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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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AD17

Informal Hearing Procedures for Nuclear Reactor Operator Licensing Adjudications

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to provide rules of procedure for the conduct of informal adjudicatory hearings in nuclear reactor operator licensing proceedings. The Atomic Energy Act of 1954 requires that the NRC, in any proceeding for the granting, suspending, revoking or amending of any license afford an interested person, upon request, a "hearing." This final rule would include reactor operator licensing proceedings under the informal hearing procedures already established for materials licensing proceedings.

EFFECTIVE DATE: October 9, 1990.

FOR FURTHER INFORMATION CONTACT: Roger Davis, Senior Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-1600.

SUPPLEMENTARY INFORMATION:

I. Background

On April 26, 1989 (54 FR 17961), the NRC published in the Federal Register proposed amendments to its Rules of Practice at 10 CFR part 2. The amendments make the informal adjudicatory procedures set forth in 10 CFR part 2, subpart L, applicable in proceedings for the granting, renewal or licensee-initiated amendment of a reactor operator or senior reactor operator license. However, the amendments provide for the use of the formal adjudicatory procedures set forth in 10 CFR part 2, subpart G, in any reactor operator licensing proceeding that is initiated by a notice of hearing under § 2.104, a notice of proposed action under § 2.105, or a request for hearing under subpart B of 10 CFR part 2 on an order to show cause, an order for modification of license or a civil penalty. On July 10, 1989 (54 FR 28822), the NRC extended the date for submission of comments on the proposed amendments to August 10, 1989.

Section 189a of the Atomic Energy Act of 1954 (AEA) (42 U.S.C. 2239(a)) provides that in any proceeding for the granting, suspending, revoking, or amending of any license, the NRC shall grant a hearing upon the request of any person whose interest may be affected by the proceeding. Among the licenses issued by the NRC are those for operators and senior operators of nuclear reactors (AEA section 107, 42 U.S.C. 2137; 10 CFR part 55).

The Commission's rules of practice generally provide for two types of hearing procedures for licensing proceedings—formal and informal. Under 10 CFR part 2, subpart G, those requesting a hearing with respect to a reactor licensing action or any agency enforcement activity affecting a license are generally provided a formal, trial-type hearing conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 554–557 and 10 CFR part 2, subpart G. On the other hand, a request for a hearing regarding an NRC materials licensing action generally entitles an interested person to an informal, legislative-type hearing in accordance with 10 CFR part 2, subpart L.

NRC regulations currently do not specify the type of hearing to be afforded in the event that an interested person, including an applicant for a reactor operator license or a licensee, requests a hearing with regard to agency action concerning a reactor operator license. Previously, the Commission has declared in individual orders responding to operator hearing requests that an applicant for an operator license whose application is denied is entitled only to an informal hearing in accordance with procedures like those now embodied in subpart L. *E.g.*, David W. Held (Senior Operator License for Beaver Valley Nuclear Power Station, Unit 1), Docket No. 55–60402 (Comm. Aug. 7, 1987). In the wake of NRC's adoption of subpart I. (February 28, 1989; 54 FR 8269), the Commission decided that the Commission's regulations should reflect the practice followed in the individual orders.

II. Public Comments and Commission Responses

The Commission received seven comments representing a broad spectrum of interested persons. Commenters included three utilities, a law firm representing five utilities, the Nuclear Management and Resources Council (NUMARC), a licensed senior reactor operator and a law firm representing the Professional Reactor Operator Society (PROS). All comments are available for inspection and copying in the agency's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

One utility and a law firm representing five utilities expressed general support for specification of the informal adjudicatory procedures that will apply in reactor operator license proceedings, but deemed it necessary or desirable that the amendments explicitly grant applicants and licensees access to formal adjudication upon a showing of good cause or special circumstances. NUMARC affirmed the rationale for the proposed amendments, but nonetheless deemed desirable the application of subpart G to hearings concerning the denial of an initial or renewal application. These commenters also suggested certain changes in provisions of the existing, informal adjudicatory rules under subpart L insofar as they would apply to reactor operator licensing proceedings. One utility found the NRC's Statement of Consideration inadequate and urged renotice either justifying the amendments more clearly or proposing adoption of formal procedures for all operator license proceedings. Two other commenters, a senior reactor operator and the law firm representing PROS, opposed the amendments as contrary to the due process rights of licensed reactor operators. One utility wholly endorsed the proposed amendments.

After considering all comments, the Commission, with one exception, is issuing the amendments as proposed. In response to the comments, the Commission has explicitly extended to

the initial or renewal applicant who is issued a notice of proposed denial or a notice of denial permission to include in his or her request for hearing a request that the presiding officer recommend authorization of other procedures for the proceeding. This request must include a statement of the special factual circumstances or issues supporting other hearing procedures.

At the outset, it is useful to note some of the highlights of the Commission's informal adjudicatory procedures. Within thirty days after a presiding officer's entry of an order granting a request for a hearing, NRC files in the docket a hearing file consisting of the application and any relevant NRC report and correspondence between the applicant and the NRC (10 CFR 2.1231). Thereafter, the parties are afforded an opportunity to submit written presentations of their arguments and supporting written evidence (10 CFR 2.1233(a)). These presentations are to be made under oath or affirmation. *Id.* In addition, the presiding officer is empowered to submit written questions to the parties to be answered in writing, *id.*, and to issue subpoenas for attendance and testimony at hearings and for production of documents or things (10 CFR 2.1209(h)). Upon determining that it is necessary to create an adequate record for decision, the presiding officer may also allow or require oral presentations, including testimony by witnesses, under oath and stenographically recorded (10 CFR 2.1235 (a)–(b)). The presiding officer conducts examination of the witnesses and may allow the parties to propose questions for posing to the witnesses. *Id.* Finally, the presiding officer may recommend to the Commission that procedures other than the specified informal procedures be used in the proceeding (10 CFR 2.1209(k)).

A. General Comments

1. Formal Hearings Are Required for Licensees If Requested

Two commenters opposed the proposed amendments on the ground that licensed operators are entitled to trial-type hearings under the Constitutiton. The licensed senior reactor operator viewed the proposed amendments as both permitting the revocation of a license for any reason or whim and eliminating the right to a formal hearing. The commenter apparently overlooked the specific standards in 10 CFR part 55 under which licenses are issued, renewed, modified, suspended, or revoked. The commenter also does not seem to appreciate that: 1. The proposed amendments provide for formal adjudication in proceedings that would involve revocation, suspension, or modification of a license; and 2. subpart L already authorizes a presiding officer's recommendation that the Commission approve other procedures in a particular proceeding otherwise conducted under subpart L procedures.

