments of 1976 (the amendments) were enacted, granting FDA expanded authority over medical devices. The devices covered by the proposed policy are now regulated as class II devices for which FDA is required to establish performance standards under section 514 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360d). See 21 CFR 868.5655 *Portable liquid oxygen unit.* If FDA in the future initiates proceedings to establish performance standards for these devices, the agency will proceed under section 514 of the act and will provide appropriate performance and labeling requirements in the proposed standards. FDA will contine to take action against emergency oxygen devices that it believes to be adulterated or misbranded.

Title	Docket No.	FEDERAL REGISTER publication date and cite
In vitro diagnostic products; product class standard for detection or measurement of glucose.	85N-0368	June 28, 1974 (39 FR 24138).

The proposed regulation above to establish a standard for in vitro diagnostic products intended to detect or measure glucose was also published before passage of the amendments. In the **Federal Register** of February 2, 1982 (47 FR 4802), FDA published a proposed rule classifying 206 clinical chemistry and clinical toxicology devices, including proposed regulations classifying into class II (performance standards) two in vitro diagnostic devices intended to detect or measure glucose: § 862.1340 *Urinary glucose (non-quantitative) test system* and § 862.1345 *Glucose test system.* Currently, FDA is preparing a final rule that will classify clinical chemistry and clinical toxicology devices, including the two devices above, based on its proposal of February 2, 1982. After FDA publishes a final rule classifying the two devices, any performance standard established for the devices may only be promulgated according to the procedures set forth in section 514 of the act. If FDA in the future initiates proceedings to establish performance standards for these two devices, the agency will proceed under section 514 of the act.

Interested persons may, on or before June 16, 1986, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket numbers found in brackets in the heading of this document and with the docket number of the individual proposed rule being withdrawn if the comment relates to a specific proposal. FDA will consider any comments received. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 10, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-8541 Filed 4-16-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 201

[Docket No. 85N-0554]

Labeling Requirements for Over-the-Counter Drugs; Proposed Amendment of Statement of Identity Requirements

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the labeling requirements for over-the-counter (OTC) drugs in § 201.61(b) (21 CFR 201.61(b)) as follows: (1) To clarify that the statement of identity requirements apply to both single active ingredients and combinations of active ingredients, and (2) to state that OTC drug monographs established under Part 330 (21 CFR Part 330) are the source of the statement of identity of an OTC drug, unless otherwise stated in an approved new drug application, or unless there is no applicable monograph.

DATES: Written comments by June 16, 1986. Written comments on the agency's economic impact determination may be submitted on or before August 15, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James P. Cobb, Center for Drugs and Biologics (HFN-211), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8006.

SUPPLEMENTARY INFORMATION: The existing labeling requirements in § 201.61(b) establish different types of information that must be provided in the statement of identity of an OTC drug, depending on whether or not the OTC drug has an established name. If an OTC drug has an established name, the statement of identity is the established name of the drug followed by a statement of the general pharmacological category(ies) or the principal intended action(s) of the drug. If an OTC drug does not have an established name, whether or not it contains a single active ingredient or a combination of active ingredients, then the statement of identity is only a statement of the general pharmacological category(ies) or the principal intended action(s) of the drug. Existing § 201.61(b) does not, however, clearly describe how the statement of identity for a combination of OTC active ingredients without an established name is determined. For example, existing § 201.61(b) uses the term "mixture" in stating the requirements even though this term is not defined. In the past, the agency has interpreted the term "mixture" as referring to a drug composed of a combination of active ingredients. In order to remove this ambiguity from the regulation, the agency is proposing that the term "mixture" be deleted and paragraph (b) of § 201.61 be revised to refer clearly to "combinations" of active ingredients.

Existing § 201.61(b) also requires as part of a drug's statement of identity a statement of the general pharmacological category(ies) or the principal intended action(s) of the drug. To clarify what is intended by this requirement, FDA is proposing to amend § 201.61(b) to provide that such statements of general pharmacological category(ies) or principal intended action(s) are those identified in the applicable OTC drug monograph(s) that are established under Part 330, unless otherwise stated in an approved new drug application or unless there is no applicable monograph. The agency is therefore proposing to delete from existing § 201.61(b) the examples of terms describing general pharmacological category(ies) or principal intended action(s), i.e., "antacid," "analgesic," "decongestant," and "antihistaminic."

The agency is also proposing to delete the following sentence in existing § 201.61(b): "The indications for use shall be included in the directions for use of the drug, as required by section 502(f)(1) of the act and by the regulations in this part." This requirement is not relevant to an OTC drug's statement of identity.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for statement of identity labeling of OTC drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for statement of identity labeling of OTC drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on labeling of statement of identity of OTC drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on the labeling of the statement of identity of OTC drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on the labeling of the statement of identity of OTC drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined under 21 CFR 25.24(a)(11) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before June 16, 1986, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before August 15, 1986. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register.**

List of Subjects in 21 CFR Part 201

Drugs, Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 201, to read as follows:

PART 201—[AMENDED]

1. The authority citation for 21 CFR Part 201 continues to read as follows:

Authority: Secs. 502, 505, 701, 52 Stat. 1049-1053 as amended, 1055-1056 as amended (21 U.S.C. 352, 355, and 371); 21 CFR 5.10, 5.11.

2. In § 201.61, paragraph (b) is revised to read as follows:

§ 201.61 Statement of identity.

* * * * *

(b) The statement of identity for a drug composed of a single active ingredient shall be the statement of identity established for that ingredient in the statement of identity section of the applicable OTC drug monograph established under Part 330 of this chapter, unless otherwise stated in an approved new drug application. The statement of identity for a drug composed of a combination of active ingredients shall be the established name of the combination, if there is any, followed by the statement of the general pharmacological category(ies)/principal intended action(s) of each ingredient as identified in the statement of identity section of the applicable OTC drug monographs established under Part 330 of this chapter, unless otherwise stated in an approved new drug application. In either case, if the drug does not have an established name or if there is no monograph established under Part 330 of this chapter, then the statement of identity shall consist only of a prominent and conspicuous statement of the general pharmacological category(ies) or the principal intended action(s) of each ingredient. The statement of identity shall be placed in direct conjunction with the most prominent display of the proprietary name or designation of the drug.

* * * * *

Dated: March 26, 1986.

M.D. Kinslow,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-8538 Filed 4-16-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Proposed Rescheduling of Alfentanil From Schedule I to Schedule II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Administrator of the Drug Enforcement Administration (DEA) proposes to reschedule the Schedule I narcotic drug, alfentanil, to Schedule II of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). This action is initiated upon DEA's receipt of a letter from the Acting Assistant Secretary for Health, Department of Health and Human Services (DHHS), recommending that alfentanil be rescheduled from Schedule I to Schedule II. According to the Food and Drug Administration, alfentanil is a narcotic drug with a high potential for abuse and a new drug application for alfentanil will be approved in the near future. DEA's final decision concerning the relative abuse potential of alfentanil will take into account the Acting Assistant Secretary's recommendation and any information received in response to this proposal. The effects of this rule would be to require that the manufacture, distribution, dispensing, security, registration, record keeping, inventory, exportation and importation of this drug be subject to controls for Schedule II narcotic substances.

DATE: Written comments and objections must be received on or before May 19, 1986.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

By **Federal Register** final rule (49 FR 25849; June 25, 1984), alfentanil was controlled under Schedule I of the CSA, effective August 24, 1984. On January 31, 1986, the Acting Assistant Secretary for Health, on behalf of the Secretary, Department of Health and Human Services, sent to the Administrator of the Drug Enforcement Administration a letter recommending that alfentanil be rescheduled into Schedule II once it is approved for marketing and that alfentanil continue to be defined as a narcotic. Enclosed with the letter was a document prepared by the Food and Drug Administration entitled "Basis for the Rescheduling of Alfentanil From Schedule I to Schedule II of the Controlled Substances Act." The document contained a review of the factors which the CSA requires the Secretary to consider (21 U.S.C. 811(b)) and the summarized recommendations regarding the rescheduling of alfentanil.

The factors considered by the Acting Assistant Secretary for Health with respect to the drug alfentanil were:

(1) Its actual or relative potential for abuse;

(2) Scientific evidence of its pharmacological effect, if known;

(3) The state of current scientific knowledge regarding the drug (or other substance);

(4) Its history and current pattern of abuse;

(5) The scope, duration and significance of abuse;

(6) What, if any, risk to the public health;

(7) Its psychic or physiological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under this title.

Based on the scientific and medical evaluation of the Food and Drug Administration and the recommendation of the Acting Assistant Secretary for Health, the Administrator of the Drug Enforcement Administration, pursuant to 21 U.S.C. 811(a) and 811(b), finds that:

(1) Based on all available information, alfentanil has a high potential for abuse.

(2) Alfentanil, upon final approval of a new drug application by the Food and Drug Administration, will have a currently accepted medical use in treatment in the United States.

(3) Abuse of this substance may lead to severe psychological or physical dependence.

Therefore, under the authority vested in the Attorney General (21 U.S.C. 811(a)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR 0.100), the Administrator hereby proposes that 21 CFR 1308 be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

§ 1308.11 [Amended]

2. Section 1308.11 is amended by removing paragraph (b)(2) and redesignating paragraphs (b)(3) through (b)(46) as (b)(2) through (b)(45).

3. Paragraph (c) of § 1308.12 is amended by adding a new paragraph (c)(1) and redesignating the existing paragraphs (c)(1) through (c)(23) as (c)(2) through (c)(24):

§ 1308.12 Schedule II

* * * * *

(c) * * *

(c)(1) alfentanil 9737

* * * * *

Interested persons are invited to submit their comments or objections in writing regarding this proposal. If a person believes that one or more issues warrant a hearing, the reasons for such belief should be so stated and summarized. Comments, objections, and requests for hearing should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

If the Administrator finds that the written responses to this proposal raise one or more issues that warrant a hearing, then the Administrator will order a public hearing. A notice of the hearing will be published in the **Federal Register** summarizing the issues to be heard and setting a time for the hearing that will be at least 30 days after publication of the notice.

If no objections presenting grounds for a hearing on this proposal are received within the time limitation or if interested parties waive or are deemed to have waived their opportunity for a hearing or to participate in a hearing, the Administrator, after giving consideration to written comments and objections, will issue his final order pursuant to 21 CFR 1308.48 without a hearing.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the rescheduling of alfentanil, as proposed herein, will have no significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). Many of the regulatory requirements imposed on Schedule II substances are similar to those imposed on Schedule I substances. Additionally, substances in Secheule II may be used in medical treatment in the United States.

In accordance with the provisions of 21 U.S.C. 811(a), this proposal to reschedule alfentanil from Schedule I to Schedule II is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

Dated: April 10, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86–8555 Filed 4–16–86; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1254 and 1260

Records Declassification

AGENCY: National Archives and Records Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would reorganize National Archives and Records Administration (NARA) regulations concerning the declassification of classified records for which NARA has declassification authority. The rule will remove material which is duplicative and extend the time NARA has to forward to the responsible agency requests for declassification of classified information less than 30 years old.

DATE: Comments must be received by May 19, 1986.

ADDRESS: Comments should be sent to Director, Program Policy and Evaluation Division (NAA), National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at 202–523–3214 (FTS 523–3214).

SUPPLEMENTARY INFORMATION: The regulations in 36 CFR Parts 1254 and 1260 were originally published at 49 FR 1349 (Part 1254) and 49 FR 1344 (Part 1260) on January 11, 1984 and codified in 41 CFR Chapters 101 and 105. After NARA became an independent agency on April 1, 1985, pursuant to Pub. L. 98–497, the subject regulations in Title 41 of the CFR were recodified in 36 CFR Parts 1254 and 1260.

This proposed rule removes from Part 1254 procedures for mandatory review of classified information which are already contained in Part 1260, and removes from Part 1260 procedures for public requests for mandatory review which are also found in § 1254.46. A reference to the procedures in § 1254.46 is added to § 1260.1. In addition, Subparts A and B of Part 1260 are combined because the procedures outlined in these subparts are the same for both classified U.S. originated information and foreign government information provided to the United States in confidence.

Section 1260.10(a) is further modified by changing the time limit from 20 days to 30 days for NARA to forward to the responsible agency mandatory review requests involving information less than 30 years old. The ISOO implementing directive allows an agency 30 days to respond to a mandatory review request. Because of an increase in demand, the volume of records involved in many requests, and the decrease in personnel resources for this activity, NARA has difficulty in meeting the shorter deadline.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, is is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Parts 1254 and 1260

Archives and records, Classified information.

For the reasons set forth in the preamble, NARA proposes to amend Title 36 of the Code of Federal Regulations as follows:

PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

1. The authority citation for Part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101–2118.

§§ 1254.42 and 1254.44 [Redesignated]

2. Section 1254.42 is redesignated as § 1254.44, § 1254.44 is redesignated as § 1254.42, and the internal reference in paragraph (c) of the redesignated § 1254.44 is amended to read "§ 1254.42."

§§ 1254.48 through 1254.54 [Removed]

3. Sections 1254.48, 1254.50, 1254.52, and 1254.54 are removed.

§ 1254.56 [Redesignated]

4. Section 1254.56 is redesignated as § 1254.48.

§ 1254.58 [Redesignated]

5. Section 1254.58 is redesignated as § 1254.50.

PART 1260—DECLASSIFICATION OF AND PUBLIC ACCESS TO NATIONAL SECURITY INFORMATION

6. The authority citation for Part 1260 continues to read as follows:

Authority: 44 U.S.C. 2104(a); Executive Order 12356 of April 2, 1982 (3 CFR 1982 Comp., p. 166).

7. Section 1260.1 is revised to read as follows:

§ 1260.1 Scope of part.

Declassification of and public access to national security information and material (hereafter referred to as "classified information" or collectively termed "information") is governed by

Executive Order 12356 of April 2, 1982 (47 FR 14874, April 6, 1982) and by the Information Security Oversight Office Directive Number 1 of June 22, 1982 (47 FR 27836, June 25, 1982). Documents declassified in accordance with this regulation may be withheld from release under the provisions of 5 U.S.C. 552(b) for accessioned agency records or § 1254.36 for donated historical materials. Procedures for public requests for mandatory review of classified information under Executive Order 12356 are found in § 1254.46 of this chapter.

§ 1260.2 [Removed]

8. Section 1260.2 is removed.

Subpart A—Mandatory Review of Classified U.S. Government Originated Information and Foreign Government Information Provided to the United States in Confidence

9. Section 1260.10 is revised to read as follows:

§ 1260.10 NARA action.

(a) *Information less than 30 years old.* NARA shall promptly acknowledge receipt of a request for mandatory review of classified U.S. Government originated information, and within 30 calendar days of receipt of the request, shall forward the request, with copies of the documents containing the requested information, to the agency that originated the information or to the agency that the Archivist determines has primary subject matter interest. With respect to foreign government information, the request and copies of the documents shall be forwarded to the agency which initially received or classified the information. If unable to identify that agency, NARA shall forward the request to the agency which has primary subject matter interest. NARA shall inform the requester that referrals have been made to the appropriate Government agency.

(b) *Information more than 30 years old.* NARA shall acknowledge receipt of a request for mandatory review of classified U.S. Government originated information or foreign government information which NARA may review for declassification using systematic review guidelines, and within 60 days of receipt of the request shall act upon it and notify the requester of the action taken. If additional time is necessary to make a declassification determination, NARA shall notify the requester of the time needed to process the request. Except in unusual circumstances, NARA will make a final determination within 1 year of the receipt of the request. Information which NARA may not declassify using the systematic review guidelines will be promptly forwarded, with copies of the documents containing the requested information, to the responsible agency. NARA shall inform the requester that referrals have been made to the appropriate Government agency.

10. Section 1260.12 is amended by revising the introductory paragraph to read as follows:

§ 1260.12 Agency action.

Upon receipt of a request for mandatory review of classified U.S. Government originated information or foreign government information forwarded by NARA, the originating or responsible agency shall:

* * * * *

Subpart B—[Removed and Reserved]

11. Subpart B, consisting of §§ 1260.20 and 1260.22, is removed and reserved.

Dated: March 18, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86-8620 Filed 4-16-86; 8:45 am]

BILLING CODE 7515-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL-3001-7]

Approval and Promulgation of Implementation Plan; Louisiana; Prevention of Significant Deterioration

AGENCY: Enironmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this **Federal Register** notice is to propose approval of a revision to the Louisiana State Implementation Plan (SIP) that contains Louisiana Air Quality Regulations—Part V, for the Prevention of Significant Deterioration (PSD) program. This PSD SIP revision is proposed under the statutory requirements of Sections 110 and 160-169 of the Clean Air Act as amended August 1977, and it is consistent with the Federal regulations specified in 40 CFR 51.21, 51.24, and 51.307(a). This proposed approval, if finalized, will enable the State to issue and enforce the PSD permits directly in Louisiana.

Today's notice is published to solicit public comments on the proposed approval of the Louisiana State PSD regulations. The rationale for this proposed approval is contained in this notice and documented in detail in the *Technical Support Document.*

DATE: Comments must be received on this proposed action on or before May 19, 1986.

ADDRESSES: Written comments should be submitted to the address below: Mr. Thomas H. Diggs, Chief, SIP New Source Section (6T-AN), Air Programs Branch, Air, Pesticides and Toxics Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittal and EPA's *Technical Support Document* along with other information are available for inspection during normal business hours at the following locations.

Environmental Protection Agency, Region 6, Air, Pesticides and Toxics Division, Air Programs Branch, SIP New Source Section, 1201 Elm Street, Dallas, Texas 75270

Louisiana Air Quality Division, Louisiana Department of Environmental Quality, 325 North Fourth Street, P.O. Box 44096, Baton Rouge, Louisiana 70804.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E.; SIP New Source Section, Air Programs Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, telephone (214) 767-9870.

SUPPLEMENTARY INFORMATION: On June 30, 1981, the State of Louisiana requested delegation of the technical and administrative review portion of the Federal PSD program. The PSD partial authority was granted on August 28, 1981 (effective September 1, 1981), subject to certain conditions, and a notice was published in the **Federal Register** of January 6, 1982 (47 FR 670). Subsequently, the additional authority was granted to the State for compliance inspection and review of the compliance test reports for the PSD sources on February 8, 1982, and a notice was published in the **Federal Register** of March 15, 1982 (47 FR 11107). On October 23, 1983, the Governor of Louisiana submitted to EPA a plan for the Protection of Visibility in the State's one mandatory Class I Federal area, Breton Island Wilderness area. The EPA proposed approval of the plan with the understanding that Louisiana would adopt a visibility monitoring strategy, new source review language, and a long term strategy consistent with the requirements of 40 CFR 51.305, 51.307, and 51.306, respectively. (49 FR 20519)

On August 14, 1985, the Governor of Louisiana submitted a copy of the Louisiana PSD Air Quality

Regulations—Part V, adopted by the Secretary of the Department of Environmental Quality of May 23, 1985, as a SIP revision along with the State's other commitments for implementing and enforcing the PSD program in the State. The Louisiana Department of Environmental Quality (LDEQ) has developed and adopted the State PSD regulations which are equivalent to the Federal PSD and visibility new source review regulations [40 CFR 52.21, 40 CFR 51.24, and 40 CFR 51.307(a)]. The LDEQ action was necessary because a State court decision in another context raised a question regarding any State Agency's legal authority to enforce Federal regulations if adopted by reference. Therefore, the State's PSD regulations are largely verbatim of the Federal PSD regulations except those sections which were necessary to be modified to meet the State legal restrictions. These modifications do not alter the requirements specified under 40 CFR 51.24, and they only reflect the language changes which were essential for enforceability of the PSD regulations under the State laws. These modifications also meet in part Louisiana's commitments to visibility protection. The EPA is reviewing the remaining sections of Louisiana's Visibility plan and will publish a decision in a separate notice.

The State's PSD SIP will not apply to sources locating on land under the jurisidiction of Indian governing bodies because the LDEQ did not claim jurisdiction over such land. Consequently, the provisions of 40 CFR 52.21 will continue to apply in those areas, and EPA will retain its authority to issue these permits. However, the State will continue to conduct the technical and administrative reviews of the permit applications including the compliance inspections and stack test report reviews for these areas in accordance with the delegations of authority referenced earlier. Therefore, all requests for PSD permits and the sources planning to locate on Indian lands directly contract the State.

In the **Federal Register** of July 8, 1985 (50 FR 27892), EPA published final regulations to implement section 123 of the Clean Air Act which regulates the manner in which dispersion of pollutants from a source may be considered in setting emission limitations. These regulations limit the amount of stack height or dispersion credit a source can claim while setting its emission limitation. The dispersion techniques include the use of stack heights greater than 65 meters and the use of other techniques to increase the dispersion of emissions rather than reduction in the emissions of a source. The specific provisions covering stack heights and dispersion techniques in the State's PSD regulations, Section 90.8, uses broad language, and the State agreed in a letter dated September 30, 1985, to propose a revision to its SIP by April 8, 1986, which will include the provisions of the stack height and dispersion technique regulations found in 40 CFR Part 51, as modified in the July 8, 1985, **Federal Register**. In the interim, the State's present broad language may be interpreted to include all the specifics of EPA's regulations. EPA is conditionally proposing to approve the State's PSD regulations provided that the State agrees to interpret its stack height and dispersion technique regulations in a manner that would be consistent and equivalent to the Federal regulations. This means that EPA will not incorporate these State PSD regulations into the SIP until Louisiana submits a letter indicating that the State interprets the provisions of Section 90.8 as having the same meaning as the Federal stack height and dispersion technique regulations promulgated by EPA in the **Federal Register** of July 8, 1985, and that the State will apply, implement, and enforce these requirements in the PSD permitting process.

The State will also have authority for enforcing and modifying the existing PSD permits. The State's regulations provide an unusual method of enforcing PSD permits previously issued by EPA. Sources which fail to meet the requirements of an EPA-issued PSD permit will be required to obtain a PSD permit under the State's regulations as if the source had not been constructed. The subsequently issued State's PSD permit, equivalent to EPA's permit, will then be directly enforced.

The State PSD regulations do not include the term "Federally Enforceable" because of the State law limitations regarding incorporation of Federal requirements by reference. In lieu of that specific reference, the State's regulations use a clause regarding the Federally enforceable requirments "under a program to prevent significant deterioration of air quality or under the Louisiana Air Quality Regulations". This clause is intended to include a Federal PSD program as well as the various State regulations.

In reference to redesignating areas between Class I, II, and III, the State has chosen to indicate only that redesignations will be accomplished in accordance with applicable law. However, since all areas of the State are specifically designated by class in the regulations, any revision to an area's class must be made by a change to the regulations and, consequently, a change to the SIP. EPA will not approve any redesignation as a SIP revision unless it meets the requirements of the 40 CFR 51.24(g).

The State PSD regulations also commit the State to specific consultation procedures with the Federal Land Manager when a proposed major source or major modification may affect visibility in manadatory Class I Federal areas. These procedures are consistent with the Federal requirements of 40 CFR 51.307(a) and meet, in part, the State's requirements for visibility protection.

The State PSD regulations require the applicants to use *applicable and approved* air quality models. The words *applicable and approved* refer to the applicable and approved EPA air quality models as referenced in 40 CFR 51.24(1) of the Federal PSD regulations. The State has agreed to comply with the requirements of 40 CFR 51.24(1) as spelled out in the Secretary of LDEQ's letter of September 30, 1985. This commitment requires the State to use the EPA modeling guidelines, policies, and preferred air quality models in reviewing and evaluating the PSD permit applications. Also, it requires the State to secure EPA's approval on procedural deviations and for use of nonguideline models.

The EPA has reviewed and evaluated the Louisiana PSD regulations and other supplemental information submitted to EPA by the Governor. EPA's preliminary determination indicated that the State's regulations, procedures, and resources for carrying out an effective PSD program and enforcement of permits are adequate. Also, the evaluation of the State's submission showed that the Louisiana regulations are identical or equivalent to the Federal regulations specified in 40 CFR 51.24 and consistent with the Clean Air Act as amended August 1977. The discussion of the State's regulations is presented in EPA's *Technical Support Document.*

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

Under 5 U.S.C. 605(b), I certify that this proposed SIP approval will not have a significant economic impact on a substantial number of small entities (46 FR 8709).

This proposed rulemaking is issued under the authority of Sections 110, 160–169, and 301 of the Clean Air Act, 42 U.S.C. 7410, 7470–7479, and 7601.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur Oxides, Nitrogen Dioxide, Lead, Particulate Matter, Carbon Monoxide, and Hydrocarbons.

Authority: 42 U.S.C. 7401–7642.

Dated: December 9, 1985.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 86–8242 Filed 4–16–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A-6-FRL-3004-2]

Approval and Promulgation of Implementation Plans, Oklahoma; Visibility Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes disapproval of the new source review (NSR) and monitoring plan for visibility in a revision to the Oklahoma State Implementation Plan (SIP). This action is a result of a proposed rulemaking on October 23, 1984, (49 FR 42670) in which EPA proposed to disapprove SIPs of states which failed to comply with the provisions of 40 CFR 51.305 (visibility monitoring) and 51.307 (visibility NSR).

The Governor of Oklahoma submitted a SIP Revision for Visibility Protection and existing State regulations on July 12, 1985. Review of the plan and regulations indicated that Oklahoma has not met the criteria of 40 CFR 51.305 and 51.307.

DATE: Comments must be received at the EPA Region 6 office by May 19, 1986.

ADDRESSES: Written comments on this action should be addressed to John Hepola of the EPA Region 6 Air Programs Branch, SIP/NSR Section (address below). Copies of the documents relevant to this proposed action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-AN), 1201 Elm Street, Dallas, Texas 75270

Oklahoma State Department of Health, Air Quality Service, P.O. Box 53551, Oklahoma City, Oklahoma 73152.

FOR FURTHER INFORMATION CONTACT: John Crocker, Air Programs Branch, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270, telephone (214) 767–9850 or (FTS) 729–9850. Reference Docket File Number OK–85–4.

SUPPLEMENTARY INFORMATION:

Background

Section 169A of the Clean Air Act, 42 U.S.C. 7491, requires visibility protection for mandatory Class I Federal areas where EPA has determined that visibility is an important value. ("Mandatory Class I Federal areas" are certain national parks, wilderness areas, and international parks, as described in section 162(a) of the Act, 42 U.S.C. 7472(a), 40 CFR 81.400–937.) Section 169A specifically requires EPA to promulgate regulations requiring certain states to amend their State Implementation Plans (SIPs) to provide for visibility protection.

On December 2, 1980, EPA promulgated the required visibility regulations in 45 FR 80084, codified at 40 CFR 51.300 *et seq.* It required the states to submit their revised SIPs to satisfy those provisions by September 2, 1981. (See 45 FR 80091, codified in 40 CFR 51.302(a)(1).) That rulemaking resulted in numerous parties seeking judicial review of the visibility regulations. In March 1981, the Court stayed the litigation pending EPA action on related administrative petitions for reconsideration of the visibility regulations filed with the Agency.

In December 1982, the Environmental Defense Fund (EDF) filed suit in the U.S. District Court for the Northern District of California alleging that EPA failed to perform a nondiscretionary duty under section 110 of the Act to promulgate visibility SIPs. A negotiated settlement agreement between EPA and EDF required EPA to promulgate visibility SIPs on a specific schedule. It required EPA to propose to incorporate federal regulations in states where SIPs are deficient with respect to the 1980 visibility new source review and monitoring regulations, 40 CFR 51.307 and 51.305, respectively. However, the settlement allows a state an opportunity to avoid federal promulgation if it submits a SIP by May 6, 1985. Oklahoma is one of the states listed in 49 FR 42670 as having an inadequate New Source Review (NSR) and monitoring plan for visibility protection.

On July 12, 1985, the Governor of Oklahoma submitted a SIP Revision for Visibility Protection and the Visibility Regulations for monitoring and new source review. EPA has reviewed the State's submittal and developed an evaluation report.[1] This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 office.

Oklahoma has only one mandatory Class I area which is the Wichita Mountains Wilderness Area in Comanche County. No other Class I areas currently exist in the State. The SIP does not commit the State to visibility protection consistent with the Clean Air Act to be afforded within the wilderness area boundary.

Visibility Monitoring Strategy

40 CFR 51.305 requires all states with visibility protection areas to have a monitoring strategy for evaluating visibility in any mandatory Federal Class I area by visual observation or other appropriate monitoring techniques. The purposes of this requirement are to generate data for evaluating visibility impairment trends, determine potential impacts of new sources, assess the effectiveness of the visibility protection program, and identify major contributing sources. These purposes can be adequately addressed by determining the background visibility protection areas and documenting the extent of any visibility impairment that can be attributed by a source or small group of sources.

Visibility impairment is the human perception of the effects of natural or man-made conditions which reduce visual range or contrast, or coloration change. Thus, a visibility monitoring program should identify these effects as well as differentiate man-made effects from natural conditions. The program could generate various types of data such as reports from human observers, photographs, and/or automated instruments. The minimum data collection technique that 40 CFR 51.305 requires is visual observation. However, other more objective techniques are available. (See "Interim Guidance for Visibility Monitoring", Office of Air Quality Planning and Standards, November 1980 (EPA 450/2–082).

The monitoring section of the Oklahoma Visibility Protection Plan consisted of one component: Implementation of a State monitoring program. The SIP revision did not include sufficient legal authority to require visibility monitoring by sources proposing to locate or modify in an area where emissions may impact its Class I area. (However, the State does have legal authority to require monitoring of pollutants.) Monitoring by sources proposing to locate or modify in the locale where emissions may impact Class I areas would provide data for the

[1] Evaluation Report for the Oklahoma Visibility Protection Plan, October 1985.

assessment of impact upon background conditions and for trend analyses for that Class I area.

The monitoring section states, "The Oklahoma State Department of Health will monitor the visibility in the mandatory Class I Federal area at a suitable site by human observation supplemented by still color photography once during the first week of May and once during the first week of October each year." The monitoring procedures specified in the plan are inappropriate for meeting the stated objectives (i.e., to prevent future visibility impairment by providing information for new source impact analysis, and for trend analyses). A monitoring strategy which calls for what might amount to no more than two visual observations and two photographs per year is not adequate. (See Interim Guidance for Visibility Monitoring.) The State did not provide justification for such infrequent monitoring. This monitoring is insufficient for any kind of seasonable analysis or trend analyses that would be necessary for monitoring the potential impairment of visibility.

Also, details describing the monitoring strategy (i.e., monitoring site, data collection techniques, quality assurance procedures, monitoring frequency with justification for frequency chosen, and implementation schedule) were not included in the plan or in a separate document.

The results of this review are shown in the "Visibility Monitoring Strategy Checklist" included in the evaluation report mention earlier. The checklist shows that the visibility monitoring requirements of 40 CFR 51.305 are *not* met by the State submittal. Thus, these monitoring strategy provisions do not meet EPA criteria and EPA is proposing disapproval of this portion of the plan.

To meet the requirements of 40 CFR 51.305, the Oklahoma SIP must contain adequate provisions for obtaining data: (1) To assess new source impacts; (2) to evaluate visibility trends; and (3) to attribute, if possible, existing impairment to a source or small group of sources. The Oklahoma SIP could meet the first data objective by either establishing an adequate background monitoring network or by requiring a new source applicant to collect such data. To meet the second data objective, the Oklahoma SIP could, for example, establish an adequate monitoring network or could rely on the existing data sources such as any available local airport visibility data and particulate monitoring data if that data are representative of conditions in the Class I area and sufficient for the analysis. Since the Federal land manager has not identified any visibility impairment at the Wichita Mountains Wilderness Area which can be reasonably attributed to a source or small group of sources, Oklahoma's SIP need not contain an active program to meet the third program objective. However, the SIP must address such impairment if it is identified in the future. Regardless of the elements Oklahoma chooses for its SIP, it must justify why those elements are adequate to meet the program objectives.

New Source Review

40 CFR 51.307 requires states to review new major stationary sources and major modifications prior to construction to assess potential impacts on visibility in any visibility protection area, regardless of the air quality status of the area in which the source is located. That is, sources locating in attainment areas and nonattainment areas must undergo visibility new source review (See 40 CFR 51.307 (a) and (b)(2), respectively). These requirements ensure that (1) the visibility impact review is conducted in a timely and consistent manner, (2) the reviewing authority considers any timely FLM analysis demonstrating that a proposed source would have an adverse impact on visibility, and (3) public availability of the permitting authority's conclusion.

Visibility NSR is addressed in two parts; One addresses major stationary sources subject to the Prevention of Significant Deterioration (PSD) regulations (40 CFR 52.21) which apply to attainment areas, and the second addresses major sources in nonattainment areas.

For all major PSD stationary sources:

(1) The State must notify the FLM in writing not more than 30 days after receiving a permit application or advance notification of application from a proposed source that may impact a visibility protection area.

(2) This notification must take place at least 60 days prior to the public hearing on the application and must contain any analysis of the potential impact of the proposed source on visibility.

(3) The State must consider any analysis concerning visibility impairment performed by the FLM and received not more than 30 days after the notification.

(4) If the State does not concur with the FLM's analysis that adverse visibility impairment will result from the proposed source, the State must provide in its notice of public hearing on the application an explanation of its decision or give notice as to where the explanation can be obtained.

(5) The State must have the ability to require a permit applicant to monitor visibility in or around the visibility protection areas.

For major sources in nonattainment areas:

(1) A major source or modification that may impact a visibility protection area must provide a visibility impact analysis.

(2) The State must ensure that the sources' emissions are consistent with the national visibility goal. The State may consider the cost of compliance, the time for compliance, the energy and non-air quality environmental impacts of compliance, and the useful life of the source.

(3) The State must follow the same procedures outlined in the PSD items 1–5 above in conducting nonattainment area visibility reviews.

Items 1 through 5 for major PSD stationary sources and items 1 through 3 for major sources in nonattainment areas are the procedural steps in visibility review as defined in 40 CFR 52.27(d) and 52.28 (c) and (d), respectively. (40 CFR 52.27 and 52.28 were proposed in 49 FR 42670 and finalized in 50 FR 28544.)

The Oklahoma visibility SIP incorporated into the NSR section its existing permit requirements for any source locating in an attainment area. Oklahoma has no nonattainment areas which may impact a mandatory Class I Federal area and is therefore exempt from the nonattainment program requirements of 40 CFR 51.307(b)(2).

The SIP revision incorporated existing Oklahoma Air Pollution Control Regulation 1.4.4(f)(7) (Post-construction monitoring). The SIP revision further stated, "The [permit] application will be reviewed for compliance with all current and applicable Oklahoma Air Pollution Control Regulations." However, the State has failed to adopt additional *regulations* to meet the requirements in 40 CFR 51.307 (visibility NSR). Even a review of existing Oklahoma Regulation 1.4.4(g) (Source Impacting Class I Areas) did not meet these NSR requirements. Additional language was included in the narrative part of the SIP revision (e.g., Federal land manager notification per section 7 of the plan revision narrative), but it is unnacceptable to EPA since it does not carry regulatory status. The results of this review are shown in the "Visibility SIP Checklist" for new source review which is included in the evaluation report mentioned earlier. The checklist shows that the visibility NSR requirements of 50 CFR 51.307 are *not* met by the Oklahoma submittal.

The State can satisfy these requirements by adopting its own regulations equivalent to those regulations found at 40 CFR 52.21 (o)(3), (p)(1), and (p)(3) which were published in the **Federal Register** on July 12, 1985. Further, the SIP revision did not include definitions for its Visibility Plan. The State must either adopt 40 CFR 51.301 (Definitions), or it must adopt its own regulation with definitions for its Visibility SIP. Thus, these NSR provisions do not meet EPA criteria and EPA is proposing disapproval of this portion of the plan.

Proposed Action

EPA has reviewed the State's submittal and developed an evaluation report. The results of this review indicate the Oklahoma visibility protection plan revision did not include an approvable visibility new source review portion nor an approvable visibility monitoring strategy since it does not meet all of the requirements for a Visibility Protection Plan as outlined in 40 CFR 51.307 (visibility NSR) and 51.305 (visibility monitoring).

By this notice, EPA is proposing disapproval of the Oklahoma visibility plan and regulation because it does not meet the requirements of 40 CFR 51.305 and 51.307 and the criteria discussed in 49 FR 42670. (One should reference the October 23, 1984, 49 FR 42670, for additional information). The Oklahoma SIP revision commits to a 3 year review and making any changes deemed necessary. The SIP, therefore, has established the commitment to review the visibility requirements listed in 40 CFR Part 51 Subpart P—Protection of Visibility.

Under 5 U.S.C. 605(b) I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. Only a few sources will be required to evaluate the potential impact on visibility that are not already required to do so under the existing PSD program.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7642.

Dated: December 16, 1985.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 86–8604 Filed 4–16–86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-110; FCC 86-138]

Television Broadcasting; Telecommunications Transmissions in the Vertical Blanking Interval

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This Notice of Proposed Rule Making opens for public comment a proposal to eliminate the timetable restrictions on telecommunications use of lines in the television vertical blanking interval. This action is taken as a result of an informal request from industry representatives.

DATES: Comments are due on or before May 29, 1986, reply comments are due on or before June 13, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John Wong, Mass Media Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of Part 73 of the Commission's Rules Regarding Telecommunications Transmissions in the Vertical Blanking Interval (MM Docket No. 86–110).

Adopted: April 2, 1986.

Released: April 7, 1986.

By the Commission.

1. The Commission has received an informal request from industry representatives to review and relax the current limitations for teletext signal levels on television lines 10, 11, 12, 13 and 14.[1] This request stems from the need for additional lines in the vertical blanking interval (VBI) to provide new and enhance teletext services.

2. The Commission, on March 31, 1983, adopted criteria for telecommunications transmissions by *Report and Order* (*Order*) in BC Docket 81–741 (48 FR 27054, June 13, 1983). The *Order* provided for a "phase-in" approach for the transmission of telecommunications (then only teletext) information on lines in the vertical blanking interval (timetable). The timetable restricted the lines that could be used for such services and restricted modulation levels. (See 47 CFR 73 682, Schedule I).

3. The concern at the time of the *Order* was that teletext signals could cause interference on some older television receivers. The timetable was intended to allow for natural replacement of the older receivers with newer ones.

4. Much of the concern centered on a 1980 report of teletext tests conducted at KCET, Los Angeles. Based on an extrapolation of report data, it was decided to prohibit use of lines 10–13 until 1988. Additionally, line 14 was restricted to 40 IRE until 1988. After 1988, permitted IRE levels on lines 10–14 would be increased gradually to final values of 70 IRE for lines 10–12 and 80 IRE for lines 13 and 14.

Proposal

5. There are several reasons, in additional to the industry request, that suggest a review of the timetable is now appropriate. First, the 1983 *Order* was based on a 1980 report. This means that three years of newer receivers were already on the market by the adoption date. Second, other information became available for adoption of the report that suggested the picture degradation problem might not be as severe as originally anticipated. Specifically, Japan submitted to CCIR [2] the results of testing of 1705 receivers, in a report dated May 2, 1983. (See CCIR Document 11/28E) The report concluded that teletext is, "compatible with existing receivers." Third, several television stations have been transmitting teletext for some time (lines 14–18 and 20) with no widespread problems. All of these factors suggest that the timetables is too restrictive.

6. Additionally, teletext-like interference that may occur happens only on the sets of those viewers watching the station transmitting data. This provides a strong incentive for each broadcaster to match transmissions to the needs and capabilities of its particular viewing audience. If VBI line usage is expanded by a particular licensee and complaints are received, the broadcaster would likely voluntarily limit such activity.

7. Accordingly, we propose to delete the timetable from the Rules. This would allow immediate use of lines 10–12 at 70 IRE and raise the modulation limit on lines 13 and 14 to 80 IRE. We solicit comments on this proposal

8. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are

[1] CBS, Inc., Videotex Industry Association, and Public Broadcast Service.

[2] International Radio Consultative Committee.

advised that *ex parte* contracts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* contact (other than formal written comments/pleadings and formal oral arguments) is any contact between a person outside the Commission and Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation of the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See, generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

9. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before May 29, 1986, and reply comments on or before June 13, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner toreceive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

10. Pursuant to Section 605 of the Regulatory Flexibility Act, the Commission hereby certifies that the action will not have a significant economic impact on small business entities. If adopted, the actions would merely provide greater flexibility in operation of television stations. Additionally, the proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

11. Accordingly, it is proposed, pursuant to the authority contained in sections 4 and 303 of the Communications Act of 1934, as amended, that part 73 of the Commission's Rules be amended as set forth in the attached appendix.

William J. Tricarico,
Secretary.

Appendix

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154 and 303.

2. 47 CFR 73.682 would be amended by revising paragraph (a) (23)(i) to read as follows:

§ 73.683 TV transmission standards.

* * * * *

(a) * * *

* * * * *

(23) * * *

(i) Telecommunications may be transmitted on Lines 10–18 and 20, all of Field 2 and Field 1. Modulation level shall not exceed 70 IRE on lines 10, 11, and 12; and, 80 IRE on lines 13–18 and 20.

* * * * *

3. 47 CFR 73.682 would be amended by removing Schedule I.

[FR Doc. 86-8439 Filed 4-16-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85-04; Notice 02]

Federal Motor Vehicle Safety Standards; Brake Hoses; Termination of Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of termination of rulemaking.

SUMMARY: The purpose of this notice is to terminate rulemaking on whether the air brake hose tensile strength test requirement of Federal Motor Vehicle Safety Standard (FMVSS) No. 106, *Brake Hoses*, should be reduced from 50 to 15 pounds for brake hose assemblies consisting of hoses of nylon tubing with outside diameters ⅛ inch or less.

A notice requesting comments on the possibility of a reduction was published on March 20, 1985. The notice responded to a petition for rulemaking from Legris, Inc. (Legris), which argued that, while there is a growing need in the automotive and trucking industry for smaller diameter tubing, the tensile requirements of Safety Standard No. 106 unnecessarily exclude those assemblies from use. Legris explained that the 50-pound tensile requirement is too stringent for smaller diameter assemblies, and should be reduced to 15 pounds. As a justification for reducing the load requirements for smaller hoses, Legris argued that the output from a vehicle's air compressor could adequately compensate for any air loss resulting from leakage from a small failed line, thereby avoiding a complete loss of braking ability.

The comments responding to the notice indicated that many air compressors currently in use do not have the output necessary to keep up with leakage from a small failed brake line, and that it would not be in the interest of safety to reduce the tensile test load requirement as Legris requested. In light of the potential safety problems that may arise from the suggested amendment, the agency is terminating further rulemaking action on Legris' petition.

FOR FURTHER INFORMATION CONTACT: Vernon Bloom, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (220-426-2153).

SUPPLEMENTARY INFORMATION: This notice terminates rulemaking begun in March 1985, when this agency published an advance notice of proposed rulemaking (ANPRM; 50 FR 11209) in response to a petition for rulemaking submitted by Legris, Inc. (Legris). Legris' petition requested several related changes to the air brake tensile strength test of Federal Motor Vehicle Safety Standard (FMVSS) No. 106, *Brake Hoses*. One of those requests was to reduce the tensile load requirement for brake hose assemblies comprised of hoses of nylon tube with outside

diameters ⅛ inch or less from 50 to 15 pounds.

The purpose of the tensile strength test is to ensure that an air brake hose does not separate from its end fitting while in service. In the test procedure, an air brake hose assembly is attached to an apparatus which applies an even pull on the hose. Tension is applied until the brake hose breaks or separates from its end fitting. The testing machine has a recording device which registers the total pull in pounds applied to the hose assembly, and determines the point at which separation occurs. Paragraph § 7.3.10 of the standard requires an air brake hose assembly designed for use in applications other than between frame and axle or between a towed and a towing vehicle to withstand a pull of 50 pounds if it is ¼ inch or less in nominal internal diameter.

The petitioner manufacturers tube end fittings. Legris' end fittings can be instantly connected to the end of a brake tubing by simply pushing the fitting on the tube. Since no tube supports are used by Legris, a greater flow of compressed air or liquid through a given hose size is possible. Legris stated that this increased flow capacity enables smaller-sized tubing to be used in assemblies for any given application, especially in installations under the instrument panel. The petitioner argued that there is a growing need in the automotive and trucking industry for smaller diameter tubing because those hoses weigh and cost less, provide more working room under the instrument panel, and are more flexible for faster and more efficient plumbing.

The petitioner believed that the 50-pound tensile requirement specified by Standard No. 106 is unnecessarly stringent for small size assemblies since smaller hoses provide a "built-in" safety factor—i.e., ⅛ inch O.D. tubing has a flow capacity of approximately 6 Standard Cubic Feet per Minute (SCFM) at 100 pounds per square inch (PSI). Legris believed that most air compressors generate 12 to 13 SCFM of compressed air at 100 PSI, and would be able to compensate for any air loss from a failed assembly. This would result in lessened air loss per unit of time, and would allow the operator of a vehicle more time in which to react to any resultant problem.

Before deciding whether to propose the requested reduction, NHTSA felt that more information was needed to assess the potential safety problems that may arise from Legris' suggested amendment to § 7.3.10. Accordingly, the agency published a notice requesting information and data on areas relating to:

1. Whether the leakage rate from a ruptured air brake hose can be reliably predicted;
2. Whether various air compressors in use can compensate for air leakage from ⅛ O.D. tubing;
3. The need for smaller diameter air brake tubing;
4. The likelihood of smaller diameter tubing either breaking or separating from their end fittings during normal usage;
5. The difficulty of air brake assemblies using ⅛ inch O.D. tubing to meet the 50 pound tensile requirement of Standard No. 106;
6. How the use of tube supports affects the flow capacity of brake hose;
7. The sizes of air brake hoses intended for use with reusable end fittings; and,
8. The advantages of the tensile test of SAE Standard J1131 instead of the test currently used in FMVSS No. 106.

Comments to the ANPRM

Comments were submitted to the docket from Wisconsin Electric Power Company, Eaton Corporation, Aristo-Aire, Parker Hannifin, California Highway Patrol, General Motors, Freightliner, and Bendix Corporation. The commenters were sharply divided in their response to Legris' petition.

Air loss

NHTSA first asked if the leakage rate from a ruptured air brake hose can be reliably predicted and whether the leakage rate could be determined to be "safety significant." In response to the first part of this question, the commenters indicated that leakage rates could be predicted under controlled conditions. Information was submitted relating to the operational characteristics of air brake systems to show how the flow from a particular brake hose can be affected by different factors. Aristo-Aire stated that the maximum possible leakage rate from a given hose size at a given pressure can be determined, and emphasized that the leakage rate is reduced as the vehicle's air reservoirs lose pressure. Parker Hannifin submitted data showing how air flow loss varies at different points along a length of ⅛ inch O.D. tubing at 100 PSI with an unrestricted tube end. The data showed that tube separation at nine inches from the fitting would result in an air flow loss of 6 SCFM, whereas air flow loss at five feet is approximately 3.75 SCFR. Eaton submitted data showing that air flow is greater through a disconnected ⅛ inch line than through a severed line: a severed ⅛ inch transmission ("master valve supply") line had no effect on system air pressure above 1000 RPM, while a disconnected ⅛ inch line had no effect on system air pressure above 1600 engine RPM. Eaton also explained that in general, when the tubing is completely severed from the fitting a more severe situation develops since most fittings are much less restrictive than their respective tubing. Eaton stated that its data indicated that a 12 SCFM compressor would be able to maintain adequate flow with ⅛ inch tubing failures, whereas if a fitting were to be disconnected from the line, compressor adequacy would depend on fitting orifice dimensions.

As to the second part of this question, General Motors commented that while leakage rates can be reliably predicted in terms of the volume of air flowing through the particular hose, the effect of the air loss on the performance of a particular air brake system is highly dependent on variables such as the function, location and size of the hose, compressor output, engine speed, brake system design, and the manner in which the brakes are used while the failure exists. The California Highway Patrol (CHP) believed that there are too many variables in commercial equipment to predict flow rates in an air loss condition. That commenter was also concerned with cumulative leaks in a vehicle air brake system, and believed that the effect of air loss from a ⅛ inch O.D. hose could cause serious operational problems. That concern was shared by Parker Hannifin, who asked NHTSA to consider the issue to the cumulative effect of air flow loss on the braking system if more than one line became disconnected.

Bendix was concerned that the rationale for reducing the tensile load requirement for smaller brake hoses was improperly based on the performance capability of the vehicle air compressor. Bendix believed that the basis for establishing performance requirements should be to show that the product is fit to perform its intended function, and, for air brake hoses, that function is to provide necessary air flow and pressure to the various components of the brake system. That commenter did not believe that the rationale for amending the tensile strength requirement for hose assemblies should be based on the capability of another component to maintain system integrity.

The agency has carefully considered the comments relating to the "safety significance" of air leakage from small brake hose assemblies and has concluded that Legris' suggested amendment to the tensile strength test of Standard No. 106 results in possible

safety risks with no compensating safety benefits. The agency is therefore terminating further rulemaking action on the petition.

As explained above, the purpose of the tensile strength test is to ensure that an air brake hose does not separate from its end fitting while in service. The agency does not agree with Legris' belief that air leakage from a ⅛ inch O.D. brake hose is not safety significant.

NHTSA believes that relying on emergency backup systems to compensate for air leakage from the brake system is not in the best interest of safety. As explained in the ANPRM, air brake systems are required to have warning devices as emergency systems that are activated when the air pressure in a vehicle's air tanks falls below a certain level due to a failure in the system, such as a brake hose failure. However, while warning signals would be activated when the pressure in the air tanks fell below 60 PSI and emergency brakes automatically applied at 40 PSI, the emergency systems would not restore the brake system to its original condition, nor are they capable of providing a vehicle's driver with full braking capability. The effect that air line failures might have on braking system performance is an indeterminate problem. There are too many variables, such as location of the rupture, nominal system pressure, vehicle speed and nature of terrain, to realiably predict the likely result of an air line rupture on the braking system.

In any event, the comments responding to NHTSA's second question on the use of vehicular air compressors in the industry indicate that Legris was incorrect in asserting that most compressors can compensate for air loss from a small failed brake line. Legris based its rationale for reducing the tensile load for smaller hose assemblies on the argument that the flow from the compressor would be able to keep up with air loss from a failed assembly. In making this argument, Legris believed that most vehicular air compressors generate about 12 to 13 SCFM of compressed air at 100 PSI. NHTSA requested information on the capacities of vehicle air compressors used by truck and bus manufacturers.

The comments indicated that many small air compressors currently in use do not have the output necessary to keep up with leakage from a small failed brake line. Wisconsin Electric stated that many of its construction type trucks are equipped with 7 CFM air compressors. Bendix estimated that 20 percent of new highway air-braked vehicles use a 7.25 cubic foot air compressor. GM also offers 7 CFM air compressors on some medium duty air-braked vehicles, and believed that aproximately 25 percent of vehicles for which 7 CFM compressors are available are fitted with this size compressor. Based on this information, the agency has concluded that the relatively large scale use of small compressors negates any possibility that Legris' suggested amendment would be feasible without a detrimental effect on safety.

Other Issues

The ANPRM requested comments on the need for and use of smaller diameter assemblies in the automotive industry. The following discussion outlines the comments received in response to the agency's request: *Need:* Freightliner stated that the smallest diameter tubing available from its suppliers that meets Standard No. 106 is 3/16 inch O.D., and believed that using ⅛ inch tubing is more practical for the limited spaces for air-operated transmission shift lever controls and heater and air conditioning controls and gages. Aristo-Aire also believed that there is a need for smaller hoses and fittings, and asserted that the installed tubing and fitting material costs and weight can be reduced by 50 percent or more if ⅛ inch O.D. tubing can be substituted for larger sizes of certified brake hoses. Eaton believed that the advantage in using the ⅛ inch O.D. tubing is not in cost savings, but in packaging, i.e., space savings. On the other hand, Wisconsin Electric wished to point out that, while smaller diameter hoses (such as ⅛ inch O.D. tubing) are easier to install, problems might be encountered with low temperatures in cold weather which can freeze a drop of water in a small bore tube. That company found that the frozen water can readily block passage through the tube, whereas air in ⅛ inch or larger *internal* diameter tubing is able to flow around the ice droplet.

Tube inserts: The commenters indicated that increased flow due to the absence of tube supports is not a primary advantage to using Legris' type of fittings. Eaton stated that its tests and field experience indicate that flow restrictions as small as .050 diameter have a negligible effect on the performance of its system. The CHP believed that air flow in ⅛ inch O.D. tubing used in lines connecting the brake system to gauges should not be significantly restricted by tube supports, since many gauges already use a highly restrictive size orifice to reduce gauge needle fluctuation. However, Aristo-Aire indicated that tube inserts could affect hose usage in that the resulting flow reduction might necessitate the use of larger tubing.

Fifty pound load: The agency asked whether air brake assemblies using ⅛ inch O.D. tubing can meet the 50 pound load requirement of Standard No. 106. Most commenters who responded to this question answered in the negative. Parker Hannifin stated that it is working toward establishing a higher pull-off factor for both ⅛ inch and 3/16 O.D. tubing using "push-in fittings." Its 3/16 inch O.D. mechanically-joined tubing can meet the 50 pound tensile test with no difficulty.

Breakage or separation: In response to a question asking about the probability of smaller diameter tubing either breaking or separating from their end fittings, Freightner, and other commenters, believed that there is no greater risk of breakage or separation for smaller assemblies because the areas where smaller assemblies would be used (e.g., under the instrument panel) are isolated from exposure to road hazards and debris.

SAE J1131: NHTSA asked about the advantages to testing ⅛ inch O.D. tubing to SAE Standard J1131. A number of commenters supported referencing this standard in FMVSS No. 106. Eaton submitted data which indicated that ⅛ inch tubing and fittings failed at lower tensile loads when tested under SAE J1131 procedures than under FMVSS No. 106 procedures. Eaton believed that the test procedures of SAE J1131 are more stringent and better defined than FMVSS No. 106, and establish more realistic tensile load requirements for ⅛ inch O.D. tubing. Freightliner believed that the SAE standards for non-metallic air brake tubing, including J1131, are adequate to ensure integrity of tubing and fitting assemblies and suggested that NHTSA reference portions of those standards for air brake tube performance requirements. Parker Hannifin also recommended that NHTSA recognize the SAE standards for air-braked tubing materials. That company stated that some air-brake tubing and fitting connections can be certified to FMVSS No. 106, but would fail SAE J1131 tests such as the hot tensile test and the vibration test.

The agency recognizes the concern that the tensile strength requirement of Standard No. 106 should be revised to reflect requirements for ⅛ inch O.D. brake tubing which would promote safety yet encourage the development of smaller hoses in the automotive industry. NHTSA appreciates the comments on its question regarding SAE Standard J1131 and will consider the possibility of a future amendment to FMVSS No. 106 to address this issue.

Summary

The comments indicate that smaller diameter brake hose assemblies are easier to use in restricted areas, such as under the instrument panel, because of their small dimensions and flexibility. Significant cost savings or additional safety benefits were not shown to result from the use of ⅛ inch O.D. tubing.

Based on its evaluation of the information received in response to the ANPRM, the agency has concluded that reducing the tensile force requirements for ⅛ inch O.D. tubing to the levels proposed by Legris is not appropriate. The agency recognizes that while ⅛ inch O.D. hose assemblies might be used in relatively less stressful environments than brake hoses of larger sizes, specifications should nonetheless be set to prevent the degradation of the brake system or the failure of any flexible conduit whose failure could deplete air pressure in the brake system. The information provided by the commenters indicates that there is a substantial percentage of vehicles which have air brake compressor systems that could not compensate for leaks resulting from ⅛ inch tubing separate in service. The agency therefore believes no basis has been provided to justify reducing the tensile load requirement as suggested by Legris.

For the reasons stated above, the agency has concluded that it would not be in the interest of safety to amend the tensile strength test in the manner suggested by Legris. The agency is therefore terminating action on the Legris petition.

NHTSA would like to clarify, however, that notwithstanding denial of Legris' petition, use of smaller-diameter hose assemblies is not precluded. Persons who wish to use smaller hoses have two options available: (1) They may use hoses which meet the current requirements of Standard No. 106, or (2) they may isolate the line from the brake system air supply. Smaller hose lines are subject to Standard No. 106 if failure of the conduit results in loss of air pressure in the brake system. This would occur if lines are plumbed directly into the brake system air supply. However, if a check valve or some other device is used to prevent loss of pressure, then the line would not contain or transmit the air pressure used to apply force to the vehicle's brakes and would not be subject to the standard. Thus, persons who wish to use smaller diameter hoses and assemblies in accessory or transmission lines are not precluded from doing so if the lines are isolated from the rest of the brake system.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on April 14, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-8465 Filed 4-16-86; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1150

[Ex Parte No. 392 (Sub-1)]

Class Exemption for the Acquisition and Operation of Rail Lines Under 49 U.S.C. 10901

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed reopening and modification of final rules.

SUMMARY: At 51 FR 2503, January 17, 1986 the Commission adopted final rules exempting from regulation virtually all acquisitions and operations of rail lines under 49 U.S.C. 10901. These procedures require applicant to file a notice. The exemption become effective 7 days after the notice is filed, and notice of the filing is published in the **Federal Register** within 30 days. This expedited procedure was permitted based on our finding that for this class of transactions an after-the-fact remedy was completely adequate.

The Commission proposes to reopen and modify the final rules served January 15, 1986. The modification would prohibit petitions to stay a notice of exemption. (See Appendix.) This modification conforms with the purpose of the final rules, which is to create an expedited process for consummation of this class of transactions.

DATE: Comments due May 8, 1986.

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 T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

This action will not significantly affect either the quality of the human environment or energy conservation. This modifications will not have a significant economic impact on a substantial number of small entities.

This list of subjects involved in 49 CFR Part 1150 includes Administration Practice and Procedures, and Railroads.

Authority: 49 U.S.C. 10321, 10505 and 10901; and 5 U.S.C. 553.

Decided: March 27, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley joined by Vice Chairman Simmons dissented with a separate expression.

James H. Bayne,

Secretary.

Appendix

Title 49, Subtitle B. Chapter X, Part 1150 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation to 49 CFR Part 1150 is proposed to be revised to read as follows:

Authority: 49 U.S.C. 10321, 10326, 10901, 10903, and 10505; 5 U.S.C. 553 and 559.

§ 1150.32 [Amended]

2. The last sentence of § 1150.32(c) would be amended by revising the phrase "does not automatically stay the exemption." to read "will not delay the effective date of the notice. Petitions to stay will not be entertained."

§ 1150.34 [Amended]

3. The last sentence in the second paragraph of § 1150.34 would be amended by revising the phrase "will no automatically stay the transaction." to read "will not delay the effective date of the notice. Petitions to stay will not be entertained."

4. The concluding paragraph which precedes the signature line in the caption summary in § 1150.34 ("By the Commission . . . separate expression") would be removed.

[FR Doc. 86-8460 Filed 4-16-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 91

Migratory Bird Hunting and Conservation Stamp ("Duck Stamp") Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to revise regulations governing the conduct of the annual Migratory Bird Hunting and Conservation Stamp ("Duck Stamp") Contest. The amendments will

improve the viewing, handling, and the printing quality for reproduction (as stamps) of entries, increase the entry fee, clarify the Government's liability for damage, and allow for processing of unclaimed entries. The changes would allow the Service to handle the large number of entries more efficiently, and provide additional funding to cover operating costs associated with the contest. The dates and location of this year's contest are also announced, and the public is invited.

DATES: 1. Comments concerning these amendments should be received no later than May 19, 1986.

2. This year's contest will be held on November 4 and 5, 1986, beginning at 9 a.m. each day.

3. Persons wishing to enter this year's contest may submit entries anytime after July 1, but all must be postmarked no later than midnight October 1.

ADDRESSES: 1. Comments should be addressed to: Migratory Bird Hunting and Conservation Stamp Contest, U.S. Fish and Wildlife Service, Interior Building, Room 1025–A, Department of the Interior, Washington, DC 20240.

2. The contest will be conducted in the following location: Department of the Interior, Auditorium (C Street Entrance), 18th & C Streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Anastasi (202–343–5508), Duck Stamp Coordinator, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: 1. Section 91.12 would be amended to increase from $35.00 to $50.00 the non-refundable fee that must accompany each entry that is submitted. This increase is required to defray the increased costs associated with processing and judging the large number of entries submitted. This section also would be amended to specify that the entry fee must be in the form of a cashier's check or money order. This change would help to reduce costs associated with personal checks that are returned for insufficient funds each year.

2. Section 91.13 would also be amended to increase the size of entries from five-by-seven inches to seven-by-ten inches. This change would ensure that the entries can be more adequately reproduced as a stamp, with the larger size improving the resolution. The mat size would also be increased to accommodate the larger artwork, and standardized mat colors of white or off-white would be imposed. The color standard would more accurately depict the border used in the actual stamp, and aid the judges in their evaluation and scoring. Cellophane material would be removed as an acceptable covering. Additionally, the Service would prohibit bird band numbers from appearing in the design to preclude any appearance of individual identifiers on the entry.

3. Section 91.14 would be amended to further clarify that the design may not copy or duplicate in whole *or* in part previously published art.

4. Section 91.17 would be amended to clarify the limits on the Government's liability for damaged or lost art.

5. Section 91.31 would be amended to advise contestants that unclaimed entries will not be maintained for more than one year after the contest. This provision would apply to any entries returned by the U.S. Postal Service as undeliverable and when telephonic contact failed to successfully locate the contestant.

Analyses of these amendments to 50 CFR Part 91 have resulted in the Department determining that they are not major actions under the provisions of Executive Order 12291 and will not signficantly effect a substantial number of small entities under the provisions of the Regulatory Flexibility Act, since entrants are individuals and not small entities as defined in 5 U.S.C. 601 et seq. The amendments do not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C 3501 *et seq.*

The primary authors of this document are James E. Pinkerton and Peter A. Anastasi, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 91

Wildlife.

Accordingly, 50 CFR Part 91 is proposed to be amended as follows:

PART 91—[AMENDED]

1. The authority citation for Part 91 continues to read as follows:

Authority: 5 U.S.C. 301, 31 U.S.C. 9701.

2. Section 91.12 is amended by replacing the amount "$35.00" with the amount "$50.00 and revising the last sentence to read as follows:

§ 91.12 Contestant eligibility.

* * * * *

* * * Remittance should be by cashier's check or money order and made payable to the Fish and Wildlife Service (personal checks are not accepted).

3. Section 91.13 is amended by revising the first, third, and fourth sentences to read as follows:

§ 91.13 Technical requirements for design and submission of entry.

The design must be a horizontal drawing or painting seven inches high and ten inches wide. * * * No scrollwork, lettering, bird band numbers, signature, or initials may appear on the design. Each entry must be matted (over or under) with a nine inch by twelve inch white or off-white mat, not exceeding one-half inch in total thickness, and protected by an easy-to-remove covering of acetate.

* * * * *

4. Section 91.14 is amended by revising the fourth sentence to read as follow:

§ 91.14 Restrictions on subject matter of entry.

* * * * *

The design must be the contestant's own original creation and may not be copied or duplicated, in whole or in part, from previously published art, including photographs.

* * * * *

5. Section 91.17 is amended by revising the last sentence to read as follows:

§ 91.17 Property insurance for entries.

* * * The United States is not responsible for loss or damage not caused by its negligence or willful misconduct. In no event shall the liability of the United States exceed the amount of the entry fee.

6. Section 91.31 is amended by adding the following new sentence at the end of the section:

§ 91.31 Return of entries after contest.

* * * After a period of one year from the date of the contest all unclaimed entries will be destroyed.

Dated: March 28, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–8535 Filed 4–16–86; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 51, No. 74
Thursday, April 17, 1986

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

DEPARTMENT OF AGRICULTURE

Policy Advisory Committee for the Science and Education Research Grants Program; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Grants and Programs Systems announces the following meeting:

Name: Policy Advisory Committee for the Science and Education Research Grants Program.

Date: May 13, 1986.

Time: 9:00 a.m. to 5:00 p.m.

Place: U.S. Department of Agriculture, Room 104–A, Administration Building, 14th and Independence Avenue, SW., Washington, D.C. 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To advise the Secretary of Agriculture with respect to the research to be supported, priorities to be adopted and emphasized, and the procedures to be followed in implementing those programs of research grants to be awarded competitively.

Contact Person for Agenda and more Information: Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, Office of Grants and Program Systems, U.S. Department of Agriculture, Room 112, J.S. Morrill Building, Washington, D.C. 20251, 202–475–5022.

Done at Washington, D.C., this 9th day of April, 1986.

Anne Holiday Schauer,

Executive Secretary, Policy Advisory Committee.

[FR Doc. 86–8646 Filed 4–16–86; 8:45 am]

BILLING CODE 3410-MT-M

Soil Conservation Service

Finding of No Significant Impact for A&T Longbranch Pub. L. 566 Watershed, IA

AGENCY: Soil Conservation Service.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the A&T Longbranch Pub. L. 566 Watershed, Adams and Taylor Counties, Iowa.

FOR FURTHER INFORMATION CONTACT: J. Michael Nethery, State Conservationist, Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, Telephone 515-284-4260.

SUPPLEMENTARY INFORMATION: The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts of the environment. As a result of these findings, J. Michael Nethery, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for accelerated land treatment. The planned works of improvement include terraces, grade stabilization structures, water and sediment control basins, and conservation tillage systems.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data development during the environmental assessment are on file and may be reviewed by contacting J. Michael Nethery.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

Dated: April 8, 1986.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

J. Michael Nethery,

State Conservationist.

[FR Doc. 86–8635 Filed 4–16–86; 8:45 am]

BILLING CODE 3410-16-M

Finding of No Significant Impact for A&T Longbranch Watershed, Adams and Taylor Counties, IA

Introduction

A&T Longbranch watershed is a federally assisted action authorized under the authority of the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, as amended (16 U.S.C. 1001–1008). Sponsors of this project are the Adams County Board of Supervisors, Adams County Soil Conservation District, Taylor County Board of Supervisors and the Taylor County Soil Conservation District. The environmental evaluation was conducted in consultation with local, state and federal agencies along with other interested organizations and individuals. Data developed during the evaluation is available for review at the following location: U.S. Department of Agriculture, Soil Conservation Service, 210 Walnut Street, 693 Federal Building, Des Moines, Iowa 50309.

Recommended Action

The project plan includes the installation of land treatment measures. They are 2,790 acres of conservation tillage systems, 6,180 acres of contour farming, 22 grade stabilization structures, and 262 miles of terraces and water and sediment control basins on 6,180 acres. The ongoing program provides cost-sharing for some practices.

Effects of Recommended Action

Planned land treatment measures will increase protection of the soil resource base from excessive sheet, rill, and gully erosion. This is an increase of 6,180 acres which will be protected from depletion and destruction due to erosion. Damages due to sheet, rill, and gully erosion will be reduced by $285,270 annually. Benefits from reduced production cost due to conservation tillage of $10,000 annually will accrue. These annual benefits will occur over the entire 25-year life of the project.

The grade stabilization structures will impound water on 4 acres of prime

farmland. Planned land treatment measures will maintain 125 acres of prime farmland. Erosion rates on 825 acres of prime farmland will be lowered to tolerable limits.

Areas fenced to exclude livestock both around grade stabilization structure pools and elsewhere in the watershed will provide high quality woodland wildlife food and cover on about 39 acres. Tree and shrub plantings and improving existing habitat in those areas will provide 31 habitat units of woody cover. Dams and spillways will provide 28 acres of grassland habitat.

Approximately 380 acres will be converted from cropland to grassland by installation of terraces. These acres of grassland will be available for use as wildlife habitat. The project will increase grassland habitat by 230 units.

Annually, grade stabilization structures will prevent loss of the soil resource base through voiding of 2.6 acres and depreciation of 38 acres by gully erosion. Soil loss from gully erosion will be reduced from 49,200 to 44,390 tons per year.

Grade stabilization structures will impound 23 acres of water which will be available as aquatic and wetland habitat and have potential for incidental hunting and fishing. Eight acres will be types 3 and 4 wetland, 15 acres will be type 5 wetland. These areas will provide resting and potential nesting sites for migratory waterfowl. A water supply will be created that will be available for livestock consumption and firefighting.

Dust from construction operations will get into the atmosphere; however, all possible precautions will be taken to minimize the amount of airborne soil particles.

Construction of grade stabilization structures will result in production on 38 acres of cropland and pasture being lost to dams, spillways, pools, and wildlife habitat. Terrestrial wildlife habitat on 23 acres will be lost to pools. Wildlife use will be temporarily interrupted on 42 acres on dam and spillway areas and areas around pools but when they are revegetated they will be available as habitat for wildlife.

The total project will result in a net gain of 22 habitat units of cropland, 230 habitat units of grassland, 16 habitat units of woody cover, and provide 23 acres of wetlands and aquatic habitat.

Fish habitat will be improved in existing and proposed farm ponds and detention grade stabilization structures by reduction of sediment deposition.

About two miles of ephemeral stream channel will be flooded by the pools and the habitat modified in these channels. Wildlife travel lanes associated with these streams will be lost.

Terraces will reduce peak flows by either temporarily storing runoff water or increasing the time required for runoff from areas above terraces to reach stream channels.

Land treatment measures will protect lands from gully and excessive sheet and rill erosion. This will help maintain yields, reduce production costs, and improve efficiency of operations. Farmers will realize a more dependable income from the area.

Annualized projected benefits are estimated to be $295,270. Project installation costs are $2,733,440. Annualized costs are $172,700 giving a benefit cost ratio of 1.7 to 1.0.

Landscape and visual diversity and contrast will be enhanced by addition of water areas, grassed terrace backslopes in cropland, wildlife plantings, and vegetation around each pool.

Conservation tillage will have a beneficial effect on cultural resources by reducing soil erosion and minimizing mechanical disturbances. The installation of land treatment measures and grade stabilization structures may have an adverse effect on buried cultural resources and cultural resources on the land's surface. The exact locations of significant cultural resources and specific effects of structural measures will be determined on a measure by measure basis. If adverse effects on significant cultural resources are likely to occur, the SCS in consultation with the SHPO will seek to avoid adverse effects. Where adverse effects cannot be avoided, the SCS will consult further with the SHPO to mitigate the effects.

Alternatives

The recommended plan includes land treatment measures that will provide protection from erosion to valuable agricultural land. Several alternative methods of controlling erosion were considered before arriving at the recommended plan.

No project action alternative consists of the ongoing program to install land treatment measures. Many acres would be depleted by sheet and rill erosion and damaged by gully erosion before land would be adequately protected from erosion.

Conclusion

The Environmental Assessment indicates that this federal action will not cause significant local, regional, or national impacts on the environment. Therefore, based on these findings, I have determined that an environmental impact statement for A&T Longbranch Watershed is not required.

Dated: April 8, 1986.

J. Michael Nethery,

State Conservationist.

[FR Doc. 86-8634 Filed 4-16-86; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 5:00 p.m., on May 16, 1986, at the Holiday Inn at Oakland Airport, 500 Hegenberger Road, Oakland, California. The purpose of the meeting is to solicit information on possible housing discrimination.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Maxwell Greenberg, or Philip Montez, Director of the Western Regional Office at (213) 688-3437 (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 11, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86-8316 Filed 4-16-86; 8:45 am]

BILLING CODE 6335-01-M

New Hampshire Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on May 8, 1986, at McLane, Graf, Raulerson & Middleton, 40 Stark Street, Manchester, New Hampshire. The purpose of the meeting is to review progress on the Committee's voter accessibility project and discuss other civil rights developments in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Robert Wells or Jacob Schlitt, Director of the New

England Regional Office at (617) 223-4671, (TDD 617/223-0344). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 11, 1986.

Donald A Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86-8664 Filed 4-16-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-211-601]

Operators for Jalousie and Awning Windows From El Salvador; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether operators for jalousie and awning windows from El Salvador are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 5, 1986, and we will make ours on or before August 26, 1986.

EFFECTIVE DATE: April 17, 1986.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone: (202) 377-5288.

SUPPLEMENTARY INFORMATION:

The Petition

On March 19, 1986, we received a petition in proper form filed by the Anderson Corportion and the Caribbean Die Casting Corporation of Puerto Rico in compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36). The petition alleged that imports of the subject merchandise from El Salvador are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 or the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry. Critical circumstances have also been alleged under section 733(e) of the Act.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on operators for jalousie and awning windows from El Salvador and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether operators for jalousie and awning windows are being, or are likely to be, sold in the United States at less than fair value.

Scope of Investigation

The products covered by this investigation are operators for jalousie and awning windows, as provided for under item 647.0365 of the *Tariff Schedules of the United States, Annotated* (TSUSA).

United States Price and Foreign Market Value

Petitioners submitted price information on sales of jalousies operators and awning operators to the United States from sales contracts of the foreign manufacturer. Petitioners adjusted the CIF price to the U.S. purchaser for ocean freight, packaging, insurance and importer's profit.

Petitioners used FOB sales prices to Guatemala as foreign market value for jalousie operators, since they were unable to obtain data concerning sales in El Salvador. They were unable to obtain home market or third country data for awning operators. Consequently, petitioners calculated a constructed foreign market value. As petitioners were unable to obtain Salvadoran cost data for awning operators, they used Puerto Rican costs, stating that most costs in Puerto Rico were the same as those in El Salvador, adjusting for labor costs in El Salvador.

Based on the comparison of United States price and foreign market value, petitioners allege sales below fair value for both jalousie operators and awning operators. The average dumping margin for jalousie operators is 107.8 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information in our files. We will furnish privileged and confidential information to the ITC upon request, provided it confirms that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 5, 1986, whether there is a reasonable indication that imports of operators for jalousie and awning windows from El Salvador are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: April 8, 1986.

Gilbet B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-8547 Filed 4-16-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-067]

Carbon Steel Plate From Japan; Final Results of Changed Circumstances Administrative Review and Revocation of Dumping Finding

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On December 23, 1985, the Department of Commerce published the preliminary results of its administrative review of the dumping finding on carbon steel plate from Japan and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. At the request of several parties, a hearing was held on February 18, 1986. We received

comments from Gilmore Steel Corp., Bethlehem Steel Corp., United States Steel Corp., Nippon Steel Corporation, Nippon Kokan K.K., Kawaski Steel Corporation, Sumitomo Metal Industries, Inc., Kobe Steel, Ltd., Kansai Steel Corporation, and California Steel Industries. After our analysis of those comments, we determine that domestic interested parties are no longer interested in continuation of the finding, based upon their stated preference for the trade relief provided by a Voluntary Restraint Agreement that imposes restrictions on imports of carbon steel plate from Japan over relief provided by the dumping finding. Therefore, we are revoking the finding. In accordance with the interested parties' notification, the revocation will apply to all carbon steel plate exported on or after October 1, 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Chip Hayes, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255/3020.

SUPPLEMENTARY INFORMATION:

Background

On May 30, 1978, the U.S. Department of the Treasury published in the **Federal Register** T.D. 78-150, a dumping finding on carbon steel plate from Japan (43 FR 22937).

Bethlehem Steel Corporation, Inland Steel, Lukens, Inc., Laclede Steel Company, LTV Steel Company, National Steel Corporation, and United States Steel Corporation, domestic interested parties to this proceeding, have notified the Department that they are no longer interested in the finding and stated their support of revocation of the finding. Collectively, these companies constitute a substantial majority of the U.S. industry producing carbon steel plate. In their letters, these companies stated their opinion that the May 14, 1985, Voluntary Restraint Agreement ("VRA") with Japan, which imposes restrictions on imports of carbon steel plate from Japan, provides relief from unfairly traded imports of carbon steel plate from Japan that is at least equal to that which could be obtained through continuation of the dumping finding.

On December 23, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 52350) the preliminary results of its changed circumstances review of the dumping finding on carbon steel plate from Japan (43 FR 22937). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The merchandise covered by this review is hot-rolled carbon steel plate, 0.1875 inches or more in thickness, over 8 inches in width, not in coils, not pickled, not coated or plated with metal, not clad, and not cut, pressed, or stamped to non-rectangular shape.

Carbon steel plate is currently classifiable under items 607.6620 and 607.6625 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Analysis of Comments Received

Gilmore Steel Corp. ("Gilmore") and California Steel Industries submitted comments in opposition to the proposed revocation. We note that California Steel Industries may not be an "interested party" as it apparently only rolls steel, and does not melt raw steel.

United States Steel Corp., Bethlehem Steel Corp., Nippon Steel Corporation, Nippon Kokan, Kawaski Steel Corporation, Sumitomo Metal Industries, Inc., Kobe Steel, Ltd., and Kansai Steel Corporation submitted comments in support of the revocation.

Comments Submitted by Parties in Opposition to Proposed Revocation

Comment 1: Gilmore Steel argues that the only legitimate subject to be considered by the Department in conducting a review under section 751(b) of the Tariff Act is whether carbon steel plate from Japan continues to be sold in the United States at less than fair value (LTFV) and whether LTFV sales are likely to resume if the finding is revoked. Thus, Gilmore Steel argues that the Department can only revoke under section 751(b) after a determination of no LTFV sales.

DOC Position: Section 751(b)(1) provides for reviews of affirmative final determinations when information shows "changed circumstances" sufficient to warrant review. The language of this provision clearly encompasses something other than a determination of whether sales are LTFV. Section 751(a)(1)(B) explicitly provides for reviews of LTFV sales upon request. If the only kind of "changed circumstances" reviewable under section 751(b) were whether there had been sales at less than fair value, then section 751(b) would simply duplicate section 751(a). Clearly, Congress could not have intended such a result. Thus, there is independent authority in the statute for revocation based upon a determination of changed circumstances without review of whether there are continuing LTFV sales.

Although Congress has never provided any definition of the type of "changed circumstances" that would be sufficient to justify review, Congress provided some guidance in this regard in an amendment to section 751 of the Trade and Tariff Act of 1984. The Conference Committee Report to that amendment states that "the administering authority should be able to revoke antidumping or countervailing duties [sic] that are no longer of interest to domestic parties." H. Conf. Rep. No. 1156, 98th Cong., 2d Sess. 181 (1984). Thus, the Department has legal authority to revoke a dumping finding when the domestic industry affirmatively indicates that it does not want the finding.

As noted, the Department has received letters from a substantial majority of the U.S. industry producing carbon steel plate requesting that the Department revoke this finding. Collectively, these companies constitute a substantial majority of the U.S. industry producing carbon steel plate. Thus, not only is this a situation where the U.S. industry lacks interest in continuation of the finding, in fact, it is actively requesting revocation.

Comment 2: The notice published by the Department was improper; the Department may not tentatively determine to revoke an antidumping duty order until after its final review of the order.

DOC Position: In accordance with section 751(b)(1), the Department published a notice of its review in the **Federal Register.** This notice combined the provisions of § 353.53 and § 353.54 of the Department's regulations by indicating that it was both a Notice of Intention to Review and the Preliminary Results of Changed Circumstances Review. While the regulations do not explicitly authorize the combination of these procedures, neither do they explicitly preclude such consolidation. Consolidation of the Notice of Intent to Review and the Preliminary Results of Review is particularly appropriate where, as here, the operative basis for the review is a matter of public record—lack of industry support. This is not a situation where, for example, a disclosure would serve any function.

Contrary to Gilmore's allegations, the Department's December 23 notice does not constitute revocation before a review. As the caption of that notice indicated, the review process was not completed: *"Intention to Review* and *Preliminary Results* of Changed Circumstances Administrative Review

and *Tentative Determination* to Revoke Antidumping Duty Order." 50 FR 52350 (emphasis added). The Department held a hearing in this case and provided an opportunity for written submissions. The Department's final determination to revoke the dumping finding was taken only after review of all comments and submissions, in accordance with the **Federal Register** notice.

Comment 3: Gilmore claims that the Department lacks authority to substitute the Steel Arrangement between the United States and Japan for the dumping finding on carbon steel plate from Japan. Gilmore argues that the use of quantitative restrictions is limited to termination of pending investigations under section 734 of the Tariff Act, not to the revocation of a finding already in place.

Gilmore further notes that the Conference Committee that considered amendments to section 734 in 1984 rejected a Senate provision which would have authorized the Department to suspend antidumping investigations based on quantitative restrictions.

DOC Position: The Department is not substituting the VRA for the finding. Rather, the changed circumstances which the Department has considered in this review and which form the basis for revocation are the affirmative statements by a majority of the domestic industry (in terms of both number of producers of carbon steel plate and total output of the product) that it is no longer interested in continuing the dumping finding on carbon steel plate from Japan. The domestic parties have stated in their letters to the Department preference for the trade relief provided by the recent VRA negotiated by the United States and Japan over the relief provided by the finding.

Gilmore's reference to section 734 is irrelevant; the current proceeding is neither a termination of an on-going investigation in which the petitioner withdrew the petition nor a suspension of investigation. There is a fundamental conceptual difference between halting or interrupting an investigation of dumping, initiated on behalf of an industry, and revoking a finding that is no longer supported by the industry that has enjoyed its protection. Furthermore, Gilmore's citation to the legislative history of section 734 is misleading and incomplete. Congress explicitly acknowledged that "settlement of cases based on import quotas may be warranted and have less adverse effects on the public interest than imposition of duties in certain circumstances." H.R. Rep. No. 725, 98th Cong., 2d Sess. 19 (1984).

Comment 4: Gilmore argues that the Department should not let the preference of "Big Steel" (*i.e.*, major carbon steel plate producers such as Bethlehem Steel Corp. and United States Steel Corp.) for a voluntary restraint agreement outweigh Gilmore's desire for continuation of the finding. Gilmore notes that most imports of carbon steel plate from Japan enter at ports in the West Coast regional market, where Gilmore is the only domestic producer. Similarly, California Steel Industries, Inc. argues that the Department should not let the interests of the Eastern steel mills outweigh the desire of the West Coast mills for continuation of the finding.

DOC Response: Gilmore's concern that the VRA will increase LTFV sales in the West Coast region is irrelevant because the original investigation, and hence the finding, was not directed toward a regional industry. 43 FR 17410 (1978).

The Trade Agreement Act of 1979, as amended, is drafted throughout in terms of relief to an *industry*, not to individual manufacturers or producers. Thus, objection to revocation by a single party or small faction does not override the active preference of the industry as a whole.

The Court of International Trade has held that the Department properly rescinded a determination to initiate an investigation when it later learned that the domestic industry did not support the petition, stating that "to continue an obviously unwarranted investigation . . . flies in the face of reason." *Gilmore Steel Corp.* v. *United States*, 585 F. Supp. 670, 674 (CIT 1984). The current proceeding involves revocation of a finding, rather than termination of an investigation, yet the court's rationale is at least as applicable to this situation, in which the domestic industry has concluded that continuation of the finding is no longer of interest.

Comment 5: Gilmore claims that the revocation cannot apply retroactively to October 1, 1984.

DOC Position: Section 751(c) of the Act provides that revocation of an antidumping order "shall apply with respect to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on and after a date determined by the administering authority." Since the Department has discretion as to the date of revocation of an order, it may do so retroactively.

While § 353.53(f) of the Department's regulations provide that "ordinarily" a revocation will be effective on or after the date on which the Notice of Tentative Determination to Revoke is published in the **Federal Register**, it does not prohibit retroactive revocation.

The general rules concerning the effective date of a revocation were not drafted with the instant situation in mind. Just as the statute need not address every eventuality such that there is room for agency interpretation in administering the law, there is also room for the Department to respond to and act upon circumstances not provided for in the regulations.

Domestic producers do not support this finding after October 1, 1984. Accordingly, as of that date, imposition of duties is no longer on behalf of a domestic industry. The ITA may, quite appropriately, retroactively revoke the finding as of that date.

Comments Submitted by Parties Supporting Revocation

Comment 1: All of the parties argue that an expression of "lack of interest" on the part of interested parties is a "changed circumstance" sufficient to permit review and, ultimately, revocation of an finding under sections 751 (b) and (c) of the Act. Significantly, an antidumping investigation cannot be initiated by the Department unless the petition is filed "on behalf of an industry", and if a petitioner or any other domestic party pursuing an investigation ceases to do so "on behalf of an industry," the investigation must be terminated. A similar approach is warranted with respect to an existing finding.

DOC Position: We agree.

Comment 2: Bethlehem Steel Corporation and the Japanese companies argue that the Steel Import Stabilization Act, Title VIII of the Trade and Tariff Act of 1984, authorizes the Department to revoke dumping findings in order to enter into quantitative restriction agreements.

DOC Position: Given the Department's determination that it has authority under section 751 to revoke this finding, it is unnecessary to decide whether Title VIII provides additional authority for this action.

Final Results of the Review and Revocation

As a result of this review, we determine that domestic interested parties are no longer interested in continuation of the dumping finding on carbon steel plate from Japan and that the finding should be revoked on this basis. As evidence of changed circumstances sufficient to warrant a review, domestic parties accounting for a majority of the industry cited the VRA with Japan negotiated pursuant to Title

VIII of the Trade and Tariff Act of 1984. The domestic parties affirmatively stated their preference for the VRA, which imposes restrictions on imports of carbon steel plate from Japan, over the dumping finding.

Therefore, we are revoking the finding on carbon steel plate from Japan effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after October 1, 1984, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

This notice does not cover unliquidated entries of steel plate from Japan which were exported prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and exported prior to October 1, 1984, in a separate review, if one is requested.

This administrative review, revocation and notice are in accordance with section 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations.

Dated: April 7, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-8551 Filed 4-16-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-011]

Carbon Steel Plate From Korea; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On December 11, 1985, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on carbon steel plate from Korea and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. A hearing was held on February 13, 1986. We received comments from Gilmore Steel Corp., Bethlehem Steel Corp., United States Steel Corp., Lukens, Inc., California Steel Industries, Pohang Iron and Steel Co. ("Posco"), and the Korean Iron and Steel Association. After our analysis of those comments, we determine that domestic interested parties are no longer interested in continuation of the order, based upon their stated preference for the trade remedy provided by a Voluntary Restraint Agreement that imposes restrictions on imports of carbon steel plate from Korea over the antidumping duty order. Therefore, we are revoking the order. In accordance with the interested parties' notification, the revocation will apply to all carbon steel plate exported on or after October 1, 1984

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Chip Hayes, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-5255/3020.

SUPPLEMENTARY INFORMATION:

Background

On August 22, 1984, the Department of Commerce ("the Department") published in the **Federal Register** an antidumping duty order on carbon steel plate from the Republic of Korea (49 FR 33298). ARMCO, Inc., Bethlehem Steel Corp., Lukens, Inc., and United States Steel Corp., domestic interested parties to this proceeding, have notified the Department that they are no longer interested in the order and stated their support of revocation of the order. Collectively, these companies constitute a substantial majority of the U.S. industry producing carbon steel plate. In their letters, these companies stated their opinion that the May 2, 1985, Voluntary Restraint Agreement ("VRA") with Korea, which imposes restrictions on imports of carbon steel plate from Korea, has mitigated the injury caused by unfairly traded imports of carbon steel plate from Korea and that the relief afforded by the VRA is at least equal to that which could be obtained thorugh continuation of the antidumping duty order.

On December 11, 1985, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its changed circumstances review of the antidumping duty order on carbon steel plate from Korea (50 FR 50648). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("The Tariff Act").

Scope of Review

The merchandise covered by this review is carbon steel plate. The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad, 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620 and 607.6625 of the Tariff Schedules of the United States Annotated. Semi-finished products of solid rectangular cross-sections with a width at least four times the thickness in the cast condition or processed only through primary mill hot-rolled are not included. The review covers the period from October 1, 1984.

Analysis of Comments Received

Gilmore Steel Corp. ("Gilmore") and California Steel Industries submitted comments in opposition to the proposed revocation. We note that California Steel Industries may not be an "interested party" as it apparently only rolls steel, and does not melt raw steel.

Bethlehem Steel Corp., United States Steel Corp., and Posco and the Korean Iron and Steel Association submitted comments in support of the revocation.

Comments Submitted by Parties in Opposition to Proposed Revocation

Comment 1: Gilmore Steel argues that the only legitimate subject to be considered by the Department in conducting a review under section 751(b) of the Tariff Act is whether carbon steel plate from Korea continues to be sold in the United States at less than fair value (LTFV) and whether LTFV sales are likely to resume if the order is revoked. Thus, Gilmore Steel argues that the Department can only revoke under section 751(b) after a determination of no LTFV sales.

DOC Position: Section 751(b)(1) provides for reviews of affirmative final determinations when information shows "changed circumstances" sufficient to warrant review. The language of this provision clearly encompasses something other than a determination of whether sales are LTFV. Section 751(a)(1)(B) explicitly provides for reviews of LTFV sales upon request. If the only kind of "changed circumstances" reviewable under section 751(b) were whether there had been sales at less than fair value, then section 751(b) would simply duplicate section 751(a). Clearly, Congress could not have intended such a result. Thus, there is independent authority in the statute for revocation based upon a determination of changed circumstances without review of whether there are continuing LTFV sales.

Although Congress has never provided any definition of the type of "changed circumstance" that would be sufficient to justify review, Congress provided some guidance in this regard in an amendment to section 751 of the Trade and Tariff Act of 1984. The Conference Committee Report to that amendment states that "the administering authority should be able to revoke antidumping or countervailing duties [sic] that are no longer of interest to domestic parties." H. Conf. Rep. No. 1156, 98th Cong., 2d Sess. 181 (1984). Thus, the Department has legal authority to revoke an antidumping duty order when the domestic industry affirmatively indicates that it does not want the order.

As noted, the Department has received letters from a substantial majority of the U.S. industry producing carbon steel plate requesting that the Department revoke this Order. Collectively, these companies constitute a substantial majority of the U.S. industry producing carbon steel plate. Thus, not only is this a situation where the U.S. industry lacks interest in continuation of the order, in fact, it is actively requesting revocation.