The law firm representing PROS argued that the informal procedures are insufficient for actions that could deprive an operator of his or her property interest in the continued validity of the license or his or her liberty interest in pursuit of a career as reactor operator. PROS would support the amendments only if they were modified to make informal procedures available as an option to an operator in lieu of formal proceedings. Another commenter, NUMARC, believed that the codification and use of informal hearing procedures for the granting, renewal or licensee-initiated amendment of a reactor operator license would provide fair, efficient, and effective adjudication. Nonetheless, NUMARC suggested that it would be desirable for the NRC to apply subpart G to proceedings concerning the denial of an initial or renewal application because of the significance of this denial for the operator. The Commission believes that these commenters similarly fail to give sufficient consideration or weight to the specification of circumstances in which formal procedures will apply and to the authorization of the presiding officer to recommend other than informal procedures in appropriate cases. Moreover, these commenters do not scrutinize closely the type of affected individual interests or the general types of inquiries in the adverse actions at issue.

A party's entitlement to a hearing is determined by the balancing of three factors: 1. The private interest affected by official action; 2. the probable value of additional or different procedures; and 3. the Government's interest, including the function involved and the fiscal and administrative burdens of additional or different procedural requirements. *Mathews.* v. *Eldridge,* 424 U.S. 319, 335 (1976). After reviewing and weighing these factors, the Commission remains convinced that the informal adjudicatory procedures set forth in subpart L are appropriate for the reactor operator licensing proceedings to be covered by this rule. This conclusion follows from a number of observations and findings, but in particular the following: 1. The nature of the interests at stake; 2. the Commission's provision of a meaningful hearing at a meaningful time; 3. the appropriateness of informal procedures for resolution of the typical inquiries in the proceedings to be held under subpart L; and 4. the opportunity to obtain other procedures when they are necessary for a fair resolution of critical factual issues.

The Commission recognizes that substantial personal interests may be affected by the decision to grant or deny an application for a reactor operator license. However, the nature of the affected interest is limited by virtue of the fact that reactor operator license applicants are subject to broad Commission powers to grant or deny, and operator licenses permit performance of the licensed functions only in a specific facility (10 CFR 55.53(b)–(c)), where the licensee of the facility has certified to the need for the position and requested examination of the applicant for a license (10 CFR 55.31(a)(3)–(4)). The interest at issue is also somewhat limited by the fact that reactor operator licenses expire six years after issuance with no guaranteed right to renewal (10 CFR 55.55). Moreover, the applicant for initial issuance of an operator or senior operator license does not face a deprivation of a vested or existing position or status. An individual seeking renewal of an existing license may feel that he or she has been deprived of a vested or existing position or status, but there is no guaranteed right of renewal. Therefore, it is not certain that protected interests are always or generally at stake in proceedings concerning the issuance or renewal of a part 55 license. However, the Commission will nonetheless assume for purposes of further discussion that they are.

The key question remains as to whether the Commission is providing less procedure than due process requires under the circumstances. The Commission is providing a hearing. And, it is clear that due process does not require full trial-type procedures in every case. "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningfull manner.' " *Mathews* v. *Eldridge,* 424 U.S. at 333 (quoting *Armstrong* v. *Manzo,* 380 U.S. 545, 552 (1965)). The Supreme Court has repeatedly emphasized that " '[d]ue process,' unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances." *Id.* at 334 (quoting *Cafeteria Workers* v. *McElroy,* 367 U.S. 886, 895 (1961)). Thus, " '[d]ue process is flexible and calls for such procedural protections as the particular situation demands.' " *Id.* (quoting *Morrissey* v. *Brewer,* 408 U.S. 471, 482 (1972)).

The nature of the relevant inquiry is central to the evaluation of the fairness and reliability of the existing procedures and the probable value, if any, of additional safeguards (*Id.* at 343). Arguing that the Commission should bolster initial and renewal applicants' access to formal adjudication, one commenter emphasized that the requirements for a part 55 license necessitate subjective evaluations on such issues as health, and administration of the written examination and operating test. See Section II–B–2–a of this notice. The Commission does believe that the typical issues in reactor operator proceedings for the granting or renewal of licenses are likely to concern performance on a written examination or an operating test. As set forth in part 55, however, these examinations test knowledge, skills and abilities pertaining to specific technical and scientific matters (10 CFR 55.41(b), 55.43(b), 55.45, 55.57 and 55.59(a)). In addition, the Commission has issued standards for examination and grading of the tests. *See* NUREG–1021.[1] While some parts of these examinations may be less amenable to "objective" evaluation than other parts, e.g., short answer as opposed to multiple choice questions, the subject matter still falls within the Commission's special expertise and judgment. Even when substantial factual issues arise regarding performance on a question or problem concerning technical or scientific knowledge or judgment, oral trial-type presentation may not be required. See *Kerr McGee Corp.* (West Chicago Rate Earths Facility), CLI–82–2, 15 NRC 232, 259–60 (1982), *aff'd sub nom. City of West Chicago* v. *NRC*, 701 F.2d 632 (7th Cir. 1983), and cases cited therein. Indeed, in these types of cases, the right to cross-examination may serve little or no purpose, and result only in futility or delay. *See Buttrey* v. *United States*, 690 F.2d 1170, 1182 (5th Cir. 1982). The possibility or existence of professional disagreement over an applicant's health, for example, does not suffice to create a specter of questionable credibility or veracity. See *Mathews* v. *Eldridge*, 424 U.S. at 344. Moreover, an applicant who is denied a license because of failure to pass the written examination or operating test, or both, may reapply two months after the date of denial, and make successive applications at other intervals thereafter (10 CFR 55.35). These opportunities for reapplication in and of themselves may satisfy the purposes of a hearing if one is otherwise required. *See Tyler* v. *Vickery*, 517 F.2d 1089 (5th Circ. 1975). For the renewal applicant, the risk of error and the need for other procedures is also reduced by the fact that the Commission will permit the licensed operator to take the NRC requalification examination three times before denying the renewal application on the basis of the licensee's failure of the NRC requalification examination.[2]

Recommendation and approval of other procedures such as cross-examination may occur, for example, where resolution of substantial factual issues involving witness credibility, bias or veracity is essential to the determination of a license renewal. However, the Commission expects that the broad powers of a presiding officer in subpart L proceedings will permit fair, correct and efficient decision-making in typical reactor operator licensing proceedings. In any event, the Commission need not provide formal adjudication for all hearings requested by initial or renewal applicants simply because some hypothetical cases not before the Commission arguably may require the use of formal procedures. *See FDIC* v. *Mallen*, 486 U.S. 230, 247–48 (1988).

The Commission's conclusion that subpart L procedures are sufficient for proceedings concerning the granting and renewal of reactor operator licenses is not altered by the emphasis of one commenter, the law firm representing five utilities, on the rarity of hearings concerning part 55 licenses and the relatively smaller volume of part 55 licenses as compared to material licenses. Despite the history of a small number of reactor operator licensing hearings, reduced cost and delay while maintaining fair procedures should remain important objectives for both the Commission and the parties. In addition, the cost of one or more formal hearings in reactor operator licensing cases could in fact provide substantial. In each formal proceeding, a three-member licensing board or an administrative law judge must be appointed, and with that would also generally follow the costs of formal discovery, prefiled testimony and a trial-type hearing with oral testimony of the witnesses and cross-examination. For instance, real costs associated with formal, trial-type adjudications arise from needs for court reporters, transcripts, rent for hearing facilities,[3] and travel expenses for necessary agency personnel. Moreover, the commenter conceded that it is difficult to generalize from the figures, considering the fact that the Commission did issue 798 part 55 licenses and processed 1,750 renewals during 1987.

2. Differences Between Challenges to Proposed Enforcement Action and Challenges to the Denial of the Granting or Renewal of a License

One commenting utility requested further justification of the Commission's decision to grant formal hearings in proceedings resulting from proposed enforcement action, but informal hearings in proceedings concerning the denial of the issuance or renewal of a license. It has been a long-standing Commission policy to provide the opportunity for formal adjudication regarding the Commission's enforcement actions affecting licenses. This should not come as a surprise in light of the severity and potential stigma of Commission-initiated action for revocation or suspension of a license, or a civil penalty, as well as the propriety of formal procedures for adjudication of such underlying issues as a material false statement and willful violation of a rule or regulation (see 10 CFR 55.61). As noted above, the Commission does not contemplate that the typical grounds of denial of an initial or renewal application will generally involve these types of issues.

B. Comments Relating to Specific Provisions of Subpart L

1. Proposed § 2.1201—Scope of Subpart

The law firm representing PROS declared that it was not possible to discern the circumstances to which the proposed rule would and would not apply. In particular, this commenter felt that proposed § 2.1201(b) was extremely vague. Other commenters did not appear to have this difficulty. The Commission sees no need for any change in the proposed amendments, but will explain briefly the application of the amendments. Section 2.1201(a) clearly provides that the rules of subpart L will govern procedures in an adjudication initiated by a request for a hearing in a proceeding for the granting, renewal, or license-initiated amendment of an

[1] Copies of NUREGS may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20012–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and/or copying at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

[2] NUREG 1021, Rev. 6, ES–605 (June 1, 1990).

[3] Pursuant to NRC policy, the trial-level proceedings conducted in formal subpart G adjudications are usually held near the applicant or licensee involved, and this often requires renting a hotel conference room or similar facility.

operator or senior operator license. On the other hand, the proposed amendment of § 2.1201(b) provides that the formal procedures of subpart G will govern an adjudication regarding an operator or senior operator license that arises from a request for hearing under subpart B of 10 CFR part 2 on an order to show cause, an order for modification of license, or a civil penalty. An order to show cause under subpart B is the mechanism by which the Commission would generally act to revoke or suspend a license. Thus, the Commission contemplates that the formal procedures of subpart G will govern proceedings to revoke or suspend an operator or senior operator license subject to part 55. The proposed amendment of § 2.1201(b) also would make the formal procedures set forth in subpart G applicable to an adjudication initiated by a notice of hearing issued under § 2.104, or a notice of proposed action under § 2.105. The Commission's construction of §§ 2.104 and 2.105 is set forth in *West Chicago,* 15 NRC at 244–46. Application of these provisions to reactor operator licensing under part 55 would arise if the Commission determined that the public interest required a formal hearing on a particular application for, or amendment to, a reactor operator or senior operator license. Of course, this rulemaking record indicates that the Commission does not expect that it will be making the requisite determinations under §§ 2.104 and 2.105 with regard to reactor operator licensing proceedings.

2. Existing § 2.1205—Request for a Hearing; Petition for Leave To Intervene

a. *Requests for formal adjudication.* One utility and the law firm representing five utilities urged that the Commission add a provision that explicitly permits an operator to request formal adjudication upon a showing of good cause or special circumstances. The latter commenter recommended specifically an amendment of existing § 2.1205(b) so as to provide explicitly to the part 55 license applicant "who is issued a notice of proposed denial or a notice of denial" the opportunity to include in his or her request for hearing a specific request for formal adjudication. The amendment would require that the applicant include with the request an explanation of the circumstances requiring such formal procedures as discovery and cross-examination of witnesses. This commenter conceded that the procedures in subpart L are generally appropriate for hearings on part 55 licenses, but analyzed the balancing factors for determining administrative due process as warranting trial-type proceedings in many cases, particularly for renewal applicants. The Commission has responded to many of this commenter's views on due process in section II–A–1, above. While the Commission differs with some of the commenter's views on the circumstances which are likely to warrant use of other procedures, explicit authorization of an early vehicle for the applicant's identification of case-specific needs for other procedures is desirable. Thus, the final rule amends § 2.1205(b) so as to authorize the applicant to request, within the request for a hearing, "that the presiding officer recommend to the Commission that procedures other than those authorized under this subpart be used in the proceeding, provided that the applicant identifies the special factual circumstances or issues which support the use of other procedures."