Comment 2: The notice published by the Department was improper; the Department may not tentatively determine to revoke an antidumping duty order until after its final review of the order, and under section 751(b), the Department may not consider revocation within twenty-four months of issuance of the final notice of LTFV sales.

DOC Position: In accordance with section 751(b)(1), the Department published a notice of its review in the **Federal Register.** This notice combined the provisions of § 353.53 and § 353.54 of the Department's regulations by indicating that it was both a Notice of Intention to Review and the Preliminary Results of Changed Circumstances Review. While the regulations do not explicitly authorize the combination of these procedures, neither do they explicitly preclude such consolidation. Consolidation of the Notice of Intent to Review and the Preliminary Results of Review is particularly appropriate where, as here, the operative basis for the review is a matter of public record—lack of industry support. This is not a situation where, for example, a disclosure would serve any function.

Contrary to Gilmore's allegations, the Department's December 23 notice does not constitute revocation before a review. As the caption of that notice indicated, the review process was not completed: *"Intention to Review* and *Preliminary Results* of Changed Circumstances Administrative Review and *Tentative Determination* to Revoke Antidumping Duty Order." 50 FR 52350 (emphasis added). The Department held a hearing in this case and provided an opportunity for written submissions. The Department's final determination to revoke the dumping finding was taken only after review of all comments and submissions, in accordance with the **Federal Register** notice. As discussed above, Congress amended the antidumping law in 1984, giving express approval in the legislative history for revocation of an order when domestic interested parties indicate that they are no longer interested in the order.

Further, we consider these changed circumstances to constitute "good cause," such that we may review the final determination within twenty-four months of publication of that notice. The Department has complied with the statutorily mandated procedures.

Comment 3: Gilmore claims that the Department lacks authority to substitute the Steel Arrangement between the United States and Korea for the antidumping duty order on carbon steel plate from Korea. Gilmore argues that the use of quantitative restrictions is limited to termination of pending investigations under section 734 of the Tariff Act, not to the revocation of an order already in place. Gilmore further notes that the Conference Committee that considered amendments to section 734 in 1984 rejected a Senate provision which would have authorized the Department to suspend antidumping investigations based on quantitative restrictions.

DOC Position: The Department is not substituting the VRA for the order. Rather, the changed circumstances which the Department has considered in this review and which form the basis for revocation are the affirmative statements by a majority of the domestic industry (in terms of both number of producers of carbon steel plate and total output of the product) that it is no longer interested in continuing the antidumping duty order on carbon steel plate from Korea. The domestic parties have stated in their letters to the Department preference for the trade relief provided by the recent VRA negotiated by the United States and Korea over the relief provided by the order.

Gilmore's reference to section 734 is irrelevant; the current proceeding is neither a termination of an on-going investigation in which the petitioner withdrew the petition nor a suspension of investigation. There is a fundamental conceptual difference between halting or interrupting an investigation of dumping, initiated on behalf of an industry, and revoking an order that is no longer supported by the industry that has enjoyed its protection. Furthermore, Gilmore's citation to the legislative history of section 734 is misleading and incomplete. Congress explicitly acknowledged that "settlement of cases based on import quotas may be warranted and have less adverse effects on the public interest than imposition of duties in certain circumstances." H.R. Rep. No. 725, 98th Cong., 2d Sess. 19 (1984).

Comment 4: Gilmore argues that the Department should not let the preference of "Big Steel" (*i.e.*, major carbon steel plate producers such as Bethlehem Steel Corp. and United States Steel Corp.) for a voluntary restraint agreement outweigh Gilmore's desire for continuation of the order. Gilmore notes that most imports of carbon steel plate from Korea enter at ports in the West Coast regional market, where Gilmore is the only domestic producer. Similarly, California Steel Industries, Inc. argues that the Department should not let the interests of the Eastern steel mills outweigh the desire of the West Coast mills for continuation of the order.

DOC Response: Gilmore's concern that the VRA will increase LTFV sales in the West Coast region is irrelevant because the original investigation, and hence the order, was not directed toward a regional industry. (49 FR 33298).

The Trade Agreements Act of 1979, as amended, is drafted throughout in terms of relief to an *industry,* not to individual manufacturers or producers. Thus, objection to revocation by a single party or small faction does not override the active preference of the industry as a whole.

The Court of International Trade has held that the Department properly rescinded a determination to initiate an investigation when it later learned that the domestic industry did not support the petition, stating that "to continue an obviously unwarranted investigation . . . flies in the face of reason." *Gilmore Steel Corp.* v. *United States,* 585 F. Supp. 670, 674 (CIT 1984). The current proceeding involves revocation of an order, rather than termination of an investigation, yet the court's rationale is at least as applicable to this situation, in which the domestic industry has concluded that continuation of the order is no longer of interest.

Comment 5: Gilmore claims that the revocation cannot apply retroactively to October 1, 1984.

DOC Position: Section 751(c) of the Act provides that revocation of an antidumping order "shall apply with

respect to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on and after a date determined by the administering authority." Since the Department has discretion as to the date of revocation of an order, it may do so retroactively.

While §353.53(f) of the Department's regulations provide that "ordinarily" a revocation will be effective on or after the date on which the Notice of Tentative Determination to Revoke is published in the **Federal Register**, it does not prohibit retroactive revocation. Just as the statute need not address every eventuality, such that there is room for agency interpretation in administering the law, there is also room for the Department to respond to and act upon circumstances not provided for in the regulations.

Domestic producers do not support this order after October 1, 1984. Accordingly, as of that date, imposition of duties is no longer on behalf of a domestic industry. The ITA may, quite appropriately, retroactively revoke the order as of that date.

Parties Supporting Revocation

Comment 1: All of the parties supporting revocation argue that an expression of "lack of interest" on the part of interested parties is a "changed circumstance" sufficient to permit review and, ultimately, revocation of an order under sections 751 (b) and (c) of the Act. Significantly, an antidumping investigation cannot be initiated by the Department unless the petition is filed "on behalf of an industry," and if a petitioner or any other domestic party pursuing an investigation ceases to do as "on behalf of an industry," the investigation must be terminated. A similar approach is warranted with respect to an existing order.

DOC Position: We agree.

Comment 2: Bethlehem Steel Corporation, Posco, and the Korean Iron and Steel Association argue that the Steel Import Stabilization Act, Title VIII of the Trade and Tariff Act of 1984, authorizes the Department to revoke antidumping orders in order to enter into quantitative restriction agreements.

DOC Position: Given the Department's determination that it has authority under section 751 to revoke this order, it is unnecessary to decide whether Title VIII provides additional authority for this action.

Comment 3: United States Steel Corporation asserts that revocation is appropriate under section 751(a) because domestic interested parties are no longer interested in the order and the ITA has already commenced a review under section 751(a) (49 FR 33298 (August 22, 1984)). Under section 751(a) good cause need not be shown.

DOC Position: We have not completed a review under section 751(a) because changed circumstances intervened, warranting review under section 751(b).

Comment 4: Posco contends that the terms of the VRA require the Department to revoke the order or the VRA itself may be in jeopardy. The Department had an obligation to notify the domestic industry and determine if it remained interested in the order.

DOC Position: The Department is not relying on the VRA itself as the basis for its changed circumstances review. Rather, the Department informed domestic parties to the proceeding about the VRA and they transmitted their views to the Department in return.

Final Results of the Review and Revocation

As a result of this review, we determine that domestic interested parties are no longer interested in continuation of the antidumping duty order on carbon steel plate from Korea and that the order should be revoked on this basis. As evidence of changed circumstances sufficient to warrant a review, domestic parties accounting for a majority of the industry cited the VRA with Korea, negotiated pursuant to Title VIII of the Trade and Tariff Act of 1984. The domestic parties affirmatively stated their preference for the VRA, which imposes restrictions on imports of carbon steel plate from Korea, over the antidumping duty order.

Therefore, we are revoking the order on carbon steel plate from Korea effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after October 1, 1984, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

This notice does not cover unliquidated entries of steel plate from Korea which were exported prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and exported prior to October 1, 1984, in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with section 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) (and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: April 7, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-8552 Filed 4-16-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-489-501]

Certain Welded Carbon Steel Pipe and Tube Products From Turkey: Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We determine that certain welded carbon steel pipe and tube products from Turkey are being, or are likely to be, sold in the United States at less than fair value. We also determine that critical circumstances do not exist in these investigations. We have notified the U.S. International Trade Commission (ITC) of our determination and the ITC will determine, within 45 days of publication of this notice, whether a U.S. industry is materially injured, or threatened with material injury, by imports of this merchandise. We have directed the U.S. Customs Service to continue to suspend liquidation on all entries of the subject merchandise as described in the "Suspension of Liquidation" section of this notice and to require a cash deposit or posting of a bond for each such entry in amounts equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: April 17, 1986.

FOR FURTHER INFORMATION CONTACT: Paul Tambakis or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 377-4136 or 377-5288.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain welded carbon steel pipe and tube products from Turkey are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C 1673d(a)) (the Act). We have found margins on sales of certain welded carbon steel pipe and tube products from Turkey for all of the firms

investigated. However, one producer, Borusan, is excluded from this determination with respect to line pipe because we found *de minimis* margins on its sales of this merchandise. The weighted-average margins for individual companies investigated are listed in the "Suspension of Liquidation" section of this notice.

Case History

On July 16, 1985, we received a petition filed in proper form from the Standard Pipe and Tube Subcommittee and the Line Pipe Subcommittee of the Committee on Pipe and Tube Imports. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of certain welded carbon steel pipe and tube products from Turkey are being, or are likely to be sold, in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673) and that these imports are materially injuring, or threatening material injury to, a United States industry. The petitioners also alleged that "critical circumstances" exist with respect to imports of this merchandise from Turkey.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping duty investigations. We notified that ITC of our action and initiated such investigations on August 5, 1985 (50 FR 32246). On September 5, 1985, we presented questionnaires to Mannesmann-Sumerbank Boru Industrisi (Mannesmann), Borusan Ithicat ve Dagitim (Borusan), and Erkboru Profil Sanayi ve Ticaret (Erkboru), manufacturers who account for at least 60 percent of the exports of the subject merchandise to the United States. On September 11, 1985, the ITC determined that there is a reasonable indication that imports of certain welded carbon steel pipe and tube products from Turkey are materially injuring a United States industry (50 FR 37068). We received partial responses from all three companies on October 21, 1985. On November 5 and 6, 1985, we requested further information from the three companies in areas where we considered their responses deficient. Supplemental responses were received from these three companies during November, 1985.

On November 26, 1985, the petitioners alleged that home market and third country sales of the respondents were at prices below the cost of producing that merchandise. Based on the information contained in the petitioners' allegation of sales at less than cost, we instituted a cost of production investigation since we found that the allegation was sufficiently supported to give us reasonable grounds to believe or suspect that home market or third country sales were at prices below cost of production, as required by section 773(b) of the Act (19 U.S.C. 1677b). Consequently, on December 23, 1985, the Department requested that respondents submit detailed cost of production information relative to the merchandise under investigation. At that time, we also requested any information that respondents failed to provide to the Department in earlier submissions. We received supplemental submissions from Borusan between January 24 and March 3, 1986. Erkboru and Mannesmann failed to respond to the Department's December 23, 1985 request for cost of production data and other supplemental information.

On December 23, 1985, we made an affirmative preliminary determination that certain welded carbon steel pipe and tube products from Turkey were being, or were likely to be, sold in the United States at less than fair value (51 FR 235). We also preliminarily determined that critical circumstances do not exist with regard to either standard pipe or line pipe.

On January 15, 1986, a respondent, which accounts for a significant portion of imports of the merchandise covered by these investigations, requested that we extend the period for the final determination until no later than 96 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Act. On January 24, 1986, we granted this request and postponed our final determination until not later than April 9, 1986 (51 FR 4206).

We verified Borusan's questionnaire responses in Turkey from February 17–20, 1986. We conducted a partial verification of Mannesmann's United States purchase price transactions in Turkey on February 21, 1986. No verification of individual home-market sales or cost of production was conducted at Mannesmann since the company failed to submit this information to the Department. At this verification, Mannesmann stated that it no longer wanted to participate in these investigations. Consequently, the company did not permit verification of its reported exporters' sales price transactions. Erkboru also did not permit the Department to verify any information it had submitted in these investigations.

As required by the Act, we afforded interested parties an opportunity to submit oral and written comments. On March 3, 1986, petitioners and respondents withdrew their requests for a public hearing in these investigations. Written comments on the issues arising in these investigations were submitted in lieu of the public hearing.

Products Under Investigation

The products covered by these investigations are: (1) Welded carbon steel pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches of any wall thickness, currently classified in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably A–120, A–53 or A–135; and, (2) welded carbon steel line pipe with an outside diameter of 0.375 inch or more but not over 16 inches, and with a wall thickness of not less than 0.065 inch, currently classified in the TSUSA under items 610.3208 and 610.3209. These products are produced to various API specifications for line pipe, most notably API 5L or API–5LX.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared United States price with the foreign market value based on home market prices or, where appropriate, constructed value as explained below.

United States Price

As provided in section 772(b) of the Act, for sales by Borusan we used the purchase price of the subject merchandise to represent United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the F.O.B. or C. & F. packed price to unrelated purchasers in the United States. We deducted, where appropriate, foreign inland freight, port expenses, and ocean freight. We made no adjustment for the amount of value-added tax imposed on sales in Turkey which was not collected or rebated by reason of the exportation of the merchandise to the United States because the reported home market prices were already net of the value-added tax. We also made an adjustment to purchase price for the amount of import duties which have not been collected by reason of the exportation of the merchandise to the United States, in

accordance with section 772(d)(1)(B) of the Act.

Since Mannesmann and Erkboru did not permit verification of all United States sales data submitted to the Department, we calculated United States price of standard pipe and tube and line pipe as provided in sections 772(b) and 772(c) of the Act, on the basis of average C.I.F. prices for all producers, except Borusan, of standard pipe and line pipe from Turkey for exports to the United States during the period of investigation. We gathered simple average price information from special summary steel invoices (SSSI) statistics, which was the best information available. We made an adjustment to these prices for ocean freight based on Borusan's ocean freight expenses.

Foreign Market Value

The petitioners alleged that sales in the home market were at prices below the cost of producing the merchandise. For Borusan, we examined production costs, which included all appropriate costs for materials, fabrication and general expenses. For Mannesmann and Erkboru, no such analysis was done since these companies failed to respond to the Department's cost of production questionnaire. Therefore, as explained below, we based foreign market value for Mannesmann and Erkboru on constructed value using the best information available.

Price to Price Comparisons

In accordance with section 773(a) of the Act, we calculated foreign market value for Borusan's sales of standard pipe based on ex-factory, packed home market prices net of discounts and value-added tax, to unrelated purchasers since there were sufficient sales in the home market at or above the cost of production to determine foreign market value. We made adjustments, where appropriate, for differences in credit costs in accordance with § 353.15 of our Regulations (19 CFR 353.15). We made no adjustment for packing since differences in packing costs for domestic and foreign sales on a per ton basis are negligible.

Since Borusan's foreign market value for standard pipe was based on home market prices, we made comparisons of "such or similar" merchandise groups based on grade, dimension and end finish selected by Commerce Department industry experts. Where our comparisons were not of identical merchandise, we made adjustments to similar merchandise for physical differences in the merchandise in acordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the cost of materials, direct labor and directly related factory overhead. Pursuant to § 353.56 of our Regulations, we made currency conversions at the rates certified by the Federal Reserve Bank of New York for the dates of the sales to the United States.

Constructed Value

In accordance with section 773(a)(2) of the Act, we based foreign market value for Borusan's sales of line pipe on constructed value, because the quantities sold in the home market were too small to form an adequate basis for determining foreign market value. We also had insufficient information on third country sales to consider using them as the basis for foreign market value. We calculated a constructed value for line pipe by totalling the costs of: Materials, fabrication, general expenses, profit and packing. Where the amount for general expenses was less than ten percent of the cost of materials and fabrication, we used ten percent. Where the amount for profit was less than eight percent, we used eight percent. We made an adjustment under § 353.15 of the Commerce Regulations for differences in circumstances of sale between the two markets. This adjustment was for differences in credit costs.

We used "best information available" to determine foreign market value for Mannesmann and Erkboru since they failed to provide cost data relating to home market sales and differences in merchandise. Additionally, Mannesmann failed to provide an individual listing of home market sales. Therefore, we have used constructed value information provided in the petition, updated by more recent data submitted by both petitioners and respondents at the time the sales below cost allegation was made, as the best information available, pursuant to section 776(b) of the Act.

Verification

In accordance with section 776(a) of the Act, we verified all information used in making this final determination with respect to Borusan using standard verification procedures including on-site examination of accounting records and selected original source documentation containing relevant information. Erkboru did not permit the Department to verify any of its questionnaire responses. Mannesmann would not permit any verification of its exporters' sales price data nor would it permit a complete verification of its purchase price data.

Petitioners' Comments

Comment 1: Petitioners claim that the information provided in Borusan's cost of production response did not adequately reflect the general expenses for the constructed value because of the amount of Pendik's (Borusan's domestic seller) selling, general and administrative expenses which were included.

DOC Position: The Department verified Pendik's costs. The general, selling and administrative expenses related to Pendik's costs were appropriately valued.

Comment 2: Petitioners urge the Department to ensure that it does not use cost of production of goods sold in the home market which is understated because such costs are not based on the weighted-average costs of all plants, including the Borusan Boru plant.

DOC Position: The Department did not include costs of the Borusan Boru plant because that plant did not have the capability to manufacture the product under investigation.

Comment 3: Petitioners contend that Gemlik, the manufacturing enterprise within the Borusan Group that produces the standard and line pipes subject to this investigation, may be receiving goods and services from related companies for less than their actual cost. If so, petitioners urge the Department to ensure that the full price paid for these goods and services actually covers all of its related suppliers' costs. Petitioners also urge the Department to check coil prices between Borusan and Eregli if these two companies are related to ensure that prices charged have not been improperly discounted.

DOC Position: The Department did not find any indication during the verification that Gemlik was buying from related companies, other than the companies which were identified in the response. The Department examined these costs and found them to approximate the market value.

Comment 4: Petitioners request that the Department verify Borusan's reported quarterly coil costs for one theoretical ton of standard and line pipe, including the weight savings rates used to obtain coil costs. Petitioners argue that if Borusan's weight savings claims are accepted by the Department, quarterly weight savings ratios should be calculated to match the quarterly coil cost figures to yield accurate total raw material costs.

DOC Position: Submitted material costs were verified, and no exceptions were found. The weight savings rate

was computed on the basis of common industry practice.

Comment 5: Petitioners claim that Borusan understated its cost per ton for zinc and couplings by making an inappropriate theoretical weight adjustment to zinc and coupling costs.

DOC Position: Our verification procedures indicated that the respondent's methodology properly reflected zinc and coupling costs.

Comment 6: Petitioners urge the Department to ensure that Borusan has included in Gemlik's costs of production the extra costs associated with operating "stretch reducing" equipment.

DOC Position: Our verification procedures indicated that the costs of the stretch reducing machine were allocated to all pipe processed through this machinery.

Comment 7: Petitioners claim that Borusan has failed to justify claimed adjustments for differences in merchandise and that, without calculations supporting the claimed costs, the Department should not accept these claims.

DOC Position: The costs related to the differences in merchandise were verified and, therefore, used for the final determination.

Comment 8: Petitioners contend that the interest expense for Borusan's sales to the United States should be based on the Turkish interest rate and not the U.S. interest rate. Petitioners believe that the interest rates on credit extended on home market sales and U.S. sales should be based only on Turkish interest rates because Borusan's 1984 financial statement indicates that all working capital loans are in local currency.

DOC Position: We disagree. We verified that U.S. sales were financed with short-term dollar-denominated financing, and have used the weighted-average dollar interest rate for loans outstanding during the period of investigation.

Comment 9: In view of the lack of cooperation by Mannesmann and Erkboru in this investigation, petitioners urge the Department to use home market sales information from the petition as "best information available."

DOC Position: As described in the Foreign Market Value section of this notice, we agree that best information available should be used for Mannesmann and Erkboru. However, we based this on constructed value and did not consider home market prices from the petition because the petitioners were unable to obtain home market sales prices for the Turkish pipe and tube products covered by this investigation.

Comment 10: Petitioners argue that home market credit costs shuld be based only on credit terms and should not include late payment costs. Petitioners argue that late payment costs are not a circumstance of sale because late payments have no effect on price since price is set according to credit terms given at the time of sale.

DOC Position: We disagree. In keeping with past Departmental practice (see Certain Tapered Journal Roller Bearings and Parts Thereof from Italy (49 FR 2278)), in making a circumstance of sale adjustment for differences in credit expenses, we considered the actual difference in payment experience, including late payment costs, in the two markets and not merely the offered terms of payment.

Comment 11: Petitioners argue that U.S. credit costs should be calculated from the date of sale to date of payment to be consistent with the methodology used in the home market.

DOC Position: We disagree. Since date of sale in the United States is the purchase order date, which is normally several months before shipment, it would be inappropriate to use the date of U.S. sales as the start of the credit period. In the home market, however, there is no lag between date of sale and date of shipment. Borusan used date of sale as the beginning of the credit period because it is also the invoice and shipment date.

Comment 12: Petitioners claim that, in order to state correctly Borusan's foreign market value at a time when the Turkish lira is depreciating against the U.S. dollar, the Department must calculate foreign market value in U.S. dollars using the exchange rate in effect at the time of payment for the U.S. sale.

DOC Position: The Department disagrees. In keeping with established practice and § 353.56 of its regulations, the Department has converted home market prices to U.S. dollars as of the date of the U.S. sales to which they are being compared.

Comment 13: Petitioners argue that, even if most of Borusan's sales are above production costs, the Department should, pursuant to section 773(b)(2) of the Act, nevertheless disregard home market sales of a particular size of pipe if these sales were generally below cost consistently throughout the period.

DOC Position: We disregarded all below cost sales in calculating foreign market value because home market sales overall for standard pipe were made over an extended period of time and in substantial quantities, and were at prices not permitting the recovery of all costs within a reasonable period in the normal course of trade.

Comment 14: Petitioners urge the Department to ensure that the actual and theoretical weights shown for Borusan's U.S. sales are correct.

DOC Position: The Department verified the reported weights through examination of original source documentation. The theoretical weights were derived by applying a standard method of calculation to the quantity of feet shown on each invoice. We used theoretical weights in our final calculations since home market quantities are also based on theoretical weights and the per metric ton charges and adjustments for Borusan's U.S. sales were also derived from theoretical weights.

Comment 15: Petitioners contend that if the housing tax and the various duties that Borusan used in its calculation of duties for its drawback adjustment were not rebated or collected upon exportation of the pipe, then these amounts cannot be included in duty drawback.

DOC Position: The Department verified that all imported inputs covered by an incentive export license are exempt from payment of the various duties referred to by petitioners upon importation of the goods. We also verified that imports of hot-rolled coil covered by an export commitment are also exempt from payment of the housing tax at time of importation. The various drawback adjustments claimed by Borusan have been verified, and were used in our final calculations.

Comment 16: Petitioners state that the cost of production verification should have been based primarily on Borusan's actual records and documents kept in the normal course of business, instead of relying on worksheets prepared for this investigation.

DOC Position: Respondent's submission and worksheets were verified by reference to actual records prepared in the normal course of business. The Department is confident that worksheets linking the questionnaire response to audited financial statements accurately represent Borusan's actual costs when tied to the company's accounting records, as was the case in these investigations.

Comment 17: Petitioners claim that the method used by the Department's accountant to verify Borusan's zinc costs is flawed because the methodology discussed in the cost verification report does not account for the difference between the cost of zinc which becomes dross and ash during the production process and the sale price of that dross and ash.

DOC Position: See petitioners' comment 5. The respondent's methodology properly accounts for zinc loss due to dross and ash.

Comment 18: Peititioners argue that Borusan should have reported scrap rates for different sizes of standard and line pipe since scrap rates vary by size of pipe.

DOC Position: The major source of steel scrap results from the slitting process. The amount of scrap from the slitting process is unrelated to the size of the pipe. Additionally, normal industry practices do not identify the scrap rate with specific pipe sizes.

Comment 19: Petitioners claim that Pendik's general, selling and administrative (GS&A) expenses are understated and should be rejected by the Department for the lack of information substantiating these expenses in Borusan's response.

DOC Position: The Department reviewed the respondent's method for calculating GS&A and concluded that the amount of this cost was not understated.

Comment 20: Petitioners claim that Borusan failed to provide profits for Pendik, which are necessary to verify the aggregate profits shown for Gemlik and Pendik.

DOC Position: The Department verified that GS&A reconciled to the company's books and records. The inter-company profit was minimal and did not affect the allocation.

Respondents' Comments

Borusan

Comment 1: Borusan claims that the Department's use of "best information available" in the preliminary determination was arbitrary, capricious and a patent abuse of discretion. Borusan claims it was arbitrary and capricious because there has been no other case, to its knowledge, in which a cooperative respondent has been penalized in this fashion. Borusan believes that it was an abuse of discretion to use "best information available" against a company that has manifested a willingness to cooperate in this investigation.

DOC Position: Section 776(b) requires the Department to use information from other sources if a party has refused or was unable to provide the relevant information as requested by the Department in a timely manner and in proper form. Because of the numerous deficiencies found in the respondent's submissions, the Department did not violate, but specifically complied with the requirement of this section by using information other than that submitted by Borusan.

Comment 2: Borusan contends that the Department may not disregard Borusan's home market sales which are at prices below cost of production because the company recovered all of its costs during the period of investigation.

DOC Position: The Department applied its usual methodology for determining if the amount of home market sales were sufficient to be considered a viable market.

Comment 3: Borusan claims that foreign market value should be based on home market prices for standard pipe, while for line pipe it may be appropriate to use constructed value because Borusan had only four sales of line pipe in the home market during the period of investigation.

DOC Position: We agree. With respect to standard pipe, the Department used home market sales since they were made over an extended period of time and in substantiated quantities at prices which permitted recovery of all costs within a reasonable period of time. For line pipe, we used constructed value because there were insufficient sales in the home market on which to base foreign market value.

Comment 4: Borusan urges the Department to make statutory adjustments to home market sale prices for trade discounts, differences in credit costs and physical differences in merchandise.

DOC Position: We agree. See "Foreign Market Value" section of this notice.

Comment 5: Borusan contends that credit costs should be computed from time of shipment to time of payment, and should, therefore, include any costs associated with home market customers making late payments.

DOC Position: We agree. See the Department's response to petitioners' comment 11.

Comment 6: Borusan urges the Department to grant an adjustment to purchase price for duty drawback earned on Borusan's exports to the United States.

DOC Position: We agree. See United States Price section of this notice.

Comment 7: Borusan claims that the Department is required under section 772(d)(1)(C) of the Act to make an adjustment for non-payment of the value-added tax on U.S. sales.

DOC Position: We agree. In accordance with past Departmental policy, we made this adjustment to foreign market value by using Borusan's reported gross prices that already exclude the tax paid on home market sales.

Comment 8: Borusan argues that if constructed value is used as the basis of foreign market value, Gemlik's and Pendik's general expenses should be combined for purposes of the 10 percent test.

DOC Position: All of the expenses of Pendik are considered to be selling expenses and, therefore, included in general expenses.

Comment 9: Borusan argues that, if constructed value is used in this investigation, the Department must make an adjustment to constructed value for differences in circumstances of sale.

DOC Position: We agree. See the Constructed Value section of this notice.

Comment 10: Borusan claims that if a final affirmative antidumping duty determination is issued, the dumping margin should be reduced for deposit purposes by the value of export subsidies found in the final countervailing duty determination.

DOC Position: We agree. See the Suspension of Liquidation section of this notice.

Comment 11: Borusan claims that the exclusion of Borusan Boru's costs from its cost of production response was reasonable and correct because it does not manufacture the pipes which were sold to the United States, nor does it produce pipes similar in characteristics or uses to those sold to the United States.

DOC Position: See the Department's response to petitioners' comment 2.

Comment 12: Borusan argues that petitioners' claim that Gemlik may be receiving goods and services from related companies for less than their actual cost is false. With respect to freight services provided by a related company, Borusan claims that Gemlik was charged the market rate or higher for this service. Borusan also claims that transfer prices were examined at verification and the fact that costs are passed on to Gemlik with respect to both imported raw materials and those which are purchased domestically. Lastly, with respect to petitioners' concern over the relationship between Borusan and Eregli, respondent claims that the percentage of ownership falls far short of the standard which the Department normally applies in determining that parties are "related" for purposes of antidumping duty proceedings.

DOC Position: We agree. See the Department's response to petitioners' comment 3.

Comment 13: Borusan feels that petitioners' argument that it should have reported size-by-size scrap rates is

unfounded because the methodology used by Borusan to calculate average scrap rates has been accepted by the Department in past investigations and because this claim has been raised too late in the proceeding to be accepted and acted on by the Department. Furthermore, respondent believes that, even if these costs could be submitted in time for consideration by the Department, it would be too late to verify them. Respondent also claims that petitioners' claim that scrap rates vary by size is unsupported.

DOC Position: We agree. See the Department's response to petitioners' comment 18.

Comment 14: Borusan argues that the Department must use the reported weighted-average savings rate for the cost of production and constructed value since the information on which this rate was calculated has been verified and is correct.

DOC Position: We agree. See the Department's response to petitioners' comment 4.

Comment 15: Borusan claims that application of the theoretical weight adjustment to zinc and coupling costs was entirely appropriate and the method used to obtain coupling costs per ton of pipe by size was reasonable and appropriate to Gemlik's accounting system.

DOC Position: We agree. See the Department's response to petitioners' comment 5.

Comment 16: Borusan disagrees with petitioners' claim that extra costs associated with operating "stretch reducing" equipment are not included in Gemlik's costs of production. Respondent claims that the full costs of these machines were included in Gemlik's transformation costs.

DOC Position: We agree. See the Department's response to petitioners' comment 6.

Comment 17: Borusan argues that the Department must accept its claimed adjustments for differences in merchandise because each of the adjustments claimed has now been verified.

DOC Position: We agree. See the Department's response to petitioners' comment 7.

Comment 18: Borusan argues that even if petitioners' suggested adjustments are made to Pendik's GS&A expenses, its effect on Borusan's overall costs would be negligible. Respondent argues that the reported GS&A has been verified and should be used in this final determination.

DOC Position: We agree. See the Department's response to petitioners' comment 19.

Comment 19: Respondent disagrees with petitioners' claim that Borusan did not report Pendik's profits in the cost response. Furthermore, Borusan claims that profits were substantiated at verification through company records.

DOC Position: See the Department's response to petitioners' comment 19.

Comment 20: Borusan claims that the interest expense on sales to the United States should be based on the U.S. interest rate and not the interest rate for loans in Turkish lira, as suggested by petitioners because Borusan used substantial borrowings in U.S. dollars during the period of investigation to finance its working capital.

DOC Position: We agree. See response to petitioners' comment 8.

Comment 21: Respondent argues that there are no grounds for the Department to use "best information available" for Borusan in this investigation because Borusan has supplied a thorough and timely cost response using cost methodologies that the Department has approved in past investigations. Also, Borusan claims it permitted verification of all submitted data.

DOC Position: We agree. See the Department's response to petitioners' comment 1.

Comment 22: Respondent suggests that no adjustments should be made for differences in packing costs between U.S. and domestic sales because the cost differences on a metric ton basis are miniscule.

DOC Position: We agree and have, therefore, made no adjustment for packing, as explained in the Foreign Market Value section of this notice.

Final Negative Determination of Critical Circumstances

The petitioner alleged that imports of certain welded carbon steel pipe and tub products from Turkey present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist when (1) there is a history of dumping in the United States, or elsewhere, of the class or kind of the merchandise which is the subject to the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise, which is the subject of the investigation, at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

We considered line pipe and standard pipe separately. In determining whether there is a history of dumping standard pipe from Turkey in the United States or elsewhere, we reviewed past antidumping findings of the Department of Treasury as well as past Department of Commerce antidumping duty orders. We also reviewed the antidumping actions of other countries, and found no past antidumping determinations on standard pipe from Turkey.

We then considered whether the person by whom, or for whose account, standard pipe was imported knew or should have known that the exporter was selling this product at less than fair value. It is the Department's position that this test is met where margins calculated are sufficiently large that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were significantly below home market sales prices. In this case, the margins calculated on standard pipe for all companies are not at a level that the importer knew or should have known that the merchandise was being sold in the United States at less than fair value. Therefore, we determine that this test is not met for imports of standard pipe from Turkey.

We, therefore, did not need to consider whether there have been massive imports of standard pipe over a relatively short period. We have determined, for the reasons described above, that "critical circumstances" do not exist with respect to standard pipe from Turkey.

In determining whether there have been massive imports of line pipe, we considered the following factors: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports.

We analyzed yearly trade data between 1982 and 1985 and recent trade statistics for the periods immediately preceding and following the filing of the petition. There were no imports of line pipe from Turkey between 1982 and 1984. A surge in imports can be seen from the period immediately prior to the filing of the petition to the period following the filing. However, the share of domestic consumption accounted for by these imports decreased over this same period. Considering the absolute quantities imported and the share of domestic consumption accounted for by these imports, we do not consider them to be massive imports over a relatively short period.

We, therefore, did not need to consider whether there is a history of dumping line pipe or whether the person by whom, or for whose account, this product was imported knew or should have known that the exporter was

selling this product at less than fair value. For the reasons described above, we have determined that "critical circumstances" do not exist with respect to line pipe from Turkey.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of certain welded carbon steel pipe and tube products from Turkey that are entered, or withdrawn from warehouse, for consumption, on or after January 3, 1986. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated final weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. Imports of line pipe sold by Borusan are excluded from this suspension of liquidation, since the weighted-average margin shown below is *de minimis*. The security amounts established in our preliminary determination published in the **Federal Register** on January 3, 1986 will no longer be in effect. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin	
	Standard pipe (percent)	Line pipe (percent)
Borusan	1.26	0.46 (de minimis)
Mannesmann	23.12	40.23
Erkboru	23.12	40.23
All other manufacturers/producers/exporters	14.74	14.81

Article VI.5 of the General Agreement on Tariffs and Trade provides that "(n)o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act. Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit or bond for that amount. Accordingly, the portion of estimated countervailing duties attributable to the level of export subsidies found on certain welded carbon steel pipe and tube products from Turkey (as determined in the January 3, 1986, final affirmative countervailing duty determination (51 FR 1268–1274)) will be subtracted from the dumping margins for deposit or bonding purposes on imports of certain welded carbon steel pipe and tube products.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping duty order, directing Customs officers to assess antidumping duties on the subject products entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This notice is published pursuant to section 735(d) of the Act.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

April 9, 1986.

[FR Doc. 86–8549 Filed 4–16–86; 8:45 am]

BILLING CODE 3510-DS-M

[C-614-601]

Initiation of Countervailing Duty Investigation; Steel Wire From New Zealand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in New Zealand of steel wire, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before June 10, 1986.

EFFECTIVE DATE: April 17, 1986.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230; telephone (202) 377–2830.

SUPPLEMENTARY INFORMATION:

The Petition

On March 17, 1986, we received a petition in proper form from the Davis Walker Corporation on behalf of the steel wire industry in the United States. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, produces, or exporters in New Zealand of steel wire receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Since New Zealand is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and steel wire is dutiable, sections 303(a)(1) and 303(b) of the Act apply to this investigation. Accordinly, petitioner is not required to allege that, and the U.S. international Trade Commission is not required to determine whether, imports of the subject merchandise from New Zealand materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on steel wire from New Zealand and have found that the petition meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in New Zealand of steel wire, as described in the "Scope of Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination on or before June 10, 1986.

Scope of Investigation

For purposes of this investigation, the term "steel wire" covers round, carbon steel wire coated with zinc, 0.060 inch or

more in diameter. Steel wire is currently classifiable under items 609.4165 and 609.4365 of the *Tariff Schedules of the United States Annotated (TSUSA).*

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters in New Zeland of steel wire receive benefits under the following programs that constitute bounties or grants. We are initiating an investigation on the following allegations:

- Export Performance Taxation Incentive;
- Export Market Development Taxation Incentive;
- Export Marketing Assistance;
- Export Credits from the Development Finance Corporation;
- Export Suspensory Loans Scheme;
- Export Programme Suspensory Loan Scheme;
- Export Programme Grants Scheme;
- Sales Tax Exemptions or Refunds on Imported Capital Equipment and Machinery;
- Preferential Treatment to Exporters in Granting Import Licenses;
- Development Financing from the Development Finance Corporation;
- Research and Development Incentives;
- Regional Development Investment Incentives; and
- Special Industrial Investment Allowances.

We are not initiating an investigation on the following allegations:

- Technical Assistance from the Testing Laboratory Registration Council (TLRC) and the Department of Scientific and Industrial Research (DSIR). We have previously investigated the provision of technical assistance by TLRC and DSIR and have determined it is not limited to a specific enterprise or industry or group of enterprises or industries. See, *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Carbon Steel Wire Rod from New Zealand,* 51 FR 7971.
- New Markets Increased Exports Taxation Incentive. We have previously investigated this program and have determined that it has been terminated by the New Zealand government. See, *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Carbon Steel Wire Rod from New Zealand,* 51 FR 7971.
- Export Manufacturing Allowance. We have previously investigated this program and have determined that it has been terminated by the New Zealand government. See, *Final Affirmative Countervailing Duty and Countervailing Duty Order: Carbon Steel Wire Rod from New Zealand,* 51 FR 7971.
- Regional Investment Allowance. We have previously investigated this program and have determined that it has been terminated by the New Zealand government. See, *Final Affirmative Countervailing Duty and Countervailing Duty Order: Low-Fuming Brazing Copper Rod and Wire from New Zealand,* 50 FR 31638.
- Research and Development Incentives from the Industrial Research Grants Advisory Committee. We have previously investigated this program and have determined that it has been terminated by the New Zealand government. See, *Final Affirmative Countervailing Duty and Countervailing Duty Order: Carbon Steel Wire Rod from New Zealand,* 51 FR 7971.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 7, 1986.

[FR Doc. 86-8548 Filed 4-16-86; 8:45 am]

BILLING CODE 3510-DS-M

COMMODITY FUTURES TRADING COMMISSION

Contract Market Proposals; Chicago Mercantile Exchange Canadian Dollar; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Correction on notice of availability of the terms and conditions of proposed futures option contract.

SUMMARY: On April 11, 1986, FR Doc. 86-8097, the Commodity Futures Trading Commission gave notice of availability of the terms and conditions of the Chicago Mercantile Exchange (CME) Canadian Dollar futures option contract. The comment period was intended to be thirty days from the date of publication; but due to a typographical error, the comment period was erroneously stated as sixty days from the date of publication.

DATE: The comment period closing date is hereby corrected to May 12, 1986.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington DC 20581. Reference should be made to the CME Canadian Dollar futures option contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254-7227.

Issued in Washington, D.C., on April 14, 1986.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 86-8624 Filed 4-16-86; 8:45 am]

BILLING CODE 6351-01-M

Contract Market Proposals; Commodity Exchange, Inc.; Proposed Amendment Relating to Copper Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Commodity Exchange, Inc. ("Comex" or "Exchange") has submitted a proposal to amend its copper futures contract. The amendment would increase the price differential associated with delivery of Grade 1 electrolytic copper cathodes. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission") has determined that this proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before May 19, 1986.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the proposed amendment to Comex Rule 11.02 in Chapter 11 regarding the copper futures contract.

FOR FURTHER INFORMATION CONTACT: Nancy McCabe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254-7303.

SUPPLEMENTARY INFORMATION: The proposed amendment would increase the price differential associated with the delivery of Grade 1 electrolytic copper cathode to 1½ cents per pound premium to the price of the par deliverable grade—Grade 2 electrolytic copper cathodes. The existing differential for Grade 1 electrolytic cathodes is ½ cent per pound premium to the par deliverable grade.

The Exchange proposes to apply the amendment to all contracts newly listed subsequent to Commission approval and to existing contracts beginning with the

January 1987 contract. The Comex further proposes that holders of long positions who acquired such positions prior to Exchange publication of this proposed amendment on April 7, 1986, and who take delivery of Grade 1 electrolytic copper cathodes after the effective date of the increase in the premium (*i.e.*, those who take delivery after the first notice day for the January 1987 contract) shall be compensated by the Exchange for the difference between the premium in effect at the time the positions were established and the premium in effect at the time of delivery. Holders of long positions acquired after April 7, 1986, who take delivery of Grade 1 cathodes after the first notice day for the January 1987 contract would be required to pay the 1½-cent per pound premium without compensation.

The Comex submits that the proposed amendment to its copper futures contract reflects changes in the cash market for copper. The Exchange submitted information which indicates that production and consumption of Grade 1 copper cathodes has increased relative to the other deliverable grades for the contract. The Exchange further indicated that the proposed increase in the differential for Grade 1 cathodes reflects current cash market pricing and should increase the likelihood of delivery of Grade 1 cathodes to Comex warehouses.

In accordance with section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis, on behalf of the Commission, has determined that the proposal submitted by the Commodity Exchange, Inc., relating to its copper futures contract is of major economic significance. Comments are requested concerning the proposed amendment and the implementation procedure. The Comex proposal will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copoes can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the Comex in support of the proposed amendment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Issued in Washington, D.C., on April 11, 1986.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 86–8623 Filed 4–16–86; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSON

Commission Priorities; Public Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public meeting.

SUMMARY: The Commission will conduct a public meeting to obtain views from interested parties about priorities for Commission attention during fiscal year 1988.[1] Participation by members of the public is invited. Written comments and oral presentations concerning Commission priorities will become part of the public record of this proceeding.

DATES: The meeting will begin at 9:30 a.m. on April 30, 1986. Requests from members of the public who desire to make presentations must be received by the Office of the Secretary not later than April 23, 1986. Persons desiring to make persentations at this meeting must submit a written text or summary of their presentations no later than April 23, 1986.

ADDRESS: The meeting will be in the third floor conference room, 1111 18th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For information about the meeting or to request opportunity to make a presentation at the meeting, call or write Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6800.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission will conduct a public meeting to receive views from interested parties concerning establishment of priorities for Commission attention during fiscal year 1988 (October 1, 1987 through September 30, 1988). The meeting will begin at 9:30 a.m. on April 30, 1986, in the Commission's hearing room, third floor, 1111 18th Street, NW., Washington, DC.

The purpose of this meeting is to obtain views concerning projects and activities which should be given priority by the Commission during fiscal year 1988 from a wide range of interested parties including representatives of consumers; manufacturers, importers, distributors, and retailers of consumer products; members of the academic community; and representatives of health and safety agencies of state and local governments.

The Commission is a regulatory agency of the U.S. Government which is headed by five Commissioners who are appointed by the President with the advice and consent of the Senate.

The Commission is charged by Congress with protection of the public from unreasonable risks of injury associated with consumer products. In accordance with that mandate, the Commission administers and enforces the following laws, and rules issued under those laws:

The Consumer Product Safety Act (15 U.S.C. 2051, *et. seq.*);

The Federal Hazardous Substances Act (15 U.S.C. 1261, *et. seq.*);

The Flammable Fabrics Act (15 U.S.C. 1191, *et seq.*);

The Poison Prevention Packaging Act (15 U.S.C. 1471, *et. seq.*); and

The Refrigerator Safety Act (15 U.S.C. 1211 *et. seq.*).

Standards and regulations issued under those statutes are published in the Code of Federal Regulations, title 16, Chapter II.

While the Commission has broad jurisdiction over products used by consumers in or around their homes, in schools, in recreation, and other settings, its staff and budget are limited. For these reasons, the Commission must concentrate its resources on the most serious hazards associated with consumer products within its jurisdiction in order to discharge its Congressional mandate effectively.

In its budget request for fiscal year 1987 (October 1, 1986 through September 30, 1987), the Commission indentified six priority projects for that fiscal year. Those projects are described in Appendix 1 to this notice. The order in which the projects appear in Appendix 1 does not reflect the relative priority of one project over another, and that appendix does not contain a complete list of all projects to be undertaken by the Commission during that fiscal year.

Commission priorities are selected in accordance with Commission policy governing establishment of priorities, published at 16 CFR 1009.8.

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[1] Commissioners Anne Graham and Terrence Scanlon voted not to approve the description of the ATV project which appears in Appendix I of this notice.

Interested parties who desire to make presentations at the meeting on April 30, 1986, should call or write sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, DC 20207; Telephone (301) 492-6800, not later than April 23, 1986.

Presentations should be limited to approximately ten minutes. Persons desiring to make presentations must submit the written text or a summary of their presentations to the Office of the Secretary not later than April 23, 1986.

The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations.

The public meeting will begin at 9:30 a.m. on April 30, 1986, and will conclude the same day.

Dated: April 15, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Appendix 1—Commission Priorities for Fiscal year 1987 (October 1, 1986 Through September 30, 1987)

• *All Terrain Vehicles.* The Commission has estimated 85,900 hospital emergency-room treated injuries were associated with ATVs in 1985 and an estimated 63,900 in 1984. The percentage increase was over 200 percent, between 1982 and 1983, over 100 percent between 1983 and 1984, and 34 percent between 1984 and 1985. The Commission is aware of 415 deaths associated with ATVs which occurred between January 1982 and December 1985. In FY 1987, the Commission will decide what regulatory options, if any, are needed to address the injuries and deaths associated with ATVs.

• *Child Drownings.* Each year over 600 people drown in backyard swimming pools in the United States. Of these, almost 300 are children less than five years old and 200 are children under two years of age. Additionally, the Commission estimates that more than 2,000 children under five are treated each year in hospital emergency rooms for submersion injuries. The objective of this project is to reduce the number of child drownings and near drownings in residential swimming pools and spas. In FY 1987, the Commission will review and analyze the results of a FY 1986 study of child drownings; evaluate the effectiveness of barriers and alarms that have been recommended; maintain an injury and information materials clearinghouse; conduct an information program for perents and other caretakers of children about the potential hazards of residential swimming pools; and review the State and local codes for swimming pool barriers for those states that have the largest number of pool drownings.

• *Fire Toxicity.* There were an estimated 4,300 residential fire deaths in 1984. Approximately two-thirds of those deaths are the result of the inhalation of toxic combustion products rather than burns. Carbon monoxide is generally accepted as the major single cause of smoke inhalation deaths; however, there is increasing concern that other toxic gases may also play an important role in these deaths. The objective of this project is to reduce the staggering toll of death and injuries resulting from the inhalation of toxic gases. In FY 1987, the Commission will continue to coordinate fire toxicity efforts with Federal, State, local, and industry interests, through advisory groups, joint investigative activities, and participation in the development of voluntary standards. CPSC will begin to utilize combustion toxicity data along with other fire parameters in a fire hazard model to make recommendations for product modification or usage.

• *Poison Prevention.* In 1984, an estimated 156,000 children under age five were treated in hospital emergency rooms for accidental ingestions, chemical burns, and other acute injuries associated with household substances. Accidental ingestions accounted for 84 percent of these injuries. The most recent data from the National Center for Health Statistics show 55 deaths in 1983 resulting from accidental ingestion of this project is to reduce the exposure of young children to hazardous household chemical products, and by increasing the effectiveness of current special packaging regulations. Special emphasis will be on factors affecting the proper use of special packaging designs by adult user groups.

• *Riding Mowers.* An estimated 100 deaths each year are associated with riding mowers and garden tractors. In 1985, these products were involved in an estimated 20,000 hospital emergency room treated injuries (which project to about 50,000 medically attended injuries). The major hazards associated with the use of riding mowers and garden tractors are blade contract and tripping/tipover. The majority of the fatal accidents result from three typical hazard patterns: (1) Mower backs over young child or other bystanders; (2) operator or passenger falls or is thrown from mower; or (3) mower overturns due to dynamic instability. The risk of injury associated with a riding mower is almost twice the risk with a walk-behind mower. In FY 1986, the Commission completed the preliminary hazard analysis, conducted preliminary engineering laboratory tests to study mower stability, and monitored Phase 1 of a two-year contract to develop techniques to assess riding mower stability. In FY 1987, the Commission will complete analysis of injury data collected from 1983 through 1986, continue cooperation with the Outdoor Power Equipment Institute (OPEI) to address riding mower hazards, continue evaluation of field test techniques, and initiate Phase 2 of the riding mower stability contract.

• *Safety for Older Consumers.* The Commission will participate in voluntary standard activities to implement recommendations from the national conference held in September 1985 and injury studies to improve the safety of products used by older people; encourage to support of bussinesses and industry to reproduce materials developed as a result of new information received from FY 1986 studies; distribute nationally a videotape and other informational materials based on FY 1986 studies; and encourage state and local groups whose constitutency is the elderly to conduct seminars for older people and to train home safety specialists to use the CPSC household safety checklist.

[FR Doc. 86-8742 Filed 4-16-86; 9:59 am]
BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 10, 1986.

The USAF Scientific Advisory Board Engineering & Services' Advisory Group will meet at the Pentagon, Washington, DC on May 8, 1986 from 8:30 am to 5:00 pm.

The purpose of the meeting will be for the Advisory Group to receive classified briefings on the Air Force SALTY DEMO exercise. The committee will review the recommendations and programs resulting from the Air Force report on the exercise.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-8592 Filed 4-16-86; 8:45 am]
BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Monday and Tuesday, 5-6 May 1986.

Time of Meeting: 0930-1730 hours.

Place: The Pentagon, Room 3E385, Washington, DC.

Agenda: The Army Science Board 1986 Summer Study on Technology Forecast for the Key Operational Capabilities will meet for continuation of briefings for ASB panel members on technical matters pertaining to Key Operational Capabilities. This meeting will be closed to the public in accordance wiht section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-8540 Filed 4-16-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Meeting Cancellation

April 9, 1986.

The meeting of the Army Science Board 1986 Summer Study Panel on C³I Requirements for AirLand Battle, which was scheduled for 2 May 1986, has been cancelled.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-8539 Filed 4-14-86; 2:24 pm]

BILLING CODE 3710-08-M

Department of the Navy

Performance of Commercial Activities; Announcement of Program Cost Studies

The Department of the Navy intends to conduct OMB Circular A-76 (48 FR 37110, August 16, 1983) cost studies of various functions at the listed activities. The cost study process is a timeconsuming procedure and, depending upon the size of the functions involved, can take several months to several years to complete. Upon completion of the cost study process, solicitations will be synopsized in the *Commerce Business Daily* with instructions for potential contractors prior to bid opening. Consolidated bidders' list are not maintained since the solicitations will be processed by various contracting offices throughout the U.S.

Naval Air Rework Facility, Alameda, CA

Transportation Services

Naval Amphibious School, Coronado, CA

Storage and Warehousing
Training Development and Support

Fleet Combat Training Center, Pacific, San Diego, CA

Storage and Warehousing

Naval Air Reserve, San Diego, CA

Training Devices and Audio Visual Equipment

Service School Command, San Diego, CA

Storage and Warehousing

Naval Shipyard Mare Island, CA

Waterways and Waterfront Facilities

Fleet Numerical Oceanography Center, Monterey, CA

Maintenance of ADP Equipment

Naval Postgraduate School, Monterey, CA

Other Recreation, Morale, Welfare Activities (Child Care Manager)
Word Processing Center
Systems Design/Development & Program Services

Submarine Base, New London, CT

Installation Bus Service
Motor Vehicle Operations
Motor Vehicle Maintenance
Personal Property Services
Administrative Telephone Service

Naval Submarine School, Groton, CT

Storage and Warehousing
Audiovisual Services
Data Processing Services

Fleet Aviation Specialized Operational Training Group Detachment, Cecil Field

Storage and Warehousing

Fleet Aviation Specialized Operational Training Group Detachment, Jacksonville, FL

Test, Measurement/Diagnostic Equip
Storage and Warehousing

Naval Air Rework Facility, Jacksonville, FL

Transportation Services

Naval Air Station, Jacksonville, FL

Motor Vehicle Operations and Maintenance

Naval Air Facility, Mayport, FL

Operation of ADP Equipment
ADP Production Control and Customer Service
ADP Data Transmission
ADP Application Software

Naval Air Rework Facility, Pensacola, FL

Transportation Services

Naval Supply Center, Pensacola, FL

Other Nonmanufacturing Operations

Training Squadron EIGHTY-SIX, NAS Pensacola, FL

Training Development and Support

Naval Air Station, Whiting Field, Milton, FL

Aircraft Maintenance (Intermediate Level)
Aeronautical Support Equipment

Naval Supply Center, Pearl Harbor, HI

Motor Vehicle Operations

Naval Communication Unit, Cutler, ME

Storage and Warehousing
Water Plants and Systems

Fleet Aviation Specialized Operational Training Group Detachment, Brunswick, ME

Storage and Warehousing

Massachusetts

Naval Air Station, South Weymouth, MA

Air Transportation Services

Naval Construction Training Center, Gulfport, MS

Motor Vehicle Maintenance
Storage and Warehousing

Military Sealift Command Atlantic, Bayonne, NJ

Audiovisual Services
Motor Pool Operation

Naval Air Rework Facility, Cherry Point, NC

Transportation Services

Naval Station Roosevelt Roads, PR

Data Transcription/Data Entry Services

Naval Station, Charleston, SC

Telephone Services

Naval Air Station, Chase Field, Beeville, TX

Electronic and Communications Equipment

Naval Air Station, Corpus Christi, TX

Electronic and Communications Equipment

Undergraduate Pilot Training, Naval Air Station, Kingsville, TX

Electronic and Communications Equipment

Naval Air Station, Kingsville, Naval Auxiliary Landing Field Detachment, Orange Grove, TX

Electronic and Communications Equipment

Naval Air Rework Facility, Norfolk, VA

Transportation Services

Naval Supply Center (Norfolk):

Craney Island

Buildings/Structures
Other Services or Utilities
Motor Vehicle Operations
Motor Vehicle Maintenance
Electric Repair

Cheatham Annex

Custodial Service
Insect/Rodent Control
Motor Vehicle Operations
Motor Vehicle Maintenance
Electric Plants/Systems
Sewage/Waste Plants and Systems
Air Conditioning/Refrigeration
Sewage/Waste Plants/Systems
Building/Structures
Building/Structures
Grounds and Surfaced Areas

Norfolk

Data Entry
Motor Vehicle Operations
Motor Vehicle Maintenance

Fleet Aviation Specialized Operational Training Group, Atlantic Fleet, Norfolk, VA

Storage and Warehousing

Fleet Aviation Specialized Operational Training Group Detachment, Oceans, VA

Storage and Warehousing

Naval Air Station, Ocean, VA

Acceptance Testing
Administrative Support Services
Administrative Support Services
Administrative Support Services (Word Processing Center)

Naval Undersea Warfare Engineering Station, Keypoint, WA

Heating Plants and Systems
Industrial Waste Treatment Plant

Naval Security Group Detachment, Sugar Grove, WV

Food Services
Administrative Support Services
Other Morale, Welfare and Recreation Activities

Date: March 31, 1986.

T.H. Upton,

Head, Commercial Activities Branch.

[FR Doc. 86-7408 Filed 4-16-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

Bilingual Education; Academic Excellence Programs

AGENCY: Department of Education.

ACTION: Application Notice for Transmittal of Noncompeting Continuations under the Bilingual Education Programs of Academic Excellence for Fiscal Year 1986.

Programmatic and Fiscal Information

Applications are invited from local educational agencies for noncompeting continuation awards under the Bilingual Education Programs of Academic Excellence.

The purpose of this program is to provide funds to local educational agencies to carry out programs of transitional bilingual education, developmental bilingual education, or special alternative instruction which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual education practices.

An estimated $2.5 million will be available for noncompeting continuation awards under the Programs of Academic Excellence for fiscal year 1986. The estimated average continuation award is $180,000. The estimated number of continuation awards is 12.

These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, applicants for noncompeting continuation awards should mail or hand-deliver their applications on or before May 16, 1986.

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA No. 84.003H, 400 Maryland Avenue, SW., Washington, DC 20202.

If an application is late, the Department of Education may lack sufficient time to review it with other applications for continued participation and may decline to accept it.

Applications that are hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC, time) daily, except Saturdays, Sundays, and Federal holidays.

Applicable Regulations

Regulations applicable to this program are the Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand-delivered by June 16, 1986, to the following address:

The Secretary, U.S. Department of Education, Room 4181, (CFDA No. 84.003H), 400 Maryland Avenue, SW., Washington, DC 20202.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH

THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Application Forms

Application packages are expected to be available by April 16, 1986. Application packages will be mailed to current grantees that have one year remaining of an approved multi-year project period.

FOR FURTHER INFORMATION CONTACT: For further information contact Dr. Mary T. Mahony, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 421, Reporters Building), Washington, DC 20202, Telephone: (202) 447-9228.

Program Authority: 20 U.S.C. 3221-3262.

(Catalog of Federal Domestic Assistance Number 84.003, Bilingual Education)

Dated: April 10, 1986.

Carol Pendas Whitten,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 86-8601 Filed 4-16-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Availability of Draft Environmental Impact Statement (DEIS), and Public Hearing on the DEIS and Associated Federal Land Withdrawal; Uranium Mill Tailings Remedial Action at Grand Junction, CO

AGENCY: Department of Energy.

ACTION: Notice of availability of DEIS and public hearing on the DEIS and associated Federal land withdrawal.

SUMMARY: The Department of Energy (DOE) has published a draft environmental impact statement, DOE/EIS-0126-D, Remedial Actions at the Former Climax Uranium Company Uranium Mill Site, Grand Junction, Mesa County, Colorado, for a proposed DOE action to perform remedial actions on residual radioactive material at the inactive uranium mill and associated vicinity properties in Grand Junction, Colorado.

The impacts associated with near-term remedial action at the vicinity properties are also being addressed in a separate environmental assessment which is being prepared by DOE.

Written comments are invited and a public hearing will be held with respect to the DEIS and to the proposed land withdrawal. Written and oral comments will be given equal consideration.

DATES: Written comments on the DEIS should be received at DOE by May 28, 1986, in order to ensure consideration in preparation of the final environmental impact statement. The public hearings are scheduled on May 6, 1986, in Grand Junction, Colorado at 2:00 p.m. and resuming at 7:00 p.m. Requests to speak and preferred times should be received at DOE by May 2, 1986.

Written comments on the withdrawal of Federal land for this project should be received at the Bureau of Land Management (BLM) by May 28, 1986, in order to be considered in the determination of whether or not the land will be withdrawn and reserved as requested by DOE.

ADDRESS: Written comments on the DEIS and requests to speak at the hearing should be addressed to: Mr. John Themelis, Project Manager, Uranium Mill Tailings Remedial Action Project Office, U.S. Department of Energy, 5301 Central Avenue, NE., Suite 1700, Albuquerque, New Mexico 87108.

Written comments on the withdrawal of Federal land for this project should be addressed to the State Director, Bureau of Land Management, 2020 Arapahoe Street, Denver, Colorado, 80205; or the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado, 81501.

FOR FURTHER INFORMATION CONTACT:

1. Mr. John G. Themelis, Project Manager, Uranium Mill Tailings Remedial Action Project Office, U.S. Department of Energy, 5301 Central Avenue, NE., Suite 1700, Albuquerque, New Mexico 87108. Phone (505) 844-3941.
2. Dr. Robert J. Stern, Director, Office of Environmental Guidance, Office of the Assistant Secretary for Environment, Safety and Health, U.S. Department of Energy, Washington, D.C. 20585. Phone (202) 252-4600.
3. Mr. Henry Garson, Esq., Assistant General Counsel for Environment, U.S. Department of Energy, Washington, DC 20585. Phone (202) 252-6947.
4. Mr. Kannon Richards, State Director, Bureau of Land Management, 2020 Arapahoe Street, Denver, Colorado 80205. Phone (303) 294-7500.
5. Mr. Richard Freel, District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501. Phone (303) 243-6552.

SUPPLEMENTARY INFORMATION:

I. Previous Notice of Intent

The Department of Energy published on January 21, 1983, a Notice of Intent to prepare an EIS for the remedial actions at the Grand Junction inactive uranium mill site (48 FR 2817).

The Bureau of Land Management published a notice of the proposed land withdrawal regarding the lands associated with the Grand Junction UMTRA Project site in the **Federal Register** on August 1, 1984.

II. Background for the Proposed Project

The uranium mill tailings at the former Climax Uranium Company processing site are adjacent to the southern boundary of Grand Junction, Colorado. From 1951 to 1966 the mill processed uranium ore for sale to the U.S. Atomic Energy Commission and from 1966 to 1970 to private sources. The tailings remaining from these operations and associated adjacent contaminated areas cover approximately 114 acres. There are an estimated 3465 vicinity properties (homes, businesses, public buildings, and vacant lots) contaminated with tailings from the site that may also require remedial action.

In 1978 the U.S. Congress passed the Uranium Mill Tailings Radiation Control Act, Pub. L. 95-604. In this act the Congress found that uranium mill tailings may pose a potential health hazard. It authorized the DOE to carry out remedial action at each site in cooperation with other Federal agencies and with the state or Indian tribe affected by the action. It gave to the Nuclear Regulatory Commission (NRC) responsibility for consulting with the DOE over a range of subjects concerning conduct of remedial action, for concurring with the selected remedial action and with any cooperative agreement with a state or Indian tribe, and for licensing the long-term surveillance and maintenance of each tailings disposal site after the remedial action is completed. In addition, the Environmental Protection Agency (EPA) was given the responsibility to set standards to protect public health, safety, and the environment at the tailings sites and the disposal sites. The BLM is a cooperating agency for the preparation of this EIS and is responsible for determining whether the Federal land will be withdrawn and reserved as requested by DOE.

In accordance with Pub. L. 95-604, the DOE designated 24 sites for remedial action. One of these sites is the former Climax Uranium Company processing site adjacent to Grand Junction, Colorado. The State of Colorado investigated several locations where the tailings might safely be disposed and recommended two for further analysis. Of these locations, the Cheney Reservoir and Two Road sites were selected for

further analysis because of their environmental and geotechnical superiority.

III. Scope of the DEIS

The DEIS evaluates no-action (alternative 1) as well as five alternatives for minimizing the potential public health hazards associated with the Grand Junction site: stabilization of the contaminated material at the Grand Junction site (alternative 2); relocation using truck transport and stabilization of the material at the Cheney Reservoir site located 18 miles southeast of Grand Junction and decontamination of the Grand Junction site (alternative 3); relocation using train and truck transport and stabilization of the material at the Cheney Reservoir site and decontamination of the Grand Junction site (alternative 4); relocation using truck transport and stabilization of the material at the Two Road site located 33 miles northwest of Grand Junction and decontamination of the Grand Junction site (alternative 5); and relocation using train and truck transport and stabilization of the material at the Two Road site and decontamination of the Grand Junction site (alternative 6). Each of the alternatives, except no action, includes remedial action at an estimated 3465 vicinity properties.

An assessment of the impacts of these alternatives was made in terms of effects on radiation levels, air quality, soils and mineral resources, surface- and ground-water resources, ecosystems, land use, sound levels, historical and cultural resources, population and employment, economic structures, and transportation networks.

Remedial action would include the removal of contaminated soils and vegetation from the floodplain/wetlands area along the Colorado River. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), DOE has prepared a floodplain and wetlands assessments (Appendix G of the DEIS). Maps and further information are available from DOE at the address shown below.

Remedial action would also require the withdrawal of Federal land that is presently administered by BLM. This land would be withdrawn for exclusive use for the construction and disposal of residual radioactive wastes from the Grand Junction UMTRA Project site. BLM is accepting comments on withdrawal of this land pursuant to the Federal land Policy and Management Act of 1976.

IV. Comment Procedures

A. Availability of Draft EIS

Copies of the DEIS have been distributed to Federal, State, and local agencies, organizations, and to individuals known to be interested in the Grand Junction remedial action project. Additional copies may be obtained from the Project Manager, Uranium Mill Tailings Remedial Action Project Office, U.S. Department of Energy, 5301 Central Avenue, NW., Suite 1700, Albuquerque, New Mexico 87108. Phone (505) 844-3941.

Copies of the DEIS are available for public inspection at the following locations:

Freedom of Information Reading Room, Room 1E-190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

Mesa County Library, 5301 Grand Avenue, Grand Junction, CO 81502

Rifle Branch Library, 357 East Avenue, Rifle, CO 81650

Bendix Field Engineering Library, 2597 B 3/4 Road, Grand Junction, CO 81503

National Wildlife Federation Library, Fleming Law Building, Boulder, CO 80309

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, NM 87115

Library, Savannah River Operations Office, Aiken, SC 29801

Library, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60639

Library Idaho Operations Office, 550 Second Street, Idaho Falls, ID 83401

Library, Nevada Operations Office, 2753 South Highland Drive, Las Vegas, NV 89114

Learning Resource Center, Mesa College, Box 2647, Grand Junction, CO

Cortez Public Library, 802 East Montezuma, Cortez, CO 81321

Library, Oak Ridge Operations Office, Federal Building, Oak Ridge, TN 37830

Library, Richland Operations Office, Federal Building, Richland, WA 99352

Energy Resource Center, 1333 Broadway, Oakland, CA 94612

Regional Energy/Environment Center, 1357 Broadway, Denver, CO 80210

B. Written Comments

Interested parties are invited to provide written comments on the DEIS to the Project Manager in Albuquerque, New Mexico, at the address given above. All comments and related information should be received by DOE by May 28, 1986, in order to ensure consideration in preparing the final statement. Written and oral comments will be given equal consideration.

Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Interested parties are also invited to provide written comments on DOE's application to BLM to withdraw the land associated with the Grand Junction UMTRA Project site. Written comments and related information should be received at BLM at the address given above by May 28, 1986, in order to be considered in the determination of whether or not the land will be withdrawn and reserved as requested by DOE.

C. Public Hearing

1. Participation Procedures

Public hearings on the draft statement will be held at the Grand Junction City Hall auditorium, 250 North Fifth Street, Grand Junction, Colorado, on May 6, 1986, at 2:00 p.m. and 7:00 p.m. to provide an opportunity for oral presentations by interested persons. Written and oral comments will be given equal consideration.

A DOE official will designate a presiding officer to chair the hearing. This will not be a judicial or evidentiary-type hearing.

Any person who desires to speak at the hearing should notify the Project Manager at the Albuquerque, New Mexico, address listed above by May 2, 1986, so that time can be scheduled. Although not required, persons who intend to speak are encouraged to provide a brief summary of the presentation.

Individuals who did not make an advance arrangement to speak may register to speak at the hearing. After all scheduled speakers, an opportunity will be provided to these individuals to speak. Time for each participant may be limited depending on time available and the number of responses.

2. Conduct of Hearing

DOE will arrange the schedule of presentations to be heard and will establish basic rules and procedures for conducting the hearing. The length of each presentation may be limited depending on the number of persons desiring to speak.

Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer at the start of the hearing.

A transcript of the hearing will be made and the entire record of the hearing including the transcript will be retained by DOE and made available for inspection at the same locations as listed above for review of the DEIS. Any person may purchase a copy of the transcript from the reporter.

D. Public Meetings

In addition to the public hearings, DOE will also conduct informal public information meetings on the DEIS in Grand Junction. DOE will issue specific information on the time and place of the meetings in the local news media.

Issued in Washington, DC, April 11, 1986.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 86-8571 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Coordinating Subcommittee on U.S. Petroleum Refining; Meeting

Notice is hereby given that the Coordinating Subcommittee on U.S. Petroleum Refining will meet in May 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Coordinating Subcommittee on U.S. Petroleum Refining will be addressing the current activities of all task groups and providing guidance for future studies. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Coordinating Subcommittee on U.S Petroleum Refining will hold its eleventh meeting on Thursday, May 8, 1986, starting at 1:00 p.m., in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, DC.

The tentative agenda for the Coordinating Subcommittee on U.S. Petroleum Refining meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments.
3. Review task group assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee on U.S. Petroleum Refining is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee on U.S. Petroleum Refining will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353-2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 4, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-8574 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Announcement of Availability of Final Environmental Impact Statement, Long-Term Management of the Existing Radioactive Wastes and Residues at the Niagara Falls Storage Site, Lewiston, NY

AGENCY: U.S. Department of Energy.

ACTION: Notice of Availability of Final Environmental Impact Statement.

SUMMARY: The U.S Department of Energy (DOE) has prepared a final Environmental Impact Statement (DOE/EIS-0109F) on alternatives for long-term management of the existing radioactive wastes and residues at the DOE Niagara Falls Storage Site (NFSS) located in Lewiston, New York. DOE will issue a Record of Decision no sooner than 60 days after publication of this notice.

Project Description

The NFSS is located in the Town of Lewiston, Niagara County, New York, about 19 miles north of Buffalo. The curent site is part of a former Manhattan Engineer District (MED) site, which in turn was part of the former Lake Ontario Ordnance Works. Beginning in 1944, the MED used the site for storage of radioactive residues that resulted from the processing of uranium ores during development of the atomic bomb. Additional residues were brought to the site for several years after World War II. The contaminated materials at the site consist of 15,000 cubic yards of "residues" from the processing of uranium ores (total radium-226 inventory of 871 curies) and 240,000 cubic yards of "wastes," mostly very slightly contaminated soils (total radium-226 inventory of 7.8 curies).

The Department initiated interim remedial actions in 1982 to consolidate and improve the storage of all radioactive materials on the site and on adjacent properties. When interim remedial actions are completed in the fall of 1986, all the radioactive residues and wastes will be consolidated within a diked containment area in the southwest corner of the site. The residues are located within a reinforced concrete structure within the diked containment.

Preferred Alternative

The preferred alternative (alternative 2 in the final EIS) is long-term management at the NFSS with modified containmemt in a manner that complies with the EPA standard, 40 CFR 192. To do this, a long-term multilayered engineered cap, which would be durable for many centuries, would be constructed over the diked waste containment area. The long-term cap would be designed to minimize infiltration over many centuries and to impede inadvertent intrusion into the residues and wastes. DOE would retain ownership and control of the waste containment area, plus a small buffer zone.

Three other alternatives, some with subalternatives, were analyzed in the EIS. These include: (1) No action; (2a) long-term management at an arid site (Hanford, Washington); (2b) long-term management at a humid site (Oak Ridge, Tennessee); (3a) storage of residues at Hanford/long-term management of wastes at NFSS; (3b) storage of residues at Hanford/ocean disposal of remaining wastes; (3c) storage of residues at Oak Ridge/long-term management of wastes at NFSS; (3d) storage of residues at Oak Ridge/ocean disposal of remaining wastes.

Single copies of the final EIS are available from:

Lowell F. Campbell, Deputy Director, Technical Servvices Divsion, U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee 37830, (615) 576-1052.

For general information on the DOE's EIS process contact:

Robert J. Stern, Director, Office of Environmental Guidance, EH-23, Office of the Assistant Secretary for Environment, Safety and Health, Room 3G092, Forrestal Building, U.S.

Department of Energy, Washington, DC. 20585, (202) 252-4600.

Issued at Washington, DC, April 11, 1986.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 86-8572 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Proposed Firm Displacement Rate; Close of Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of close of comment. *BPA File No.:* FD-85. BPA requests that all comments and documents submitted in response to this notice contain the file number designation FD-85.

SUMMARY: On September 17, 1985, BPA published a notice of Proposed Firm Displacement Rate and Opportunity for Public Review and Comment in the **Federal Register** (FR 50 37722). The notice included a request for comments on the firm displacement rate proposal, and stated that a deadline for submitting comments to BPA would be announced in a subsequent published notice.

BPA is now announcing the close of comment date. Comments must be received by 5 p.m., April 28, 1986, in order to be considered and included in the Official Record on the development of the firm displacement rate. Address comments to Ms. Donna L. Geiger, BPA Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement office at the address above. Telephone numbers, voice/TTY, for the Public Involvement office are: 503-230-3478 in Portland; toll-free 800/452-8429 for Oregon outside of Portland; 800-547-6048 for Washington, Idaho, Montana, Wyoming, Utah, Nevada, and California.

Issued in Portland, Oregon, on April 8, 1986.

Robert E. Ratcliffe,

Acting Administrator.

[FR Doc. 86-8678 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 86-23-NG]

ICG Energy Marketing, Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada for short-term and spot sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 1, 1986, of an application filed by ICG Energy Marketing, Inc. (ICG Energy) for blanket authorization to import up to 25.6 Bcf per year of Canadian natural gas over a period of two years beginning on the date of first delivery. The gas would be supplied by producers in the Canadian provinces of Alberta, British Columbia, and Saskatchewan, for sale to customers in the United States both on a short-term, spot basis and under flexible, longer term contract arrangements. ICG Energy would either purchase and resell the imported gas or act as agent for its Canadian suppliers and U.S. purchasers. The specific terms of each import and sale would be negotiated on an individual basis including the price and volumes. According to ICG Energy, the transactions it contemplates will use existing pipeline facilities. ICG Energy proposes to file quarterly reports with the ERA giving the specific details of each transaction.

The application was filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than May 19, 1986.

FOR FURTHER INFORMATION CONTACT:

Olga Ronkovich, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-8116

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, Washington, DC 20585, (202) 252-6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585. They must be filed no later than 4:30 p.m. May 19, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice

to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

A copy of ICG Energy's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., April 7, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-8674 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-86-29; OFP Case No. 64013-9311-20,21-24]

Powerplant and Industrial Fuel Use; Prohibition Orders; Kern Front CoGen, Inc.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order granting to Kern Front CoGen, Inc. exemption from prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Kern Front CoGen, Inc. (Kern Front CoGen or "the petitioner"), of Houston, Texas. The permanent cogeneration exemption permits the use of natural gas as the primary energy source for its proposed cogeneration facility located in Kern County, California. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37. The exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on June 16, 1986. The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, Telephone (202) 252-6769

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202)252-6947

SUPPLEMENTARY INFORMATION: Kern Front CoGen plans to install a 46 MW gas fired cogeneration facility to produce steam and electric power. The cogeneration system of the facility will consist of two combustion gas turbine generators and two unfired heat recovery boilers. The only fuel burning equipment in the facility will be the gas turbine. The facility will consume 432 million Btu's of natural gas per hour and produce 46 MW of electric power and 113,000 pounds per hour of steam. The steam will be sold to the Petro-Lewis Corporation, and the electric power to the Pacific Gas and Electric Company.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including Kern Front Cogen's certification to ERA, in accordance with § 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on February 7, 1986 (51 FR 4790), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period interested persons were afforded an opportunity to request a public hearing. The comment period closed on March 24, 1986; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that Kern CoGen has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Kern Front CoGen to permit the use of natural gas as the primary energy source for its cogeneration facility in Kern County, California. Pursuant to section 702(c) of the Act and 10 CFR § 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on April 8, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-8573 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-86-20; OFP Case No. 67053-9305-01-24]

Powerplant and Industrial Fuel Use; University of Alaska-Fairbanks

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order Granting to University of Alaska-Fairbanks Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to University of Alaska-Fairbanks (UAF). The permanent cogeneration exemption permits the use of oil as the primary energy source for a proposed boiler to replace its present boiler located in the university's powerplant.

The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATE: The order shall take effect on June 16, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, Telephone (202) 252-4708

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-6749

SUPPLEMENTARY INFORMATION: On December 10, 1985, UAF filed a petition requesting a permanent cogeneration exemption from the prohibitions of FUA for a proposed 100,000 lb/hr oil-fired boiler. The oil or gas that will be consumed by the heating plant with the new boiler is designed to be less than that which would otherwise be consumed with the continuation of the present system. Most of the electricity produced by cogeneration will be used by the university. Excess electricity produced will be sold to a utility grid. Steam generated will be used on the university campus.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including UAF's certification to ERA, in accordance with 10 CFR 503.37(a), that:

1. The oil or natural gas to be consumed by the facility will be less than that which would otherwise be consumed in the absence of the facility, as calculated in accordance with 10 CFR 503.37(a).

2. The use of a mixture of natural gas and coal is not economically or technically feasible in the proposed generator pursuant to 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of Section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on January 3, 1986 (51 FR 241), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency (EPA) for comments as required by Section 701(f) of the Act.

During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on February 18, 1986; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that UAF has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to Section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to University of Alaska-Fairbanks at Fairbanks, Alaska to permit the use of oil as the primary energy source for its cogeneration facility.

Pursuant to Section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on April 8, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-8561 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-030; OFP Case No. 66018-9290-01-12]

Powerplant and Industrial Fuel Use Act of 1978; Exemption From the Prohibitions; Ponderay Newsprint Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order Granting Ponderay Newsprint Company Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On August 12, 1985, Ponderay Newsprint Company (Ponderay) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption due to a lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, for a proposed newsprint mill, to be located in Pend Oreille County, Washington from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in any new major fuel-burning installation (MFBI) consisting of a boiler. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the exemption based on lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum are found at 10 CFR 503.32.

Pursuant to section 212(g) of the Act and 10 CFR 503.32, ERA hereby issues this order granting to Ponderay a permanent exemption due to a lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroluem to operate a boiler of a packaged watertube design at the aforementioned facility.

The basis for this ERA order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on June 16, 1986.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, Telephone (202) 252-4523.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6A-113, Washington, DC 20585, Telephone (202) 252-6947.

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 am to 4:00 pm, except Federal holidays.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or

petroleum as a primary energy source in any new MFBI consisting of a boiler. Ponderay has filed a petition for a permanent exemption due to a lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, for a boiler of packaged watertube design, to be installed in its proposed newsprint mill to be located near Usk, Washington. Propane is to be used as the primary fuel with No. 1 diesel fuel as the secondary or back up fuel. A major portion of Ponderay's process steam and heating steam demands will be supplied from a reboiler incorporated into a heat recovery system in the mills' thermomechanical pulping plant. The packaged boiler is required to supply that remaining portion of steam which cannot be supplied through the thermomechanical heat recovery system.

Procedural Requirements

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to this petition in the **Federal Register** on January 13, 1986 (51 FR 1425), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the Ponderay petition to the Environmental Protection Agency for its comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed February 27, 1986. No comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Exemption

Based upon the entire record of this proceeding, ERA has determined that Ponderay has satisfied the eligibility requirements for the requested exemption as set forth in 10 CFR 503.32. Therefore, pursuant to 10 CFR 503.3, ERA hereby grants a permanent exemption due to a lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, for the aforementioned boiler, at Ponderay's proposed newsprint mill near Usk, Washington.

Pursuant to Section 702(c) of the Act and 10 CFR § 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of the order in the **Federal Register.**

Issued in Washington, DC, on April 4, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-8562 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER86-350-000, et al.]

Electric Rate and Corporate Regulation Filings; Pacific Gas & Electric Co. et al.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas and Electric Company

April 8, 1986.

[Docket No. ER86-350-000]

Take notice that on April 2, 1986, Pacific Gas and Electric Company (PGandE), tendered for filing information intended to supplement its filing of March 11, 1986 in Docket No. ER86-350-000. PGandE submitted this filing in response to the Commission's request for supplemental information to the original filing. The additional information concerns the revised rate agreement (Appendix A to the PGandE—City of Santa Clara Interconnection Agreement) filed as Exhibit B in the above referenced docket. The Commission seeks information concerning two changes in Appendix A from its previous version filed in Docket No. ER84-6-000. Those changes are the addition of a demand change in Schedule B—emergency power service and the revision of both rate level and unit (kW-month to kW-Year) for the capacity reserve changes in Rate Schedule I—Reserve Service.

PGandE said a demand charge was added to Rate Schedule B (Emergency Power) because of the frequency and scope of the service provided by PGandE to the City of Santa Clara (City). The experience of the first two years under the current Interconnection Agreement showed that City called upon this service more frequently than had been expected by the parties. Consequently, City agreed that a demand charge was appropriate, and this was added to the revised Appendix A. As described in Section II.2 of Appendix A, the demand charge for emergency power is $0.269/kW-day for each kW of emergency power furnished beyond the kW amount of capacity reserve provided by PGandE under Rate Schedule I. This provides City a credit towards emergency power demand, in the amount of capacity reserve purchased by City from PGandE. This latter amount, 15.44 MW-years in 1986, is listed in Exhibit A-1 of Appendix A. City can also provide emergency power from City Projects (its own resources). Emergency power is substantially the same as service provided by PGandE under Rate Schedule C (Maintenance Power) and Rate Schedule D (Short-Term Firm Power), except that the services provided in Rate Schedules B, C and D are provided under different conditions. For example, when City experiences an emergency power from PGandE; however, if the emergency should last more than 48 hours, City is then entitled to purchase short-term firm power.

With respect to the revision of both rate level and unit for the capacity reserve charge in Rate Schedule I, PGandE said that in the course of rate negotiations, the parties had different views as to whether capacity reserve is supplied on an annual basis or a monthly basis. PGandE regards capacity reserve as supplied on an annual basis since PGandE must plan to meet its service area's annual peak (of which City is a part). In the previous Appendix A, the billing unit for capacity reserve was $/kW-month. Beginning in 1986, City forecasted purchasing 15,400 kW of capacity reserves from May through October only, for a total of 92,610 kW-months for 1986. PGandE maintained that capacity reserves are contracted for on an annual basis and City should purchase 15,400 kW-years of capacity reserves—the equivalent of 185,280 kW-months. Since this would have doubled City's billing demand for capacity reserve compared to the preceding year, City was unwilling to agree to a kW-year basis for such reserves if the demand rate would be the old (kW-month) rate multiplied by 12.

For purposes of settlement, the parties agreed to (1) use a demand charge based on capacity reserve purchased on an annual basis, and (2) adjust the capacity reserve demand charge to keep *total revenue* collected from City *the same* (as if the unadjusted capacity reserve rate (old method) was applied to City's proposed billing demand for capacity reserve).

Comment date: April 18, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Company

[Docket No. ER86-395-000]

April 10, 1986.

Take notice that Arizona Public Service Company (APS) on April 7, 1986, tendered for filing Amendment Number 2 to the Wholesale Power Supply Agreement between ARIZONA PUBLIC SERVICE COMPANY and Southern California Edison Company (SCE), FERC Rate Schedule No. 120.

The current rate of service to SCE contains provisions for the application of a sales tax charge. This charge is to cover the "Arizona Transaction Privilege (Sales) Tax". The Sales Tax Statute has been amended which now exempts the collection of this tax from SCE which is anticipated to be $4,400.00 for calendar 1986 billings.

Arizona Public Service Company requests this Amendment become effective on the date it is accepted for filing by FERC.

Copies of this filing have been served upon the Arizona Corporation Commission and SCE.

Comment date: April 24, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Company

[Docket No. ER 86-396-000]

April 10, 1986.

Take notice that Pacific Gas and Electric Company (PGandE), on April 8, 1986, tendered for filing as an initial rate schedule the Agreement for Operation, Maintenance, and Replacement of Protection Facilities that are Required for the Connection of the Delta Wind Energy Project to Department of Water Resources (DWR) South Bay Pumping Plant, dated August 19, 1985.

The Agreement provides that PGandE will own, operate, maintain, and replace the special facilities at the DWR South Bay Pumping Plant needed for the connection of the Delta Wind Energy Project. The charge for this service is based on PGandE's system average ownership, operation, maintenance, and replacement costs and will be equal to 8.97 percent of the installed costs of the customer-financed special facilities.

PGandE requests that the proposed rate be effective as of August 19, 1985.

Copies of this filing were served upon DWR and the California Public Utilities Commission.

Comment date: April 24, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of New Hampshire

[Docket No. ER86-347-000]

April 10, 1986.

Take notice that on April 8, 1986, Public Service Company of New Hampshire (PSNH) tendered for filing a System Exchange Agreement between PSNH and Central Maine Power Company (CMP).

PSNH states that the service to be furnished under the System Exchange Agreement is an exchange of excess capacity and associated energy from the PSNH system (system power) for an equal amount of capacity from certain units owned by CMP (exchange units). PSNH further states that the generating units expected to supply the system power are required to be specified by PSNH at least twelve hours prior to the commencement of each exchange. Similarly, the exchange units expected to supply the capacity to PSNH are to be specified by CMP at least 12 hours prior to the commencement of each exchange.

PSNH requests an effective date of February 19, 1982, and therefore requests waiver of the Commission's notice requirements.

Comment date: April 24, 1986, in accordance with Standard Paragraph E at the end of this document.

Wisconsin Electric Power Company

[Docket No. ER86-388-000]

April 10, 1986.

Take notice that Wisconsin Electric Power Company on April 8, 1986, tendered for filing a Service Agreement for total requirements service between Wisconsin Electric and the City of Geneva, Illinois. The Service Agreement has a proposed effective date of May 1, 1986. Wisconsin Electric requests waiver of the Commission's sixty-day notice requirement in order to allow the proposed effective date to be implemented.

Copies of the filing have been served on the City of Geneva, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: April 24, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determinating the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8648 Filed 4-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-388-000 et al.]

Natural Gas Certificate Filings; Transcontinental Gas Pipe Line Corp. et al.

Take notice that the followings filings have been made with the Commission:

1. Transcontinental Gas Pipe Line Corporation

[Docket No. CP86-388-000]

April 8, 1986.

Take notice that on March 17, 1986, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86-388-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a bored pipeline river crossing and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco requests authorization to construct, using directional drilling techniques, and to operate 0.87 mile of 36-inch diameter pipeline and appurtenances comprising an underwater crossing of the Atchafalaya River in St. Landry and Pointe Coupee Parishes, Louisiana.

Transco states that while the proposed facilities would replace two existing 18-inch diameter mainline crossings of the Atchafalaya River, to ensure maximum system integrity and continuity of service the existing pipelines would be maintained for use on an emergency basis rather than abandoned. It is estimated that the construction cost would be $4,580,000, to be financed initially through revolving credit arragements, short-term loans and funds on hand. Transco states that permanent financing would be undertaken as part of an overall long-term financing program at a later date.

Comment date: April 29, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Transco Offshore Gathering Company

[Docket No. CP86-386-000]

April 8, 1986.

Take notice that on March 20, 1986, Transco Offshore Gathering Company (TOGCO), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86-386-000 an application pursuant to section 7 of the Natural Gas Act and Subpart E of Part 157 of the Commission's Regulations for an optional expedited certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities, the transportation of natural gas through such facilities, and the abandonment of such transportation services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

TOGCO states that by a gas purchase contract dated October 12, 1983, Transconstinential Gas Pipe Line Corporation (Transco), an affiliate of TOGCO, has obtained from Shell Offshore Inc. (Shell) the right to purchase certain gas reserves attributable to Shell's interest in gas to be produced and made available for sale from certain portions of Block 292, South Timbalier area, South Addition, offshore Louisiana (Block 292). It is stated that in order to attach this new source of gas supply, TOGCO proposes to construct and operate approximately 18.43 miles of 24-inch pipeline which would connect Shell's production platform in Block 292 to Transco's pipeline system in South Timberlier Block 300. The estimated cost of the proposed facilities is $17.35 million and TOGCO states the cost will be financed from equity contributions and long-term debt. It is indicated that construction of the proposed facilities is scheduled to commence in mid-1986 and be completed and ready for service in the later part of 1986.

TOGCO further states that it would transport gas for others through these facilities. It is stated that although Transco currently has a gas purchase contract with Shell to purchase certain reserves in South Timbalier Block 292, it is anticipated that Transco would release its right to purchase such gas, and Shell would be able to sell its gas on the spot market at market-responsive prices. TOGCO states that it does not currently know the identity of the shipper or shippers for which it would render transportation services because such shipper or shippers would be determined by the entities which purchase the subject gas from Shell. Accordingly, TOGCO also requests herein blanket authorization to transport gas through these facilities for any and all shippers which request transportation services. TOGCO states that it would render such transportation services pursuant to its Rate Schedules I (interruptible) and F (firm). In addition, TOGCO requests that it be authorized to abandon such transportation services at the respective dates of termination of transportation agreements with the shippers.

TOGCO states that since Shell's gas in Block 292 would be sold at market-responsive prices, this would further the Commission's well-known objective of encouraging the sale of gas in today's market at market-responsive prices rather than at the artificially high prices found in many gas purchase contracts between pipelines and producers. It is asserted that the proposed facilities and the transportation service would enable such market-responsive gas to move to market. TOGCO states that the proposed facilities would also enable additional gas reserves in South Timbalier Block 295 to move to market in the future. Accordingly, TOGCO submits that the public convenience and necessity clearly require that the proposed facilities and transportation service be authorized as proposed herein.

TOGCO states that concurrently with the filing of the instant application, it is filing an application for a blanket certificate for transportation authority pursuant to § 284.221 of the Regulations.

TOGCO also states that transportation of gas downstream of TOGCO's facilities would be rendered by Transco. It is stated that in order to render such transportation, Transco would either file a section 7 application for authorization to render such service or be an open access pipeline pursuant to Order No. 436 and transport the subject gas pursuant to self-implementing regulations.

Comment date: April 29, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Texas Gas Transmission Corporation

[Docket No. CP86-67-001]

April 8, 1986.

Take notice that on March 14, 1986, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP86-67-001, a petition to amend the order issued December 23, 1985, in Docket No. CP86-67-000 pursuant to section 7 of the Natural Gas Act (NGA) so as to authorize an extension of the authorizations granted by said order from March 31, 1986, to March 31, 1987, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on October 24, 1985, it filed an application for a certificate of public convenience and necessity and for abandonment and pre-granted abandonment authorizations.

It is asserted that on December 23, 1985, in Docket No. CP86-67-000, the Commission authorized Texas Gas' producers/suppliers (1) to make sales for resale in interstate commerce of gas subject to the Natural Gas Act (NGA) with a maximum lawful price (MLP) higher than the Natural Gas Policy Act (NGPA) section 109 price; (2) to abandon temporarily sales for resale of NGA gas with an MLP higher than the NGPA section 109 price and previously certificated by the Commission to the extent that such gas is released by pipelines; and (3) to partially abandon service to releasing pipelines and sales by participating producers to participating purchasers until March 31, 1986.