Under § 2.1209, the presiding officer already "has the duty to conduct a fair and impartial hearing according to law" and "has all power necessary to those ends, including the power to * * * (d)ispose of procedural requests or similar matters." Nothing in subpart L expressly prohibits the applicant who is subject to subpart L procedures from asking the request for hearing, or separately, that the presiding officer exercise the power to "(r)ecommend to the Commission that procedures other than those authorized under (subpart L) be used in (the) proceeding" (See 10 CFR 2.1209(k)). Nonetheless, explicit recognition of an opportunity under subpart L for applicants to request other procedures within their request for hearing clarifies the procedural scheme and thereby enhances the applicant's access to other procedures where appropriate. The Commission is not altering, however, the necessity of the Commission's authorization of the use of other procedures. Thus, the new provision only authorizes the applicant to request that the presiding officer make the necessary recommendation to the Commission.

b. *Standing for intervention.* One utility urged the specification of a strict test for standing for intervention in operator license proceedings. Specifically, the commenter suggested that persons other than the operator licensee or applicant be required to demonstrate that it will present evidence that would materially alter the outcome of the NRC hearing decision. NUMARC also recommended a clarification that the threshold of standing for intervention in reactor operator licensing adjudications, under either subpart L or subpart G, will be very high. The Commission shares the concern that intervention not be indiscriminate, such as for the purpose of creating unnecessary delay. However, the Commission believes that the existing procedures and judicial standards for standing will provide fair and sufficient scrutiny of petitions for intervention (See 10 CFR 2.1205). Under subpart L, for example, the petitioner for intervention must show how its interests will be affected by the proceeding and identify the concerns of the petitioner (10 CFR 2.1205 (d), (j)). The presiding officer must determine that the specified areas of concern are germane to the subject matter of the proceeding, and that the petition is timely and meets the judicial standards for standing (10 CFR 2.1205 (g), (j)(3)). Indiscriminate intervention is, in fact, likely to be difficult under the present standards inasmuch as the proceedings will generally focus on issues peculiar to the applicant's or operator's qualifications for the position.

In promulgating subpart L, the Commission indicated that the "distance standard" established by NRC case law for standing in nuclear reactor licensing proceedings, whereby persons residing within about fifty miles of a facility generally are considered to have standing, was not applicable to material licensing proceedings (February 28, 1989; 54 FR at 8272). The Commission will take this opportunity to clarify that the "distance standard" is not automatically applicable to reactor operator license proceedings. The standing of a petitioner in each case should be determined upon the basis of the circumstances of that case as they relate to the factors set forth in § 2.1205(g).

c. *Appeal of the denial of a request for hearing.* Section 2.1205(n) of subpart L currently permits appeal of an order denying a request for a hearing (or petition for intervention) in its entirety within ten days of the service of the order. The law firm representing five utilities requested that the Commission amend existing § 2.1205(n) so as to permit an immediate appeal of a presiding officer's denial of a request for a formal hearing. As discussed below, this commenter also recommended that the Commission give the presiding officer the power to grant a request for a formal hearing. The Commission declines to adopt this recommendation for the following reasons. The existing procedure for an immediate appeal is premised upon the denial of any hearing as a final bar to adjudication. This is a far different circumstance for appeal than a mere denial of a request to use

formal procedures for a hearing that is in fact granted. Indeed, completion of the informal adjudication may resolve the requestor's concerns. Additionally, the Commission sees no reason to carve out for reactor operator hearing questions a special exception to its existing procedures on interlocutory appeal and review.

3. Existing § 2.1209—Presiding Officer's Powers

The law firm representing five utilities recommended that the Commission amend existing § 2.1209(k) so as to authorize the presiding officer in a part 55 hearing to grant a request to use other adjudicatory procedures. Currently, the presiding officer's power under § 2.1209(k) is limited to a recommendation that the Commission authorize the use of other procedures for a particular proceeding. The recommended change might slightly expedite decisionmaking on a request for more formal adjudication. However, the Commission believes that the small potential benefits of the change are outweighed by the benefits of its retention of the ultimate determination. For instance, a decision by the Commission serves the interests of uniformity of decisionmaking, full consideration of the potential commitment of costs and resources, and administrative finally.

This commenter also recommended amendment of § 2.1209 so as to authorize the presiding officer to entertain a specific request for a formal adjudication or for certain formal procedures in the course of the hearing if the need for these types of procedures becomes apparent. A presiding officer, however, already has authority to entertain these types of requests during the course of an informal hearing. Nothing in subpart L prohibits any party from presenting this type of motion to the presiding officer during an informal proceeding (See 10 CFR 2.1237). Moreover, the Commission need not and probably could not specify all or even most types of procedural motions and supporting circumstances that could be presented during the course of an informal hearing.

4. Existing § 2.1211—Nonparty Participation

NUMARC expressed concern about the application of § 2.1211 of subpart L, which provides for participation in a hearing by a person not admitted as a party, including a representative of an interested State, county, municipality or agency thereof. Section 2.715 of subpart G contains similar provisions. The commenter recommends that the Commission clarify that nonparties should not be able to use individual operator license proceedings to address an issue other than an issue that is the subject of the hearing. The Commission notes that § 2.1211 already states that "(t)he presiding officer *may* permit a person who is not a party to make a limited appearance in order to state his or her views *on the issues*" (10 CFR 2.1211(a) (emphasis added)). The rule also requires that the request for governmental participation "state with reasonable specificity the requestor's areas of concern about the licensing activity *that is the subject matter of the proceeding*" (10 CFR 2.1211(b) (emphasis added)). Although the nonparty participant may not be required to take a position on the issues, the views to be expressed must relate to the issues that are properly subject to challenge in this type of proceeding. As with the consideration of a petition for intervention, the presiding officer may determine that the views to be expressed are not germane to the proceeding and therefore may deny the request for nonparty participation. For these reasons, the Commission sees no need for other clarification of the limits on nonparty participation.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Regulatory Analysis

The Atomic Energy Act affords interested persons the right to a hearing regarding a reactor operator licensing proceeding. As the Commission previously indicated in its decision in *West Chicago*, 15 NRC at 241, the use of informal procedures generally involves less cost and delay for the parties and the Commission than the use of formal, trial-type procedures, the principal other procedural alternative. Also, procedures must be in place to allow for the orderly conduct of those adjudications. Codifying the informal hearing procedures for operator licensing proceedings is preferable to the present practice of establishing the procedures to be followed on a case-by-case basis. By codifying the procedures, the Commission will avoid the expenditure of time and resources necessary to prepare the individual orders that previously have been used to designate those procedures. This final rule is the preferred alternative and the cost entailed in its promulgation and application is necessary and appropriate. The foregoing discussion constitutes the regulatory analysis for this final rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the NRC hereby certifies that this final rule does not have a significant economic impact upon a substantial number of small entities. Many operator license applicants or operator licensees fall within the definition of small businesses found in section 34 of the Small Business Act, 15 U.S.C. 632, or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121, or the NRC's size standards published December 9, 1985 (50 FR 50241). The final rule should reduce the litigation cost burden upon applicants or licensees because of the informal nature of the hearing, although submission of filings and documentary information detailing contested legal and factual issues is still required. Cost reduction in comparison to the cost of participating in a formal adjudicatory hearing can be anticipated, although it cannot be estimated with certainty whether that reduction as a whole will be significant. It is clear that use of informal hearing procedures should not increase the burdens of a hearing upon an applicant or licensee.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974,

as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 2:

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended 42 U.S.C. 10134(f); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b, et seq.).