Texas Gas states that the certificate authority granted in the above-referenced docket is scheduled to expire on March 31, 1986. Texas Gas asserts that absent further action by the Commission, after that date producers of high-cost gas from whom Texas Gas purchases gas would be without authority to sell gas, subject to NGA certificate and abandonment requirements, on the spot market on a self-implementing basis. Texas Gas argues that the temporary extension of the certificate would allow continued production of gas by Texas Gas' producer-suppliers and continued take-or-pay relief for Texas Gas and its customers, all in a manner consistent with the transitional provisions of Order No. 436 and the Commission's evolving policy regarding producer abandonments.

Although Texas gas states its continued belief that the abandonment authority authorized by the Commission should be expanded to include gas priced at or above the NGPA Section 109 rate as originally requested by Texas Gas in its October 24, 1985, application, it asserts that the one-year term extension requested herein is clearly justified in the public interest. Texas Gas submits that extension of the authority granted in the subject docket is required to allow a smooth implementation of the Commission's programs under Order No. 4326.

Texas Gas states that the Commission recognized this need for a smooth transition on February 14, 1986, in Order No. 436-B, 34 FERC ¶ 61,204, wherein the Commission allowed transportation arrangements commenced on or after October 9, 1985, to continue through June 30, 1986, before any contract demand reduction/conversion options under § 284.10 of the Commission's regulations are triggered.

Texas Gas asserts that the need for an extension of limited term abandonment authority is even greater, if a smooth transition is to be achieved. It is asserted that pipelines such as Texas Gas must have sufficient time to work with their producer-suppliers in order to adjust their contractual relationships to the new regulatory and market environments. Texas Gas states that this involves time consuming, complex renegotiations of the terms of long-term contracts including both price and non-price terms, such as take-or-pay. Texas Gas asserts that such renegotiations would not be complete prior to the expiration of the limited-term abandonment authority on March 31, 1986. It is asserted that extension of the certificate issued in Docket No. CP86-67-000 is necessary to allow these renegotiations to continue in an orderly fashion without disruption of the marketplace.

Texas Gas states that temporary extension of the term of the existing authorization would facilitate a smoother transition to the new regulatory scheme and that substantial harm may occur absent such extenion. Without such an extensin, it is asserted, substantial volumes of gas committed or dedicated to interstate commerce may be shut-in, reducing throughout on Texas Gas' interstate pipeline system and increasing Texas Gas' potential take-or-pay liability, reducing available volumes on the spot market and reducing cash flow to producers needed for the continued exploration and development of natural gas. For these reasons, Texas Gas states that the public interest requires that its limited-term abandonment authority in Docket No. CP86-67-000 be extended prior to expiration of the existing authority on March 31, 1986.

Comment date: April 29, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Southern Natural Gas Company

[Docket No. CP86-409-000]

April 8, 1986.

Take notice that on March 31, 1986, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP86-409-000 an application pursuant to Section 7 of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas for Southeast Alabama Gas District (Southeast Alabama) acting as agent for Harbison-Walker Refractories, Division of Dresser Industries, Inc. (Harbison-Walker), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 3.2 billion Btu of natural gas per day for Southeast Alabama, as agent for Harbison-Walker, on an interruptible basis, for a one-year term. It is indicated that Harbison-Walker would purchase the gas from TXO Production Corporation. Applicant states that it would receive the gas for the account of Harbison-Walker at various existing points on Applicant's system in Bienville, Desoto, Jackson, LaFourche, and Lincoln Parishes, Louisiana. Applicant proposes to redeliver equivalent volumes of gas, less 3.25 percent for fuel and company-use gas, at an existing delivery point to Southeast Alabama in Lee County, Alabama.

Applicant proposes to charge Southeast Alabama a transportation rate of 39.9 cents per million Btu where the aggregate of the volumes transported by Applicant for Southeast Alabama under any and all transportation agreements between Applicant and Southeast Alabama, when added to the volumes of gas delivered under Applicant's Rate Schedule OCD, does not exceed Southeast Alabama's daily contract demand from Applicant. For those volumes that exceed Southeast Alabama's daily contract demand, Applicant proposes to charge 64.9 cents per million Btu. In addition Applicant proposes to collect the GRI surcharge of 1.35 cents per Mcf.

Applicant states that the proposed transportation service would displace sales by Applicant on a one-for-one basis which would in turn increase Applicant's take-or-pay liability with its producers on the same basis unless take-or-pay relief is obtained with respect to the volumes transported. Applicant proposes that in order to mitigate the impact of sales displacement transportation upon Applicant's take-or-pay exposure and to reduce the resulting costs to Applicant's sales customers, in addition to the foregoing transportation charges, for any volumes transported for which Applicant does not receive a credit against its take-or-pay obligations for a volume of gas equivalent to the volume of gas transported for Southeast Alabama under the transportation agreement, Southeast Alabama would pay Applicant a 34-cent take-or-pay payment surcharge per million Btu of gas redelivered under the transportation agreement.

Applicant also requests flexible authority to add delivery points in the event that Harbison-Walker obtains alternative sources of supply. It is stated that the redelivery point, the recipient and the maximum daily transportation volume would remain unchanged. It is further stated that applicant would file a report providing certain information with regard to the addition of any delivery points.

Comment date: April 29, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. K N Energy, Inc.

[Docket No. CP86-402-000]

April 10, 1986.

Take notice that on March 25, 1986, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP86-402-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate sales taps for 4 agricultural customers and 1 residential customer, under the certificate issued in Docket Nos. CP83-140-000 and CP83-140-001, as amended in Docket No. CP83-140-002, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

K N proposes to construct and operate sales taps in order to sell and deliver various estimated amounts of natural gas to each of the following agricultural customers: (1) 2,400 Mcf per year to Mary Franz of Clay County, Nebraska; (2) 5,200 Mcf per year to Dennis Larson of Phelp County, Nebraska; (3) 13,000 Mcf per year to Jerry Otte of Fillmore County, Nebraska and (4) 1,800 Mcf per year to Egbert Tietjen of Republic County, Kansas. K N also proposes to install a sales tap in order to sell approximately 120 Mcf per year to Marc L. Walker of Rawlins County, Kansas.

K N states that it would charge the customers prices in accordance with the currently filed rate schedules authorized by the applicable state or local regulatory body having jurisdiction. It is further stated that the proposed sales taps are not prohibited by any of K N's existing tariffs and that the sales taps would have no significant impact on K N's peak day and annual deliveries.

Comment date: May 27, 1986, in accordance with Standard Paragraph G at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP86-414-000]

Pelican Interstate Gas System

[Docket No. CP84-67-008]

April 10, 1986.

Take notice that on April 2, 1986, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, and Pelican Interstate Gas System (Pelican), 1200 Milam, Suite 2700, Houston, Texas 77002, filed in Docket Nos. CP86-414-000 and CP84-67-008 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Natural to transport up to 20 billion Btu equivalent of natural gas per day on an interruptible basis for MidCon Ventures, Inc., (MidCon), and for amendment of the order issuing a certificate of public convenience and necessity to Pelican in Docket No. CP84-67-000 authorizing Pelican to transport natural gas from an additional receipt point in West Cameron Block 289, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural seeks authorization to transport up to 20 billion Btu equivalent of natural gas per day on an interruptible basis for MidCon, which is acting on behalf of purchasers, Calcasieu Gas Gathering System (Calcasieu) and Pontchartrain Natural Gas System (Pontchartrain), from West Cameron Block 289, offshore Louisiana, to Vermilion Parish, Lousianna. MidCon would purchase natural gas from Corpus Christi Exploration Company (Corpus Christi), PB-SB 1983 Investment Partnership II, Northwestern Mutual Life Insurance Company and Primary Fuel, Inc., pursuant to a gas purchase contract dated February 1, 1985, and make available such supplies to Natural for transportation at the subsea interconnection between the pipeline facilities of MidCon's designee, Corpus Christi, and Pelican in West Cameron Block 289, for redelivery to either Calcasieu and/or Pontchartrain. Pelican would receive into its system in West Cameron Block 289 the gas MidCon would purchase and transport the gas for the account of Natural, together with other volumes it is presently transporting for Natural's account, to a point of connection with the facilities of Natural in Cameron Parish, onshore Louisiana. Natural proposes to allocate a portion of its capacity entitlement from Pelican to MidCon on behalf of the purchasers. Natural proposes to transport the gas from the interconnection with the facilities of Pelican in Cameron Parish and redeliver it on an interruptible basis, for the account of Calcasieu and Pontchartrain, at an existing interconnection between Acadian Gas Pipeline System and Natural in Vermilion Parish, Louisiana. Natural would deduct 0.5 percent from the volumes to be redelivered to the Vermilion delivery point for gas used as compressor fuel, for lost and unaccounted for gas, and gas used in day-to-day pipeline operations. Applicants also state that the volumes of gas may be reduced by any plant volume reduction, if MidCon has its gas processed onshore.

Applicants state that MidCon would pay Natural 3.1 cents million Btu equivalent of gas received for transportation to the Vermilion delivery point, or whatever Natural's applicable transportation rate(s) on file and in effect may be from time to time. Further, Natural would charge MidCon the then effective Gas Research Insititute surcharge gas per million Btu gas received by Natural at West Cameron Block 289.

Pelican seeks an amendment to its certificate in Docket No. CP84-67-000 authorizing transportation of gas from an additional receipt point in West Cameron Block 289, offshore Louisiana, for Natural pursuant to a transportation agreement dated September 23, 1968, as amended, such service being related to the new transportation service proposed by Natural. Pelican does not seek authorization for an increase in the existing contract quantity of 145,750 Mcf of per day of gas. Applicants submit that the addition of the new point of receipt would not require a change to the rates currently paid by Natural for service rendered by Pelican.

Comment date: May 2, 1986, in accordance with Standard Paragraph F at the end of this notice.

7. Panhandle Eastern Pipe Line Company

[Docket No. CP86-399-000]

April 10, 1986.

Take notice that on March 21, 1986, Panhandle Eastern Pipe Line Company (Applicant), P. O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-399-000 an applicant pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a new sales lateral in Indiana and Ohio, new delivery point, and an increase in the contract demand of Northern Indiana Fuel and Light Company, Inc. (NIFL), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a letter agreement, executed on March 11, 1986, Applicant states that it has agreed to increase the contract demand of NIFL as follows:

Month(s)	Existing contract demand (Mcf per day)	Proposed contract demand (Mcf per day)
January, February, March, November, and December	24,500	34,500
April	14,040	19,770
May	10,800	15,200
June	7,740	10,900
July	5,400	7,600
August	6,300	8,600
September	9,000	12,600
October	12,600	17,700

It is explained that the primary term of the future service agreement would be from the date on which the newly constructed facilities are placed in service until October 31, 1993. Applicant states that the existing service agreement provides for two delivery points: the Auburn delivery point and the Monroe delivery point. Applicant says that the proposed service agreement would maintain the two existing delivery points and add a third delivery point at the terminus of the new sales lateral to be called the Countyline delivery point, in Dekalb County, Indiana.

Applicant states that the facilities which are required consist of 19.5 miles of 10-inch pipeline which would extend from a point on Applicant's transmission system, to be known as Edgerton Gate I, to interconnect with NIFL at a proposed delivery point to be known as the Countyline delivery point.

It is stated that the proposed facilities, estimated to cost $4.3 million, would be financed initially by Applicant with funds on hand, borrowings under Applicant's revolving credit arrangements or short-term financing estimated at $4.3 million.

Comment date: May 2, 1986, in accordance with Standard Paragraph F at the end of this notice.

8. Transco Offshore Gathering Company

[Docket No. CP86-397-000]

April 8, 1986.

Take notice that on March 20, 1986, Transco Offshore Gathering Company (TOGCO), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86-397-000 an application pursuant to

section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas for others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

TOGCO states that it accepts and would comply with the conditions of paragraph (c) of § 284.221 of the Commission's Regulations which paragraph refers to Subpart A of Part 284 of the Commission's Regulations.

Comment date: April 29, 1986, in accordance with Standard Paragraph F at the end of this notice.

9. United Gas Pipe Line Company

[Docket No. CP86-417-000]

April 10, 1986.

Take notice that on April 3, 1986, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP86-417-000 a request pursuant to §157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install two 1-inch sales taps to enable United to sell and deliver natural gas to Louisiana Gas Service Company (Louisiana Gas) for resale to two residential users in Louisiana, under the certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is explained that United proposes to install one 1-inch sales tap on its line at Index T-347 in Union Parish, Louisiana, and one 1-inch sales tap on its 2-inch Gloster-Grand Cane Tap line in DeSoto Parish, Louisiana. It is stated that the proposed sales taps would enable United to sell and deliver to Louisiana Gas, a local distribution company, an estimated daily average of up to 2 Mcf of natural gas for resale of 1 Mcf of natural gas, each, to the residences of Mr. Fred Badke and Mr. Artis Fuller in the Monroe, Louisiana, service area.

United states that it was authorized in Docket No. CP71-89 to sell and deliver to Louisiana Gas all of its natural gas requirements for resale through Louisiana Gas' distribution system, sales taps and certain rural service lines under United's Rate Schedule DG-N. It is stated that the effective service agreement for such service is dated July 30, 1979.

Comment date: May 27, 1986, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 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 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice to intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8651 Filed 4-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (U.S. Steel Company); Order Granting Rehearing for Further Consideration

Issued: April 9, 1986.

On March 14, 1986, U.S. Steel Company filed an application for rehearing of the order issued by the Commission on February 13, 1986, in Docket No. RM85-1-000, 34 FERC ¶ 61,199 (1986).

Rehearing of the "Order Denying Request for Clarification and Denying Waiver" issued on February 13, 1986 (51 FR 6303; February 21, 1986), in Docket No. RM85-1-000 is granted solely for the purpose of affording the Commission additional time to consider the request for rehearing. Pursuant to Rule 713(b) of the Commission's Procedural Rules, no answer to this order, or to the requests for rehearing, will be entertained.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8650 Filed 4-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 8952-001 et al.]

Surrender of Preliminary Permits; Streamline Hydro, Inc., et al.

April 10, 1986.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Streamline Hydro, Inc.

[Project No. 8952-001]

Take notice that Streamline Hydro, Inc., permittee for the proposed Porcupine Gulch Creek Project No. 8952, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 19, 1985, and would have expired on December 31, 1986. The project would have been located on Porcupine Gulch Creek, in Summit County, Colorado.

The permittee filed the request on March 24, 1986,

2. Streamline Hydro, Inc.

[Project No. 8953-001]

Take notice that Streamline Hydro, Inc., permittee for the proposed Mill Creek Project No. 8953, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 19, 1985, and would have expired on December 31, 1986. The project would have been located on Mill Creek, in Clear Creek County, Colorado.

The permittee filed the request on March 24, 1986.

Standard Paragraphs

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8649 Filed 4-16-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Energy Research Advisory Board.

Date and Time: May 7, 1986—8:00 a.m-5:00 p.m.

Place: Department of Energy, 1000 Independence Avenue, SW, Room 8E-089, Washington, DC 20585.

Contact: Sarah Goldman, Department of Energy, Office of Energy Research, ER-6, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: 202/252-5779.

Purpose of the Board: To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: The specific agenda items and times are subject to last minute changes. Visitors planning to attend for a specific topic should confirm the time prior to and during the day of the meeting.

Tentative Agenda

May 7, 1986

8:00 a.m. Coffee/Informal Discussion
8:30 a.m. Convene-Administrative Items
—Minutes of February meeting
—Plans for Summmer Study (logistics)
8:45 a.m. Solid Earth Science Panel-progress report
9:00 a.m. Chemistry Review Panel-discussioni and review of revised reports
9:30 a.m. Civilian Nuclear Power Panel—review interim report and discuss final report
10:15 a.m. Break
10:30 a.m. National Energy Policy Plan, International Oil Markets
11:15 a.m. Congress and Energy R&D
12:00 noon Lunch
1:00 p.m. Civilian Sector Aspects of Electromagnetic Pulse Phenomena
1:45 p.m. Plan for Magnetic Fusion Review
2:00 p.m. "Physics through the 1990's"
3:00 p.m. Break
3:15 p.m. FY 87 Budget and Other Issues
3:45 p.m. Physics Review Panel—Initial plan
4:00 p.m. Energy R&D Funding Trends
4:30 p.m. Discussion of Plans for Summer Study—Content
—Retrospective assessment
—Potential areas of future interest
4:50 p.m. Public Comment (10 minute rule)
5:00 p.m. Adjourn

Public Participation: The meeting is open to the public. The Chairman of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Sarah Goldman at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 14, 1986.

Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86-8677 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; Week of March 10 Through March 14, 1986

During the week of March 10 through March 14, 1986, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 4, 1986.

Eastern Petroleum Corp.; Enfield, North Carolina, KEE-0016

Eastern Petroleum Corporation filed an Application for Exception from the requirement that it file Form EIA-782B. On March 11, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the firm be granted temporary exception relief from filing Form EIA-782B during the months of February and March, 1986.

Napakiak Corporation, Napakiak Alaska, KEE-0007, Motor Gasoline No. 1 Fuel Oil

Napakiak Corporation filed an Application for Exception from the provisions of EIA-782B. The exception request, if granted, would permit Napakiak to be relieved of its obligation to fill out form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." On March 12, 1986, the Office of Hearings and Appeals of the Department of Energy issued a Proposed

Decision and Order which determined that the exception request be denied.

W. D. Brooks, Inc., Whiteville, North Carolina, KEE-0021

W. D. Brooks, Inc. filed an Application for Exception from the Requirement that it file Form EIA-782B. On March 11, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 86-8675 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of March 17 Through March 21, 1986

During the week of March 17 through March 21, 1986, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Request for Modification and/or Rescission

Economic Regulatory Administration, 3/21/85; KRR-0008

The Economic Regulatory Administration filed a motion to modify a Remedial Order that was issued to P&R Trading Company on July 1, 1985. *P&R Trading Co.*, 13 DOE ¶ 83,023 (1985). That Decision had been captioned "P&R Trading Company," and the ERA requested that the caption be modified to read "Benton Pruet d/b/a P&R Trading Company" to make it clear that it applies to Mr. Pruet individually as well as to his unincorporated business. The DOE noted that captions are not intended to specify the parties to whom Orders are directed, and that it is the text of a Decision and not the caption which sets forth the obligations of the parties. The DOE concluded that in this case, the ERA sought relief that was not necessary, but nevertheless granted the ERA's motion in order to prevent any possible misinterpretation.

Motion for Discovery

MGPC, Inc., Economic Regulatory Administration, 3/19/86; HRD-0221; HRH-0221; KRZ-0028; KRZ-0029; KRZ-0016;

The DOE granted the ERA's motions to amend the Revised Proposed Remedial Order (RPRO) issued to MGPC, Inc. on May 8, 1984, finding that objection proceedings are designed to permit the ERA to revise its allegations and correct errors in its factual or legal analysis in response to a firm's objections. The DOE denied MGPC's request for document discovery when it concluded that the ERA had already provided the firm with sufficient documentation of the RPRO's allegations of overcharges. The DOE also denied MGPC's requests for depositions, finding that the information sought by MGPC through depositions could best be developed at an evidentiary hearing. In granting the firm's request for an evidentiary hearing, the DOE found that many of the extremely complex transaction and accounting issues raised by MGPC could be more readily resolved in the factual give and take of an evidentiary hearing. The DOE therefore permitted the questioning of knowledgeable ERA personnel concerning these issues, but it specifically prohibited any questioning concerning the deliberative processes leading up to the ERA's RPRO allegations.

Interlocutory Order

Economic Regulatory Administration/North American Petroleum Company and Mellon Energy Products Company, 3/18/86; KRZ-0025

On January 27, 1986, the ERA filed a Motion to Amend the Proposed Remedial Order issued on May 8, 1985 to North American Petroleum Company and Mellon Energy Products Company (Mellon). In the Motion, the ERA sought to delete the allegations in the PRO that Mellon violated the Mandatory Petroleum Price Regulations in its sales of crude oil and refined petroleum products. The DOE determined that the motion be granted, revised the PRO accordingly, and dismissed, without prejudice, Mellon as a party to these proceedings.

Implementation of Special Refund Procedures

Sigmor Corporation, 3/17/86; HEF-0581

The DOE issued a Decision and Order implementing a plan for the distribution of $600,000 plus interest, received as a result of a consent order with Sigmor Corporation (Sigmor). The DOE determined that the settlement fund should be distributed to customers who were injured as a result of purchases of petroleum products from Sigmor during the period January 1, 1973 through January 28, 1981. The Decision discussed specific information to be included in refund applications.

Refund Applications

Gulf Oil Corporation/Ballou Park Gulf, Inc. et al., 3/20/86; RF40-00148 et al.

The DOE issued a Decision and Order concerning 30 Applications for Refund filed by retailers that were direct purchasers of Gulf Oil Corporation petroleum products. Each firm applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. In accordance with those procedures, each applicant demonstrated that it would not have been required to pass through to customers a cost reduction equal to the refund claimed. After examining the applications and supporting documentation submitted by the applicants, the DOE concluded that they should receive a total refund of $35,835, consisting ot $30,360 in principal and $5,475 in interest.

Gulf Oil Corporation/Campbell Sixty-Six Express, Inc. et al., 3/21/86; RF40-123 et al.

The DOE issued a Decision and Order concerning 18 Applications for Refund filed by end-users of petroleum products purchased from the Gulf Oil Corporation. In its Decision, the DOE granted the 18 applications under the standards and methods specified in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). The refunds granted in this proceeding total $906,862 representing $768,314 in principal and $138,548 in interest.

Gulf Oil Corporation/Colvin Oil Company Inc., 3/20/86; RF40-405

The DOE issued a Decision and Order granting a refund to Colvin Oil Company, Inc. As a reseller of Gulf products, Colvin was required to demonstrate that it would not have been required to pass through to customers a cost reduction equal to the refund claimed. After examining the application, the DOE concluded that Colvin should receive a refund for 25,117,963 gallons of petroleum products purchased from Gulf during the period August 1973 through January 1976. The refund granted to Colvin equals $36,170, representing $30,644 in principal and $5,526 in accrued interest.

Gulf Oil Corporation/Frank Lombardo et al., 3/19/86; RF40-2658 et al.

The DOE issued a Decision and Order concerning 42 Applications for Refund filed by retailers and resellers of Gulf covered refined petroleum products and natural gas liquid products. The refunds granted in this decision total $63,511.

Gulf Oil Corporation/Herman's Gulf Service et al., 3/17/86; RF40-00548 et al.

The DOE issued a Decision and Order granting refunds from the Gulf Oil Corporation deposit escrow fund to five indirect purchasers of Gulf refined petroleum products. The refunds to these firms totaled $9,096 including accrued interest. All the refund applicants are retailers who demonstrated that they would not have been required to reduce their selling prices to their customers by the amount of the refunds received.

Gulf Oil Corporation, Reverend Peter Merrill et al., 3/17/86; RF40-1 et al.

The DOE issued a Decision and Order concerning 85 Applications for Refund filed by end-users of petroleum products purchased from the Gulf Oil Corporation. In its Decision, the DOE granted the 85 applications under the standards and methods specified in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). The refunds granted in this proceeding total $13,254, representing $11,239 in principal and $2,015 in interest.

Husky Oil Company/Acorn Petroleum, Inc., 3/18/86; RF161-91

The DOE issued a Decision and Order concerning an Application for Refund filed by Acorn Petroleum, Inc. The applicant had purchased refined petroleum products from Husky Oil Company, and sought a portion of the settlement fund obtained by the DOE through a consent order with Husky. The applicant was eligible to apply for a refund under the $5,000 threshold and therefore followed the small claims procedures outlined in *Husky Oil Company*, 13 DOE ¶ 85,045 (1985). After examining the evidence and supporting information submitted by the

firm, the DOE granted the firm a refund in the amount of $573, representing $404 in principal and $169 in accrued interest.

Leonard E. Belcher, Inc./Krupa Oil Company et al., 3/19/86; RF227-3 et al.

The DOE issued a Decision and Order approving Applications for Refund filed by eight retailers of Leonard E. Belcher, Inc. (Belcher) No. 2 fuel oil that purchased the product directly from Belcher. *Leonard E. Belcher, Inc.*, 13 DOE ¶ 85,348 (1986). None of the applicants claimed refunds exceeding the $5,000 threshold amount covered by the presumption of injury for small claims. Therefore, in accordance with the *Belcher* procedures, each applicant made a sufficient showing of injury by documenting its purchase volumes from Belcher. After examining the evidence and supporting documentation submitted by the applicants, the DOE concluded that the applicants should receive a total of $32,682 ($26,855 principal plus $5,827 interest).

Leonard E. Belcher, Inc./New England Smelting Works, Inc., 3/19/86; RF227-4

The DOE issued a Decision and Order approving an Application for Refund filed by New England Smelting Works, Inc. (New England Smelting), an end-user of Leonard E. Belcher, Inc. (Belcher) No. 2 fuel oil that purchased the product directly from Belcher. *Leonard E. Belcher, Inc.*, 13 DOE ¶ 85,348 (1986). After examining the evidence and supporting documentation submitted by New England Smelting, the DOE concluded that New England Smelting should receive a total of $1,206 ($991 principal plus $215 interest) based upon a total volume of 172,011 gallons of Belcher fuel oil purhcases.

Little America Refining Company/Caribou Four Corners, Inc., 3/18/86; RF112-149

The DOE issued a Decision and Order concerning an Application for Refund filed by Caribou Four Corners, Inc. (Caribou), a purchaser of products covered by a consent order the DOE entered into with Little America Refining Company (Larco). Based on the principles established for evaluating Larco refund applications in a previous Decision, the DOE concluded that the applicant was injured. Therefore, the DOE granted Caribou a refund of $53,588, representing its full volumetric share of $35,960 and $17,628 in interest.

Little America Refining Company/Rus Oil Company, Blaze Oil Company, 3/21/86; RF112-147, RF112-155

The Doe issued a Decision and Order granting refunds from the Little America Refining Company (Larco) deposit escrow account to two resellers of Larco covered products, Rus Oil Company and Blaze Oil Company. Both firms elected to limit their refund claims to the small claims threshold level of $5,000, and were therefore not required to submit additional evidence of injury. The refunds to these firms total $14,902, representing $10,000 in principal and $4,902 in interest.

Midway Oil Company/Manary's North Star et al., 3/19/86; RF207-1 et al.

The DOE issued a Decision and Order granting refunds to four firms which had been identified by the Economic Regulatory Administration as having sustained overcharges alleged in the ERA's audit of Midway's sales of motor gasoline. Each claimant filed an Application for Refund in which it adequately demonstrated that it was injured by the alleged overcharges. The total amount of the refunds approved in the Decision is $12,276, representing $7,582 in principal and $4,694 in interest.

Mobil Oil Corporation/Charles Lindner et al., 3/21/86; RF225-1 et al.

The DOE issued a Decision and Order granting 66 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers of Mobil motor gasoline. Each applicant elected to apply for a refund based upon the presumptions for motor gasoline claimants set forth in the Mobil decision. The DOE granted refunds totalling $31,144 ($27,159 principal plus $3,985 interest).

Mobil Oil Corporation/Elpers Mobil et al., 3/18/86; RF225-65 et al.

The Department of Energy issued a Decision and Order granting refunds from the Mobil Oil Corporation deposit fund escrow account to 40 purchasers of Mobil motor gasoline. The refunds approved for these firms totaled $15,360, including accured interest. All of the refund applicants are retailers of motor gasoline who elected to apply for refunds under the applicable level-of-distribution percentage outlined in *Mobil Oil Corp.*, 13 DOE ¶ 85,399 (1985).

Mobil Oil Corporation/Grade A Fuel Service et al., 3/21/86; RF225-72 et al.

The Department of Energy issued a Decision and Order granting refunds from the Mobil Oil Corporation deposit fund escrow account to six purchasers of Mobil petroleum products, other than motor gasoline. The refunds approved for these firms totaled $7,346, including accrued interest. All of the applicants in this Decision applied for refunds which fell below the $5,000 presumption of injury threshold established in *Mobile Oil Corp.*, 13 DOE ¶ 85,399 (1985).

Dismissals

The following submissions were dismissed:

Name and Case No.

Afton Mt. Gulf, RF40-385
Andrew Vidal, RF21-4954
Boswell Oil Company, RF179-12
Butane Propane Gas Co., RF40-3007
Crowley Maritime Corp., RF161-21
Kissena Expressway Service, Station/N.M. Service Station, Inc., RF225-314
Milo C. Cockerham, Inc., RF40-1191
Rodney L. Brown, Jr., KFA-0019

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commerically published loose leaf reporter system.

George B. Brezney,
Director, Office of Hearings and Appeals.
April 4, 1986.
[FR Doc. 86-8676 Filed 4-16-86; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed; Week of March 7 Through March 14, 1986

During the Week of March 7 through March 14, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

April 7, 1986.

George B. Breznay,
Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Mar. 7 through Mar. 14, 1986]

Date	Name and location of applicant	Case No.	Type of Submission
Mar. 7, 1986	Amoco/Illinois & Belridge/Illinois, Springfield, IL	RM21-18 and RM8-19	Request for modification/rescission in the Amoco Belridge second stage refund proceeding. If granted: The June 7, 1985 Decision and Order (Case No. RM21.18 and RM8-19) issued to Illinois would be modified regarding the state's application for refund submitted in the Amoco and Belridge Second Stage Refund Proceeding.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Mar. 7 through Mar. 14, 1986]

Date	Name and location of applicant	Case No.	Type of Submission
Do	Campbell Oil Co., Inc., Elizabethtown, NC	KEE-0031	Exception to the reporting requirement. If granted: Campbell Oil Co., Inc. would not be required to file Form 782B, "Reseller/Retailers Monthly Petroleum Products Sales Report."
Mar. 12, 1986	Environmental Task Force, Washington, DC	KFA-0020	Appeal of an information request denial. If granted: The February 21, 1986 Freedom of Information Request Denial issued by the Director, Executive Secretariat Office would be rescinded and Environmental Task Force would receive access to a document written by agency personnel.
Mar. 14, 1986	Crown Central Petroleum Corp., Washington, DC	KRS-0001	Request for stay. If granted: Crown Central Petroleum Corporation and the Economic Regulatory Administration would receive a stay of the proceedings involved in a Crown Central Petroleum Corporation Proposed Remedial Order (Case No. HRO-0072) pending the execution of a consent order.
Do	do	KRS-0002	Request for stay. If granted: Crown Central Petroleum Corporation and the Economic Regulatory Administration would receive a stay of the proceedings involved in a Crown Central Petroleum Corporation Proposed Remedial Order (Case No. HRO-0198) pending the execution of a consent order.

REFUND APPLICATIONS RECEIVED

[Week of Mar. 7, to Mar. 14, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
3/7/86	Conoco/Scotland Oil Company.	RF220-16
3/7/86	Crystal/Livingston's Service Station.	RF233-6
3/7/86	Quaker State/The Spencer Companies.	RF213-193
3/7/86	Quaker State/Dean Fowler Oil Co.	RF213-192
3/7/86	Gulf/Pearl Brookpart Car Wash.	RF40-3121
3/7/86	Gulf/Callahan Gulf Service	RF40-3122
3/7/86	Gulf/Court Auto Wash	RF40-3123
3/7/86	Gulf/Heritage Auto Wash	RF40-3124
3/7/86	Gulf/Shields Gulf Service	RF40-3125
3/6/86	Amoco/Illinois	RQ21-286
3/6/86	National Helium/Illinois	RQ3-285
3/10/86	ARKLA/Chandler Trailer Convey, Inc.	RF153-26
3/10/86	Crystal/Don Food Stores	RF233-7
3/10/86	Gulf/Georgia Power Company.	RF40-3126
3/10/86	National Helium/New Jersey.	RQ3-287
3/10/86	Crystal/Gulf Asphalt Corp.	RF233-9
3/10/86	Crystal/Foremost Petroleum Company.	RF233-8
3/10/86	Gulf/Interstate Gulf Service	RF40-3127
3/11/86	Gulf/Normans Gulf Service	RF40-3128
3/11/86	CONOCO/CONOCO Travel Shoppe.	RF220-17
3/11/86	F.O. Fletcher/James Simmons.	RF172-29
3/11/86	Belcher/Mitteneaque Coal & Oil Co.	RF227-12

REFUND APPLICATIONS RECEIVED—Continued

[Week of Mar. 7, to Mar. 14, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
3/11/86	Belcher/Nowak Oil Company.	RF227-11
3/12/86	Husky/Acorn Petroleum, Inc.	RF161-91
3/12/86	Union Texas/Petroleum Supply, Inc.	RF104-11
3/13/86	Gulf/Larry Gunn	RF40-3130
3/13/86	Gulf/R.F. White Co., Inc.	RF40-3129
3/113/86	Eddy-Power Pak Co., Inc	RF145-3
3/13/86	Arkla Chemical/King & Pilgrim.	RF153-27
3/13/86	Pride/Defense Logistics Agency.	RF235-4
3/13/86	Conoco/Quality Oil Company.	RF220-153
3/13/86	Conoco/Mobil	RF220-154
3/14/86	Quaker State/George Hughes Chevrolet.	RF213-194
3/14/86	Beacon/Beacon Station 3-398.	RF238-5
3/13/86	Martin/Bay Rite Company	RF240-1
3/14/86	Conoco/Coleridge Oil Company.	RF220-156
3/14/86	Conoco/Jameson Oil Company.	RF220-157
3/14/86	Ideal/Petrolane, Inc	RF186-3
3/14/86	Crystal/System Fuels, Inc	RF233-10
3/7/86 to 3/1486	Mobil Oil Corporation Refund Applicaltions	RF225-247 thru FR225-290
3/7/86 to 3/14/86	Eastern of New Jersey Refund Applications	FR232-240 thru RF232-266

[FR Doc. 86-8558 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of March 14 Through March 21, 1986

During the Week of March 14 through March 21, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice of the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

April 4, 1986.

George B. Breznay,

Director Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Mar. 14 through Mar. 21, 1986]

Date	Name and location of applicant	Case No.	Type of Submission
Mar. 17, 1986	Kennedy & Mitchell, Inc., Denver, CO	KEE-0032	Exception to reporting requirements. If granted: Kennedy & Mitchell, Inc. would not be required to file Form EIA-23, "Annual Survey of Domestic Oil & Gas Reserves."
Mar. 18, 1986	Afri-American Supply Co., Tulsa, OK	KFA-0022	Appeal of an information request denial. If granted: The February 18, 1986 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Afri-American Supply Company would receive access to a copy of the bid abstract for Mason & Hanger-Silas Mason Co., Inc. (M&H) Proposal No. NR-26273 and a copy of any written documentation.
Do	Beco Corporation, Idaho Falls, ID	KFA-0021	Appeal of an informaiton request denial. If granted: The March 12, 1986 Freedom of Information Request Denial issued by the Idaho Operations Office would be rescinded, and Beco Corporation would receive access to all proposals submitted in response to Morrison-Knudsen (M-K) RFP 5075.
Do	Ivan Von Zuckerstein, Darien, IL	KFA-0023	Appeal of an Information request denial. If granted: Ivan Von Zuckerstein would receive access to DOE information.
Mar. 20, 1986	Natural Resources Defense Council, Washington, DC	KFA-0024	Appeal of an information request denial. If granted: The February 14, 1986, Freedom of Information Request Denial issued by the Department of Energy and Central Intelligence Agency would be rescinded and Natural Resources Defense Council would receive access to information on the locations of the Soviet Union's gaseous diffusion uranium enrichment complex.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Mar. 14 through Mar. 21, 1986]

Date	Name and location of applicant	Case No.	Type of Submission
Do	Shepherd Oil, Inc., Washington, DC	KRD-0220 and KRH-0220	Motion for discovery and request for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Shepherd Oil, Inc. in response to the Proposed Remedial Order (Case No. KRO-0220) issued to the firm.

NOTICES OF OBJECTION RECEIVED

[Week of Mar. 14-21, 1986]

Date	Name and location of applicant	Case No.
3/18/86	Champlain Oil Company, Inc., South Burlington, VT	KEE-0013

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/ name of refund applicant	Case No.
3/17/86	Farmers Union Central Exchange, Inc.	RF171-1
3/17/86	Beacon/Douglas D. Flores	RF238-6
3/17/86	Eastern NJ/Kaslow & Jeffrey Construction Co.	RF232-267
3/17/86	Eastern NJ/Organon Inc	RF232-268
3/17/86	Eastern NJ/Cranford United Methodist Church.	RF232-269
3/17/86	Eastern NJ/Dayco Corp	RF232-270
3/17/86	F.O. Fletcher/Crown Oil Co	RF172-30
3/18/86	Eastern NJ/Bayonne Jewish Community Center.	RF232-271
3/18/86	Eastern NJ/Murphy Door Bed Co., Inc.	RF232-272
3/18/86	Eastern NJ/Seven Haven Realty Co.	RF232-273
3/18/86	Crystal/Phillips Oil Co	RF233-11
3/18/86	Crystal/McKinney Oil Co	RF233-12
3/18/86	Sid Richardson/Vanguard Pet. Co.	RF26-31.
3/18/86	MAPCO/Vanguard Petroleum Corp.	RF108-11
3/18/86	Quaker State/Lair Oil Co., Inc	RF213-195
3/18/86	Receive Orders/Caribou Four Corners, Inc.	RF171-35
3/19/86	Eastern NJ/David Friedbauer	RF232-274
3/19/86	Belcher/East Springfield Oil Co	RF227-13
3/19/86	Belcher/Cirelli Oil Co	RF227-14
3/19/86	Crystal/Miller-Calborn Oil Co., Inc.	RF233-13

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/ name of refund applicant	Case No.
3/19/86	Eastern NJ/Dr. Walter T. Darden.	RF232-275
3/19/86	St. James/Ultramar Petroleum, Inc.	RF180-35
3/20/86	Martin/Schweigert Oil Co	RF240-2
3/20/86	Martin/Lain Hlado	RF240-3
3/20/86	Eastern NJ/David Cronheim Management Co.	RF232-276
3/20/86	Eastern NJ/Prospect Point Gardens, Inc.	RF232-277
3/20/86	Eastern NJ/Skytop Gardens Management, Corp.	RF232-278
3/20/86	Eastern NJ/Cherry Park Arms, Inc.	RF232-279
3/20/86	Eastern NJ/Brentwood Gardens	RF232-280
3/20/86	South Hampton/The Atchison, Topeka & Santa Fe Railway Co.	RF230-2
3/21/86	Beacon/Beacon Station #388	RF238-7
3/21/86	Eastern NJ/Mother's Food Products, Inc.	RF232-281
3/14/86 thru 3/21/86	Mobil Oil Corp Refund Applications.	RF225-291 thru RF225-341.
3/14/86 thru 3/21/86	Conoco Refund Applications	RF220-158 thru RF220-252

[FR Doc. 86-8559 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of March 21 Through March 28, 1986

During the Week of March 21 through March 28, 1986, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 9, 1986.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of March 21 through March 28, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 25, 1986	Evett Oil Company, Washington, DC	KEF-0020	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the July 1, 1985, Consent Order with Evett Oil Company.
Do	Thriftyman, Inc., Washington, DC	KEF-0018	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the October 9, 1985, Consent Order with Thriftyman, Inc.
Do	Tresler Oil Company, Washington, DC	KEF-0019	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 204, Subpart V, in connection with the October 9, 1985, Consent Order with Tresler Oil Company.
Mar. 26, 1986	Elias Oil Company	KEF-0022	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the October 21, 1983, Consent Order with Elias Oil Company.
Do	Geraldine H. Sweeney/Getty Oil Company, Philadelphia, Pennsylvania.	KEJ-0001	Request for Protection Order. If granted: Getty Oil Company would enter into a Protective Order with Geraldine H. Sweeney regarding the release of proprietary information to Geraldine H. Sweeney in connection with the Getty Oil Co. refund proceeding (Case No. HEF-0209).
Do	Marathon Oil Company, Washington, DC	KEF-0021	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the January 30, 1986, Consent Order with Marathon Oil Company.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of March 21 through March 28, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Do	Palo Pinto/New Mexico, Sante Fe, New Mexico	RM5-20	Request for Modification/Rescission in the Refund Proceeding. If granted: The October 18, Decision and Order (Case No. RO5-14) regarding New Mexico's second stage refund plan submitted in the Palo Pinto refund proceeding would be modified.
Mar. 28, 1986	Alemany Chevron Service Center, Washington, DC	KEF-0023	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the January 11, 1985, Consent Order with Alemany Chevron Service Center.
Do	Haley V. Mack, Santa Cruz, California	KFA-0025	Appeal of an Information Request Denial. If granted: The January 31, 1986, Freedom of Information Request Denial issued by the Office of Military Applications would be rescinded and Haley V. Mack would receive access to documents authorizing the Cottage and Goldstone test conducted by Lawrence Livermore National Laboratory.
Do	Natural Resources Defense Council, Washington, DC	KFA-0026	Appeal of an Information Request Denial. If granted: The March 24, 1986, Freedom of Information Request Denial issued by the Director of the Executive Secretariat would be rescinded and the Natural Resources Defense Council would receive access to records regarding "Analysis of Joe-4, T-527, September 11, 1953, by Dr. Hans Bethe."
Do	Sauvage Gas Company, Inc	KEF-0024	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the September 29, 1985, Consent Order with Sauvage Gas Company, Inc.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund applicant	Case No.
3/27/86	Amoco/Utah	QF21-288
3/28/86	Mobil/Fred Harz & Son	RF225-388
3/27/86	Mobil/Webb Royal Mobil	RF225-389
3/27/86	Mobil/Les Williamson	RF225-390
3/10/86	Tenneco/Georgia Power Co.	RF7-132
3/10/86	Amoco/Georgia Power Company.	RF21-12585
3/27/86	Eastern NJ/Bonded Realty Co.	RF232-293
3/28/86	Mobil/Red Carpet Car Wash.	RF225-398
3/28/86	Mobil/Gamil's Mobil Service.	RF225-399
3/28/86	Mobil/Silver Hill Mobil	RF225-400
3/28/86	Quaker State/Blair's Auto Service.	RF213-200
3/28/86	Quaker State/Silco Distributing.	RF213-199
3/28/86	Belcher/Bolduc's Fuel Service.	RF227-17
3/25/86	Mobil/Lynn Krug Service	RF225-371
3/25/86	Mobil/Nahatan Service Center.	RF225-372
3/25/86	Mobil/Jim's Mobil Service Center.	RF225-373
3/21/86	Eastern NJ/Ralph Carletta Enterprises.	RF232-282
3/21/86	Mobil/Bills Mobil	RF225-344
3/21/86	Mobil/Ray The Mover of Manchester.	RF225-343
3/21/86	Mobil/Mobil Gas Station	RF225-342
3/20/86	Power Pak/Clarke Bottling Company.	RF241-1
3/14/86	Mobil/Morse Oil Company, Inc.	RF225-345
3/18/86	Mobil/Ellenbergers Service Station.	RF225-346
3/24/86	Mobil/Seaman Fuel Oil Company.	RF225-356
3/24/86	Mobil/Trombly Motor Coach Service.	RF225-355
3/24/86	Mobil/Andy's Mobil Station	RF225-354
3/24/86	Mobil/Parkchester Service Station.	RF225-353
3/24/86	Mobil/Willowbrook Mobil	RF225-352
3/24/86	Mobil/Daves Mobil Service	RF225-351
3/24/86	Mobil/William M. Phinney	RF225-350
3/24/86	Mobil/Richard E. Lloyd	RF225-349
3/24/86	Mobil/Hunter's Service Station, Inc.	RF225-348
3/24/86	Mobil/Mid-Florida Service	RF225-347
3/24/86	Eastern NJ/Sears, Roebuck & Co.	RF232-283
3/24/86	Eastern NJ/Thomas Fuel Corp.	RF232-284
3/24/86	Eastern NJ/Colonial Garden Apt.	RF232-285

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund applicant	Case No.
3/24/86	Eastern NJ/American Can Company.	RF232-286
3/24/86	Crystal/Dan Lester Drilling Company.	RF233-14
3/24/86	Crystal/Sid Keasler	RF233-15
3/24/86	Crystal/Sid Keasler	RF233-15
3/24/86	Earth/Highway Oil, Inc	RF239-4
3/24/86	Belcher/Central Oil Company.	RF227-15
3/24/86	Pride/System Fuels, Inc	RF235-5
3/24/86	Mobil/System Fuels, Inc	RF225-362
3/24/86	Mobil/United El Segundo, Inc.	RF225-363
3/24/86	Mobil/Missouri Pacific Railroad Co.	RF225-364
3/24/86	Mobil/Union Pacific Railroad Co.	RF225-365
3/24/86	Gulf/Look Oil Co. Inc	RF40-3131
3/24/86	Mobil/Giles Jackson	RF225-366
3/24/86	Mobil/Janet Bush	RF225-367
3/24/86	Mobil/Jimmy Oshiro's Mobil Service.	RF225-368
3/24/86	Mobil/William Petry	RF225-369
3/24/86	Mobil/Finnell Brothers	RF225-370
3/24/86	Quaker State/King and Keeney, Inc.	RF213-196
3/24/86	Navajo/E-Z Service, Inc	RF203-7
3/24/86	Arkansas Louisiana/Chandler Trailer Convey.	RF154-23
3/24/86	Crystal/Domex, Inc	RF233-16
3/25/86	Beacon/Cash Oil Co. of California.	RF238-8
3/24/86	Martin/Texon Petroleum	RF240-5
3/24/86	Martin/Convenient Remote Services.	RF240-4
3/25/86	Eastern NJ/Fablok Mills, Inc.	RF232-287
3/25/86	Eastern NJ/Essex Passaic Realty Corp.	RF232-288
3/24/86	Mobil/Mid-Continent Oil Company.	RF225-357 RF225-358
3/24/86	Mobil/Lunde Fuel & Oil Supply.	RF225-359 thru RF225-361
3/25/86	Gulf/Tennessee	RF40-3132
3/25/86	Eastern NJ/YMCA YWCA Joint Management.	RF232-289
3/26/86	Eastern NJ/Bernsol Realty Company.	RF232-291
3/26/86	Eastern NJ/All Star Dairies	RF232-290
3/25/86	Mobil/LuLo Midtown	RF225-381
3/25/86	Mobil/Triborough Bridge & Tunnel Authority.	RF225-380
3/26/86	Mobil/Wanby Anthory	RF225-379
3/26/86	Mobil/Pete's Service Station.	RF225-382
3/26/86	Mobil/Parkway Service Station.	RF225-383

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund applicant	Case No.
3/26/86	Mobil/Central & Grove Mobil.	RF225-384
3/27/86	Mobil/Wisconsin Electric Power Co.	RF225-387
3/27/86	Eastern NJ/Partroy Associates.	RF232-292
3/27/86	Quaker State/Herzog Milling Company.	RF213-197
3/26/86	Quaker State/Earl Thompson, Inc.	RF213-198
3/27/86	Mobil/Bryn Mawr Service Station, Inc.	RF225-385
3/27/86	Mobil/Moore's Mobil	RF225-386
3/27/86	Gulf/Florida Power Corporation.	RF40-3133
3/27/86	South Hampton/Tenneco Oil Company.	RF230-3
3/27/86	Amoco/Wisconsin Electric Power Co.	RF21-12584
3/28/86	Mobil/Lauderdale Rent A Car, Inc.	RF225-393
3/28/86	Mobil/W.E. Anthaume	RF225-394
3/28/86	Mobil/Giovanni Ciallella	RF225-395
3/28/86	Mobil/Buy Rite Oil Co., Inc	RF225-391
3/28/86	Mobil/Bob France's Service Station.	RF225-392
3/28/86	Eastern NJ/Hartz Mountain Industries.	RF232-29
3/28/86	Belcher/Pine Fuel Oil Co	RF227-16
3/28/86	Mobil/Verne R. Phillips	RF225-396
3/28/86	Mobil/Wallace M. Beauchamp.	RF225-397
3/25/86	Mobil/Austine's Super Service.	RF225-374
3/25/86	Mobil/Bud's Campground	RF225-375
3/25/86	Mobil/Lulu North	RF225-376
3/25/86	Mobil/Larry's Corner Garage.	RF225-377
3/25/86	Mobil/Avis Rent A Car, Inc	RF225-378
3/21/86 thru 3/28/86	Conoco Refund Applications.	RF220-254 thru RF220-295

[FR Doc. 86-8560 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a consent order fund totalling $646,614 to members of the public. This money is being held in escrow following the settlement of an enforcement proceeding involving La Gloria Oil and Gas Company of Houston, Texas.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to Case No. HEF-0210.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2860

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a Consent Order entered into by La Gloria Oil and Gas Company of Houston, Texas. The Consent Order involves a particular audit period and a distinct consent order fund as set forth in the Proposed Decision. The Consent Order settled possible pricing violations in La Gloria's sales of refined petroleum products to customers during the audit period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of the escrow account funded by La Gloria pursuant to the Consent Order. The DOE has tentatively decided that the consent order fund should be distributed to those customers of La Gloria who establish that they were injured by La Gloria's alleged overcharges. Such customers will receive refunds proportionate to the volume of petroleum products they purchased from La Gloria. However, Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in the proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 8, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: La Gloria Oil & Gas Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0210.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The ERA filed such a petition on October 13, 1983, requesting that the OHA implement a proceeding to distribute funds received pursuant to a Consent Order entered into by the DOE and La Gloria Oil and Gas Company (La Gloria) of Houston, Texas.

I. Background

La Gloria is a "refiner" of petroleum products, as this term was defined in 10 CFR 212.31. An ERA audit of La Gloria's operations during the period November 1973 through May 1979 revealed possible violations of the Mandatory Petroleum Price Regulations. In order to settle all claims and disputes between La Gloria and the DOE regarding La Gloria's sales of all covered refined petroleum products during the period November 1973 through December 1975 and motor gasoline during the period January 1976 through May 1979, the firm entered into a Consent Order with the DOE on October 30, 1980. Under the terms of the Consent Order, the firm agreed to remit $646,614 to the DOE for deposit in an interest-bearing escrow account pending distribution by the DOE. The Consent Order refers to the ERA's allegations of overcharges, but notes that no formal findings of violations were made. Additionally, the Consent Order states that La Gloria does not admit that it committed any such violations.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is DOE policy to use the Subpart V process to distribute such funds where appropriate. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement,* 9 DOE ¶ 82,553 (1982); *Office of Enforcement,* 9 DOE ¶ 82,508 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). After reviewing the record in the present case, we have concluded that a Subpart V proceeding is an appropriate mechanism for distributing the La Gloria consent order fund. We therefore propose to grant the ERA's petition and assume jurisdiction over distribution of the fund.

III. Proposed Refund Procedures

A. Eligible Claimants

We propose to establish a claims procedure whereby claimants who can demonstrate that they were injured as a result of La Gloria's pricing practices during the relevant portion of the consent order period will be eligible to receive a refund. Under the terms of the Consent Order, customers who purchased motor gasoline from La Gloria will be eligible to apply for a refund based on purchases made during the entire consent order period (November 1973 through May 1979), whereas customers who purchased the other refined petroleum products sold by La Gloria will be eligible to apply for a refund based on purchases made during the period November 1973 through December 1975.

B. Showing of Injury

We propose that claimants who resold petroleum products purchased from La Gloria be required to demonstrate that they did not pass on to their customers the price increases implemented by La Gloria. Accordingly, in order to qualify for a refund, a reseller claimant (including retailers and refiners acting in the capacity of resellers) must show that it would have maintained its prices for the product purchased from La Gloria at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that at the time it purchased petroleum products from La

Gloria, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. *See OKC Crop./Hornet Oil Co.*, 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). In addition, a reseller will be required to show that it had "banks" of unrecovered increased product costs in order to demonstrate that it did not recover the increased costs associated with the alleged overcharges by increasing its prices. The maintenance of banks will not, however, automatically establish injury. *See, e.g., Tenneco Oil Co./Chevron U.S.A.*, 10 DOE ¶ 85,014 (1982).

C. Applicants Claiming a Refund of $5,000 or Less

In the present case, we propose to adopt a presumption of injury which has been used in many previous special refund cases. We will presume that reseller applicants who are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of product from La Gloria. For example, such firms may have limited accounting and data-retrieval capabilities and may therefore be unable to produce the records necessary to prove the existence of banks of unrecovered costs or to show that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past, we have adopted a small claims procedure to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g., Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984); *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We propose to adopt such a procedure in this case. Therefore, any reseller applicant claiming a refund of $5,000 or less need not make a detailed showing of injury in order to be eligible to receive a refund.[1]

D. Spot Purchasers

We further propose that resellers who made spot purchases from La Gloria be ineligible to receive a refund, even a refund at or below the threshold level, unless they can make a showing that rebuts the presumption that they were not injured. As we have previously noted, a spot purchaser tends to have considerable discretion in where and when to make purchases and would therefore not have made spot purchases of La Gloria's product at increased prices unless it was able to pass through the full amount of the alleged overcharges to its own customers. *See Vickers*, 8 DOE at 85,396–97. Accordingly, in order to overcome the rebuttable presumption that it was not injured, a spot purchaser must submit evidence to establish that it was unable to recover the prices it paid for La Gloria's product and did not have discretion as to where and when to make the purchase(s) upon which its refund claim is based.

E. End-Users

We will not require end-users or ultimate consumers whose businesses are unrelated to the petroleum industry to make a detailed showing of injury. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *Id.* We have therefore concluded that end-users of La Gloria petroleum products need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges. On the other hand, refund applicants whose business operations were subject to the DOE regulatory program and who purchased La Gloria petroleum products for consumption as fuel or raw materials will not be considered end-users for the purposes of the showing of injury. *See Seminole Refining, Inc.*, 12 DOE ¶ 85,188 (1985).

F. Calculation of Refund Amounts

We propose to use a volumetric method to divide the consent order fund amoung applicants who demonstrate that they are eligible to receive refunds. This method presumes that the alleged overcharges were spread equally over all the gallons of the consent order product(s) sold by a consent order firm. *See, e.g., Vickers.* To determine the per gallon volumetric factor, the consent order amount will be divided by the total volume of covered products which the firm sold during the relevant portions of the consent order period.[2] Refunds will be calculated by multiplying the volumetric factor by the total amount of the consent order products purchased by the applicant during the relevant portion of the consent order period. The interest that has accrued on the money in the escrow account will be added to the refund of each successful claimant in proportion to the size of its refund.

As in previous cases, we propose to establish a minimum refund amount of $15 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

Refund applications in the La Gloria proceeding should not be filed until after issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received as a result of the La Gloria Consent Order, we intend to publicize the distribution process to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim.

In the event that money remains after all first stage claims have been processed, undistributed funds could be disbursed in a number of different ways. We will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed.

It is Therefore Ordered That:

The refund amount remitted to the Department of Energy by La Gloria Oil and Gas Company pursuant to the Consent Order executed on October 30, 1980 will be distributed in accordance with the foregoing Decision.

[FR Doc. 86–8563 Filed 4–16–86; 8:45 am]

BILLING CODE 6450–01–M

[1] As in prior refund cases, resellers whose calculated refund exceeds the threshold amount may elect to apply for a refund of $5,000 without being required to made a detailed demonstration of injury.

[2] We are awaiting additional information regarding the total volume of motor gasoline sold by La Gloria during the period January 1976 through May 1979 so that we may calculate the per gallon volumetric factor. In the event that we are unable to obtain this information, we will extrapolate volume figures from the available audit data. The volumetric factor will be included in a final Decision and Order, at which point potential claimants will be able to compute the refunds for which they may qualify.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $2,207,115 (plus accrued interest) obtained as the result of a consent order which the DOE entered into with Howell Oil Corporation and Quintana Refinery Company (Case No. HEF-0212), both located in Houston, Texas. The funds will be available to customers that purchased refined petroleum products from Howell or the Quintana-Howell Joint Venture during the period August 19, 1973 through December 31, 1978.

DATE AND ADDRESS: Applications for refund of a portion of the Howell/Quintana consent order funds must be filed within 90 days of publication of this notice in the **Federal Register** and should be addressed to: Howell Oil Corporation Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All applications should conspicuously display a reference to Case No. HEF-0212.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order relates to a consent order entered into by Howell Oil Corporation (Howell) and Quintana Refinery Company (Quintana), both of Houston, Texas, which settled possible pricing violations with respect to the firms' sales of refined petroleum products during the period August 19, 1973 through December 31, 1978. Under the terms of the consent order, $2,207,115 has been remitted by the firms and is being held in an interest-earning escrow account pending determination of its proper distribution.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established two-stage refund procedures and solicited comments from interested parties concerning the proper disposition of the Howell/Quintana consent order funds. The Proposed Decision and Order discussing the distribution of the funds remitted by the firms was issued on May 2, 1985. 50 FR 20002 (May 13, 1985).

The Decision and Order published with this Notice reflects an analysis of comments received from interested parties. As the Decision indicates, applications for refunds from the Howell/Quintana consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Applications will be accepted from customers who purchased refined petroleum products from Howell or the Quintana Howell Joint Venture during the consent order period. The specific information required in an application for refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: April 8, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Names of Firms: Howell Oil Corporation and Quintana Refinery Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0212.

Pursuant to the Department of Energy (DOE) procedural regulations, 10 CFR Part 205, Subpart V, on October 13, 1983, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) of the DOE in connection with a Consent Order entered into with Howell Oil Corporation (Howell) and Quintana Refinery Company (Quintana). The Petition requests that the OHA formulate and implement procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations by Howell and Quintana during the period August 19, 1973 through December 31, 1978 (the consent order period).

I. Background

During the consent order period, Howell and Quintana were "refiners" of "crude oil" as those terms were defined at 10 CFR 212.31. A DOE audit of sales made by Howell from its San Antonio, Texas refinery and by a joint venture formed by the two firms, the Quintana Howell Joint Venture, (herein after referred to as the "QHJV") [1], revealed possible pricing violations. In order to settle all claims and disputes between the ERA and the firms with respect to sales of motor gasoline, distillates, and general refinery products during the consent order period by Howell, both separately and as a partner in the QHJV, and by Quintana as a partner in the QHJV, the two firms and the DOE entered into a Consent Order effective September 25, 1979.[2] Pursuant to that Consent Order, Howell and Quintana remitted $2,207,115 to the DOE. That sum was deposited into an interest-bearing escrow account for ultimate distribution by the DOE.[3] By its terms, the Howell/Quintana Consent Order constitutes neither an admission by the firms nor a finding by the DOE that either firm violated the price regulations during the consent order period. This Decision and Order concerns the distribution of the $2,207,115 consent order amount plus accrued interest.

On May 2, 1985, we issued a Proposed Decision and Order (PDO) tentatively setting forth procedures to distribute refunds to parties who were injured by the firms' alleged regulatory violations. *See Crystal Oil Co.*, 6 Fed. Energy Guidelines ¶ 90,065 (Proposed Decision, May 2, 1985).[4] In the PDO, we described a two-stage process for distribution of the Howell/Quintana consent order fund. Specifically, we proposed to distribute money in the first stage to claimants who could demonstrate that they were injured by the firms' alleged overcharges during the consent order period. We further stated that any money available after payment of refunds to eligible claimants in the first

[1] Howell and Quintana formed the OHJV to operate a Corpus Christi, Texas refinery owned by Howell.

[2] The Consent Order also covers sales made by "certain independent processors, many of whom are stockholders in Quintana." Consent Order ¶ A2.

[3] In addition to remitting that amount to the DOE, Quintana and Howell made direct refunds totalling $5,776,723 to six purchasers who the EPA alleged were overcharged parties. Those purchasers were: the City Public Service Board (San Antonio, Texas), Consolidated Edison (New York, New York), Texas Utility Fuel Company (Dallas, Texas), #2 S.W. Methodist Hospital (San Antonio, Texas), Veterans Administration Hospital (San Antonio, Texas), and the Southwest Research Institute (San Antonio, Texas).

[4] The PDO also proposed refund procedures to distribute funds received as the result of two other consent orders. Because the number of claims likely to be received in each of the three proceedings is relatively large, we have decided in the interest of clarity to finalize refund procedures separately for each consent order fund.

stage would be distributed during a second-stage process.

The purpose of this Decision and Order is to establish the procedures to be used for filing and processing claims in the first stage of the Howell/Quintana refund proceeding. This Decision sets forth the information that a purchaser of refined petroleum products from Howell or the QHJV should submit in order to establish eligibility for a portion of the consent order fund. In establishing these requirements, we will address comments filed in response to the first-stage proposal in the PDO.[5] We will not, however, determine second-stage procedures in this Decision. Our determination concerning the final disposition of any remaining money will necessarily depend on the amount of money remaining. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981) (*Coline*). It would therefore be premature for us to address issues raised by commenters concerning the proposed disposition of funds remaining after all meritorious first-stage claims have been paid.

II. Jurisdiction

The Subpart V regulations set forth general guidelines by which the OHA may formulate a plan for distribution of funds received as part of a settlement agreement or pursuant to a Remedial Order. It is DOE policy to use the Subpart V process to distribute such funds whenever appropriate. *See Office of Enforcement*, 9 DOE ¶ 82,553 at 85,284 (1982). For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Coline* and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

We have reviewed the record in the present case and have determined that a Subpart V proceedings is an appropriate mechanism for distributing the Howell/Quintana consent order fund. We will therefore grant the ERA's petition and assume jurisdiction over this fund.

III. Determination of Injury and Refund Amounts

Potential claimants in this proceeding will fall into the following categories; (i) Resellers (including retailers and refiners acting in the capacity of resellers) of refined petroleum products and (ii) firms, individuals, or organizations that were consumers of those products.[6] The refined petroleum products must have been purchased either directly from Howell or the QHJV or in a chain of distribution leading back to the firms. As explained below, refunds will be distributed to eligible claimants who demonstrate that they were injured by the firms' alleged overcharges.

In general, resellers who file refund claims will be required to establish that they absorbed the alleged overcharges. To make this showing, they will have to demonstrate that, at the time they purchased petroluem products from Howell or the QHJV, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, resellers will generally be required to show that they had "banks" of unrecovered costs in order to demonstrate that they did not subsequently recover those costs by increasing their prices. *See Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982). The maintenance of a bank will not, however, automatically establish injury. *See Tenneco Oil Co./Chevron, Inc., 10 DOE ¶ 85,014 (1982).*

A. Small Claims Presumption

As we proposed in the PDO, we are adopting a presumption of injury for for small claims under which resellers whose claims do not exceed a threshold amount will be presumed to have absorded any overcharges and will be exempt from the general requirement that resellers make a detailed demonstration that they did not pass through to their own customers the increased cost associated with the alleged overcharges.

The State of Texas filed comments in opposition to our proposed presumption of injury for small claims. We have considered and rejected similar comments from Texas in several prior proceedings. *See, e.g., Blaylock Oil Co.*, 13 DOE ¶ 85,223 (1985). The DOE procedural regulations expressly permit the use of presumptions in refund proceedings pricing practices during past periods. *See* 10 precisely because of the problems inherent in reconstructing CFR 205.282(e) and *Office of Special Counsel*, 10 DOE ¶85,048 at 88,207 (1982). As we stated in the PDO, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of the alleged overcharges, some of which in this case took place nearly thirteen years ago. This procedure is generally time-consuming and expensive, and in the case of small claims the cost to the firm of gathering this information and the cost to the OHA of analyzing it may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain refunds. The use of presumptions is also desirable from an administrative standpoint it allows the OHA to process a large number of routine refund claims quickly, and therefore to use its limited resources more efficiently. We therefore reject Texas' contention that it would be inappropriate to adopt a presumption of injury for small claims.

Under the small claims presumption we are adopting, a reseller claimant will not be required to submit any additional evidence of injury beyond purchase volumes unless its refund, based on the per gallon volumetric refund amount established in the following section of this Decision, exceeds $5,000.[7] *See Aztex Energy Co.*, 12 DOE 85,116 (1984).

B. Volumetric Presumption

In the PDO, we also proposed to adopt a presumption that the alleged overcharges were dispersed equally in all sales made by Howell and the QHJV during the consent order period. OHA has referred to this presumption in the past as a volumetric presumption. We have received no comments in opposition to it, and we shall adopt the per gallon volumetric presumption in this proceeding.[8] To determine the per

[5] We received comments concerning our first-stage proposal from one potential first-stage claimant and from the State of Texas. In addition, comments concerning second-stage procedures were filed by Texas, as well as the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia.

[6] As we stated in the PDO, those purchasers that received direct refunds pursuant to the Howell/Quintana Consent Order, *See* note 3, *supra*, are presumed to have received restitution for the alleged overcharges in sales to them. Those customers shall therefore be ineligible to receive refunds in this proceeding.

[7] Resellers that were spot purchasers from Howell or the QHJV will be ineligible to receive any refunds, even refunds below the threshold level, unless they make a showing that rebuts the presumption that they were not injured. As we have previously noted, a purchaser generally would not have made spot market purchases at increased prices unless it was able to pass through to its customers the full amount of those prices. *See Vickers*, 8 DOE at 85,396–97. In order to overcome the rebuttable presumption that it was not injured, a spot purchaser must show that it absorbed the alleged overcharges and should submit additional evidence to establish that it would be inappropriate to presume that it had discretion as to where and when to make the purchase(s) upon which the refund claim is based.

[8] Like the other presumptions we are establishing in this proceeding, the volumetric presumption is rebuttable. The volumetric method of computing refunds represents a simple alternative available to firms which are not able to perform the difficult task

Continued

gallon volumetric factor in the instant proceeding, we have divided the $2,207,115 consent order amount by the total volume of refined petroleum products sold by Howell and the OHJV during the consent order period, minus the sales volumes for which direct restitution has already been made. This results in a volumetric amount of $0.0109 per gallon ($2,207,115 divided by 202,466,054 gallons of refined petroleum products). Refunds will be calculated by multiplying the volumetric factor by the total amount of refined petroleum products that an applicant purchased from Howell and/or the QHJV during the consent order period. The interest which has accrued on the money in the escrow account will be distributed to each successful claimant in proportion to its refund amount.

C. End-Users

In addition to the presumptions we are adopting in this proceeding, we are adopting our proposed finding that end-users or ultimate consumers whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges settled by the Howell/Quintana Consent Order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the increased cost of refined petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). We have therefore concluded that end-users of refined petroleum products covered by the Howell/Quintana Consent Order need only document their purchase volumes from Howell and/or the QHJV in order to make a sufficient showing that they were injured by the alleged overcharges.[9]

D. Minimum Refund

Finally, we shall establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those cases. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982); *see also* 10 CFR § 205.286(b).

IV. Application for Refund Procedures

Having considered the comments received concerning the first-stage procedures tentatively adopted in our May 2, 1985 Proposed Decision, we have concluded that applications for refund should now be accepted from parties who purchased refined petroleum products from Howell and/or the OHJV during the consent order period. Applications must be filed within 90 days after publication of this Decision and Order in the **Federal Register**. *See* 10 CFR 205.286. An application must be in writing, signed by the applicant, and specify that it pertains to the Howell/Quintana Consent Order Fund, Case No. HEF-0212.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue, SW., Washington DC. Any claimant whose application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the information which the applicant claims is confidential has been deleted, together with a statement specifying why any such information is believed to be privileged or confidential.

Each application must also include the following statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, title, and telephone number of a person who may be contacted by the OHA for additional information concerning the application. All applications should be sent to: Howell/Quintana Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, Washington, DC 20585. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284 and the procedures set forth in this Decision and Order.

In order to assist applicants in establishing eligibility for a portion of the Howell/Quintana consent order fund, the following subjects should be covered in applications for refund:

A. Each applicant should indicate which products it purchased from Howell and/or the QHJV, and report its total purchase volumes of refined petroleum products from Howell and/or the QHJV for each month of the period during which it is claiming that it was injured by the alleged overcharges.[10]

B. Each applicant should specify how it used the product(s)—i.e., whether it was a reseller or an end-user.

C. If an applicant is a reseller who wishes to claim a refund in excess of $5,000, it should also:

(i) State whether it maintained banks of unrecouped increased product costs from the date of the alleged violation until the product was decontrolled, and furnish OHA with quarterly bank calculations;

(ii) Submit evidence to establish that is did not pass through the alleged overcharges to its customers. For example, a firm may submit market surveys to show that price increases to recover alleged overcharges were infeasible.

D. Each applicant should certify that it has not included in its claim any volumes of a product purchased after that product was deregulated.[11]

of substantiating a particular level of alleged overcharge and injury. Any purchaser will be allowed to file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See e.g., Quaker State Oil Refining Corp.*, 13 DOE ¶ 85,211 at 88,552 (1985) and cases cited therein.

[9] Even though they operate as resellers, cooperatives will be excused from the requirement that they make a detailed showing of injury with respect to that portion of their purchases that was resold to their members, since any refunds received by cooperatives will inure to the benefit to their customers, who typically are also their member-owners. *See Office of Special Counsel*, 9 DOE ¶ 82,538 (1982).

[10] One potential claimant in this proceeding commented that it might not be able to locate records of its purchases from Howell during the consent order period. While we do not accept *unsubstantiated* estimates of purchase volumes, in certain cases we have exercised our discreation to accept reasonable methods of estimation. *See Standard Oil Co. (Indiana)/Smith & Sons Amoco*, 11 DOE ¶ 85,136 (1983); *Standard Oil Co. (Indiana)/Christensen Oil Co.*, 11 DOE ¶ 85,006 (1983). Claimants who are unable to provide actual purchase volumes frm Howell or the QHJV for all or part of the consent order period should therefore explain the method used in calculating any estimates of their purchase volumes.

[11] A number of refined petroleum products were deregulated during the consent order period. As we stated in the PDO, no refunds are available with respect to purchases of deregulated products. Claimants should make sure that the volumes they sumbit do not include purchases of products after the deregulation of those products. Products deregulated during the consent order period and the dates of their deregulation are listed below:

Product	Date of deregulation
Residual fuel oil	June 1, 1976.
Nos. 1 and 2 heating oil, Nos. 1-D and 2-D diesel fuel, kerosense.	July 1, 1976.
Naphthas, gas oil, benzene, greases, hexane, lubricant base oil stocks, lubricants, special naphthas (solvents), toluene, unfinished oils, xylene, other finished products.	Sept. 1, 1976.
Aviation fuel (naphtha-type)	Oct. 1, 1976.

See Fed. Energy Guidelines, Petroleum Regulations 1974-1981, ¶ 14,535.

E. Each applicant should report whether it is or has been involved as a party in any DOE or private Section 210 enforcement actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in its status during the pendency of its application for refund. *See* 10 CFR 205.9(d).

It Is Therefore Ordered That:

(1) Applications for Refunds from the fund remitted to the Department of Energy by Howell Corporation and Quintana Refinery Company pursuant to the Consent Order executed on September 25, 1979 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: April 8, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-8564 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from a fund of $1,750,000 obtained from U.S.A. Petroleum Inc., in settlement of enforcement proceedings brought by DOE's Economic Regulatory Administration, and ensuring litigation.

DATE AND ADDRESS: Applcations for refund must be filed by July 16, 1986, should conspicuously display a reference to case number HEF-0500, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-2094.

SUPPLEMENTARY INFORMATION: In procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order establishes procedures to distribute funds obtained as a result of settlement between U.S.A. Petroleum, Inc., and DOE. The Consent Order entered in the case settled all disputes between DOE and U.S.A. Petroleum concerning possible violations of DOE price regulations with respect to the firm's sales of petroleum products to its customers, and possible violations of the regulations governing the Crude Oil Entitlements program, during the period August 1973 through 1981.

Any member of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. All Applications should be filed by July 16, 1986, and should be sent to the address set forth at the beginning of this notice. Applications for refunds must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: April 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: U.S.A. Petroleum.
Date of Filing: April 12, 1984.
Case Number: HEF-0500.

On April 12, 1984, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a petition with the Office of Hearings and Appeals (OHA), requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving U.S.A. Petroleum and its subsidiaries: USA Gasoline Corporation, USA Lubricants (formerly M-K Oil Company), Transworld Oil Company, Supersave Petroleum, Inc., and Gasolinas de Puerto Rico Corporation (together hereinafter referred to as USAP). *See* 10 CFR Part 205, Subpart V. This decision contains OHA's plan for distributing funds the DOE received from USAP to qualified refund applicants. Information necessary to prepare refined product refund applications appears at Section III of this decision. The decision first sets forth specific requirements applicable to each of the various types of claimants that are likely to file applications in Section III-B(A). A claimant should take particular note of those requirements applicable to its particular circumstances. The specific application requirements are followed at Section III-B(B) by a discussion of general requirements which apply to all refined product refund applications.

I. Background

USAP was a reseller-retailer of petroleum products from August 19, 1973 to February 1, 1976, and a crude oil refiner from February 1, 1976 to January 27, 1981, as those terms were defined in 10 CFR 212.31, which maintained its headquarters in Santa Monica, California. Several DOE audits of USAP's records revealed possible regulatory violations by the firm. In order to settle all claims and disputes between USAP and the DOE regarding the firm's compliance with DOE regulations during the period August 19, 1973 through January 27, 1981, USAP and the DOE entered into a consent order on July 22, 1982. Under the terms of the consent order, USAP agreed to remit $1,750,000 plus interest to the DOE. These funds are being held in an interest-bearing escrow account established with the United States Treasury pending a determination of their proper distribution. As of February 28, 1986, the USAP escrow account held $2,402,589 including interest. This Decision concerns the distribution of the funds in the escrow account, plus accrued interest.

II. Comments on Proposed Decision

USAP filed a comment in which it objected to the proposed use of a portion of the escrowed funds to provide restitution to participants in the Entitlements Program who can prove injury. It requested that some or all of the settlement funds in the escrow account should be returned to the firm as partial payment of its then-unsatisfied entitlements exception relief "receive order."

Since issuance of the Proposed Decision, however, USAP has received the full amount of the Entitlements exception relief due. *Navajo Refining, Inc., et al.*, 13 DOE ¶ 85,340 (1985); *see also Amber Refining Inc*, 13 DOE ¶ 85,171 (1985). Accordingly, the objections once articulated by USAP have become moot. Therefore, we shall proceed with the refund proceeding at this time. Purchasers of USAP products shall be allowed to file claims.

Several states, including California and Florida, also submitted comments concerning the proposed decision. The states argued generally that all funds remaining after the completion of the first stage refund proceeding should be distributed to state governments. California argued specifically that distribution to the Treasury of the Entitlements portion of the consent order fund would be inappropriate in light of judicial precedent and past OHA practice. We shall not now determine the distribution of any funds that remain unclaimed after the claims process. The comments of the states will be considered before any second stage plan is implemented.

III. Refund Procedures

A. Crude Oil Claims

Because the consent order resolves two different kinds of alleged violations, we shall divide the escrow account funds into two pools. According to information filed by the ERA in connection with the Petition for Implementation of this proceeding, $787,500 of the total settlement amount of $1,750,000 relate to USAP's participation in the Entitlements Program during the consent order period.[1] A division of the consent order funds on that basis is reasonable and has been used in the past. *See Office of Special Counsel,* 10 DOE ¶ 85,048 (1982).

In the Proposed Decision, we tentatively determined that a pro rata portion of the consent order fund—a pool of $787,500 plus accrued interest—should be set aside to satisfy claims filed by participants in the Entitlements Program. Since that proposal was issued, however, the DOE has established a policy regarding the distribution of funds received in settlement of alleged crude oil overcharges that were spread among all domestic refiners by the operation of the Entitlements Program. 50 FR 27400 (July 2, 1985). The DOE's Statement of Restitutionary Policy was based on OHA's Report to the court in the Department of Energy Stripper Well Exemption Litigation, No. MDL 378 (D. Kan.). *See* 50 FR 27402 (July 2, 1985); Fed. Energy Guidelines ¶ 90,507. The DOE Policy statement determined that direct restitution should not be attempted for Entitlements period crude oil overcharges, and the funds should be held pending congressional action establishing a uniform means of indirect restitution. On June 21, 1985, the OHA issued an order announcing that the restitutionary policy regarding crude oil overcharges would be applied in all special refund proceedings were the impact of the overcharges at issue were spread by the Entitlements Program. 50 FR 27402 (1985); Fed. Energy Guidelines ¶ 90,506. The crude oil portion of the USAP consent order fund will therefore be held for distribution in accordance with DOE policy. *See VGS Corporation,* 13 DOE ¶ 85,165 (1985) (crude oil Entitlements portion of consent order fund held for distribution under DOE restitutionary policy).

B. Refunds to Refinded Product Purchasers

We will use a volumetric method to divide the settlement monies among applicants who demonstrate that they are eligible to receive refunds. This method presumes that the alleged overcharges were spread equally over all gallons of products which USAP sold. We have calculated a volumetric refund amount by dividing the consent order amount by the number of gallons which USAP sold. Successful claimants will receive refund based on their eligible purchase volumes multiplied by the volumetric refund amount, plus accrued interest. We have set the USAP volumetric refund amount at $.000384 per gallon. We derived this figure by dividing the consent order fund attributed to refined product sales ($962,500) by the number of gallons of products which USAP sold during the consent order period (2,506,510,417). Accrued interest has increased the per-gallon refund to .000527 as of February 28, 1986.

Nevertheless, a particular purchaser could have suffered a disproportionate share of the injury. For example, a purchaser might claim that the prices he was charged were likely to have included alleged overcharges which were greater that the portion of the consent order monies which were allocated to him under the volumetric presumption. Any purchaser who can make a showing of disproportionate overcharge may file a refund application based on such a claim.

(A) Specific Application Requirements for Each Category of Refined Product Refund Applicants

(1) *Refund Applications by End Users.* We will adopt a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement,* 10 DOE ¶ 85,072 (1983) (*PVM Oil Associates*). *See also Texas Oil & Gas Corp.,* 12 DOE ¶ 85,069 at 88,209 (1984). We have therefore concluded that end-users of USAP products need only document that they were ultimate consumers of a specific amount of USAP products to make a sufficient showing that they were injured by the alleged overcharges.

(2) *Refund Applications by Regulated Firms or Cooperatives.* In addition, we will adopt the presumption that firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement will not be required to demonstrate that they absorbed the alleged motor gasoline overcharges. In the case of regulated firms, *e.g.,* public utilities, any overcharges incurred as a result of USAP's alleged violations would routinely be passed through to the firms' customers. Consequently, we will add such firms to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from alleged overcharges. *See Office of Special Counsel,* 9 DOE ¶ 82,538 (1982). Instead, those firms and cooperative groups should provide with their applications a full explanation of the manner in which refunds would be passed through to their customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of refund money. We note, however, that a cooperative's sales of USAP products to non-members will be treated in the same manner as sales by other resellers.

(3) *Refund Applications by Resellers, Retailers and Refiners*—a. *Spot Purchasers.* If a claimant made only spot purchases, we believe that in most circumstances it should not receive a refund since it is unlikely to have experienced injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of USAP product at increased prices unless they were able to pass through the full amount of the quoted selling price at the time of purchase to their own customers. *See Office of Enforcement,* 8 DOE ¶ 82,597 at 85,396–97 (1981). Therefore, a firm which

[1] All of these alleged violations concern USAP's actions as a refiner-participant in the Entitlements Program, not as a producer or reseller of crude oil.

made only spot purchasers from USAP will not receive a refund unless it presents evidence rebutting the spot purchaser presumption and establishes the extent to which it was injured as a result of its purchasers of USAP products during the consent order period.

b. *Refiners, Resellers and Retailers Seeking Refunds of $5,000 or Less.* Another presumption we will adopt is that purchasers of USAP motor gasoline seeking small refunds were injured by USAP's pricing practices. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). With small claims, the cost to the firm of gathering evidence of injury to support a refund claim could exceed the expected refund. Consequently, without simplified procedures, some injured parties would be effectively denied an opportunity to obtain a refund. Under the small-claims presumption, a claimant seeking a refund of $5,000 or less will not be required to submit any evidence of injury beyond establishing the volume of USAP gasoline it purchased during the consent order period. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984). In addition to the general information required from all applicants, it need only establish that it is a small-claims applicant.

c. *Refiners, Resellers and Retailers Seeking Large Refunds.* Unlike small-claims applicants, a firm which claims a refund in excess of $5,000 will be required to provide a detailed demonstration of its injury in addition to providing purchase volume information. It will be required to demonstrate that it maintained a "bank" of unrecovered product costs in order to show that it did not pass along the alleged overcharges to its own customers. In addition, a claimant must show that market conditions would not permit it to pass through those increased costs. *See, e.g., Panhandle Eastern Pipeline Co./I.V. Cole Petroleum Co.*, 10 DOE ¶ 85,051 (1983); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). For periods in which the DOE regulations did not require retailers to compute cost banks, a retailer will only be required to show that market conditions prevented it from recovering increased costs. Such a showing might be made through a demonstration of lowered profit margins, decreased market shares, or depressed sales volume during the period of purchases from the consent order firm.

(B) General Refund Application Requirements

In addition to the specific requirements outlined above, all applications for refund must be in writing and signed by the applicant. An application must make reference to the U.S.A. Petroleum Special Refund Proceeding (Case No. HEF-0500). Each applicant must submit a monthly purchase schedule for USAP product purchases during the consent order period August 19, 1973 through January 27, 1981.[2] If an applicant purchased USAP products from a reseller, it must establish its basis for belief that the products originated with USAP and identify the reseller from whom the product was purchased. Indirect purchasers who either fall within a class of applicant whose injury is presumed or who can prove injury, may be eligible for a refund if the reseller of USAP products passed through the alleged USAP overcharges to its own customers.

An applicant for refund should furnish us with the name, position or title, and telephone number of a person who may be contacted by us for additional information concerning the applicant. If the applicant is affiliated or associated with USAP in any manner, it must so indicate and provide information explaining the nature of its relationship with the consent order firm. If the applicant has been involved in enforcement proceeding brought by the DOE, it must provide a summary of the present status of the proceeding, or the matter is no longer pending, it must indicate how the proceeding was resolved. If the applicant is a firm which did not actually purchase from USAP, but is a successor to a USAP customer, the applicant must provide evidence establishing that it, rather than USAP's former customer, is entitled to refund. Finally, each application must include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC. Any applicant that believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential. Application should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

[2] Refunds will be granted only for purchases of regulated products. Heating oil and diesel fuel were exempted from regulation on July 1, 1976; therefore, purchasers of those products should submit a schedule of purchases prior to that date. For a complete list of dates of deregulation of covered products, see Mobil Oil Corporation, 13 DOE ¶ 85,339 (1985) at 88,852.

IV. Distribution of the Remainder of the Consent Order Funds Attributable to USAP's Refined Product Sales

In the event that money remains after all first stage claims have been disposed of, undistributed funds attributable to USAP's alleged refined product violations could be distributed in a number of different ways. For example, the funds may be distributed through plans formulated by state governments to benefits consumers who were likely injured by USAP's alleged overcharges. *See e.g., Northeast Petroleum Industries*, 11 DOE ¶ 85,199 (1983). However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission of comments containing proposals for alternative distribution schemes.

It is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by U.S.A Petroleum pursuant to the consent order executed on July 22, 1982 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: April 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-8565 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals; Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $25,000 (plus accrued interest) obtained as the result of a Consent Order which the DOE entered into with Fine Petroleum Company of Norfolk, Virginia. The funds will be available to customers who purchased No. 2 fuel oil, kerosene, solvents, and motor gasoline from Fine during the

period November 1, 1973 through February 29, 1976.

DATE AND ADDRESS: Applications for refund of a portion of the Fine consent order fund must be filed no later than 90 days after publication of this notice in the **Federal Register** and should be addressed to: Fine Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All applications should conspicuously display a reference to Case Number HEF-0072.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notices is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to a Consent Order entered into by Fine Petroleum Company of Norfolk, Virginia, which settled possible pricing violations with respect to the firm's sales of No. 2 fuel oil, kerosene, solvents, and motor gasoline during the period November 1, 1973 through February 29, 1976. Under the terms of the Consent Order, $25,000 has been remitted by Fine and is being held in an interest-bearing escrow account pending determination of its proper distribution.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the Fine consent order fund. The Proposed Decision and Order discussing the distribution of the Fine consent order fund was issued on February 7, 1986. 51 FR 6461 (February 24, 1986).

As the Fine Decision and Order indicates, applications for refunds from the consent order fund may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Applications will be accepted from customers who purchased No. 2 fuel oil, kerosene, solvents, or motor gasoline from Fine during the period November 1, 1973 through February 29, 1976. The specific information required in an application for refund is set forth in Section V of the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: April 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Fine Petroleum Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0072.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 13, 1983. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a Consent Order entered into by the DOE and Fine Petroleum Company (Fine) of Norfolk, Virginia.

I. Background

Fine is a "reseller-retailer" of "refined petroleum products", as these terms were defined in 10 CFR 212.31. An ERA audit of Fine's operations during the period November 1, 1973 through February 29, 1976 (the audit period) revealed possible violations of the Mandatory Petroleum Price Regulations. In order to settle all claims and disputes between Fine and the DOE regarding Fine's compliance with the DOE price regulations in sales of No. 2 fuel oil, kerosene, solvents,[1] and motor gasoline during the audit period (hereinafter referred to as the consent order period), the firm entered into a Consent Order with the DOE on July 13, 1979. Under the terms of the Consent order, Fine agreed to remit $25,000 to the DOE for deposit in an interest-bearing escrow account pending distribution by the DOE. The Consent Order refers to the ERA's allegations of overcharges, but notes that no formal findings of violation were made. Additionally, the Consent Order states that Fine does not admit that it committed any such violations.

On February 7, 1986, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the Fine consent order fund. 51 FR 6461 (February 24, 1986). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of Fine's pricing practices during the consent order period.

A copy of the PD&O was published in the **Federal Register** on February 24, 1986, and comments were solicited regarding the proposed refund procedures. While none of Fine's customers filed comments on the proposed procedures, comments were filed on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Utah, and West Virginia. These comments, however, discuss the distribution of any residual funds that might remain after refunds have been made to first stage claimants. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the present refund proceeding. The formulation of procedures for the disposition of any second stage refund claims will necessarily depend on the size of the remaining fund. *see Office of Enforcement,* 9 DOE ¶ 82,508 (1981). It would therefore be premature for us to address at this time the issues raised by the States' comments concerning the disposition of any funds remaining after all meritorious first stage claims have been paid.[2] Since we have received no objections to the proposed refund procedures, we will adopt them in this Decision.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is DOE policy to use the Subpart V process to distribute such funds where appropriate. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement,* 9 DOE ¶ 82,553 (1982): *Office of*

[1] Solvents (special naphthas) were defined in the DOE price regulations as "all finished products within the gasoline range, not otherwise defined as aviation fuels or gasoline specially refined to specified flash point and boiling range, for use as paint thinners, cleaners, solvents, etc." 10 CFR 212.31.

[2] In any event, it is not clear that these States have a legitimate interest in the present proceeding, since all of the petroleum product sales involved were made in Virginia.

Enforcement, 9 DOE ¶ 82,508 (1981): *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the Fine consent order fund. We will therefore grant the ERA's petition and assume jurisdiction over distribution of the fund.

III. Determination of Injury

As proposed in the PD&O, claimants who resold refined petroleum products purchased from Fine will be required to demonstrate that they did not pass on to their customers the price increases implemented by Fine. *See, e.g., Vickers.* Accordingly, in order to qualify for a refund, a reseller claimant (including retailers) must show that during the consent order period market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. *See OKC Corp./Hornet Oil Co.*, 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). In addition, a reseller claimant must show that it had a "bank" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices. As we noted in the PD&O, however, the maintenance of a bank will not automatically establish injury. *See e.g., Tenneco Oil Co./Chevron U.S.A.*, 10 DOE ¶ 85,014 (1982).

As proposed in the PD&O, we will adopt presumptions of injury which have been used in many prior refund cases. These presumptions will permit claimants to participate in the refund process without incurring disproportionate expenses, and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. *See* 10 CFR 205.282(e).

A. Applicants Claiming a Refund of $5,000 or Less

In the present case, we will adopt a presumption of injury which has been used in many previous special refund cases. We will presume that reseller applicants who are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of product from Fine. For example, such firms may have limited accounting and data-retrieval capabilities and may therefore be unable to produce the records necessary to prove the existence of banks of unrecovered costs or to show that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past, we have adopted a small claims procedure to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g., Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984); *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). As proposed in the PD&O, we will adopt such a procedure in this case. Therefore, any applicant claiming a refund of $5,000 or less need not make a detailed showing of injury in order to be eligible to receive a refund.[3]

B. Spot Purchasers

We will also adopt a rebuttable presumption that resellers who made spot purchases from Fine have suffered no injury. These firms will therefore be ineligible to receive a refund, even a refund at or below the $5,000 threshold level, unless they can make a showing that rebuts the presumption that they were not injured. As we have previously noted, a spot purchaser tends to have considerable discretion in where and when to make purchases and would therefore not have made spot purchases of Fine's product at increased prices unless it was able to pass through the full amount of the alleged overcharges to its own customers. *See Vickers*, 8 DOE at 85,396–97. Accordingly, in order to overcome the rebuttable presumption that it was not injured, a spot purchaser must submit evidence to establish that it was unable to recover the prices it paid for Fine's product and did not have discretion as to where and when to make the purchase(s) upon which its refund claim is based.

End-Users

We will not require end-users or ultimate consumers whose businesses are unrelated to the petroleum industry to make a detailed showing of injury. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *Id.* We have therefore concluded that end-users of Fine products need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges. On the other hand, refund applicants whose business operations were subject to the DOE regulatory program and who purchased Find products for consumption as fuel or raw materials will not be considered end-users for the purposes of the showing of injury. *See Seminole Refining, Inc.*, 12 DOE ¶ 85,188 (1985).