2. The heading of subpart L of part 2 is revised to read as follows:

Subpart L—Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings

* * * * *

3. Section 2.1201 is revised to read as follows:

§ 2.1201 Scope of subpart.

(a) The general rules of this subpart govern procedure in any adjudication initiated by a request for a hearing in a proceeding for—

(1) The grant, transfer, renewal, or licensee-initiated amendment of a materials license subject to parts 30, 32 through 35, 39, 40, or 70 of this chapter; or

(2) The grant, renewal, or licensee-initiated amendment of an operator or senior operator license subject to part 55 of this chapter.

(b) Any adjudication regarding a materials license subject to parts 30, 32 through 35, 39, 40, or 70, or an operator or senior operator license subject to part 55 that is initiated by a notice of hearing issued under § 2.104, a notice of proposed action under § 2.105, or a request for hearing under subpart B of 10 CFR part 2 on an order to show cause, an order for modification of license, or a civil penalty, is to be conducted in accordance with the procedures set forth in subpart G to 10 CFR part 2.

4. In § 2.1205, paragraph (b) is revised to read as follows:

§ 2.1205 Request for a hearing; petition for leave to intervene.

* * * * *

(b) An applicant for a license, a license amendment, a license transfer, or a license renewal who is issued a notice of proposed denial or a notice of denial and who desires a hearing shall file the request for the hearing within the time specified in § 2.103 in all cases. An applicant may include in the request for hearing a request that the presiding officer recommend to the Commission that procedures other than those authorized under this subpart be used in the proceeding, provided that the applicant identifies the special factual circumstances or issues which support the use of other procedures.

* * * * *

Dated at Rockville, MD, this 31st day of August 1990.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 90–21081 Filed 9–6–90; 8:45 am]

BILLING CODE 7590–01–M

INTER-AMERICAN FOUNDATION

22 CFR Part 1001

Employee Responsibilities and Conduct

AGENCY: Inter-American Foundation.

ACTION: Final rule.

SUMMARY: This final rule amends and clarifies the Inter-American Foundation's Employee Responsibilities and Conduct. The Inter-American Foundation is taking this action so that employees of the Foundation will have a clear understanding of their responsibilities with respect to federal ethics laws and regulations. The Inter-American Foundation has determined that publication of these regulations in the Code of Federal Regulations is necessary for the effective discharge of its functions and activities. The intended result of this action is to avoid employee conflicts of interest and to assure impartiality on the part of employees.

EFFECTIVE DATE: October 9, 1990.

FOR FURTHER INFORMATION CONTACT: Adolfo A. Franco, 703–841–3894.

SUPPLEMENTARY INFORMATION: The Inter-American Foundation is revising its current Employee Responsibilities and Conduct regulations to conform with the requirements of E.O. 11222 (3 CFR 1964–1965 Comp., 5 CFR 735.104); Title 18, U.S.C. 203, 205, 207, 208, 209, and title II of the Ethics in Government Act of 1978, as amended (Pub. L. 96–19 and 96–28). The intended result of this action is to avoid employee conflicts of interest and to assure impartiality on the part of employees by doing the following:

1. Clarifying existing regulations regarding the standards of conduct required of Government employees and special Government employees associated with Foundation contractors or potential contractors.

2. Establishing regulations to guide employees in determining whether it is permissible for them to participate in conferences or accept speaking engagements.

3. Establishing regulations which specifically prohibit certain economic and financial activities of employees abroad.

4. Establishing regulations prohibiting discrimination by any employee of the Foundation against any other employee or applicant due to race, political affiliation, or religious belief.

5. Establishing regulations modifying and enlarging the number of employees required to submit Executive Personnel Financial Disclosure Reports.

6. Establishing regulations requiring the President or his or her designee to follow the administrative enforcement procedures set forth in 5 CFR 737.27 in the event that the Foundation receives information that there has been a possible violation of restrictions against post-employment activities contained in section 207 (a), (b), or (c) of title 18, United States Code.

The rule is patterned after similar ethics regulations adopted by other federal agencies following enactment of the Ethics in Government Act in 1978. The rule is patterned most closely after the rule implemented in 1986 by the African Development Foundation (ADF).

The ADF is an independent federal agency whose mandate and program objectives are similar to those of the Inter-American Foundation.

The penalties prescribed by the rule are those provided for in the applicable laws, regulations, and executive orders cited herein.

A proposed rule was published in the October 8, 1987, **Federal Register** (52 FR 37626), allowing interested persons until November 9, 1987, to file written comments. Because no comments were received, no changes were made to the final rule.

Regulatory Flexibility Act of 1980

Because the regulations do not contain substantive new material, it is certified that they will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

Executive Order 12291

The Inter-American Foundation has determined that this rule is not a major rule for purposes of E.O. 12291 because it is not likely to result in an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

This rule imposes no obligatory information requirements on the general public.

List of Subjects in 22 CFR Part 1001

Conflicts of interest.

For the reasons set out in the preamble, 22 CFR part 1001 is amended as set forth below.

PART 1001—[AMENDED]

1. The authority citation for part 1001 continues to read as follows:

Authority: E.O. 11222, 3 CFR 1964–1965 Comp.; 5 CFR 735.104; 22 U.S.C. 290f (e)(11).

2. Part 1001 is amended by redesignating the sections show in the following table. For the convenience of the reader the new table of contents for part 1001 is set out below:

Subpart A—General Provisions

Old Section	*New Section*
1001.735–1	1001.1
1001.735–2	1001.2

Subpart B—Standards of Conduct

Old Section	*New Section*
1001.735–10	1001.3
1001.735–11	1001.4
1001.735–12	1001.5
1001.735–13	1001.7
1001.735–14	1001.8
1001.735–15	1001.9
1001.735–16	1001.10
1001.735–17	1001.11
1001.735–18	1001.12
1001.735–19	1001.17

Subpart C—Procedures

Old Section	*New Section*
1001.735–20	1001.18
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1001.735–24	1001.23
1001.735–25	1001.24
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Subpart A—General Provisions

3. Newly designated § 1001.2 is amended by removing the paragraph designations and alphabetizing the definitions, revising the definition of "Counselor" and adding the definitions of "is associated with", "organization", and "potential contractor", as to read as follows:

§ 1001.2 Definitions.