IV. Calculation of Refund Amounts

As set forth in the PD&O, we will use a volumetric method to divide the consent order fund among applicants who demonstrate that they are eligible to receive refunds. This method generally presumes that the alleged overcharges were spread equally over all the gallons of the consent order product(s) sold by a consent order firm. *See, e.g., Vickers.* As we noted in the PD&O, however, the Consent Order in this proceeding specifies different maximum refund amounts for each class of purchaser, thereby suggesting that the alleged overcharges were not spread equally among these classes. We will therefore adopt a more narrow presumption, which holds that the alleged overcharges to each class of purchaser were spread equally over all gallons of the consent order product sold *to that class* during the consent order period. Accordingly, we will establish a separate volumetric factor for each class of purchaser.[4] We have calculated the volumetric factors by dividing the maximum refund amount allocable to each class of purchaser under the terms of the Consent Order by the total volumes sold to that class by Fine. The total refund amounts, volumes, and volumetric refund factors for each class of purchaser are set forth in the Appendix to this Decision and Order. In each instance, a successful applicant will receive a volumetric refund amount for each gallon of refined petroleum products which it purchased from Fine during the consent order period. Any

[3] As in prior refund cases, resellers whose calculated refund exceeds the threshold amount may elect to apply for a refund of $5,000 without being required to make a detailed demonstration on injury.

[4] Any customer who was in more than one class of purchaser during the consent order period may apply for a refund based on more than one volumetric amount. Under these circumstances, the applicant must provide separate documentation of volumes purchased from Fine as a member of each relevant class of purchaser.

interest which has accrued on the money in the escrow account will be added to the refund of each successful applicant in proportion to the size of its refund.

As in previous cases, we will establish a minimum refund amount of $15 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

V. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the Fine consent order fund. Accordingly, we shall now accept applications for refund from customers who purchased No. 2 fuel oil, kerosene, solvents, or motor gasoline from Fine during the consent order period.

In order to receive a refund, each applicant will be required to submit the following information:

(i) Each applicant must report, by product, the monthly volume of Fine petroleum products for which it is claiming a refund.

(ii) Each applicant must state how it used the product(s), i.e., whether it was a reseller or an ultimate consumer, and in which class(es) of purchaser it bought the product(s) during the consent order period (*See* Appendix).

(iii) Any reseller requesting a refund in excess of the $5,000 threshold amount must submit evidence to establish that it did not pass on the alleged overcharges to its customers. Specifically, the claimant must provide data showing (a) the existence of unrecouped product costs from the beginning of the consent order period through the date of decontrol, and (b) the prices the firm paid to Fine during each month of the consent order period.

(iv) Each applicant must state whether there has been a change in ownership of the firm since the audit period and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than to the other owner(s) or provide a signed statement from the other owner(s) indicating that they do not claim a refund.

(v) Applicants must report any past or present involvement as a party in DOE or private Section 210 enforcement proceedings. If these proceedings have terminated, the applicant should furnish a copy of the final order issued in the matter and indicate the status of any remedial action required by the order. If the proceeding is ongoing, the applicant should briefly describe the proceeding and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status while its refund application is pending. *See* 10 CFR 205.9(d).

(vi) Each application must also include the following statement signed by the applicant: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application.

All applications must be filed in duplicate and must be received within 90 days after the publication of this Decision and Order in the **Federal Register**. Each application must be in writing, signed by the applicant, and specify that it pertains to the Fine Consent Order Fund, Case No. HEF-0072. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

It is Therefore Ordered That:

(1) Applications for refunds from funds remitted to the Department of Energy by Fine Petroleum Company pursuant to the Consent Order executed on July 13, 1979 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: April 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX

Product/class	(Dollars) refund amount	(Gallons) volumes	(Dollars) volumetric
No. 2 Fuel Oil:			
50 gallons	896.89	382.085	.002347
100 gallons	9,716.68	2,331,915	.004167
Rack buyers	730.43	133,487	.005472
Kerosene:			
50 gallons	1,907.70	179,410	.010633
100 gallons	4,841.47	730,779	.006625

APPENDIX—Continued

Product/class	(Dollars) refund amount	(Gallons) volumes	(Dollars) volumetric
Rack buyers	184.83	44,486	.004155
Solvents:			
50 gallons	1,200.93	36,254	.033126
100 gallons	3,623.07	258,520	.014015
Motor Gasoline:			
Service stations	933.23	187,567	.004976
Farmers & Commercial	964.77	425,728	.002266

[FR Doc. 86-8566 Filed 4-16-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3004-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382-2740 or FTS 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Information Requirements for Location Standards (EPA ICR #0811). (This is a renewal of a previously approved ICR; no changes are proposed.)

Abstract: Owners and operators of land treatment facilities are required to conduct unsaturated zone monitoring and maintain records of the results. EPA uses these data to (1) indicate the success or failure of the land treatment process and assist in final decisions, (2) allow early detection of threats to ground water, and (3) evaluate the potential for plant uptake of hazardous waste constituents.

Respondents: Owners and operators of land treatment facilities.

Agency PRA Clearance Requests Completed by OMB

EPA #0011; Selective Enforcement Auditing Reporting Requirements, was approved 3/27/86 (OMB #2060-0064; expires 7/31/86).

EPA #0114; Annual Motor Vehicle Tampering Survey, was approved 3/28/86 (OMB #2060-0010; expires 3/31/89).

EPA #1181; Selective Enforcement, was approved 3/15/86 (OMB #2060-0131; expires 3/31/87).

EPA #1289; Monitoring Potential Arsenic Exposure Levels in Wood Treatment Plants, was approved 4/1/86 (OMB #2070-0081; expires 4/30/89).

EPA #1290; Ethylene Oxide Monitoring and Recordkeeping Program, was approved 4/1/86 (OMB #2070-0080; expires 4/30/89).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street, S.W., Washington, D.C. 20460

and

Nancy Baldwin, 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: April 10, 1986.

Daniel J. Fiorino,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86-8607 Filed 4-16-86; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL-3004-9]

Proposed Decision To Deny a Non-Ferrous Smelter Order to Phelps Dodge Corporation, Douglas, AZ; Section 119 of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed decision.

SUMMARY: Under section 119 of the Clean Air Act, EPA may issue, to an eligible nonferrous smelter, a nonferrous smelter order that would suspend certain otherwise applicable State Implementation Plan requirements for sulfur dioxide until no later than January 1, 1988. The Phelps Dodge Corporation has applied for a nonferrous smelter order for its copper smelter located in Douglas, Arizona. EPA is proposing to deny this application.

DATE: Comments must be submitted on or before May 19, 1986.

ADDRESSES: Comments should be sent to: Regional Administrator, Environmental Protection Agency, Region 9, ATTN: Air Management Division, Air Operations Branch, Compliance Section (A-3-3), 215 Fremont Street, San Francisco, CA 94105.

Information pertinent to this notice, including the Technical Support Documents, is available for public inspection during normal business hours at the EPA Region 9 office at the address above.

Public Hearing: A public hearing on this proposed decision will be held on May 17, 1986 at 10:00 a.m., 1:30 p.m., and 7:30 p.m. at Cochise Community College Gymnasium, on State Highway 80, 8 miles west of Douglas, Arizona and 16 miles east of Bisbee, Arizona.

FOR FURTHER INFORMATION CONTACT: David Solomon, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105. Telephone: (415) 974-7638.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under Title I of the Clean Air Act, EPA has promulgated National Ambient Air Quality Standards (NAAQS) for certain pollutants, including sulfur dioxide (SO_2). These standards are implemented through State Implementation Plans (SIPs) which established emission limitations, schedules of compliance, and other requirements necessary to attain and maintain the NAAQS. Included in the Arizona SIP is a regulation governing emissions of SO_2 from copper smelters. That regulation was approved by EPA on January 14, 1983. (48 FR 1717).

In 1977, Congress amended the Clean Air Act to include among others, Section 119. That provision authorizes EPA or a state in which a smelter is located to grant a nonferrous smelter order (NSO) to an eligible smelter and thereby to permit the smelter to defer complying with its SIP emission limitations for SO_2 until no later than January 2, 1988.

To be eligible for an NSO under section 119, a smelter must, as a threshold showing, demonstrate that there is no reasonably available constant control method, as determined by the Administrator taking into account the cost of compliance, non-air quality health and environmental impacts, and energy considerations, which would enable it to meet the applicable SO_2 SIP emission limitation. Section 119(b)(3). An NSO may temporarily defer the SIP requirements for compliance with the SO_2 stack emission limitations and schedules for installation of the pollution control equipment necessary to meet those limitations. Section 119 authorized EPA to issue NSOs covering two periods: the first period expired on January 1, 1983, and the second expires January 1, 1988.

The Phelps Dodge Corporation has applied for a second period NSO for its Douglas Reduction Works, located less than a mile from the Mexican border in Douglas, Arizona. The smelter, built in 1902, is the fifth largest copper smelter in the country.

The smelter uses a standard reverberatory furnace (reverb) smelting process. Major process equipment includes 24 roasters, three reverbs, five converters and two anode furnaces. Copper feed arrives at the plant by rail and is transferred to the bedding plant. Feed material is dropped onto the top hearth of a roaster. The resulting material (calcines) produced in the roasters is charged into one of the two operating reverbs. Matte from the reverbs is then tapped into ladles and transferred by overhead cranes to one of five converters. Slag is carried by rail to a nearby dump. Blister copper from the converters is then cast into anodes after refining in one of two anode furnaces. The final product is approximately 99.7% pure copper anodes.

The major air pollutants emitted by this process are sulfur dioxide and particulate matter. The roasters, reverbs and converters are the major sources of air emissions within the Douglas smelter. Emissions from these sources are collected, treated for particulate removal, and ducted to one of two stacks and emitted to the atmosphere. There is no equipment for controlling SO_2 emissions at the smelter. The annual SO_2 emissions for each of the last two years has been over 300,000 tons per year.

II. Financial Eligibility and Technical Requirements

A. NSO Regulations

In February 1985, EPA promulgated regulations to implement the second period NSO program. 50 FR 6434 et seq. (Feb. 15, 1985) (codified at 40 CFR Part 57). The NSO regulations govern the eligibility of smelters for an NSO, the procedures through which an NSO may be issued by EPA or a state, and the minimum contents of an NSO.

A nonferrous smelter is eligible for an NSO if (1) the smelter was in existence and operating on August 7, 1977; (2) the smelter is subject to an approved or

promulgated SO_2 SIP emission limitation adequate to protect the NAAQS without use of any unauthorized dispersion techniques; and (3) the issuing agency determines that the smelter owner is unable to comply with the SO_2 SIP because no means of emission limitation for SO_2 has been adequately demonstrated to be reasonably available for the smelter. Section 119(b); 40 CFR 57.102(a).

The regulations provide two financial tests for judging reasonable availability of pollution control equipment necessary for the smelter to meet the applicable SIP limitations: the Rate of Return test and the Profit Protection test. Passing either of these tests is sufficient to establish financial eligibility. See 51 FR 10211 (March 25, 1986). The Rate of Return test compares a smelter's estimated rate of return earned on the smelter's book value of net investment (in constant dollars) with the required rate of return for the nonferrous metals industry. A smelter passes the test if its estimated rate of return with constant controls is less than the required rate of return for the industry. The Profit Protection test evaluates the impact of installing constant controls on pre-tax net income. A smelter passes the Profit Protection test if its profits over the remaining life of the smelter are estimated to decline by 50% or more, after taking into account the cost of constant control technology.

In addition to financial eligibility, a smelter must show that it has the capability, through the use of interim measures, to assure protection of the NAAQS during the term of the NSO. Section 119(d). In order to satisfy the regulations, a smelter must demonstrate that its emissions will not cause a violation of the NAAQS for SO_2 within the smelter's designated liability area (DLA). These requirements include (1) an approvable supplementary control system to anticipate and prevent violations of the NAAQS within the smelter's DLA, (2) a program for the evaluation and control of fugitive emissions (if the smelter failed to demonstrate at the time of application that its fugitive emissions would not cause or contribute to violations of the NAAQS), and (3) related monitoring and reporting requirements. 40 CFR 57.401–.405, 57.501–.505.

The rules also require that a smelter use an interim level of continuous emission reduction technology, unless a smelter which currently does not use these controls requests a waiver and demonstrates that installation would be so costly as to necessitate permanent or prolonged temporary cessation of operations at the smelter. 40 CFR 57.301, 57.801–.816. During the term of the NSO, a smelter must also conduct a research and development program designed to develop more effective means of compliance with the SO_2 SIP requirements. The smelter can obtain a waiver from this requirement if the smelter owner submits a certification that the smelter will either comply with its SO_2 SIP limits by January 2, 1988 or close after January 1, 1988 until it can comply with such limits. 40 CFR 57.601.

B. Application Process

Phelps Dodge initiated the NSO application process, on March 14, 1985, by submitting to EPA and the State of Arizona a notice of intent to apply for an NSO for the Douglas smelter and to supply the requisite information. Upon the receipt of this notice, the applicable SIP emission limitations for sulfur dioxide and integrally related SIP requirements for Douglas were suspended under the terms of the regulations. 40 CFR 57.202(a). Phelps Dodge completed the application process by submitting its NSO application to EPA on May 15, 1985.(*1*) While the Agency requested Phelps Dodge to supplement its application and asked for additional information, the May 15, 1985 submittal was deemed substantially complete. The SO_2 SIP emissions limitations and integrally related to requirements have been subsequently suspended by notices published in the **Federal Register** pending EPA's evaluation of Phelps Dodge's application. 40 CFR 57.202(b); 50 FR 47841 (November 20, 1985); 51 FR 1294 (January 10, 1986); 51 FR 5401 (February 13, 1986).

C. EPA's Evaluation of Phelps Dodge's NSO Application Under the NSO Regulations

1. Threshold Requrements

The threshold requirements for eligibility are set out in 40 CFR 57.102. These requirements are that the smelter (1) was in existence before 1977, (2) is subject to an approved SO_2 SIP emission limitation, and (3) passes either of the financial eligibility tests.

The Douglas smelter began operation in 1902, and meets the first requirement. The smelter is subject to SO_2 SIP emission limitations contained R9–3–515.C.1.–9. promulgated by Arizona on January 8, 1980. On January 14, 1983, EPA approved these limitations as adequate to protect the NAAQS. 48 FR 1717.(*2*) These emission limitations satisfy the second requirement. The third requirement will be discussed below.

2. Financial Eligibility

Phelps Dodge applied for an NSO based on the Rate of Return test. As discussed previously, a smelter qualifies for an NSO under the Rate of Return test if, after taking into account the cost of constant control technology, it would earn less than the industry's required rate of return on capital. The NSO regulations set forth a method for determining the industry's rate of return and for calculating whether the smelter would earn that required rate. 40 CFR 57.203 and Appendix A. To make this determination, a smelter's annual net cash flow for the remaining life of the smelter is calculated, taking into account the projected costs for constant control technology necessary to meet the SO_2 SIP emission limitations. Each annual net cash flow is then discounted to present value, using the discount factor specified in Appendix A. The sum of the discounted net cash flows equals the present value of the cash flows. The present value of cash flows is then subtracted from smelter's book value of net investment in constant dollars to yield the net present value (NPV). If the NPV is less than zero, the smelter would earn a rate of return less than the industry's rate of return, and pass this test.

To assist in reviewing Phelps Dodge's application for financial eligibility, EPA contracted with JACA Corporation (JACA), an engineering and economic consulting firm with expertise in economic analysis of the copper smelting industry. EPA and JACA evaluated Phelps Dodge's application by analyzing the data and assumptions contained in the application, comparing Phelps Dodge's application with two other NSO applications, comparing Phelps Dodge's information with publicly available information, and consulting EPA technical and financial experts.

Phelps Dodge based its eligibility demonstration on the costs associated with replacement of its reverberatory furnaces with two flash furnaces and the addition of a dual contact sulfuric acid plant. EPA found Phelps Dodge's choice of technology for this purpose to be an adequately demonstrated means of emissions limitation. Phelps Dodge did not provide in its application any comparison on costs of other demonstrated technologies. Nevertheless, EPA was able to make a preliminary determination on the cost-effectiveness of its choice, based on its extensive review of available information, JACA's analysis of Phelps Dodge's data, and comparison with

information submitted by other smelters. EPA concludes that flash furnace-acid plant technology is a reasonable choice and appears to be the most cost-effective selection for the Douglas smelter.

Based on these technologies, Phelps Dodge estimated constant controls for its Douglas smelter would cost $622,400,000. In presenting its data and assumptions, Phelps Dodge used inflation indices and forecast data supplied by EPA in 40 CFR Part 57, Appendix A. For example, various costs items were inflated using EPA's indices. Besides the estimated cost of constant control technology, Phelps Dodge's application included other financial data such as production volume and operating costs. Based on the data and assumptions provided by Phelps Dodge, the Douglas smelter would have a large negative NPV and, thus, pass the rate of return test by a wide margin.

Some of the assuptions used by Phelps Dodge were not fully explained, including some items listed in Phelps Dodge's capital cost estimate for constant controls. EPA examined these assumptions more closely to determine their effect on the smelter's financial eligibility. EPA and its consultant, JACA Corporation, developed a number of scenarios using conservative assumptions, including a worst case scenario, to test the sensitivity of the result to variations in these assumptions. The worst case scenario used extreme financial assumptions such as zero operation and maintenance costs for pollution control equipment, and elimination of all income tax obligations.

In every scenario examined, the Douglas smelter's present value of cash flows was less than its book value. The smelter's NPV varied over a range from negative $445 million to negative $80 million in the worst case scenario. Therefore, based on the available information and analyses, EPA tentatively concludes that the Douglas smelter passes the Rate of Return test.

Phelps Dodge has made a business confidentiality claim on the financial material submitted in its NSO application under 40 C.F.R. Part 2. Evaluation of the claim leads EPA to the conclusion that the release of the type of detailed operating costs and revenue information provided in the application would be likely to put Phelps Dodge at a severe competitive disadvantage. See 40 CFR 2.204(e). Therefore, EPA has determined that it will treat Phelps Dodge's financial material as confidential business information. A summary of EPA's findings and other releasable information is available in a "Proposed Report and Findings on Financial Eligibility."

3. Technical Requirements for an NSO

The NSO regulations require protection of NAAQS by the smelter owner through the use of a supplementary control system (SCS).(3) To implement this requirement a smelter is to anticipate and prevent all violations of the SO_2 NAAQS in the smelter's designated liability are (DLA) through the operation of an approved SCS. 40 CFR 57.401.

If a smelter fails to demonstrate in its application that its SO_2 fugitive emissions will not cause or significantly contribute to violations of the NAAQS, the rules require a smelter owner to submit a workplan for a study to assess the sources of significant fugitive (non-stack) emissions from the smelter and the effects of fugitive emissions upon ambient air quality. 40 CFR 57.502 (a). As will be discussed below, the application and supplemental information filed by Phelps Dodge do not fully satisfy the regulatory requirements with respect to either its supplementary control system or its fugitive emissions workplan.

a. Supplementary Control Systems Requirements. The most important components of an approvable SCS are (1) an appropriate ambient air quality monitoring network to continuously measure the concentration of SO_2 in a smelter's DLA (Section 57.402(a)); (2) a meteorological assessment capability adequate to predict and identify local conditions requiring emission curtailment to prevent possible violations of the NAAQS (Section 57.402(b)); and (3) a requirement that a smelter operate in accordance with the provisions of an SCS operational manual approved by the issuing agency pursuant to requirements listed in the NSO regulations. (Section 57.402(e).)

The NSO regulations provide that each application include "a complete description of any [SCS] in operation at the smelter at the time of application and a copy of any SCS operational manual in use with that system." 40 CFR 57.405 (a)(1). In addition, the regulations require that each NSO application include "a specific plan for the development of a [SCS] fulfilling the requirements contained in 40 CFR 57.402 (a), (b), and (e) (covering air quality mointoring network, meteorological network, and the SCS operational manual)." 40 CFR 57.405 (a) (3). A smelter must implement its SCS, as described in the development plan, within six months from the effective date of an NSO. (Section 57.703 (a) and (b) (1).)

Phelps Dodge's NSO application did not originally include an SCS development plan. By letter dated September 18, 1985, EPA notified Phelps Dodge that its current SCS system did not comply with the applicable regulations. EPA specifically cited Phelps Dodge's failure to demonstrate, based on appropriate dispersion modeling, that its monitors are currently located at all points of expected maximum SO_2 concentrations necessary to anticipate and prevent possible NAAQS violations in the DLA. These deficiencies are consistent with the fact that under its present SCS operating scheme Phelps Dodge has a history of NAAQS exceedances in the area of the Douglas smelter, with 19 in 1984 and 5 in 1985. In the September 18 letter, EPA also informed Phelps Dodge that it found the current SCS operational manual to be deficient in that it is not based on objective air quality dispersion model estimates but rather relies heavily on the subjective judgment of a staff meteorologist. Accordingly, the Agency afforded Phelps Dodge the opportunity to submit as an amendment to the NSO application a specific SCS development plan that is adequately designed to bring its SCS system into compliance with 40 CFR 57.402 (a), (b) and (e).

In its November 8, 1985 response to EPA's September 18 letter, Phelps Dodge acknowledged the inadequacy of its current SCS, particularly the subjective nature of production curtailment decisions. However, Phelps Dodge did not propose a specific plan to bring its SCS into compliance with the NSO requirements as EPA requested. Instead, the company proposed, after issuance of an NSO, to undertake a statistical analysis of historical air quality and meteorological data to determine which meteorological parameters are most influential in dispersing the smelter's emissions to the atmosphere. The company further proposed that upon completion of this analysis, it would meet with EPA to decide which of two approaches to adopt to develop an appropriate SCS system. As the company stated in its November 8, 1985 submittal, "the exact form of the final SCS cannot be described until the data analysis is complete."

Phelps Dodge's proposal does not meet the requirements of § 57.405(b). Issuance of NSO must be based on adequate evidence of an approvable SCS or an approved plan for the development of an SCS fulfilling the requirements of § 57.402 (a), (b) and (e).(4) However, Phelps Dodge indicated that it cannot supply a plan for an improved SCS until the statistical

analysis is complete, since that analysis would be the foundation upon which the SCS would be based.

EPA considers the Company's response to be inadequate. EPA cannot approve an NSO based on the "workplan" Phelps Dodge submitted, since it does not presently provide a basis for judging whether the modified SCS will assure protection of the NAAQS within the smelter's DLA. As a result, EPA concludes that Phelps Dodge has not satisfied the requirements of § 57.405(a). For a more detailed description of EPA's evaluation of Phelps Dodge's SCS and "workplan" see the Technical Support Document accompanying this notice.

b. Fugitive Emissions Requirements. Fugitive emissions are defined as those air pollutants emitted to the atmosphere other than from a source's stack. 40 CFR 57.103(m). The NSO regulations provide that an applicant may either: (1) Demonstrate at the time of applying for an NSO that the smelter's SO_2 fugitive emissions will not cause or significantly contribute to exceedances of the NAAQS in the smelter's DLA; or (2) Submit a design and workplan for a study to assess the sources of significant fugitive emissions from the smelter and their effects upon ambient air quality. 40 CFR 57.502(a).

In its initial application, Phelps Dodge submitted a demonstration that purported to show that its fugitive emissions did not contribute to exceedances of the NAAQS. After reviewing this submission, EPA informed Phelps Dodge in the September 18 letter that its demonstration was inadequate because the company (1) failed to demonstrate that the ambient air quality monitors are placed at the points of maximum fugitive emissions impact; (2) failed to use plume stability rather than plume direction as selection criteria to distinguish between stack and fugitive emissions; and (3) significantly underestimated the fugitive emission factors and operational parameters in modeling maximum SO_2 impacts.

In response to EPA's September 18 letter, Phelps Dodge conducted air quality modeling of fugitive emissions impact and submitted this information to EPA on November 8. The modeled impact of the Douglas smelter's fugitive emissions predicts ambient concentrations of SO_2 approaching fifty times the 24 hour standard. Given the magnitude of the modeled fugitive emissions impact, EPA concludes that Phelps Dodge has not demonstrated that the smelter's fugitive emissions will not cause or significantly contribute to violations of the NAAQS.

In its November 8 letter, Phelps Dodge also submitted a design and workplan for a fugitive emissions study in the event EPA still determined its demonstration to be inadequate. EPA concludes that Phelps Dodge's proposed design and workplan for a fugitive emissions study is inadequate in that, among other things, the company has failed to identify specific locations for ambient monitors and to provide for an adequate sampling period. Phelps Dodge proposes to determine appropriate monitor locations for its workplan during the first six months of the NSO. This proposal fails in significant ways to meet the requirements of § 57.502 which specifies that the design and workplan for a study must be approved as adequate to assess sources of significant fugitive emissions and their effect on ambient air quality before an NSO is granted. The proposal, moreover, has other deficiencies which are discussed in the Technical Support Document accompanying this notice.

For the foregoing reasons, Phelps Dodge has failed to satisfy the technical requirements for issuance of an NSO. EPA has given Phelps Dodge opportunities to amend its application to cure the specified technical deficiencies. In addition, EPA staff has met with Phelps Dodge twice to discuss the deficiencies and the necessary remedies. Phelps Dodge has nevertheless failed to adequately supplement its application. EPA believes that further delay in its proposed decision on the NSO is not warranted. Because of the technical deficiencies, and in spite of apparent eligibility under the financial criteria, EPA believes that it should not grant an NSO under these circumstances. Therefore, EPA, at this time, is proposing to deny an NSO for the Douglas smelter.

4. Interim Requirements

a. Interim Waiver. As part of its NSO application, Phelps Dodge also requested a waiver from the interim requirements for use of continuous emissions reduction technology under 40 CFR Part 57, Subpart H. Since EPA is proposing to deny an NSO, the Agency will not address the waiver request at this time. If circumstances change so that a decision on the waiver is necessary, EPA will consider this matter and issue a tentative determination on whether Phelps Dodge should be granted a waiver from the interim requirements.

b. EDF Petition. Section 119(d)(1)(B) of the Clean Air Act requires that any NSO granted under this section include "such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons." EPA has been petitioned by the Environmental Defense Fund and others to take action under this section and under section 303 to prevent endangerment to the health of persons residing or working near the Phelps Dodge-Douglas smelter. EPA is proposing to deny the NSO to Phelps Dodge-Douglas in this notice. Hence, section 119(d)(1)(B) is not relevant to this proposed denial, and the remaining issues in the petition will be addressed separately.

III. Public Policy Considerations in EPA's NSO Determination

A. The Administrator's Discretion To Grant or Deny an NSO Application

Section 119 of the Clean Air Act provides that, upon application, the Administrator of EPA or the state in which the smelter is located "may" issue a nonferrous smelter order. EPA interprets use of the discretionary "may," rather than the mandatory "shall," as indicating that Congress intended the issuing agency, whether EPA or the state, to have discretion to issue or to decline to issue an NSO, even where the smelter has otherwise demonstrated eligibility.

The legislative history of section 119 supports this view. The House Committee Report on H.R. 6161, the House version of legislation enacted as the 1977 amendments to the Clean Air Act, states, in pertinent part, that the NSO provision "authorizes, but does not require, the issuance of a . . . smelter order under the specified circumstances. Thus, a source which has borne the burden of providing its eligibility for . . . a smelter order . . . has not created any entitlement thereto." H.R. Rep. No. 95-294, 95th Cong., 1st Sess. 68 (1977), reprinted in, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, 95TH CONG., 2D SESS., A LEGISLATIVE HISTORY OF THE CLEAN AIR ACT AMENDMENTS of 1977 at 2535 (Comm. Print 1978) ("Legislative History"). In addition, the Committee repeatedly described the authority to issue an NSO as "discretionary", and acknowledged the right of the issuing agency "to withhold an [NSO] even from a source which may have demonstrated its eligibility therefor." Id.(5)

While section 119 provides the Agency with discretionary authority to grant nonferrous smelters limited relief from otherwise applicable SO_2 emission limitations, the Clean Air Act's underlying purpose is, among others, "to protect and enhance the quality of the

Nation's air resources so as to promote the public health and welfare and the productive capacity of its population. . . ." Section 101(b)(1). Because the authority to issue or to decline to issue an NSO is discretionary, EPA believes it must evaluate the proper exercise of its discretion in light of the public policy considerations implicit in this statutory goal. These considerations include the overall impact of granting an NSO on the air quality in the Douglas area, on attainment and maintenance of the SO_2 ambient standards in Arizona generally, and on transboundary pollution concerns between the U.S. and Mexico.

The overall impact of granting an NSO on air quality and on attainment and maintenance of the NAAQS has been discussed under section II in the context of technical requirements. The regulatory requirements for an approved SCS development plan and a fugitive emissions control workplan relate directly to a smelter's ability to provide reasonable assurance that the SO_2 NAAQS will be attained and maintained during the term of an NSO. In making its decision on the NSO application, EPA believes that, as a matter of public policy, it must consider Phelps Dodge's failure to provide such assurance. The public policy considerations regarding transboundary pollution concerns are discussed below.

B. Transboundary Pollution Concerns

1. U.S.-Mexico Negotiations

In August 1983, President Reagan and President de la Madrid signed the U.S.-Mexico Border Environmental Cooperation Agreement. The Agreement committed both governments to cooperate fully in the protection and improvement of the environment within 100 miles on either side of the border. It designated EPA in the U.S. and the Secretariat of Urban Development and Ecology (SEDUE) in Mexico as the two coordinating agencies. One of the responsibilities of the two agencies is to meet periodically through their respective National Coordinators to work towards implementing the Agreement.

Air quality concerns have been a central element in bilateral discussions under the Agreement. In particular, the U.S. has been concerned about the potential health and environmental hazards posed by three copper smelters along the international boundary, all three of which are located within 50 miles of the border: (1) The Phelps Dodge smelter at Douglas, Arizona, currently the major source of sulfur dioxide emissions in the area and the only non-ferrous smelter in the U.S. operating without any continuous emissions controls for SO_2; (2) the Mexicana de Cobre smelter at Nacozari, Sonora, a new smelter now undergoing start up testing, which could become the largest source of sulfur dioxide emissions in North America; and (3) the Compania Minera de Cananea plant at Cananea, Sonora, an existing smelter 23 miles south of the border. Without sulfur dioxide emission controls, these three smelters have the combined potential to emit in excess of 3,300 tons of sulfur dioxide per day (1.2 million tons/year).

At a July 1985 National Coordinators Meeting, the U.S. and Mexico agreed to "link" controls at the Douglas and Nacozari smelters "so that interim and permanent controls will be applied". Mexico committed itself to install permanent sulfur dioxide emissions controls before expanding smelting capacity at Cananea and reported that Mexicana de Cobre, corporate owner of the Nacozari smelter, has pledged to install an acid plant at Nacozari by January 1988. In turn, the U.S. committed itself to ensure compliance by the Douglas smelter with Arizona's EPA-approved SO_2 emissions limitations no later than January 2, 1988. The two governments also agreed to work toward interim emissions controls at all three smelters. These commitments were formalized in: (1) The Joint Communique issued at the conclusion of the July 1985 meeting; and (2) an August 1, 1985 letter from U.S. National Coordinator Fitzhugh Green to the Mexican National Coordinator, Alicia Barcena Ibarra.

2. Consideration of the U.S.-Mexican Agreement in the NSO Decision

As discussed above, the United States undertook a reciprocal commitment to the Mexican government that the Phelps Dodge-Douglas smelter will be in compliance with its SO_2 emission limitations by no later than January 2, 1988. In exchange, Mexico has committed to control strategies for the Cananea and Nacozari smelters. These commitments were undertaken by the two governments based on the recognition that SO_2 emissions from sources in each country can or will contribute to ambient SO_2 concentrations with the potential to threaten public health and welfare in both. Elimination of this threat requires both governments to restrict SO_2 emissions from their respective smelters.

On December 11, 1985, technical experts from Mexico and the United States met to review progress made towards fulfilling the terms of their Agreement. Mexico assured the United States that Mexican de Cobre is taking all steps necessary to obtain and install an acid plant at Nacozari by January 2, 1988. Mexicana de Cobre is currently examining bids from three companies to construct an acid plant at Nacozari and plans to make its decision on one of the bids in the spring of 1986. The Mexican Government expects construction of the acid plant to begin shortly thereafter. EPA believes that, if the United States is to retain the benefits of its Agreement with Mexico, it must begin to take the steps necessary to assure that the Douglas smelter will be in compliance with its SIP requirements by the agreed upon date, and that interim measures will be applied to reduce the smelter's emissions into Mexico.

EPA has considered the means available to fulfill the agreement with Mexico. The Agency first considered whether issuance of an NSO could be used to assure that the Douglas smelter would comply with the SO_2 emission limit by January 2 1988. While Section 119 and the NSO regulations establish the framework under which an NSO may postpone a smelter's SIP obligation, the NSO itself does not compel compliance with the SIP emission limitations, especially in an instance such as this in which Phelps Dodge has requested a wavier from the iterim requirements to install continuous SO_2 control technology.

Once an NSO expires, a source is subject to an immediate obligation to comply with the SIP requirements, but the SIP requirements are not self-executing. If a source does not comply with its SO_2 emission limitations, the remaining avenue to assure compliance is the enforcement authority under section 113 of the Clean Air Act.

Under section 113, EPA does not have authority to compel compliance immediately upon discovery of a violation of SIP requirements. Under Section 113(a)(1), the Administrator is required to notify a source whenever he finds the source to be in violation of the applicable SIP. If the source violates the same requirements of the applicable SIP more than thirty days after such notification, the Administrator is then authorized to bring a civil action for injunctive relief and penalties in federal district court. Section 113 (a)(1) and (b)(2).

Even after filing such an enforcement action, EPA could not anticipate an early result with any certainty.(6) EPA's experience has taught that achieving compliance through litigation and trail can typically require eighteen months, at a minimum, from the date a complaint is filed to a decision. Under such a scenario, there is barely enough time to

achieve a compliance by the commitment date even if EPA were to begin the litigation process immediately. Thus, coupling such a litigation scenario with an NSO for even a shorter period than the statutory time limit would not enable the United States to assure its ability to meet the commitment to Mexico.

These considerations lead EPA to the conclusion that issuance of an NSO for the Douglas smelter under the present circumstances would not provide assurance that the U.S. Commitments to Mexico can be met. Issuance of an NSO would simply extend the present situtation—the Douglas smelter operating with no constant emission controls—for the term of an NSO, with the need for an enforcement action upon expiration of the NSO to impose compliance with the SIP limitations, if Phelps Dodge does not comply immediately. Given the lack of assurance that the smelter would be in compliance or shut down by January 2, 1988, EPA considers that issuance of an NSO to Phelps Dodge would not be consistent with the U.S. commitments to Mexico.

C. Concerns of the State of Arizona

The Clean Air Act vests primary responsibility for controlling and preventing air pollution in the state and local governments. Section 101(a)(3). This primary state responsibility is coupled with a Federal leadership role in the development of Federal-State programs to prevent and control air pollution. Section 101(a)(4). The mechanism to implement the dual responsibilities is the SIP process under Section 110. Consistent with this statutory design, section 119 provides that either EPA or a state may issue an NSO to an eligible smelter. If a state issues an NSO, it is submitted to EPA for approval; upon approval, the NSO becomes part of the SIP. Section 119(a)(1)(B). If EPA is the issuing agency, it may grant an NSO after 30 days notice to the state in which the smelter is located. Section 119(a)(1)(A).

The Governor of Arizona, Bruce Babbitt, has communicated to EPA his concerns about potential public health effects and ecological consequences should EPA decide to issue Phelps Dodge an NSO. On August 21, 1985, Governor Babbitt wrote to Administrator Thomas expressing specific concerns about the consequences of transboundary smelter emissions in the area of southern Arizona and nothern Sonora, Mexico. Because of his concerns related to the Nacozari smelter, he stated that the U.S. government "must be absolutely certain about its ability to enforce its commitment to require that the Douglas smelter comply with the provisions of the Clean Air Act no later than January 2, 1988." He urged that the NSO be disapproved unless this requirement is met, and that Phelps Dodge "conclusively demonstrate" that the Douglas smelter can operate in such a manner that the ambient air quality standards are not exceeded. Finally, he emphasized the need to "demonstrate reciprocity to Mexico" to encourage the addition of adequate controls to the Mexican smelters.

These concerns were further elaborated in a second letter, dated February 11, 1986. In this letter Governor Babbitt expressed the concern that the pending NSO has serious implications for the health of Arizona citizens and the ability of the State to uphold its responsibility to enforce State air quality laws and regulations. He stated that Phelps Dodge has taken no steps to comply with the requirements of its 1985 state-issued operating permit, and that violations of ambient air quality standards have occurred in the past two years as the result of Phelps Dodge's refusal to institute protective measures. Once again he expressed concern about the Mexican situation, noting that this concern was heightened in light of the fact that the Nacozari smelter plans to begin operating in 1986 without pollution control equipment. Governor Babbitt again stressed the importance of the reciprocal commitments with Mixico to control emissions from both the Nacozari and Douglas smelters. He recommended that EPA deny the NSO unless it has assurance that Phelps Dodge will be in compliance with the Clean Air Act by January 2, 1988, and unless Phelps Dodge affirmatively demonstrates that the Douglas smelter will operate without violating the NAAQS during the term of the NSO.(7)

The concerns raised by Governor Babbitt on behalf of the State of Arizona are similar to EPA's own reservations about issuance of an NSO under the present circumstances. And, they reinforce the Agency's position that the proper course of action at this time is to propose to deny an NSO for the Douglas smelter.

IV. Conclusion

In deciding whether to propose issuance or denial of an NSO for the Douglas smelter, EPA considered not only Phelps Dodge's failure to adequately satisfy the requirements of the NSO regulations, but also the United States-Mexico agreements set forth in the Joint Communique, and the views expressed by Governor Babbitt on EPA's NSO decision. EPA views Phelps Dodge's failure to satisfy the technical requirements of the NSO regulations as potentially remediable. EPA has been informed that Phelps Dodge is engaged in a program to upgrade its SCS. EPA does not have adequate information to evaluate the sufficiency of this program at this time. Without adequate satisfaction of the NSO technical requirements, EPA cannot determine that the ambient air quality standards would be protected, a key judgment which is a prerequisite to the granting of an NSO.

Similarly, EPA has no basis to judge that the Douglas smelter will comply with its SIP emission limitations by January 2, 1988, after an NSO would expire. Assurance that compliance will be achieved is necessary for the Agency to assure that U.S. can meet its commitments to Mexico. EPA is also concerned about its ability to assure interim reductions of the smelter's emissions into Mexico. As is the case with the technical deficiencies, EPA believes that these concerns are remediable, if the Agency can be assured that the Douglas smelter will achieve compliance by January 2, 1988 and will apply adequate interim control measures. Such assurance would have to be in the form of enforceable commitments on the part of the company.

In a letter to Charles L. Elkins, EPA Acting Assistant Administrator, dated February 26, 1986, Mr. James M. Bush, attorney for Phelps Dodge, suggested that the company would be willing to enter into a consent decree providing for closure of the smelter on January 1, 1988, if it is not then in compliance with the Clean Air Act, and also to undertake certain interim measures to protect NAAQS levels in Mexico. EPA believes that adequate commitments by the company in the form of a consent decree could provide the type of enforceable commitments necessary.

At Phelps Dodge's request, EPA met on March 28 and 29, 1986, with representatives of the company to discuss Mr. Bush's proposal. At this meeting, Phelps Dodge stated to EPA that it was prepared to enter into a consent decree and was prepared to agree to the following major terms:

1. Cessation of smelting operations at Douglas by December 31, 1987, to be secured by adequate financial assurances in the form of a bond or letter of credit and stipulated penalties; and

2. In the interim, assuming permission is granted by the Mexican Goverment, installation and operation of ambient

monitors on the Mexican side of the border within a radius of 24.1 miles of the Douglas smelter, coupled with operation of its SCS to curtail emissions to protect NAAQS levels within the entire 24.1 mile radius, as though the entire area were in the United States.

EPA believes that an acceptable consent decree containing these major provisions could provide the assurance EPA needs to satisfy its commitments to Mexico. EPA intends to continue discussions with Phelps Dodge in these issues. EPA anticipates that any discussions also might include technical matters raised in this notice. Although EPA cannot predict the likely outcome of the discussions with Phelps Dodge, it will take into account in those discussions any comments received on this notice. If a proposed agreement in the form of a consent decree is reached that decree will be subject to public comment under 28 CFR 50.7.

However, on the present record and without enforceable commitments, EPA concludes that a proposed denial is the proper course of action. For the foregoing reasons, EPA is proposing to deny an NSO for the Phelps Dodge smelter at Douglas, Arizona, at this time.

V. Suspension of the Arizona SO_2 SIP Emission Limitation Pending Final Action on the NSO Application

As discussed above, the applicable SIP emission limitations for SO_2 and other integrally related SIP requirements (*8*) have been suspended as to the Douglas facility since March 14, 1985. See 51 FR 5401 (Feb. 13, 1986). Since this **Federal Register** Notice represents only a tentative determination on Phelps Dodge's NSO application, EPA considers it appropriate to continue the suspension of SO_2 emission limitations. Supporting this conclusion are the facts that the technical deficiencies can potentially be remedied, and the company's apparent willingness to enter into enforceable commitments could provide a means of assuring protection of the NAAQS and the undertakings with Mexico, without the necessity for protracted litigation. A short-term continuation of the suspension will enable discussions to proceed rapidly. At the same time, EPA will consider carefully whether or not to grant any further suspension, based on progress in the discussions.

For these reasons, EPA finds there is good cause to extend the suspension of the SO_2 SIP emission limits under 40 CFR 57.202(b) until 90 days after issuance of this proposed decision (July 9, 1986).

Dated: April 10, 1986.

Judith E. Ayres,

Regional Administrator.

Footnotes

(*1*) Under section 119, Phelps Dodge could have applied either to EPA or the State of Arizona for an NSO. Phelps Dodge chose to apply to EPA.

(*2*) These SIP limitations were challenged and upheld in *Kamp et al.* v. *Hernandez*, 752 F. 2d 1444 (9th Cir. 1985), Pet. for rehearing denied. No. 83-7183 (9th Cir. Dec. 11, 1985).

(*3*) A supplementary control system is a dispersion technique which does not reduce stack emissions of pollutants to the atmosphere, but rather varies emissions over time according to meteorological conditions.

(*4*) The Acting Assistant Administrator for Air and Radiation, Charles Elkins, issued guidance on implementation of the NSO regulations concerning SCS requirements to the Regional Administrators on January 31, 1986. The Elkins memorandum discussed the requirements of an adequate SCS plan which a smelter must meet before being issued an NSO. It stated that "an NSO may not be approved unless the issuing agency reasonably determines that the SCS development plan submitted by a smelter adequately assures that the provisions of Subpart D concerning the required components of an SCS will be satisfied." Pp. 2-3.

(*5*) The Conference Committee adopted the general approach and basic format of the House provision on smelter orders, with minor modifications, none of which are relevant here. H.R. Rep. No. 95-294, 95th Cong., 1st. SESS (1977) reprinted in, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, 95TH CONG., 2D SESS., A LEGISLATIVE HISTORY OF THE CLEAN AIR ACT AMENDMENTS OF 1977 at 517-518 (Comm. Print 1978).

(*6*) Upon filing a complaint, EPA can certainly request the court to issue a preliminary injunction requiring a source to comply immediately with the applicable SIP limits. While it is possible that EPA could prevail on such a request, it is equally possible that the Agency would not. The standard for granting a preliminary injunction is a stringent one and courts are reluctant to grant them. For these reasons, EPA believes it cannot rely on obtaining a preliminary injunction as a means of ensuring compliance by a date certain, following expiration of an NSO.

(*7*) The Governor reiterated his concerns in a subsequent letter to EPA dated March 27, 1986. EPA has also received a number of letters from federal and state legislators expressing a variety of views on the Phelps Dodge NSO application.

(*8*) EPA has elaborated on which elements of the SO_2 SIP are suspended as "integrally related" requirements in a letter dated March 14, 1986, from David P. Howekamp, Director, Air Management Division, Region 9, to Matthew P. Scanlon, Vice President, Phelps Dodge Corporation.

[FR Doc. 86-8627 Filed 4-16-86; 8:45 am]

BILLING CODE 6560-50-M

(OPPE-FRL-3003-8)

Farmworker Protection Standards for Agricultural Pesticides Negotiated Rulemaking Advisory Committee; Open Meeting

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), we are giving notice of a two-day open meeting of the Advisory Committee.

The two-day meeting will be held on Monday, May 5, and Tuesday, May 6, 1986. The meeting will be held in Conference Room No. 1112, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia. Each day, the meeting will start at 9:00 a.m. and run until completion.

The purpose of the meeting is to review the latest version of the draft proposal, discuss any suggested changes, and attempt to develop the best possible draft.

If interested in attending, or in receiving more information, please contact Chris Kirtz at (202) 382-7565.

Dated: April 10, 1986.

Milton Russell,

Assistant Administrator.

[FR Doc. 86-8608 Filed 4-16-86; 8:45 am]

BILLING CODE 6560-50-M

[PP 4G3149/T513; FRL-3004-7]

Rohm and Haas Co.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the fungicide alpha-butyl-alpha-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile and its metabolites in or on certain raw agricultural commodities. These temporary tolerances were requested by Rohm and Haas Co.

DATE: These temporary tolerances expire February 28, 1988.

FOR FURTHER INFORMATION CONTACT:

By mail:

Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1900).

SUPPLEMENTARY INFORMATION: Rohm and Haas Co., Independence Mall West,

Philadelphia, PA 19105, has requested in pesticide petition PP 4G3149 the establishment of temporary tolerances for residues of the fungicide alpha-butyl-alpha-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile and its metabolites containing both the chlorophenyl and triazole rings in or on the raw agricultural commodities apples (fresh) and grapes (fresh) at 0.5 part per million (ppm) as a result of preharvest applications. The apples and grapes will be for fresh market use only.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 707-EUP-105, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire February 28, 1988. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: April 11, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-8605 Filed 4-16-86; 8:45 am]

BILLING CODE 6560-50-M

[OW-5-FRL-3001-2]

Leather Tanning and Finishing Industry, Point Source Category Effluent Limitations, Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Waiver of Sulfide Pretreatment Standards.

SUMMARY: The City of Hartford (hereinafter referred to as "Hartford") operates a publicly owned treatment works (POTW) which accepts wastewater from a tannery that is subject to pretreatment standards of 40 CFR Part 425. Hartford was requested by the leather tannery company to waive the categorical sulfide pretreatment standard applicable to its wastewater discharge.

ADDRESS: The tannery to which the sulfide pretreatment standards shall not apply is: W.B. Place and Company, 368 West Sumner Street, Hartford, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Carol Staniec, Water Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6112.

SUPPLEMENTARY INFORMATION: On November 23, 1982, the Environmental Protection Agency promulgated Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Leather Tanning and Finishing Industry Point Source Category (47 FR 52848). These regulations established categorical pretreatment standards for the discharge of sulfides by tanneries to POTWs. The regulations also established a procedure in § 425.04(c) to waive the applicablility of the sulfide pretreatment standard to the affected tanneries by the POTW.

These regulations became effective on January 6, 1983, except § 425.04 (b) and (c) which contained information collection requirements that had to be reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511). On June 30, 1983, a notice was published in the **Federal Register** that OMB had approved the information collection requirements. Applicable reporting dates previously specified in § 425.04(b) and (c) were subsequently revised with final corrections published on August 5, 1983 (38 FR 35649). As previously stated, POTWs with tanneries tributary to their treatment works and regulated by the Leather Tanning regulations may optionally apply on tanneries' behalf for a waiver from the categorical sulfide pretreatment standard provided that the POTW can certify that the regulated tanneries' sulfide discharges do not interfere with the operations of the treatment works. This sulfide waiver request must comport with the requirements listed in § 425.04 (b) and (c) as well as satisfy the requirements contained in the National Sulfide Criteria Document. The applying POTW must first issue a public notice of their intent to waive the sulfide standard, conduct a public hearing (if one is requested), and submit a certification statement to the Regional Water Division Director with documentation supporting the noninterference claim. The City of Hartford issued a public notice on February 17, 1983, in the *Hartford Times-Press* which presented the findings supporting Harford's determination that the discharge of sulfides from the tannery does not interfere with the operation of the treatment works. No public written comments were received in response to this public notice; and no oral adverse comments were given at the public hearing scheduled by the City of Hartford, Wisconsin on Tuesday, March 1, 1983 at City Hall. Subsequently, Hartford submitted to the Regional Water Division Director its written certification statement, as well as information and data which it considered relevant factors, including:

1. The presence and characteristics of other industrial wastewaters which can increase or decrease sulfide concentrations, pH, or both:

2. The characteristics of the sewer/interceptor collection system which either minimize or enhance opportunities for the release of hydrogen sulfide gas;

3. The characteristics of the receiving POTW's headworks, preliminary and

primary treatment systems, and sludge holding and dewatering facilities which either minimize or enhance opportunities for the release of hydrogen sulfide gas; and

4. The occurrence of any prior sulfide related interference as defined in § 425.02(j).

The Region has carefully reviewed all supporting documentation and has determined that Hartford has considered all the relevant factors, as required by 40 CFR 425.04(b) and (c) and the National Sulfide Waiver Criteria Document. The following summarizes the steps taken by the Region regarding this request.

The Region reviewed the information Hartford suplied on the point of discharge of the applying tannery to the treatment service area, as well as a description of its operations and characteristics of its discharge. W.B. Place is the only tannery in the service area. Additionally, Hartford states that there are no other industries that have a potential to contribute a significant amount of sulfide to the POTW, or cause a significant change in wastestream pH.

The wastewater from W.B. Place flows by force main to an interceptor sewer. This gravity feed line carries the total flow of the City to the wastewater treatment plant which is located on a remote site a mile west of the City. Due to the slope of this gravity system, flow is rapid and the potential for hydrogen sulfide generation is minimal. The seven manholes for the system are located in open areas, away from residential and commercial developments. An inspection of the sewer lines did not reveal any damage from the conversion of hydrogen sulfide to sulfuric acid.

All components of the Hartford treatment process are located in an outside environment. During the ten years of operation of this plant, the employees have not experienced any problem with hydrogen sulfide with the treatment plant or interceptor. Plant personnel are trained for confined space entry procedures and in the use of three-way gas monitors. A historical review of the last five years of operational performance of the plant indicates no sulfide related interference problems.

Wastewater is generated on a batch basis at W.B. Place. The wastewater is screen-filtered, equalized, and clarified before being pumped to the POTW. Since the batch wastewater is equalized, its pH remains reasonably constant at the range of 8–10. The tannery is equipped with air blowers in case of hydrogen sulfide release and tannery personnel are trained in evacuation procedures. Two air helmets and hydrogen sulfide monitors are also available for use.

Hartford does not impose discharge limitations upon W.B. Place except for the prohibition of hair. The Wisconsin Department of Natural Resources (WDNR) is directly responsible for assuring that W.B. Place meets applicable Federal, categorical standards.

This determination applies only to the sulfide pretreatment standard and will be contingent upon Hartford's, the affected tannery's, and WDNR's adherence to the following conditions. Failure to comply with the specified conditions can be considered grounds for the Region's withdrawal of this waiver after formal notice to the City of Hartford and the affected tannery:

1. Within 30 days of the Region's approval of the City of Hartford's sulfide waiver application, WDNR shall issue to W.B. Place by certified mail, a notice conveying applicable pretreatment limitations, monitoring and reporting requirements. This notice/permit shall contain conditions which will eliminate the occurrence of slug loads and discharges with a pH less than 7.0 to the sewer system, specify a continuous pH monitoring frequency, and require compliance with all applicable provisions of the Wisconsin State Statutes. Upon request by the Region, this notice shall be made available for review and inspection.

2. Within one year of the Region's approval of the City of Hartford's sulfide waiver application, and annually thereafter by March 31 of each year, the City shall submit (as required by its National Pollutant Discharge Elimination System (NPDES) permit) an evaluation of significant changes during the year in wastewater flows and related levels of sulfides and sulfates or pH, based upon compliance monitoring conducted by the City, as well as information supplied by the tannery pursuant to its pretreatment discharge requirements as specified by the WDNR. This evaluation shall also provide information on any significant changes in discharges by other industrial sources of sulfide, or other changes within the City's collection and treatment system, which may have increased hydrogen sulfide emissions in the system. The City shall monitor W.B. Place's effluent on a quarterly basis for sulfide, sulfate, pH, and flow. The sulfide and sulfate analyses shall be performed on 24 hour, flow proportioned composite samples of the tannery effluent with the test results provided in the annual report.

All other pretreatment standards for existing sources contained in 40 CFR Part 425, will remain in effect for this tannery. These requirements do not replace any more stringent conditions required by Hartford or the WDNR. If any other conditions are imposed on the affected tannery by Hartford which will impact the waiving of the sulfide pretreatment standard, then Hartford must formally notify the Region thirty (30) days prior to the effective date of the proposed modification. This approval shall become effective at the time the WDNR issues a modification to Hartford's NPDES permit to incorporate the requirements of Condition 2.

Therefore, pursuant to § 425.04(c), and in consideration of the representations and information provided by Hartford, I hereby grant this waiver of sulfide requirements set forth in the Leather Tanning and Finishing Pretreatment Standards for W.B. Place and Company in Hartford, Wisconsin.

Dated: February 12, 1986.

Robert Springer,

Acting Regional Administrator, Region V.

[FR Doc. 86-8628 Filed 4-16-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-761-DR]

Montana; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Montana (FEMA-761-DR), dated March 15, 1986, and related determinations.

DATED: April 11, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Montana, dated March 15, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 15, 1986:

Chouteau, Daniels, Fergus, Granite, Petroleum, Powell, and Valley Counties for Public Assistance.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

[FR Doc. 86-8545 Filed 4-16-86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-474]

Atlantic Federal Savings and Loan Association, Baltimore, MD

Dated: April 11, 1986.

Notice is hereby given that on March 25, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Atlantic Federal Savings and Loan Association, Baltimore, Maryland for permission to convert to the stock form of organization. Following the conversion the Association shall be known as Atlantic Federal Savings Bank. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-8639 Filed 4-16-86; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-473]

First American Savings, F.A., Abington, PA

Dated: April 11, 1986.

Notice is hereby given that on April 4, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First American Savings, F.A., Abington, Pennsylvania for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Pittsburgh, 20 Stanwix Street, One Riverfront Center, Pittsburgh, Pennsylvania 15222-4893.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-8638 Filed 4-16-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in section 522.7 and/or 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 024-010835-001.

Title: The Port of Portland Terminal Agreement.

Parties:

The Port of Portland (Port)

Matson Navigation Company, Inc. (Line)

Synopsis: The proposed amendment would permit the Line to utilize their tariff for the carriage of cargo through the Port to the foreign destination of Majuro, Eyebe, Pohnpei, and Truk.

Filing party: Mr. Milton A. Mowat, Manager, Traffic and Regulatory Affairs, The Port of Portland, Post Office Box 3529, Portland, Oregon 97208.

By Order of the Federal Maritime Commission.

Dated: April 14, 1986.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86-8641 Filed 4-16-86; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreeement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 024-010912.

Title: The Port of Galveston Terminal Agreement.

Parties:

The Board of Trustees of the Galveston Wharves (Wharves)

Central States Cotton Company (Central States).

Synopsis: The proposed agreement would permit the Wharves to lease their Champion Building warehouse to Central States for the storage of cotton and the installation of machinery for its cotton storage warehousing activity. The initial term of the agreement is one (1) year with options for three (3) one-year extensions beginning April 1, 1986. The parties have requested a shortened review period.

Agreement No.: 024-010913.

Title: The Port of Galveston Terminal Agreement.

Parties:

The Board of Trustees of the Galveston Wharves (Wharves)

Central States Cotton Company (Central States).

Synopsis: The proposed agreement would permit the Wharves to lease their Plant No. 3. warehouse to Central States for the storage of cotton and the installation of machinery for its cotton storage warehousing activity. The initial term of the agreement is one (1) year with options for three (3) one-year extensions beginning April 1, 1986. The parties have requested a shortened review period.

Agreement No.: 024-010914.

Title: The Port of Galveston Terminal Agreement.

Parties:

The Board of Trustees of the

Galveston Wharves (Wharves)
Central States Cotton Company (Central States).

Synopsis: The proposed agreement would permit the Wharves to lease their Pier 35 warehouse to Central States for the storage of cotton and the installation of machinery for its cotton storage warehousing activity. The initial term of the agreement is one (1) year with options for three (3) one-year extensions beginning April 1, 1986. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: April 14, 1986.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86-8642 Filed 4-16-86; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Consultation Concerning the Development of Evaluation Strategies for Prevention/Intervention Programs for Juvenile Offenders With Drug, Alcohol, and Mental Health Problems; Open Meeting

The Office of the Administrator, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) will hold a meeting to discuss the development of alternative evaluation strategies for Prevention/Intervention for Juvenile Offenders with Drug, Alcohol, and Mental Health Problems. Such discussion may assist in the development of recommendations regarding future program development for this target group. The meeting will include discussion of concepts and evaluate aspects of exemplary programs. Depending upon the outcome of the meeting, specific project approaches, methodology, and formal solicitations for a Federal Contract may be developed.

Invited attendees will include alcohol, drug, and mental health prevention/intervention, and juvenile justice experts and Federal staff. Attendance by the public will be limited to space available.

Date: April 22-23, 1986.
Time: 9:00 a.m.-4:00 p.m.
Place: National Institutes of Health, Building 31C, Conference Room 9, 9000 Rockville Pike, Bethesda, MD 20892.

Additional information may be obtained from: Mel Segal/Carl Hampton, Office of Prevention, ADAMHA, 5600 Fishers Lane, Room 13C-05, Rockville, MD 20857, Telephone: (301) 443-3820.

Robert L. Trachtenberg,

Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

Department of Health and Human Services

Alcohol, Drug Abuse, and Mental Health Consultation Meeting

Agency: Alcohol, Drug Abuse, and Mental Health Administration.

Action: Notice of Meeting.

Summary: This notice sets forth the schedule and proposed agenda for a forthcoming meeting of the Alcohol, Drug Abuse, and Mental Health Administration. This notice also describes the goals and objectives of the meeting. Notice of this required under the Federal Advisory Committee Act (Pub. L. 92-463).

Date: April 22-23, 1986, 9 a.m.-4:00 p.m.

Status of Meeting: Open.

Address: National Institutes of Health, Building 31C, Conference Room 9, 9000 Rockville Pike, Bethesda, MD 20892.

For Further Information Contact: Mel Segal/Carl Hampton, Office of Prevention, ADAMHA, 5600 Fishers Lane, Room 13C-05, Rockville, MD 20857, Telephone: (301) 443-3820.

Supplementary Information: The Alcohol, Drug Abuse, and Mental Health Administration will hold a consultation meeting to discuss the development of alternative evaluation strategies for Prevention/Intervention Programs for Juvenile Offenders with Drug, Alcohol, and Mental Health Problems. Said discussion may assist in the development of recommendations regarding future program development for this target group. The meeting will include discussion of concepts, scope, and program requirements for the evaluative aspects of exemplary programs. Depending upon the outcome of the meeting, specific project approaches, methodology, and formal solicitation for a Federal Contract may be developed. The meeting will be chaired by Dr. Morton Silverman, Associate Administrator for Prevention, ADAMHA.

The meeting is open to the public.

Invited attendees will include alcohol, drug abuse, and mental health prevention, intervention, and Juvenile Justice experts and Federal staff. Attendance by the public will be limited to space available.

[FR Doc. 86-8640 Filed 4-16-86; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

Diabetes Outpatient Education, Third Party Reimbursement; Open Meeting

The following meeting will be convened by the Division of Diabetes Control (DC), Center for Prevention Services (CPS), Centers for Disease Control (CDC), and will be open to the public for observation and participation, limited only by the space available:

Third Party Reimbursement for Diabetes Outpatient Education

Dates: April 28-29, 1986.
Time: 1:00 p.m.-5:15 p.m., April 28; 8:15 a.m.-4:00 p.m., April 29.
Place: Ramada Renaissance Hotel (Atlanta Airport), 4736 Best Road, College Park, Georgia 30337.
Purpose: To discuss experience in developing reimbursement for diabetes outpatient education. Thorough "case history" presentations and workgroups, the essential characteristics and processes necessary to obtain third party reimbursement for outpatient education will be identified. A manual that outlines approaches for the different third party payers will be developed.

Additional information may be obtained from: Pomeroy Sinnock, Ph.D., Chief, Information and Training Section, Program Services Branch, DC, CPS, CDC, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephones: FTS: 236-1848, Commercial: 404/329-1848.

Dated: April 11, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 86-8576 Filed 4-16-86; 8:45 am]

BILLING CODE 4160-18-M

Preventive Health Services; Venturi Fluoride Saturator Project Grants; Availability of Funds for Fiscal Year 1986

Introduction

The Centers for Disease Control (CDC) announces the availability of funds in fiscal year 1986 for competitive applications for grants to demonstrate the effectiveness of the Venturi Saturator in fluoridating community and school water systems.

Authority

This grant is authorized by section 301(a) [42 U.S.C. 241(a)] of the Public Health Service Act, as amended. Regulations applicable to this program are in Title 42 of the Code of Federal Regulations, Part 52. The Catalog of Federal Domestic Assistance Number is 13.283.

Eligible Applicants

Eligible applicants are limited to State Dental Health Programs and State Drinking Water Programs of Official State Public Health Agencies which apply for support to demonstrate the Venturi Saturator in: (1) Six community systems, (2) four school systems, or (3) both six communities and four school systems (10 systems).

Program Objectives/Purpose

The purpose of this grant program is to demonstrate the level of maintenance actually required to operate the Venturi Saturator and determine whether optimal fluoride levels can be maintained in both community and school fluoridation settings. Before the Venturi system will be fully acceptable to the States, there must be adequate demonstration of the level of maintenance actually required and whether optimal fluoride levels can be maintained in both community and school fluoridation settings. Studies producing reliable performance parameters need to be conducted. The most recent development of a much improved model with fewer parts and lower operating costs promises greater effectiveness and efficiency of operation. This new model of the Venturi Saturator needs to be tested for a reasonable length of time (2 years) and the results of the project should be widely disseminated. The 1990 Health Objectives for the Nation state that by 1990, 95 percent of the population served by public water supplies should be receiving the benefits of fluoridation and that at least 50 percent of school children living in fluoride-deficient areas should be served by an optimally fluoridated school water supply. This project, if successful, could greatly assist in meeting these Objectives for the Nation.

Specific objectives for this project are:

A. Install 10 Venturi Saturators—six in small community water systems and four in rural school systems. The venturi systems should be installed utilizing the standard procedure outlined in the IHS Venturi Fluoridator Manual.

B. Operate both community and school demonstrations according to the Association of State and Territorial Dental Directors' (ASTDD) "Recommend State Guidelines for Community Fluoridation" and the recommendations set forth in "Water Fluoridation, A Manual for Engineers and Technicians," published in October 1985.

c. Specifically determining the following:

1 *Daily Operations*

—The amount of water treated
—The amount of chemical used
—The measured fluoride levels in the distribution system
—The calculated fluoride levels

2. *Maintenance*

—Type of maintenance performed and whether preventive or repair
—Number of maintenance activities performed
—Time required for maintenance

D. Publish the results in nationally known journals.

Availability of Funds

An estimated $59,000 will be available in fiscal year 1986 to award one grant at approximately $59,000 to demonstrate the Venturi Saturator in all 10 systems (six community systems and four school systems); or two grants, one at approximately $35,000 to demonstrate the Venturi Saturator in six community systems, and one at approximately $24,000 to demonstrate the Venturi Saturator in four school systems. The project or projects are expected to be funded in 12 month budget periods with a two year project period. The second year is subject to availability of funds.

Use of Funds

Funds will not be used for the purchase or lease of land or buildings, for the construction of a facility, or for the renovation of existing space. The purchase of equipment will only be considered for approval if it is justified on the basis of being essential to the project and not available from any other source.

Reporting Requirements

Progress reports must be submitted on a quarterly basis and are due 30 days after the end of each quarter. The quarterly progress should follow the procedure outlined in the ASTDD Guidelines for Community Fluoridation in evaluating the performance of the Venturi Saturators. Financial status reports must be submitted no later than 90 days after the end of each budget period. Final financial status and progress reports are required no later than 90 days after the end of the project period.

Recipient Financial Participation

No specific matching funds are required; however, the application should include data on the applicant's contribution to the overall fluoridation program cost during its most recent accounting period and a financial commitment to continuation of the program in future years.

Applications

A. Special Guidelines for Application Preparation

There are two separate and distinct project areas set forth in this announcement. For applicants requesting assistance for both the community and the school project areas, a single application document shall be submitted, but a separate application narrative and budget request is required for each project area for which assistance is requested. Consolidated applications which do not contain separate narrative and budget requests will be evaluated and will not be returned to the applicant. Award of funds may be for only the community project area, only the school project area, or for both on a consolidated basis with separate budgets for each part.

B. Application Content

1. Initial Application—The initial application for a new project period must include a narrative for each part of this announcement under which funds are requested which details the following:

a. The background and need for project support, including information that relates to factors by which the applications will be evaluated;

b. The objectives of the proposed project which are consistent with the purpose of the grant and which are measurable and time-phased;

c. The methods and activities which will be undertaken to accomplish the objectives;

d. The methods which will be used to evaluate the success of the project;

e. A budget and accompanying justification consistent with the purpose and objectives of the project; and

f. Any other information that will support the request for assistance.

2. Continued Funding—An application for continuing funding of these activities within an approved project period should contain the following information:

a. Progress report on activities performed and results achieved during the prior budget period;

b. Short-term objectives for the new budget period;

c. A description of the method of operation that will be used to accomplish any new objectives;

d. An evaluation plan which will help determine if the methods are effective and the objectives are being achieved; and

e. A budget and accompanying justification consistent with the purpose and objectives of the project.

C. Application Review and Evaluation Criteria

Requests for assistance for community project areas and requests for assistance in school project areas will be reviewed and evaluated *separately*, regardless of whether they are submitted in one application document.

Project areas will be reviewed and evaluated based on the following:

1. Evidence of the applicant's understanding of the scientific concepts and other relevant work that has been accomplished that would impact the proposed project.

2. The quality of the applicant's plan for conducting the project to determine the actual level of maintenance required and if optimal levels of fluoride can be consistently maintained, i.e., who will perform maintenance, how maintenance records will be maintained, and how the performance of the Venturi will be evaluated for meeting optimum levels.

3. The establishment of proposed objectives which are measurable, time-phased and for consistent with the purpose of the project.

4. Evidence of how the project will be administered, i.e., how will the Drinking Water Program and the Dental Program Work together to accomplish the management of this project.

5. The soundness of the methods to be used in determining (1) the level of maintenance required, and (2) levels of fluoride maintained.

6. The capability of the applicant to collate, analyze, and report the data in a comprehensive fashion.

7. The capability of the applicant to provide the resources necessary to carry out the project in terms of human, fiscal, and material resources.

8. Evidence that qualified staff will be sufficiently allocated to the project to carry out the required tasks.

9. Evidence that the applicant plans to publish the results of the project. This should include a designation of responsibilities for scientific publications and authors, summary documents, news releases, etc. for placing the results of this study in the public domain.

D. Application Submission and Deadline

The original and two copies of the application must be submitted to Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 321, Atlanta, Georgia 30305, on or before June 6, 1986.

1. *Deadline:* Applications will be considered as meeting the deadline if they are either:

a. Received at the above address on or before the deadline date or,

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing).

2. *Late Applications:* Applications which do not meet the above criteria are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

E. Other Submission and Review Requirements

Applications are subject to regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resource Development Act of 1974. Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Where to Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Nancy Bridger, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305, or by calling (404) 262-6575 or FTS 236-6575.

Technical assistance may be obtained from Darrell Sanders, Fluoridation Engineer, Dental Disease Prevention Activity, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-1830 or FTS 236-1830.

Dated: April 11, 1986.

William E. Muldoon,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86-8577 Filed 4-16-86; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Ophthalmic Devices Panel

Date, time, and place. May 22 and 23, 9 a.m., Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, May 22, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, May 23, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; Richard E. Lippman, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 302-427-7940.

General function of committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the committee contact person before April 25 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On May 22, the committee will discuss a reclassification petition for reclassifying the Neodymium:Yttrium-Aluminum-Garnet (Nd:YAG) laser from class III (premarket approval) to class II (performance standards). The committee will also discuss general issues relating to approvals of premarket approval applications (PMA's) for Nd:YAG lasers and intraocular lenses (IOL's), and may discuss specific PMA's for these devices. If discussion of all pertinent Nd:YAG laser or IOL issues is not

completed, discussion will be continued the following day. On May 23, the committee will discuss PMA's for contact lenses and other ophthalmic devices and requirements for PMA approval.

Closed committee deliberations. On May 22, the committee will conduct reviews of PMA's for IOL's and Nd:YAG lasers. On May 23, the committee may discuss trade secret or confidential commercial information relevant to PMA's for contact lenses or other ophthalmic devices. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 95-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes, and review of matters, such as personnel records or individual patients records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C App. I)), and FDA's regulations (21 CFR Part 14) on advisory committtees.

Dated: April 10, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-8537 Filed 4-16-86; 8:45 am]

BILLING CODE 4160-01-M

Arthritis Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of the Arthritis Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on April 5, 1988, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: April 11, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-8542 Filed 4-16-86; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Fiscal Year 1986 Funding Preferences for Grants for Residency Training and Advanced Education in the General Practice of Dentistry

The Bureau of Health Professions announces the final funding preferences for Grants for Residency Training and Advanced Education in the General Practice of Dentistry, authorized under the authority of section 786(b) of the Public Health Service Act, as amended by Pub. L. 99–129.

The Health Professions Training Assistance Act of 1985, Pub. L. 99–129 enacted on October 22, 1985, extends support under section 786(b) to include approved advanced educational programs in the general practice of dentistry. For purposes of implementing the expansion of section 786(b), an approved advanced educational program in the general practice of dentistry means an advanced educational program in general dentistry which has received approval by the Commission on Dental Accreditation.

Section 786(b) of the Act authorizes the Secretary of Health and Human Services to make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution (e.g., hospitals and medical centers) to plan, develop, and operate an approved residency or advanced educational program in the general practice of dentistry and to provide financial assistance to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

The Administration's budget request for Fiscal Year 1986 does not include funding for this program. However, should funds become available unexpectedly for this purpose, this contingency action will assure that grants can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

In accordance with section 786(b) of the Act, three distinct categories of program development can be supported. Applications must address at least one of these categories.

Category 1: Program Initiation

An applicant may request support for up to one year of program planning and development, followed by two years of program operation. For this purpose an applicant must show, at a minimum, preliminary provisional approval from the Commission on Dental Accreditation before the initial grant award date (grants will be effective July 1 of the current fiscal year). Before a second year grant award will be made, the grantee must show an accreditation classification of accreditation eligible.

Category 2: Program Expansion

An applicant may request support for an existing program which has full approval accreditation classification to fund the cost of a first-year enrollment increase in the program.

Category 3: Program Improvement

An applicant may request support for an existing program which has conditional approval or provisional approval accreditation to correct deficiencies or weaknesses in order to gain full approval status. Support is also available for an existing program which has full approval accreditation for changes or additions in faculty, curriculum and/or facilities to enhance the quality of the program.

Proposed funding preferences were published for public comment in the **Federal Register** dated January 13, 1986, (51 FR 1443) and no comments were received during the comment period.

The following funding preferences will be used in making Fiscal Year 1986 awards for Grants for Residency Training and Advanced Education in the General Practice of Dentistry:

New programs designed to rectify or ameliorate significant national, regional or local dental health problems (Category 1), followed by expanding programs (Category 2), and then program improvements, (Category 3); and within Category 1, first funding will be for approved applications designed to establish programs in States in which no nonfederally supported residency or advanced educational programs in general dentistry are currently in operation. Applicants who demonstrate that the grant will help to increase dental services to underserved and geriatric populations and/or will increase minority resident and trainee participation will receive priority consideration. In addition, applicants who propose to use specified portions of their grant funds for financial assistance will receive priority consideration.

There is no funding preference between residency training programs and advanced educational programs in general dentistry.

This program is listed at 13.897 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to the provisons of Executive Order 12372, Intergovernmental Review of Federal Programs or 42 CFR Part 100.

Dated: April 11, 1986.

John H. Kelso,

Acting Administrator.

[FR Doc. 86–8643 Filed 4–16–86; 8:45 am]

BILLING CODE 4160–15–M

Privacy Act of 1974; Addition of Routine Use to Existing Systems of Records

AGENCY: Public Health Service, HHS.

SUMMARY: The pending transfer of Saint Elizabeths Hospital from the Federal Government to the District of Columbia Government on October 1, 1987, requires certain transition procedures. This statement notifies the public of the addition of a new routine use to 19 Privacy Act systems of records maintained at Saint Elizabeths Hospital in the National Institute of Mental Health (NIMH), of the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).

DATES: PHS invites interested parties to submit comments on the proposed routine use on or before May 19, 1986. The routine use will become effective 30 days after the date of publication unless PHS receives comments which would result in a contrary determination.

ADDRESS: Please submit comments to: Privacy Act Officer, Alcohol, Drug Abuse, and Mental Health Administration, Room 6–102, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4543

Comments received will be available for inspection at this same address from 8:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Maureen Williams, Privacy Act Coordinator, Saint Elizabeths Hospital, Room 115, A Building, Washington, D.C. 20032 (202–373–7270).

SUPPLEMENTARY INFORMATION: Pursuant to the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, Public Law 98–621, responsibility for the operation of Saint Elizabeths Hospital will be transferred from the Federal Government to the District of Columbia Government on October 1, 1987. Congress has mandated in this legislation the establishment of one comprehensive mental health system under the responsibility of the District of Columbia Government, and has required the development of a final system implementation plan for this system by October 1, 1986. The law also provides that between October 1985 and October 1987 programs and staff from Saint Elizabeths Hospital may be transferred to the District of Columbia

Government with 30 days advance notice to Congress. In view of the need for sharing of information in the planning process, and in order to ensure continuity of patient care in the shift of programs during this period, ADAMHA is proposing to add a new routine use in order to permit disclosure of information from Saint Elizabeths Hospital systems of records to authorized staff of the Mental Health Services Administration of the District of Columbia Goverment and authorized staff of the Mental Health System Reorganization offices, as well as persons acting as consultants to these offices.

As Hospital programs are transferred to the responsibility of the District of Columbia Government, past treatment records of the patients may be physically located at the new treatment site. As in the past, any person desiring access to his/her record prior to October 1, 1987, should contact the system manager identified in the appropriate system notice. ADAMHA will develop and implement special procedures for the physical transfer of the records in accordance with Privacy Act requirements.

The new routine use will be added to the following systems of records:

09-30-0005 Saint Elizabeths Hospital Research Subjects Data Records, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 49, No. 187, p. 37699.

09-30-0006 Saint Elizabeths Hospital Medical Support Programs File System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53799

09-30-0007 Saint Elizabeths Hospital Clinical Support Services Record System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53800.

09-30-0008 Saint Elizabeths Hospital Social Services Record System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 49, No. 187, p. 37701.

09-30-0009 Saint Elizabeths Hospital Multidisciplinary Raw Data Consultation Files, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53804.

09-30-0010 Saint Elizabeths Hospital Juvenile Education Monitoring System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53805.

09-30-0011 Saint Elizabeths Hospital Emergency Psychiatric Service Non-Admission File System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53806.

09-30-0012 Saint Elizabeths Hospital Pre-Service Education Records, HHS/ADAMHA/NIMH; **Federal Register**, Vol. 48, No. 230, p. 53807.

09-30-0013 Saint Elizabeths Hospital Training Videotape Records, HHS/ADAMHA/NIMH; Publ. **Federal Register**, Vol. 48, No. 230, p. 53808.

09-30-0014 Saint Elizabeths Hospital Financial System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 50, No. 118, p. 25469.

09-30-0015 Saint Elizabeths Hospital General Security System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53810.

09-30-0016 Saint Elizabeths Hospital Patients' Personal Property Record System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53811.

09-30-0017 Saint Elizabeths Hospital Legal Office Record System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53812.

09-30-0018 Saint Elizabeths Hospital Area D Community Mental Health Center Citizens Advisory Group Records, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53813.

09-30-0019 Saint Elizabeths Hospital Court-Ordered Forensic Investigatory Materials File, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53813.

09-30-0024 Saint Elizabeths Hospital General Administrative Record System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53818.

09-30-0026 Saint Elizabeths Hospital Research Project Records, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 47, No. 198, p. 45450.

09-30-0028 Saint Elizabeths Hospital General Medical/Clinical Records System and Related Indexes, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 49, No. 187, p. 37703.

09-30-0031 Saint Elizabeths Hospital Management Information Reporting System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 49, No. 106, p. 22716.

The proposed new routine use, which will be added as the last routine use to each of the above systems, reads as follows:

* * * * *

Disclosures may be made to (1) authorized staff of the Mental Health Services Administration office of the District of Columbia Government, (2) authorized staff of the Mental Health Systems Reorganization office, and (3) persons acting as consultants to these offices. The purpose of such disclosures is to assist in the orderly transfer of Saint Elizabeths Hospital from the Federal Government to the District of Columbia Government and to ensure continuity in accomplishing the purpose of the system.

* * * * *

Dated: April 9, 1986.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations, and Director, Office of Management.

[FR Doc. 86-8536 Filed 4-16-86; 8:45 am]

BILLING CODE 4160-20-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Revision of Notice of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise a notice describing a system of records maintained by the Minerals Management Service. Except as noted below, all changes being published are editorial in nature, and reflect minor administrative revisions which have occurred since the publication of the material in the **Federal Register** on December 13, 1984 (49 FR 48617). The revised notice which is titled: "Employee Counseling Services Program—Interior, MMS-9" is published in its entirety below.

The "System Location" portion of the notice is amended to clarify that the records are located solely with the contractor who provides counseling services. A note is added to the routine uses statement making reference to the regulatory requirements of 42 CFR Part 2. Also, the statement pertaining to records retention and disposal is amended to conform to guidelines issued by the Assistant Archivist for Records Administration, National Archives and Records Administration, in his memorandum to Agency Records Officers dated June 11, 1985.

Since these changes do not involve any new or intended use of the information in the system of records, the notice shall be effective April 17, 1986. Additional information regarding these revisions may be obtained from the Privacy Act Officer, Minerals Management Service, U.S. Department of the Interior, 12203 Sunrise Valley Drive, Mail Stop 631, Reston, Virginia 22091, telephone (703) 435-6213.

Dated: April 9, 1986.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/MMS-9

SYSTEM NAME:

Employee Counseling Services Program—Interior, MMS-9.

SYSTEM LOCATION:

This system of records is located with the contractor providing counseling services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Minerals Management Service employees, former employees, and their family members who seek, are referred, and/or receive assistance through the Employee Counseling Services Program. The records contained in this system which pertain to individuals contain principally personal and/or medical information. These records are subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselor (Employee Counseling Services Program Counselor) and the problem assessment, recommended plan of action to correct the major issue, referral to community or private resource for assistance with personal problems, referral to community or private resource for rehabilitation or treatment, results of referral, and other notes or records of discussions held with the employee made by the Employee Counseling Services Program Counselor. Additionally, records in this system may include documentation of treatment by a therapist or at a Federal, State, local government, or private institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 42 U.S.C. 290dd-1; (2) 42 U.S.C. 290ee-1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES.

The primary use of these records is to counsel and refer employees and/or their family members with personal or medical problems. These records and information may be used to disclose information to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report or otherwise disclose patient identities in any manner (when such records are provided to qualified researchers employed by the Department of the Interior, all patient identifying information will be removed).

Note.—Disclosure of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2. Disclosure of records pertaining to the physical and mental fitness of employees are, as a matter of Department policy, afforded the same degree of confidentiality.

POLICIES AND PRACTICES FOR STORAGE, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in folders in file cabinets.

RETRIEVABILITY:

Indexed by name of individual on whom they are maintained.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

These records are retained and disposed of in accordance with General Records Schedule No. 1, Item No. 27.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Personnel Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 634, Reston, Virginia 22091.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of a record should be addressed to the System Manager. A written signed request stating that the individual seeks information concerning his/her records is required (43 CFR 2.60).

RECORDS ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by a supervisor, the Employee Counseling Services Program staff who records the counseling session, and the therapists or institutions used as referrals or providing treatment.

[FR Doc. 86-8587 Filed 4-16-86; 8:45 am]
BILLING CODE 4310-MR-M

Bureau of Land Management

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7340.

Title: Solid Minerals (Other than coal) Exploration and Mining Operations Reporting (43 CFR Part 3570).

Abstract: Lessees and permittees involved in operations for the discovery, testing, development, mining, or processing of Federal solid minerals (other than coal) shall conform to the provisions of applicable regulations, the terms and conditions of the lease or permit, the requirements of approved exploration and/or mining plans, and orders and instructions issued by the authorized officer pursuant to 43 CFR Part 3570. The information required in the exploration and/or mining plan is contained in 43 CFR Part 3572 and states, "Before conducting any operations under a permit or lease, the operator must submit in quintuplicate, to the authorized officer for approval and exploration or mining plan which shall show in detail the proposed exploration, prospecting, testing, development, or mining operations to be conducted. . . ." Normally this information is received on an "on occasion" basis and does not require formal or routine reporting. Further requirements are given in this part for exploration and mining plans, including surface and underground maps. These maps are required to be furnished to the authorized officer annually or as otherwise specified. Other information required in this part include records of all core or test holes made on the leased or permit lands, mining methods, and change to exploration and/or mining plans.

The information collection requirements contained in 43 CFR Part 3570 at § 3571.1, 3572.1, 3573.2, 3572.3, 3573.1, and 3574.1 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004-0142. The information is being collected to permit the authorized officer to determine whether proposed and existing exploration and mining operations for leasable minerals, other than coal and oil and gas, on the Federal

lands are in compliance with the applicable statutory and regulatory requirements.

Frequency: On occasion, annually.

Description of Respondents: Solid Mineral (other than coal) lessees, permittees and operators.

Annual Responses: 3,960.

Annual Burden Hours: 7,920

Bureau Clearance Officer: Rebecca Daugherty (202) 653-8853.

Dated: April 8, 1986.

Adam A. Sokoloski,

Assistant Director, Solid Leasable Minerals.

[FR Doc. 86-8595 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-84-M

Availability of Draft Resource Management Plan and Environmental Impact Statement for Baker Resource Area, Vale District, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, section 202(a) of the Federal Land Policy and Management Act of 1976, and 43 CFR Part 1600 the Bureau of Land Management has prepared the Draft Baker Resource Management Plan/Environment Impact Statement (RMP/EIS) for public review and comment. This document identifies and analyzes the future land planning options for 429,754 acres of public land administered by BLM within Baker, Morrow, Malheur, Umatilla, Union and Wallowa Counties in northeast Oregon; and Asotin and Garfield Counties in southeast Washington. The Bureau of Land Management also proposes nine Areas of Critical Environmental Concern.

SUPPLEMENTARY INFORMATION: The issues and concerns addressed in the RMP/EIS are: riparian management, wildlife habitat management, livestock grazing management, forestry, minerals management, land tenure and access, recreation management, and designation of special management areas. Four alternatives are considered: The Preferred Alternative, the Emphasize Commodity Production Alternative, the Continue Existing Management-No Action Alternative, and the Natural Environment Protection Alternative. A discussion of the affected environment is summarized and the environmental consequences occurring from the Preferred Alternative and each of the other alternatives are documented in the EIS.

The Preferred Alternative emphasizes the management, production and use of renewable resources on the majority of the public lands in the Baker Planning Area. Management would be directed toward providing a flow of renewable resources from the public lands on a sustained yield basis while protecting or enhancing natural values. Management under the Preferred Alternative would resolve the identified issues as follows: (1) Forage available for livestock on section 15 lands would remain at 4,258 animal unit months AUMs; (2) Riparian zones on section 15 lands would be prioritized for management based on their need and potential. Riparian zone management would emphasize cooperative efforts with adjacent federal, state and private adjacent land owners; (3) All forage on 3,700 acres within Cooperative Wildlife Management Areas (approximately 350 AUMs) would be allocated to deer and elk on section 15 lands; (4) A total of 10,740 acres of public land would be available for disposal pending site-specific study; (5) Nearly all public lands would remain open for mineral exploration and development. A total of 332.5 acres (less than 1%) would be recommended for withdrawal from mineral entry. Approximately 18,955 acres (2%) would be open to oil and gas leasing with a "no surface occupancy" stipulation. A seasonal oil and gas leasing restriction would apply to 201,720 acres (21.5%) due to wildlife considerations; (6) The 10-year sustainable harvest level would be approximately 27 million board feet from a commercial forest land base of 25,353 acres; (7) Existing recreation facilities would be maintained or improved, as funding allows, to mitigate damage and sanitary problems associated with increased visitor use; (8) Approximately 138,060 acres of public land would be limited or closed to off-road vehicle use; and (9) Nine special management areas would be designated as Areas of Critical Environmental Concern (ACEC), including one Outstanding Natural Area (ONA) and one Research Natural Area (RNA). Unique values within other possible SMAs would be maintained under existing authorities.

Twelve potential special management areas have been indentified. They are: Oregon Trail, Big Lookout Mountain Aspen, Little Lookout Mountain, Sheep Mountain, Homestead, Grande Ronde River, Joseph Creek, Keating Valley Riparian, Power River Canyon, Unity Reservoir Bald Eagle Potential Nest Management Area, Jordan Creek Haplopappus radiatus, and Hunt Mountain. Designation of these special management areas under the Preferred, Commodity Production and Natural Environment Protection Alternatives would be as follows:

(1) Site Name: Grande Ronde (designated under the Preferred and Natural Environment Protection Alternatives) Designation, Acreage, Location: Area of Critical Environmental Concern—9,715 acres on the Grande Ronde and Snake Rivers in Wallowa County, Oregon and Asotin County, Washington.

Resource Values

Outstanding scenic, cultural, and wildlife habitat values; bald eagle and anadromous fishery habitat; Goosenecks National Natural Landmark.

Resource Use Limitations

Development projects would be excluded in the river canyon; harvest of forest products would be restricted; off-road vehicle use would be limited; no surface occupancy stipulations would be applied to new oil and gas leases.

(2) Site Name: Joseph Creek (designated under the Preferred, Commodity Production and Natural Environment Protection Alternatives) Designation, Acreage, Location: Outstanding Natural Area, an Area of Critical Environmental Concern—3,360 acres on five miles of Joseph Creek at the Oregon-Washington boundary.

Resource Values

Undisturbed stream segment with characteristic cottonwood-hawthorn riparian vegetation association; outstanding scenic, geologic and recreation values; important bald eagle and big game wildlife habitat and anadromous fishery.

Resource Use Limitations

Recreation uses compatible with natural values would be allowed; development projects and harvest of forestry products would be excluded off-road vehicle use would be excluded along creek; livestock grazing would be eliminated in certain areas; no surface occupancy stipulations would be applied to any oil and gas leases.

(3) Site Name: Keating Valley Riparian (designated under the Preferred and Natural Environment Protection Alternative) Designation, Acreage, Location (under the Natural Environment Protection Alternative):

Area of Critical Environmental Concern—3,120 acres on Balm, Clover, Sawmill, and Sheep Creeks in Baker County, Oregon; including a Research Natural Area—80 acres on Balm, Clover,

and Sawmill Creeks. Designation, Acreage, Location (under the Preferred Alternative):

Area of Critical Environmental Concern—2,173 acres on Balm, Clover, and Sawmill Creeks; including a Research Natural Area—80 acres on Balm, Clover, and Sawmill Creeks.

Resource Values

Representative low elevation riparian vegetation; potential sharp-tailed gouse reintroduction habitat (species presently extirpated in Oregon); critical deer winter range.

Resource Use Limitations (Natural Environment Alternative)

Site would be managed to protect riparian and wildlife habitat values. Incompatible uses would be excluded in the RNA, including livestock grazing and harvest of forestry products. Withdrawal from mineral entry would be sought on 185 acres to protect RNA values. Resource activities in the ACEC would be restricted to prescriptions which maintain or improve reparian vegetation and wildlife habitat. Off-road vehicle use would be limited; and no surface occupancy stipulations would be applied to oil and gas leasing.

Resource Use Limitations (Preferred Alternative)

Sheep Creek would not be designated, but would be managed to maintain current riparian conditions. Standard stipulations would be applied to oil and gas leasing. Other limitations would be the same as under the Natural Environment Alternative.

(4) Site Name: Powder River Canyon (designated under the Preferred and Natural Environmental Protect Alternatives)

Designation, Acreage, Location

Area of Critical Environmental Concern—5,880 acres in Powder River Canyon, Baker County, Oregon.

Resource Values

Excellent raptor nesting and foraging habitat, bald eagle winter habitat, key seasonal wildlife habitat.

Resource Use Limitations

Development activities in the canyon and adjacent upland would be excluded or restricted in certain areas; the area would be managed to provide forage and habitat needs for game and non-game wildlife; no surface occupancy stipulations would be applied to mineral leasing.

(5) Site Name: Unity Reservoir Bald Eagle Nest Management Area (designated under the Preferred and Natural Environment Protection Alternatives)

Designation, Acreage, Location

Area of Critical Environmental Concern—200 acres on the North Fork of the Burnt River near Unity Reservoir, Baker County, Oregon.

Resource Values

Potential nesting habitat identified for bald eagles resident in the Unity Reservoir area.

Resource Use Limitations

Development actions and harvest of forestry products would be excluded; off-road vehicle use would be limited; seasonal restrictions would be applied to oil and gas leases.

(6) Site Name: Jordan Creek Haplopappus radiatus (designated under the Natural Environment Alternative)

Designation, Acreage, Location

Area of Critical Environmental Concern—120 acres of one population on Jordan Creek, Baker County, Oregon.

Resource Values

One population location of *Haplopappus radiatus*, a federal threatened and endangered plant candidate.

Resource Use Limitations

The area would be managed to improve the plant's habitat. Incompatible uses would not be allowed; no surface occupancy stipulation would be applied to any oil and gas leases.

(7) Site Name: Hunt Mountain (designated under the Preferred and Natural Environment Protection Alternatives)

Designation, Acreage, Location

Area of Critical Environmental Concern—2,230 acres on Hunt Mountain, Baker County, Oregon.

Resource Values

Diverse sub-alpine vegetation associations; state sensitive plants; mountain goat and wildlife habitat; scenic values.

Resource Use Limitations

Havest of forest products would be restricted to prescriptions that improve wildlife and plant habitat; off-road vehicle use would be limited; livestock grazing exclusions would continue; seasonal restrictions would be applied to oil and gas leases.

(8) Site Name: Oregon Trail (designated under the Preferred and Natural Environment Protection Alternatives)

Designation, Acreage, Location

Area of Critical Environmental Concern—1,495 acres on seven portions of the Oregon National Historic Trail in Baker, Union, and Umatilla Counties, Oregon.

Resource Values

Unique cultural and sensitive visual and recreation values of historic trail sites, including visible wagon ruts.

Resource Use Limitations

New development actions incompatible with maintaining the historic values would be excluded within a ½ mile wide corridor along the trail; off-road vehicle use would be limited; harvest of forestry products would be excluded or restricted in certain areas; withdrawal from mineral entry would be sought on 147.5 acres on three highly sensitive sites.

(9) Site Name: Little Lookout Mountain (designated under the Natural Environment Protection Alternative)

Designation, Acreage, Location

Area of Critical Environmental Concern—3,220 acres south of Little Lookout Mountain, Baker County, Oregon.

Resource Values

Diverse bunchgrass, fir, and aspen communities; wildlife habitat; former sharp-tailed grouse habitat (species presently extirpated in Oregon).

Resource Use Limitations

The area would be managed to maintain vegetation diversity and re-establish Columbian sharp-tailed grouse habitat through intensive livestock management and limited riparian fencing; no surface occupancy stipulations would be applied to oil and gas leases.

(10) Site Name: Big Lookout Mountain Aspen (designated under the Natural Environment Protection Alternative)

Designation, Acreage, Location

Area of Critical Environmental Concern—1,500 acres on Big Lookout Mountain, Baker County, Oregon.

Resource Values

Unusual aspen wildlife cover, critical deer summer range.

Resource Use Limitations

Manage areas to improve wildlife habitat and establish study areas for research purposes; exluding all incompatible uses.

(11) Site Name: Sheep Mountain (designated under the Preferred and

Natural Environment Protection Alternatives)

Designation, Acreage, Location

Area of Critical Environmental Concern—5,398 acres between Pine Creek and the Snake River, Baker County, Oregon.

Resource Values

Crucial bald eagle wintering habitat; outstanding scenic and recreation values; key seasonal wildlife habitat.

Resource Use Limitations

Development actions incompatible with maintaining habitat for eagles, big game, and scenic values would be excluded; harvest of forestry products would be excluded; off-road vehicle use would be limited; seasonal restrictions would be applied to oil and gas leases.

(12) Site Name: Homestead (designated under the Preferred and Natural Environment Protection Alternatives)

Designation, Acreage, Location

Area of Critical Environmental Concern—8,537 acres on the Snake River Breaks between Pine Creek and Nelson Creek, Baker and Wallowa Counties, Oregon.

Resource Values

Crucial bald eagle wintering habitat; outstanding scenic and recreation values; key seasonal wildlife habitat; state sensitive plants.

Resource Use Limitations

Development actions incompatible with maintaining eagle, big game and sensitive plant habitat would be excluded; harvest of forest products would be excluded and restricted in certain areas; seasonal restrictions would be applied to oil and gas leases.

Public Participation, Dates and Addresses: The public comment period will end July 14, 1986. Written comments may be submitted at any time during the comment period to the Baker RMP Team Leader at 1550 Dewey, P O Box 987, Baker, Oregon, 97814. All comments received during the comment period will be considered in preparation of the Proposed RMP/Final EIS.

A copy of the draft RMP/EIS has been sent to all individuals, government agencies, tribal leaders and groups who have expressed an interest in the Baker Resource Area planning process. In addition, review copies may be examined at the following locations: Baker Resource Area Office, Federal Building, 1550 Dewey, P.O. Box 987, Baker, Oregon 97814, (503) 523-6324; BLM Vale District Office, 100 Oregon St., P.O. Box 700, Vale, Oregon 97918, (503) 473-3144; Public Affairs, BLM Oregon State Office, 825 N.E. Multnomah, Portland, Oregon 97208, (503) 231-6277; BLM Public Affairs, Interior Building, 18th and C Streets, Washington, D.C. 20240, (202) 343-9435. A limited supply of copies of the Draft RMP/EIS are available upon request to the Baker Resource Area Office and the Vale District Office.

One informal public meeting will be held at Baker, Oregon, on June 3, 1986, at 7:00 PM at the Federal Building, 1550 Dewey Ave, Rm 215, for individuals wishing to ask questions or to present comments. Additional infomal meetings may be held at other locations within the planning area if there is sufficient public interest and requests for them. Times and dates for these meetings will be announced in local news media.

FOR FURTHER INFORMATION CONTACT: Sam Montgomery, Team Leader, Bureau of Land Management, Baker Resource Area, telephone (503) 523-6324.

Dated: April 4, 1986.

William C. Calkins,

District Manager.

[FR Doc. 86-8630 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-33-M

Availability of Final Environmental Impact Statement; Shoshone/Sun Valley Wilderness

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability of final environmental impact statement (EIS) for the Shoshone/Sun Valley wilderness proposals.

SUMMARY: This EIS assesses the environmental consequences of managing seven wilderness study areas (WSAs) as wilderness or nonwilderness, and of managing a portion of one WSA as wilderness. The alternatives assessed in this EIS include: (1) A "no wilderness" alternative for each WSA, (2) an "all wilderness" alternative for each WSA, and (3) a "partial wilderness" alternative for the Gooding City of Rocks East WSA.

The names of the seven WSA's analyzed in the EIS, their total acreage, and the proposed action for each are as follows:

—Friedman Creek—9,773 acres, all nonsuitable
—Little City of Rocks—5,875 acres, all nonsuitable
—Black Canyon—10,371 acres, all nonsuitable
—Gooding City of Rocks East—14,743 acres, 13,063 acres suitable and 1,680 acres nonsuitable
—Gooding City of Rocks West—6,287 acres, all suitable
—Deer Creek—7,487 acres, all nonsuitable
—Lava—23,680 acres, all nonsuitable.

Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior and President to Congress. The final decision on wilderness designation rests with the Congress.

In any case, no final decision on these proposals can be made by the Secretary during the 30 days following the filing of this EIS. This complies with the Council on Environmental Quality Regulations, 40 CFR, Part 1506.10b(2).

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the EIS may be obtained from the District Manager, Shoshone District Office, P.O. Box 2-B, Shoshone, Idaho 83352. Copies are also available for inspection at the following locations.

Department of the Interior, Bureau of Land Management, 18th and "C" Streets NW., Washington, D.C. 20240

or

Bureau of Land Management, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Jon Idso, Acting District Manager, Shoshone District Office, P.O. Box 2-B, Shoshone, Idaho 83352. Telephone: (208) 886-2206.

Dated: April 11, 1986.

Bruce Blanchard,

Office of Environmental Project Review.

[FR Doc. 86-8579 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-66-M

Public Comment Period on Proposed Area of Critical Environmental Concerns (ACECs)

AGENCY: Bureau of Land Management, Interior, Richfield, Utah.

ACTION: Announcement of proposed ACECs for the House Range and the Warm Springs Resource Areas.

SUMMARY: Notice is hereby given in accordance to 43 CFR 1610.7-2(b) that the following areas are being considered for ACECs in the alternatives of the Draft Warm Spring Resource Area RMP/EIS and the Draft RMP/EIS for House Range Resource Area.

Warm Springs Resource Area

Pavant Butte (2,500 acres) would be designated an ACEC to protect historic peregrine falcon nesting and potential reintroduction site. In conjunction with Utah Division of Wildlife Resources, a peregrine falcon reintroduction plan

would be developed. The area would be withdrawn from mineral entry, placed in Category 3 for oil and gas leasing, and closed to motor vehicles.

Tabernacle Hill (3,567 acres) would be designated an ACEC to protect unique recreational and geologic resources. A special recreation management plan would be developed, the area would be withdrawn from mineral entry, and placed in Category 3 for oil and gas leasing. Motorized vehicles would be restricted to existing roads and trails. Shooting and rockhounding would be restricted.

House Range Resource Area

Gandy Mountain Caves (1,120 acres) would be designated to protect unique cave mineral deposits in pristine condition. A management plan would be prepared, the present oil and gas Category 3 designation would be expanded, and withdrawn from mineral entry.

Rockwell Natural Area (9,630 acres) would be designated to protect the dune topography and associated unique ecology. A management plan would be prepared, withdrawn from mineral entry and placed 4,880 acres in oil and gas Category 3, and keep 4,750 acres in Category 4.

Bonneville Cutthroat Trout (various locations along Deep Creek Mountains). Recommended in Alternatives A and B but not carried into the preferred alternative as they are protected under present management (Wilderness Interim Management). Protection would continue in either Wilderness or Outstanding Natural Area designation. Proposed closures for ORV use.

Least Chub (3,350 acres). Recommended in Alternatives A and B but not carried into the preferred alternative as they are protected under present management by Category 4 oil and gas classification.

The 60-day public comment period for proposed ACECs will run from the date of publication in the **Federal Register**.

For further infomation, contact Alan Partridge, 150 East 900 North, Richfield, Utah 84701, 801-896-8221.

Donald L. Pendleton,

District Manager.

April 11, 1986.

[FR Doc. 86-8589 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-DQ-M

Wyoming; Intent To Prepare an Environmental Impact Statement

AGENCY: Bureau of Land Management, Rawlins District Office, Rawlins, Wyoming.

ACTION: Amendment of Date for Wilderness Environmental Impact Statement (EIS) Supplement for Two Wilderness Study Areas (WSA) in the Lander Resource Area in Wyoming.

Volume 50, No. 216, page 46361 of the **Federal Register** of Thursday, November 7, 1985, contained a notice of intent to prepare an EIS supplement to the Lander Resource Management Plan (RMP).

This amendment serves as notice that the 1986 date contained in the third sentence of the summary has been changed to fiscal year 1987. Thus, the sentence will read: "This wilderness EIS supplement will be prepared in fiscal year 1987."

In the second paragraph of the summary, we state that the recommendations of suitable or nonsuitable for wilderness designation "will be included in the Decision Record and Final Resource Management Plan for the Lander Resource Area." It is unlikely that the supplemental wilderness EIS for Whiskey Mountain and the Dubois Badlands will be completed in time to include the recommendations in the RMP Record of Decision. The wilderness determinations for these two WSA's will be added to the RMP when the wilderness review process is completed.

The scoping meetings for the two WSA's, Dubois Badlands and Whiskey Mountain, were held on December 11 and 12, 1985, as scheduled. The public was invited to comment on these two areas regarding issues or concerns which should be considered; resource values in the areas which may augment BLM's current resource information; alternatives that should be considered; and any other factors that may be pertinent to the areas' suitability or unsuitability as wilderness.

ADDRESS: Address all correspondence to Lander Resource Area, P.O. Box 589, 125 Sunflower Drive, Lander, Wyoming 82520.

FOR FURTHER INFORMATION CONTACT: Jack Kelly, Lander Resource Area Manager or Jerry Valentine, Wilderness EIS Team Leader at (307) 332-7822 or at the address provided above.

Hillary A. Oden,

State Director, Wyoming.

[FR Doc. 86-8593 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-22-M

Arizona Strip District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Arizona Strip District Advisory Council will be held May 14 and 15, 1986. An all-day field trip is planned for the first day, leaving from the district office at 8 a.m. A formal meeting will be held the next day at the Sugar Loaf Restaurant, 290 East St. George Blvd., St. George, Utah from 8 a.m. until noon. The agenda will include discussion of state land exchanges, reclamation of mining roads, and updates on the wildlife and wilderness management programs.

SUPPLEMENTARY INFORMATION: The meeting is open to the public who must provide their own transportation and lunch for the tour. Interested persons may make oral statements on Thursday at 8 a.m. or file written statements for Council's consideration. Anyone wishing to make an oral statement must notify the district manager at 196 East Tabernacle, St. George, Utah 84770 (phone 801/673-3545) by May 12.

G. William Lamb,

Arizona Strip District Manager.

April 10, 1986

[FR Doc. 86-8582 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-22-M

Richfield District Advisory Council; Meeting

AGENCY: Richfield District Office, BLM.

ACTION: Notice of Council Meeting.

SUMMARY: Notice is given in accordance with Pub. L. 94-579 that the Richfield District Advisory Council will meet May 20 and 21, 1986 in Richfield, Utah. Agenda Items include elections of officers for 1986, Pride in America, briefing on the AWP, interagency recommendations, grazing program, the weed and grasshopper programs, planning status update, and an update on the Wilderness Program. A tentative field trip to the SUFCO coal facilities is planned for May 21.

ADDRESS: The meeting on May 20 will be held in the District Office at 150 East 900 North, Richfield. The meeting will begin at 9:00 a.m. The public is invited to attend the meeting. A public comment period will be held at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Bert Hart, Bureau of Land Management, Richfield, Utah 801-986-8221.

S. Douglas Wood,

Assistant District Manager, Operations.

April 11, 1986.

[FR Doc. 86-8588 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-DQ-M

[AA-48578-CB]

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48578-CB has been received covering the following lands:

Copper River Meridian, Alaska

T. 6 S., R. 1 E.,
Sec. 7, N½NW¼.
(72.75 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from August 1, 1985, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48578-CB as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective August 1, 1985, subject to the terms and conditions cited above.

Dated: April 10, 1986.

Kay F. Kletka,

Acting Chief, Branch of Mineral Adjudication.

[FR Doc. 86-8596 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-JA-M

[A-21914]

Arizona Realty Action; Competitive Sale of Public Land in Yuma County

The following described land has been identified for disposal under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value of $16,000.

T. 7 S., R. 15 W.,

Gila & Salt River Meridian, Arizona

Parcel E: NW¼NE¼, NE¼NW¼ Section 10 (80 acres)

The land is zoned RA40 (rural agricultural with one dwelling per 40 acre parcel). The parcel will be sold at public auction by competitive bidding. The sale will be held at the BLM Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona, on July 31, 1986, at 10 a.m. The Bureau of Land Management may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the regulations contained in 43 CFR 2711.

Bidding instructions, sales information, conditions of sale and patent reservation when issued are available from the Yuma District Office, P.O. Box 5680, 3150 Winsor Avenue, Yuma, Arizona 85364.

If the land is not sold on July 31, 1986, it will remain available for sale on a continuing basis until sold as specified in the notice.

Publication of this Notice will segregate the subject lands from all appropriations under the mining laws, but not the mineral leasing laws. This segregation will terminate upon issuance of a patent or 270 days from the date of the publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**. Interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 5680, Yuma, Arizona 85364. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 10, 1986.

J. Darwin Snell,

District Manager.

[FR Doc. 86-8581 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-32-M

[Group 884]

California; Filing of Plat of Survey

April 8, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Shasta County

T. 36 N., R. 4 E.

2. This plat, representing the dependent resurvey of a portion of the south boundary, Township 37 North, Range 4 East, the dependent resurvey of a portion of the west boundary and subdivisional lines, and the survey of the subdivision of sections 10 and 18, Township 37 North, Range 4 East, Mount Diablo Meridian, California. Group No. 884 was accepted March 18, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86-8585 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-40-M

Idaho; Filing of Plats of Survey

The plats of survey of the following-described lands were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, on the dates hereinafter stated:

Boise Meridian

T. 16 S., R. 33 E., Accepted December 4, 1985, Officially filed January 13, 1986.
T. 6 S., R. 23 E., Accepted December 4, 1985, Officially filed January 13, 1986.
T. 45 N., R. 3 W., Accepted January 8, 1986, Officially filed January 23, 1986.
T. 12 N., R. 4 E., Accepted February 18, 1986, Officially filed February 24, 1986.
T. 25 N., R. 21 E., Accepted February 14, 1986, Officially filed February 24, 1986.
T. 13 N., R. 43 E., Accepted March 28, 1986, Officially filed April 1, 1986.

The above plats represent surveys, dependent resurveys, and subdivisions.

Inquiries about these lands should be addressed to Chief, Branch of Cadastral Survey, Idaho State Office, 3380 American Terrace, Boise, Idaho 83706.

Dated: April 8, 1986.

Sharron Deroin,

Chief, Land Services Section.

[FR Doc. 86-8594 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-GG-M

New Mexico; Filing of Plat of Survey

April 4, 1986.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on January 30, 1986.

A survey of the San Antonio Missions National Historical Park in San Antonio, Texas, under Group 03 Texas was approved January 23, 1986.

This survey was requested by the Regional Director, National Park Service, Southwest Region, Santa Fe, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa

Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 86-8597 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-FB-M

Utah; Public Review Period for U.S. Geological Survey/U.S. Bureau of Mines Mineral Survey Reports; Wilderness Study Areas

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability, Mineral Survey Reports.

SUMMARY: The Utah State Office, Bureau of Land Management (BLM) is requesting the public to review seven (7) combined U.S. Geological Survey (USGS) and U.S. Bureau of Mines (USBM) Mineral Survey Reports which have been completed for 11 of 58 preliminarily suitable Wilderness Study Areas (WSA's). If the pubic submits significant new minerals data or identifies significant differences in interpretation of the data presented in the reports, the BLM will request USGS and USBM evaluate these comments. The BLM will consider the USGS and USBM evaluations as well as the Mineral Survey Report in developing final wilderness suitability recommendations.

Date and Address for Comments: New information will be accepted on the reports enumerated in this notice for a period of 60 days from the date of this Federal Register notice, and should be addressed to: Douglas Hileman, Deputy State Director for Mineral Resources, Bureau of Land Management, Utah State Office (U-920), 324 S. State Street, Suite 301, Salt Lake City, UT 84111-2303.

SUPPLEMENTARY INFORMATION: Section 603 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2785, directed the Secretary of the Interior to inventory lands having wilderness characteristics as described in the Wilderness Act of September 3, 1964, and report to the President his recommendations as to the suitability or nonsuitability of each area for preservation as wilderness. The USGS and USBM are chared with conducting mineral surveys for areas that have been preliminarily recommended suitable for inclusion into the wilderness system, to determine the mineral values, if any, that may be present in such areas.

There are eighty-two (82) Wilderness Study Areas identified by BLM Utah, of which fifty-eight (58) have been identified as suitable in the draft EIS proposed action alternative. To date, seven combined Mineral Survey Reports have been completed by USGS and USBM, covering eleven WSA's.

Copies of the completed Mineral Survey Reports may be reviewed in BLM District Offices in Salt Lake City, Vernal, Moab, Richfield, and Cedar City, and in the Utah State Office in Salt Lake City. Copies are available for purchase from the addresses given at the end of this notice.

To ensure that all available minerals data are considered by the BLM prior to making final wilderness suitability recommendations to the Secretary of the Interior, the Utah State Director is providing this public review and comment period. Usually, there is a one to two year lag time between actual field work and printing of a Mineral Survey Report. New information may have been collected by the public during this lag time or the public may have a new interpretation of the data presented in the Mineral Survey Reports. Any new data or new interpretation of data in the reports will be screened for its significance and validity by the BLM. Significant new minerals data or new interpretations of the minerals data will be forwarded to USGS and USBM for further consideration. Evaluations received by the BLM from the USGS and USBM will be considered by the State Director in the final wilderness suitability recommendations.

Information requested from the public via this notice is not limited to an specific energy or mineral resource. Information may be in the form of a letter and should be as specific as possible. Comments should include:

1. The name and number of the subject Wilderness Study Area and Mineral Survey Report.
2. The mineral(s) of interest.
3. A map or land description by legal subdivision of the public land survey or protracted survey showing the specific parcel(s) of concern within the subject Wilderness Study Area.
4. The name, address, and telephone number of the person who may be contacted by technical personnel of the BLM, USGS, or USBM assigned to review the information.

Geologic maps, cross sections, drill hole logs, sample analyses, etc. should be included. Published literature and reports may be cited. All detailed information submitted and marked "Confidential" will be treated as proprietary and not released to the public without consent, however, it must be understood that general conclusions drawn from confidential information may be made public as part of the wilderness review process.

The following is a list of available Mineral Survey Reports on which new information will be accepted:

WSA No.	Name	Report No.	Paper copy	Microfiche copy
ISA	Phipps-Death Hollow	OF 81-558	$4.00	$4.00
ISA	Escalanate Canyon	OF 81-559	8.00	4.00
ISA	Dark Canyon	OF 81-734	6.00	4.00
ISA	Grand Gulch	OF 81-748	6.75	4.00
050-236A 050-236B 050-237	Dirty Devil, French Springs/Happy Canyon, Horseshoe Canyon (South).	MF 1754-A	1.50	
050-241 050-221	Fiddler Butte/Fremont Gorge	MF 1755-A	1.50	
050-238 050-242	Mt. Ellen-Blue Hills/Bull Mtn.	MF 1756-A	1.50	

Reports available for review in BLM offices may not be sold or removed from the office. Mineral Survey Reports may be purchased from the following offices:

For copies of Open-File (OF) Mineral Survey Reports, contact: Open-File Services Section (OFSS), Western Distribution Branch, U.S. Geological Survey, Box 25425, Federal Center, Denver, CO 80225, (303) 236-7476.

For copies of Miscellaneous Field Studies (MF) Mineral Survey Reports, contact: Western Distribution Branch, U.S. Geological Survey, Box 25286, Federal Center, Denver, CO 80225, (303) 236-7477. Open-File reports must be ordered separately from MF maps.

FURTHER INFORMATION CONTACT: Douglas Hileman or Barbara Korzendorfer, Division of Mineral Resources, Utah State Office (U-920), 324 S. State Street, Suite 301, Salt Lake City, UT 84111-2303, (801) 524-3000.

Dated: April 9, 1986.

Kemp Conn,

Associate State Director.

[FR Doc. 86-8578 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The information collection listed below reflects a reduction in an information collection previously approved by the Office of Management and Budget (No. 1010–0031) under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the revised collection of information and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the revision may be made within 30 days directly to the Office of Management and Budget; Interior Department Desk Officer; Washington, DC 20503; telephone 202–395–7313, with copies to Norman Hess; Chief, Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Reimbursement for Certain Geological and Geophysical Data and Information.

Abstract: Pub. L. 99–190 amended section 26 of the Outer Continental Shelf Lands Act to remove the provision for reimbursement of permittees for the costs of processing geological and geophysical (G&G) data and information for the use of Minerals Management Service (MMS) in a form and manner used in the normal conduct of business. Due to the amendment, permittees will no longer submit requests to MMS for reimbursement of certain costs. The provisions in Pub. L. 99–190, therefore, result in a reduction of the previously approved information collection for the reimbursement of G&G data. The revised burden hours are shown below.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal oil and gas permittees.

Annual Responses: 4,000.

Annual Burden Hours (Revised): 7,200.

Bureau Clearance Office: Dorothy Christopher, (703) 435–6213.

Dated: March 31, 1986.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 86–8598 Filed 4–16–86; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for OCS Mineral Exploration and Production Proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EAs) and Findings of No Significant Impact (FONSIs), prepared by the MMS for the following oil and gas exploration and production activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which FONSIs were prepared by the Gulf of Mexico OCS in the three month period preceding this Notice.

Activity/Operator	Location	Date
Union Texas Petroleum Corporation, 2.37 miles of natural gas pipeline; SEA No. G-8297.	Vermilion Blocks 114 and 115; offshore Louisiana.	Jan. 27, 1986.
Union Texas Petroleum Corporation, 0.39 miles of natural gas pipeline; SEA No. G-8298.	Vermilion Blocks 109 and 114; offshore Louisiana.	Do.
Diamond Shamrock Exploration Company, 5.35 miles of natural gas pipeline; SEA No. G-8294.	West Cameron Block 64 and 65; offshore Louisiana.	Jan 28, 1986.
Challenger Minerals Inc., 2.59 miles of natural gas pipeline; SEA No. G-8299.	Vermilion Blocks 97 and 96; offshore Louisiana.	Mar. 3, 1986.
Shell Offshore Inc., four exploratory wells; SEA Nos. N-2382/U-433.	Charlotte Harbor Blocks 622, 623, 667, and 711, Leases OCS-G 4950, 4951, 4954, and 4958; 112 miles suthwest of Port Manatee, Florida.	Mar. 5, 1986.
Shell Offshore Inc., sixteen exploratory wells; SEA Nos. N-2401/N-1766.	De Soto Canyon Blocks 476, 469, 512, and 555, Leases OCS-G 6466, 6468, 6472, and 6478; 109 miles southwest of the Florida coastline.	Mar. 7, 1986.
Conoco Inc., three exploratory wells; SEA No. N-2388.	Destin Dome Blocks 56, 57, and 99, Leases OCS-G 6406, 6407, and 6410; 90 miles southwest of Panama City, Florida.	Mar. 12, 1986.
Marathon Oil Company, fourteen exploratory wells; SEA No. N-2395.	Destin Dome Blocks 511, 555, and 556, Leases OCS-G 6442, 6443, and 6444; 64 miles southwest of Panama City, Florida.	Mar. 14, 1986.
Exxon Company, U.S.A., twenty-one exploratory wells; SEA Nos. N-1828/N-2423.	De Soto Canyon Blocks 656, 657, and 700, Leases OCS-G 6482, 6483, and 6484; 126 miles south of Panama City, Florida.	Mar. 26, 1986.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, Telephone (504) 838–0519.

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relates to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA. This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: April 10, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–8599 Filed 4–16–86; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Development Operations Coordination; Exxon Co.

AGENCY: Minerals Management Service.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 1177, Block 6, South Marsh Island Area, Offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 7, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexcio OCS Region, Rules and Production, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Rivised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 10,1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–8580 Filed 4–16–86; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf; Development Operations Coordination; Koch Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Koch Exploration Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 7652, Block 219, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on April 7, 1986. Comments must be received within 15 days of the date of this notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 10, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–8586 Filed 4–16–86; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf Development Operations Coordination; Samedan Oil Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Samedan Oil Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4790, Block 120, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 9, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals

Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 11, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-8621 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Development Operations Coordination; Shell Offshore Inc.

AGENCY: Minerals Management Service.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1604, Block 152, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on April 9, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 11, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-8600 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf, Development Operations Coordination; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5494, Block 172, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 8, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit, Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 10, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-8590 Filed 4-16-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Research Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on May 19-20, 1985 at the Pan American Health Organization Building, 525—23rd Street NW., Washington, D.C., Conference

Room 'C'. The Committee will discuss recent developments in A.I.D. research policy.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. The meeting is open to the public. Any interested persons may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee and to the extent the time available for the meeting permits. Dr. Handy Williamson, Jr., Acting Director, Office of Research and University Relations, Bureau for Science and Technology, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. Williamson, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (703) 235-8929.

Dated: April 7, 1986.

Handy Williamson, Jr.,

A.I.D. Representative Research Advisory Committee.

[FR Doc. 86-8584 Filed 4-16-86; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-282 (Final)]

Import Investigations; Candles From the Peoples Republic of China

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: April 1, 1986.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202-523-7914), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002. Information may also be obtained via electronic mail by accessing the Office of Investigations' remote bulletin board system for personal computers at 202-523-0103.

SUPPLEMENTARY INFORMATION: On February 19, 1986, the Commission instituted the subject investigation and established a schedule for its conduct (51 FR 8569, Mar. 12, 1986). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from April 28, 1986, to July 7, 1986 (51 FR 9490, Mar. 19, 1986). The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than July 7, 1986; the prehearing conference will be held in room 117 of the U.S. International Trade Commission Building at 9:30 a.m. on July 9, 1986; the public version of the prehearing staff report will be placed on the public record on July 2, 1986; the deadline for filing prehearing briefs is July 11, 1986; the hearing will be held at 10:00 a.m. in room 331 of the U.S. International Trade Commission Building on July 16, 1986; and the deadline for filing all other written submissions, including posthearing briefs, is July 23, 1986.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: April 7, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-8670 Filed 4-16-86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275-6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance:—Extension
Bureau/Office:—Office of Compliance & Consumer Assistance
Title of Form:—Application by Motor or Water carrier for temporary authority under Section 10928 of the I.C. Act.
OMB Form No.:—3120-0038
Agency Form No.:—OCCA-95
Frequency:—on occasion
Respondents:—motor or water carriers
No. of Respondents:—4,800
Total Burden Hrs.:—9,600.

Type of Clearance:—Extension
Bureau/Office:—Bureau of Accounts
Title of Forms:—Recordkeeping—Ratemaking organizations
OMB Form No.:—3120-0116
Agency Form No.:—None
Frequency:—Recordkeeping
Respondents:—Surface transporation carriers (when required)
No. of Respondents:—69 recordkeepers
Total Burden Hrs.:—138.

James H. Bayne,

Secretary.

[FR Doc. 86-8567 Filed 4-16-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30807]

Midsouth Rail Corp.; Acquisition and Operation Exemption To Acquire and Operate Portion of Illinois Central Gulf Railroad Co.'s Line

MidSouth Rail Corporation has filed a notice of exemption to acquire and operate Illinois Central Gulf Railroad Company's line from Shreveport (milepost 170.60) to Delta Point, LA (milepost 0.81); from Vicksburg (milepost 141.61 to west of Jackson, MS (milepost 95.70); and from east of Jackson (milepost 95.26) to Meridian, MS (milepost 0.00).[1] Any comments must be filed with the Commission and served on Mark M. Levin, Suite 800, 1350 New York Avenue, NW, Washington, DC 20005-4797.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 26, 1986.

[1] The transaction also includes the following branch line trackage: from milepost 3.20 at Meridian to milepost 4.67 at Brockton, MS: from milepost 132.00 at Meridian to milepost 138.80 at Marion, MS; from milepost 21.96 at Redwood to milepost 28.50 at Redwood Junction, MS; from milepost 209.25 at Redwood Junction, MS, to milepost 229.85 at LeTourneua, MS; from milepost 0.00 to milepost 4.00 at West Monroe, LA; and from milepost 0.00 at Gulfport to milepost 67.50 at Palmer, MS.

By the Commission, Jane F. Mackall, Director, Office of proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-8570 Filed 4-16-86; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P-89]

Rail Carriers; Use of Burlington Northern Railroad Co. Facilities for Passenger Train Operation

It *appearing*, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Oakland, California. The operation of these trains requires the use of the tracks and other facilities of Burlington Northern Railroad Company (BN). A portion of the BN tracks at Villisca, Iowa, are temporarily out of service due to a derailment. An alternate route is available via Chicago and North Western Transportation Company between Omaha, Nebraska, and Chicago, Illinois.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided January 13, 1986, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Chicago and North Western Transportation Company (CNW) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Chicago, Illinois, and a connection with Burlington Northern Railroad Company (BN) at Omaha, Nebraska.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 9:40 p.m., March 28, 1986.

(e) *Expiration date.* The provisions of this order shall exire at 11:59 p.m., March 29, 1986, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Chicago and North Western Transportation Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, DC, March 28, 1986.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 86-8568 Filed 4-16-86; 8:45 am]

BILLING CODE 7035-01-M

[Second Revised I.C.C. Order No. P-88]

Rail Carriers; Use of Central Vermont Railway, Inc., Facilities for Passenger Train Operation

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Washington, D.C. and Montreal, Canada. The operation of these trains requires the use of the tracks and other facilities of Boston and Maine Corporation (BM). The BM Line is temporarily out of service because of a labor dispute. An alternate route is available via Central Vermont Railway, Inc., between Palmer, Massachusetts and White River Junction, Vermont.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided January 13, 1986, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 USC 562(c), Central Vermont Railway, Inc. (CV), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Palmer, Massachusetts and White River Junction, Vermont.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.*[1] This order shall become effective at 11:59 p.m., March 28, 1986.

(e) *Expiration date.*[1] The provisions of this order shall expire at 11:59 p.m., April 4, 1986, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Central Vermont Railway, Inc., and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, DC, March 28, 1986.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 86-8569 Filed 4-16-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Proposed Consent Decree Under the Clean Water Act

In accordance with Departmental policy and 28 CFR 50.7, notice is hereby given that on April 8, 1986, a proposed Consent Decree in *United States* v. *City of Guymon and State of Oklahoma,* Civil Action No. 84-2368(R) (W.D. Okla.) was lodged with the United States District Court for the Western District of Oklahoma. The complaint filed by the United States alleged numerous violations of the Clean Water Act,

[1] Change of effective periods.

various administrative orders, and the NPDES permits for both of the City of Guymon's wastewater treatment facilities. The complaint sought injunctive relief against the City to halt the violations and to impose a compliance schedule, as well as to impose civil penalties. The proposed Consent Decree requires the City of Guymon to undertake extensive remedial measures and develop and implement a local pretreatment program, and imposes civil penalties for past violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to the *United States* v. *City of Guymon and State of Oklahoma,* Civil Action No. 84-2368(R) (W.D. Okla.), D.J. No. 90-5-1-1-2098.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Room 4434, U.S. Courthouse and Federal Building, Oklahoma City, Oklahoma 73102 and at the Region VI Office of the Environmental Protection Agency, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.00 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-8583 Filed 4-16-86; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Knoll Pharmaceuticals; Registration

By Notice dated February 12, 1986, and published in the **Federal Register** on February 20, 1986; (51 FR 6184), Knoll Pharmaceuticals, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 9, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-8557 Filed 4-16-86; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Smithkline Chemicals; Application

Pursuant to §1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 17, 1986, Smithkline Chemicals, Division Smithkline Corporation, 900 River Road, Conshohocken, Pennsylvania 19428, made application to the Durg Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-methoxyamphetamine (7411)	I
Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100).	II
Phenylacetone (8501)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administration, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112) and must be filed no later than May 19, 1986.

Dated: April 9, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-8556 Filed 4-16-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: May 13, 1986, 9:30 a.m., Rm. S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW. Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, DC, this 11th day of April, 1986.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 86-8663 Filed 4-16-86; 8:45 am]

BILLING CODE 4510-28-M

Mine Safety and Health Administration

[Docket No. M-86-55-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Amonate No. 31 Mine (I.D. No. 46-04421) located in McDowell County, West Virginia. The petition is filed under section 101(c) of

the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. In a separate petition (M-86-54-C), petitioner proposes to use the air in the belt entry to ventilate active working places and planned longwall panels.

3. In lieu of a heat detection system, petitioner proposes to use an early-warning fire detection system, using a low-level carbon monoxide detection system. The system will be installed and operated with specific conditions in all belt entries used as intake aircourses.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 19, 1986. Copies of the petition are available for inspection at that address.

Dated: April 10, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8659 Filed 4-16-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-48-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Dilworth Mine (I.D. No. 36-02681) located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. In a separate petition (M-86-49-C), petitioner proposes to use the air in the belt entry to ventilate active working places and planned longwall panels.

3. In lieu of a heat detection system, petitioner proposes to use an early-warning fire detection system, using a low-level carbon monoxide detection system. The system will be installed and operated with specific conditions in all belt entries used as intake aircourses.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 19, 1986. Copies of the petition are available for inspection at that address.

Dated: April 10, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8660 Filed 4-16-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-54-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Amonate No. 31 Mine (I.D. No. 46-04421) located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use the air in the belt entry to ventilate active working places and planned longwall panels. In support of this request, petitioner states that:

a. The belt conveyor entry will be examined at least once during each coal producing shift while persons are working;

b. An early-warning fire detection system, using a low-level carbon monoxide detection system, will be installed and operated with specific conditions in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 19, 1986. Copies of the petition are available for inspection at that address.

Dated: April 10, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8661 Filed 4-16-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-49-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Dilworth Mine (I.D. No. 36-04281) located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. Large quantities of methane gas are expected which will require large quantities of air for dilution. Restricting airflow in the belt entry can also create positive pressure from the belt to the track and from the track to the intake escapeway. A fire or smoke on the belt could cause smoke on the track entry and go to the intake escapeway, eliminating smoke-free escapeways in the section.

3. As an alternate method, petitioner proposes to use the air in the belt entry

to ventilate active working places and planned longwall panels. In support of this request, petitioner states that:

a. The belt conveyor entry will be examined at least once during each coal producing shift while persons are working;

b. An early-warning fire detection system, using a low-level carbon monoxide detection system, will be installed and operated with specific conditions in all belt entries used as intake aircourses.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 19, 1986. Copies of the petition are available for inspection at that address.

Dated: April 7, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8662 Filed 4-16-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-42-C]

Laurel Ridge Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Laurel Ridge Coal Company, Box 615, Virgie, Kentucky 41572 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its No. 17 Mine (I.D. No. 15-10707) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use metal locking devices consisting of a fabricated metal bracket and a metal locking screw in lieu of padlocks. These locking devices will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and mud cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnsh written comments. These comments must be filed with the Office of Standards, regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 19, 1986. Copies of the petition are available for inspection at that address.

Dated: April 10, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8656 Filed 4-16-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-6-M]

Northwest Aggregates Co.; Petition for Modification of Application of Mandatory Safety Standard

Northwest Aggregates Company, 6320 Grandview Drive W., Tacoma, Washington 98467 has filed a petition to modify the application of 30 CFR 56.9087 (audible warning devices and backup alarms) to its Steilacoom Pit and Mill (I.D. No. 45-00675) located in Pierce County, Washington. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that heavy duty mobile equipment be provided with audible warning devices.

2. Petitioner states that the mine is in a residential area and the residents have complained about the alarms being too loud and disturbing them while trying to sleep.

3. As an alternate method, petitioner proposes to mount a high intensity capacitive discharge light on the rear of the mobile equipment to be switched on at night and to switch the audible alarm back on during the normal working hours.

4. For these reasons petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 19, 1986. Copies of the petition are available for inspection at that address.

Dated: April 10, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8657 Filed 4-16-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-26-C]

U.S. Steel Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

U.S. Steel Mining Co., Inc., 600 Grant Street, Pittsburgh, Pennsylvania 15230 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Seneca Mine (I.D. No. 46-01409), its Gary No. 9 Mine (I.D. No. 46-01409), and its Gary No. 14-4 Mine (I.D. No. 46-03415) all located in McDowell County, West Virginia its Shawnee Mine (I.D. No. 46-05907), and its Gary No. 50 Mine (I.D. No. 46-01816) both located in Wyoming County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use the air from the belt entries to ventilate the active working places. In support of this request petitioner states:

a. A low-level carbon monoxide (CO) detection system using a CO monitor will be installed and operated with

specific safeguards and conditions outlined in the petition; and

b. The CO monitoring system will have a device to rapidly evaluate electrical short and open circuits, ground faults, and pneumatic leaks.

c. The construction of the stoppings separating the belt haulage entry from the intake escapeway on main entries will be of concrete blocks, cinder blocks, brick or title, mortared joints, or constructed with material of equivalent strength.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 19, 1986. Copies of the petition are available for inspection at that address.

Dated: April 10, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8658 Filed 4-16-86; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Open Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and Section 7(b) of the Occupational Safety and Health Act of 1970 (26 U.S.C. 656) will meet on April 29 and 30, in Washington, D.C., U.S. Department of Labor. On the 29th the meeting will take place in Conference Room S-4215 ABC, starting at 9:00 a.m. and on the 30th the meeting will take place in Conference Room N-5437 A and B starting at 9:00 a.m. The meeting is open to public.

The agenda will include a review of the Proposed Standard on Benzene, the Advance Notice of Proposed Rulemaking on Hazard Communication, and a review of the draft respirator proposal. The agenda also will include a review of proposed construction standards update and a general discussion of construction safety and health matters as well as other topics.

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to Tom Hall, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N3637, Washington, D.C. 20210, telephone: (202) 523-8615.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., the 14th day of April, 1986

Patrick R. Tyson,

Acting Assistant Secretary of Labor.

[FR Doc. 86-8669 Filed 4-15-86; 10:36 am]

BILLING CODE 4510-26-M

MERIT SYSTEMS PROTECTION BOARD

Appointment of Members to the Performance Review Board

AGENCY: Merit Systems Protection Board.

ACTION: Notice of Appointment of Members to the Performance Review Board.

SUMMARY: This notice publishes the names of new and current members of the Performance Review Board as required by 5 U.S.C. 4314(c)(4).

Llewellyn M. Fisher has been appointed to, and will serve as Chairman of the Performance Review Board for Senior Executives in the U.S. Merit Systems Protection Board. P.J. Winzer has been appointed as a new member of the Board. The following persons will continue to serve on the PRB: Harold Kessler, R.J. Payne, Ruth Peters.

EFFECTIVE DATE: April 15, 1986.

FOR FURTHER INFORMATION CONTACT: Bruce Mayor, Acting Director, Office of Personnel, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419. (653-5916).

Dated: April 11, 1986.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 86-8575 Filed 4-16-86; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes a notice at least once monthly of all agency records schedules (requests for records disposition authority) which include records proposed for disposal. The first notice was published on April 1, 1985. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records of temporary value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

DATE: Comments must be received in writing on or before June 16, 1986.

ADDRESS: Address comments and requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requestors must cite the control number assigned to each schedule when requesting a copy. The control number appears in parenthesis immediately after the title of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of the records requires the approval of the Archivist of the United States, which is based on a thorough study of their potential value for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few

series of records, and many are updates of previously approved schedules.

The monthly public notice identified the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records scheduled for disposal. The complete records schedule contains additional information about the records and their disposition. Additional information about the disposition process will be furnished with each copy of a records schedule requested.

NARA has published these notices for one year and during that time all requests for schedules have been made to the Records Appraisal and Disposition Division; no requests for public inspection have been made at the Office of the Federal Register.

In order to avoid duplicative administrative and copying costs, all future copies of schedules will be available exclusively from the Records Appraisal and Disposition Division as explained above.

Schedules Pending Approval

1. Department of the Air Force, Directorate of Administration, Records Management Branch (N1-AFU-86-44). Base medical stock record account files.

2. Department of the Air Force, DIrectorate of Administration, Records Management Branch (NC1-AFU-85-28). Real Property Inventory records.

3. Department of the Army, Records Management Operations Office, Records Program Division (N1-AU-86-25). Army records already approved for disposal that require extended retention to comply with host country laws or regulations as provided for in a Status of Forces Agreement.

4. Department of the Army, Office of the Adjutant General (NC1-AU-85-60). Commercial Activity Program Files.

5. Department of the Army, Office of the Adjutant General (NC1-AU-85-80). Aircraft maintenance records.

6. Federal Reserve System, Federal Reserve Banks and Branches (N1-82-86-1). Records generated in the course of "underwriting" the U.S. Government's securities for sale in financial markets.

7. General Services Administration, Office of Administrtive Services, Records and Forms Management Branch (N1-269-86-1). Documents relating to the routine administration of the adult program.

8. Department of Interior, National Park Sevice (N1-79-86-2). Routine Administrative and fiscal records of the Acadia National Park.

9. Agency for International Development, Office of the Inspector General (NC1-286-85-7). Audit recommendation files and program subject files.

10. Department of Justice, Federal Bureau of Investigation, Records Management Division (N1-65-86-16). Revision of disposition standards for field office OO files to provide for archival retention of locally-created documents not transmitted to Headquarters.

11. National Archives and Records Administration: records accessioned from the Department of the Navy, U.S. Naval Training Station, Newport, Rhode Island, Motor Torpedo Boat Squadrons Training Center, Melville, Rhode Island (N2-181-86-1). Routine administrative correspondence and duplicate copies of War Diaries.

12. National Archives and Records Administration, National Archives Center, Waltham, MA: records accessioned from the Department of the Navy, U.S. Naval Base, Portsmouth, New Hampshire and Portsmouth Naval Shipyard (N2-181-86-2). Routine administrative correspondence from the shipyard Commandant's file and the central files of the Porthmouth Naval Base.

13. National Archives and Records Administration, National Archives Center, Waltham, MA: records accessioned from the Department of the Navy, U.S. Naval Air Station, Brunswick, Maine (N2-181-86-3). Routine budget and financial management Records.

14. National Archives and Records Administration, National Archives Center, Waltham, MA: records accessioned from the Department of the Navy, U.S. Naval Submarine Base, New London, Connecticut (N2-181-86-4). Routine administrative correspondence and housekeeping records.

15. National Archives and Records Administration, Special Archives Division: records accessioned from the Department of the Navy, Headquarters, U.S. Marine Corps (NC2-127-85-1). Selected unedited motion picture film footage of non-combat Marine Corps activities.

16. Department of State, Office of the Secretary (N1-59-86-1). Proceedings of the Foreign Service Grievance Board, including charges, responses, correspondence, exhibits, briefs and other related materials.

17. Department of State, Bureau of Consular Affairs, Visa Office (N1-59-86-2). Reivision of disposition standards for certain categories of visa records.

18. Department of Transportation, Federal Aviation Administration (N1-237-86-3). Student records, contracts and correspondence, aircraft records and license files, of the Civil Aeronautics Administration's Civilian Training Program/War Training Service.

19. Department of the Treasury, Savings Bond Division (N1-56-86-1). Administrative and program records of the Division's New York Office, 1941-1962, exclusive of reports, correspondence and photographs designated for transfer to the National Archives.

20. Department of the Treasury, Internal Revenue Service, Facilities Management Division (N1-58,86-1). Requests for copies of tax returns, stored in both machine-readable and paper form.

21. Veterans Administration, Department of Veterans Benefits (NC1-15-85-17). Index control cards used to administer the Soldiers and Sailors Relief Act of 1940.

22. Veterans Administration, Department of Medicine and Surgery (N1-15-86-3). Grant files from Pub. L. 92-541 Program, "Veterans Administration Medical School Assistance and Health Manpower Training Act of 1972,"

Dated: April 10, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86-8591 Filed 4-16-86; 8:45 am]

BILLING CODE 7515-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-455]

Environmental Assessment and Finding of No Significant Impact; Commonwealth Edison Co., Byron Station, Unit 2

The Nuclear Regulatory Commission (the Commission) is considering issuance of an extension to the latest construction completion date specified in the Construction Permit No. CPPR-131. Construction Permit CPPR-131 for Byron Station, Unit 2 was issued to Commonwealth Edison Company on December 31, 1975 with a specified latest construction completion date of November 1, 1983. By Order, dated October 12, 1982, the latest construction completion date was extended to April 1, 1986. Byron Station is located on the applicant's site in Ogle County, Illinois, approximately 17 miles southwest of Rockford, Illinois.

Environmental Assessment

Identification of Proposed Action: The proposed action would amend the construction permit by extending the

latest construction completion date to June 1, 1987. The proposed action is in response to applicant's request, dated February 27, 1986.

The Need for the Proposed Action: The proposed action is needed because the construction of the facility is not fully completed. The applicant states that, although construction is approximately 80% complete, occasionally the construction work force shifts back to Unit 1 to make modifications necessary for plant availability. Unit 1 of the Byron Station was issued a full power license, NPF-37 on February 14, 1985. The longer construction period for Unit 2 also resulted from greater than estimated quantities of electrical and mechanical work as actually learned from completion of Unit 1. Testing of Unit 1 revealed the necessity to install several modifications to enhance operation of the plant that further increase the amount of work required. These modifications have been incorporated into the Unit 2 construction schedule. The combination of the factors discussed above put Unit 2 construction completion behind schedule and subsequently impacted systems turnover for testing. Additional system turnover delays have been encountered in complying with environmental qualification requirements for electrical equipment. As equipment deficiencies and component malfunctions occurred during preoperational testing, long procurement times for qualified parts added to the delay.

The requested revised completion date extends beyond the date by which the applicant expects to load fuel at Byron Unit 2 and reflects a conservative estimate of actual completion. This has been done to avoid the necessity of having to request another construction completion date extension in the future should any unanticipated delays in construction actually occur.

Environment Impacts of the Proposed Action: The environmental impacts associated with construction of the facility have been previously discussed and evaluated in the NRC's staff's Final Evironmental Statement (FES) issued in July 1974 for the construction permit stage which covered construction of Byron Station, Units 1 and 2. The NCR's staff Final Environmental Statement (FES) related to operation of the two units was issued in April 1982.

Since the proposed action involves extending the construction permit, radiological impacts are not affected by this action. The impacts that are involved are all non-radiological and are associated with ccontinued construction. As a result of the review of the Final Safety Analysis Report to date and considering the nature of the delays, the NRC staff has identified no area of significant safety consideration in connection with the extension of the construction completion date for Byron Station, Unit 2. The only change proposed by the applicant is an extension of the latest construction completion date to June 1, 1987. This extension would not change the activities already considered by previous Commission safety reviews of the facility and authorized by the construction permit, other than to extend the latest date by which construction must be completed. There are no new significant impacts associated with the extension.

Alternatives Considered: A possible alternative to the proposed action would be to deny the request. Under this alternative, the applicant would not be able to complete construction of the facility. This would result in denial of the benefit of power production. This option would not eliminate the environmental impacts of construction already incurred.

If the construction were halted and not completed, site redress activities would restore some small area of their natural state. This would be a slight environmental benefit, but much outweighed by the economic losses from denial to use a facility that is 80% complete, and is the second unit to go on line. Byron Unit 1 at the same site was issued a fuel load and low power license on October 31, 1984 and a full power license on February 14, 1985.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in the FES for the Byron Station.

Agencies and Persons Contacted: The NRC staff reviewed the applicant's request and applicable documents referenced therein that support this extension. The NRC did not consult other agencies or persons.

Finding of No Significant Impact: The Commission has determined not to prepare an environmental impact statement for this action. Based upon the environmental assessement, we conclude that this action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the request for extension, dated February 27, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room at the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Dated at Bethesda, Maryland, this 10th day of April, 1986.

For the Nuclear Regulatory Commission.

Vincent S. Noohan,

Director, PWR Project Directorate #5, Division of PWR Licensing-A.

[FR Doc. 86-8615 Filed 4-16-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-410]

Environmental Assessment and Finding of No Significant Impact; Niagara Mohawk Power Corp., Nine Mile Point Nuclear Station, Unit 2

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 50 Appendix A, General Design Criterion (GDC) 55, to the Niagara Mohawk Power Corporation (the applicant) for the Nine Mile Point Nuclear Station, Unit 2 (NMP-2), located at the applicant's site in Scriba, New York.

Environmental Assessment

Identification of Proposed Action

The proposed action would provide an exemption from a Commission regulation. The exemption would allow the applicant to use two simple check valves (spring closing) outside containment to isolate penetrations Z-38A and B.

Pursuant to GDC 55 of 10 CFR Part 50 Appendix A, each line that is part of the reactor coolant pressure boundary and that penetrates primary reactor containment shall be provided with containment isolation valves as follows, unless it can be demonstrated that the containment isolation provisions for a specific class of lines, such as instrument lines, are acceptable on some other defined basis:

(1) One locked closed isolation valve inside and one locked closed isolation valve outside containment; or

(2) One automatic isolation valve inside and one locked closed isolation valve outside containment; or

(3) One locked closed isolation valve inside and one automatic isolation valve outside containment. A simple check valve may not be used as the automatic isolation valve outside containment; or

(4) One automatic isolation valve inside and one automatic isolation valve outside containment. A simple check may not be used as the automatic isolation valve outside containment.

Contrary to Item (4), the applicant has proposed using two simple check valves (spring closing) for the outside isolation valves (and one check valve for the

inside isolation valve) for penetrations Z-38A and B. These penetrations are for the Control Rod Drive (CRD) Hydraulic lines to the Reactor Recirculation Seal Purge equipment. The applicant has requested an exemption from this requirement for the lines identified above based on the function of these lines.

The applicant's request for this exemption, and the basis therefore, are contained in its letter dated May 15, 1985.

The Need for the Proposed Action

The control rod drive hydraulic system for NMP-2 supplies water to the recirculation system for purging of the pump seals. This water cleans and cools the seal area to ensure proper operation during normal plant conditions. Continued recirculation pump seal purge is necessary whenever reactor coolant temperature is above 200 °F and the pump is not isolated. This prevents premature aging and possible damage to the pump seals due to high temperature.

The check valves provide containment isolation while permitting seal purge. The check valves are designed such that they are held shut by a spring under no-flow conditions. This isolation valve arrangement for the seal purge line is similar to other BWR-5 plants.

The system leakage boundary leak path does not directly communicate with the environment following a loss-of-coolant accident. The system leakage boundary piping components are designed in accordance with Quality Group B standards as defined by Regulatory Guide 1.26, are designed to meet Seismic Category I design requirements, and are designed for protection against pipe whip, missiles and jet forces in a manner similar to that for engineered safety features. The system leakage boundary is continually pressurized to reactor pressure; and, therefore, system integrity is continually demonstrated during normal plant operations. In addition, TMI Item II.K.3.25, "RCS Pump Seal Design," addresses the importance of providing a source of coolant to the seals by indicating that a loss of seal coolant with resultant seal failure may be the cause for a small LOCA inside containment.

For these reasons, the staff believes that automatic isolation valves are not necessary for this system. The benefits gained by providing check valves outweigh the disadvantages since the check valves provide for a more reliable flow of coolant to the seals in a plant condition which calls for containment isolation. If automatic isolation valves were used, an isolation signal would isolate the seal purge line.

Environmental Impacts of the Proposed Action

The exemption would permit the applicant to use two simple check valves outside containment to isolate penetrations Z-38A and B (CRD Hydraulic lines to the Reactor Recirculation Seal Purge equipment). Because of the essential nature of these lines, i.e., supplying a source of coolant to the Reactor Recirculation Pump seals, the staff believes that the benefits gained by providing check valves instead of automatic isolation valves for these lines outweigh the disadvantages since the check valves will allow a flow of coolant to the Reactor Recirculation Pump seals in the event that the automatic containment isolation valves receive a signal to isolate the containment.

The granting of the exemption will not affect the risk of facility accidents, thus the post-accident radiological releases will not be greater than previously determined, nor does the proposed relief otherwise affect radiological plant effluents, nor result in any significant occupational exposure. Likewise, the relief does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Because the Commission has concluded that there is no measurable environmental impact associated with the proposed exemption, any alternatives to the exemption will have either no environmental impact or greater environmental impact. The principal alternative would be to deny the requested exemption.

Such action would not reduce the environmental impact of the operation of NMP-2 and would result in an increased potential of damage to the Reactor Recirculation Pump seals.

Alternative Use of Resources

These actions do not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to Operation of Nine Mile Point Nuclear Station, Unit No. 2" dated May 1985.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request that supports the proposed exemption. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

On the basis of the foregoing environmental assessment, we conclude that the proposed actions will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to the action, see the applicant's request for the exemption dated May 15, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Penfield Library, State University College, Oswego, New York 13126.

Dated at Bethesda, Maryland, this 11th day of April 1986.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing.

[FR Doc. 86-8614 Filed 4-16-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Scram Systems Reliability; Meeting

The ACRS Subcommittee on Scram Systems Reliability will hold a meeting on May 6, 1986, Room 1046, 1717 H Street, NW, Washington, DC.

To the extent practical the meeting will be open to public attendance. However, portions of the meeting may be closed to discuss proprietary information.

The agenda for subject meeting shall be as follows:

Tuesday, May 6, 1986—8:30 A.M. Until the Conclusion of Business

The Subcommittee will continue its review of the ATWS Rule implementation effort.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. 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 ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

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, its 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 allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: April 14, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-8617 Filed 4-16-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Safety Research Program; Meeting

The ACRS Subcommittee on Safety Research Program will hold a meeting on May 7, 1986, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, May 7, 1986—8:30 a.m. Until 12:00 Noon

The Subcommittee will discuss the proposed NRC Safety Research Program and Budget for FY 1988 and 1989, and gather information for use by the ACRS in its preparation of the annual report to the Commission on the related matter.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. 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 ACRS Staff member named below as far in advance as practicable so that appropriate arrangements can be made.

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, its 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 allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS Staff member, Mr. Sam Duraiswamy (telephone 202/634-3267) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: April 14, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-8618 Filed 4-16-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. LRP; ASLBP No. 86-519-02 SP]

Inquiry Into Three Mile Island Unit 2 Leak Rate Data Falsification; Order Concerning Prehearing Conference

Before the Presiding Board: James L. Kelley, Chairman; Glenn O. Bright, Jerry R. Kline.

April 11, 1986.

Pursuant to the telephone conference of April 11, 1986, in which all parties participated, this is to confirm that there will be a prehearing confernce on Thursday, April 24, 1986 at 10 a.m. in the Public Hearing Room, 5th Floor, East West Towers, 4350 East West Highway, Bethesda, MD. As discussed in the telephone conference, the prehearing conference will focus on the Board's Order of April 3, 1986; the parties responses to the Board's Order of March 26, 1986, and related matters.

For the Presiding Board.

James L. Kelley,

Chairman, Administrative Judge.

Bethesda, Maryland.

[FR Doc. 86-8616 Filed 4-16-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-354]

Public Service Electric & Gas Co. and Atlantic City Electric Co., Hope Creek Generating Station; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission or NRC), has issued Facility Operating License No. NPF-50 to Public Service Electric & Gas Company and Atlantic City Electric Company (the licensees) which authorizes operation of the Hope Creek Generating Station (the facility), at reactor core power levels not in excess of 3293 megawatts thermal in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan with a condition currently limiting operation to five percent of full power (164.65 megawatts thermal). Authorization to operate beyond five percent of full power will require specific Commission approval.

The Hope Creek Generating Station is a boiling water nuclear reactor located on the east shore of the Delaware River in Lower Alloways Creek Township, Salem County, New Jersey. The license is effective as of the date of issuance.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I which are set forth in the License. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on August 10, 1983 (48 FR 36357).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see: (1) Facility Operating License No. NPF-50, with Technical Specifications (NUREG-1186) and the Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards, dated December 18, 1984; (3) the Commission's Safety Evaluation Report, dated October 1984 (NUREG-1048), and Supplements 1 through 5; (4) the Final Safety Analysis Report and Amendments thereto; (5) the Environmental Report and supplements

thereto; and (6) the Final Environmental Statement dated December 1984 (NUREG–1074).

These items are available for inspection at the Commission's Public Document Room located at 1717 H Street, NW., Washington, DC 20555 and in the Pennsville Public Library, 190 South Broadway, Pennsville, New Jersey 08070. A copy of Facility Operating License NPF–50 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of BWR Licensing. Copies of the Safety Evaluation Report and Supplements 1 though 5 (NUREG–1048) and the Final Environmental Statement (NUREG–1074) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, or may be ordered by calling (202) 275–2060 or by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. All orders should clearly identify the NRC publication number and the requester's GPO deposit account, or VISA or Mastercard number and expiration date.

Dated at Bethesda, Maryland, this 11th day of April 1986.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing.

[FR Doc. 86–8613 Filed 4–16–86; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, May 1, 1986
Thursday, May 8, 1986
Thursday, May 15, 1986
Thursday, May 22, 1986
Thursday, May 29, 1986

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202) 632–9710.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

April 11, 1986.

[FR Doc. 85–8543 Filed 4–16–86; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Modifications in Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice establishes country allocations of the quotas presently applicable to imports of certain stainless steel and alloy tool steel products and makes modifications in the Tariff Schedules of the United States to implement changes in the import relief program. The notice provides separate allocations within the stainless steel bar, stainless steel rod, and the alloy tool steel categories for Brazil, within the stainless bar and the alloy tool steel categories for Mexico, within the stainless steel bar category for the Republic of Korea, and within the stainless steel rod category for Taiwan.

EFFECTIVE DATE: April 20, 1986.

FOR FURTHER INFORMATION CONTACT: Marie Haugen, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, (202) 377–4036.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5074 of July 19, 1983 (48 FR 33233), provided for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel products imported into the United States, pursuant to section 203 of the Trade Act of 1974. Proclamation 5074 authorizes the U.S. Trade Representative to take such actions and perform such functions for the United States as may be necessary to administer and implement the relief, including negotiating orderly marketing agreements and allocating quota quantities on a country-by-country basis. The U.S. Trade Representative is also authorized to make modifications in the Tariff Schedules of the United States (TSUS) headnote or items proclaimed by the President in order to implement such actions.

Pursuant to the above authority, the U.S. Trade Representative has determined that the quota quantities should be reallocated to provide country allocations for certain steel products for Brazil, Mexico, and the Republic of Korea.

In conformity with the above, subpart A, part 2 of the Appendix to the TSUS is modified as follows:

(1) Item 926.12 is modified to add to the country allocations, in alphabetical order, "Brazil", "Mexico", and "The

Republic of Korea", and also to add corresponding quota quantities of "570" short tons, "40" short tons, and "450" short tons, respectively, for the period April 20, 1986 though July 19, 1986. Item 926.12 is further modified by changing the quota quantity for "Other" countries to "45" short tons for the period April 20, 1986 through July 19, 1986.

(2) Item 926.17 is modified to add "Brazil" and "Taiwan" to the country allocations, and also to add corresponding quota quantities of "330" and "50" short tons, respectively, for the period April 20, 1986 through July 19, 1986. Item 926.17 is further modified by changing the quota quantity for "Other" countries to "277" short tons for the period April 20, 1986 through July 19, 1986.

(3) Item 926.22 is modified to add to the country allocations, in alphabetical order, "Brazil", and "Mexico", and also to add corresponding quota quantities of "270" short tons and "75" short tons, respcetively, for the period April 20, 1986 through July 19, 1986. Item 926.22 is further modified by changing the quota quantity for "Other" countries to "370" short tons for the period April 20, 1986 through July 19, 1986.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 86-8813 Filed 4-16-86; 10:56 am]

BILLING CODE 3190-01-M

POSTAL SERVICE

USPS Handbook RE-4; Handicapped Accessibility to Leased Space

AGENCY: Postal Service.

ACTION: Notice of Interim Standards and Request for Comment.

SUMMARY: The Postal Service adopts interim standards concerning handicapped accessibility in leased buildings at the time that the building is leased. Pre-existing postal standards cover accessibility standards for leased buildings when they are altered. The need for these standards is created by a recent federal appellate court decision discussed more fully in the supplemental information section below. Public comments are invited on these interim standards.

DATES: The effective date of the interim standards is April 16, 1986. Written comments must be submitted on or before June 16, 1986.

ADDRESS: Written comments should be addressed to: Assistant Postmaster General, Real Estate and Buildings Department, U.S. Postal Service, 475 L'Enfant Plaza West, Washington, DC 20260-6400. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 4141 at the above address.

FOR FURTHER INFORMATION CONTACT: Melinda Hulsey, (202) 268-3139.

SUPPLEMENTARY INFORMATION:

I. Introduction

This document establishes interim standards to be applied by the Postal Service for determining how leased space is to be made accessible to physically handicapped persons. This document adds a new part to USPS Handbook RE-4, entitled "Standards for Facility Accessibility by the Physically Handicapped." Handbook RE-4 provides USPS standards for the design, construction, and alteration of postal buildings to make them accessible to physically handicapped persons. These interim standards apply to space leased by the Postal Service not covered by the existing provisions contained in Handbook RE-4.

II. Background

The Postal Service is subject to the provisions of the Architectural Barriers Act of 1968 (Pub. L. 90-480), as amended. The Act is intended to insure that certain buildings financed with federal funds are designed and constructed to be accessible to physically handicapped individuals.

Section 4a of the Act, enacted in 1976, gives the Postal Service the responsibility to "prescribe such standards for the design, construction, and alteration of its buildings to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings." (42 U.S.C. 4154a.) Section 5 of the Act provides that "[e]very building designed, constructed, or altered after the effective date of the standard issued under this Act which is applicable to such building, shall be designed, constructed, or altered in accordance with such standard." (42 U.S.C. 4155.)

The statutory definition of "building," in section 1 of the Act, states, in part, that the term "building" means "any building or facility . . . the intended use for which either will require that such building or facility be accessible to the public, or may result in employment or residence therein of physically handicapped persons, which building or facility is—(1) to be constructed or altered by or on behalf of the United States; (2) to be leased in whole or in part by the United States after August 12, 1968. . . ." (42 U.S.C. 4151 (1) and (2).) The 1976 amendment states that it applies to leases entered into on or after January 1, 1977, including any lease renewals of a lease entered into before that date which renewal is on or after that date. (Section 202 of Pub. L. 94-541, 42 U.S.C. 4151 Applicability Note.)

The Postal Service interpreted the statute, as amended, to require it to adopt and apply handicapped accessability standards to leased facilities when they were designed, constructed, or altered under the Postal Service's control. The Postal Service did not interpret the Act to require renovation of leased buildings when they were leased. This latter aspect of the Postal Service's interpretation was challenged in litigation from 1982 to 1986. In 1983, the Postal Service's interpretation was upheld by a federal district court, but, in 1984, thet district court's decision was reversed by a federal Court of Appeals, and the Postal Service's petition for reconsideration was denied in 1985.

The Court of Appeals held that the Postal Service's duty to prescribe standards to make leased buildings accessible to handicapped persons includes a duty to prescribe standards for leased building accessibility when such buildings are leased. These interim standards are adopted in order to establish a framework for carrying out the Postal Service's responsibilities under the Act, consistently with the Court of Appeals' decision.

To ensure compliance with standards adopted pursuant to the Architectural Barriers Act, Congress established the Architectural and Transportation Barriers Compliance Board (ATBCB) in Section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). A 1978 amendment of Section 502 of the Rehabilitation Act added to the ATBCB's functions the responsibility to issue minimum guidelines and requirements for the standards established by the four standard-setting agencies identified in the Act (the Departments of Housing and Urban Development and Defense, the General Services Administration, and the Postal Service). (29 U.S.C. 792(b)(7)).

The ATBCB's minimum guidelines presently do not include provisions for leased space not constructed or altered in accordance with plans and specifications of the United States. At the time the ATBCB published the minimum guidelines (47 FR 33862), § 1190.34 "Leased Buildings" was reserved in recognition of the fact that there was a legal dispute concerning what the Act requires of leased buildings which would be resolved by the courts. Furthermore, the ATBCB stated in the preamble to the minimum

guidelines that ". . . the Board expresses no position on the questions of interpretation of the Act which are now in dispute". 47 FR 33864.

The Chairman of the ATBCB announced at the most recent ATBCB meeting on March 13, 1986, that he had directed the staff of the ATBCB to begin the development of guidelines in cooperation with the four standard-setting agencies for the reserved § 1190.34 of the Minimum Guidelines and Requirements for Accessible Design (36 CFR Part 1190) dealing with leased buildings. The Postal Service, as one of the standard-setting agencies, will work closely in cooperation with the ATBCB as that work progresses. The Postal Service, however, has an obligation, in view of the Court of Appeals' decision, independent of any possible future requirements of the ATBCB minimum guidelines, to prescribe handicapped access standards for leased space at the time of leasing. Such standards are needed both for future leased space as well as for space leased since January 1, 1977. These interim standards are intended to meet that obligation.

III. Provisions of the Interim Rule

This interim rule forms a new part of USPS Handbook RE-4, "Standards for Facility Accessibility by the Physically Handicapped." The interim standards create a new section 4.1.8, encaptioned "Accessible Buildings: Leasing of Space in Existing Buildings". The term "Existing Buildings" in this context refers to buildings leased by the Postal Service which have not been designed or constructed in accordance with the Postal Service's handicapped access standards, for new construction, or fully altered in accordance with such standards. The interim standards require that such space provide adequate accessibility for customers to customer service areas for the purpose of conducting postal business and adequate accessibility in employee work areas. Space in such existing buildings, leased after January 1, 1977, will be reviewed to determine the need for alterations to provide handicapped access in accordance with these interim standards or those that may replace them either as a result of public comments or any subsequent ATBCB minimum guidelines.

Under the Architectural Barriers Act, the Postal Service is authorized to grant waivers or modifications of its accessibility standards. The Court of Appeals' decision recognized this authority in deciding the litigation which has prompted the insurance of this document. The following factors will be considered in deciding whether a waiver or modification of the applicable standards should be issued in dealing with particular leased facilities: facility size; population served; handicapped population served; number of handicapped employees; length of remaining lease term; lease provisions; any plans to relocate the facility's operations; alternative accessible facilities; alternative services available to handicapped customers; and cost to alter the facility.

Comments on the interim standards are invited from interested members of the public. Because of the desirability of giving practical effect to the Court of Appeals' decision without undue delay, the Postal Service is not publishing a notice of proposed rulemaking. The interim standards may, however, be changed in light of comments received. Accordingly, although exempt from the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. Section 553) by 39 U.S.C. Section 410(a), the United States Postal Service invites public comment on the following interim standards.

USPS Handbook RE-4 is amended by adding the following new section:

4.1.8 Accessible Buildings: Leasing of Space in Existing Buildings

(1) Applicability.

(a) Space in existing buildings leased by the Postal Service after January 1, 1977, which has not been designed or constructed to Postal Service specifications, is required to provide access to physically handicapped persons, as follows:

(i) Customer service areas shall provide handicapped customer access to service and box lobby areas in accordance with 4.1.6(2).

(ii) Employee work areas in leased facilities shall provide handicapped accessibility in accordance with 4.1.6(3) and 4.1.6(4).

(b) The following factors will be considered in deciding whether a waiver or modification of the applicable standards should be issued in dealing with particular leased facilities: facility size; population served; handicapped population served; number of handicapped employees; length of remaining lease term; lease provisions; any plans for relocating the facility's operations; alternative accessible facilities; alternative services available to handicapped customers; and cost to alter the facility.

(c) If leased spaced, at the time of leasing, complies with any past or present state or local codes for handicapped accessibility which are consistent with the intent of the specified technical standards referenced in this section, the space shall be considered to comply with 4.1.8.

(d) Once leased space in an existing building is accessible or is made accessible hereunder, no new accessibility alterations shall be required except where alterations or additions are made to the building which are covered by 4.1.5 or 4.1.6.

(e) No new accessibility alterations shall be required of existing elements or spaces previously constructed or altered in compliance with earlier standards issued pursuant to the Architectural Barriers Act of 1968, as amended.

(2) Space Leased in Existing Buildings: Minimum Requirements.

(a) At least one accessible route complying with 4.3 form a site access point to an accessible customer entrance shall be provided, except to the extent it is structurally impracticable to provide such route. Where, however, the Postal Service does not control the site on which the leased space sites, the accessible route shall begin at an entrance to the postal facility. The accessible route required by this section is not required to connect with any accessible route provided in employee work areas. Where it does not do so, however, a separate accessible route to employee work areas must be provided. A customer accessible route and an employee accessible route may be the same.

(b) At least one accessible entrance which is used by the public (postal customer) complying with 4.14 shall be provided, except to the extent it is structurally impracticable to provide such entrance.

(c) Where a Postal Service controlled customer parking area is provided adjacent to the postal facility, accessible parking shall be provided to comply with 4.6 Parking and Passenger Loading Zones. Where parking is provided on-street or not adjacent to the postal facility, compliance with 4.6 is not required. In such instances, however, the Postal Service shall comply, where applicable, with existing local codes or ordinances for handicapped parking.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 86-8422 Filed 4-16-86; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Jefferson Parish, LA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that the environmental impact statement will be prepared for a proposed railroad-highway traffic flow conflict project in Metairie, Jefferson Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Perret, Project Development Engineer, Federal Highway Administration, P.O. Box 3929, Baton Rouge, Louisiana 70821, Telephone: (504) 389-0466; or Mr. Vincent Pizzolato, Public Hearings and Environmental Impact Engineer, Louisiana Department of Transportation and Development, Office of Highways, P.O. Box 44245, Capitol Station, Baton Rouge, Louisiana 70804, Telephone (504) 342-7542.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Louisiana Department of Transportation and Development, Office of Highways (LDOTD), intends to prepare an environmental impact statement (EIS) on a project to develop a comprehensive plan for easing the railroad-highway traffic flow conflicts and other problems associated with the presence of the railroad in the Old Metairie area The public will be involved as much as possible through public meetings, workshops and public hearing.

Alternatives under consideration include: (1) No action; (2) physical construction measures; and (3) operational measures, all of which would be designed to ease the longstanding railroad-highway conflicts and problems in the area.

There are currently no plans to hold a formal scoping meeting for the proposed action. Letters describing the proposed actions and soliciting comments will be sent to the appropriate federal, state and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A public hearing will be held at a convenient time and place for persons in the project area after the draft environmental impact statement has been circulated. The hearing will be announced through the local news media.

To ensure the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or Louisiana Department of Transportation and Development at the addresses provided above.

Issued on: April 11, 1986.

Kenneth Perret,

Project Development Engineer, Federal Highway Administration.

[FR Doc. 86-8619 Filed 4-16-86; 8:45 am]

BILLING CODE 4910-22-M

Office of Hearings

[Docket 43754]

NWA-Republic Acquisition Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 18, 1986, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, DC 20590, before the undersigned administrative law judge.

Dated at Washington, DC, April 15, 1986.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 86-8791 Filed 4-16-86; 8:45 am]

BILLING CODE 4910-62-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 74
Thursday, April 17, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:40 p.m. on Friday, April 11, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Center National Bank, Los Angeles (Woodland Hills), California, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Friday, April 11, 1986; (2) accept the bid for the transaction submitted by Independent Bank, Los Angeles (Encino), California, an insured State nonmember bank; and (3) approve the application of Independence Bank, Los Angeles (Encino), California, for consent to purchase certain assets of and assume the liability to pay deposits made in Center National Bank, Los Angeles (Woodland Hills), California, and for consent to establish the sole office of Center National Bank as a branch of Independence Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) consider the application of Lorain County Bank, Elyria, Ohio, as insured State member bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Columbia Station Branch of Thrift Federal Savings & Loan Association of Cleveland, Cleveland, Ohio, a non-FDIC-insured institution.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 15, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-8736 Filed 4-15-86, 12:04 pm]

BILLING CODE 6714-01-M

federal register

Thursday
April 17, 1986

Part II

Reader Aids

List of Libraries That Have Announced Availability of Federal Register and Code of Federal Regulations

LIST OF LIBRARIES THAT HAVE ANNOUNCED AVAILABILITY OF FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS

In order to better serve the public the Office of the Federal Register is publishing a list of libraries where the *Federal Register* and *Code of Federal Regulations* are available for examination free of charge. This list contains only those Government depository libraries and other libraries that specifically have chosen to be included. A complete listing of *Government Depository Libraries* is available without charge from The Library, U.S. Government Printing Office, 5236 Eisenhower Avenue, Alexandria, VA 22304.

The Office of the Federal Register's list will be updated annually unless public interest requires more frequent publication. Any library that maintains these publications, makes them available to the public, and wishes to be included on future lists should write to the Director of the Federal Register, National Archives and Records Administration, Washington, DC 20408, or phone (202) 523-5227 giving the name and address of the library. (*FR only. †CFR only.)

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2020 Park Place
Birmingham, AL 35203
(205) 254-2551

Gadsden:
Gadsden Public Library
254 College Street
Gadsden, AL 35901
(205) 547-1611

Mobile:
Governmental Information Division
Mobile Public Library
564 Davis Avenue
Mobile, AL 36603
(205) 438-7092

Government Documents Department
University of South Alabama Library
Mobile, AL 36688
(205) 460-7024

Montgomery:
Alabama Public Library Service
6030 Monticello Drive
Montgomery, AL 36130
(205) 277-7330

Tuscaloosa:
University of Alabama Library
Reference Department
Box S
University, AL 35486
(205) 348-6046

ALASKA

Anchorage:
Alaska Resources Library
U.S. Department of the Interior
701 C Street, Box 36
Anchorage, AK 85513

Office of the Solicitor, Law Library
U.S. Department of the Interior
510 L Street, Suite 408
Anchorage, AK 99501

Fairbanks:
Bureau of Land Management Library
Fairbanks District Office
P.O. Box 1150
North Post of Ft. Waynewright
Fairbanks, AK 99707

Rasmuson Library
Government Documents Section
University of Alaska
Fairbanks, AK 99701

Juneau:
Alaska State Library
8th Floor, New State Office Bldg.
Pouch G
Juneau, AK 99811
(907) 465-2920

ARIZONA

Flagstaff:
Government Documents Department
Northern Arizona University Library
Flagstaff, AZ 86011
(602) 523-2171

Glendale:
Velma Teague Library
7010 N. 58th Avenue
Glendale, AZ 85301
(602) 931-5576

Phoenix:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
Valley Bank Center, Suite 2080
201 North Central Avenue
Phoenix, AZ 85073

Phoenix Public Library
Business, Science & Technology—Documents
12 E. McDowell Road
Phoenix, AZ 85004
(602) 262-6451

Tempe:
Arizona State University
College of Law Library
Government Documents
Tempe, AZ 85281

Government Documents Department
Arizona State University Library
Tempe, AZ 85281

Window Rock:
Field Solicitor, Law Library
U.S. Department of the Interior
Window Rock, AZ 86515

ARKANSAS

Little Rock
Government Documents Department
UALR Library
University of Arkansas at Little Rock
33rd and University Avenue
Little Rock, AR 72204
(501) 569-3120

Searcy:
Beaumont Memorial Library
Harding University
P.O. Box 928
Searcy, AR 72143
(501) 268-6161

CALIFORNIA

Anaheim:
Anaheim Public Library
500 W. Broadway Avenue
Anaheim, CA 92805
(714) 999-1880

Arcata:
Documents Department
The Library
Humboldt State University
Arcata, CA 95521

Burlingame:
The San Mateo Foundation*
1204 Burlingame Avenue
P.O. Box 627
Burlingame, CA 94010
(415) 342-2477

Glendale:
City of Glendale
Glendale Public Library
222 East Harvard Street
Glendale, CA 91205

Inglewood:
Inglewood Public Library
101 West Manchester Blvd.
Inglewood, CA 90301
(213) 649-7397

La Jolla:
Government Documents, Maps, Microforms Department
Central University Library C-075-P
University of California, San Diego
La Jolla, CA 92093
(714) 452-3338

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5020 Clark Avenue
Lakewood, CA 90712
(213) 866–1777

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Government Publications
Long Beach Public Library and Information Center
101 Pacific Avenue
Long Beach, CA 90802
(213) 437–2949, ext. 40

Long Beach Safety Council Library
121 Linden Avenue
Long Beach, CA 90802

Menlo Park:
U.S. Geological Survey Library
345 Middlefield Road
Menlo Park, CA 94025

Oakland:
Holy Names College Library
3500 Mountain Blvd.
Oakland, CA 94619

Orange:
Thurmond Clarke Memorial Library
Chapman College
333 North Glassell Street
Orange, CA 92666

Pasadena:
City of Pasadena
Pasadena Public Library
285 E. Walnut Street
Pasadena, CA 91101
(213) 577–4054

Pleasant Hill:
Contra Costa County Library
Documents Section
1750 Oak Park Boulevard
Pleasant Hill, CA 94523
(415) 944–3423

Redwood City:
Redwood City Public Library
881 Jefferson Avenue
Redwood City, CA 94063
(415) 369–6251, ext. 288

San Mateo County Superintendent of Schools Office
Educational Resources Center
333 Main Street
Redwood City, CA 94063
(415) 364–5600

Richmond:
Richmond Public Library
Civic Center Plaza
Richmond, CA 94804

Riverside:
Riverside City and County Public Library
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3581 Seventh Street
P.O. Box 468
Riverside, CA 92502
(714) 787–7203

Sacramento:
Law Library
California State Library
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Sacramento, CA 95809
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U.S. Department of the Interior
Room E–2753
2800 Cottage Way
Sacramento, CA 95825

San Bernardino:
San Bernardino County Library
104 West Fourth Street
San Bernardino, CA 92415

San Diego:
Western State University
College of Law
1333 Front Street
San Diego, CA 92101
(714) 231–0300

San Francisco:
Field Solicitor, Law Library
U.S. Department of the Interior
450 Golden Gate Avenue
Box 36064
San Francisco, CA 94102

University of California
Hastings College of the Law
Library
198 McAllister Street
San Francisco, CA 94102

San Rafael:
Marin County Free Library
Civic Center Administration Building
San Rafael, CA 94903
(415) 499–6051

Vallejo:
California Maritime Academy*
P.O. Box 1392
Vallejo, CA 94590
(707) 644–5601

COLORADO

Denver:
Bureau of Land Management
Denver Service Center Library
Building 50
Denver Federal Center
Denver, CO 80225

Bureau of Reclamation Library
Engineering and Research Center
P.O. Box 25007, Denver Federal Center
Denver, CO 80225

Colorado State Library
1362 Lincoln Street
Denver, CO 80203

Regional Solicitor, Law Library
U.S. Department of the Interior
Room 1400, Bldg. 67, Denver Federal Center
P.O. Box 25007
Denver, CO 80225

Rocky Mountain Regional Office Library
National Park Service
655 Parfect Street
P.O. Box 25287
Denver, CO 80225

Fort Collins:
Documents Department
The Libraries
Colorado State University
Fort Collins, CO 80523

Greeley:
James A. Michener Library
Government Publications Service
University of Northern Colorado
Greeley, CO 80639

Lakewood:
Villa Library*
455 South Pierce Street
Lakewood, CO 80226
(303) 936–7407

Pueblo:
Pueblo Regional Planning Commission Library*
No. 1 City Hall Place
Pueblo, CO 81003
(303) 543–6006

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1 Tunxis Avenue
Bloomfield, CT 06002

Danielson:
Quinebaug Valley Community College
P.O. Box 59
Danielson, CT 06239
774–1130

East Haven:
Hagaman Memorial Library*
227 Main Street
East Haven, CT 06512
(203) 468–3223

Fairfield:
Nyselius Library
Fairfield University
North Benson Road
Fairfield, CT 06430
(203) 255–5411, Ext. 2451

Hartford:
The Stanley Osborne Library*
Third Floor
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79 Elm Street
Hartford, CT 06115
(203) 566–2198

Middletown:
Olin Library
Wesleyan University
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Stamford:
Ferguson Library
96 Broad Street
Stamford, CT 06901

Storrs:
Government Publications Department
University of Connecticut Library
University of Connecticut
Storrs, CT 06268

Waterbury:
Silas Bronson Public Library
Business, Industry & Technology Department
267 Grand Street
Waterbury, CT 06702

CONNECTICUT—Continued
Wethersfield:
Wethersfield Public Library
515 Silas Deane Highway
Wethersfield, CT 06109

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Wilmington:
The Delaware Law School Library
Widener University
P.O. Box 7475 Concord Pike
Wilmington, DE 19803
(302) 478–5280
Ext. 247

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Natural Resources Library
U.S. Department of the Interior
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Office of the Federal Register
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Washington, DC 20408
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Clearwater Public Library
100 North Osceola Avenue
Clearwater, FL 33515
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City Island
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(904) 255–3765
Fort Lauderdale:
Broward County Main Library
100 S. Andrews Avenue
Fort Lauderdale, FL 33301
(305) 357–7444
Melbourne:
Government Documents Department
Florida Institute of Technology Library
University Blvd.
Melbourne, FL 32901
(305) 723–3701
Orlando:
Orange County Library System
General Information Department
10 N. Rosalind Avenue
Orlando, FL 32801
(305) 425–4694
Sarasota:
The University of Sarasota
2080 Ringling Blvd.
Sarasota, FL 33577
(813) 955–4228
Tallahassee:
Documents Section
State Library of Florida
R. A. Gray Building
Tallahassee, FL 32301
(904) 487–2651
Tampa:
Tampa–Hillsborough County Public Library
900 North Ashley Street
Tampa, FL 33602
(813) 223–8969

GEORGIA
Athens:
University of Georgia Libraries
Government Reference Department
Athens, GA 30602
Atlanta:
Documents Center
Robert W. Woodruff Library
Emory University
Atlanta, GA 30322
(404) 727–6880

Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
148 Cain Street, N.E., Suite 405
Atlanta, GA 30303
Dublin:
Laurens County Library
801 Bellevue Ave.
Dublin, GA 31021
Elberton:
Southeastern Power Administration
Law Library
U.S. Department of Energy
Samuel Elbert Building
Elberton, GA 30635
Savannah:
Chatham–Effingham–Liberty Regional Library
2002 Bull Street
Savannah, GA 31499
(912) 234–5127

IDAHO
Boise:
Field Solicitor, Law Library
U.S. Department of the Interior
Federal Building, U.S. Courthouse
Box 20
Boise, ID 83724
Pocatello:
The Library
Idaho State University
Pocatello, ID 83209

ILLINOIS

Bloomington:
Illinois Wesleyan University
Library
Bloomington, IL 61701
Chicago:
Government Publications Department
Chicago Public Library
425 N. Michigan Avenue
Chicago, IL 60611
(312) 269–3002

University of Chicago Law Library
1121 East 60th Street
Chicago, IL 60637

Documents Department
University of Illinois at Chicago Circle
The Library, P.O. Box 8198
Chicago, IL 60680
(312) 996–2716/996–2738

Dekalb:
Government Publications Department
Northern Illinois University
Founders Library
Dekalb, IL 60115
(815) 753–1932
Evanston:
Northwestern University Library
Government Publications Department
Evanston, IL 60201
(312) 491–3130
Lake Forest:
Lake Forest College Library
Lake Forest, IL 60045
(312) 234–3100, ext. 410
Lockport:
Lewis University
Route 53
Lockport, IL 60441
(815) 838–0500
Macomb:
Government Publications and Legal Reference Library
Western Illinois University
Macomb, IL 61455
(309) 298–2411
Niles:
Niles Public Library District
6960 Oakton Street
Niles, IL 60648
(312) 967–8554
Normal:
Milner Library
Illinois State University
Normal, IL 61761
Oak Park:
Oak Park Public Library
834 Lake Street
Oak Park, IL 60301
(312) 383–8200
Rockford:
Rockford Public Library
215 North Wyman Street
Rockford, IL 61101
(815) 965–6731
Springfield:
Energy Information Library*
Illinois Institute of Natural Resources, Room 300
325 W. Adams Street
Springfield, IL 62706
Streamwood:
Government Documents Department
Poplar Creek Public Library
1405 S. Park Blvd.
Streamwood, IL 60103
(312) 837–6800
Waukegan:
County of Lake
Law Library
18 North County Street
Waukegan, IL 60085
(312) 689–6654

INDIANA
Fort Wayne:
The Public Library of
Fort Wayne and Allen County
900 Webster Street
Fort Wayne, IN 46802
(219) 424–7241

INDIANA—Continued
Indianapolis:
Reference and Loan Division
Indiana State Library
140 N. Senate Ave.
Indianapolis, IN 46204
(317) 232-3675
Muncie:
Ball State University Library
Government Publications Service
Muncie, IN 47305
(317) 285-6195
South Bend:
Indiana University at South Bend
1700 Mishawaka Avenue
South Bend, IN 46615
(219) 237-4440

IOWA

Ames:
Library—Government Publications Department
Iowa State University
Ames, IA 50010
(515) 294-2834
Des Moines:
State Library Commission of Iowa
Law Library
Capitol Building
Des Moines, IA 50319
(515) 281-5125

State Library Commission of Iowa
Historical Building
East 12th & Grand
Des Moines, IA 50319
Dubuque:
Carnegie-Stout Public Library
Eleventh and Bluff Streets
Dubuque, IA 52001
(319) 583-9197

Wahlert Memorial Library
Loras College
1450 Alta Vista
Dubuque, IA 52001

KANSAS

Colby:
H. F. Davis Memorial Library
Colby Community College
1255 South Range
Colby, KS 67701
(913) 462-3984
Lawrence:
University of Kansas Law Library
Green Hall
Lawrence, KS 66045
(913) 864-3025
Pittsburg:
Leonard H. Axe Library
Pittsburg State University
Pittsburg, KS 66762
(316) 231-7000, ext. 4889
Salina:
Memorial Library
Kansas Wesleyan
100 East Claflin
Salina, KS 67401-6196
(913) 827-5541, ext. 298
Topeka:
Washburn University of Topeka
School of Law Library
Topeka, KS 66621
(913) 295-6660

KENTUCKY

Bowling Green:
Western Kentucky University
Helm-Cravens Library
Bowling Green, KY 42101
Frankfort:
Government Document Section
State Library Division
Kentucky Department of Library & Archives
Berry Hill
Frankfort, KY 40602
(502) 564-2480
Highland Heights
Northern Kentucky University
Library
Government Documents Department
Highland Heights, KY 41076
Lexington:
University of Kentucky Libraries
Government Publications Department
Lexington, KY 40506

Law Library
University of Kentucky
Lexington, KY 40506
Louisville:
University of Louisville
The Library
Louisville, KY 40208
Pikeville:
CITAC Library
Pikeville College
Armington Science Center
Pikeville, KY 41501
(606) 432-9396

LOUISIANA

Baton Rouge:
Library, Department of Urban & Community Affairs
5790 Florida Boulevard
Baton Rouge, LA 70806

Louisiana State Library
P.O. Box 131
760 N. Riverside Mall
Baton Rouge, LA 70821
(504) 389-6651
Lafayette:
University of Southwestern Louisiana
University Libraries
Lafayette, LA 70501
New Orleans:
U.S. Court of Appeals Library
5th Circuit
600 Camp Street
Room 106
New Orleans, LA 70130
(504) 589-6510

MAINE

Lewiston:
George and Helen Ladd Library
Bates College
Lewiston, ME 04240
Portland:
Donald L. Garbrecht Law Library
246 Deering Avenue
Portland, ME 04102
(207) 780-4350