* * * * *

Counselor means the Foundation's Counselor on Ethical Conduct and Conflicts of Interest. The Counselor for the Foundation will be the General Counsel of the Foundation. The Deputy General Counsel will serve as Deputy Counselor.

* * * * *

Is associated with as used in §§ 1001.13 and 1001.14 means:

(1) Is a director of an organization or is a member of a board or committee which exercises a recommending or supervisory function in an organization; or

(2) Serves as an employee, officer, owner, trustee, partner, consultant, or paid advisor in an organization; or

(3) Owns (or his or her spouse, minor child, or other member of his or her immediate household owns) individually or collectively, 1 percent or more of the voting shares of an organization; or

(4) Owns (or his or her spouse, minor child, or other member of his or her immediate household owns), individually or collectively, either beneficially or as a trustee, a direct financial interest in an organization through stock, stock options, bonds, or other securities, or obligations; or

(5) Has a continuing financial interest in an organization, such as participation in or entitlement under a bona fide pension plan, through an arrangement resulting from prior employment or business or professional association.

* * * * *

Organization as used herein includes profit and non-profit corporations, associations, partnerships, trusts, sole proprietorships, foundations, and foreign, State and local government units.

Potential contractor means any organization or individual that has submitted a proposal, application, or otherwise indicated in writing its intent to apply for or seek from the Foundation a specific contract or other agreement, including a grant, loan or loan guarantee.

* * * * *

Subpart B—Standards of Conduct

4. Newly designated § 1001.5(c) is revised to read as follows:

§ 1001.5 Outside employment and other activities.

* * * * *

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or regulations upon prior approval of the Counselor. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing (including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service) that depends on information obtained as a result of Government employment, except when that information has been made available to the general public or will be made available on request, or when the President gives written authorization for use of nonpublic information on the basis that the use is in the public interest.

* * * * *

5. Section 1001.6 is added to read:

§ 1001.6 Speeches and participation in conferences.

(a) *Fees and expenses.* An employee may not accept a fee for his or her own use or benefit for making a speech, delivering a lecture, or participating in a discussion if the subject is the Foundation or Foundation programs or if such services are part of the employee's official Foundation duties.

(b) When a meeting, discussion, or other gathering to which paragraph (a) of this section refers takes place at a substantial distance from the employee's home, he or she may accept such reimbursement, upon prior approval of the Counselor, for the actual cost of transportation and necessary subsistence or expenses, as is compatible with this part and for which no Government payment or reimbursement is made. If an employee receives accommodations, goods, or services in-kind from a non-Government source while on official travel, such items will be treated as a donation to the Foundation and an appropriate reduction will be made in per diem or other travel expenses payable.

(c) Upon prior approval of the Counselor, an employee may accept fees for speeches, etc., dealing with subjects other than Foundation programs when no official funds have been used in connection with his or her appearance and such activities do not interfere with the efficient performance of his or her duties, and for which leave of absence, where necessary, is obtained.

(d) No employee may participate for the Foundation in a conference or speak for the Foundation before audiences when he or she has reason to believe that any racial, ethnic, religious, or minority group has been segregated or excluded from the meeting, from any of the facilities or conferences, or from membership in the organization sponsoring the conference or meeting.

§ 100.7 [Amended]

6. Newly designated § 1001.7(d) is amended by changing the reference "§ 1001.735–12" to "§ 1001.5."

7. Newly designated § 1001.10 *Misuse of information* is revised to read as follows:

§ 1001.10 Misuse of information.

(a) For the purpose of furthering a private interest, an employee shall not, except as provided in § 1001.5, directly or indirectly, use, or allow the use of, official information obtained through or in connection with Government employment which has not been made available to the general public.

(b) This section in not intended to discourage disclosure through proper channels of information which has been or should be made available to the public by law.

8. Section 1001.13 is added to read as follows:

§ 1001.13 Association with potential contractor prior to employment.

(a) *No employee, or any person* subject to his or her supervision, may participate in the decision to award a contract to any organization with which that employee has been associated in the past two years. When an employee becomes aware that such an organization is under consideration for or has applied for a contract with the Foundation, the employee shall notify his or her immediate supervisor in writing. The supervisor shall take whatever steps are necessary to exclude the employee from all aspects of the decision-making process regarding the contract or agreement.

(b) When an employee becomes aware that an organization with which he or she has been associated in the past two years is under consideration for or has applied for a contract with the Foundation, he or she shall refrain from participating in the decision process.

9. Section 1001.14 is added to read as follows:

§ 1001.14 Association with Foundation contractor, potential contractor, grantee or potential grantee while an employee.

(a) No regular employee may be associated financially with any Foundation contractor, potential contractor, grantee, or potential grantee. Any organization that is associated with a regular employee shall be suspended from consideration as a contractor or grantee.

(b) No regular or special employee, except in his or her official capacity as a Foundation employee, shall participate in any way on behalf of any organization in the preparation or development of a contract or grant proposal involving the Foundation, or represent any other organization in a matter pending before the Foundation when such participation or representation would result in or create the appearance of the use of public office for private gain. In such cases, if a regular or special employee participates, while an employee of the Foundation, in any aspect of the development of a contract, grant, or other agreement proposal on behalf of an organization, or represents another organization in a matter pending before the Foundation, that organization shall be suspended form consideration for the contract, grant, or other agreement.

(c) No regular or special employee who, prior to his or her employment at the Foundation, participated in the development of a contract, grant, or other agreement proposal on behalf of another organization, shall participate in any aspect of the decision process regarding that contract, grant, or other agreement, or, if the contract, grant, or other agreement is awarded, in any oversight or management capacity in relation to that contract, grant, or other agreement. In the event a regular or special employee who participated in the development of the contract, grant, or other agreement proposal prior to being employed at the Foundation does participate as a Foundation employee in the decision process for such contract, grant, or other agreement, the organization shall be suspended from consideration.

10. Section 1001.15 is added to read as follows:

§ 1001.15 Economic and financial activities of employees abroad.

(a) Foundation employees are specifically prohibited from engaging in the activities listed below in any foreign country:

(1) Speculation in currency exchange;

(2) Transactions at exchange rates differing from local legally allowable rates, unless such transactions are duly authorized in advance by the Foundation;

(3) Sales to unauthorized persons, whether at cost or for profit, of currency acquired at preferential rates through diplomatic or other restricted arrangements;

(4) Transactions which entail the use, without official sanction, of the diplomatic pouch;

(5) Transfers of funds on behalf of blocked nationals, or otherwise in violation of U.S. foreign funds and assets control;

(6) Independent and unsanctioned private transactions which involve an employee as an individual in violation of applicable control regulations of foreign governments;

(7) Acting as an intermediary in the transfer of private funds for persons in one country to persons in another country, including the United States; and

(8) Permitting use of his or her official title in any private business transactions or in advertisements for business purposes.