MARYLAND

Aberdeen:
Department of the Army
U.S. Army Environmental Hygiene Agency
ATTN: Librarian, Bldg. E-2100
Aberdeen Proving Ground, MD 21010
Annapolis:
Maryland State Law Library
Courts of Appeal Building
361 Rowe Boulevard
Annapolis, MD 21401
Baltimore:
Enoch Pratt Free Library
400 Cathedral Street
Baltimore, MD 21201
Cumberland:
Allegany Community College Library
Willow Brook Road
P.O. Box 1695
Cumberland, MD 21502
(301) 724-7700, ext. 36
Oakland:
Garrett County Planning Office*
323 East Oak Street
Oakland, MD 21550
(301) 334-4200
Rockville:
Medical Library
Food & Drug Administration
5600 Fishers Lane
Room 11B40
Rockville, MD 20857

Department of Public Libraries
Montgomery County
99 Maryland Avenue
Rockville, MD 20850
(301) 279-1966

MASSACHUSETTS

Boston:
Government Documents Department
Boston Public Library
Copley Square
Boston, MA 02117
Gloucester:
Gloucester Lyceum and Sawyer Free Library*
General Reference Section
2 Dale Avenue
Gloucester, MA 01930
(617) 283-0376
Newton Corner:
Office of the Regional Solicitor, Law Library
Suite 612
1 Gateway Center
Newton Corner, MA 02158
(617) 965-5100, ext. 258

MASSACHUSETTS—Continued

Springfield:
The City Library
Central Library
220 State Street
Springfield, MA 01103

Woburn:
Commonwealth of Massachusetts
Trial Court of the Commonwealth
District Court Department
Fourth Eastern Middlesex Division
Woburn, MA 01801
(617) 935-4000

MICHIGAN

Ann Arbor:
Washtenaw Community College
4800 East Huron River Drive
Ann Arbor, MI 48106
(313) 973-3300

Detroit:
Downtown Library*
Detroit Public Library
121 Gratiot
Detroit, MI 48226

Detroit Public Library
5201 Woodward Avenue
Detroit, MI 48202

Municipal Reference Library
Detroit Public Library
1004 City-County Building
Detroit, MI 48226

Arthur Neef Law Library
Wayne State University
468 W. Ferry Mall
Detroit, MI 48202
(313) 577-3925

East Lansing:
Documents Department
Michigan State University Library
East Lansing, MI 48824

Flint:
Flint Public Library
General Reference Department
1026 E. Kearsley Street
Flint, MI 48502
(313) 232-7111

Lansing:
Thomas M. Cooley Law School Library
U.S. Documents Collection
217 South Capitol Avenue
Lansing, MI 48901
(517) 371-5140

Marquette:
Government Documents Department
Olson Library
Northern Michigan University
Marquette, MI 49855
(906) 227-2112

Mount Clemens:
Macomb County Library
16480 Hall Road
Mount Clemens, MI 48044
469-5300

Mt. Pleasant:
Library - Documents Department
Central Michigan University
Mt. Pleasant, MI 48859
(517) 774-3414

Pontiac:
Adams-Pratt Oakland County Law Library
1200 N. Telegraph Road
Pontiac, MI 48053

Oakland Schools Library*
2100 Pontiac Lake Road
Pontiac, MI 48054

Rochester:
Kresge Library
Documents Department
Oakland University
Squirrel/Walton
Rochester, MI 48063
(313) 377-2476

Saginaw:
Public Libraries of Saginaw
505 Janes
Saginaw, MI 48605
(517) 755-0904

Traverse City:
Mark Osterlin Library
Documents Department
Northwestern Michigan College
1701 East Front Street
Traverse City, MI 49684
(616) 946-5650, ext. 540

University Center:
Learning Resources Center
Delta College
University Center, MI 48710

MINNESOTA

Bemidji:
Documents Section
A. C. Clark Library
Bemidji State University
Bemidji, MN 56601
(218) 755-2958

Blaine:
Anoka County Library
707 Highway 10
Blaine, MN 55434

Cambridge:
East Central Regional Library*
Cambridge, MN 55008

Duluth:
Duluth Public Library
520 W. Superior Street
Duluth, MN 55802
(218) 723-3804

Edina:
Southdale-Hennepin Area Library
7001 York Avenue South
Edina, MN 55435
(612) 830-4900

Mankato:
Memorial Library
Mankato State University
Box 19
Mankato, MN 56001
(507) 389-6201

Minneapolis:
Minnesota Hospital Association Library
2333 University Ave. S.E.
Minneapolis, MN 55414
(612) 331-5571

Government Publications Division
409 Wilson Library
University of Minnesota
Minneapolis, MN 55455
(612) 373-7813

St. Paul:
Minnesota State Law Library
117 University Avenue
St. Paul, MN 55155
(612) 296-2775

Government Publications Office
St. Paul Public Library
90 West Fourth Street
St. Paul, MN 55102
292-6178

Stillwater:
Stillwater Public Library
223 North Fourth Street
Stillwater, MN 55082
439-1675

Twin Cities:
Field Solicitor, Law Library
U.S. Department of the Interior
686 Federal Building, Fort Snelling
Twin Cities, MN 55111

Winona:
Maxwell Library
Government Documents
Winona State University
Winona, MN 55987
(507) 457-5148

MISSISSIPPI

Gulfport:
Harrison County Law Library
1st Judicial Courthouse
1801 23rd Avenue
Gulfport, MS 39501
(601) 864-5161 ext. 336

Jackson:
H. T. Sampson Library
Jackson State University
Jackson, MS 39217

MISSOURI

Cape Girardeau:
Kent Library
Southeast Missouri State University
Cape Girardeau, MO 63701
(314) 651-2000

Columbia:
Ellis Library
University of Missouri-Columbia
Columbia, MO 65201
(314) 882-6733

University of Missouri-Columbia
Law Library
Tate Hall
Columbia, MO 65211
(314) 882-4597

Fulton:
Reeves Library
Westminster College
Fulton, MO 65251
(314) 642-3361

MISSOURI—Continued
Jefferson City:
Missouri State Library
308 E. High Street
P.O. Box 387
Jefferson City, MO 65102
(314) 751-4552
Joplin:
Spiva Library
Missouri Southern State College
Newman & Duquesne Roads
Joplin, MO 64801
(417) 625-9386
Kansas City:
Kansas City Public Library
311 East 12th Street
Kansas City, MO 64106
(816) 221-2685

Government Documents Department
General Library
University of Missouri-Kansas City
5100 Rockhill Road
Kansas City, MO 64110
(816) 276-1536
Kirksville:
Pickler Memorial Library
Northeast Missouri State University
Kirksville, MO 63501
(816) 785-4534
Liberty:
Charles F. Curry Library
Government Documents
William Jewell College
Liberty, MO 64068
(816) 781-3806, ext. 293
Maryville:
B. D. Owens Library
Northwest Missouri State University
Maryville, MO 64468
Rolla:
Curtis Laws Wilson Library
University of Missouri-Rolla
Rolla, MO 65401
(314) 341-4227
St. Charles:
Butler Library
Lindenwood College
St. Charles, MO 63301
(314) 946-6912, ext. 329
St. Joseph:
St. Joseph Public Library
Tenth and Felix Streets
St. Joseph, MO 64501
(816) 232-7729
St. Louis:
Maryville College Library
Government Documents
13550 Conway Rd.
St. Louis, MO 63141
(314) 576-9300

Missouri Botanical Garden*
(back issues held 1 year)
2345 Tower Grove Avenue
St. Louis, MO 63110
(314) 772-7600

St. Louis County Library
1640 S. Lindbergh Blvd.
St. Louis, MO 63131
(314) 994-3300

Documents Department
St. Louis Public Library
1301 Olive Street
St. Louis, MO 63103
(314) 241-2288, ext. 375

Documents Department
Pius XII Memorial Library
St. Louis University
3655 West Pine Boulevard
St. Louis, MO 63108
(314) 658-3105

Thomas Jefferson Library
University of Missouri-St. Louis
8001 Natural Bridge Road
St. Louis, MO 63144
(314) 453-5954

Washington University Law Library
Documents Department
Campus Box 1120
St. Louis, MO 63130
(314) 889-6484
Sedalia:
State Fair Community College Library
1900 Clarendon Road
Sedalia, MO 65301
Springfield:
Walker Library
Drury College
Springfield, MO 65802

Southwest Missouri State University
The Library
Springfield, MO 65802
(417) 831-1561
Warrensburg:
Ward Edwards Library
Central Missouri State University
Warrensburg, MO 64093
(816) 429-4149

MONTANA

Billings:
Bureau of Land Management
Library
P.O. Box 30157
Billings, MT 59107

Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1538
Billings, MT 59103

NEBRASKA

Kearney:
Calvin T. Ryan Library
Kearney State College
Kearney, NE 68847
Lincoln:
Nebraska Library Commission
1420 P Street
Lincoln, NE 68508
(402) 471-2045

University of Nebraska-Lincoln
Libraries
Lincoln, NE 68588

Norfolk:
Northeast Technical Community
College
801 E. Benjamin Avenue
Norfolk, NE 68701
(402) 371-2020
Wayne
U. S. Conn Library
Wayne State College
Wayne, NE 68787
(402) 375-2200, ext. 213

NEVADA
Carson City:
Nevada State Library
Capitol Complex
Carson City, NV 89710
(702) 885-5160
Reno:
Government Publications Department
University of Nevada Library
Reno, NV 89557
(702) 784-6579

NEW HAMPSHIRE
Concord:
Law Division, State Library
Supreme Court Building
Loudon Road
Concord, NH 03301
(603) 271-3777
New London:
Fernald Library
Colby-Sawyer College
New London, NH 03257

NEW JERSEY

Bloomfield:
Bloomfield Public Library
90 Broad Street
Bloomfield, NJ 07003
(201) 429-9292
Bridgeton:
Cumberland County Library
800 East Commerce Street
Bridgeton, NJ 08302
East Orange:
East Orange Public Library
21 South Arlington Avenue
East Orange, NJ 07018
Elmer:
Arthur P. Schalick High School
Elmer-Centerton Road
R.D. 1
Elmer, NJ 08318
Hackensack:
Johnson Free Public Library
Hackensack Area Reference Library
275 Moore Street
Hackensack, NJ 07601
Jersey City:
Hudson Health Systems Agency
Library
871 Berger Avenue
Jersey City, NJ 07306
Lawrenceville:
Franklin F. Moore Library
Rider College
Lawrenceville, NJ 08648
(609) 896-5115

NEW JERSEY—Continued

Mahwah:
Ramapo College Library
505 Ramapo Valley Road
Mahwah, NJ 07430

Montclair:
Montclair Public Library
50 S. Fullerton Avenue
Montclair, NJ 07042
(201) 744-0500

Newark:
Newark Public Library
5 Washington Street
P.O. Box 630
Newark, NJ 07101
(201) 733-7782

Paterson:
Paterson Free Public Library
250 Broadway
Paterson, NJ 07501
(201) 881-3750

Pomona:
Stockton State College
Pomona, NJ 08240
(609) 652-1776, ext. 266

Toms River:
Ocean County College
Learning Resources Center
College Drive
Toms River, NJ 08753
(201) 255-4000 ext. 385

Trenton:
New Jersey State Law Library
185 West State Street
P.O. Box 1898
Trenton, NJ 08625
(609) 292-6230

Voorhees:
Camden County Library
Echelon Urban Center
Laurel Road
Voorhees, NJ 08043
(609) 772-1636

Wayne:
Wayne Public Library
475 Valley Road
Wayne, NJ 07470
(201) 694-4272

NEW MEXICO

Albuquerque:
The University of New Mexico
General Library
Albuquerque, NM 87131
(505) 277-4241 and 277-5441

The University of New Mexico
School of Law Library
1117 Stanford NE
Albuquerque, NM 87131
(505) 277-6236

Las Vegas:
New Mexico Highlands University
Donnelly Library
Las Vegas, NM 87701

Portales:
Golden Library
Documents Department
Eastern New Mexico University
Portales, NM 88130

Santa Fe:
New Mexico State Library
300 Don Gaspar
Santa Fe, NM 87503
(505) 827-2033

Office of the Solicitor, Law Library
U.S. Department of the Interior
U.S. Courthouse, Room 224
P.O. Box 1042
Santa Fe, NM 87501

Silver City:
Miller Library
Western New Mexico University
Silver City, NM 88061

NEW YORK

Albany:
The New York State Library
The State Education Department
Cultural Education Center
Empire State Plaza
Albany, NY 12230
(518) 474-5943

Brooklyn:
Brooklyn Public Library
Business Library
280 Cadman Plaza West
Brooklyn, NY 11201
(212) 780-7800

Corning:
The Arthur A. Houghton, Jr. Library
Corning Community College
Corning, NY 14830
(607) 962-9251

Garden City:
Adelphi University
Swirbul Library
South Avenue
Garden City, NY 11530
(516) 294-8700 ext. 7345

Geneseo:
State University of New York at Geneseo
Milne Library
Government Documents
Geneseo, NY 14454

Greenvale:
C. W. Post Center—Long Island University
B. Davis Schwartz Memorial Library
Greenvale, NY 11548

New Paltz:
Government Documents Department
Sojourner Truth Library
State University College
New Paltz, NY 12561
(914) 257-2252

Niagara Falls:
Niagara Falls Public Library
1425 Main Street
Niagara Falls, NY 14305
(716) 278-8113

Oswego:
State University of New York at Oswego
Oswego, NY 13126
(315) 341-4267

Rochester:
Rochester Public Library
Business and Social Science Division
115 South Avenue
Rochester, NY 14604
(716) 428-7342

Schenectady:
Schenectady County Public Library
Liberty and Clinton Streets
Schenectady, NY 12305

Syracuse:
Reference Department
Onondaga County Public Library
335 Montgomery Street
Syracuse, NY 13202
475-8458

Uniondale:
Nassau Library System
900 Jerusalem Avenue
Uniondale, NY 11553
(516) 292-8920

NORTH CAROLINA

Asheboro:
Asheboro Public Library
201 Worth Street
Asheboro, NC 27203
(919) 629-3329

Boone:
Regional Information Center
Region D Council of Governments
P.O. Box 1820
Boone, NC 28607

Charlotte:
Public Librarty of Charlotte and Mecklenburg County
310 N. Tryon Street
Charlotte, NC 28202
(704) 374-2540

Durham:
William Perkins Library
Public Documents Department
Duke University
Durham, NC 27706
(919) 684-2380

Gastonia:
Gaston County Public Library*
Headquarters: Gaston-Lincoln Regional Library
1555 East Garrison Boulevard
Gastonia, NC 28052
(704) 865-3418

Greenville:
J. Y. Joyner Library
East Carolina University
Greenville, NC 27834

Raleigh:
Documents Department
The D. H. Hill Library
North Carolina State University
Box 5007
Raleigh, NC 27650

North Carolina Supreme Court Library
2 East Morgan Street
P.O. Box 28006
Raleigh, NC 27611
(919) 733-3425

NORTH CAROLINA—Continued
Winston-Salem:
Forsyth County Public Library
660 West Fifth Street
Winston-Salem, NC 27101
(919) 727-2220

NORTH DAKOTA

Bismarck:
Bismarck Junior College*
Schafer Heights
Bismarck, ND 58501
North Dakota State Library
Highway 83 North
Bismarck, ND 58505
224-2490
Office of Program Planning*
All Nations Circle - Bldg. 35
United Tribes Educational Technical Center
3315 South Airport Road
Bismarck, ND 58501

OHIO

Athens:
Government Documents Department
Ohio University Library
Athens, OH 45701
(614) 594-5604
Cincinnati:
Municipal Reference Library
224 City Hall
Cincinnati, OH 45202
National Institute for Occupational Safety and Health
Division of Technical Services
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, OH 45226
Cleveland:
Cleveland Public Library
325 Superior Avenue
Cleveland, OH 44114
Cleveland Regional Sewer District*
Library
Administrative Offices
801 Rockwell Avenue
Cleveland, OH 44114
(216) 781-6600 ext. 219
Cleveland Heights:
Cleveland Heights—University Heights Public Library
2345 Lee Road
Cleveland Heights, OH 44118
(216) 932-3600
Columbus
The State Library of Ohio
65 South Front Street
Columbus, OH 43215
(614) 466-2694
Dayton:
University Library
Wright State University
Dayton, OH 45435
Findlay:
Marathon Oil Company
Law Library, Room 854-M
539 South Main Street
Findlay, OH 45840
(419) 422-2121 ext. 3376
Shafer Library
Findlay College
1000 N. Main Street
Findlay, OH 45840
(419) 422-8313
Marion:
Marion Public Library*
445 E. Church Street
Marion, OH 43302
(614) 387-0992
Toledo:
Toledo-Lucas County Public Library
Social Science Department
325 Michigan Street
Toledo, OH 43624
(419) 255-7055 ext. 221
Wooster:
Andrews Library
The College of Wooster
Wooster, OH 44691

OKLAHOMA

Aradarko:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 397
Aradarko, OK 73005
Norman:
Law Library
University of Oklahoma
300 Timberdell
Norman, OK 73019
Oklahoma City:
Metropolitan Library System
Main Library
131 Dean A. McGee Avenue
Oklahoma City, OK 73102
(405) 631-1149
Oklahoma Department of Libraries
U.S. Documents Regional Depository
200 N.E. 18th Street
Oklahoma City, OK 73105
(405) 521-2502
Pawhuska:
Field Solicitor, Law Library
U.S. Department of the Interior
c/o Osage Agency
Pawhuska, OK 74056
Stillwater:
Documents Department
Edmon Low Library
Oklahoma State University
Stillwater, OK 74074
(405) 624-6546
Tulsa:
Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 3156
Tulsa, OK 74101

OREGON

Eugene:
University of Oregon Library
Government Documents Section
Eugene, OR 97403
(503) 686-3070
Portland:
Library Association of Portland
(Multnomah County Library)
801 S.W. 10th Avenue
Portland, OR 97205
223-7201
Salem:
Oregon State Library
State Library Building
Salem, OR 97310
(503) 378-4276

PENNSYLVANIA

Aliquippa:
B.F. Jones Memorial Library*
Aliquippa District Center
663 Franklin Avenue
Aliquippa, PA 15001
(412) 375-7174
Allentown:
The John A. W. Haas Library
Muhlenberg College
Allentown, PA 18104
Dallas:
Library
College Misericordia
Dallas, PA 18612
Harmony:
Library
Seneca Valley Senior High School*
Southwest Butler County School District
R.D. 2
Harmony, PA 16037
Harrisburg:
State Library of Pennsylvania
Box 1601
Harrisburg, PA 17126
(717) 787-7343
Hazleton:
Hazleton Area Public Library
Church and Maple Streets
Hazleton, PA 18201
454-2961/454-0244
Johnstown:
Cambria County Library System
248 Main Street
Johnstown, PA 15901
(814) 536-5131
Lancaster:
Fackenthal Library
Franklin and Marshall College
P.O. Box 3003
Lancaster, PA 17604
(717) 291-4210
Loretto:
Pius XII Memorial Library
Saint Francis College
Loretto, PA 15940
Millersville:
Millersville State College
Millersville, PA 17551
Vein
Stayer R & L Center
Millersville State College
Millersville, PA 17551
(717) 872-5411 ext. 552, 542

PENNSYLVANIA—Continued

Newtown:
The Library
Bucks County Community College
Newtown, PA 18940

Philadelphia:
Government Publications Department
Free Library of Philadelphia
Logan Square
Philadelphia, PA 19103

Pittsburgh:
Baldwin Borough Public Library
3344 Churchview Avenue
Pittsburgh, PA 15227

U.S. Bureau of Mines
Library
4800 Forbes Avenue
Pittsburgh, PA 15213

Shippensburg:
Ezra Lehman Memorial Library
Shippensburg State College
Shippensburg, PA 17257

Somerset:
Somerset State Hospital Library
Box 631
Somerset, PA 15501
(814) 445-6501, ext. 216

Swarthmore:
The Swarthmore College Library
The McCabe Library
Swarthmore, PA 19081
(215) KI 4-7900

Warren:
Warren Library Association
205 Market Street
Warren, PA 16365

Washington:
Washington County Law Library
Courthouse
Washington, PA 15301
(412) 228-6747

West Chester:
Francis Harvey Green Library*
West Chester State College
West Chester, PA 19380
(215) 436-2869

Wilkes-Barre:
Institute of Regional Affairs*
Wilkes College
Wilkes-Barre, PA 18703

RHODE ISLAND

Kingston:
Government Publications Office
University of Rhode Island
Library
Kingston, RI 02881
(401) 792-2602

Providence:
Brown University Library
Documents Department
Providence, RI 02912
(401) 863-2522

Providence Public Library
150 Empire Street
Providence, RI 02903
(401) 521-7722

Rhode Island College
James P. Adams Library
Documents Department
600 Mt. Pleasant Avenue
Providence, RI 02908
(401) 274-4900 ext. 331

Warwick:
Warwick Public Library
600 Sandy Lane
Warwick, RI 02886
(401) 739-5440

SOUTH CAROLINA

Charleston:
Baptist College of Charleston
P. O. Box 10087
Charleston, SC 29411

Charleston County Library
404 King Street
Charleston, SC 29403

Citadel
Charleston, SC 29409

College of Charleston
66 George Street
Charleston, SC 29401

Clemson:
Clemson University
Clemson, SC 29631

Columbia:
Benedict College
Blanding & Harden Streets
Columbia, SC 29204

Richland County Public Library
1400 Sumter Street
Columbia, SC 29201

South Carolina State Library
1500 Senate Street
Columbia, SC 29201

University of South Carolina
Columbia, SC 29208

Conway:
Coastal Carolina (of University of SC)
Route 6
Conway, SC 29526

Due West:
Erskine College*
Due West, SC 29639

Florence:
Florence County Library
319 S. Irby Street
Florence, SC 29501

Francis Marion College
Florence, SC 29501

Greenville:
Furman University
Greenville, SC 29613

Greenville County Library
300 College Street
Greenville, SC 29601

Greenwood:
Larry A. Jackson Library
Lander College
Greenwood, SC 29646

Orangeburg:
South Carolina State College
College Avenue
Orangeburg, SC 29117

Rock Hill:
Winthrop College
Rock Hill, SC 29733

Spartanburg:
Spartanburg County Library
P. O. Box 2409
333 S. Pine Street
Spartanburg, SC 29304

Sumter:
Sumter County Library
111 North Harvin Street
Sumter, SC 29150
773-7273

SOUTH DAKOTA

Brookings:
H. M. Briggs Library
South Dakota State University
Brookings, SD 57007
(605) 688-5106

Rapid City:
Devereaux Library
South Dakota School of Mines & Technology
Rapid City, SD 57701
(605) 394-2418

Sioux Falls:
Sioux Falls Public Library
201 N. Main Avenue
Sioux Falls, SD 57101

TENNESSEE

Chattanooga:
Hamilton County Bicentennial Library
Business, Science and Technology Department
1001 Broad Street
Chattanooga, TN 37402
(615) 757-5312

Clarksville:
Woodward Library
Austin Peay State University
Clarksville, TN 37040
(615) 648-7346

Martin:
Paul Meek Library
University of Tennessee at Martin
Martin, TN 38238
(901) 587-7065

Nashville:
Documents Unit
Joint University Libraries
Nashville, TN 37203

Tennessee State Library
Tennessee State Library and Archives
403 Seventh Avenue North
Nashville, TN 37219
(615) 741-2451

TEXAS

Amarillo:
Amarillo Public Library*
City of Amarillo
P.O. Box 2171
413 E. 4th
Amarillo, TX 79189

TEXAS, Amarillo—Continued
Field Solicitor
U.S. Department of the Interior
P.O. Box H-4393, Herring Plaza
Amarillo, TX 79101
Austin:
The State Law Library
Supreme Court Building
P.O. Box 12367, Capitol Station
Austin, TX 78711
(512) 475-3807
College Station:
Documents Division
University Libraries
Texas A & M University
College Station, TX 77843
Dallas:
Dallas County Law Library
Government Center
Dallas, TX 75202
749-8481

U.S. Environmental Protection Agency
Region VI
1201 Elm Street
Dallas, TX 75270
Denton:
Texas Woman's University Library
Box 23715, TWU Station
Denton, TX 76204
(817) 566-6415
El Paso:
El Paso Public Library
Documents Section
501 North Oregon Street
El Paso, TX 79901
(915) 543-3808
Hurst:
Hurst Public Library
901 Precinct Line Road
Hurst, TX 76053
(817) 485-5320
Killeen:
Oveta Culp Hobby Library
American Educational Complex
U.S. Hwy 190 W.
Killeen, TX 76541
(817) 526-1237
Lubbock:
School of Law Library
Texas Tech University
Lubbock, TX 79409
Victoria:
Documents Department
VC/UHVC Library
2602 N. Ben Jordan
Victoria, TX 77901
(512) 576-3151, ext. 201
(512) 573-3291

UTAH

Cedar City:
Southern Utah State College Library
Cedar City, UT 84720
Ephraim:
Lucy A. Phillips Library
Snow College
Ephraim, UT 84627
Logan:
Documents Department
Merrill Library, UMC 30
Utah State University
Logan, UT 84322

Ogden:
Weber State College Library
Ogden, UT 84403
Provo:
Harold B. Lee Library
Documents and Maps Section
Brigham Young University
Provo, UT 84602

Law Library
Brigham Young University
Provo, UT 84602
Salt Lake City:
Regional Solicitor
U.S. Department of the Interior
Suite 6201, Federal Building
125 South State Street
Salt Lake City, UT 84138

Supreme Court Library
State Capitol
Salt Lake City, UT 84114

College of Law Library
University of Utah
Salt Lake City, UT 84112

Government Documents
Eccles Health Sciences Library
University of Utah, Bldg. 89
Salt Lake City, UT 84112

Government Documents Division
Marriott Library
University of Utah
Salt Lake City, UT 84112

Utah State Library Commission
2150 South 300 West, Suite 16
Salt Lake City, UT 84115

VERMONT

Burlington:
Bailey/Howe Library
Documents Department
University of Vermont
Burlington, VT 05405
Middlebury:
Egbert Starr Library
Government Documents Department
Middlebury College
Middlebury, VT 05753
South Royalton:
Law Library
Vermont Law School
South Royalton, VT 05068
(802) 763-8303

VIRGINIA

Alexandria:
Alexandria Library*
717 Queen Street
Alexandria, Va. 22314
(703) 838-4555
Arlington:
Office of Hearings and Appeals
Library
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, VA 22203
Chesapeake:
Chesapeake Public Library
300 Cedar Road
Chesapeake, VA 23320
(804) 547-6591
Danville:
Danville Community College Library
1009 Bonner Avenue
Danville, VA 24541
(804) 797-3553
Fairfax:
Fairfax City Central Library
3915 Chain Bridge Road
Fairfax, VA 22030
(703) 691-2741

Fenwick Library
George Mason University
4400 University Drive
Fairfax, VA 22030
Lynchburg
The Library
Lynchburg College
Lynchburg, VA 24501
Norfolk:
Norfolk Public Library System
301 East City Hall Avenue
Norfolk, VA 23510
Reston:
U.S. Geological Survey
Library
National Center, Mail Stop 950
Reston, VA 22092
Richmond:
Learning Resources Center
Parham Road Campus
J. Sargeant Reynolds Community
College
P.O. Box 12084
Richmond, VA 23241
(804) 264-3220

Municipal Library
County of Henrico
Hungary Springs & Parham Roads
Richmond, VA 23228

Virginia State Library
11th & Capitol Streets
Richmond, VA 23219
Roanoke:
Roanoke Law Library
210 Campbell Avenue, SW
Roanoke, VA 24011
Virginia Beach:
Public Law Library
Municipal Center
City of Virginia Beach
Virginia Beach, VA 23456
Williamsburg:
Documents Department
Earl Gregg Swem Library
College of William and Mary
Williamsburg, VA 23185

WASHINGTON

Bellingham:
Documents Division, Wilson Library
Western Washington University
516 High Street
Bellingham, WA 98225
(206) 676-3075

Cheney:
Eastern Washington University
The Library
Cheney, WA 99004
(509) 359-2475

Everett:
Everett Public Library
2702 Hoyt Avenue
Everett, WA 98201
(206) 259-8857

Snohomish County Law Library
County Courthouse
Everett, WA 98201
(206) 259-5326

Midway:
Highline Community College
Library 25-2
Midway, WA 98032
(206) 878-3710, ext. 232

Olympia:
Washington State Law Library
Temple of Justice
Olympia, WA 98504

Washington State Library
Document Section
Olympia, WA 98504
(206) 753-4027

Port Angeles:
North Olympic Library System
207 So. Lincoln
Port Angeles, WA 98362

Seattle:
NW Federal Regional Council Library
Room 1023 Arcade Plaza Building
1321 Second Avenue
Seattle, WA 98101
(206) 442-5554

Spokane:
Gonzaga University Law Library
E. 600 Sharp Avenue
P.O. Box 3528
Spokane, WA 99220

Spokane Public Library
West 906 Main Avenue
Spokane, WA 99201
(509) 838-3361

WEST VIRGINIA

Beckley:
National Mine Health and Safety Academy
Learning Resources Center
P.O. Box 1166
Beckley, WV 25801

Charleston:
Kanawha County Public Library
123 Capitol Street
Charleston, WV 25301
(304) 343-4646

Montgomery:
Vining Library
West Virginia Institute of Technology
Montgomery, WV 25136

Weirton:
Mary H. Weir Public Library
3442 Main Street
Weirton, WV 26062
(304) 748-7070

WISCONSIN

Appleton:
Appleton Public Library
121 South Oneida Street
Appleton, WI 54911
734-7171

Green Bay:
University of Wisconsin—Green Bay
Library Learning Center
Government Publications
Green Bay, WI 54302

Kenosha:
Library/Learning Center
University of Wisconsin-Parkside
Wood Road
Kenosha, WI 53141

Ladysmith:
Mount Senario College Library
Ladysmith, WI 54848

Madison:
Madison Public Library
201 W. Mifflin Street
Madison, WI 53703
(608) 266-6363

Milwaukee:
Milwaukee County
Law Library
Courthouse, Room 307
901 North 9th Street
Milwaukee, WI 53233
278-4322

WYOMING

Gillette:
George Amos Memorial Library
412 S. Gillette Avenue
Gillette, WY 82716
(307) 682-3223

Laramie:
Coe Library---Documents Division
University of Wyoming
Box 3334, University Station
Laramie, WY 82071
(307) 766-2174

federal register

Thursday
April 17, 1986

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 251, and 255

Full Insurance and Multifamily Coinsurance; Technical Amendments to Provisions Relating to Section 223 (f); Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 251, and 255

[Docket No. R-86-1275; FR-2194]

Technical Amendments to Provisions Relating to Section 223(f) Full Insurance and Multifamily Coinsurance

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

ACTION: Final rule.

SUMMARY: This rule adopts as final certain provisions in 24 CFR Part 207 promulgated earlier in interim rules. The provisions relate to HUD's authority to insure mortgages covering existing multifamily properties. The rule also makes technical changes in 24 CFR Parts 251 and 255 (Coinsurance of Mortgages Covering Newly Constructed or Substantially Rehabilitated Multifamily Projects and Coinsurance of Mortgages Covering Existing Multifamily Projects). The changes are designed to make the sectional organization, and the specific language used within each section, in each of the parts as nearly identical as the subject matter of each part will permit. All revisions made by this rule are technical in nature.

EFFECTIVE DATE: May 19, 1986.

FOR FURTHER INFORMATION CONTACT: James Hamernick, Office of Multifamily Housing Development, Room 6132, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-6500. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department has made a concerted effort, in developing regulations for its multifamily coinsurance program, to develop regulatory provisions which are as clear and readily comprehensible as the subject matter allows. The result thus far has been the adoption as final of two new parts to title 24 of the CFR (Parts 251 and 255) and the publication of conforming revisions, by interim rule, to four extraneous sections contained in 24 CFR Part 207. We believe, with these publications, the Department has made significant progress toward the goal of providing the public with multifamily coinsurance regulations that are set forth in clear language, are structured in a logical manner, and contain a minimum of complex cross references to other provisions in the CFR. The purpose of this rule is to continue progress toward these goals. The rule would (1) make some revisions in the sectional structure of both Part 251 and Part 255 in order that the sections in each of those parts correspond with each other; (2) make nonsubstantive language revisions (mainly in part 251) where needed to make the language of corresponding sections as nearly identical as possible; and (3) adopt as final miscellaneous interim revisions made in Part 207 in the course of developing the multifamily coinsurance regulations. A more detailed description of the changes made to each of these parts follows. None of the changes are substantive in nature and they should not be construed as in any way revising or affecting current program policies. Where this rule adopts as final provisions contained in previously published interim rules, an opportunity for public comment was provided on each of the interim rules. No objections were raised in public comments on any of the provisions being adopted in this rule.

Part 207—Adopting Current Texts of §§ 207.24, 207.27, 207.32a, and 207.259 as Final

Section 207.24 (Development of property) was revised by interim rule on May 25, 1983 (48 FR 23411) and July 5, 1984 (49 FR 27491). The two rules specifically limit mortgage insurance under the basic Part 207 multifamily insuring authority—*i.e.*, full insurance which does not utilitize the special provisions contained in § 207.32a—to properties which are to be newly constructed or substantially rehabilitated. In essence, the revisions consist of a definition of what is meant by "substantial rehabilitation". This rule adopts as final the revisions made by these interim rules.

Section 207.27 (Certificates of actual cost) was revised by interim rule on July 5, 1984 (49 FR 27491). The revision is a technical conforming change. It authorizes the submission of supplemental certificates of actual cost in connection with repairs on existing projects insured under § 207.32a. This rule adopts the revision as final.

Section 207.32a (Eligibility of mortgages on existing projects) has been extensively revised since its adoption as a final rule on September 24, 1975. Most of the revisions were in the form of final rules of a technical nature that required no public comment procedures. Three revisions however, were in the form of interim rules (48 FR 23411 published May 25, 1983, 49 FR 24654 published June 14, 1984 and 49 FR 27491 published July 5, 1984). These interim rule provisions were essentially amendments to conform § 207.32a to changes also being made in the Part 255 coinsurance progam or in response to the new Part 850 Housing Development Grant Program. No public comment objections were raised concerning these interim rule provisions, and this rule adopts them as final.

Section 207.259 (Insurance benefits) was revised in an interim rule (49 FR 24654 published on June 14, 1984) to reflect a statutory provisions that insurance benefits in connection with projects assisted under the Housing Development Grant Program be payable in cash, unless the mortgagee submits a written request for debenture payment. Projects assisted under the Housing Development Grant Program may be eligible for FHA coinsurance as well as full insurance. This rule adopts as final the revision made in the June 14, 1984 interim rule.

Technical Corrections to Conform Part 251 More Closely to Part 255

On August 9, 1984, Part 251 was published as a final rule (49 FR 32023). On June 24, 1985, Part 255 was published as a final rule (50 FR 25915) in a form which, in addition to adopting numerous interim revisions made since its original publication, also substantially reflected the organization and structure of the final Part 251 rule. While both companion coinsurance parts now have substantially the same structure, it was not feasible in their development and processing to ensure that the language of corresponding sections was the same. (The predominant reasons for *any* language difference, of course, would be that one part only deals with newly constructed or substantially rehabilitated projects while the other only deals with existing projects.) This effort to bring the language of corresponding sections into uniformity is aimed at making HUD's multifamily coinsurance regulations as unambiguous as possible and to emphasize the fact that HUD considers multifamily coinsurance as essentially a single program dealing with two separable categories of projects.

Part 255, as the later-adopted rule, is used as the "base" for conforming changes. Since the changes to Part 251, though technical or merely grammatical, are numerous, it appeared most convenient and economical to reprint the Part as a whole rather than to revise each individual section separately in the rule. Note also that the section designations in Subpart I have been revised to conform to those in Part 255.

On October 2, 1985, a technical correction to Part 251 was published in the **Federal Register** (50 FR 40195) that clarified that the FHA Commissioner retains responsibility for enforcement of labor standards and prevailing wage requirements. It also provided that the Commissioner may delegate to the coinsuring lender only routine administration and enforcement functions subject to monitoring by the Commissioner. This rule incorporates these technical revisions.

Part 255—Technical Revisions To Conform the Part More Closely to Part 251

On June 24, 1985, Part 255 was published as a final rule (50 FR 25915). While a number of technical revisions are made to it in this rule (mainly a renumbering of the sections in Subpart I), the language of Part 255 is essentially unchanged.

Procedural Requirements

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 29, 1985 (50 FR 44166) under Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance program numbers are 14.135 and 14.173.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities, because this rule is entirely technical and changes no program requirements.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Act of 1980 (44 U.S.C. 3501–3520).

List of Subjects

24 CFR Part 207

Mortgage insurance, Rental housing.

24 CFR Part 251

Mortgage insurance, Coinsurance of multifamily mortgages.

24 CFR Part 255

Mortgage insurance, Coinsurance of multifamily mortgages.

Accordingly, 24 CFR Parts 207, 251, and 255 are amended as set forth below.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

The authority citation for 24 CFR Part 207 continues to read as follows:

Authority: Secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

1. Section 207.24 is revised to read as follows:

§ 207.24 Development of property.

(a) At the time the mortgage is insured, the mortgagor shall be obligated to construct and complete new housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Commissioner, and consist of not less than five rental dwelling units on one site. These units may be detached, semi-detached, or row houses, or multifamily structures. The Commissioner may also insure a mortgage on a completed project constructed pursuant to a Commitment to Insure upon Completion, or

(b) At the time the mortgage is insured, there shall be located on the mortgaged property a building or buildings that require substantial rehabilitation (as defined in paragraph (c) of this section) and, that upon completion of substantial rehabilitation, shall constitute a single project and provide housing accommodations designed principally for residential use, conform to standards satisfactory to the Commissioner, and contain at least five rental dwelling units so located in relation to one another as to effect a substantial improvement of housing standards and conditions in the neighborhood. In the case of both newly constructed and existing housing, the housing and improvements, if any, must not violate any material zoning or deed restriction applicable to the project site, and must comply with all applicable building and other government regulations. A project may include such commercial and community facilities as the Commissioner deems adequate to serve the occupants.

(c) "Substantial rehabilitation" consists of repairs, replacements, and improvements:

(1) The cost of which exceeds the greater of:

(i) 15 percent of the property's value after completion of all repairs, replacements and improvements, or

(ii) $6,500 per dwelling unit (adjusted by any high-cost area factor authorized in § 207.4(c), or

(2) That involve the replacement of more than one major building component. The term "major building component" includes roof structures; ceiling, wall, or floor structures; foundations; and plumbing heating, air conditioning; or electrical systems.

§ 207.27 [Amendment final]

2. Section 207.27 is adopted as final without change.

3. The introductory text of § 207.32a, and paragraphs (a), (f) and (m)(2), are revised to read as follows:

§ 207.32a Eligibility of mortgages on existing projects.

Notwithstanding the generally applicable requirement that mortgages insured under this subpart be limited to projects to be constructed or substantially rehabilitated after commitment for mortgage insurance, a mortgage executed in connection with the purchase or refinancing of an existing multifamily housing project containing five or more units may be insured under this subpart pursuant to section 223(f) of the National Housing Act. A mortgage insured pursuant to this section shall meet all other requirements of this subpart except as modified by this section and shall be limited as to amount, terms, and conditions for insurance as follows:

(a) *Application, commitment, and required fees*—(1) *Application.* An application for a conditional or firm commitment for insurance of a mortgage on a project shall be submitted by the sponsor and an approved mortgagee. Such application shall be submitted to the local HUD office on an FHA approved form. No application shall be

considered unless accompanied by the exhibits required by the form. An application may, at the option of the applicant, be submitted for a firm commitment omitting the conditional commitment stage. An application may be made for a commitment which provides for the insurance of the mortgage upon completion of any improvements or for a commitment which provides, in accordance with standards established by the Commissioner, for the completion of specified repairs and improvements after endorsement.

(2) *Application fee—conditional commitment.* An application-commitment fee of $2 per thousand dollars of the requested mortgage amount shall accompany an application for conditional commitment.

(3) *Application fee—firm commitment.* An application for firm commitment shall be accompanied by an application-commitment fee of $3 per thousand dollars of the requested mortgage amount to be insured less the amount of any fee previously received for a conditional commitment.

(4) *Inspection fee.* No inspection fee will be required.

* * * * *

(f)(1) *Eligible property.* A mortgage given to purchase or refinance an existing project shall be eligible for insurance if the project contains at least five dwelling units. The project shall have attained sustaining occupancy (occupancy that would produce rental income sufficient to pay operating expenses, annual debt service and reserve fund for replacement requirements), as determined by the Commissioner, before endorsement of the mortgage for insurance, or the mortgagor shall provide an operating deficit fund at the time of endorsement for insurance, in an amount and under an agreement approved by the Commissioner.

(2) A property is eligible for mortgage insurance under this section if:

(i) The cost of repairs, replacements, and improvements does not exceed the greater of:

(A) 15 percent of the property's value after completion of all repairs, replacements, and improvements, or

(B) $6,500 per dwelling unit (adjusted by any applicable high-cost area factor authorized in paragraph (b)(2)(ii) of this section) or in the case of any purchase or refinancing involving property to be rehabilitated under Part 511 or Part 850 of this title, $2,000 per dwelling unit, except that the Commissioner may increase this amount by not to exceed 25 percent for specific properties where the Commissioner determines that cost levels so require, and

(ii) No more than one major building component is being replaced. The term "major building component" includes roof structures; ceiling, wall or floor structures; foundations; and plumbing, heating, air conditioning, or electrical systems.

(4) [Reserved]

(5) Before filing an application for mortgage insurance, the project, except one which meets the requirements of paragraph (k) of this section, must have been fully completed and at least three years must have elapsed from the date of completion or initial occupancy, as determined by the Commissioner, whichever is later.

* * * * *

(m) * * *

(2) A General Operating Reserve must be established and maintained, in accordance with standards established by the Commissioner, throughout the period that the mortgage insurance is in force; and

* * * * *

§ 207.259 [Amendment final]

4. Section 207.259 is adopted as final without change.

PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS

5. 24 CFR Part 251 is revised to read as follows:

PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS

Subpart A—General Provisions

Sec.
251.1 Purpose and scope.
251.2 Coinsurance contract.
251.3 Definitions.
251.4 Effect of amendments.

Subpart B—Lender Requirements

251.101 Eligible lender.
251.102 Review and approval as coinsuring lender.
251.103 Duration of approval.
251.104 Probation, suspension or withdrawal of approval.
251.105 Delegation of servicing.
251.106 Assignment of and participation in coinsured mortgages.
251.107 Reinsurance.
251.108 Pledging and other security arrangements.

Subpart C—Program Requirements

251.201 Eligible project.
251.202 Eligible mortgagors.
251.203 Maximum mortgage limitations.
251.204 Maximum interest rate.
251.205 Term of the mortgage.
251.206 Lender's fees and premiums.
251.207 Coinsurance of mortgages in lender's portfolio.
251.208 Non-discrimination in housing and employment.
251.209 Labor standards and prevailing wage requirements.

Subpart D—Processing and Commitment

251.301 Processing and development responsibilities.
251.302 Processing and commitment.

Subpart E—Insurance of Advances; Insurance Upon Completion; Construction Period

251.401 Insurance of advances or insurance upon completion; Applicability of requirements.
251.402 Insurance of advances.
251.403 Insurance upon completion.
251.404 Requirements applicable to both insurance of advances and insurance upon completion cases.
251.405 Lender's review of mortgage amount.
251.406 Application of net income received before beginning of amortization.
251.407 Endorsement by the commissioner.

Subpart F—Mortgage and Closing Requirements

251.501 Mortgage requirements—real estate.
251.502 Title.
251.503 Mortgage and note provisions.
251.504 Mortgage lien and other obligations.
251.505 Regulatory agreement.
251.506 Other closing documents.

Subpart G—Requirements Relating to Structure of Mortgagor Entity and Transfers of Ownership Interest

251.601 Requirements applicable to all projects.
251.602 Requirements for projects intended for cooperative ownership.
251.603 Requirements for projects intended for nonprofit ownership.

Subpart H—Program Requirements Relating to Project Operation

251.701 General.
251.702 Reserve for replacements and general operating reserve.
251.703 Rents and charges.
251.704 Use of project funds.
251.705 Distributions and Residual Receipts.
251.706 Project management.

Subpart I—Contract Rights and Obligations

Mortgage Insurance Premiums

251.801 MIP in insurance of advances cases.
251.802 MIP in insurance upon completion cases.
251.803 Duration and method of payment of MIP.
251.804 Pro-rata refund of annual MIP.
251.805 Late charges—MIP.
251.806 [Reserved]

Delinquency and Default Under the Mortgage

251.807 Notice of delinquency.
251.808 Definition of default.
251.809 Date of default.
251.810 Notice of default.

251.811 Financial relief to cure a default.
251.812 Reinstatement of a defaulted Mortgage.

Termination

251.813 Termination of coinsurance contract.
251.814 Notice and date of termination by Commissioner.

Claim Procedure and Payment of Insurance Benefits

251.815 Notice of election to acquire property and file a claim.
251.816 Acquisition of property.
251.817 Deed in lieu of foreclosure.
251.818 Disposition of property and application for insurance benefits.
251.819 Method of payment.
251.820 Amount of payment.
251.821 Items included in payment.
251.822 Items deducted from payment.
251.823 [Reserved]

Remedies for Default by a Lender-Issuer Under the Government National Mortgage Association (GNMA) Mortgaged-Backed Securities Program

251.824 Indemnification of GNMA.
251.825 Withdrawal of lender approval.
251.826 HUD recourse against lender-issuer.
251.827 GNMA right to assignment.
251.828 GNMA right to claim coinsurance benefits after lender-issuer's acquisition of title.

Authority: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); sec. 244, National Housing Act, 12 U.S.C. 1715z(9).

Subpart A—General Provisions

§ 251.1 Purpose and scope.

(a) Section 307 of the Housing and Community Development Act of 1974 amended the National Housing Act (the Act) by adding a new section 244 entitled, "Coinsurance". Section 244 authorizes the Department to insure, under a Coinsurance Contract, any Mortgage otherwise eligible for insurance under Title II of the Act. The Coinsurance Contract provides that the approved lender (1) assist assume a percentage of any loss and (2) carry out (subject to monitoring) underwriting, commitment, property disposition and other functions that the Federal Housing Commissioner (Commissioner) approves.

(b) HUD expects that the sharing of risk and the assumption by the lender of major processing functions under coinsurance will reduce processing time and HUD staff burden, and increase lender involvement in all phases of the HUD Mortgage insurance process.

(c) Section 244(c) of the Act permits the Secretary to coinsure Mortgages only if the Secretary determines, after due consultation with the Mortgage lending industry, that coinsurance will not disrupt the Mortgage market or reduce the availability of Mortgage credit to borrowers who depend upon full Mortgage insurance provided under the Act. HUD has invited and will continue to invite, through formal public comment procedures and otherwise, the Mortgage lending industry and other interested parties to make their views known on these issues. Issuance of this Part 251 (and any later amendment to it) for effect will mean that no adverse effects are reasonably predictable at the time of issunace. However, the Department will continue to monitor the effects of coinsurance and will welcome the submission of evidence that shows that disruptions of the housing or Mortgage market or reductions in Mortgage credit are occurring (or will occur) as a result of the coinsurance program.

(d) This part provides for the coinsurance of Mortgages under section 221(d)(3) or section 221(d)(4) of the Act, which cover multifamily projects to be newly constructed or substantially rehabilitated.

(e) No full insurance authorized under any provision of the Act will be withdrawn, denied, or delayed because of the availability of coinsurance under this part.

(f)(1) If the Commissioner determines that coinsurance under this part is having an adverse effect on the availability of Mortgage credit to older and declining neighborhoods or to purchasers of older and lower cost housing, the Commissioner will discontinue the program after due notice. In such a case, no further coinsurance applications will be accepted nor will any further commitments under the program be authorized.

(2) If the Commissioner determines that coinsurance under this part is disrupting (or will disrupt) the housing or Mortgage market in a market area or is adversely impacting (or will adversely impact) other federally insured projects in a market area, the Commissioner will modify, suspend, or discontinue insurance activities in such area after due notice.

(g) Neither the coinsuring lender nor the Mortgagor shall have any vested or other right in the General Insurance Fund.

§ 251.2 Coinsurance contract.

The Contract of Coinsurance is the agreement between the lender and the Commissioner to coinsure a Mortgage under this part. It is evidenced by an endorsement on the Mortgage note by the Commissioner, or by the Commissioner's authorized Departmental representative, and includes the terms, conditions and provisions of this part.

§ 251.3 Definitions.

(a) "Builder's and Sponsor's Profit and Risk Allowance" (BSPRAP) is an amount included in replacement cost where an identity of interest, as defined by the Commissioner, exists between the Mortgager and general contractor. The amount is a percentage of the total estimated cost of on-site land improvements; structures; general requirements; general overhead expenses; architect's fees; carrying and financing charges; and legal, organizational and audit expenses. The appropriate percentage to be applied is established by the Commissioner and may not exceed 10 percent.

(b) "Builder-seller Mortgagor" means an entity organized:

(1) To construct or rehabilitate a project and that, by written agreement with a Nonprofit Mortgagor, will sell the project (at final endorsement) to the Nonprofit Mortgagor at a purchase price not exceeding the certified cost of the project under § 251.404;

(2) To operate the project (subject to regulation by the lender) in accordance with requirements of the Commissioner, until sold to the Nonprofit Mortgagor; and

(3) To operate the project, if it is not sold within two years to a Nonprofit Mortgagor, as a Limited Distribution Mortgagor.

(c) "Coinsured Mortgage" means a Mortgage concerning which the risk of loss is shared by the lender and the Commissioner. The coinsurance is evidenced by endorsement of the Mortgage note by the Commissioner or by the Commissioner's authorized departmental representative.

(d) "Cooperative Mortgagor" means a nonprofit cooperative ownership housing corporation, regulated by the lender under a regulatory agreement, that restricts permanent occupancy of the project to members of the corporation, and requires membership eligibility and transfer of membership in a manner approved by the Commissioner.

(e) "Distribution" means the withdrawal of any cash or asset of the project excluding outlays for:

(1) Mortgage payments;

(2) Reasonable expenses necessary for the proper operation and maintenance of the project; and

(3) Repayment of advances from the owner, when such repayments are authorized by the Commissioner.

(f) "Firm Commitment" means the commitment from the lender to the

Mortgagor that contain final determinations by the lender of the maximum insurable Mortgage based upon complete working drawings and specifications and cost estimates, prepared in a manner specified by the Commissioner. The firm Commitment may not be issued for longer than 60 days, by which time the project must be initially endorsed (insurance of advance cases) or construction started (insurance upon completion cases). The Firm Commitment may be extended by the lender as provided in § 251.302(c) of this part.

(g) "General Mortgagor" means any Mortgagor approved by the lender that does not meet any of the definitions in paragraph (b), (d), (h), (i) or (m) of this section and that is regulated by the lender by means of a regulatory agreement.

(h) "Investor-sponsor Mortgagor" means an entity organized in the same manner as a Builder-seller Mortgagor and subject to the same restrictions, except that the project will be sold to a Cooperative Mortgagor rather than a Nonprofit Mortgagor.

(i) "Limited Distribution Mortgagor" means an entity restricted by Federal or State law, and by the lender by means of a regulatory agreement, as to its rate of return and other aspects of its operation.

(j) "Mortgage" means a first lien on real estate and other property commonly given to secure either advances on real estate or the unpaid balance of the purchase price of real estate under the laws of the jurisdiction in which the real estate is located. "Mortgage" includes any credit instrument(s) secured by the real estate.

(k) "Mortgagor" means the original borrower under a Mortgage and its successors, and any assigns approved by the Commissioner.

(l) "Mortgage Insurance Premium" (MIP) means the Mortgage Insurance Premium collected under §§ 251.801 and 251.802 of this part.

(m) "Nonprofit Mortgagor" means an entity that is organized for reasons other than financial gain and that the lender finds is not controlled or directed by persons or firms seeking to derive financial gain from it. The operation of a Nonprofit Mortgagor must be regulated under Federal or State law, and by the lender by means of a regulatory agreement.

(n) "Residual Receipts" means (1) for projects owned by Nonprofit Mortgagors, all Surplus Cash and (2) for projects owned by Limited Distribution Mortgagors, any Surplus Cash remaining after allowable Distributions have been made or funds have been set aside for their payment.

(o) "Sound Capital Resources" means the excess of the coinsuring lender's assets (minus any valuation allowances) over its liabilities (generally referred to as its net worth), plus allowed letters of credit. Net worth includes paid-in capital stock, surplus reserves, undistributed earnings and any other unencumbered resources of the coinsuring lender. Sound Capital Resources may include (up to the limit specified in § 251.102(b)(2)) an unconditional and irrevocable firm letter of credit from a supervised financial institution with assets of not less than $100,000,000. For purpose of determining Sound Capital Resources, a loss reserve established to cover coinsurance liability under this part that is treated as a liability in the lender's balance sheets may be deemed a capital item rather than a liability.

(p) "Sponsor's Profit and Risk Allowance" (SPRA) is an amount included in replacement cost where no identity of interest, as defined by the Commissioner, exists between the general contractor and Mortgagor. The amount is a percentage of the sum of the architect's fee; carrying and financing charges; and legal, organizational and audit expenses. The appropriate percentage is established by the Commissioner and may not exceed 10 percent.

(q) "Substantial Rehabilitation" consists of repairs, replacements, and improvements:

(1) The cost of which exceeds the greater of:

(i) 15 percent of the property's value after completion of all repairs, replacements, and improvements, or

(ii) $6,500 per dwelling unit (adjusted by any applicable high-cost area factor under § 251.203(a)), or

(2) That involve the replacement of more than one major building component. For purposes of this definition, the term "major building component" includes:

(i) Roof structures,

(ii) Ceiling, wall, or floor structures,

(iii) Foundations,

(iv) Plumbing systems,

(v) Heating and air conditioning systems, or

(vi) Electrical systems.

(r) "Surplus Cash" means any unrestricted cash remaining after:

(1) The payment of: (i) All sums due or currently required to be paid under the terms of any Mortgage or note co-insured by the Commissioner;

(ii) All amounts required to be deposited in any replacement or operating reserve; and

(iii) All other obligations of the project other than the coinsured mortgage unless funds for payment are set aside, or deferral of payment has been approved by the lender; and

(2) The segregation and recording of an amount equal to: (i) The aggregate of any special funds required to be maintained by the project; and

(ii) The project's total liability for tenant security deposits.

In Computing Surplus Cash, the Mortgagor must follow any administrative requirements prescribed by the Commissioner.

§ 251.4 Effect of amendments.

The Commissioner may amend the regulations in this part from time to time. Amendments will not adversely affect the interests of a lender under a Contract of Coinsurance on any Mortgage already coinsured or on any Mortgage to be coinsured on which the lender has already issued a firm commitment to insure, provided the Mortgage is initially endorsed (insurance of advances) or construction starts (insurance upon completion) within 60 days after issuance of the Firm Commitment. The 60 days will run from the date of the original issuance of the Firm Commitment or from the date of any amendment, reissuance, or extension of a commitment that occurred before the effective date of the amendment of the regulation.

Subpart B—Lender Requirements

§ 251.101 Eligible lender.

The Commissioner may approve as a coinsurance lender any lender that (a) is currently a HUD-approved multifamily lender under 24 CFR 203.3 through 203.6 or 203.8(b) and (b) meets the requirements of § 251.102.

§ 251.102 Review and approval as coinsuring lender.

The Commissioner will review an applicant lender's technical staff and procedures before granting approval as a coinsuring lender under this part. This review, including an on-site review of the lender's operations, will establish the adequacy of technical staff, processing procedures, development and management oversight, Mortgage servicing, and disposition functions.

(a) A fee of $5,000 is charged for each application for approval as a coinsuring lender. This fee will not be refunded once the application has been determined acceptable for initial review.

(b) An applicant lender must submit:

(1) A written opinion of its counsel that it has the necessary powers to

participate in the coinsurance program under this part.

(2) Evidence acceptable to the Commissioner of Sound Capital Resources of not less than $1,500,000, including liquid funds of at least $500,000. An unconditional and irrevocable firm letter of credit of not more than $500,000 from a supervised financial institution with assets of not less than $100,000,000 may be used to meet up to $500,000 of this Sound Capital Resources requirement and up to $500,000 of the included liquidity requirement. The lender must agree that, for the period of the coinsurance, it will maintain the basic Sound Capital Resources requirement and an additional one dollar of Sound Capital Resources for each 300 dollars of outstanding principal indebtedness on Mortgages it has coinsured under this part.

(3) Evidence acceptable to the Commissioner that the lender has the operating procedures, internal management controls, and technical staff (under contract or in its own employ) necessary to discharge full Mortgage underwriting, development, servicing, management oversight, property repair and disposition, and other functions. It must employ adequate staff to monitor contract work and make final underwriting conclusions. It must agree to notify HUD of any changes in its operating procedures and principal staff and to make no changes that are inconsistent with this part.

(4) The lender's most recent detailed audit report of its financial records, supplemented as the Commissioner may require. The audit must be made by an independent certified public accountant or independent public accountant licensed by a regulatory authority of a State or other political subdivision on or before December 31, 1970.

(5) A statement agreeing to file annual audits similar to those described in paragraph (a)(4) of this section and annual reports on its processing and commitment activities, coinsured loan portfolio and loan servicing activities. The annual audits and reports must be prepared in formats acceptable to the Commissioner and submitted within the time limits established by the Commissioner.

(6) A statement agreeing to auditing by the Commissioner, the HUD Inspector General, and the Comptroller General of the United States with respect to its activities under this part. For this purpose, the Commissioner, the HUD Inspector General, the Comptroller General and their authorized agents shall have access to the financial and other records of the lender.

(7) A statement agreeing to comply with the provisions of title VIII of the Civil Rights Act of 1968, as amended, the Equal Credit Opportunity Act, Executive Order 11063, other Federal laws and all regulations issued under these authorities with respect to the lending, investing, or coinsuring of funds in real estate Mortgages.

(8) A statement agreeing to retain all its legal obligations under this part, if it delegates servicing functions, as provided in § 251.105.

(9) A statement agreeing to abide by all applicable requirements issued by the Commissioner for performing its functions under this part.

(10) A statement agreeing to notify HUD immediately whenever the lender's Sound Capital Resources fall below the level required by paragraph (a)(2) of this section. In addition, the lender must agree that it will request and receive approval from HUD before implementing any voluntary transfer or series of tranfers of the lender's assets which would cause the lender's Sound Capital Resources to fall below the required level. Finally, the lender must agree that if such transfer does take place without prior HUD approval, the remaining assets of the lender and any assets disbursed without such approval will be deemed to be held in trust for the benefit of HUD, and consequently, HUD would have a cause of action against any of the original principals of the lender or any other party for any transfer not made in accordance with these requirements.

[The information collection requirements contained in paragraphs (b)(2), (b)(3) and (b)(4) were approved by the Office of Management and Budget under control number 2502-0273].

§ 251.103 Duration of approval.

Initial approval as a coinsuring lender will continue in force until one of the following occurs:

(a) Expiration of the Secretary's authority to coinsure under this part. A temporary lapse in this authority will not terminate the lender's approved coinsurer status or affect outstanding Firm Commitments or coinsurance in force. However, lenders may not, during such lapse, issue or amend commitments or reopen expired commitments.

(b) Suspension or withdrawal of approval under § 251.104.

§ 254.104 Probation, suspension or withdrawal.

(a) A coinsuring lender may be placed on probation, be temporarily suspended, or have its approval as a coinsuring lender withdrawn by the Commissioner, or designee, for any of the following causes:

(1) Failure to maintain satisfactory Sound Capital Resources.

(2) Failure to operate the program in a prudent manner or to discharge its responsibilities under any regulatory agreement, coinsurance contract, or administrative procedures issued by the Commissioner under this part.

(3) Payment or receipt, by the lender, in any insurance transaction, of any fee, kickback, or other consideration, directly or indirectly, to or from any person who has received any consideration from another person for services related to the transaction: however, compensation may be paid for the actual performance of services approved by the Commissioner.

(4) Submission of a false, fraudulent or incomplete report to HUD or the incurring of any indebtedness to HUD for which no satisfactory repayment plan or agreement is in effect.

(5) Failure to pay any amount owed to a holder of securities guaranteed by the Government National Mortgage Association (GNMA) and backed by a coinsured loan.

(6) Assigning a Coinsured Mortgage to an entity that is not a HUD-approved coinsuring lender.

(7) Any other cause determined by the Commissioner or designee to be appropriate.

(b) HUD may place a mortgagee on probation for a specified period of time for the purpose of evaluating the mortgagee's compliance with the requirements of the coinsurance program. During the probation period the mortgagee may continue to issue commitments for insurance, subject to conditions required by HUD. Such conditions may include, but are not limited to, submission of the processing to HUD for its approval before issuance of the commitment.

(c) Coinsuring lenders will be notified in writing by the Commissioner, or designee, when a probation, suspension or withdrawal action it taken. The notice will specifically state the cause, effect, and duration of the action. Lenders must comply with the conditions of the notice immediately, but may request an informal hearing on the action within 10 working days of receipt of the notice. The hearing shall be held by the Commissioner or designee. The lender shall be given the opportunity to be heard within 10 days of receipt of the request and may be represented by counsel. The Commissioner or designee will notify the lender in writing of the results of the

hearing within 10 working days of the hearing and receipt of any materials. A decision to withdraw, suspend, or continue probation following a hearing constitutes final agency action.

(d) Probation, withdrawal or suspension of approval as a coinsuring lender will not affect any coinsurance or commitments in effect at the time of the probation, withdrawal or suspension of approval.

(e) Serious misconduct or noncompliance with the requirements of the coinsurance program may also result in action against coinsuring lenders in accordance with Part 24 of this title or by action of the Mortgagee Review Board in accordance with Part 25 of this title.

§ 251.105 Delegation of servicing.

(a) The lender must directly service all coinsured loans included in GNMA securities pools. In all other instances, the lender may choose to service its coinsured loans or arrange for another entity to service the Mortgages provided the contract servicer is a HUD-approved lender under §§ 201.1 through 204, 203.6 or § 203.8(b) of this chapter and the coinsuring lender retains its obligations under this part.

(b) The lender must inform HUD of any delegation of servicing on a form prescribed by the Commissioner.

(c) If HUD considers the servicer's performance to be unsatisfactory, HUD may require the lender to cancel the servicing arrangement after giving the lender a 30-day written notice.

[The information collection requirements contained in paragraph (b) of this section were approved by the Office of Management and Budget under control number 2502–0332.]

§ 251.106 Assignment of and participation in Coinsured Mortgages.

(a) A lender may assign a Coinsured Mortgage to another lender if the following requirements are satisfied:

(1) The assignee is a HUD-approved coinsuring lender;

(2) The lender shows good cause for the assignment;

(3) The Commissioner finds that the assignment is for good cause and that there will be no disadvantage to the Federal Housing Administration (FHA); and

(4) The Commissioner gives prior written approval for the assignment and any risk allocation between assignor and assignee.

(b) The lender must inform HUD on a form prescribed by the Commissioner following the assignment of any Co-insured Mortgage. The lender will not be relieved of its obligation to pay Mortgage Insurance Premiums until HUD has received this notice.

(c) *Transfer of partial interest under participating agreement.* (1) A partial interest in a Coinsured Mortgage may be transferred without obtaining the approval of the Commissioner under a participation agreement or arrangement, if the following conditions are met:

(i) The Coinsured Mortgage shall be held by an approved coinsuring lender, which shall (for purposes of this paragraph) be referred to as the "principal lender";

(ii) The principal lender shall at all times retain at least a ten percent beneficial interest in the Coinsured Mortgage up to the time of the final endorsement (endorsement in insurance upon completion cases), and at least a five percent beneficial interest thereafter;

(iii) A participation or partial interest in a Coinsured Mortgage shall be issued to and held by: (A) A lender approved by the Commissioner or (B) a pension or retirement fund or a profit-sharing plan maintained and administered by a corporation or by a governmental agency or by a trustee or trustees, which the principal lender determines has lawful authority to acquire a partial interest in a Coinsured Mortgage under the conditions set forth in this paragraph; and

(iv) The participation agreement or arrangement shall provide that the principal lender shall remain the lender of record under the Contract of Coinsurance and that the Commissioner shall have no obligation to recognize or do business with any other party except the lender of record with respect to the rights, benefits, and obligations of the lender under the Contract of Coinsurance.

(2) No notice of any sale or transfer of a participating or partial interest is required unless the Coinsured Mortgage is transferred in its entirety to a new principal lender on the public records.

(d)(1) If the Mortgage is used to back securities guaranteed by the Government National Mortgage Association (GNMA), GNMA approval also is required for the assignment of the pooled Mortgage.

(2) When a Coinsured Mortgage is to be in a GNMA mortgage pool backing one or more GNMA Project Loan Certificates the lender-issuer and the holder of the participating interests must certify that the participations shall terminate as of the release (delivery) of the Project Loan Certificates. No participations may exist in mortgages backing GNMA Construction Loan Certificates or GNMA Project Loan Certificates.

[The information collection requirements contained in paragraph (b) of this section were approved by the Office of Management and Budget under control number 2502–0332.]

§ 251.107 Reinsurance.

(a) The lender may reinsure its potential loss with respect to a particular project. Reinsurance may be obtained for:

(1) 50 percent of its risk;

(2) 100 percent of its risk; or

(3) That percentage of its risk that equals the maximum amount the reinsurer is authorized by State law to reinsure.

(b) The effect of reinsurance on the insurance benefits payable by the Commissioner is covered in § 251.820.

(c) Subject to the ceilings provided in § 251.823, any reinsurance policy must name the Commissioner as contingent beneficiary in the event that default by the lender compels the Commissioner to reimburse the Government National Mortgage Association for the amount that the Association had to pay securities holders as a result of the lender's default.

§ 251.108 Pledging and other security arrangements.

A lender may pledge, subject to standards established by the Commissioner, the beneficial interests in a Coinsured Mortgage as security pursuant to the terms of a reinsurance contract, trust indenture, third party guarantee agreement, or similar financing arrangement directly related to the coinsurance transaction, subject to the following conditions:

(a) The lender must retain legal title to the note and the Mortgage subject to the security interest created, unless the title is otherwise transferred in accordance with § 251.106. Legal title to the note and Mortgage may not, at any time, be held by other than a coinsuring lender approved by the Commissioner.

(b) The Commissioner will have no obligation to recognize or deal with anyone other than the coinsuring lender of record or any approved successor to the lender's title to the Mortgage and Mortgage note with respect to the rights, benefits, and obligations of the coinsuring lender.

(c) The Mortgagor will have no obligation to recognize or deal with anyone other than the coinsuring lender or an approved coinsuring lender succeeding to title to the Mortgage or with another person or entity servicing the Mortgage loan under § 251.105, except that the Mortgagor may be directed to make payments under the Mortgage to a successor lender or to one or more custodial accounts.

(d) A lender may not pledge the beneficial interests of Coinsured Mortgages backing Government National Mortgage Association (GNMA) construction or Project Loan Certificates except as authorized by GNMA.

Subpart C—Program Requirements

251.201 Eligible project.

(a) Projects to be newly constructed or substantially rehabilitated are eligible under this part. A project:

(1) Must have five or more units;

(2) May be detached, semi-detached, row houses, or multifamily structures;

(3) Must comply with all applicable zoning or deed restrictions, and applicable building and other governmental regulations;

(4) Must be designed in accordance with HUD minimum property standards; and

(5) Must be designed primarily for residential use, but may include commercial and community facilities determined to be adequate to serve the occupants. In general, the net rentable commercial area in any project may not exceed five percent of the total net rentable area, unless the commercial tenants leasing the space meet specific financial responsibility standards established by the Commissioner. In no event may the net rentable commercial area exceed 20 percent of the total net rentable area.

(b) The Commissioner must review all projects proposed for coinsurance under this part for compliance with the requirements of the National Environmental Policy Act of 1969 and related laws and authorities as set forth in Part 50 of this title.

(c) No insurance will be made available under this part for any building located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless (1) the jurisdiction in which the project is located is participating in the National Flood Insurance Program and is subject to 44 CFR Parts 59 through 79 or (2) less than a year has passed since FEMA notification regarding such hazards, and flood insurance is obtained in compliance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001).

(d) No insurance will be made available under this part with respect to a property within the Coastal Barriers Resources Systems established by the Coastal Barriers Resources Act (16 U.S.C. 3501).

(e) Wherever applicable, projects under this part must comply with the National Historic Preservation Act (16 U.S.C. 470).

(f) Involuntary displacement of tenants must be minimized under a plan developed by the Mortgagor, in any case where it is anticipated that Substantial Rehabilitation will cause such displacement.

§ 251.202 Eligible Mortgagors.

Nonprofit, Builder-seller, Investor-sponsor, Cooperative, Limited Distribution, and General Mortgagors, as defined in § 251.3 and approved by the lender in accordance with standards established by the Commissioner, are eligible under this part. Differing maximum insurable Mortgage limits (see § 251.203) apply under sections 221(d)(3) and 221(d)(4) of the Act, depending upon the type of Mortgagor entity involved.

§ 251.203 Maximum Mortgage limitations.

The maximum Mortgage coinsurable under this part is the lowest of the amounts determined under the following limits:

(a) *Statutory cost limits.* Congress has established maximum per unit dollar amounts for costs attributable to dwelling use. These limitations vary by number of bedrooms, structure type (elevator or non-elevator), Mortgagor type, and section of the Act, and are changed from time to time by statute. In addition, to compensate for geographic differences in construction costs, the Commissioner may establish, where appropriate, high-cost area factors. These are percentage increases over the otherwise applicable basic dollar limits. The factor for any geographic area may not exceed 175 percent of the basic limit. The factor applicable to a particular project may be obtained from the appropriate HUD field office. On an individual project basis in high-cost areas, the Commissioner may approve the use of a factor of up to 240 percent of the basic limit where costs justify it, except that for projects to be purchased by the Government National Mortgage Association under Section 305 of the Act (Tandem programs), the Commissioner may not approve a factor of more than 190 percent. In the unusually high-cost areas of Alaska, Guam and Hawaii, the Commissioner may approve the use of a factor of up to 360 percent. The Commissioner is also permitted to increase the otherwise applicable dollar limits by up to 20 percent to account for the installation in the project of a solar energy system (as defined in section 2(a) of the National Housing Act) or certain residential energy conservation measures (as defined in section 210(11)(A)–(G) and (I) of Pub. L. 95–619). The maximum coinsurable amount cannot exceed the sum of the project's total calculated statutory cost limit plus the applicable percentage below of structural and land costs not attributable to dwelling use:

Section	Mortgagor	Percentage
(1) 221(d)(3)	General and Limited Distribution.	90
(2) 221(d)(3)	All others	100
(3) 221(d)(4)	All Mortgagors	90

(b) *Replacement cost limits.* The replacement cost of a project is the total of the lender's estimate of the value of the land (or the value of the leasehold estate), determined in a manner prescribed by the Commissioner, plus physical improvements, utilities within the boundaries of the land, architect's fees, taxes, carrying and financing charges and miscellaneous charges incident to construction that are allowed by the Commissioner and approved by the lender. In the case of General and Limited Distribution Mortgagors, replacement cost is increased by BSPRA or SPRA, as appropriate. The maximum Coinsurable Mortgage cannot exceed the applicable percentage of the project's total replacement cost as follows:

Section	Mortgagor	Percentage
(1) 221(d)(3)	General and Limited Distribution.	90
(2) 221(d)(3)	Cooperative	98
(3) 221(d)(3)	All others	100
(4) 221(d)(4)	All Mortgagors	90

(c) *Debt service limits.* The net projected project income available for payment of debt service is determined by reducing the estimated gross income of the project by a vacancy and collection loss factor and by the cost of all estimated operating expenses, including deposits to the reserve for replacements, taxes, and distributions, where appropriate. In determining net projected project income for cooperative projects, a 3 percent operating reserve and a 2 percent vacancy reserve will be used in lieu of the vacancy and collection loss factor applicable to rental projects. The maximum Coinsurable Mortgage cannot exceed the amount that could be amortized by the applicable percentage of net income set out below:

Section	Mortgagor	Percentage
(1) 221(d)(3)	General and Limited Distribution.	90
(2) 221(d)(3)	All others	95
(3) 221(d)(4)	All Mortgagors	90

(d) *Rehabilitation projects—additional limits.* In addition to the limits of paragraphs (a), (b) and (c) of this section, the following additional limits apply to projects to be Substantially Rehabilitated. (In the case of General and Limited Distribution Mortgagors, the cost of rehabilitation includes BSPRA or SPRA, as appropriate, where a cost-plus contract is used.)

(1) Where the property is owned by the Mortgagor in unencumbered fee simple or is subject to existing indebtedness to be refinanced by part of the proceeds of the Coinsured Mortgage, the maximum Coinsurable Mortgage may not exceed the sum of the cost of rehabilitation plus the applicable percentage of the lender's estimate of value of the property before rehabilitation as follows:

Section	Mortgagor	Percentage
(1) 221(d)(3)	General and Limited Distribution.	90
(2) 221(d)(3)	All others	100
(3) 221(d)(4)	All Mortgagors	90

(2) Where the property is to be acquired and the purchase price to be financed with part of the proceeds of the Coinsured Mortgage, and

(i) The Mortgagor is a General or Limited Distribution Mortgagor using Section 221(d)(3), or any Mortgagor using Section 221(d)(4), the maximum Coinsurable Mortgage cannot exceed 90 percent of the sum of the cost of rehabilitation plus the lesser of the purchase price of the property or the lender's estimate of value of the property before rehabilitation; or,

(ii) The Mortgage is to be coinsured under section 221(d)(3) and the Mortgagor is not a General or Limited Distribution Mortgagor, the maximum Coinsurable Mortgage cannot exceed the sum of the cost of rehabilitation plus the lesser of the purchase price of the property or the lender's estimate of the value of the property before rehabilitation.

§ 251.204 Maximum interest rate.

The interest rate in a commitment to coinsure, including a commitment for Mortgage increase, shall be at such rate as may be agreed upon by the Mortgagor and the coinsuring lender at the time the commitment is issued. The interest rate may be increased or decreased only after reprocessing and issuance of an amended commitment. The interest rate may not be increased after initial endorsement (insurance of advances) or start of construction (insurance upon completion), except that where a Mortgage increase is requested, processed, and approved, a higher rate may be applied to the amount of the increase only.

§ 251.205 Term of the Mortgage.

The Mortgage term may not exceed 40 years from the date of first payment to principal or 75 percent of the lender's estimate of the project's remaining economic life.

§ 251.206 Lender's fees and premiums.

(a) The lender may collect from the Mortgagor, and include in the Mortgage, an application fee, financing fee, permanent placement fee, and inspection fee. These fees may not exceed the maximums approved by the Commissioner. In addition, the lender may collect other reasonable fees, approved by the Commissioner, that are paid from sources other than Mortgage proceeds and are disclosed at initial endorsement (insurance of advances) or endorsement (insurance upon completion). In no event will the fees allowed under this paragraph be permitted to exceed comparable fees allowed in the full insurance programs under section 221(d)(3) and 221(d)(4) of the National Housing Act.

(b) The coinsuring lender may collect a lender's premium of up to .25 percent per year of the average outstanding principal balance of the Mortgage (without regard to delinquent payments or prepayments) beginning not earlier than 12 months after the date of initial endorsement (insurance of advances) or the date of endorsement (insurance upon completion). This premium will be for the account of the lender or an insurer of the lender.

§ 251.207 Coinsurance of Mortgages in lender's portfolio.

(a) Coinsurance under this part is available for Mortgages that the lender (or a related entity) already holds in its own portfolio only if:

(1) The project requires Substantial Rehabilitation;

(2) The loan is current and has not been in default, modification, or forbearance at any time during the two years preceding the submission of the application to the lender;

(3) Refinancing of portfolio loans makes up no more than one-fourth of the total number of loans the lender presents for endorsement for coinsurance during any 12-month period; and

(4) The entire loan transaction is reviewed and approved by the Commissioner (in his or her discretion) before any commitment is issued.

(b) The following loans will not be subject to the one-fourth limitation in paragraph (a)(3) of this section:

(1) Mortgages insured by HUD under its full insurance programs; and

(2) Mortgages in which the lender's sole involvement is servicing.

§ 251.208 Nondiscrimination in housing and employment.

The Mortgagor must certify to the lender and to the Commissioner that, so long as the mortgage is coinsured under this part, it will:

(a) Not use tenant selection procedures that discriminate against families with children, unless the project was specifically designed for housing the elderly or handicapped;

(b) Not discriminate against any family because of the sex of the head of household;

(c) Comply with title VIII of the Civil Rights Act of 1968, as amended, and implementing regulations and administrative procedures that prohibit discrimination because of race, color, religion (creed), sex, or national origin; administer the project and related activities to further fair housing in an affirmative manner; and comply with State and local fair housing laws;

(d) Comply with Executive Order 11063 and implementing regulations and administrative procedures that prohibit discrimination because of race, color, religion (creed), sex, or national origin in housing and related facilities provided with Federal financial assistance; and

(e) Not discriminate because of race, color, religion, sex, or national origin against any employee or applicant for employment. Provisions to this effect, and, in addition, the provisions of Executive Order 12246 and 41 CFR Chapter 60, where appropriate, will apply to any contract or subcontract for project repairs and improvements over the life of the mortgage.

(f) Not rent, permit the rental or permit the offering for rental of the housing, or any part thereof, covered by the Mortgage, for transient or hotel purposes. The term "rental for transient or hotel purposes" means (1) rental for any period less than 30 days, or (2) any rental, if the occupants of the housing accommodations are provided customary hotel services, such as room service for food and beverages, maid service, furnishing and laundering of linens, and bellhop service; and

(g) Not sell the project as long as the Mortgage is coinsured under this part, unless the purchaser agrees to comply with the requirements of this section and with applicable transfer of physical assets requirements.

§ 251.209 Labor standards and prevailing wage requirements.

(a) *In general.* Except as specified in paragraph (b) of this section, the following labor standards and prevailing wage requirements shall be applicable to Mortgages coinsured under this part. The Commissioner shall assure compliance with those standards and requirements and the lender must obtain, evaluate, and submit any information or certifications required by the Commissioner to assist the Commissioner in carrying out this function.

(1) *Labor Standards.* Any contract, subcontract, or building loan agreement executed for a project to be constructed or Substantially Rehabilitated under this part shall comply with all applicable labor standards and provisions of 29 CFR Parts 1, 3 and 5, issued by the Secretary of Labor.

(2) *Ineligible advances.* No advance under the Mortgage shall be eligible for coinsurance after the lender determines (in accordance with the Commissioner's administrative procedures) that the general contractor or any subcontractor or any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest was, on the date the contract or subcontract was executed, on the ineligible list established by the Comptroller General, pursuant to 29 CFR 5.12, issued by the Secretary of Labor.

(3) *Wage certificate.* No advance under any Mortgage shall be coinsured under this part unless there is filed with the application for the advance, and no mortgage shall be coinsured under this part unless there is filed with the Commissioner after completion of the construction or Substantial Rehabilitation, a certificate or certificates in the form required by the Commissioner, supported by such other information as the Commissioner may prescribe, certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings or housing project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor before the beginning of construction and after the date of filing of the application for insurance.

(b) *Excepted transactions.* The Commissioner may waive the requirements of paragraph (a) of this section with respect to a cooperative housing project where laborers or mechanics not otherwise employed at any time in the construction of the project voluntarily donate their services without compensation for the purpose of lowering their housing costs in the project and the Commissioner determines that any amounts saved thereby are fully credited to the cooperative undertaking the construction.

(The information collection requirements contained in paragraph (a)(3) of this section were approved by the Office of Management and Budget under control number 2502–0332.)

Subpart D—Processing and Commitment

§ 251.301 Processing and development responsibilities.

(a) The lender is responsible for the performance of all functions under this part, including acceptance and review of applications, issuance of commitments, inspections, and closings, except those functions specified in paragraphs (b), (d) and (e) of this section.

(b) Certain functions are retained by the Commissioner. The lender must submit any information or certifications required by the Commissioner to permit determinations of compliance with requirements concerning:

(1) Previous participation of the principals of the Mortgagor, general contractor, consultant, and management agent in accordance with the Previous Participation and Clearance Review Procedures of 24 CFR 200.210 through 200.218;

(2) Environmental impact under the National Environmental Policy Act of 1969 and related laws and authorities set forth in 24 CFR Part 50;

(3) Equal opportunity considerations in the development and operation of the proposed project;

(4) The intergovernmental review procedures of 24 CFR Part 52. These procedures apply to cases involving 200 or more units in urbanized areas or 50 or more units in non-urbanized areas; and

(5) The National Historic Preservation Act, 16 U.S.C. 470, where applicable.

(c) The lender must also submit any information required by the Commissioner for tracking or monitoring purposes.

(d) The Commissioner's authorized Departmental representative must endorse the Mortgage for coinsurance.

(e) The Commissioner retains responsibility for enforcement of labor standards and prevailing wage requirements set out in § 251.209. The Commissioner will perform all functions under § 251.209 except that he may delegate to the lender information collection (e.g. payroll review and routine interviews) or other routine administration and enforcement functions, subject to monitoring by the Commissioner.

(The information collection requirements contained in paragraphs (b) and (c) of this section were approved by the Office of Management and Budget under control number 2502–0332.)

§ 251.302 Processing and commitment.

(a) After acceptance of an application for a commitment to coinsure, the lender will determine the maximum coinsurable Mortgage, review plans and specifications for compliance with HUD standards, determine the acceptability of the proposed management agent, and make other determinations necessary to assure acceptability of the proposed project. The lender must make these determinations in the manner prescribed by the Commissioner.

(b) The lender may issue a Firm Commitment to coinsure after completion of its review and after receipt of written evidence from HUD of (1) the acceptability of the project in the areas of responsibility retained by the Commissioner under § 251.301(b), (2) a waiver, where needed, of the approved high-cost factor under § 251.203(a), and (3) completion of any case review requirements of the Commissioner that are part of its lender approval process.

(c) Subject to standards established by the Commissioner, the lender is responsible for extending commitments, assuring commitments are updated when appropriate, and amending commitments. The lender may also reopen commitments within 90 days of the expiration of an earlier commitment, reconsider previously rejected applications, and may charge a reopening or reexamination fee acceptable to the Commissioner.

Subpart E—Insurance of Advances; Insurance Upon Completion; Construction Period

§ 251.401 Insuance of advances or insurance upon completion; applicability of requirements.

Either insurance of advances or insurance upon completion procedures may be used under this part. In insurance upon completion cases, only the permanent loan is coinsured and a single endorsement is required after satisfactory completion of construction or Substantial Rehabilitation. In insurance of advances cases, progress payments approved by the lender are also coinsured and both an initial and final endorsement on the Mortgage are required. The requirements of §§ 251.404 through 251.406 apply in either case and the Mortgage and other closing

documents must meet the requirements of Subpart F.

§ 251.402 Insurance of advances.

(a) *Financial Requirements.* (1) Before initial endorsement, the Mortgagor (other than a Nonprofit Mortgagor) must make a working capital deposit of two percent of the face amount of the Mortgage. The deposit must be made to the lender or be controlled by the lender in a depository acceptable to it. Unless the Commissioner approves exceptions, this deposit may be used only for equipping and rent-up of the project and, during construction, for allocation by the lender to accruals for taxes, ground rents, MIP, property insurance premiums, and assessments required by the terms of the Mortgage.

(2) Before initial endorsement, the Mortgagor must deposit with the lender cash that the lender deems sufficient, when added to the proceeds of the insured Mortgage, to assure completion of the project and to pay the initial service charge, the carrying charges, and the legal and organizational expenses incident to construction of the project. This cash will be held by the lender in a special account or by an acceptable depository designated by the lender under an appropriate agreement. The agreement will require all cash held to be disbursed for work and material on the physical improvements, and for other charges and expenses to be paid when due, before the advance of any Mortgage money. If all or part of the funds required under paragraph (a)(2) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, Mortgage proceeds may, with the prior written approval of the Commissioner, be advanced before the full disbursement of the grant or loan funds, to pay cost of work, material or other charges and expenses. However, if any portion of these funds is to be provided by the Mortgagor, that portion must be disbursed in full before the disbursement of the Mortgage proceeds.

(3) Charges to be paid by the Mortgagor in connection with the financing that are in excess of the initial service charge and that are acceptable to the Commissioner must be deposited with the lender in cash at or before initial endorsement. Alternatively, a note, in a form prescribed by the Commissioner, may be accepted by the lender. The note must evidence the obligations of a party other than the Mortgagor and may not be secured by the assets of the Mortgagor entity.

(4) The lender must require assurance of completion of offsite public utilities and streets. (An exception is made where a public body has agreed to install offsite improvements without cost to the Mortgagor and this agreement is acceptable to the lender.) The assurance must be either a cash escrow deposit or the retention by the lender at initial closing of a specified amount of the Mortgage proceeds allocated to land in the project analysis. If a cash escrow is used, it must be deposited with the lender or a depository designated by the lender. The lender may also require a surety bond.

(5) The lender may accept, in lieu of a cash deposit required by paragraphs (a)(1), (3) and (4) of this section, an unconditional irrevocable letter of credit issued to the lender by a banking institution. If all or part of the funds required under paragraph (a)(2) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, the lender may accept for the portion so provided, in lieu of a cash deposit required by paragraph (a)(2) of this section, either an unconditional irrevocable letter of credit issued to the lender by a banking institution or an agreement, as described in § 207.19(c)(7) of this chapter, entered into by HUD, the governmental agency or instrumentality, the Mortgagor and the lender. The lender of record may not be the issuer of any letter of credit referred to in this paragraph (a)(5) without the prior written consent of the Commissioner. If a demand under a letter of credit referred to in this paragraph is not immediately met, the lender must provide cash equivalent to the undrawn balance under the letter of credit.

(b) *Building loan agreement.* Before initial endorsement, the lender and Mortgagor must execute a building loan agreement in a form approved by the Commissioner. This agreement sets out the terms and conditions under which progress payments may be advanced during construction. To be covered by coinsurance, each progress payment must be approved by the lender and must contain a certificate that the prevailing wage requirements of § 251.209 have been met.

(c) *Insured advances of components stored off-site.* The provisions of 24 CFR 221.541a apply to projects coinsured under this part, except that the lender performs the functions otherwise performed by the Commissioner.

(d) *Assurance of completion.* (1) The Mortgagor must furnish assurance of completion of the project. The lender may establish more stringent criteria, but, at minimum, must require assurance by bonds issued by a surety company acceptable to the Commissioner for payment and performance each in the amount of 100 percent of the estimated construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 15 percent (or 25 percent where the structure contains an elevator and is four stories or more) of the amount of the estimated construction or rehabilitation cost. An unconditional and irrevocable letter of credit may be substituted for this cash deposit under the same terms and conditions as provided in paragraph (a)(5) of this section.

(2) Alternatively, where the estimated cost of construction or rehabilitation is $500,000 or less, the lender may accept assurance of completion in the form of a personal indemnity agreement executed by the controlling principals of the general contractor.

§ 251.403 Insurance upon completion.

A commitment to coinsure upon completion prescribes a designated period during which the Mortgagor must start construction or Substantial Rehabilitation. If construction or rehabilitation is started as required, the commitment will be valid for an additional period no longer than the lender's estimate of the construction period plus six months, except as extended as provided in § 251.302(c).

§ 251.404 Requirements applicable to both insurance of advances and insurance upon completion cases.

(a) *Latent defects escrow.* (1) In insurance upon completion cases, the Mortgagor must make a cash escrow deposit at endorsement of two and one-half percent of the principal amount of the mortgage, or provide a surety bond of 10 percent of the lender's estimate of the cost of construction or Substantial Rehabilitation, as a latent defects escrow. An unconditional and irrevocable letter of credit may be substituted for this cash escrow deposit under the same terms and conditions as provided in §251.402(a)(5). This escrow must be retained by the lender for 15 months after substantial completion.

(2) In insurance of advances cases, if a completion assurance agreement referred to in § 251.402(d) was used at initial endorsement, an amount equal to two and one-half percent of the construction contract must be retained in cash or a letter of credit for a period of 15 months following substantial completion as a latent defects escrow.

(b) *Inspections during construction.* The lender must inspect projects under this part at such times during

construction or Substantial Rehabilitation as the lender determines, within standards established by the Commissioner. The inspections must be conducted to assure compliance with the contract documents.

(c) *Cost certification requirements—Mortgagor.* (1) Before initial endorsement (insurance of advances) or start of construction (insurance upon completion), the Mortgagor and the lender must enter into an agreement satisfactory to the Commissioner that precludes any excess of Mortgage proceeds over statutory and regulatory limitations. In this agreement, the Mortgagor must also disclose its relationship with the builder, including any collateral agreement, and agree to:

(i) Enter into a construction contract that (A) complies with the requirements of § 221.548 of this Chapter (as to whether the contract should be lump sum or cost-plus) and (B) is approved by the lender and acceptable to the Commissioner as to form and content;

(ii) Execute a certificate of actual costs when all physical improvements are complete; and

(iii) Reduce the Mortgage if necessary in accordance with § 251.405.

(2) The provisions of paragraph (c)(1) of this section relating to disclosure and the requirement of a construction contract do not apply where the Mortgagor and the general contractor are one and the same.

(3) If the Mortgagor, the general contractor, or their officers, directors, or stockholders have any interest, financial or otherwise, as defined by the Commissioner, in any subcontractor, material supplier, or equipment lessor, the Mortgagor must disclose the identity of interest before start of construction. The lender may approve the use of a subcontractor, material supplier or equipment lessor having an identity of interest if the amounts paid to that entity do not exceed the rate prevailing in the locallity for similar types of labor and materials.

(4) The Mortgagor's certificate of actual cost, in a form prescribed by the Commissioner, must be submitted to the lender when the improvements are completed to the satisfaction of the lender and before final endorsement (or before endorsement in the case of insurance upon completion). The certificate must show the actual cost to the Mortgagor of:

(i) The cost-plus construction contract or the lump sum construction contract or the cost of the construction of the project where the Mortgagor and the general contractor are one and the same and no construction contract is executed;

(ii) The architect's fee;

(iii) The offsite public utilities and streets not included in paragraph (c)(4)(A) of this section;

(iv) The organizational and legal expenses;

(v) In the case of General or Limited Distribution Mortgagors, where a cost-plus contract is used, the BSPRA or SPRA as applicable; and

(vi) Other items of expense approved by the Commissioner.

(d) *Cost certification requirements—general contractor.* (1) Where a cost-plus form of contract is used, the Mortgagor must also submit to the lender a certification of the general contractor, in a form prescribed by the Commissioner, as to all actual costs paid for labor, materials, and subcontract work under the general contract, exclusive of the builder's fee.

(2) Where there is a cost-plus contract and the lender determines that an identity of interest (as defined by the Commissioner) exists between the Mortgagor or general contractor or any of their officers, directors, stockholders, or partners and any subcontractor, material supplier, or equipment lessor, the lender may require the Mortgagor to submit a certification by the subcontractor, material supplier, or equipment lessor as to the actual costs paid for labor, materials, subcontractors and overhead. This certification must be in a form prescribed by the Commissioner.

(e) *Exclusions.* The certifications required by paragraphs (c)(4) and (d) of this section must exclude any kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the Mortgagor or any of their officers, directors, stockholder or partners.

(f) *Records.* The Mortgagor must maintain adequate records of all costs of any construction or other cost items that do not represent work under the general contract and, in the case of a lump sum contract, must require the builder to keep similar records and, if requested by the lender or the Commissioner, must make these records (including any collateral agreements) available for examination, including examination by the Inspector General of HUD or the Comptroller General.

(g) *Certificate of public accountant.* In all projects exceeding 40 units, cost certifications must be supported by an audit of the cost certification statement and accompanying financial statements by an independent Certified Public Accountant or by an independent public accountant licensed by a regulatory authority of a State or other political subdivision on or before December 31, 1970. The audit must include a statement that the accounts, records, and supporting documents have been examined in accordance with generally accepted auditing standards to the extent necessary to verify that they present fairly the actual costs.

(h) *Requisites of agreement and certification.* Any agreement, statement or certification required by this section must specifically state that it has been prepared for the purpose of influencing an official action of the Commissioner and may be relied upon by the Commissioner and the lender as true.

(i) *Cost certification incontestable.* Upon the lender's approval of the Mortgagor's certification, the certification will be final and incontestable except for fraud or material misrepresentation on the part of the Mortgagor.

(The information collection requirements contained in paragraphs (d), (f) and (g) of this section were approved by the Office of Management and Budget under control number 2502-0332.)

§ 251.405 Lender's review of mortgage amount.

When the cost certifications submitted under § 251.404 are reviewed and approved by the lender, the lender must determine, in accordance with standards set by the Commissioner, whether a mortgage reduction is necessary and whether any requests for a mortgage increase are approvable.

§ 251.406 Application of net income received before beginning of amortization.

In the case of General and Limited Distribution Mortgagors, net income (as defined by the Commissioner) that is received after final endorsement but before the beginning of amortization will be applied in one or more of the following ways as the lender determines:

(a) To advance amortization;

(b) To offset construction costs approved by the lender; or

(c) To be deposited in the reserve for replacements in addition to the monthly deposits required by the regulatory agreement.

§ 251.407 Endorsement by the Commissioner.

Before start of construction in insurance of advances cases, and in all cases after completion of construction or Substantial Rehabilitation and completion of the lender's review of the Mortgage amount, the lender will hold a closing and submit required documentation to the Commissioner or the Commissioner's authorized Departmental representative for coinsurance of the Mortgage by

endorsement of the Mortgage note. The note must identify the section of the Act and the regulations under which the Mortgage is coinsured, the percentage of risk assumed by the lender and the Commissioner, and the date of coinsurance, i.e., the date of HUD endorsement of the project Mortgage. The lender's submission must include a certification that it has obtained written HUD approval of compliance with the requirements referred to in § 251.301(b) and any additional documents and information required by the Commissioner's administrative procedures.

Subpart F—Mortgage and Closing Requirements

§ 251.501 Mortgage requirements—real estate.

(a) The mortgage, to be eligible for insurance, shall be on property located in a State, Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, American Samoa, or the Virgin Islands. The mortgage must be on real estate held:

(1) In fee simple;

(2) Under a renewable lease for not less than 99 years;

(3) Under a lease running at least 75 years from the date the Mortgage is executed; or

(4) Under a lease executed by a governmental agency, or other lessor approved by the Commissioner, for us to the maximum term the agency or lessor may enter into, but not less than 50 years from the date the Mortgage is executed.

(b) The property must be held by an eligible Mortgagor and must, at the time the mortgage is coinsured, be free and clear of other liens except those approved by the lender in accordance with § 251.504.

(c) The mortgage must cover the entire property included in the housing project.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); sec. 407, Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, approved November 30, 1983))

[49 FR 32023, Aug. 9 1984, as amended at 50 FR 4648, Feb. 1, 1985]

§ 251.502 Title.

(a) *Eligibility of title.* Title to the mortgaged property must be vested in the Mortgagor on the date the Mortgage is filed for record.

(b) *Title evidence.* Before coinsurance of the Mortgage, the Mortgagor must furnish the lender with a survey, satisfactory to the lender, of the Mortgaged property and a title insurance policy covering the property. If, for reasons that are satisfactory to the lender, title insurance cannot be furnished, the Mortgagor must furnish evidence of title in accordance with paragraph (b)(2) of this section. The types of title evidence are:

(1) A title insurance policy issued by a company, and in a form, satisfactory to the lender. The policy must name the lender and the Commissioner as the insureds, as their interests may appear. The policy must also provide that, upon acquisition of title by the lender, it will become an owner's policy running to the lender.

(2) An abstract of title satisfactory to the lender, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the lender as to the quality of the title, signed by an attorney experienced in the examination of titles.

§ 251.503 Mortgage and note provisions.

(a) The Mortgage and note must be executed on a form approved by the Commissioner for use in the jurisdiction in which the property is located. The form must not be changed without the prior written approval of the Commissioner.

(b) The Mortgage must be executed by an eligible Mortgagor.

(c) The Mortgage must be a first lien on property that conforms with property standards prescribed by the Commissioner.

(d) The note must provide for equal monthly payments of interest and principal due on the first day of each month in accordance with a level annuity amortization plan agreed to by the Mortgagor and lender and acceptable to the Commissioner.

(e) The lender will determine the date of first payment to principal. The lapse of time between completion of the project and beginning of amortization must not be longer than the lender determines, in accordance with standards established by the Commissioner, to be necessary to obtain sustaining occupancy.

(f)(1) The Mortgage must provide that all monthly payments made by the Mortgagor to the lender be added together into a single payment made by the Mortgagor on each monthly payment date. The lender must apply payments received from the Mortgagor or for the account of the Mortgagor to the following items in the order listed:

(i) MIP under the Contract of Coinsurance;

(ii) Ground rents, taxes, special assessments, and fire and other hazard insurance premiums;

(iii) Interest on the Mortgage; and

(iv) Principal on the Mortgage.

(2) Any deficiency in the amount of the aggregate monthly payment required under paragraph (f)(1) of this section will constitute a fiscal default. The Mortgage will further provide for a grace period of 30 days within which time the default must be made good.

(g) The Mortgage must provide for payments by the Mortgagor to the lender, on each monthly payment date, of an amount sufficient to accumulate the next annual MIP one payment period before the MIP is due. These payments will continue only as long as the Contract of Coinsurance is in effect.

(h) The Mortgage must provide for equal monthly payments sufficient to pay any ground rents, estimated taxes, water charges, special assessments, and fire and other hazard insurance premiums, within a period ending one month before these items become due. The Mortgage must also make provision for adjustments in case the estimated amount of any of these items differs from amounts actually payable by the Mortgagor.

(i)(1) Partial or full prepayment of the Mortgage is permitted, subject to standards and restrictions established by the Commissioner with respect to prepayments of mortgages that: (A) Cover projects in which units are subsidized under section 8 of the United States Housing Act of 1937 or other Federal law or (B) may be purchased, assigned, or otherwise transferred to the Government National Mortgage Association (GNMA).

(2) Where the Mortgage is given to secure a loan made by a lender that has obtained the funds for the loan by the issuance and sale of bonds or bond anticipatory notes, or both, the Mortgage may contain a prepayment restriction and prepayment penalty charge acceptable to the lender in term amount and conditions in accordance with standards adopted by the Commissioner.

(j) The note may provide for the collection by the lender of a late charge, not to exceed four percent of each payment to interest and principal that is more than 15 days late, or such other charges as may be agreed to by the lender and the Commissioner, to cover the extra expense of handling delinquent payments. Late charges must be separately charged to and collected from the Mortgagor and may not be deducted from any total monthly payment.

(k) The Mortgage must contain a covenant prohibiting the use of the property for any purpose other than the

residential purpose intended on the day the Mortgage was executed.

(l) The Mortgage must contain a covenant, acceptable to the Commissioner, that binds the Mortgagor to keep the property insured by one or more standard policies for fire or other hazards stipulated by the Commissioner or the lender. The amount must comply with the coinsurance clause applicable to the location and character of the property, but may not be less than 80 percent of the actual cash value of the insurable improvements and equipment of the project. The initial coverage must be in the amount estimated by the lender after completion of the project. A standard mortgagee clause making loss payable to the lender and the Commissioner as their interests may appear must be included in the mortgage. The lender is responsible for assuring that insurance is maintained in force and in the amount required by this paragraph and the Mortgage. If the Mortgagor does not obtain the required insurance, the lender must do so and assess the Mortgagor for such costs. These insurance requirements apply as long as the Coinsurance Contract is in force.

§ 251.504 Mortgage lien and other obligations.

The Mortgagor and the lender must certify at endorsement of the loan for insurance, and the lender must determine, that:

(a) The property covered by the mortgage is free and clear of all liens other than the Coinsured Mortgage, except that the property may be subject to an inferior lien, made or held by a Federal, State or local governmental agency or instrumentality as provided in 24 CFR 221.520(b). No lien (other than State or local liens of taxes and assessments, or ground rents) may have a priority equal or superior to the Coinsured Mortgage.

(b) All contractual obligations in connection with the Mortgage transaction, including the purchase of the property and the improvements to the property, are paid. An exception is made for obligations that are approved by the lender and determined by the lender to be of a lesser priority for payment than the obligation of the insured Mortgage and that meet standards established by the Commissioner.

(c) Any additional obligations provided for in this section are represented by promissory notes on forms approved by the Commissioner. These notes must not be due and payable until the maturity date of the Mortgage, but may be prepaid from Surplus Cash or Residual Receipts in accordance with the conditions prescribed in the regulatory agreement between the lender and the Mortgagor.

§ 251.505 Regulatory agreement.

The lender and the Mortgagor must execute a regulatory agreement in a form acceptable to the Commissioner. The regulatory agreement must require the Mortgagor to comply with the requirements of Subparts G and H and other applicable provisions of this part for as long as the Commissioner coinsures the Mortgage. In the regulatory agreement, the lender may regulate the Mortgagor on other matters if the Commissioner determines that the additional lender controls or requirements do not conflict with the requirements of this part or requirements contained in the administrative instructions issued under this part.

§ 251.506 Other closing documents.

The lender will require execution of such other closing documents as the Commissioner may require.

Subpart G—Requirements Relating to Structure of Mortgagor Entity and Transfers of Ownership Interest

§ 251.601 Requirements applicable to all projects.

(a) The Mortgagor may issue shares of capital stock, partnership participations or beneficial certificates of interest, as applicable, only in the number and form approved by the lender.

(b) The Mortgagor must comply with the Commissioner's administrative procedures for previous participation clearance and Transfers of Physical Assets before conveying, assigning or transferring any ownership interest in the project or any beneficial interest in any trust holding title to the project.

(c) The Mortgagor must obtain the Commissioner's and the lender's written approval before:

(1) Conveying, assigning, transferring, encumbering or disposing of any legal interest in the project, including rents and security deposits;

(2) Engaging, except for natural persons, in any business or activity, including the operation of any other project, or incurring any liability or obligation not in connection with the project.

(d) The Mortgagor may not resign or withdraw from the project until the lender has approved a substitute Mortgagor.

§ 251.602 Requirements for projects intended for cooperative ownership.

(a) *Investor-sponsor's escrow.* The lender must hold in escrow the amount it determines will be needed, in the event the project is not transferred to a Cooperative within two years of the date of project completion, to reduce the principal of the Mortgage to an amount authorized for a Limited Distribution Mortgagor. The amount held in escrow may be disbursed to the Mortgagor if the transfer occurs within the two-year period. Where the transfer does not occur within this period, the escrow will be applied against the Mortgage or in such other manner as the lender and the Commissioner authorize.

(b) *Compensation to Investor-sponsor.* The consideration for the transfer to a Cooperative Mortgagor will be the assumption of the Mortgaged indebtedness plus a down payment in an amount which, when added to the original principal, may not exceed the Investor-sponsor's actual certified cost as approved by the lender under § 251.404.

§ 251.603 Requirements for projects intended for nonprofit ownership.

(a) *Builder-seller's escrow.* The lender must hold in escrow the amount it determined will be needed, in the event the project is not transferred to a Nonprofit Mortgagor within two years of the date of project completion, to reduce the principal of the Mortgage to an amount authorized for a Limited Distribution Mortgagor. The amount held in escrow may be disbursed to the Mortgagor if the transfer occurs within the two-year period. Where the transfer does not occur within this period, the escrow will be applied against the Mortgage or in such other manner as the lender and the Commissioner authorize.

(b) *Compensation to Builder-seller.* The consideration for the transfer to the Nonprofit Mortgagor shall be the assumption of the Mortgage indebtedness, to which may be added a cash payment in an amount which, when added to the original principal, may not exceed the Builder-seller's actual certified cost as approved by the lender under § 251.404.

Subpart H—Program Requirements Relating to Project Operation

§ 251.701 General.

In order to be eligible for the benefit of insured financing under this part, the Mortgagor must agree to be regulated and restricted by the lender with respect to the ongoing operation of the project as set forth in this subpart.

§ 251.702 Reserve for replacements and general operating reserve.

(a) The Mortgagor must establish and maintain a reserve for replacements which will be held and administered by the lender. The Mortgagor must accumulate, maintain and use this reserve, and the lender must administer this reserve, only as provided in the regulatory agreement and the Commissioner's administrative procedures.

(b) In addition to the reserve for replacements required by paragraph (a) of this section, a Cooperative Mortgagor must establish with the lender a general operating reserve in an amount required by the Commissioner's administrative procedures. The Cooperative Mortgagor must accumulate, maintain and use this reserve only as provided in the regulatory agreement and the Commissioner's administrative instructions.

(c) To the extent consistent with the project's liquidity needs, money placed in a reserve for replacements (and, in the case of Cooperatives, a general operating reserve) must be invested in United States Treasury securities, securities issued by a Federal agency, or deposits that are insured by an agency of the Federal Government.

§ 251.703 Rents and charges.

(a) To the extent that units in a project are occupied by assisted tenants and are subject to a section 8 Housing Assistance Payments Contract under Part 880, Part 881, Part 883, or Part 886, the unit rents and charges for facilities and services shall be determined in accordance with the regulations and administrative procedures governing the program under which the unit is receiving assistance.

(b) For any project coinsured under section 221(d)(3), the Mortgagor may collect unit rents and other charges only in amounts less than or equal to those approved by the lender. In determining maximum allowable rents and charges and in passing upon applications for changes, the lender must adhere to standards established by the Commissioner. These standards are designed to set rents at a level needed to maintain the economic soundness of the project and to provide a reasonable return to the Mortgagor and reasonable rents to tenants.

(c) If the project is coinsured under section 221(d)(4) and the lender does not elect to regulate rents pursuant to paragraph (d) of this section, the mortgagor will determine rents and charges for all units except those which receive section 8 assistance. If the project is not constructed for occupancy exclusively by the elderly or handicapped, the mortgagor may also determine the charges for facilities or services. If the project is constructed exclusively for occupancy by the elderly or handicapped, the Mortgagor may charge tenants for facilities and services only after obtaining any lender approval required by the Commissioner's administrative procedures. Such charges must be reasonable in amount and may not exceed any amounts approved by the lender.

(d) For any project insured under section 221(d)(4), the lender may regulate rents and charges for any units not receiving section 8 assistance, subject to the Commissioner's administrative procedures, if the lender (under standards established by the Commissioner) determines that such regulation is necessary in order to comply with the requirements of the Internal Revenue Code or State law.

(e) HUD may preempt any State or local regulation of rents or leases of projects subject to this part as provided in Part 246 of this title.

[49 FR 32023, Aug. 9, 1984; 49 FR 38943, Oct. 2, 1984]

§ 251.704 Use of project funds.

(a) The Mortgagor must deposit all rents and other receipts of the project in the name of the project in accounts that are fully insured as to principal by an agency of the Federal government. Project funds in excess of these needed to meet short-term project operating expenses may be invested in accordance with the administrative instructions of the Commissioner.

(b) The Mortgagor may use project funds only for:

(1) Payment of Mortgage obligations;

(2) Payment of reasonable expenses necessary to the proper operation and maintenance of the project;

(3) Deposits to the reserve for replacements and other required reserves;

(4) Distributions of Surplus Cash permitted under § 251.705;

(5) Repayment of Mortgagor advances authorized by the Commissioner's administrative procedures.

(c) The Mortgagor may not use project funds to liquidate liabilities related to the construction of the project, other than the Coinsured Mortgage, unless the lender authorizes this use in accordance with the Commissioner's administrative procedures.

(d) The Mortgagor must deposit and maintain residents' security deposits in a trust account separate and apart from all other funds of the project. This trust account must be held in the name of the project and the balance in the account must at all times equal or exceed the project's liability for residents' security deposits. The owner must comply with any State or local laws regarding investment of security deposits and the Distribution of interest or other income earned thereon. Any earnings received from the investment of security deposits must accrue to the benefit of the project or the project residents.

§ 251.705 Distributions and residual receipts.

(a) The Mortgagor may make, receive or retain Distributions only as provided in this section. The Mortgagor must compute Surplus Cash and Distributions in accordance with the Commissioner's administrative requirements.

(1) Distributions may be paid only from Surplus Cash that exists as of the end of a semi-annual or annual fiscal period.

(2) Initial Distributions may be paid only after construction has been completed and the Mortgagor has submitted the cost certifications required by § 251.402.

(3) No Distribution may be paid from borrowed funds, or when payments due under the note, Mortgage, or regulatory agreement have not been made.

(b) If any of the conditions listed below applies, the Mortgagor may distribute Surplus Cash only after obtaining the lender's written approval to do so;

(1) The Mortgagor has not satisfactorily responded to any lender on HUD on-site review report, annual financial statement correspondence or any other correspondence that requires the Mortgagor to implement corrective action, and that was received at least 30 days before the end of the fiscal period for which the Surplus Cash computation is made;

(2) The lender determines and gives the owner written notification that the project has significant uncorrected physical deficiences; or

(3) there is a covenant, default (as defined in § 251.806(b) under the provisions of the Mortgage or the regulatory agreement.

(c) The Mortgagor must limit Distributions in any one fiscal period to the amount specified in this paragraph (c), and must calculate Distributions in accordance with the administrative requirements of the Commissioner.

(1) Cooperative projects not receiving assistance under Part 886 of this title, Section 8 Housing Assistance Payments Program—Special Allocations, may distribute all Surplus Cash to members. Cooperatives receiving assistance under Part 886 may distribute only the portion

of Surplus Cash attributable to unsubsidized units. Surplus cash must be prorated to subsidized and unsubsidized units in accordance with the Commissioner's administrative procedures.

(2) No Distributions are permitted on nonprofit rental projects.

(3) On projects owned by Limited Distribution Mortgagors, Distributions may not exceed the lesser of Surplus Cash on the amount allowable by the lender as of the end of the period covered by the Surplus Cash computation. Distributions are cumulative. If the project receives subsidy payments for HUD, Distributions will be earned at a rate prescribed in the regulations and administrative procedures applicable to that subsidy program. If the project does not receive subsidy payments from HUD, Distributions will be earned annually or semiannually at a rate prescribed by the lender consistent with State or local law.

(4) On projects owned by General Mortgagors, all Surplus Cash generated during the fiscal period covered by the Surplus Cash computation may be distributed to the Mortgagor.

(d) Nonprofit and Cooperative Mortgagors must deposit Residual Receipts with the lender within 60 days after the end of each fiscal year in which Surplus Cash is generated. Limited Distribution Mortgagors must deposit Residual Receipts with the lender within 60 days after the end of each annual or semiannual fiscal period in which Surplus Cash is generated.

(e) Residual Receipts must at all times remain under the control of the lender. The lender must administer the Residual Receipts account in accordance with the Commissioner's administrative requirements.

(1) If the project contains units that are occupied by assisted tenants and are subject to a Section 8 Housing Assistance Payments Contract under Part 880, Part 881, Part 883 or Part 886, the lender may release Residual Receipts only after obtaining the Commissioner's written approval and only in accordance with the Commissioner's administrative requirements.

(2) The Mortgagor may use Residual Receipts only for such purposes as the Commissioner or the lender authorize.

(f) The lender must invest Residual Receipts in accordance with the administrative requirements of the Commissioner. All earnings on these investments must be added to the Residual Receipts account unless other disposition of such earnings has been approved by the Commissioner, or by the lender in accordance with the Commissioner's administrative requirements.

(g) When the contract of coinsurance is terminated any funds remaining in the Residual Receipts account must be distributed in accordance with the Commissioner's administrative requirements.

§ 251.706 Project management.

The Mortgagor must:

(a) Provide for management satisfactory to the lender and the Commissioner, execute a management contract that meets the requirements of the Commissioner, and deliver to the lender such certifications and information regarding project management as the Commissioner and lender may require.

(b) Maintain the project in good repair and condition and promptly complete necessary repairs and maintenance as required by the lender.

(c) Assure that all project expenses are reasonable in amount and necessary to the operation of the project.

(d) Obtain the lender's and the Commissioner's written approval before undertaking self-management, contracting for management services, or paying (or incurring any obligation to pay) fees for management services.

(e) Establish and maintain the project's books, accounts and records in accordance with the Commissioner's and lender's administrative requirements. Books and accounts must be maintained for such periods of time as the Commissioner may prescribe.

(f) Permit the lender, the Commissioner, the HUD Inspector General, the Comptroller General of the United States, or their authorized agents to inspect the project's property, equipment, buildings, plans, offices apparatus, devices, books, accounting records, contracts, and documents during reasonable business hours. This right to inspect extends to the records of the Mortgagor, as well as to the records of any companies with which the Mortgagor has an identity of interest, as defined in the regulatory agreement.

(g) Furnish the lender and the Commissioner with a financial report on the project's operations within 60 days following the end of each fiscal year, unless the lender authorizes the Mortgagor to submit the report on a later date. Unless the Commissioner authorizes the lender to accept an unaudited report, the report must be made by an independent certified public accountant or by an independent public accountant licensed by a State or other political subdivision on or before December 31, 1970.

(h) Upon request, furnish the lender with operating budgets; occupancy, accounting and other reports; properly certified copies of minutes of meetings of the directors, officers, shareholders, or beneficiaries of the Mortgagor entity; and specific answers to questions raised from time to time by the lender relative to income, assets, liabilities, expenses, operation, and condition of the project. The Mortgagor must furnish a response to the lender's or HUD's on-site review reports and written inquiries regarding annual or monthly financial statements no later than 30 days after receipt of the lender's report or inquiries.

(i) In renting units adhere to the civil rights and equal opportunity requirements set forth in § 251.208.

(j) Give preference to families or individuals displaced from an urban renewal area, or as a result of governmental action or a major disaster as determined by the President.

(k) Permit occupancy of:

(1) Unsubsidized units only under a lease or occupancy agreement that meets the requirements of this part and any requirements established by the lender; and

(2) Subsidized units only under a lease or occupancy agreement approved by the Commissioner.

(l) Adhere to the Commissioner's occupancy requirements for any units assisted under a project-based Section B Housing Assistance Payments Contract.

(m) Not permit any part of the project to be rented for transient or hotel purposes. The term rental for transient or hotel purposes means (1) rental for any period less than 30 days or (2) any rental, if the occupants of the housing accommodation are provided customary hotel services, such as room service for food and beverage, maid service, furnishing and laundering of linens, and bellhop service.

(The information collection requirements contained in paragraphs (g) and (h) of this section were approved by the Office of Management and Budget under control numbers 2502-0314 and 2502-0108, respectively)

Subpart 1—Contract Rights and Obligations

Mortgage Insurance Premiums

§ 251.801 MIP in insurance of advances cases.

(a) *Amount of MIP to be collected from the Mortgagor.* (1) Before the initial endorsement of the Mortgage for coinsurance, the lender must collect a MIP from the Mortgagor equal to one percent of the original amount of the Mortgage.

(2) If the date of the first principal payment is more than one year after the date of initial endorsement, the lender must, before each anniversary of the date of initial endorsement that occurs more than 30 days before the first principal payment, collect from the Mortgagor an additional MIP equal to 0.5 percent of the original Mortgage amount.

(3) Before the first principal payment, the lender must collect from the Mortgagor an amount equal to 0.5 percent of the average outstanding principal balance of the Mortgage for the year following the first principal payment.

(4) Beginning with the first principal payment and continuing until the Coinsurance Contract terminates, the lender must collect and place in escrow monthly MIP sufficient to accumulate 0.5 percent of the average principal that will be outstanding during the upcoming year. No adjustments may be made for delinquent payments or prepayments on the Mortgage except as provided in § 251.804.

(5) The MIP required under paragraphs (a) (1) and (2) of this section may be included in the Mortgage. The Mortgagor must pay the MIP required under paragraphs (a) (3) and (4) of this section from its own funds.

(b) *Payment of MIP by the lender.* (1) At initial endorsement, the lender must pay to the Commissioner an initial MIP equal to .65 percent of the original amount of the Mortgage.

(2) If the date of the first principal payment is more than one year after the date of the initial endorsement, the lender must, on each anniversary of the date of initial endorsement that occurs more than 30 days before the first principal payment, pay to the Commissioner an additional MIP equal to 0.5 percent of the original Mortgage amount.

(3) Following final endorsement, the Commissioner will adjust the MIP so that it equals .65 percent per year of the average outstanding principal balance for the year following the date of initial endorsement plus 0.5 percent per year of the average outstanding principal balance for the period from the first anniversary of initial endorsement to the date of the first principal payment. If the adjusted amount is less than the amount previously paid by the lender, the Commissioner will refund the excess amount to the lender for application to the Mortgagor's account.

(4) On the date of the first principal payment and each year thereafter on the anniversary of the date on which the first principal payment was due, and continuing until the Coinsurance Contract is terminated, the lender must pay to the Commissioner a MIP equal to 0.4 percent of the average outstanding principal balance of the Mortgage for the 12 months following the date the premium becomes payable. The average outstanding principal balance is computed using the project's amortization schedule. No adjustments may be made for delinquent payments or Mortgage prepayments except as provided in § 251.804.

§ 251.802 MIP in insurance upon completion cases.

(a) *Amount of MIP to be collected from the Mortgagor.* (1) Before endorsement of the Mortgage for coinsurance, the lender must collect from the Mortgagor a MIP equal to 0.5 percent per year of the average outstanding principal balance of the Coinsured Mortgage from the date of the endorsement to one year after the due date of the first payment to principal.

(2) For each year thereafter, the lender must collect from the Mortgagor monthly MIP sufficient to accumulate and place in escrow 0.5 percent of the average principal balance outstanding during the upcoming year. No adjustments may be made for delinquent payments or prepayments on the Mortgage except as provided in § 251.804.

(b) *Payment of MIP by the lender.* (1) At endorsement, the lender must pay to the Commissioner an initial MIP equal to 0.5 percent of the face amount of the Mortgage. Following endorsement, the Commissioner will adjust the initial MIP so that it equals 0.5 percent per year of the average outstanding balance of the Mortgage from the date of endorsement to one year after the due date of the first payment to principal. If this adjusted amount is more than the amount paid by the lender at endorsement, the Commissioner will bill the lender for the difference. If the adjusted amount is lower than the amount paid by the lender at endorsement, the Commissioner will refund the excess amount to the lender for application to the Mortgagor's account.

(2) Beginning on the anniversary of the date on which the first principal payment was due and continuing annually thereafter until the Coinsurance Contract is terminated, the lender must pay to the Commissioner a MIP equal to 0.4 percent of the average outstanding principal balance for the 12 months following the date the premium becomes available. The average outstanding principal balance is computed using the project's amortization schedule. No adjustments may be made for delinquent payments or Mortgage prepayments except as provided in § 251.804.

§ 251.803 Duration and method of payment of MIP.

(a) MIP payments must continue annually until one of the following occurs:

(1) The Mortgage is paid in full;

(2) A deed to the lender is filed for record; or

(3) The Contract of Coinsurance is otherwise terminated with the consent of the Commissioner.

(b) The lender may pay any MIP required under this part in cash or debentures.

§ 251.804 Pro-rata refund of annual MIP.

If the Coinsurance Contract is terminated by prepayment in full or by termination with the consent of the Commissioner after the due date of the first annual MIP, the Commissioner a will refund any MIP paid for the period after the effective date of the termination of insurance. The refund will be mailed to the lender for credit to the Mortgagor's account. In computing the pro rata portion of the annual MIP, the date of termination of coinsurance will be the last day of the month in which the Mortgage is prepaid or the Commissioner receives a termination request. No refund will be made if insurance was terminated because of a default or if termination occurs before the date the first annual MIP is due.

§ 251.805 Late charges—MIP.

(a) If the Commissioner receives a MIP payment more than 15 days after the later of the billing date or due date, the lender must pay a late charge of four percent of the amount due.

(b) If the Commissioner receives a MIP payment more than 30 days after the late of the billing or due date, the lender must pay both the four percent late charge and interest. Interest will be charged from the later of the billing date or the due date at a rate set in conformity with the Treasury Fiscal Requirements Manual.

§ 251.806 [Reserved]

Delinquency and Default Under the Mortgage

§ 251.807 Notice of delinquency.

If the lender has not received the Mortgagor's monthly Mortgage payment by the 16th day of the month in which the payment is due, the lender must give the Commissioner written notice of the delinquency. This notice must include the information required by the Commissioner's administrative procedures. The lender must mail this

notice in time for it to be received by the Commissioner by the 20th day of that month.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 2502-0041.)

§ 251.808 Definition of default.

(a) A monetary default exists when the Mortgagor fails to make any payment due under the Mortgage.

(b) A covenant default exists when the Mortgagor fails to perform any other covenant under the provisions of the Mortgage or the regulatory agreement, which is incorporated in the Mortgage. A lender becomes eligible for insurance benefits on the basis of a covenant default only after the lender has accelerated the debt and the owner has failed to pay the full amount due, thus converting a covenant default into a monetary default.

§ 251.809 Date of default.

For purposes of this subpart, the date of default is:

(a) The date of the first uncorrected failure to perform a mortgage covenant or obligation; or

(b) The date of the first failure to make a monthly payment that is not covered by subsequent payments, when such subsequent payments are applied to the overdue monthly payments in the order in which they were due.

§ 251.810 Notice of default.

If a default (as defined in § 251.808) continues for a period of 30 days, the lender must notify the Commissioner within 30 days thereafter, unless the default is cured. Unless waived by the Commissioner, the lender must submit this notice monthly on a form prescribed by the Commissioner until the default has been cured, the lender has acquired title to the property, or the coinsurance contract has been terminated.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 2502-0041.)

§ 251.811 Financial relief to cure a default.

(a) To reinstate a defaulted Mortgage, the lender may use one or more of the forms of financial relief described in this section. The lender's efforts to cure a default will not result in a curtailment of interest as provided by § 251.821(b) in any subsequent claim for insurance benefits, if the lender complies with the conditions set forth in this section and the notice requirements set forth in §§ 251.810 and 251.815. The lender must service delinquent loans in accordance with the Commissioner's administrative requirements.

(1) Temporary adjustment of Mortgage payments. Without obtaining the Commissioner's approval, the lender may agree to hold the Mortgage in default and temporarily adjust payments, if a temporary payment plan meets the conditions listed below. The lender may approve a payment plan that does not meet all of these conditions only after obtaining the Commissioner's written approval.

(i) The temporary payment plan will last no longer than 18 months.

(ii) Payments will be set at less than the debt service and escrows required by the Mortgage for no more than six months.

(iii) The plan requires the Mortgagor to pay a specific dollar amount each month toward the Mortgage delinquency, but also gives the lender the right (subject to the Commissioner's administrative requirements) to require that the Mortgagor also apply any net operating income to the Mortgage delinquency.

(iv) The Plan requires the Mortgagor to furnish the lender monthly accounting reports until the Mortgage is reinstated.

(v) The Mortgagor agrees that, even if the project is current under the terms of a temporary payment plan, no distributions will be paid until the Mortgage itself has been brought current and the Mortgagor has complied with all terms of the temporary payment plan and any broader reinstatement plan, including the completion of any maintenance work or management initiatives.

(2) Withdrawal from the reserve for replacements. If the Mortgage is more than 25 days delinquent, the lender may withdraw reserve funds without prior Commissioner approval to pay up to one month's debt service and Mortgage escrows. The lender must obtain the Commissioner's written approval for withdrawals that, individually or cumulatively over a 12-month period, would exceed one month's Mortgage payment.

(3) Suspension of deposits to the reserve for replacements. The lender may suspend up to six months' reserve deposits for up to six months during any 36 month period. The lender must obtain the Commissioner's written approval for suspensions in excess of six months during any 36-month period.

(4) Recasting the Mortgage. The lender may recast delinquent principal and interest over the remaining Mortgage term so long as the sum of the outstanding principal balance of the Mortgage and the delinquency being recast does not exceed the original Mortgage amount, and the lender obtains the Commissioner's written approval before executing an agreement permanently modifying the terms of the Mortgage.

(b) For any project comprising a GNMA pool, the lender-issuer must continue to pay the securities holders the full amount of scheduled payments due under the securities, even if the lender does not collect the full amount from the Mortgagor.

(The information collection requirements contained in paragraph (a)(1(iv) of this section were approved by the Office of Management and Budget under control number 2502-0108.)

§ 251.812 Reinstatement of a defaulted mortgage.

If the Mortgagor cures the default before the completion of any foreclosure proceedings, the insurance will continue as if a default had not occurred. The Mortgagor must pay all reasonable expenses that the lender incurs in connection with the foreclosure proceedings. The lender must give written notice of reinstatement to the Commissioner.

Termination

§ 251.813 Termination of coinsurance contract.

(a) The Contract of Coinsurance will terminate if any of the following occurs:

(1) The Mortgage is paid in full;

(2) The lender acquires the Mortgaged property and notifies the Commissioner that it will not make a claim for insurance benefits;

(3) The Mortgagor redeems the property after foreclosure;

(4) A party other than the lender acquires the property at a foreclosure sale;

(5) The Mortgagor and lender jointly request termination and the Commissioner grants approval; or

(6) The lender or its successors or assigns commit fraud or make a material misrepresentation to the Commissioner with respect to the Contract of Coinsurance on the Mortgage.

(b) The Contract of Coinsurance may, at the option of the Commissioner, be terminated in the event of the assignment or transfer of interest of a Coinsured Mortgage which does not meet the requirements of § 251.106.

(c) When the Coinsurance Contract is terminated, all of the rights an obligations of the Mortgagor and the lender, including the obligation to pay MIP, will terminate.

§ 251.814 Notice and date of termination by Commissioner.

The Commissioner will notify the lender that the contract of coinsurance on a Mortgage has been terminated and will establish the effective date of the termination. The termination date will be the last day of the month in which any one of the events specified in § 251.813 occurs.

Claim Procedure and Payment of Insurance Benefits

§ 251.815 Notice of election to acquire property and file a claim.

Unless the Commissioner has given the lender a written extension, the lender must notify the Commissioner of its election to acquire the property and its intention to file a claim for insurance benefits within 75 days of the date of default. The Commissioner will approve an extension of the 75-day deadline if the Commissioner determines that (a) the lender and the Mortgagor are diligently pursuring reinstatement of the Mortgage, and (b) reinstatement of the Mortgage and resolution of the problems that lead to the default are feasible.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 2502-0332.)

§ 251.816 Acquisition of property.

Unless the Commissioner has given the lender a written extension, within 30 days after submitting the notice required by § 251.815, the lender must institute action either to foreclose the Mortgage or acquire title to the Mortgaged property through deed-in-lieu of foreclosure. The lender must exercise reasonable diligence in pursuing this action, and must promptly report to the Commissioner any developments that might delay the completion of acquisition. During the period that the lender controls the property, it must adhere to the Commissioner's requirements for project management, as set forth in the regulatory agreement and the Commissioner's administrative procedures.

§ 251.817 Deed-in-lieu of foreclosure.

In lieu of instituting or completing a foreclosure, the lender may acquire the property by voluntary conveyance from the Mortgagor. The lender may accept a deed-in-lieu of foreclosure if:

(a) The Mortgage is in default at the time the deed is executed and delivered;

(b) The credit instrument is canceled and surrendered to the Mortgagor;

(c) The Mortgage of record is satisfied as a part of the consideration for the conveyance; and

(d) The deed from the Mortgagor conveys marketable title and contains a covenant that warrants against the acts of the grantor and all claims by, through, or under the grantor.

§ 251.818 Disposition of property and application for insurance benefits.

(a) After acquisition of marketable title to the property, the lender must obtain two appraisals of the property peformed by independent appraisers. The lender must select the appraisers from a panel approved by the Commissioner. The appraisals must estimate the market value of the property, as of the date of acquisition, for its highest and best use. The higher of the two appraisal values shall be deemed the appraisal value for purposes of this subpart.

(b) After the lender sells the property, or after the end of 12 months from the date of acquisition of title, whichever occurs first, the lender may file a claim for any insurance benefits to which it is entitled under § 251.820. The lender must file the claim no later than 15 days after the sale, or expiration of the 12-month period, whichever is applicable, or Mortgage interest will be curtailed in accordance with § 251.821(b).

(c) The lender must file the claim on a form approved by the Commissioner and must state the sales price and the income and expenses incurred in connection with the acquisition, repair, operation, and sale of the property. The lender must also submit evidence in support of the claim, as prescribed by the Commissioner, including the appraisals required by paragraph (a) of this section, and ledger records and documentation for all accounts relating to the Mortgage transaction.

(d) If the property has not been disposed of at the time of the lender's request for payment, the lender must use the higher of the two appraised values of the property secured in accordance with paragraph (a) of this section in its notification to the Commissioner, in lieu of the sales price.

(The information collection requirements contained in paragraph (c) of this section were approved by the Office of Management and Budget under control number 2502-0332.)

§ 251.819 Method of payment.

The Commissioner will pay insurance benefits in cash, unless the lender files a written request for payment in debentures. In the event that the lender requests debentures, all of the provisions of 24 CFR 207.259(e) will apply.

§ 251.820 Amount of payment.

(a) The basis for the computation of insurance benefits will be:

(1) The principal balance of the Mortgage unpaid as of the date of the institution of foreclosure proceedings or the date of acquisition of the property by deed in lieu of foreclosure;

(2) Plus all items set forth in § 251.821;

(3) Less all items set forth in § 251.822.

(b) The Commissioner will pay insurance benefits equal to 85 percent of the amount computed under paragraph (a) of this section if the lender (1) Has obtained no insurance of its coinsurance risk, (2) has insured 50 percent of its coinsurance risk or (3) is a State Housing Agency eligible as a lender under § 203.8(b) of this chapter that obtained reinsurance from an authorized public mortgage insurer for any portion or all of its coinsurance risk, where the Commissioner finds an identity of interest exists between the State Housing Agency and the public mortgage insurer.

(c) The Commissioner will pay insurance benefits equal to 72.25 percent of the amount computed under paragraph (a) of this section if the lender has obtained insurance for either 100 percent of its coinsurance risk or that portion of its coinsurance risk that equals the maximum amount that the insurer is authorized to insure.

(d) This paragraph sets forth the amount of coinsurance benefits to be paid when the amount of reinsurance obtained by the lender changes. If reinsurance is increased after initial or final endorsement, HUD's insurance benefits will be reduced accordingly. HUD's insurance benefits will not be increased if reinsurance is reduced or cancelled after final endorsement.

§ 251.821 Items included in payment.

In computing insurance benefits, the following items will be added to the amount described in § 251.820(a)(1):

(a) The amount of all payments that the lender made from its own funds and not from project income for:

(1) Taxes, special assessments, and water bills that are liens before the Mortgage;

(2) Fire and hazard insurance on the property; and

(3) Any Mortgage insurance premiums paid after the date of default. However, HUD will not reimburse the lender for any interest, late charge or other penalties imposed because of the lender's failure to make the required payments when due.

(b) An amount equivalent to Mortgage interest on the unpaid principal balance of the Mortgage on the date the lender

initiated foreclosure proceedings or on the date the lender acquired title to the property through deed-in-lieu of foreclosure. This interest will be payable from the date of default to the date of payment of the insurance benefits. However, if the lender fails to meet any of the requirements of §§ 251.810, 251.815, 251.816, or 251.818(b), within the specified time (including any permissible extension of time), the accrual of interest allowance on the cash payment will be curtailed by the number of days by which the required action was late.

(c) An amount not in excess of two-thirds of the costs actually paid by the lender and approved by the Commissioner of acquiring the property. These costs may not include loss or damage resulting from the invalidity or unenforceability of the Mortgage lien or the unmarketability of the Mortgagor's title.

(d) Reasonable payments that the lender made from its own funds and not from project income for:

(1) Preservation, operation and maintenance of the property.

(2) Repairs necessary to meet the objectives of the HUD minimum property standards, those required by local law, and additional repairs that HUD specifically approved in advance; and

(3) Expenses in connection with the sale of the property.

§ 251.822 Items deducted from payment.

In computing insurance benefits, the following items will be deducted from the amount described in § 251.818(a)(1):

(a) An amount equal to five percent of the outstanding principal balance of the Mortgage on the date the lender instituted foreclosure proceedings or acquired title to the property through deed-in-lieu of foreclosure.

(b) All amounts received by the lender on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property through deed-in-lieu of foreclosure after default, and any other reimbursement to the lender, other than under the Coinsurance Contract.

(c) All cash or funds related to the mortgaged property that the lender holds (or to which it is entitled) including deposits and escrows made for the account of the Mortgagor. However, for any Mortgage comprising a GNMA pool, this deduction must exclude any funds in the lender-issuer's custodial accounts and collateral funding a GNMA Deposit Agreement relating to the lender-issuer loss exposure during the GNMA Indemnity Period.

(d) The amount of any undrawn balance under a letter of credit that the lender accepted in lieu of a cash deposit for an escrow agreement;

(e) Any net income from the Mortgaged property that the lender received after the date of default;

(f) The proceeds from the sale of the project or the appraised value of the project as provided in § 251.818, as follows:

(1) If the lender disposes of the project through a negotiated sale, the amount deducted will be the higher of the sales price or the appraised value.

(2) If the lender disposes of the project through a competitive bid procedure approved by the Commissioner, the amount deducted will be the sales price, even if it is lower than the appraised value.

(3) If the lender has not disposed of the project within 12 months from the date of acquisition, the amount deducted will be the appraised value.

(g) Any and all claims that the lender has acquired in connection with the acquisition and sale of the property. Claims include but are not limited to returned premiums from cancelled insurance policies, interest on investments of reserve for replacement funds, tax refunds, refunds of deposits left with utility companies, and amounts received as proceeds of a receivership.

§ 251.823 [Reserved]

Remedies for Default by a Lender-Issuer Under the Government National Mortgage Association (GNMA) Mortgage-Backed Securities Program

§ 251.824 Indemnification of GNMA.

(a) If, after the Commissioner pays a coinsurance claim, the lender-issuer fails to pay the full amount owed to a holder of securities guaranteed by GNMA and backed by a coinsured loan, the Commissioner will reimburse the Association for the amount the Association must pay securities holders as a result of the lender's default in payment.

(b) This amount will not exceed 15 percent or 27.75 percent (whichever is appropriate) of the amount computed under § 251.820, plus the amount referenced in § 251.822(a). The Commissioner will make payment in cash. After payment by the Commissioner, the lender-issuer will have no claim against the Commissioner for any such funds.

§ 251.825 Withdrawal of lender approval.

If the Commissioner is required to make payments to GNMA because of the lender-issuer's failure to pay any amount owed to a holder of GNMA securities backed by a Coinsured Mortgage, the Commissioner may request that the Mortgagee Review Board withdraw approval of the lender-issuer as a HUD-approved Mortgagee, under the provisions of Part 25 of this title.

§ 251.826 HUD recourse against lender-issuer.

If the Commissioner is required to make payments to GNMA because of the lender-issuer's failure to pay any amount owed to a holder of GNMA securities backed by a Coinsured Mortgage, the lender-issuer will be liable for reimbursing the Commissioner for the payments.

§ 251.827 GNMA right to assignment.

If the lender-issuer defaults on its obligations under the GNMA Mortgage-Backed Securities Program, GNMA will have the right, notwithstanding the requirements of § 251.106, to cause all Coinsured Mortgages held in GNMA pools by the defaulting coinsuring lender-issuer to be assigned to another GNMA-approved coinsuring lender-issuer or to itself.

(a)(1) For any Coinsured Mortgage that is not in default and is held by a defaulting lender-issuer, GNMA will first attempt to have the Mortgage assigned to another eligible coinsuring lender by soliciting offers to assume the defaulting lender-issuer's rights and obligations under the Mortgage from those eligible coinsuring lenders that are indicated on a periodically updated listing furnished to GNMA by the Commissioner and that are also GNMA issuers.

(2) If GNMA rejects all offers or no offers are received, GNMA will have the right to perfect an assignment of the Mortgage to itself.

(b) For any Coinsured Mortgage that is in default and held by a defaulting lender-issuer, GNMA will have the right to perfect an assignment of the Coinsured Mortgage directly to itself before extinguishing the Mortgage by completion of foreclosure action or acquisition of title by deed-in-lieu of foreclosure.

(c) GNMA, as assignee, will give the Commissioner written notice within 30 days after taking a Mortgage by assignment in accordance with this section, in order to allow an appropriate endorsement and necessary changes in the Commissioner's records.

(d) The Commissioner will endorse any Mortgage assigned to GNMA as provided by this section for full insurance effective as of the date of assignment in accordance with the

appropriate provisions of 24 CFR Part 221. Any future insurance claim by GNMA or any assignment of the fully insured Mortgage will be governed by the appropriate provisions of 24 CFR Part 221, except that any payment will be made in cash instead of debentures.

§ 251.828 GNMA right to claim coinsurance benefits after lender-issuer's acquisition of title.

(a) If, as a result of a default by a lender-issuer on its obligations under the GNMA Mortgage-Backed Securities (MBS) program, GNMA must pay any amount owed to a securities holder, GNMA as substitute lender-issuer shall be entitled to file a claim for and to receive coinsurance benefits in accordance with this subpart. GNMA may file a claim with the Commissioner immediately upon its declaration of the lender-issuer's default under the GNMA MBS program, if the defaulting lender-issuer has acquired legal title to property previously covered by a co-insured mortgage ("coinsured property") but has not received coinsurance benefits under this subpart, and if the defaulting lender-issuer cannot or will not convey legal title to the coinsured property to GNMA. Such a claim may be filed by GNMA notwithstanding the requirements of § 251.818(b) that claims be submitted after the sale of the coinsured property or the expiration of 12 months from the acquisition of title. The claim shall be based upon property appraisals obtained by the lender-issuer at the time of acquisition of title or, in the absence of such appraisals, upon appraisals obtained by GNMA after default of the lender issuer. The lender-issuer will have no claim against the Commissioner for any payment pursuant to this section.

(b) If, as a result of the lender-issuer's default, the full amount paid by GNMA to one or more securities holders exceeds the amount of coinsurance benefits paid by the Commissioner to GNMA under paragraph (a) with respect to the Coinsured Mortgage that backed the securities, then the Commissioner shall reimburse GNMA for such additional amount in accordance with § 251.823(b).

(c) For any Coinsured Mortgage that is to be included in a GNMA MBS pool, GNMA shall obtain, an assignment by contract of any future right of the lender-issuer to collect coinsurance benefits on the Coinsured Mortgage following the lender-issuer's acquisition of legal title to the underlying coinsurance property on behalf of securities holders and GNMA. Such assignment shall become effective upon default by any lender-issuer after its acquisition of legal title to the coinsured property.

(d) If the lender-issuer is unable or unwilling to transfer legal title to the coinsured property promptly to GNMA, GNMA shall take all necessary and appropriate action to obtain legal title to it. Upon receipt of legal title, GNMA shall convey the coinsured property to the Commissioner. In the event GNMA cannot acquire legal title, GNMA shall transfer to the Commissioner any other rights or interests it possesses in the coinsured property.

(e) GNMA shall reimburse the Commissioner in an amount not to exceed the amount of any payment by the Commissioner to GNMA under paragraph (a) if the Commissioner is required to pay coinsurance proceeds under this subpart to any party other than GNMA with respect to the Coinsured Mortgage.

PART 255—COINSURANCE FOR THE PURCHASE OR REFINANCING OF EXISTING MULTIFAMILY HOUSING PROJECTS

6. The heading and table of contents of 24 CFR Part 255 are revised to read as follows:

PART 255—COINSURANCE FOR THE PURCHASE OR REFINANCING OF EXISTING MULTIFAMILY HOUSING PROJECTS

Subpart A—General Provisions

Sec.
255.1 Purpose and scope.
255.2 Coinsurance contract.
255.3 Definitions.
255.4 Effect of amendments.

Subpart B—Lender Requirements

255.101 Eligible lender.
255.102 Review and approval as coinsuring lender.
255.103 Duration of approval.
255.104 Probation, suspension or withdrawal of approval.
255.105 Delegation of servicing.
255.106 Assignment of and participation in coinsured mortgages.
255.107 Reinsurance.
255.108 Pledging and other security arrangements.

Subpart C—Program Requirements

255.201 Eligible project.
255.202 Eligible mortgagors.
255.203 Maximum mortgage limitations.
255.204 Maximum interest rate.
255.205 Term of the Mortgage.
255.206 Lender's fees and premiums.
255.207 Coinsurance of mortgages in lender's portfolio.
255.208 Nondiscrimination in housing and employment.
255.209 Labor Standards and prevailing wage requirements.

Subpart D—Processing and Commitment

255.301 Processing responsibilities.
255.302 Processing and commitment.

Subpart E—Cost Certification and Endorsement by the Commissioner

255.401 Agreement to certify cost requirements.
255.402 Certificate of actual cost—contents in general.
255.403 Effect of certification of actual costs.
255.404 [Reserved]
255.405 [Reserved]
255.406 Lender's review of mortgage amount.
255.407 Endorsement by the Commissioner.

Subpart F—Mortgage and Closing Requirements

255.501 Mortgage requirements—real estate.
255.502 Title.
255.503 Mortgage and note provisions.
255.504 Mortgage lien and other obligations.
255.505 Regulatory agreement.
255.506 Other closing documents.

Subpart G—Requirements Relating to Structure of Mortgagor Entity and Transfer of Ownership Interest

255.601 Requirements applicable to all projects.

Subpart H—Program Requirements Relating to Project Operation

255.701 General.
255.702 Reserve for replacements and general operating reserve.
255.703 Rents and charges.
255.704 Use of project funds.
255.705 Distributions and residual receipts.
255.706 Project management.

Subpart I—Contract Rights and obligations Mortgage Insurance Premiums

255.801 Payment of MIP by mortgagor and lender.
255.802 [Reserved]
255.803 Duration and method of payment of MIP.
255.804 Pro-rate refund of annual MIP.
255.805 Late charges—MIP.

Delinquency and Default Under the Mortgage

255.806 [Reserved]
255.807 Notice of delinquency.
255.808 Definition of default.
255.809 Date of default.
255.810 Notice of default.
255.811 Financial relief to cure a default.
255.812 Reinstatement of a defaulted Mortgage.

Termination

255.813 Termination of coinsurance contract.
255.814 Notice and date of termination by Commissioner.

Claim Procedures and Payment of Insurance Benefits

255.815 Notice of election to acquire property and file a claim.
255.816 Acquisition of property.
255.817 Deed in lieu of foreclosure.

255.818 Disposition of property and application for insurance benefits.
255.819 Method of payment.
255.820 Amount of payment.
255.821 Items included in payment.
255.822 Items deducted from payment.
255.823 Amount of payment for certain mortgages covering property rehabilitated with assistance under 24 CFR Part 511 or Part 850.

Remedies for Default by a Lender-Issuer Under the Government National Mortgage Association (GNMA) Mortgage-Backed Securities Program

255.824 Indemnification of GNMA.
255.825 Withdrawal of lender approval.
255.826 HUD recourse against lender-issuer.
255.827 GNMA right to assignment.
255.828 GNMA right to claim coinsurance benefits after lender-issuer's acquisition of title.

Authority: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)), Sec 211, National Housing Act (12 U.S.C. 1715(b)), and sec 244, National Housing Act (12 U.S.C. 1715z(9)).

7. In § 255.1, paragraph (g)(2) is revised and paragraph (h) is added to read as follows:

§ 255.1 Purpose and scope.

* * * * *

(g)(1) * * *

(2) Insurance authorized by this part will not be available for mortgages on properties that are eligible to be insured solely under the authority of section 223(e) of the National Housing Act.

(h) Neither the coinsuring lender nor the Mortgagor shall have any vested or other right in the General Insurance Fund.

8. Section 255.2 is revised to read as follows:

§ 255.2 Coinsurance contract.

The Contract of Coinsurance is the agreement between the lender and the Commissioner to coinsure a Mortgage under this part. It is evidenced by an endorsement on the Mortgage note by the Commissioner, or by the Commissioner's authorized departmental representative, and includes the terms, conditions, and provisions of this part.

9. In § 255.3, paragraphs (b), (h), and (m) are revised to read as follows:

§ 255.3 Definitions.

* * * * *

(b) "Cooperative Mortgagor" means a nonprofit cooperative ownership housing corporation regulated under State law and by the lender under a regulatory agreement that restricts permanent occupancy of the project to members of the corporation, and requires membership eligibility and transfer of membership in a manner approved by the Commissioner.

* * * * *

(h) "Mortgage Insurance Premium" (MIP) means the mortgage insurance premium collected under § 255.801 of this part.

* * * * *

(m) "Surplus Cash" means any unrestricted cash remaining after.

(1) The payment of:

(i) All sums due or currently required to be paid under the terms of any Mortgage or note coinsured by the Commissioner.

(ii) All amounts required to be deposited in any replacement or operating reserve, and

(iii) All other obligation of the project other than the coinsured mortgage unless funds for payment are set aside, or deferral of payment has been approved by the lender, and

(2) The escrow of an amount equal to:

(i) The aggregate of any special funds required to be maintained by the project; and

(ii) The project's total liability for tenant security deposits.

In computing Surplus Cash, the Mortgagor must follow any administrative requirements prescribed by the Commissioner.

10. Section 255.4 is revised to read as follows:

§ 255.4 Effect of amendments.

The Commissioner may amend the regulations in this part from time to time. Amendments will not adversely affect the interests of the lender under the Contract of Coinsurance on any mortgage already coinsured. Amendments will not adversely affect the interest of a lender on any mortgage to be coinsured on or which the lender has issued a firm commitment to coinsure, provided that the Mortgage is endorsed for coinsurance within 60 days after issuance of the commitment. The 60 days will run from the date of the original issuance of the commitment or from the date of any amendment, reissuance, or extension of a commitment that occurred before the effective date of the amendment to the regulation.

11. The heading of § 255.106 is revised to read as follows:

§ 255.106 Assignment of and participation in coinsured mortgages.

12. In § 255.107, paragraph (b) is revised to read as follows:

§ 255.107 Reinsurance.

* * * * *

(b) The effect of reinsurance on the insurance benefits payable by the Commissioner is covered in § 255.820.

* * * * *

13. In § 255.108, paragraph (d) is revised to read as follows:

§ 255.108 Pledging the other security arrangements.

* * * * *

(d) A lender may not pledge the beneficial interest of Coinsured Mortgages backing Government National Mortgage Association (GNMA) Project Loan Certificates except as authorized by GNMA.

14. In § 255.201, the first two sentences of paragraph (a) are revised to read as follows:

§ 255.201 Eligible project.

(a) Existing housing projects (with such repairs and improvements as are determined by the lender to be necessary) are eligible under this part. The property must not require Substantial Rehabilitation as defined in § 255.3 and three years must have elapsed from the date of completion of construction or Substantial Rehabilitation of the project, or from the beginning of occupancy, whichever is later, to the date of application for mortgage insurance. * * *

* * * * *

15. In § 255.203 paragraphs (c) and (d)(2) are revised to read as follows:

§ 255.203 Maximum Mortgage limitations.

* * * * *

(c) *Debt service limits.* The net projected project income available for payment of debt service is determined by reducing the estimated gross income of the project by a vacancy and collection loss factor and by the cost of all estimated operating expenses, including deposits to the reserve for replacements, taxes and distributions. In determining net projected project income for cooperative projects, a 3 percent operating reserve and a 2 percent vacancy reserve will be used in lieu of the vacancy and collection loss factor applicable to rental projects. The maximum Coinsurable Mortgage cannot exceed the amount that could be amortized by 85 percent (90 percent for cooperatives or if the project meets the eligibility requirements contained in § 207.32a(1) of this chapter) of net projected project income.

(d) * * *

(2) In the case of a cooperative project, the cost to refinance the existing indebtedness as defined in paragraph (d)(1)(ii) of this section.

* * * * *

16. Section 255.206 is revised to read as follows:

§ 255.206 Lender's fees and premium.

(a) The lender may collect from the Mortgagor, and include in the Mortgage, an application fee, financing fee, permanent placement fee and, if applicable, an inspection fee. These fees may not exceed maximums approved by the Commissioner. In addition, the lender may collect other reasonable fees approved by the Commissioner that are paid from sources other than Mortgage proceeds and are disclosed at endorsement. In no event will the fees allowed under this paragraph be permitted to exceed comparable fees allowed in the full insurance program under § 207.32a of this chapter.

(b) The coinsuring lender may collect a lender's premium of up to .25 percent (.10 percent in the case of a Mortgage approved for coinsurance benefits under § 255.823) per year of the average outstanding principal balance of the Mortgage (without regard to delinquent payments or prepayments), beginning not earlier than 12 months after the date of the first payment to principal. This premium will be for the account of the lender or an insurer of the lender.

17. In § 225.208 the introductory text and paragraph (a) are revised to read as follows:

§ 255.208 Nondiscrimination in housing and employment.

The Mortgagor must certify to the lender and to the Commissioner that so long as the mortgage is coinsured under this part it will:

(a) Not use tenant selection procedures that discriminate against families with children, unless the project was specifically designed for housing the elderly or handicapped;

* * * * *

18. In § 255.301 paragraphs (a), (b)(1), and (e) are revised to read as follows:

§ 255.301 Processing responsibilities.

(a) The lender is responsible for the performance of all functions under this part including acceptance and review of applications, issuance of commitments, inspections, and closings, except those functions specified in paragraphs (b), (d), and (e) of this section.

(b) * * *

(1) Previous participation of the principals of the Mortgagor, the general contractor, if any, and the management agency, in accordance with the Previous Participation and Clearance Review Procedures of §§ 200.210 through 200.218 of this chapter.

* * * * *

(e) The Commissioner retains responsibility for the enforcement of labor standards and prevailing wage requirements set out in § 255.209, except that he may delegate to the lender information collection (e.g., payroll review and routine interviews) or other routine administrative and enforcement functions, subject to monitoring by the Commissioner.

19. In § 255.302, paragraph (b) is revised to read as follows:

§ 255.302 Processing and commitment.

* * * * *

(b) The lender may issue a firm commitment to coinsure after completion of its review and after receipt of written evidence from HUD of (1) the acceptability of the project in the areas of responsibility retained by the Commissioner under § 255.301(b); (2) a waiver, where needed, of the approved high-cost factor under § 255.302(a); and (3) completion of any case review requirements of the Commissioner that are part of the lender approval process.

* * * * *

20. In § 255.401 the introductory text is revised to read as follows:

§ 255.401 Agreement to certify cost requirements.

Before the start of repairs and endorsement of the loan, the lender must enter into an Agreement and Certification with the Mortgagor, in a form and content satisfactory to the Commissioner for the purpose of precluding any excess of Mortgage proceeds over statutory and regulatory limitations. Under this Agreement, the Mortgagor must agree:

* * * * *

§ 225.404 [Redesignated as § 225.406]

21. Section 225.404 is redesignated as § 225.406.

§ 225.405 [Redesignated as § 225.407]

22. Section 225.405 is redesignated as § 225.407.

23. In § 225.503 paragraphs (f)(1), and (i)(2) are revised to read as follows:

§ 225.503 Mortgage and note provisions.

* * * * *

(f)(1) The Mortgage must provide that all amounts due monthly from the Mortgagor of the lender be added together into a single payment to be made by the Mortgagor on each monthly payment date. The lender must apply payments received from the Mortgagor or for the account of the Mortgagor to the following items in the order listed:

(i) MIP under the Contract of Coinsurance;

(ii) Ground rents, taxes, special assessments, and fire and other hazard insurance premiums;

(iii) Interest of the Mortgage; and

(iv) Principal on the Mortgage.

* * * * *

(i) * * *

(2) Subject to the requirements of paragraph (i)(1) of this section partial of full prepayment of the Mortgage is permitted except that:

(i) Mortgages which cover projects in which units are subsidized under section 8 of the United States Housing Act of 1937 or other Federal law, or Mortgages which may be purchased, assigned, or otherwise transferred to the Government National Mortgage Association (GNMA) may be subject to prepayment standards and restrictions established by the Commissioner, and

(ii) Mortgages given to secure a loan made by a lender that has obtained the funds for the loan by the issuance and sale of bonds or bond anticipatory notes, or both, may contain a prepayment penalty charge acceptable to the lender as to term, amount and conditions in accordance with standards adopted by the Commissioner.

* * * * *

24. In § 255.504, paragraph (e)(1) is revised to read as follows:

§ 255.504 Mortgage lien and other obligations.

* * * * *

(e)(1) For projects that meet the eligibility requirements of § 207.32a(1) of this chapter, the provisions of § 207.32a(j)(4) shall apply.

* * * * *

25. In § 255.702, paragraph (c) is revised to read as follows:

§ 255.702 Reserve for replacements and general operating reserve.

* * * * *

(c) To the extent consistent with the project's liquidity needs, money placed in a reserve for replacements (and, in the case of Cooperatives, in a general operating reserve) must be invested in United States Treasury securities, securities issued by a Federal agency, or deposits that are insured by an agency of the Federal government.

26. In § 255.705, paragraphs (b)(1) and (c)(3) are revised to read as follows:

§ 255.705 Distributions and residual receipts.

* * * * *

(b) * * *

(1) The Mortgagor has not satisfactorily responded to any lender or HUD on-site review report, annual financial statement correspondence or

any other correspondence that requires the Mortgagor to implement corrective action, and that was received at least 30 days before the end of the fiscal period for which the Surplus Cash computation is made:

* * * * *

(c) * * *

(3) On projects owned by Limited Distribution Mortgagors, Distributions may not exceed the lesser of Surplus Cash or the amount allowable by the lender as of the end of the period covered by the Surplus Cash computation. Distributions are cumulative. If the project receives subsidy payments from HUD, Distributions will be earned at a rate prescribed in the regulations and administrative procedures applicable to the subsidy program. If the project does not receive subsidy payments from HUD, Distributions will be earned annually or semiannually at a rate prescribed by the lender consistent with State or local law.

* * * * *

27. In § 255.706, paragraph (g) is revised to read as follows:

§ 255.706 Project management.

* * * * *

(g) Furnish the lender and the Commissioner with a financial report on the project's operations within 60 days following the end of each fiscal year, unless the lender authorizes the Mortgagor to submit the report on a later date. Unless the Commissioner authorizes the lender to accept an unaudited report, the report must be made by an independent public accountant licensed by a State or other political subdivision on or before December 31, 1970.

* * * * *

§ 255.802 [Redesignated as § 255.803]

28. Section 255.802 is redesignated § 255.803.

§ 255.803 [Redesignated as § 255.804]

29. Section 255.803 is redesignated § 255.804.

§ 255.804 [Redesignated as § 255.805]

30. Section 255.804 is redesignated § 255.805.

§ 255.805 [Redesignated as § 255.807]

31. Section 255.805 is redesignated § 255.807.

§ 255.806 [Redesignated as § 255.808]

32. Section 255.806 is redesignated as § 255.808.

§ 255.807 [Redesignated as § 255.809]

33. Section 255.807 is redesignated § 255.809.

34. Section 255.808 is redesignated § 255.810 and is revised to read as follows:

§ 255.810 Notice of default.

If a default (as described in § 255.808) continues for a period of 30 days, the lender must notify the Commissioner within 30 days thereafter, unless the default is cured. Unless waived by the Commissioner, the lender must submit this notice monthly on a form prescribed by the Commissioner until the default has been cured, the lender has acquired titled to the property, or the coinsurance contract has been terminated.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 2502-0041.)

§ 255.809 [Redesignated as § 255.811]

35. Section 255.809 is redesignated § 255.811 and the first three sentences of paragraph (a) of that section are revised to read as follows:

§ 255.811 Financial relief to cure a default.

(a) To reinstate a defaulted Mortgage, the lender may use one or more of the forms of financial relief described in this section. The lender's efforts to cure a default will not result in a curtailment of interest as provided by § 255.821(b) in any subsequent claim for insurance benefits, if the lender complies with conditions set forth in this section and the notice requirements set forth in §§ 255.810 and 255.815. The lender must service delinquent loans in accordance with the Commissioner's administrative requirements. * * *

* * * * *

§ 255.810 [Redesignated as § 225.812]

36. Section 255.810 is redesignated § 225.812.

§ 255.811 [Redesignated as § 255.813]

37. Section 255.811 is redesignated § 255.813.

§ 255.812 [Redesignated as § 255.814]

38. Section 255.812 is redesignated § 255.814.

§ 255.813 [Redesignated as § 255.815]

39. Section 255.813 is redesignated § 255.815.

§ 255.814 [Redesignated as § 255.816]

40. Section 255.814 is redesignated § 255.816 and is revised to read as follows:

§ 255.816 Acquistion of property.

Unless the Commissioner has given the lender a written extension within 30 days after submitting the notice required by § 225.815, the lender must start action either to foreclose the Mortgage or acquire title to the Mortgaged property through deed-in-lieu of foreclosure. The lender must exercise reasonable diligence in pursuing this action, and must promptly report to the Commissioner any developments that might delay the completion of acquisition. During the period that the lender controls the property, it must adhere to the Commissioner's requirements for project management as set forth in the regulatory agreement and the Commissioner's administrative procedures.

§ 255.815 [Redesignated as § 255.817]

41. Section 255.815 is redesignated as § 255.817.

§ 255.816 [Redesignated as § 255.818]

42. Section 255.816 is redesignated as § 255.818 and paragraph (b) of that section revised to read as follows:

§ 255.818 Disposition of property and application for insurance benefits.

* * * * *

(b) After the lender sells the property, or at the end of 12 months from the date of acquisition of title, whichever occurs first, the lender may file a claim for any insurance benefits to which it is entitled under § 255.820. The lender must file the claim no later than 15 days after the sale, or expiration of the 12-month period (whichever is applicable), or Mortgage interest will be curtailed in accordance with § 255.821(b).

* * * * *

§ 255.817 [Redesignated as § 255.819]

43. Section 255.817 is redesignated as § 255.819.

§ 255.818 [Redesignated as § 255.820]

44. Section 255.818 is redesignated § 255.820 and paragraph (a) of that section is revised to read as follows:

§ 255.820 Amount of payment.

(a) Except as otherwise provided in § 255.821, the basis for the computation of insurance benefits will be:

(1) The principal balance of the Mortgage unpaid as of the date of the institution of foreclosure proceedings or the date of acquisition of the property by deed-in-lieu of foreclosure;

(2) Plus all items set forth in § 255.821;

(3) Less all items set forth in § 255.822.

* * * * *

§ 255.819 [Redesignated as § 255.821]

45. Section 255.819 is redesignated as § 255.821 and its introductory text and paragraph (b) are revised to read as follows:

§ 255.821 Items included in payment.

In computing insurance benefits, the following items will be added to the amount described in § 255.820(a)(1):

(a) * * *

(b) An amount equivalent to Mortgage interest on the unpaid principal balance of the Mortgage on the date the lender initiated foreclosure proceedings or on the date the lender acquired title to the property through deed-in-lieu of foreclosure. This interest will be payable from the date of default to the date of payment of insurance benefits. However, if the lender fails to meet any of the requirements of §§ 255.810, 255.815, 255.816, 255.818(b) or 255.823(b) within the specified time (including any permissible extension of time), the accrual of interest allowance on the cash payment will be curtailed by the number of days by which the required action was late.

* * * * *

§ 255.820 [Redesignated as § 255.822]

46. Section 255.820 is redesignated § 255.822.

§ 255.821 [Redesignated as § 255.823]

47. Section 255.821 is redesignated § 255.823 and paragraphs (b), (c) and (d)(1) of that section are revised to read as follows:

§ 255.823 Amount of payment for certain mortgages covering property rehabilitated with assistance under 24 CFR Part 511 or Part 250.

* * * * *

(b) Insurance benefits under this section shall be payable on the date of acquisition of marketable title to the property securing a defaulted Mortgage in accordance with § 255.816. The benefits shall equal the sum of (1) 90 percent of the unpaid principal balance of the Mortgage on the date of the institution of foreclosure proceedings or on the date of acquisition of the property through deed-in-lieu of foreclosure and (2) 90 percent of the interest arrears under the Mortgage on the date insurance benefits under this section are paid. The lender must file with the Commissioner a claim for benefits under this section no later than 15 days after acquisition of the title, or mortgage interest will be curtailed in accordance with § 255.821(b).

(c) Upon acquisition of title, the lender must obtain two appraisals of the property, as provided in § 255.818(a).

(d) * * *

(1) 90 percent of the net proceeds of the property determined in accordance with this paragraph after the lender sells the property or after the expiration of 12 months from the date of acquisition of title, whichever comes first. For purposes of this paragraph, the net proceeds of the property will be determined by adding the items referred to in § 255.822 except that (A) the item referred to in § 255.822(a) will not be added, and (B) references in § 255.822(f) to amounts to be deducted and appraisals under § 255.818(a) will mean amounts to be added and appraisals under paragraph (c) of this section, and by subtracting the item referred to in § 255.821 (except that the full amount of the costs of acquiring the property, instead of two-thirds as specified in § 255.821(c) will be subtracted). The lender must furnish information with respect to the net proceeds of the property under this paragraph on a form approved by the Commissioner.

* * * * *

§ 255.823 [Redesignated as § 255.824]

48. Section 255.823 is redesignated § 255.824.

§ 255.824 [Redesignated as § 255.825]

49. Section 255.824 is redesignated § 255.825.

§ 255.825 [Redesignated as § 255.826]

50. Section 255.825 is redesignated § 255.826.

§ 255.826 [Redesignated as § 255.827]

51. Section 255.826 is redesignated § 255.827.

§ 255.827 [Redesignated as § 255.828]

52. Section 255.827 is redesignated § 255.828 and paragraphs (a) and (b) of this section are revised to read as follows:

§ 255.828 GNMA right to claim coinsurance benefits after lender-issuer's acquisition of title.

(a) If, as a result of a default by a lender-issuer on its obligations under the GNMA Mortgage-Backed Securities (MBS) program, GNMA must pay any amount owed to a securities holder, GNMA, as substitute lender-issuer, shall be entitled to file a claim for, and to receive, coinsurance benefits in accordance with this subpart. GNMA may file a claim with the Commissioner immediately upon its declaration of the lender-issuer's default under the GNMA MBS program, if (1) the defaulting lender-issuer has acquired legal title to property previously covered by a Coinsured Mortgage ("coinsured property"), but has not received coinsurance benefits under this subpart, and (2) the defaulting lender-issuer cannot or will not convey legal title to the coinsured property to GNMA. GNMA may file such a claim, notwithstanding the requirements of § 255.818(b) that claims be submitted after the sale of the coinsured property or the expiration of 12 months from the acquisition of title. The claim shall be based upon property appraisals obtained by the lender-issuer at the time of acquisition of title or, in the absence of such appraisals, upon appraisals obtained by GNMA after default of the lender-issuer. The lender-issuer will have no claim against the Commissioner for any payment made under this section.

(b) If, as a result of the lender-issuer's default, the full amount paid by GNMA to one or more securities holders exceeds the amount of coinsurance benefits paid by the Commissioner to GNMA under paragraph (a) with respect to the Coinsured Mortgage that backed the securities, the Commissioner shall reimburse GNMA for such additional amount in accordance with § 255.824(b).

* * * * *

Dated: April 4, 1986.

Silvio J. DeBartolomeis,

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

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Thursday
April 17, 1986

Part IV

Department of Health and Human Services

Office of Human Development Services

Runaway and Homeless Youth Program; Availability of Financial Assistance; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. HDS/ACYF/RHYP 13.623-86-2]

Runaway and Homeless Youth Program: Availability of Financial Assistance

AGENCY: Office of Human Development Services (OHDS), Department of Health and Human Services (DHHS).

ACTION: Announcement of availability of financial assistance to agencies serving runaway and homeless youth-grants for Basic Centers, High Impact Supplemental Demonstrations, and Coordinated Networks.

SUMMARY: The Administration for Children, Youth, and Families, Family and Youth Services Bureau (FYSB), announces the availability of fiscal year 1986 funds for the Runaway and Homeless Youth Basic Center Grant Program, including High Impact Supplemental Demonstration, and for the Coordinated Networking Grant Program.

This program announcement consists of a Preamble plus five parts. Part I provides general information for potential applicants to the program. Part II provides information on Basic Center grants. Part III provides information on High Impact Supplemental Demonstration grants. Part IV provides information on Coordinated Network grants. Part V provides appendices to be consulted during preparation of applications.

DATE: The deadline or closing date for receipt of all applications under this announcement is: June 2, 1986.

ADDRESS: Application receipt point: Department and Health and Human Services, HDS/Grants and Contracts Management Division, 200 Independence Avenue, SW., Room 345-F, Humphrey Building, Washington, DC 20201. Attn: Mary White, HDS-86-ACYF/RHYP.

FOR FURTHER INFORMATION CONTACT: Mrs. Paget Wilson Hinch, Associate Commissioner, Administration for Children, Youth and Families, Family and Youth Services Bureau, P.O. Box 1182, Washington, DC 20013, Telephone: (202) 755-7800.

SUPPLEMENTARY INFORMATION:

Preamble

Runaway behavior among youth continues to be a major problem of national concern. The Department of Health and Human Services estimates that the number of runaway and homeless youth remains at more than one million. Youth increasingly are running within the local area rather than interstate or cross-jurisdiction, although some localities do attract a larger number of out-of-jurisdiction youth.

Reports by runaway youth centers indicate a growing proportion of youth arriving at the centers with multiple and complex problems. Substance abuse by youth, sexual abuse or physical abuse by the adults, conflicts in school or with peers, and problems of teen pregnancy, prostitution and suicide all seem to be on the increase in youth appearing at centers.

Centers funded under the Runaway and Homeless Youth Act (RHYA) share a number of common characteristics. All centers provide the basic services required under the law including temporary shelter, individual and family counseling and aftercare. Also, through linkages and agreements with other agencies, other services are provided such as health, education, legal and employment services. Beyond these similarities, centers show considerable diversity in organization, management, scope and approach.

The basic purpose of RHYA funds is to enable centers to provide crisis intervention services for runaway and homeless youth, as opposed to more generalized youth-serving activities.

For the past five years, it has been clearly recognized that the appropriate responses entail involvement of major segments of local communities including the private sector. Program policy has focused on trying to use Federal resources to stimulate development of additional programs that, in due course, can become viable with less or no further Federal support. Within the allocation requirement of the statutory funding formula, competiton for grant funds and stimulation of new entrants has been the keynote of the strategy. This strategy continues with this announcement. Since Fiscal Year 1983, 140 new runaway youth centers have been funded. These centers have formed linkages with and obtained financial support within their communities. This allows Federal funds to be available for further stimulating new centers.

We recognize that some localities, because of climate, location or other attraction to youth, are exceptionally impacted beyond what could be expected from their local youth population. These high impact areas require special consideration and targeted funding as reflected in this announcement.

Another part of the strategy has been establishment of coordinated networks whose responsibilities include communication among centers, training and technical assistance and a mechanism for dealing with State-level agencies and entities. Their efforts are focused on increasing the visibility and priority for services to this population which are both directly and adjunctively supportive of centers. These networks, like centers, have been expected to become self-supporting, and many have also made substantial strides in doing so. For this reason, this announcement covers two-year, final funding allocations for the network intitiative.

In summary, this announcement implements a funding strategy focused on: (1) Competition, (2) stimulating new grantees to enter the Runaway and Homeless Youth Center programs, (3) the need to build strong community-based programs and reduce dependence on Federal funds so these funds may be used to stimulate further programs, and (4) the need to target resources to localities with particularly serious problems.

Part I: General Considerations

A. Scope of This Program Announcement

This program announcement solicits applications and describes the application process for Basic Center grants, High Impact Supplementary Demonstration grants, and Coordinated Network grants of the Runaway and Homeless Youth Program. These grants will be competitively awarded during the third and fourth quarters of fiscal year 1986. Project periods for Basic Center grants will be for one, two, or three years; for High Impact Supplementary Demonstration grants, up to three years; and for Coordinated Networks, two years.

B. Legislative Authorization

Grants under these programs are authorized by the Runaway and Homeless Youth Act (the Act), 42 U.S.C. 5701 *et seq.* This Act was enacted as Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93-415), as amended by the Juvenile Justice Amendments of 1977 (Pub. L. 95-115), the Juvenile Justice Amendments of 1980 (Pub. L. 96-509), and the Juvenile Justice Amendments of 1984 (Pub. L. 98-473). See 42 U.S.C. 5701 *et seq.*

C. Program Purpose

The purpose of the National Runaway and Homeless Youth Program is to provide financial assistance to establish

or strengthen community-based centers that address the needs (e.g., outreach, temporary shelter, counseling, and aftercare services) of runaway and homeless youth and their families.

Additionally, section 311(a) of the Act (42 U.S.C. 5711(a)) authorizes the Secretary "to make grants . . . to . . . coordinate networks. . . ." These grants provide financial assistance to networks of agencies serving runaway and homeless youth in order to strengthen agency staffs and to develop coordination of resources and services.

Programs receiving Runaway and Homeless Youth Act funding under this announcement are required to be knowledgeable of and to adhere to the requirements of 45 CFR Part 1351, Runaway Youth Program, and other applicable Federal regulations. Applicants must develop their applications in accordance with those regulations and the supplementary instructions which are included in this announcement.

D. Program Goals and Objectives

The program goals and objectives of the Runaway and Homeless Youth Act are to assist runaway and homeless youth centers to: (a) Alleviate the problems of runaway and homeless youth; (b) reunite youth with their families and encourage the resolution of intrafamily problems through counseling and other services; (c) strengthen family relationships and encourage stable living conditions for youth; and (d) help youth decide upon constructive courses of action.

Recipients of *Basic Center* grants to be funded under this announcement must address the immediate needs of youth while they are away from home by providing outreach, temporary shelter, individual and group counseling, and family counseling, as well as aftercare services. They are also expected to provide other assistance needed to resolve intrafamily problems and to strengthen family relationships. Additionally, either directly or through linkages with other service agencies, the centers are expected to arrange for health, education legal, employment and other services geared to the needs of the individual clients and families served.

Applicants are reminded that Basic Center grants may be awarded to agencies which operate a central shelter facility, *or* to agencies which provide emergency shelter through a series of host homes, *or* to agencies which employ a combination of shelter facility(ies) and host homes. Host homes are defined as facilities providing short-term shelter, usually the home of a family, under contract to accept runaway and homeless youth assigned by the Basic Center grantee, usually for a nominal fee, and licensed according to State or local law.

Recipients of the *High Impact Supplemental Demonstration* grants (model programs under 42 U.S.C. 5711(b)) must provide critical services to runaway and homeless youth in those geographic areas with extremely high incidence or concentrations of such youth. The critical services must go beyond the general assistance that Basic Centers now are able to offer. An example of a critical service would be intensive, one-on-one outreach to runaway and homeless youth in bus stations and red light districts for the purpose of diverting the youth from pimps and drug pushers, and providing them safe shelter. Another example would be provision of professional health care to youth prostitutes while at the same time providing referrals to safe shelter away from pimps and drug pushers. Initial costs of such intensive outreach and health care go beyond what a typical center can afford. When such service models have been completed and tested, they will be made available to all Basic Center grantees.

Recipients of *Coordinated Network* grants (as defined in 45 CFR 1351.1(c)) are expected to provide training and technical assistance to Basic Center staffs so that the latter may carry out effectively the responsibilities listed under "Program Goals and Objectives" above. In addition, the networks are expected to support coordination of services and activities for runaway and homeless youth among the centers, and between the centers and related social service agencies.

E. Application Process

1. *Eligible Applicants:* States, localities, private for-profit and private non-profit agencies, and coordinated networks of such agencies are eligible to apply for Runaway and Homeless Youth Program grants unless they are part of the law enforcement structure or the juvenile justice system. States, however, may not apply for Coordinated Network grants. States are defined to include any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, Palau, and the Commonwealth of the Northern Mariana Islands (see 42 U.S.C. 5603(7)). Federally recognized Indian tribes are eligible to apply for grants as local units of government. Non-Federally recognized Indian tribes and urban Indian organizations are eligible to apply for grants as private non-profit agencies.

Eligible applicants may apply for more than one type of grant under this announcement. A separate application must be submitted for each type of grant requested.

2. *Assistance to Prospective Grantees:* Potential grantees can receive informational assistance in developing applications from the ten ACYF regional offices listed in Appendix E and from the Family and Youth Services Bureau in Washington, D.C. (see above for address). Organizations interested in applying for Basic Center grants may also receive information from the Coordinated Network grantees listed in Appendix F.

3. *Application Requirements:* To be considered for a Runaway and Homeless Youth Basic Center, High Impact Supplementary Demonstration, or Coordinated Network grant, each application must be submitted on the forms provided at the end of this announcement and in accordance with the guidance provided herein. The application must be executed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

4. *Notification Under Executive Order 12372:* This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Applications for projects to be directly administered by Federally recognized Indian tribes are exempt from the requirements of EO 12372. State Single Points of Contact (SPOC's) have 60 days from the deadline date for application submission to ACYF to comment. Deadline date for SPOC comments is 105 calendar days from date of publication in the **Federal Register.** A Single Point of Contact (SPOC) to fulfill the requirements of E.O. 12372 has been established in all States and territories except Alaska, Idaho, American Samoa, and Palau (applicants from these four areas need take no action regarding E.O. 12372). Applicants must submit required material to their SPOC's so ACYF can obtain comments from the SPOC's as part of the award process. Applicants should contact their SPOC as soon as possible to alert them of the prospective application and receive specific instructions regarding the process (see addresses at Appendix D). Required material should be sent to the SPOC as early as possible. SPOC's will submit their comments directly to: Department

of Health and Human Services, HDS/ Grants and Contracts Management Division, 200 Independence Avenue, SW., Room 345-F, Humphrey Building, Washington, DC 20201. Attn: Mary White, HDS-86-ACYF-RHYP. HDS will notify the State of any application received which has no indication that the SPOC has had an opportunity for review.

5. Priority for Funding/Size of Grants: Sections 311 and 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5711 and 5713) require that priority for funding be given to organizations with demonstrated past experience in providing services to runaway and homeless youth and their families, and to organizations requesting grants of less than $150,000. As specified in 45 CFR 1351.12, "Past experience" means that a major activity of the agency has been the provision of temporary shelter, counseling, and referral services to runaway and otherwise homeless youth and their families, either directly or through linkages established with other community agencies.

The Act further provides that the amount of the grant shall be determined "by the number of (runaway and homeless) youth in the community and the existing availability of services" (42 U.S.C. 5711(a)).

6. Availability of Forms: A copy of each form required to submit an application for a grant under the Runaway and Homeless Youth program and instructions for completing the application are provided in Appendices A and B. The Program Performance Standards and a description of the National Runaway Switchboard are included at the end of this announcement as Appendix C. Grantees must also comply with the requirements of Title III of Pub. L. 98-473, the Runaway and Homeless Youth Act, 42 U.S.C. 5701 *et seq.*, and with the Code of Federal Regulations (CFR) Title 45, Part 1351, Runaway Youth Program. Copies of the Act and the Regulations may be found in major public libraries and at the regional offices listed in Appendix E at the end of this announcement. Additional copies of this announcement may be obtained from the regional offices or from the information contact persons listed at the beginning of the announcement.

7. Application Consideration: All applications which are complete and conform to the requirements of this program announcement will be subject to a competitive review and evaluation process against the specific criteria outlined in Sections II, III, and IV below. This review will be conducted in Washington, DC. Reviewers will include individuals knowledgeable in the areas of youth development and/or human service programs (from States other than the one from which applications are being reviewed), Federal staff and other experts. The results of the competitive review will be taken into consideration by the Associate Commissioner of the Family and Youth Services Bureau who, in consultation with ACYF regional officials, will recommend projects to be funded. The ACYF Commissioner will make the final selection of applicants to be funded. The Commissioner may elect not to fund any applicants that have known management, fiscal or other problems or situations which make it unlikely that they would be able to provide effective services. For example, this might apply to a Basic Center applicant which has failed to serve an adequate number of runaway and homeless youth in the past, failed to submit fiscal reports on a timely basis, or failed to achieve the objectives for which past funding was provided.

In negotiating the final budgets for successful applicants, consideration will be given to the needs expressed in the application, the numbers of runaway or homeless youth in the community in which the project will be located, the existing availability of services designed to provide for the immediate needs of runaway or homeless youth and their families in the community, and the range and types of services proposed.

Successful applicants will be notified through the issuance of a Notice of Financial Assistance Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, the non-Federal share to be provided, and the total project period for which support is provided. Organizations whose applications have been disapproved will be notified in writing of that decision.

F. Grantee Share of the Project

The Runaway and Homeless Youth Act requires a ten percent match of the total project cost (line 12f of SF Form 424) on all grants funded under this announcement (42 U.S.C. 5716, 45 CFR 1351.13). For example, a total project cost of $100,000 must include at least a $10,000 non-Federal share. The non-Federal portion may be cash, in-kind contributions or grantee incurred costs (including the facility, equipment or services) and must be project-related and allowable under the cost principles as provided in 45 CFR Part 74, the Department's regulation on the Administration of Grants. For-profit applicants are reminded of the prohibition against profits in the use of grant funds (45 CFR 74.705).

G. Instructions for Completing the Application

1. Contents of Application. Each copy of the application must contain the following items in the order listed:

a. Standard Form 424 (page 1)

b. Project Abstract Form (page 2)

c. Part II—Project Approval Information (page 3)

d. Part III—Budget Information (pages 4, 5)

e. Part IV—Project Narrative (pages 6 and ff. as appropriate)

f. Part V—Plans and Assurances (paginate as appropriate)

g. Application Certification for Profit-Making Organizations (paginate as appropriate)

h. Supporting Documents (if any, paginate as appropriate)

2. Instructions for Preparing Application. Prepare your application in accordance with the following instructions:

a. Standard Form 424 (page 1)

(1) Check appropriate box at top of SF 424:

BAS. CTR.=Basic Center; HI. IMP.=High Impact Project; COORD. NET.=Coordinated Network.

(2) Follow instructions in Appendix B.

b. Project Abstract Form (page 2, self-explanatory)

c. Part II — Project Approval Information. (page 3, self-explanatory)

d. Part III—Budget Information (pages 4-5)

Follow instructions in Appendix B.

e. Part IV—Project Narrative

Instructions for completing the project narrative are found below in Section II (for the Basic Center applications), in Section III (for the High Impact Supplemental Demonstration applications) and in Section IV (for the Coordinated Network applications). Follow the instructions for the type(s) of grant(s) for which you are applying.

f. Plans and Assurances

(1) Applicants should provide a statement of assurance that they will comply with the program requirements provided in the Code of Federal Regulations, Title 45, Part 1351.

(2) HHS-SF 441, Assurance of Compliance, Title VI, Civil Rights Act of 1964 (self-explanatory).

(3) HHS-SF 641, Assurance of Compliance, Sec. 504, Rehabilitation Act of 1973, As Amended (self explanatory).

g. Application Certification for Profit-Making Organizations (self explanatory).

h. Supporting Documentation.

Applicants may attach *photocopies* of any additional materials, such as résumés, letters of support or agreement, news clippings, or descriptions of the program's participation in local, State or regional coalitions of youth service agencies, which would give support to the application.

Résumés must be limited to one page.

The absolute maximum of supporting documentation is 10 pages, exclusive of letters of support or agreement. Applicants may include as many letters of support or agreement as are appropriate.