(b) U.S. citizen-Foundation employees on official travel or assignment abroad are prohibited from engaging in the activities listed below:

(1) Transacting or having an interest in any business or engaging for profit in any profession or undertaking or other gainful employment in any country or countries in which he or she is on official travel assignment in his or her own name or through the agency of any other person;

(2) Investing in real estate or mortgages on properties located in his or her country of assignment. (The purchase of a house and land for personal occupancy is not considered a violation of this paragraph (b)(2));

(3) Investing money in bonds, shares, or stocks of commercial concerns headquartered in his or her country of assignment or conducting a substantial portion of business in such country. (Such investments, if made prior to knowledge of assignment or detail to such country or countries, may be retained during such assignment or detail); and

(4) Selling or disposing of personal property, including automobiles, at prices producing profits which result primarily from import privileges derived from his or her official status as an employee of the U.S. Government.

11. Section 1001.16 is added to read as follows:

§ 1001.16 Discrimination.

No employee may make inquiry concerning the race, political affiliation, or religious beliefs of any employee or applicant in connection with any personnel action, and may not practice, threaten, or promise any action against or in favor of any employee or applicant for employment because of race, color, religion, sex, age or national origin, and in the competitive service, on the basis of politics, marital status, or physical handicap.

Subpart C—Procedures

12. Section 1001.20 is added to read:

§ 1001.20 Executive personnel financial disclosure.

(a) The following employees of the Foundation shall submit completed Executive Personnel Financial Disclosure Reports (SF278) containing information required in accordance with 5 CFR part 2634, subpart C:

(1) Within five days after transmittal by the President to the Senate of their nomination, each member of the Board of Directors of the Foundation.

(2) Within 30 days, after assuming the position, any newly appointed employee of the Foundation whose position is classified at GS–16 or above of the General Schedule, or whose basic rate of pay (excluding "step" increases) under other pay schedules is equal to or greater than the rate for GS–16 (Step 1).

(3) Within 30 days after designation, the designated Foundation Counselor on Ethical Conduct and Conflicts of Interests and the Deputy Counselor.

(b) Employees, who perform the duties of a position or office described in this section in excess of sixty days in any calendar year, must submit annual statements as of May 15 of each year containing the information described in 5 CFR part 2634, subpart C.

(c) Executive Personnel Financial Disclosure Statements filed pursuant to this section shall be made available to the public in accordance with the provisions of 5 CFR 2634.603.

13. Newly designated § 1001.21 is amended by revising the heading, by removing paragraph (a), by redesignating paragraph (b) as paragraph (a), and by redesignating paragraph (c) as paragraph (b), and revising it to read as follows:

§ 1001.21 Confidential statements of employment and financial interests.

* * * * *

(b) Other employees, including those classified at GS–13 through GS–15, whose submission of confidential statements of employment and financial interest has been approved by the Office of Government Ethics, whose duties and responsibilities require them to report employment and financial interests in order to avoid involvement in a possible conflict of interest situation and to carry out the purposes of the law, Executive Order 11222, and the Foundation's regulations.

14. Newly designated § 1001.22 is amended by revising the heading, by changing the reference "paragraph (b) of § 1001.735–22" to "paragraph (a) of § 1001.21" in paragraph (a) introductory text, and by revising paragraph (b) to read as follows.

§ 1001.22 Employees not required to submit confidential statements.

* * * * *

(b) A confidential statement of employment and financial interests is not required by these regulations from employees of GS–16 and above or the Foundation's Counselor on Ethical Conduct and Conflict of Interests, who file Executive Personnel Financial Disclosure Reports required by § 1001.20.

* * * * *

§ 1001.23 [Amended]

15. Newly designated § 1001.23 is amended by changing the reference "§ 1001.735–22" to "§ 1001.21" and the reference "§ 1001.735–21" to "§ 1001.19."

16. Newly designated § 1001.25 is amended by changing the reference "§ 1001.735–2" to "§ 1001.2" in paragraph (b), and by adding a new paragraph (e) to read as follows:

§ 1001.25 Information required.

* * * * *

(e) An indirect interest, such as ownership of shares in a mutual fund, which in turn owns an interest in other organizations, unless such mutual fund is substantially involved in ventures in Latin America or the Caribbean. Such an "indirect" interest is hereby determined pursuant to 18 U.S.C. 208(b)(2) to be too remote to affect the integrity of employees' services.

17. Newly designated § 1001.26 is amended by revising paragraph (a), removing paragraph (b), and redesignating paragraph (c) as paragraph (b) to read as follows:

§ 1001.26 Supplementary statements.

(a) Employees, other than those occupying positions requiring the filing of Executive Personnel Financial Disclosure statements, who perform the duties of a position or office for a period in excess of sixty days in any calendar year, including special government employees, must submit annual statements as of May 15 of each year.

* * * * *

§ 1001.27 [Amended]

18. Newly designated § 1001.27 (c) and

(d) are amended by changing the reference "§ 1001.735–29" to "§ 1001.28" both places it appears.

19. Section 1001.29 is added to read as follows:

§ 1001.29 Administrative enforcement proceedings.

In the event that the Foundation receives information that there has been a possible violation involving the Foundation of the restrictions against post-employment activities contained in section 207 (a), (b), or (c) of title 18 U.S.C., the President or his or her designee shall follow the procedures set forth in 5 CFR 2637.212 with respect to the initiation and conduct of an administrative disciplinary hearing.

20. Newly designated § 1001.30 is revised to read as follows:

§ 1001.30 Confidentiality of employees' statements.

The Foundation shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality only the Counselor and Deputy Counselor are authorized to review and retain the statements. The Counselor is responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. The Foundation may not disclose information from a statement except as the Office of Personnel Management or the President of the Foundation may determine for good cause shown.

21. Newly designated § 1001.31 is revised to read as follows:

§ 1001.31 Effect of employees' statements on other requirements.

The statements of employment and financial interests and supplementary statements required for employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit participation in a matter in which such participation is prohibited by law, order, or regulation.

Adolfo A. Franco,

Acting General Counsel, Inter-American Foundation.