Note: Include only photocopies of the materials. Do not use separate covers, binders, clips, tabs, plastic inserts, pages with pockets, separately bound brochures, folded maps or charts, or any other items that cannot be processed easily on a photocopy machine with automatic feed. Do not bind, clip, or fasten in any way separate subsections of the application, including supporting documentation.

H. Application Submission

To be considered for a grant, an applicant must submit one signed original and two copies of the grant application, including all attachments, to the application receipt point specified below.

The original copy of the application must have original signatures. Each copy should be stapled (back and front) in the upper left corner.

Closing Date for the Receipt of Applications

The closing date for receipt of applications under this announcement is: June 2, 1986 for Basic Center grant applications, for High Impact Supplemental Demonstration applications, and for Coordinated Network grant applications. Applications must be mailed or hand delivered to: Mary White, HHS/Division of Grants and Contracts Management, 200 Independence Avenue, SW., Washington, DC, 20201, Room 345-F, Attn HDS-86-ACYF/RHYP.

Deadline for Submission of Applications

A. Hand delivered applications are accepted during the normal working hours of 9:00 a.m. to 5:30 p.m., Monday through Friday. An application will be considered as meeting the deadline if it is either:

1. Received on or before the deadline date at the above address, or above address, or

2. Sent on or before the deadline date, and received by the granting agency in time to be considered during the competitive review and evaluation process.

(Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

B. Late applications. Applications which do not meet the criteria in paragraph A of this section are considered late applications. HDS will notify each late applicant that its application will not be considered in the current competition.

C. Extension of deadline. HDS may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., when there is a widespread disruption of the mails or when HDS determines an extension to be in the best interests of the government. However, if HDS does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

Part II: Basic Center Grants

A. Available Funds for Basic Centers

In Fiscal Year 1986, the Administration for Children, Youth, and Families expects to award a total amount of approximately $18,303,618 in Basic Center grants. Of that amount, $18,142,766 will be divided among the States according to their respective populations under the age of 18. In addition, $160,852 will be divided among those States which lost money due to shifts in population (according to the latest available figures from the Bureau of the Census), in order to assure that the money is being allocated equitably. This additional money, which is less than one percent of the $18,142,766 which is to be divided among the States, will be used to ease the transition for those States which would otherwise experience a loss of money. ACYF may or may not allocate available dollars in this manner in subsequent fiscal years. Applicants should note that because grants are awarded competitively within each State, Fiscal Year 1985 grantees are not assured of an equivalent grant in Fiscal Year 1986.

Awards will be made to at least 275 Basic Center grantees. Award recipients may include current grantees, new applicants applying to provide services in areas currently served by existing grantees, and current grantees or new applicants proposing services in areas not now served.

Basic Center grant awards will be made from late June, 1986, through the end of September, 1986.

Beginning with the current competition, the Runaway and Homeless Youth Program will phase into a funding cycle of three-year project periods for Basic Centers. This year approximately one-third of the awards will be for project periods of three years, approximately one-third for two years, and approximately one-third for one year. All applicants are invited to apply for three-year grants. Applicants wishing to do so may apply alternatively for two-year or one-year grants.

Funding recommendations for the Basic Center applications will be based on the scores assigned to the applications by the non-Federal reviewers who will evaluate each application according to the criteria below, and on input from ACYF staff in the regional offices and in Washington, DC. Final decisions will be made by the Commissioner of ACYF.

When the funding decisions have been completed, ACYF staff will make recommendations on the project periods to be assigned to the successful applicants: one year, two years, or three years. Preference for multi-year project periods will be given to those applicants that demonstrate declining reliance (of 10 percent or more per year) on Federal funds over a two-or three-year grant period, with no decrease in services delivered. Declining reliance of Federal funds may be accomplished by decreasing the *total* project costs in the second and/or third year, or by other formulations proposed by applicants. Such declining Federal amounts will not affect the 10 percent Federal matching requirement. The final element in determining which applications receive multi-year grants will be the score assigned by the independent review panel.

While the project assigned to successful applicants may be for two or three years, initial awards of grant funds will be for only one year. Subsequent awards of funds will depend on satisfactory performance by the grantees and on availability of appropriated funds.

The number of Basic Center Grants awarded within each State will depend upon the State's allocation and the number of acceptable applications. All applicants under this announcement will compete with other applicants in the State in which their services will be provided. In the event that an insufficient number of applications meeting the minimum criteria for funding is submitted from within any State or jurisdiction, the Assistant Secretary for Human Development Services may reallocate any unused funds.

The following table indicates the total Fiscal Year 1986 allocation for each State.

RUNAWAY AND HOMELESS YOUTH CENTERS, ALLOCATIONS BY STATE

[Total 57 States—Fiscal Year 1986]

States	Amount
Alabama	$324,811
Alaska	45,872
Arizona	242,666
Akansas	184,902
California	1,886,397
Colorado	242,383
Connecticut	218,562
Delaware	45,110
District of Columbia	37,943
Florida	711,009
Georgia	462,113
Hawaii	81,266
Idaho	91,177
Illinois	880,595
Indiana	433,107
Iowa	223,770
Kansas	184,619
Kentucky	292,351
Louisiana	383,962
Maine	86,929
Maryland	312,020
Massachusetts	397,014
Michigan	723,648
Minnesota	319,417
Mississippi	225,677
Missouri	372,069
Montana	66,825
Nebraska	125,439
Nevada	66,259
New Hampshire	71,356
New Jersey	533,102
New Mexico	123,457
New York	1,266,801
North Carolina	453,336
North Dakota	56,065
Ohio	835,531
Oklahoma	260,788
Oregon	200,759
Pennsylvania	839,143
Rhode Island	64,967
South Carolina	262,487
South Dakota	58,330
Tennessee	353,704
Texas	1,335,372
Utah	176,974
Vermont	39,642
Virginia	404,349
Washington	328,180
West Virginia	151,944
Wisconsin	368,142
Wyoming	45,305
Puerto Rico	353,664
Virgin Islands	13,025
American Samoa	4,814
Guam	13,875
Palau	18,046
Northern Mariana Islands	2,548
Total	16,303,618

B. Populations To Be Served

Basic Centers funded under this announcement shall serve runaway and homeless youth under 18 and their families. All services, including temporary shelter, must be provided in accordance with 45 CFR Parts 80, 81 and 84 pertaining to non-discrimination under programs receiving Federal assistance.

C. Project Narrative for Basic Center Applications

(Approved by OMB under Control Number 0980–0016)

The narrative should provide information on how the application responds to the review criteria below. The narrative must be limited to 25 single-spaced pages unless the applicant requests a two- or three-year project period with Federal support declining at no less than 10 percent per year with no decrease in services delivered, in which case an additional 5 pages maximum may be added for that purpose.

The first page of the Project Narrative for Basic Center Application should be a table of contents set up as follows:

Table of Contents

1. Documentation of Need
2. Results and Benefits Expected
3. Program Design and Operation
   a. Provision or Services
   b. Project Facilities and Procedures
   c. Project Linkages and Relationships
   d. Project Records
   e. Project Organization and Staffing
4. Outreach and Family Reunification
5. Demonstrated Experience
6. Access to Non-Federal Resources
7. Budget Justification
8. Declining Federal Support (optional)

The body of the narrative should be a statement of project plans for each of the headings listed in the table of contents, clearly labeled and presented in the same order as in the table.

The narrative section should be typed, single-spaced, and printed or photocopied on only one side of each page.

D. Review Criteria for Basic Center Applications

Criterion 1: Documentation of Need (15 points): The extent to which the application documents the need for services to runaway and homeless youth in the proposed service area(s) (e.g., specific communities, districts, neighborhoods) on the basis of a comprehensive community needs assessment, including the extent to which the selection of these areas is based on the incidence of runaway and homeless youth.

(a) Documentation of the number of runaway and homeless youth within the locality to be served by the project, and citation of the year(s) and source(s) of these data. *(7 points)*

(b) Documentation of the specific needs of runaway and homeless youth within the locality, and of the availability or lack of availability of services; citation of the year(s) and source(s) of these data. *(8 points)*

Criterion 2: Results and Benefits Expected *(10 points)*: The extent to which applicant shows evidence of a connection between the needs identified and the program of services planned or offered by the applicant agency; the likelihood that the needs will be met by the proposed program.

(a) Discussion of the results or benefits anticipated in terms of the clients served, the clients' families, and the community at large (for example: the reunification of youth with their families, or their placement in positive alternative living arrangements). *(5 points)*

(b) Description of the relationship between the proposed or existing center to other available services within the community. *(5 points)*

Criterion 3: Program Services, Design, and Operation *(35 points)*: The ability of the applicant to design, establish or continue a center which can achieve the goals and requirements of this grant program as set forth in the Runaway and Homeless Youth Act (42 U.S.C. 5701 *et seq.*), the implementing regulations (45 CFR Part 1351), and the Program Performance Standards (Appendix C).

(a) Provision of Services. Discussion of how the applicant currently plans, organizes and provides services to runaway and homeless youth and their families, or would do so. This discussion should include but not be limited to the methods for providing: outreach/community relations; individual intake; case planning with each youth; temporary shelter; individual, family and group counseling; aftercare; service linkages; alternative placements for youth who cannot return home; and leisure time activities *(15 points)*.

(b) Project Facilities and Procedures. The extent to which the applicant adequately provides a description of the procedures which are or will be employed in the following areas:

—Documentation which shows that the facility where the youth will be housed is in compliance with applicable State and local licensing requirements, or a description of the steps that would be taken to comply with these requirements, or evidence that no State or local licensing requirements exist or apply; and certification that no more than 20 youth will be sheltered in a single facility.

—Procedures that are or will be employed in providing shelter on a 25-hour basis to runaway and homeless youth directly or indirectly.

—Procedures that are or will be employed in contacting the parents or legal guardians if the youth is provided temporary shelter, including a summary of applicable State and local laws regarding parental permission or notification requirements.

—Procedures that are or will be used in verifying the safe arrival of youth either at home or in an alternative living arrangement. *(5 points)*

(c) Project Linkages and Relationships.

—Provisions for linking the center's activities with the National Runaway Switchboard.

—Description of how the center has or will develop working relationships with law enforcement, juvenile court, school system, and local public and private agency personnel, including procedures for dealing with youth who have run away from correctional institutions. The procedures must be in accordance with applicable Federal, State and local laws.

—Description of how the center has or will participate actively in local, State, and regional networks or coalitions of youth-serving agencies or other human service organizations. *(5 points)*

(d) Project Records. The applicant provides a discussion of plans for collecting and maintaining adequate statistical records profiling the youth and families served and the procedures to be employed to ensure the confidentiality of this information. *(5 points)*

(e) Project Organization and Staffing. The applicant provides an organizational chart; describes how the project is or will be staffed, how staff are or will be selected, trained and supervised; and how the organization ensures or will ensure 24 hour accessibility as well as an adult/youth ratio adequate at all times to assure appropriate supervision and treatment; and provides position descriptions and resumes for key staff and a listing of board members. This criterion includes a description of the recruitment, training and utilization efforts for volunteers in the organization, including their roles; and the extent to which the program has defined or proposes specific roles for youth in planning, policy, decision making and service delivery. *(5 points)*

Criterion 4: Outreach and Family Reunification (10 points): A description of how the applicant provides or plans to provide outreach and other activities designed to prevent runaway behavior, to make early contact with runaway and homeless youth, and to reunite youth with their families.

Criterion 5: Demonstrated Experience (10 points): The extent to which the applicant organization has demonstrated experience in planning, organizing and/or providing information, temporary shelter, counseling and referral services to runaway and homeless youth and their families.

Criterion 6: Access to Non-Federal Resources (10 points): The extent to which the applicant demonstrates the ability to access non-Federal resources which can support the existing or proposed center's activities, and the likelihood the applicant agency will remain a viable organization at the expiration of the Federal funding period.

Criterion 7: Budget Justification (10 points): The reasonableness of the proposed budget, including a justification for costs. The cost of the proposed project is reasonable in relation to the proposed activities and projected results.

Part III: High Impact Supplemental Demonstration Grants

A. Available Funds for High Impact Supplemental Demonstration Grants

In Fiscal Full Year 1986, the Administration for Children, Youth, and Families expects to award a total of as much as $450,000 in High Impact Supplemental Demonstration grants. The awards will be for up to three-year project periods, depending on satisfactory performance and the availability of funds, and will not be renewable beyond the three-year period. It is anticipated that from five to ten awards will be made with a range of $75,000 to $125,000 each year, depending on the scope of the problem addressed.

High Impact Supplemental Demonstration grants are intended to address problems which require development of a model program that goes beyond the routine services and activities which Basic Center grantees are ordinarily able to provide. The amount of the grant will depend in part on the critical nature of the risks; the likely short- and long-term consequences for youth and their families if the problem is not properly addressed; and the contributing social, cultural, economic or environmental factors.

High Impact Supplemental Demonstration grant awards will be made in August or September, 1986.

B. Project Narrative for High Impact Supplemental Demonstration Applications

The narrative should provide information on how the application responds to the review criterial below. The narrative should be limited to 25 single-spaced pages

The first page of the Project Narrative for High Impact Supplemental Demonstration applications should be a table of contents set up as follows:

Table of Contents

1. Documentation of Need
2. Results and Benefits Expected
3. Program Design and Operation
4. Demonstrated Experience
5. Budget Justification

The body of the narrative should be a statement of project plans for each of the headings listed in the table of contents, clearly labeled and presented in the same order as in the table of contents.

The narrative section should be typed, single spaced, and printed or photocopied on only one side of each page.

C. Review Criteria for High Impact Supplemental Demonstration Applications

(Approved by OMB under Control Number 0980-0016)

Criterion 1: Documentation of Need (35 points): The extent to which the application provides a clear and thorough demonstration of the existence of an acute problem related to runaway and homeless youth in a geographic area with a critically high concentration of such youth. Examples of acute problems might be: youth prostitution, high concentration of interstate or out-of-jurisdiction runaways, or substance abuse among runaway and homeless youth. Documentation of the number of runaway and homeless youth at specific risk within the locality to be served, and citation of year(s) and source(s) of these data. Documentation of the availability or lack of availability of relevant services within the locality, and citation of year(s) and source(s) of these data.

Criterion 2: Results and Benefits Expected (15 points): Evidence of a connection between the needs identified above and the program of services planned or offered by the applicant agency.

Discussion of the results or benefits anticipated in terms of runaway and homeless youth served, the youths' families, and the community at large (for example, the diversion of youth from prostitution, etc.). Quantification of results where appropriate.

Criterion 3: Program Design and Operation (30 points): The extent to which the applicant demonstrates the ability to design and carry out an effective intervention program to alleviate the specified acute problem. Discussion of how the applicant will plan, organize, and deliver services. As appropriate, discussion of outreach, community relations, individual intake, case planning, shelter, counseling, medical care, aftercare, service linkages,

or other relevant service components that would be provided.

Evidence that any facilities where youth at risk will be treated or sheltered are in compliance with applicable State and local licensing requirements, or will be brought into compliance, or certification that no such requirements exist or apply.

Description of how the program will develop working relationships with other agencies that may play a role in alleviating the problem.

Discussion of plans for collecting and maintaining adequate statistical or other descriptive records regarding the youth and families served, and of procedures to be employed to ensure the confidentiality of this information.

The applicant provides an organizational chart; describes how the project will be staffed, how staff will be selected, trained, and supervised, and how the safety of participating youth will be assured. The applicant provides position descriptions and resumés for key staff and advisors, including volunteers if any.

The applicant provides a progress chart showing clearly the milestones of the project.

Criterion 4: Demonstrated Experience (10 points): The extent to which the applicant is now in conformance with or proposes to come into conformance with the Program Performance Standards presented in Appendix C.

Criterion 5: Budget Justification (10 points): The reasonableness of the proposed budget, including a justification for costs. The cost of the proposed project is reasonable in relation to the proposed activities and projected results.

Part IV: Coordinated Network Grants

A. Available Funds for Coordinated Networks

It is anticipated that 10 Coordinated Network grants will be awarded in FY 1986, for a total of approximately $650,000. Project periods will be for 2 years. These grants will represent final funding. Coordinated Network grant awards will be made in September, 1986.

B. Geographic Areas and Agencies To Be Served by the Coordinated Networks

Applicants are invited to submit proposals for Coordinated Networks to provide services in geographic areas that are coextensive with one of the ten Federal regions.

The Coordinated Networks are expected to support coordination of services and activities for homeless and runaway youth among the Basic Centers in their respective regions, and between the Basic Centers and related social services agencies such as State and local child and youth protective services, foster care and adoption agencies, schools, juvenile justice agencies, physical and mental health agencies, and so forth.

The Coordinated Networks also are expected to provide training and technical assistance to Basic Center staff members so that the latter may carry out effectively their youth service responsibilities.

The review criteria below provide a more complete statement of the responsibilities of the Coordinated Networks.

C. Project Narrative for Coordinated Network Applications

(Approved by OMB under Control Number 0980-0016)

The narrative should provide information on how the application responds to the review criteria below. The narrative should be limited to 25 single-spaced pages.

The first page of the Project Narrative for Coordinated Network applications should be a table of contents set up as follows:

Table of Contents

1. Documentation of Need
2. Results and Benefits Expected
3. Approach

The body of the narrative should be a statement of project plans for each of the headings listed in the table of contents, clearly labeled and presented in the same order as in the table of contents.

The narrative section should be typed, single-spaced, and printed or photocopied on only one side of each page.

D. Review Criteria for Coordinated Network Applications

Criterion 1: Documentation of Need (35 points): Provide a brief description of the activity being proposed, documenting the need for such an effort. Data must be documented by source. (1) Information should include data on the incidence of runaway and homeless youth in the geographic area to be served, where applicable; (2) the gaps in services available; (3) how services will be developed or strengthened; and (4) how the centers will benefit.

Criterion 2: Results and Benefits Expected (15 points): This section should identify the results and benefits to be derived from the implementation of services to runaway and homeless youth and their families under this grant program. Specifically, the applicant should describe the results or benefits anticipated in terms of the community-at-large, the States (for example: an increase in the number of centers included in and benefiting from the network; involvement in State-wide or region-wide outreach/prevention efforts) and the benefits to centers within the geographic area the activity is to serve. In addition, explain the methods to be used to measure the results or success of the project and to determine if the results and benefits identified are being achieved.

Criterion 3: Approach (50 points): (a) Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished for this grant program. This section of the program narrative must describe the plan of action (workplan). Specifically, the program narrative must address at a minium the following: (1) The feasibility of the proposed effort; (2) the ability of the applicant to achieve the objectives proposed; (3) the level of effort required and person days by major task; and (4) the methods to be used to measure the results and successes of the project and to determine if the results and benefits identified in Section 2 (above) are being achieved.

(b) Provide an organizational chart and describe the following: The members of the network; the netwark governance; qualifications of network staff or staff to be hired for the proposed effort. Discuss how youth are involved in the network and the principal partners of the network in the proposed effort. Provide position descriptions and resumes for key persons. Describe how the network involves other members of the community and State(s) in its program. Demonstrate that the network has legal and fiscal viability in accordance with the provisions of the Code of Federal Regulations, Title 45, Part 74.

(Catalog of Federal Domestic Assistance Number 13.623, Runaway and Homeless Youth Program.)

Dated: April 1, 1986.

Joseph Mottola,

Acting Commissioner, Administration for Children, Youth and Families.

Approved: April 1, 1986.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

BILLING CODE 4130-01-M

CHECK ONE: BAS. CTR. ☐ HI. IMP. ☐ COORD. NET. ☐

App. A
OMB Approval No. 0348-0006

FEDERAL ASSISTANCE

SECTION I—APPLICANT/RECIPIENT DATA

1. TYPE OF SUBMISSION (Mark appropriate box)
☐ NOTICE OF INTENT (OPTIONAL)
☐ PREAPPLICATION
☐ APPLICATION

2. APPLICANT'S APPLICATION IDENTIFIER
a. NUMBER
b. DATE Year month day 19

3. STATE APPLICATION IDENTIFIER NOTE: TO BE ASSIGNED BY STATE
a. NUMBER
b. DATE ASSIGNED Year month day 19

Leave Blank

4. LEGAL APPLICANT/RECIPIENT
a. Applicant Name
b. Organization Unit
c. Street/P.O. Box
d. City
e. County
f. State
g. ZIP Code.
h. Contact Person (Name & Telephone No.)

5. EMPLOYER IDENTIFICATION NUMBER (EIN)

6. PROGRAM (From CFDA)
a. NUMBER 1 3 • 6 2 3
MULTIPLE ☐
b. TITLE Title III JJDPA/RHYP

7. TITLE OF APPLICANT'S PROJECT (Use section IV of this form to provide a summary description of the project.)

8. TYPE OF APPLICANT/RECIPIENT
A—State
B—Interstate
C—Substate Organization
D—County
E—City
F—School District
G—Special Purpose District
H—Community Action Agency
I—Higher Educational Institution
J—Indian Tribe
K—Other (Specify):
Enter appropriate letter ☐

9. AREA OF PROJECT IMPACT (Names of cities, counties, states, etc.)

10. ESTIMATED NUMBER OF PERSONS BENEFITING

11. TYPE OF ASSISTANCE
A—Basic Grant
B—Supplemental Grant
C—Loan
D—Insurance
E—Other
Enter appropriate letter(s) ☐☐

12. PROPOSED FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. Total	$ .00

13. CONGRESSIONAL DISTRICTS OF:
a. APPLICANT
b. PROJECT

14. TYPE OF APPLICATION
A—New
B—Renewal
C—Revision
D—Continuation
E—Augmentation
Enter appropriate letter ☐

15. PROJECT START DATE Year month day 19

16. PROJECT DURATION Months

17. TYPE OF CHANGE (For 14c or 14e)
A—Increase Dollars
B—Decrease Dollars
C—Increase Duration
D—Decrease Duration
E—Cancellation
F—Other (Specify):
Enter appropriate letter(s) ☐☐☐

18. DATE DUE TO FEDERAL AGENCY ► Year month day 19

19. FEDERAL AGENCY TO RECEIVE REQUEST
a. ORGANIZATIONAL UNIT (IF APPROPRIATE)
b. ADMINISTRATIVE CONTACT (IF KNOWN)
c. ADDRESS

20. EXISTING FEDERAL GRANT IDENTIFICATION NUMBER

21. REMARKS ADDED
☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT► To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

a. YES, THIS NOTICE OF INTENT/PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:
DATE _____
b. NO, PROGRAM IS NOT COVERED BY E.O. 12372 ☐
OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW ☐

23. CERTIFYING REPRESENTATIVE
a. TYPED NAME AND TITLE
b. SIGNATURE

SECTION III—FEDERAL AGENCY ACTION

24. APPLICATION RECEIVED Year month day 19

25. FEDERAL APPLICATION IDENTIFICATION NUMBER

26. FEDERAL GRANT IDENTIFICATION

27. ACTION TAKEN
☐ a. AWARDED
☐ b. REJECTED
☐ c. RETURNED FOR AMENDMENT
☐ d. RETURNED FOR E.O. 12372 SUBMISSION BY APPLICANT TO STATE
☐ e. DEFERRED
☐ f. WITHDRAWN

28. FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

29. ACTION DATE► Year month day 19

30. STARTING DATE Year month date 19

31. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

32. ENDING DATE Year month date 19

33. REMARKS ADDED
☐ Yes ☐ No

RUNAWAY AND HOMELESS YOUTH PROGRAM

PROJECT ABSTRACT

1. Type of Grant: Bas. Ctr. ☐ Hi. Imp. ☐ Coord. Net. ☐

2. Applicant Agency:
   Address :
   :
   City :
   State/Zip Code :

3. Contact Person :

4. Telephone : ( )

5. Requested Funds : Federal $
   Non-Federal $_____
   Total $

6. Proposal Summary (200 word maximum):

OMB NO. 0348-0006

PART II
PROJECT APPROVAL INFORMATION

Item 1.
Does this assistance request require State, local regional, or other priority rating?
_____ Yes _____ No

Name of Governing Body _____
Priority Rating _____

Item 2.
Does this assistance request require State, or local advisory, educational or health clearances?
_____ Yes _____ No

Name of Agency or Board _____
(Attach Documentation)

Item 3.
Does this assistance request require State, local, regional or other planning approval?
_____ Yes _____ No

Name of Approving Agency _____
Date _____

Item 4.
Is the proposed project covered by an approved comprehensive plan?
_____ Yes _____ No

Check one: State ☐
Local ☐
Regional ☐
Location of Plan _____

Item 5.
Will the assistance requested serve a Federal installation?
_____ Yes _____ No

Name of Federal Installation _____
Federal Population benefiting from Project _____

Item 6.
Will the assistance requested be on Federal land or installation?
_____ Yes _____ No

Name of Federal Installation _____
Location of Federal Land _____
Percent of Project _____

Item 7.
Will the assistance requested have an impact or effect on the environment
_____ Yes _____ No

See instructions for additional information to be provided.

Item 8.
Will the assistance requested cause the displacement of individuals, families, businesses, or farms?
_____ Yes _____ No

Number of:
Individuals _____
Families _____
Businesses _____
Farms _____

Item 9.
Is there other related assistance on this project previous, pending, or anticipated
_____ Yes _____ No

See instructions for additional information to be provided.

OMB NO. 0348-0006

PART III - BUDGET INFORMATION

SECTION A - BUDGET SUMMARY

Grant Program, Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	- Grant Program, Function or Activity				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges					
j. Indirect Charges					
k. TOTALS	$	$	$	$	$
7. Program Income	$	$	$	$	$

OMB NO. 0348-0006

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION
(Attach Additional Sheets if Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks:

PART IV PROGRAM NARRATIVE (Attach per Instruction)

PART V

ASSURANCES

The Applicant hereby assures and certifies that he will comply with the regulations, policies, guidelines and requirements, including 45 CFR Part 74, and OMB Circulars No. A-102 and A-110, as they relate to the application, acceptance and use of Federal funds for this federally-assisted project. Also the Applicant assures and certifies to the grant that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.

3. It will comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.

4. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.

5. It will comply with the provisions of the Hatch Act which limit the political activity of employees.

6. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.

7. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

8. It will give the sponsoring agency or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant.

9. It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.

10. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

11. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

12. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

13. Applicants for the Administration for Native Americans Programs, hereby certify in accordance with 45 CFR 1336.53, that the financial assistance provided by the Office of Human Development Services for the specified activities to be performed under this program, will be in addition to, and not in substitution for, comparable activities provided without Federal assistance.

14. It will comply with the Age Discrimination Act of 1975 which provides that: No person in the United States shall, on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity for which the applicant receives Federal financial assistance.

15. It will comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the applicable HHS regulation (45 C.F.R. Part 84), and all guidelines and interpretations issued pursuant thereto.

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES REGULATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

_____ (hereinafter called the "Applicant") HEREBY
Name of Applicant (type or print)

AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 80) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Date _____ By _____
Signature and Title of Authorized Official

_____
Area Code — Telephone Number

_____
Applicant (type or print)

_____
Street Address

_____
City State Zip

PLEASE RETURN ORIGINAL TO: Office of Civil Rights
Room 5627/B North Building
330 Independence Ave., N.W.
Washington, DC 20201

RETURN COPY TO: **GRANTS MANAGEMENT OFFICE**

HHS-441 (7/84) Rev.

HDS GRANTS MANAGEMENT
GPO 908-715

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSURANCE OF COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

The undersigned (hereinafter called the "recipient") HEREBY AGREES THAT it will comply with section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the applicable HHS regulation (45 C.F.R. Part 84), and all guidelines and interpretations issued pursuant thereto.

Pursuant to § 84.5(a) of the regulation [45 C.F.R. 84.5(a)], the recipient gives this Assurance in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts (except procurement contracts and contracts of insurance or guaranty), property, discounts, or other federal financial assistance extended by the Department of Health and Human Services after the date of this Assurance, including payments or other assistance made after such date on applications for federal financial assistance that were approved before such date. The recipient recognizes and agrees that such federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance and that the United States will have the right to enforce this Assurance through lawful means. This Assurance is binding on the recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the recipient.

This Assurance obligates the recipient for the period during which federal financial assistance is extended to it by the Department of Health and Human Services or, where the assistance is in the form of real or personal property, for the period provided for in § 84.5(b) of the regulation [45 C.F.R. 84.5(b)].

The recipient: [Check (a) or (b)]

a. ( ) employs fewer than fifteen persons;

b. ( ) employs fifteen or more persons and, pursuant to § 84.7(a) of the regulation [45 C.F.R. 84.7(a)], has designated the following person(s) to coordinate its efforts to comply with the HHS regulation:

_____
Name of Designee(s) — Type or Print

Name of Recipient — Type or Print	Street Address
(IRS) Employer Identification Number	City
Area Code — Telephone Number	State Zip

I certify that the above information is complete and correct to the best of my knowledge.

Date	Signature and Title of Authorized Official

If there has been a change in name or ownership within the last year, please PRINT the former name below:

PLEASE RETURN ORIGINAL TO: Office for Civil Rights, Room 5627/B North Building, 330 Independence Avenue, N.W., Washington, D.C. 20201.

RETURN COPY TO: Grants Management Office.

HHS-641 (7/84) REV.)
GPO 908-714

A-9

HDS GRANTS MANAGEMENT

BILLING CODE 4130-01-C

Application Certifications for Profit Making Organizations

Applicants who are For Profit Organizations shall complete the following certification review when applying for HDS Financial Assistance.

Small Business Certification

The applicant ( ) is, ( ) is not, a small business concern. A small business concern is defined as a business, including its affiliates, which is independently owned and operated, is not dominant in the field of operation and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration. See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed definitions and related procedures.

2. Minority Business Enterprise Certification

The applicant ( ) is, ( ) is not, a minority business enterprise. A minority business enterprise is defined as a business, at least 51 percent of which is owned, controlled, and managed by minority group members who are citizens of the U.S. In case of a corporation, 51 percent of all classes of voting stock of such corporations must be owned by an individual(s) determined to be minority. For the purpose of this definition, minority group members are Black Americans, Hispanic Americans, Native Americans (American Indians, Eskimos, Aleuts, or Native Hawaiians), Asian Pacific Americans (persons with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, U.S. Trust Territory of the Pacific Islands, Laos, Cambodia, or Taiwan) and members of other groups designated from time to time by the Small Business Administration according to the procedures set forth at 13 CFR Part 124.1.

3. Woman-Owned Business Certification

The applicant ( ) is, ( ) is not, a woman-owned business. A woman-owned business is a business which is, at least, 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management.

4. Small Business Innovation Research Act

This application ( ) is, ( ) is not, submitted under the Small Business Innovation Research Act.

For Profit Organizations must submit this form with the completed application.

APPENDIX B—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[OMB 0980-0016 Expires: 2/85; Clearance Pending: 2/88]

Instructions for Applying for Federal Assistance From HDS Programs

Introduction

Use of Forms

The forms included in this "kit" shall be used to apply for all new discretionary grants and cooperative agreements awarded by the Office of Human Development Services. They shall also be used to request supplemental assistance, proposed changes or amendments, and request continuation or refunding for previously approved grants or cooperative agreements from the Office of Human Development Services. An original and two copies of the forms should be submitted to the responsible grants management office. If an item cannot be answered or does not appear to be related or relevant to the assistance required, write "NA" for not applicable.

Applications

Applicants for new awards and competing continuations are required to submit a complete application which consists of Parts I (SF-424) through Part V. Applicants for new projects must include completed Standard Forms 441, Civil Rights Assurance and HHS—641, Rehabilitation Act Assurance. Applicants for additional funding (such as a non-competing continuation or supplemental grant) or amendments to a previously submitted application should include only affected pages. Previously submitted pages whose information is still current need not be resubmitted. Additionally, applicants for certain HDS programs may be subject to Executive Order 12372, Intergovernmental Review of Federal Programs (see Attachments 1 and 2). These applicants must follow the instructions provided relative to Executive Order 12372 coverage where appropriate, as listed on page 11.

Submission of Applicants

(1) Non-competing Continuation Grants—Applicants for continuation grants must submit these forms not later than 90 days prior to the budget period end date.

(2) New Projects and Competing Continuations—Applicants for Assistance to support new projects or for competing continuations should refer to program announcements for information regarding deadline dates for submission of forms.

Instructions for Completion of Part I (SF-424)

Section I

Applicants shall complete all items in Section I. If an item is not applicable, write "NA". If additional space is needed, insert an asterisk (*) and use Section IV. An explanation follows for each item.

Item

1. Mark appropriate box. Preapplication and application are described in OMB Circular A-102 and HDS program instructions. Use of the SF-424 as a Notice of Intent is at State option. HDS does not require Notice of Intent.

2a Applicant's own control number, if desired.

2b. Date Section I is prepared.

3a. For a program covered by Executive Order 12372, enter the number assigned, if any, by the State Point of Contact Office. Applications submitted to OHDS must contain this identifier, if provided by the State Point of Contact. Note: Item 22 of this form must be completed for programs covered by E.O. 12372.

3b Date identifier is assigned by State.

4a–4th Enter legal name of applicant/recipient, name of primary organizational unit which will udertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request.

If the payee will be other than the applicant, enter in the remarks section "payee". The payee's the payee's name, department or division. Complete address and employer indentification number and DHHS entity number.

If an individual's name and/or title is desired on the payment instrument the name/or title of the designated individual must be specified.

5. Enter Employer Identification Number of applicant as assigned by the Internal Revenue Service. If the applicant organization has been assigned a DHHS Entity Number consisting of the IRS employer identification number prefixed by "1" and suffixed by a two-digit number, enter the full Entity Number. If applicant has other grants with DHHS and has been assigned a Payee Identification Number, enter PIN in parenthesis () beside employer identification number.

6a. Enter the Catalog of Federal Domestic Assistance number assigned to program under which assistance is requested. If more than one program (e.g., joint funding) enter "multiple" and explain in Section IV remarks. If unknown, cite Public Law or U.S. Code.

6b. Enter the program title from Catalog of Federal Domestic Assistance. Abbreviate if necessary.

7. Enter title and appropriate description of project. For Notification of Intent, continue in Section IV if necessary to convey proper description. If project affects particular sites as, for example, construction or real property projects, attach a map showing the project location.

8. Enter appropriate letter to designate grantee type—"City" includes town, township or other municipality. If the grantee is other than that listed, specify type on "Other" line e.g., Council of Government. *Note:* Nonprofit organizations which have not previously received HDS program support must submit proof of nonprofit status.

9. Enter Governmental unit where significant and meaningful impact could be observed. List only largest unit or units affected, such as State, county, or city. If entire unit is affected, list it rather than subunits.

10. Identify estimated number of persons *directly* benefiting from project, as described in the program narrative.

11. All applicants for new, competing continuation and non-competing continuation grants should enter the letter "A". And applicants for supplemental grant funding should enter the letter "B".

12. Enter amount requested or to be contributed during the initial funding/budget period by each contributor. Where allowable the value of inkind contributions should be included. If the action is a change in dollar amount of existing grant (a revision or augmentation), indicate only the amount of the change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in Section IV. For multiple program funding use totals and show program breakdowns in remarks. Item definitions: 12a, amount requested from Federal Government; 12b, amount applicant will contribute; 12c, amount from State, if applicant is not a State; 12d, amount from local government, if applicant is not a local government; 12e, amount from any other sources, explain in Section IV. Note: Applicants for research grants should complete 12a and 12f only.

13a. Self explanatory.

13b. Enter the district(s) where most of actual work will be accomplished. If city-wide or State-wide covering several districts, write "city-wide" or "State-wide".

14. Enter appropriate letter. Definitions are:

A. *New.* A submittal for the first time for a new project or project period (includes competing continuations).

B. *Renewal.* Not applicable to HDS grant programs.

C. *Revision.* A modification to project after the initial funding/budget period and within the approved project period.

D. *Continuation.* Support for a non-competing continuation project after the initial funding/budget period and within the approved project period.

E. *Augmentation.* (Referred to elsewhere in these instructions and in other HDS publications as a "supplemental"). An application for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.

15. Enter approximate date project is expected to begin. If initial budget period is other than 12 months, check item 21 and explain in Part IV.

16. Enter estimated number of months to complete project after Federal funds are available.

17. Complete only for revisions (item 14c), or augmentations (Supplements) (Item 14e).

18. Date application/preapplication must be submitted to HDS in order to be eligible for funding consideration.

19. Name and address of the Federal agency to which this request is addressed. Indicate as clearly as possible the name of the office to which the application will be delivered.

20. Enter existing Federal grant identification number if this is not a new request and directly relates to a previous Federal action. Otherwise write "NA".

21. Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached.

Section II

Applicants will always complete either item 22a or 22b *and* items 23a and 23b. An explanation follows for each item.

22a. Complete if application is subject to Executive Order 12372 (State review and comment). Note: All written comments submitted by or through the State Contact must be attached, if available. Applicants are advised of the delay of funding near the end of the fiscal year, if a timely notification to the State Contact is not made.

22b. Check if application is not subject to E.O. 12372.

23a. Name and title of authorized representative of legal applicant.

23b. Self explanatory. *Note:* Authorized representative signature cannot be signed by designee.

Note.—APPLICANT COMPLETES ONLY SECTIONS I AND II. SECTION III IS COMPLETED BY FEDERAL AGENCIES.

Instructions for Completion of Part II

Negative answers will not require an explanation unless the responsible HDS program office requests more information at a later date. All "Yes" answers must be explained on a separate page in accordance with these instructions.

Item 1

Provide the name of the governing body establishing the priority system and the priority rating assigned to this project. If the priority rating is not available, give the approximate date that it will be obtained.

Item 2

Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval. If the clearance is not available, give the approximate date that it will be obtained.

Item 3

Furnish the name of the approving agency and the approval date. If the approval has not been received, state approximately when it will be obtained.

Item 4

Show whether the approved comprehensive plan is State, local or regional; or, if none of these, explain the scope of the plan. Give the location where the approved plan is available for examination, and state whether this project is in conformance with the plan. If the plan is not available, explain why.

Item 5

Show the population residing or working on the Federal installation who will benefit from this project. (Federally recognized Indian reservations are not "Federal Installations")

Item 6

Show the percentage of the project work that will be conducted on Federally-owned land or leased land. Give the name of the Federal installation and its location.

Item 7

Briefly describe the possible beneficial and/or harmful effect on the environment because of the proposed

project. If an adverse environmental effect is anticipated, explain what action will be taken to minimize it.

Item 8

State the number of individuals, families, businesses, or farms this project will displace. Federal agencies will provide separate instructions, if additional data is needed.

Item 9

Show the Catalog of Federal Domestic Assistance number, the program number, the type of assistance, the status, the amount of each project where there is related previous, pending or anticipated assistance from another funding source.

Instructions for Completion of Part III

This form is designed so that application can be made for funds to support one or more functions or activities. Generally, HHS funded programs do not require a breakdown by function or activity. Therefore, only Line 1 need be completed. However, Head Start, funded by the Administration for Children, Youth and Families requires that activities commonly identified by program accounts be displayed separately on individual lines (Lines 1–4 under Section A and Columns 1–4 under Section B).

Since HDS programs award funds to support activities for budget periods which are generally 12 months in duration, Section A, B, C, and D must provide budget information for the requested budget period. Section E should reflect the need for Federal assistance in subsequent budget periods.

Applicants for research grants are not required to complete information items related to non-Federal share. Rather, research cost sharing shall be negotiated separately with the funding office.

Section A—Budget Summary

Lines 1–4

Col. (a): For applications pertaining to a single grant program and *not* requiring a functional, activity or program account breakout enter on Line 1 under Column (a) the Federal Domestic assistance Catalog program title (See attached listing). For "Head Start", enter the activities (program accounts) name and number for which funds are being requested on separate lines.

Col. (b): Enter appropriate Catalog of Federal Domestic Assistance number. For "Head Start", enter the activities (program accounts) name and number for which funds are being requested on separate lines.

Col. (c)–(g): For *new applications,* leave Columns (c) and (d) blank. For each line entry, enter in columns (e),(f), and (g) the appropriate amounts needed to support the project for the first budget period. Applicants for research grant should make no entries in Column (f).

For *non-competing, or competing continuation applications,* enter in Columns (c) and (d) the estimated amounts for funds which will remain unobligated at the end of the current budget period. Enter in columns (e), (f), and (g) the appropriate amounts needed to support the project for the new budget period. (Applicants for research grants should make no entries in Columns (d) or (f). Column (g) should equal the total of Column (e) and Column (f).

For *augumentation* (supplements) *and changes to existing grants,* leave Columns (c) and (d) blank and enter in Columns (e) and (f) the amount of increase or decrease of Federal and non-Federal funds, as appropriate. Enter in Column (g) the new total budgeted amount (Federal and non-Federal) which includes the previously authorized total budgeted amounts for the current budget period plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Columns (g) should not equal the sum of the amounts in Columns (e) and (f). Applicants for research grants should make no entries in columns (d) or (f).

Line 5

Enter the totals for all columns completed.

Section B—Budget Categories

Column 1–5

In the Column heading (1) through (4), enter the same titles of the grant programs and/or program accounts shown on Lines 1 through 4, Column (a), Section A. For each grant program or activity (program account) entered in Columns (1) through (4) enter the total requirements for *Federal funds* by object class categories and enter total in Column 5.

Allowability of costs are governed by applicable cost principles set forth in Subpart Q of 45 CFR Part 74 and the HDS Grants Administration Manual.

Personnel—Line 6a: Enter the total costs of salaries and wages of applicant/grantee staff. Do not include costs of consultants or personnel costs of delegate agencies. (See Section F, Line 21, for additional requirements).

Fringe Benefits—Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate. Provide break-down of amounts and percentages that comprise fringe benefit costs.

Travel—Line 6c: Enter total costs of out-of-town travel for employees of the project. Do not enter costs for consultant's travel or local transportation. Provide justification for requested travel costs. (See Line 6h and Section F, Line 21, for additional instructions).

Equipment—Line 6d: Enter the total costs of all equipment to be acquired by the project. "Equipment" means an article of tangible personal propoerty having a useful life of more than two years and an acquisition cost of $500 or more per unit. An applicant may use its own definition of equipment, provided that such a definition would at least include all tangible personal property as defined in the preceding sentence. (See Section F. Line 21 for additional requirements).

Supplies—Line 6e: Enter the total costs of all tangible personal property (supplies) other than that included on line 6d.

Contractual—Line 6f: Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.), and, (2) contracts agreements with secondary recipient organizations including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. Attach a list of contractors indicating the name of the organization; the purpose of the contract; statement (scope) of work; period of performance; and the estimated dollar amount of the award. If the Name of Contractor, Scope of Work and estimated total is not available or has not been negotiated, include in Line h, "Other". (Note: Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must submit sections A and B of Part III, Budget Section, completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total cost of all such agencies will be part of the amount shown on Line 6(f). Provide back-up documentation indentifying Name of contractor, purpose of contract and major cost elements.

Construction—Line 6g: Enter the costs of alterations or renovation. Provide narrative justification and break-down or costs. New construction is unallowable.

Other—Line 6h: Enter the total of all other costs. Such costs, where

applicable, may include, but are not limited to, insurance, food, medical and dental costs, (noncontractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use, training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Total Direct Charges—Line 6i: Show the totals of Lines 6(a) through 6(h).

Indirect Charges—Line 6j: Enter the total amount of indirect costs. If no indirect costs are requested enter "none". This line should be used only when the applicant (except local governments) has an indirect cost rate approved by the Department of Health and Human Services. If rate has recently been approved, please enclose a copy of current rate. Local governments shall enter the amount of indirect costs determined in accordance with HHS requirements. In the case of training grants to other than State or local governments, the reimbursement of indirect costs will be limited to the lesser of actual indirect costs or 8 percent of the amount allowed for direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alteration and renovations. It should be noted that when an indirect cost rate is requested, these costs included in the indirect cost pool should not be also charged as direct costs to the grant.

Total—Line 6k: Enter the total amounts of Lines 6(i) and 6(j). For all new competing and non-competing continuation applications, the total amount shown in Column (5), Line 6(k), should be the same as the amount shown in Section A, Column (e), Line 5.

For all supplements or changes, the total of the amount shown in Columns (1) through (4) should equal the amount shown in Section A, Line 5(e). The amount shown in Column (5) should include the cumulative total of the previously approved Federal share for the current budget period plus or minus, as appropriate, the increase or decrease of Federal funds.

Program Income—Line 7: Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show, in the program narrative statement, the nature and source of income.

Section C—Non-Federal Resources

Line 8–11

Enter amounts of non-Federal resources that will be used to support the project. (Applicants for research grants should not complete this Section but will negotiate appropriate cost sharing arrangements with the funding office). Provide a brief explanation, on a separate sheet, showing the type of contribution, and whether it is in cash or in-kind. If in-kind, is allowable and included, show the basis for computation including:

(1) Numbers and types of volunteers and rates at which their services are valued;

(2) Valuation of donated space (use only) including number of square feet and value assigned per square foot; and

(3) Determination of depreciation and use allowance for grantee-owned space; [Include statement whether space was purchased or constructed, totally or in part with federal funds for items (2) and (3)].

(4) Type and value of other in-kind contributions expected.

Column (a): Enter the program title or activities (program accounts) as in Column (a) Section A.

Column (b): Enter the amount of cash and in-kind contributions to be made by the applicant.

Column (c): Enter the State contribution. If the applicant is a State agency, enter the non-Federal funds to be contributed by the State other than the applicant State agency.

Column (d): Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e): Enter the totals of Columns (b), (c), and (d).

Line 12

Enter total of each of Columns (b) through (e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D—Forecasted Cash Needs

Line 13

Enter the amount of Federal cash needed for this grant, by quarter, during the budget period.

Line 14

Enter the amount of cash from all other sources needed by quarter during the budget period. (Applicants for research grants should not complete this line).

Line 15

Enter the totals of amounts on Lines 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Projects

Lines 16–19

Enter in Column (a) the same program title or activities (program accounts) as in Column (a) Section A. For new or competing continuation or noncompeting continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding budget periods (usually in years). Do not enter current year budget amount; enter second, third, fourth, and fifth year budget estimate needs. This Section need not be completed for Headstart applicants with indefinite project periods or for revisions or supplements for the current budget period which do not increase the general level of support.

Line 20

Enter the totals of each of the Columns (b) through (e).

Section F—Other Budget Information

Line 21

Use this space to fully explain and justify the major items included in the budget categories shown in Section B. Include sufficient detail to facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the HDS program office. Budget items which require identification and justification shall include, but not be limited to, the following:

1. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative.
2. Any foreign travel;
3. A list of all equipment (See Part III, Section B, Line 6d) and estimated cost of each item to be purchased. Need for equipment must be supported in program narrative.
4. Contractual: Major items or groups of smaller items; and
5. Other: Group and major categories, e.g., consultants, local transportation, space rental, training allowances, staff training, computer equipment, etc. Provide a complete break-down of all costs that make up this category.

Line 22

Enter the type of indirect rate (provisional, final fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect

expense. Also, enter the date HDS approved the rate, where applicable. Attach a copy of rate agreement if recently approved.

Line 23

Provide any other explanations required or deemed necessary.

ATTACHMENT 1—EXECUTIVE ORDER 12372 COVERAGE

1. General

Executive Order 12372, "Intergovernmental Review of Federal Programs," provides for the State and local government coordination and review of proposed Federal financial assistance. Certain applicants for HDS grants must comply with the provisions of E.O. 12372 and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." The following table provides a listing of all HDS assistance programs identified by Catalog of Federal Domestic Assistance Number (CFDA), and shows those programs and activities which are covered by E.O. 12372 and those which are exempt from coverage.

Federally recognized Indian Tribes are exempt from the provisions and requirements of E.O. 12372 (see 48 FR 29196 dated June 24, 1983).

States design their own processes for reviewing and commenting on proposed Federal assistance under certain Federal programs. States adopting a review process under the E.O. have designated a State official or organization to act as the State's "Single Point of Contact" (SPOC) for sending official State recommendations to HDS. Applicants with projects subject to E.O. 12372 review must adhere to the requirements of their State processes.

2. Procedures for New and Competing Continuation Applications

E.O. 12372 requires applicants for new and competing continuation grants and cooperative agreements to coordinate their plans at the State and local levels through the State SPOC. Names and addresses of the State SPOC are listed in the **Federal Register** announcement soliciting applications or in the application kit. A current listing can also be obtained from the regional or headquarters grants management office. Potential applicants should contact their State SPOC at the earliest feasible time and notify them of their intent to apply for Federal assistance. Many State offices have their own notification forms and instructions, and applicants should obtain this material directly from them.

Applications covered by E.O. 12372 must show E.O. 12372 certification in Item 22 on Standard Form 424. HDS will notify the State SPOC of any application covered by E.O. 12372 that does not indicate that the State contact has had an opportunity to review it. Therefore, failure to notify the State of the proposed application to HDS may result in a delay of funding.

State SPOC offices have sixty (60) days after the HDS deadline date for the receipt of applications in which to review and resolve problems with the applicant and submit comments to HDS.

APPENDIX C—PROGRAM PERFORMANCE STANDARDS RUNAWAY AND HOMELESS YOUTH ACT-FUNDED CENTERS

I. Overview of the Program Performance Standards

The program performance standards established by YDB for its funded centers relate to the methods and processes by which the needs of runaway or homeless youth and their families are being met as opposed to the outcome of the services provided on the clients served. The program performance standards, and the related criteria and indicators, as initially published in March 1977, were developed by YDB through a functional analysis of the service and administrative components of runaway youth projects, and were revised based upon the comments and feedback provided by the FY 1975 funded projects; they have subsequently been further revised, based upon the experience of YDB and its funded centers in their implementation. The standards relate to the basic program components enumerated in Section 315 of the Runaway and Homeless Youth Act and as further detailed in the Regulations and Program Guidance governing the implementation of the Act. Each project funded under the Runaway and Homeless Youth Act is required annually to conduct a self-assessment of its compliance with these standards, using a form provided by YDB for this purpose. These self-assessment data will be validated once each funding cycle by the YDB Special Assistant for Youth Affairs.

The terms "program performance standards," "criteria," and "indicators" are defined as follows:

Program Performance Standard: The general principle against which a judgement can be made to determine whether a service or an administrative component has achieved a particular level of attainment.

Criterion: A specific dimension or aspect of a program performance standard which helps to define that standard and which is amenable to direct observation or measurement.

Indicator: The specific documentation which demonstrates whether a criterion (or an aspect of a criterion) is being met and, thereby, the extent to which a specific aspect of a standard is being met.

Thirteen program performance standards, with related criteria and indicators, have been established by YDB for the centers funded under the Runaway and Homeless Youth Act. Eight of these standards relate to service components (outreach, individual intake process, temporary shelter, individual and group counseling, family counseling, service linkages, aftercare services, and case disposition), and five to administrative functions or activities (staffing and staff development, youth participation, individual client files, ongoing project planning, and board of directors/advisory body.

Although fiscal management is not included as a program performance standard, it is viewed by YDB as being an essential element in the operation of its funded projects. Therefore, as validation visits are made, the Special Assistants for Youth Affairs and/or staff from the Office of Fiscal Operations will also review the center's financial management activities.

YDB views these program performance standards as constituting the minimum standards to which its funded centers should conform. The primary assumption underlying the program performance standards is that the service and administrative components which are encompassed within these standards are integral (but not sufficient in themselves) to a program of services which effectively addresses the crisis and long-term needs of runaway or homeless youth and their families.

The program performance standards are designed to serve as a developmental tool, and are to be employed by both the center staff and the Special Assistants for Youth Affairs in identifying those service and administrative components and activities of individual centers which require strengthening and/or development either through internal action on the part of staff or through the provision of external technical assistance.

II. Program Performance Standards and Criteria

The following constitutes the program performance standards and criteria established by YDB for its funded centers. Each standard is numbered, and each criterion is listed after a lower-case letter.

1. Outreach

The center shall conduct outreach efforts directed towards community agencies, youth, and parents.

2. Individual Intake Process

The center shall conduct an individual intake process with each youth seeking services from the project. The individual intake process shall provide for:

a. Direct access to project services on a 24-hour basis.

b. The identification of the emergency service needs of each youth and the provision of the appropriate services either directly or through referrals to community agencies and individuals.

c. An explanation of the services which are available and the requirements for participation, and the securing of a voluntary commitment from each youth to participate in center services prior to admitting the youth into the center.

d. The recording of basic background information on each youth admitted into the center.

e. The assignment of primary responsibility to one staff member for coordinating the services provided to each youth.

f. The contact of the parent(s) or legal guardian of each youth provided temporary shelter within the timeframe established by State law or, in the absence of State requirements, preferably within 24 but within no more than 72 hours following the youth's admission into the center.

3. Temporary Shelter

The center shall provide temporary shelter and food to each youth admitted into the center and requesting such services.

a. Each facility in which temporary shelter is provided shall be in compliance with minimum State and local licensing requirements.

b. Each facility in which temporary shelter is provided shall accomodate no more than 20 youth at any given time.

c. Temporary shelter shall normally not be provided for a period exceeding two weeks during a given stay at the center.

d. Each facility in which temporary shelter is provided shall make at least two meals per day available to youth served on a temporary shelter basis.

e. At least one adult shall be on the premises whenever youth are using each temporary shelter facility.

4. Individual and Group Counseling

The center shall provide individual and/or group counseling to each youth admitted into the project.

a. Individual and/or group counseling shall be available daily to each youth admitted into the center on a temporary shelter basis and requesting such counseling.

b. Individual and/or group counseling shall be available to each youth admitted into the center on a non-residential basis and requesting such counseling.

c. The individual and/or group counseling shall be provided by qualified staff.

5. Family Counseling

The center shall make family counseling available to each parent or legal guardian and youth admitted into the center.

a. Family counseling shall be provided to each parent or legal guardian and youth admitted into the center and requesting such services.

b. The family counseling shall be provided by qualified staff.

6. Service Linkages

The center shall establish and maintain linkages with community agencies and individuals for the provision or those services which are required by youth and/or their families but which are not provided directly by the center.

a. Arrangements shall be made with community agencies and individuals for the provision of alternative living arrangements, medical services, psychological and/or psychiatric services, and the other assistance required by youth admitted into the project and/or by their families which are not provided directly by the center.

b. Specific efforts shall be conducted by the center directed toward establishing working relationships with law enforcement and other juvenile justice system personnel.

7. Aftercare Services

The center shall provide a continuity of services to all youth served on a temporary shelter basis and/or their families following the termination of such temporary shelter both directly and through referrals to other agencies and individuals.

8. Case Disposition

The center shall determine, on an individual case basis, the disposition of each youth provided temporary shelter, and shall assure the safe arrival of each youth home or to an alternative living arrangement.

a. To the extent feasible, the center shall provide for the active involvement of the youth, the parent(s) or legal guardian, and the staff in determining what living arrangement constitutes the best interest of each youth.

b. The center shall assure the safe arrival of each youth home or to an alternative living arrangement, following the termination of the crisis services provided by the center, by arranging for the transportation of the youth if he/she be residing within the area served by the center; or by arranging for the meeting and local transportation of the youth at his/her destination if he/she will be residing beyond the area served by the center.

c. The center shall verify the arrival of each youth who is not accompanied home or to an alternative living arrangement by the parent(s) or legal guardian, center staff or other agency staff within 12 hours after his/her scheduled arrival at his/her destination.

9. Staffing and Staff Development

The center shall maintain a staffing and staff development plan.

a. The center shall operate under an affirmative action plan.

b. The center shall maintain a written staffing plan which indicates the number of paid and volunteer staff in each job category.

c. The center shall maintain a written job description for each paid and volunteer staff function which describes both the major tasks to be performed and the qualifications required.

d. The center shall provide training to all paid and volunteer staff (including youth) in both the procedures employed by the center and in specific skill areas as determined by the center.

e. The center shall evaluate the performance of each paid and volunteer staff member on a regular basis.

f. Case supervision sessions, involving relevant center staff, shall be conducted at least weekly to review current cases and the types of counseling and other services which are being provided.

10. Youth Participation

The center shall actively involve youth in the design and delivery of the services provided by the center.

a. Youth shall be involved in the ongoing planning efforts conducted by the center.

b. Youth shall be involved in the delivery of the services provided by the center.

11. Individual Client Files

The project shall maintain an individual file on each youth admitted into the center.

a. The client file maintained on each youth shall, at a minimum, include an intake form which minimally contains the basic background information required by YDB on the Information Collection Research and Evaluation (ICARE) Form; counseling notations; information on the services provided both directly and through referrals to community agencies and individuals; disposition data; and, as applicable, any follow-up and evaluation data which are compiled by the center.

b. The file on each client shall be maintained by the center in a secure place and shall not be disclosed without the written permission of the client and his/her parent(s) or legal guardian except to center staff, to the funding agency(ies) and its (their) contractor(s), and to a court involved in the disposition of criminal charges against the youth.

12. Ongoing Center Planning

The center shall develop a written plan at least annually.

a. At least annually, the center shall review both the crisis counseling, temporary shelter, and aftercare needs of the youth in the area served by the center and the existing services which are available to meet these needs.

b. The center shall conduct an ongoing evaluation of the impact of its services on the youth and families it serves.

c. At least annually, the center shall review and revise, as appropriate, its goals, objectives, and activities based upon the data generated through both the review of youth needs and existing services (12a) and the follow-up evaluations (12b).

d. The center's planning process shall be open to all paid and volunteer staff, youth, and members of the Board of Directors and/or Advisory Body.

13. Board of Directors/Advisory Body (Optional)

It is strongly recommended that the center have a Board of Directors or Advisory Body which conforms to the following criteria.

a. The membership of the Center's Board of Directors or Advisory Body shall be composed of a representative cross-section of the community, including youth, parents, and agency representatives.

b. Training shall be provided to the Board of Directors or Advisory Body designed to orient the members to the goals, objectives, and activities of the center.

c. The Board of Director or Advisory Body shall review and approve the overall goals, objectives, and activities of the center, including the written plan developed under 12.

National Runaway Switchboard Project Description

The National Runaway Switchboard was initiated through an HEW Office of Youth Development research and demonstration grant in 1974. The project was initially funded as an eight month demonstration grant for the purpose of providing toll-free WATS service to runaway youth in the contiguous United States. Since then, it has been supported by the Runaway and Homeless Youth Act and administered by the Youth Development Bureau within the Administration for Children, Youth and Families. Among the reasons for developing the National hotline were (a) the interstate nature of the runaway problem and (b) the evident unavailability in most areas of the nation of specialized resources and services for dealing with the problem.

The National Runaway Switchboard provides a confidential toll-free information, referral and crisis intervention telephone service operating 24 hours a day, seven days a week. It is designed to help young people who have run away from, been thrown out of, or are considering leaving home and their families. Operating with a paid staff and trained volunteers, the National Communications System links its callers with the help they need in three basic ways:

(a) Intervention—providing a neutral channel of communications through which runaway youth may re-establish contact with his or her parent or guardian;

(b) Referral—identifying agency resources to runaways in the area where the runaway youth is located; and

(c) Prevention—identifying home-community resources for those young people who are contemplating running away but contact the Switchboard before they run.

The National Runaway Swichboard, funded at a level of $350,000 annually serves the need of runaway and homeless youth, their families. States, localities and nonprofit private agencies and coordinated networks of such agencies also frequently utilize the services offered by the National Runaway Switchboard.

APPENDIX D—EXECUTIVE ORDER 12372—STATE SINGLE POINTS OF CONTACT

Alabama

Mrs. Donna J. Snowden, SPOC, Alabama State Clearinghouse, Alabama Department of Economic and Community Affairs, 3465 Norman Bridge Road, Post Office Box 2939, Montgomery, Alabama 36105–0939, Tel. (205) 284–8905

Alaska

None

Arizona

Department of Commerce, State of Arizona

Note.—Correspondence and questions concerning this State's E.O. 12372 process should be directed to: Janice Dunn, ATTN: Arizona State Clearinghouse, 1700 West Washington, Fourth Floor, Phoenix, Arizona 85007, Tel. (602) 255–5004

Arkansas

State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Tel. (501) 371–1074

California

Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Tel. (916) 323–7480

Colorado

State Clearinghouse, Division of Local Government, 1313 Sherman Street, Rm. 520, Denver, Colorado 80203, Tel. (303) 866–2156

Connecticut

Gary E. King, Under Secretary, Comprehensive Planning Division, Office of Policy and Management, Hartford, Connecticut 06106–4459

Note.—Correspondence and questions concerning this State's E.O. 12372 process should be directed to: Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106–4459, Tel. (203) 566–3410

Delaware

Executive Department, Thomas Collins Building, Dover, Delaware 19903, Attn: Francine Booth, Tel. (302) 736–4204

Florida

Ron Fahs, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32301, Tel. (904) 488-8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, S.W., Atlanta, Georgia 30334, Tel. (404) 656-3855

Hawaii

Kent M. Keith, Director, Department of Planning and Economic Development, P.O. Box 2359, Honolulu, Hawaii 96804

For Information Contact: Hawaii State Clearinghouse, Tel. (808) 548-3016 or 548-3085.

Idaho

None

Illinois

Tom Berkshire, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Tel. (217) 782-8639

Indiana

Mr. Alexander J. Ingram, Deputy Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Tel. (317) 232-5604

Iowa

Office for Planning and Programming, Capitol Annex, 523 East 12th Street, Des Moines, Iowa 50319, Tel. (515) 281-3864

Kansas

Ms. Judy Krueger, Intergovernmental Liaison, 122 A South, State Office Building, Topeka, Kansas 66612, Tel. (913) 296-3919

Kentucky

Kentucky State Clearinghouse, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Tel. (502) 564-2382

Louisiana

Mr. Ferguson Brew, Assistant Secretary and SPOC, Department of Urban and Community Affairs, Office of State Clearinghouse, P.O. Box 94455, Capitol Station, Baton Rouge, Louisiana 70804, Tel. (504) 925-3725

Maine

State Planning Office, Attn: Intergovernmental Review Process/ Hal Kimbal, State House Station #38, Augusta, Maine 04333, Tel. (207) 289-3154

Maryland

Guy W. Hager, Director, Maryland State Clearinghouse for Intergovernmental Assistance, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365, Tel. (301) 225-4490

Massachusetts

Executive Office of Communities and Development, Attn: Beverly Boyle, 100 Cambridge Street, Rm. 904, Boston, Massachusetts 02202, Tel. (617) 727-3253

Michigan

Michelyn Pasteur, Director, Local Development Services, Department of Commerce, P.O. Box 30225, Lansing, Michigan 48909, Tel. (517) 373-3530

Minnesota

Maurice D. Chandler, Intergovernmental Review, Minnesota State Planning Agency, Room 101, Capitol Square Building, St. Paul, Minnesota 55101, Tel. (612) 296-2571

Mississippi

Office of Federal State Programs, Department of Planning and Policy, 2000 Walter Sillers Bldg., 500 High Street, Jackson, Mississippi 39202

For Information Contact: Mr. Marlan Baucum, Department of Planning and Policy, Tel. (601) 359-3150.

Missouri

Lois Pohl, Coordinator, Missouri Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 760 Truman Building, Jefferson City, Missouri 65102, Tel. (314) 751-4834

Montana

Sue Heath, Intergovernmental Review Clearinghouse, c/o Office of the Lieutenant Governor, Capitol Station, Helena, Montana 59620, Tel. (406) 444-5522

Nebraska

None

Nevada

Ms. Jean Ford, Director, Nevada Office of Community Services, Capitol Complex, Carson City, Nevada 89710, Tel. (702) 885-4420

Note.—Correspondence and questions concerning this State's E.O. 12372 process should be directed to: John Walker, Clearinghouse Coordinator, Tel. (702) 885-4420

New Hamsphire

David G. Scott, Acting Director, New Hampshire Office of State Planning, 2½ Beacon Street, Concord, New Hampshire 03301, Tel. (603) 271-2155

New Jersey

Mr. Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, 363 West State Street, Trenton, New Jersey 08625-0803, Tel. (609) 292-6613

Note.—Correspondence and questions concerning this State's E.O. 12372 process should be directed to: Nelson S. Silver, State Review Process, Division of Local Government Services—CN 803, Trenton, New Jersey 08625-0803, Tel. (609) 292-9025

New Mexico

Peter C. Pence, Director, Department of Finance and Administration, Management and Contracts Review Division, Clearinghouse Bureau, Room 424, State Capitol, Santa Fe, New Mexico 87503, Tel. (505) 827-3885

New York

Director of the Budget, New York State

Note.—Correspondence and questions concerning the State's E.O. 12372 process should be directed to: New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Tel. (518) 474-1605

North Carolina

Mrs. Chrys Baggett, Director, State Clearinghouse, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611, Tel. (919) 733-4131

North Dakota

Office of Intergovernmental Assistance, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Tel. (701) 224-2094

Ohio

State Clearinghouse, Office of Budget and Management, 30 East Broad Street, Columbus, Ohio 43215

For Information Contact: Mr. Leonard E. Roberts, Deputy Director, Tel. (614) 466-0699.

Oklahoma

Don Strain, Office of Federal Assistance Management, 4545 North Lincoln Blvd., Oklahoma City, Oklahoma 73105, Tel. (405) 528-8200

Oregon

Intergovernmental Relations Division, State Clearinghouse, Attn: Delores Streeter, Executive Building, 155 Cottage Street, N.E., Salem, Oregon 97310, Tel. (503) 373-1998

Pennsylvania

Barbara J. Gontz, Project Coordinator, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, Tel. (717) 783-3700

Rhode Island

Daniel W. Varin, Chief, Rhode Island Statewide Planning Program, 265 Melrose Street, Providence, Rhode Island 02907, Tel. (401) 277-2656

Note.—Questions and correspondence concerning this State's review process should be directed to: Mr. Michael T. Marfeo, Review Coordinator

South Carolina

Danny L. Cromer, Grant Services, Office of the Governor, 1205 Pendleton Street, Rm. 477, Columbia South Carolina, 29201, Tel. (803) 758-2417

South Dakota

Connie Tveidt, State Clearinghouse Coordinator, State Government Operations, Second Floor, Captiol Building, Pierre, South Dakota 57501, Tel. (605) 773-3661

Tennessee

Tennessee State Planning Office, 1800 James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37219, Tel. (615) 741-1676

Texas

Bob McPherson, State Planning Director, Office of the Governor, P.O. Box 13561, Capitol Station, Austin, Texas 78711

Note.—Questions concerning this State's review process should be directed to: Intergovernmental Relations Division, Tel. (512) 463-1778

Utah

Dale Hatch,
Director, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Tel. (801) 533-5245

Vermont

State Planning Office, Attn: Bernie Johnson, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Tel. (802) 828-3326

Virginia

Shawn McNamara, Department of Housing and Community Development, 205 North 4th Street, Richmond, Virginia 23219, Tel. (804) 786-4474

Washington

Washington Department of Community Development, ATTN: Washington Intergovernmental Review process, Ninth and Columbia Building, Olympia, Washington 98504-4151, Tel. (206) 586-1240

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Rm. 553, Charleston, West Virginia 25305, Tel. (304) 348-4010

Wisconsin

Secretary Doris J. Hanson, Wisconsin Department of Administration, 101 South Webster—GEF 2, P.O. Box 7864, Madison, Wisconsin 53707-7864, Tel. (608) 266-1741

Note.—Correspondence and questions concerning this State's E.O. 12372 process should be directed to: Thomas Krauskopf, Federal-State Relations Coordinator, Wisconsin Department of Administration, P.O. Box 7864, Madison, Wisconsin 53707-7864, Tel. (608) 266-8349

Wyoming

Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Tel. (307) 777-7574

Virgin Islands

Toya Andrew, Federal Program Coordinator, Office of the Governor, The Virgin Islands of the United States, Charlotte Amalie, St. Thomas 00801, Tel. (809) 774-6517

District of Columbia

Lovetta Davis, D.C. State Single Point of Contact for E.O. 12372, Executive Office of the Mayor, Office of Intergovernmental Relations, Rm. 416, District Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004, Tel. (202) 727-6265

Puerto Rico

Ms. Patricia G. Custodio, P.E., Chairman, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940-9985, Tel. (809) 727-4444

Northern Mariana Islands

Planning and Budget Office, Office of the Governor, Saipan, CM 96950

American Samoa

None

Guam

Guam State Clearinghouse, Office of the Lieutenant Governor, P.O. Box 2950, Agana, Guam 96910

APPENDIX E—REGIONAL PROGRAM DIRECTORS, ADMINISTRATION FOR CHILDREN, YOUTH, AND FAMILIES

Region I: Mr. Richard Stirling, Regional Program Director, Office of Human Development Services, John F. Kennedy Federal Building, Room 2011, Boston Massachusetts 02203 (VT, CT, ME, NH, RI, MA), Attn: Susan Rosen (617) 223-6450

Region II: Mr. Miguel Torrado, Regional Administrator, Office of Human Development Services, 26 Federal Plaza, Room 4149, New York, NY 10278 (NY, NJ, PR, VI), Attn: Estelle Haferling (212) 264-2974

Region III: Mr. Alvin Pearis, Regional Program Director, Office of Human Development Services, 3535 Market Street, Post Office Box 13714, Philadelphia, PA 19101 (DE, DC, MD, VA, WV, PA), Attn: Emery Tincani, (215) 596-0950

Region IV: Mr. John Jordan, Regional Program Director, Office of Human Development Services, 101 Marietta Tower, Suite 903, Atlanta, GA 30323 (AL, FL, GA, KY, MS, NC, SC, TN), Attn: Viola Brown (404) 331-2128

Region V: Carolyn Woodard, Regional Administrator, Office of Human Development Services, 300 South Wacker Drive, Chicago, IL 60606 (IL, IN, MN, OH, WI, MI), Attn: James White (312) 353-8065

Region VI: Mr. Tommy Sullivan, Regional Program Director, Office of Human Development Services, 1200 Main Tower, 20th Floor Dallas, TX 75202 (LA, NM, OK, TX, AR), Attn: Jerry Mabe (214) 767-6596

Region VII: Mr. Hilton Baines, Regional Program Director, Office of Human Development Services, Federal Office Building, Room 384, 601 East 12th Street, Kansas City, MO 64106 (IA, KS, MO, NE), Attn: Tom Mayer (816) 374-2955

Region VIII: Mr. David Chapa, Regional Program Director, Office of Human Development Services, 1961 Stout Street, Federal Office Building, 9th Floor, Denver, CO 80294 (CO, MT, ND, SD, UT, WY), Attn: Juan Cordova (303) 837-3106

Region IX: Mr. Roy Fleischer, Regional Program Director, Office of Human Development Services, 50 United Nations Plaza, San Francisco CA 94102 (AZ, CA, HI, NV,GU, AS, TT, CNMI), Attn: Ray Myrick (415) 556-6153

Region X: Mr. William Hayden, Regional Program Director, Office of Human Development Services, 2901 Third Avenue, Mail Stop 503, Seattle. WA

98121 (AK, ID, OR, WA), Attn: Lee Koenig (206) 442-0838

APPENDIX F—COORDINATED NETWORKS

Region I: Massachussetts Committee for Children and Youth, 14 Beacon Street, Suite 707, Boston MA 02108, Attn: Nancy Jackson, (617) 742-8555

Region II: Runaway and Homeless Youth Advocacry Project, New York Coalition for Juvenile Justice, 444 West 56th Street, New York, NY 10019, Attn: Flora Rothman, (212) 765-8635

Region III: Youth Resources Center, 6201 Belcrest Road, Hyattsville, MD 20782, Attn: Kris Mayne, (301) 779-1257

Region IV: Southwestern Network of Runaway Youth Services, 198 S. Hull Street, Athens GA 30605, Attn: Gail Kurtz, (404) 354-4568

Region V (South): Youth Network Council of Chicago, Inc., 506 South Wabash Avenue, Suite 520, Chicago, IL 60605, Attn: Denis Murstein, (312) 427-2710

Region V (North): Michigan Network of Runaway and Youth Services, 115 W. Allegany, Suite 740, Lansing, MI 48933, Attn: Barbara Rachelson, (517) 484-5262

Region VI: Southwest Network of Youth Services, Inc., 440 S. Houston, Suite 751, Tulsa, OK 74127, Attn: James Walker, (512) 478-6676

Region VII: M.I.N.K., A Network of Runaway and Homeless Youth, 2202 S. 11th, Lincoln, NE 68502, Attn: Susan Houchin-La Luz, (402) 475-3040

Region VIII: Mountain Plains Youth Services, 1424 W. Century, Bismarck, ND 58501, Attn: Douglas Herzog, (701) 255-7229

Region IX: Western States Youth Services, 1722 J Street, #11, Sacramento, CA 95814, Attn: Nancy Sefcik, (916) 447-7164

Region X: Youthworks, Inc., 1307 W. Main Street, Suite 3, Medford, OR 97501, Attn: Craig Christiansen, (503) 779-2393

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federal register

Thursday
April 17, 1986

Part V

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Report

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

April 1, 1986.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of April 1, 1986, of 80 rescission proposals and 66 deferrals contained in the first five special messages of FY 1986. These messages were transmitted to the Congress on October 1 and November 25, 1985, February 5, March 12, and March 20, 1986.

Rescissions (Table A and Attachment A)

As of April 1, 1986, there were rescission proposals totaling $10,012.4 million pending before the Congress.

Deferrals (Table B and Attachment B)

As of April 1, 1986, $13,142.7 million in 1986 budget authority was being deferred from obligation and $19.2 million in 1986 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1986.

Information from Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below:

Vol. 50, FR p. 41100, Tuesday, October 8, 1985

Vol. 50, FR p. 49498, Monday, December 2, 1985

Vol. 51, FR p. 5830, Tuesday, February 18, 1986

Vol. 51, FR p. 9154, Monday, March 17, 1986

Vol. 51, FR p. 10526, Wednesday, March 26, 1986

James C. Miller III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1986 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$10,012.4
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	$10,012.4

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TABLE B

STATUS OF 1986 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$24,720.7
Routine Executive releases through April 1, 1986 (OMB/Agency releases of $11,388.9 million and cumulative adjustments of $53.6 million)	-11,335.3
Overturned by the Congress	-223.6
Currently before the Congress	$13,161.8 a/

a/ This amount includes $19.2 million in outlays for a Department of the Treasury deferral (D86-30B).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1986

As of April 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
FUNDS APPROPRIATED TO THE PRESIDENT								
Multilateral Assistance								
International organizations and programs	R86-1			2-5-86				
	R86-1A		39,760	3-20-86				
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization and Conservation Service								
Rural clean water program	R86-2		6,000	2-5-86				
Agricultural conservation program	R86-3		140,839	2-5-86				
Water bank program	R86-4		8,371	2-5-86				
Dairy indemnity program	R86-5		95	2-5-86				
Rural Electrification Administration								
Reimbursement to the Rural electrification and telephone revolving fund for interest subsidies and losses	R86-6		100,000	2-5-86				
Purchase of Rural Telephone Bank capital stock	R86-7		28,710	2-5-86				
Farmers Home Administration								
Rural development loan fund	R86-10		13,674	2-5-86				
Soil Conservation Service								
Watershed and flood prevention operations	R86-11		60,401	2-5-86				
Great plains conservation program	R86-12		6,606	2-5-86				
Food and Nutrition Service								
Food donations program	R86-13		5,183	2-5-86				
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs	R86-14		101,309	2-5-86				
International Trade Administration								
Operations and administration	R86-15		19,290	2-5-86				
National Oceanic and Atmospheric Administration								
Operations, research, and facilities	R86-16		63,323	2-5-86				
National Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction	R86-17		21,820	2-5-86				
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Compensatory education for the disadvantaged	R86-18		7,177	2-5-86				
Special programs	R86-19		37,782	2-5-86				
Office of Bilingual Education and Minority Languages Affairs								
Immigrant education	R86-20		28,710	2-5-86				
Office of Special Education and Rehabilitative Services								
Education for the handicapped	R86-21		44,364	2-5-86				
Rehabilitation services and handicapped research	R86-22		75,439	2-5-86				
Payments to institutions for the handicapped	R86-23		446	2-5-86				
Office of Vocational and Adult Education								
Vocational and adult education	R86-24		210,337	2-5-86				
Office of Postsecondary Education								
Student financial assistance	R86-25		456,347	2-5-86				
Higher education	R86-26		180,882	2-5-86				
Special Institutions								
Howard University	R86-27		5,699	2-5-86				
Office of Educational Research and Improvement								
Libraries	R86-28		33,017	2-5-86				

Attachment A - Status of Rescissions - Fiscal Year 1986

As of April 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF ENERGY								
Energy Programs								
Energy supply, reaearch and development activities	R86-8		38,489	3-12-86				
Fossil energy research and development	R86-80		13,072	3-12-86				
Energy conservation	R86-77			3-12-86				
	R86-77A		15,160	3-20-86				
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Health Resources and Services Administration								
Health resources and services	R86-9		211,455	2-5-86				
Indian health	R86-29		24,262	2-5-86				
Indian health facilities	R96-30		38,642	2-5-86				
Centers for Disease Control								
Disease control, research, and training	R86-31		34,096	2-5-86				
National Institutes of Health								
National Cancer Institute	R86-32		6,800	2-5-86				
National Heart, Lung and Blood Institute	R86-33		11,469	2-5-86				
National Institute of Diabetes and Digestive and Kidney Diseases	R86-34		7,980	2-5-86				
National Institute of Neurological and Communicative Disorders and Strokes	R86-35		9,554	2-5-86				
National Institute of Allergy and Infectious Disease	R86-36		1,513	2-5-86				
National Institute of General Medical Sciences	R86-37		7,358	2-5-86				
National Institute of Child Health and Human Development	R86-38		1,150	2-5-86				
National Eye Institute	R86-39		5,224	2-5-86				
National Institute on Aging	R86-40		2,679	2-5-86				
Office of the Director	R86-41		23,055	2-5-86				
Alcohol, Drug Abuse, and Mental Health Administration								
Alcohol, drug abuse, and mental health	R86-42		39,718	2-5-86				
Health Care Financing Administration								
Program management	R86-43		912	2-5-86				
Social Security Administration								
Refugee and entrant assistance	R86-44		87,551	2-5-86				
Human Development Services								
Human development services	R86-45		29,980	2-5-86				
Family social services	R86-46		6,157	2-5-86				
Work incentives	R86-47		45,884	2-5-86				
Community services block grant	R86-48		182,139	2-5-86				
Community development credit union revolving fund	R86-49		2,529	2-5-86				
Departmental Management								
General Departmental management	R86-50		19,619	2-5-86				
Policy research	R86-51		220	2-5-86				
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs	R86-52		4,416,151	2-5-86				
Congregate services program	R86-53		2,555	2-5-86				
Housing counseling assistance	R86-54		3,313	2-5-86				
Community Planning and Development								
Urban development action grants	R86-55		220,062	2-5-86				
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Land acquisition	R86-56		3,000	2-5-86				
United States Fish and Wildlife Service								
Land acquisition	R86-57		4,951	2-5-86				
National Park Service								
Construction	R86-58		13,613	2-5-86				
Land acquisition	R86-59		83,917	2-5-86				
Historic preservation fund	R86-60		18,523	2-5-86				
DEPARTMENT OF JUSTICE								
Federal Prison System								
National Institute of Corrections	R86-61		3,315	2-5-86				

Attachment A - Status of Rescissions - Fiscal Year 1986

As of April 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Office of Justice Programs								
Justice assistance	R86-62		134,666	2-5-86				
DEPARTMENT OF LABOR								
Employment and Training Administration								
Training and employment services	R86-63		416,037	2-5-86				
DEPARTMENT OF TRANSPORTATION								
Federal Railroad Administration								
Rail service assistance	R86-64		14,355	2-5-86				
Northeast corridor improvement program	R86-65		11,962	2-5-86				
Railroad rehabilitation and improvement financing funds	R86-66		32,059	2-5-86				
Urban Mass Transportation Administration								
Discretionary grants	R86-67		521,275	2-5-86				
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
Payments to State and local government fiscal assistance trust fund	R86-68		759,975	2-5-86				
Federal Law Enforcement Training Center								
Salaries and expenses	R86-69		4,976	2-5-86				
United States Customs Service								
Salaries and expenses	R86-70		4,169	2-5-86				
Operation and maintenance, air interdiction program	R86-71		19,275	2-5-86				
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and development	R86-72		26,796	2-5-86				
OFFICE OF PERSONNEL MANAGEMENT								
Government payment for annuitants, employees health benefits	R86-73		600,000	2-5-86				
OTHER INDEPENDENT AGENCIES								
Appalachian Regional Commission								
Appalachian regional development programs	R86-74		81,000	2-5-86				
Corporation for Public Broadcasting								
Public broadcasting fund	R86-75		44,000	2-5-86				
National Endowment for the Humanities								
Grants and administration	R86-76		1,903	2-5-86				
State Justice Institute								
Salaries and expenses	R86-78		7,656	2-5-86				
United States Railway Association								
Administrative expenses	R86-79		640	2-5-86				
Total, rescissions		0	10,012,392					

Notes. - The amount of the rescission proposal for Subsidized housing programs (R86-52) for the "Rental rehabilitation grants program" was inadvertently shown in the Third Special Message as $71,755,000 instead of $71,775,000. This report reflects the correct amount.

The following rescission proposal has been adjusted downward to reflect the impact of sequestration:

R86-54..... $3,312,500

Attachment B - Status of Deferrals - Fiscal Year 1986

As of April 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 4-1-86
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs..	D86-1	10,000		10-1-85					10,000
International Security Assistance									
Foreign military sales credit.....	D86-32	4,590,000		2-5-86	2,453,162				2,136,838
Economic support fund.....	D86-24	1,222,216		11-25-85					
	D86-24A		1,936,060	2-5-86	571,599			40,116	2,626,793
Military assistance program.....	D86-33	661,350		2-5-86	618,146				43,204
International military education and training.....	D86-34	27,245		2-5-86	27,245				0
Agency for International Development									
International disaster assistance.....	D86-59	64,607		3-12-86	38,023				26,585
Multilateral Development Banks									
Contribution to the special facility for sub-saharan Africa.....	D86-35	75,000		2-5-86	75,000				0
DEPARTMENT OF AGRICULTURE									
Farmers Home Administration									
Rural housing insurance fund.....	D86-60	700,000		3-12-86					700,000
Forest Service									
Expenses, brush disposal.....	D86-2	77,913		10-1-85					
	D86-2A		30,893	3-12-86					108,806
Timber salvage sales.....	D86-3	22,854		10-1-85	151				22,702
Cooperative work.....	D86-61	442,336		3-12-86					442,336
DEPARTMENT OF COMMERCE									
Economic Development Administration									
Economic development assistance programs.....	D86-36	40,000		2-5-86					40,000
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D86-26	32,333		11-25-85	32,333				0
Fisheries loan fund.....	D86-25	1,959		11-25-85					
	D86-25A		338	2-5-86					2,297
Patent and Trademark Office									
Salaries and expenses.....	D86-65	1,977		3-20-86					1,977
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense.....	D86-4	353,079		10-1-85					
	D86-4A		1,488,579	2-5-86	1,843,845			2,187	(0)
Family Housing									
Family housing, Defense.....	D86-27	11,800		11-25-85					
	D86-27A		210,042	2-5-86	47,750				174,092
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation.....	D86-5	1,168		10-1-85					
	D86-5A		88	2-5-86	124			106	1,238
DEPARTMENT OF ENERGY									
Energy Programs									
Energy supply, research and development activities.....	D86-38	65,763		2-5-86	38,489				27,274
Uranium supply and enrichment activities...	D86-58	584,158		2-5-86					584,158
Fossil energy research and development.....	D86-6	9,247		10-1-85					
	D86-6A		55,565	2-5-86	26,593			6,640	44,859
Fossil energy construction.....	D86-7	7,038		10-1-85	4,964				2,074
Naval petroleum and oil shale reserves.....	D86-8	155,668		10-1-85					
	D86-8A		10,798	2-5-86	130,005				36,461
Energy conservation.....	D86-9	9,880		10-1-85					
	D86-9A		26,902	3-12-86	18,320			3,080	21,542
Strategic petroleum reserve.....	D86-37	197,941		2-5-86					197,941

Attachment B - Status of Deferrals - Fiscal Year 1986

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SPR petroleum account	D86-10	536,958		10-1-85					
	D86-10A		40,576	2-5-86					577,534
Alternative fuels production	D86-11	1,149		10-1-85					
	D86-11A		750	2-5-86	1,899				0
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D86-62	400		3-12-86					400
Southeastern Power Administration, Operation and maintenance	D86-12	25,344		10-1-85	23,936			681	2,089
Southwestern Power Administration, Operation and maintenance	D86-13	5,000		10-1-85					
	D86-13A		8,243	2-5-86					13,243
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D86-14	27,095		10-1-85					
	D86-14A		16,371	3-12-86					43,466
Departmental Administration									
Departmental administration	D86-15	8,501		10-1-85	8,501				0
	D86-63	393		3-12-86					393
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program)	D86-16	3,000		10-1-85					3,000
Health Care Financing Administration									
Program management	D86-57	8,489		2-5-86					8,489
Social Security Administration									
Limitation on administrative expenses (construction)	D86-28	6,489		11-25-85					
	D86-28A		157	2-5-86					6,647
Limitation on administrative expenses (excludes disability determination services)	D86-39	30,000		2-5-86	30,000				0
Limitation on administrative expenses (information technology systems)	D86-40	114,641		2-5-86					114,641
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Annual contributions for assisted housing - Budget authority	D86-41	7,032,443		2-5-86	4,731,637				2,300,805
Contract authority	D86-42	641		2-5-86	641				0
Rental housing development grants	D86-43	77,400		2-5-86	77,400				0
Congregate services program	D86-44	2,670		2-5-86	2,670				0
Housing for the elderly or handicapped fund	D86-45	599,801		2-5-86	69,581				530,220
Nonprofit sponsor assistance	D86-46	1,000		2-5-86	543				457
Community Planning and Development									
Rental rehabilitation grants program	D86-47	77,000		2-5-86	77,000				0
Community development grants	D86-48	500,000		2-5-86					500,000
Urban development action grants	D86-49	251,000		2-5-86	251,000				0
Rehabilitation loan fund	D86-50	135,535		2-5-86	4,402				131,133
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of Mineral Leasing Act of 1920, Section 40(d)	D86-66	49		3-20-86					49
National Park Service									
Land acquisition and State assistance	D86-64	1,893		3-12-86					1,893
DEPARTMENT OF JUSTICE									
Bureau of Prisons									
Buildings and facilities	D86-17	20,000		10-1-85					
	D86-17A		10,730	2-5-86					30,730
Office of Justice Programs									
Crime victims fund	D86-18	100,000		10-1-85					
	D86-18A		3,396	2-5-86	4,300				99,096

Attachment B - Status of Deferrals - Fiscal Year 1986

As of April 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 4-1-86
DEPARTMENT OF LABOR									
Employment and Training Administration									
State unemployment insurance and employment service operation	D86-51	37,000		2-5-86	33,089				3,911
DEPARTMENT OF STATE									
Bureau of Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D86-19	18,082		10-1-85					18,082
Other									
Assistance for implementation of a Contadora agreement	D86-20	2,000		10-1-85					2,000
DEPARTMENT OF TRANSPORTATION									
Federal Railroad Administration									
Conrail labor protection	D86-52	4,565		2-5-86					4,565
Urban Mass Transportation Administration									
Discretionary grants	D86-21	223,600		10-1-85		223,600	P.L. 99-190		0
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D86-29	686,438		11-25-85					
	D86-29A		681,723	2-5-86	28,011				1,340,151
Maritime Administration									
Operations and training	D86-53	9,350		2-5-86					
	D86-53A		888	3-20-86					10,238
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D86-30	7,743		11-25-85					
	D86-30A		97,483	2-5-86					
	D86-30B		19,774	3-12-86	106,547			712	19,165
Local government fiscal assistance trust fund	D86-31	54,349		11-25-85					
	D86-31A		25,651	3-12-86	5,049			63	75,014
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine									
Salaries and expenses	D86-54	233		2-5-86					233
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	D86-22	10,947		10-1-85					10,947
Railroad Retirement Board									
Milwaukee railroad restructuring, administration	D86-23	243		10-1-85	43				200
Dual benefits payments account	D86-55	2,201		2-5-86	2,009				192
United States Information Agency									
Acquisition and construction of radio facilities	D86-56	66,545		2-5-86	4,880				61,666
TOTAL, DEFERRALS		20,055,719	4,665,008		11,388,886	223,600		53,585	13,161,825

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D86-30B) of outlays only.

Some of the amounts shown above as "Cumulative OMB/Agency Releases" were sequestered pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

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LIST OF PUBLIC LAWS

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Last List April 1, 1986.

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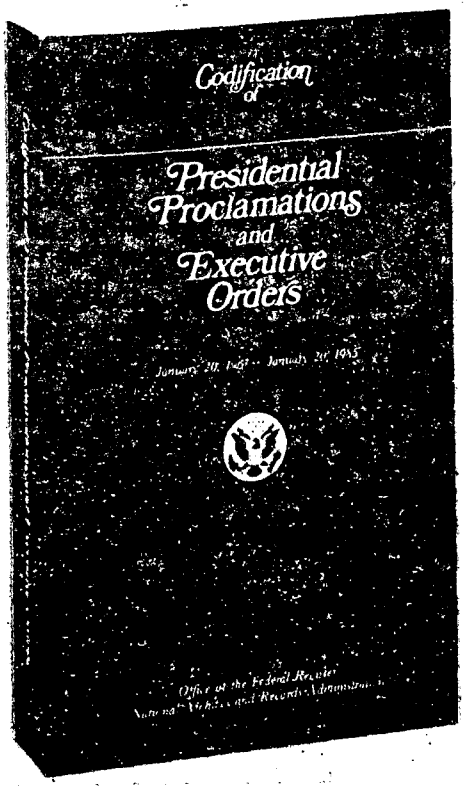

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