[FR Doc. 90–21084 Filed 9–6–90; 8:45 am]

BILLING CODE 7025–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3822–7]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Partial Approval of Volatile Organic Compound Regulation Revisions Specific to Automobile and Light-duty Truck Surface Coating as Part of the Post 1987 State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves certain regulations that were part of a State Implementation Plan (SIP) revision request submitted by the State of Louisiana on June 13, 1990. EPA is approving today revisions to LAC 33:III.2123.C.6 that clarify the existing limits and specify alternative equivalent emission limitations for automobile and light-duty truck surface coating operations. EPA is also approving revisions to LAC 33:III.2123.D that specify additional procedures for determining compliance with the emission limitations.

DATES: This rule will become effective on November 6, 1990, unless notice is received on or before October 9, 1990, that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the SIP revision and EPA's evaluation report (Evaluation Report for Post 1987 SIP Call Revisions—Partial Approval of Provisions Specific to Automobile and Light-Duty Truck Coating Operations, July 1990) are available for public review during normal business hours at the following locations:

Louisiana Department of Environmental Quality, 625 North 4th Street, 8th Floor, Baton Rouge, Louisiana 70804;
U.S. Environmental Protection Agency, Region 6 Office, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202; and
U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

Those wishing to view the documents at the EPA Region 6 office are requested to call the contact named below at least 24 hours in advance. Notice of adverse comments should be mailed to Thomas Diggs at the Region 6 address above.

FOR FURTHER INFORMATION CONTACT: Jim Callan (6T–AP), Air Programs Branch, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; telephone (214) 655–7214 or FTS 255–7214.

SUPPLEMENTARY INFORMATION: On June 13, 1990, Governor Roemer of Louisiana submitted to EPA a package of revisions to the Louisiana State Implementation Plan (SIP) for ozone. That package contained revisions to LAC 33:III.111, and to the volatile organic compound regulations LAC 33:III, sections 2103, 2105, 2107, 2109, 2111, 2113, 2117, 2119, 2123, and 2127. The package also included the Louisiana Inspection/Maintenance (Anti-Tampering) program. In today's **Federal Register** notice, EPA is approving only two portions of that submittal and is taking no action on the remainder. EPA will, in a future **Federal Register** notice, take action on the remainder of the June 13, 1990, submittal.

One portion being approved today deals with emission limits for automobile and light-duty truck primer surfacer and topcoat operations under LAC 33:III.2123.C.6. The other portion being approved today, LAC 33:III.2123.D.3, specifies the methods for determining compliance with the emission limits. EPA is taking action on these two portions at this time pursuant to an Order of the United States District Court for the Western District of Louisiana, Shreveport Division, in the case of *United States* v. *General Motors Corporation,* Civil Action No. CV87–1890S. This Order requires EPA to review and take action on the State's submittal of certain revisions affecting the General Motors Corporation assembly plant in Shreveport, Louisiana within sixty days of such submittal.

A. Background

Louisiana's June 13, 1990, submittal contains revisions to the ozone SIP adopted by the State for two primary reasons. The first reason, responsible for the majority of the revisions, was that EPA required Louisiana to make improvements to its ozone SIP for the Baton Rouge Metropolitan Statistical Area (MSA). The need for these improvements was announced in EPA's May 26, 1988, letter of notification to the State that its SIP was substantially inadequate to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Baton Rouge area. Incidentally, EPA only required Louisiana to revise its VOC regulations that apply in the Baton Rouge area, but the State chose to revise the rules as they apply statewide.

The second reason for the June 13, 1990, submittal was that EPA and

General Motors agreed to specific revisions to Louisiana's surface coating regulation, LAC 33:III.2123, as part of the settlement of the above referenced litigation between the two parties. The substance of the agreement was made part of the Court's Order dated October 14, 1989, removing the case from the trial docket. Pursuant to the Court's Order, General Motors petitioned Louisiana to adopt the agreed changes and submit them to EPA as a revision to the SIP. By the terms of the Order, EPA was required to take action in a Federal Register notice within 60 days of official submission by Louisiana of the SIP revision request for the General Motors facility in Shreveport, Caddo Parish.[1] Therefore, EPA is acting today on those portions necessary to satisfy the requirements of the Court's Order.

B. EPA Action

EPA is approving the following revisions as submitted by Louisiana on June 13, 1990. Confusion may arise when understanding the affect of these revisions since the current federally approved version of Louisiana's VOC regulation follows the State's old codification scheme (i.e., surface coating regulations are numbered as Regulation 22.9.2). The revisions being approved today, on the other hand, follow the new codification (i.e., surface coating regulations are now numbered as LAC 33:III.2123.C.). The following discussion attempts to minimize any such confusion.

1. LAC 33:III.2123.C.6 is approved

It replaces the existing SIP Regulation 22.9.2(f). This revision clarifies that the pounds per gallon of coating (kilogram per liter of coating) emission limits for VOC are on a less water and less exempt solvent basis, as per EPA's requirements. This revision also allows an automobile and light-duty truck coating operation to meet an alternate emission limit of 15.1 pounds of VOC per gallon of solids deposited for its primer surfacer and/or topcoat application. This alternate limit has been determined by EPA to be equivalent to the emission limit of 2.8 pounds of VOC per gallon of coating minus water and exempt solvent.[2]

2. LAC 33:III.2123.D.3 is approved

It replaces the second paragraph of the existing SIP Regulation 22.9.3(b) by adding two additional sentences and a new paragraph to the existing text. This revision explains that exempt solvents in automobile surface coatings shall be treated as water in determining compliance with the existing emission limits found at LAC 33:III.2123.C.6. This revision also specifies the procedure for determining compliance with the new alternate emission limits. That procedure is the EPA publication *Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light Duty Truck Topcoat Operations*, EPA 450/3–88–018, December, 1988. This publication also specifies the appropriate test methods and necessary records for determining compliance with the alternative emission limit.

These revisions being approved by EPA today allow automobile and light-duty truck surface coating operations to meet equivalent alternative emission limits and clarify existing limits. In no way should these revisions be construed as relaxing current federally approved limitations affecting VOC emission sources, especially surface coating operations, in Louisiana.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective November 6, 1990, unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will become effective November 6, 1990.

Final Action

EPA approves certain VOC regulation portions of the SIP revision request submitted by the State of Louisiana on June 13, 1990. Those portions are indentified above an in the amendments to 40 CFR part 52, § 52.970, given below.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 6, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of Louisiana was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 9, 1990.

Robert E. Layton Jr.,

Regional Administrator.

40 CFR part 52, subpart T, is amended as follows:

PART 52 [AMENDED]

Subpart T—Louisiana

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.970 is amended by adding paragraph (c)(56) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(56) Revisions to Louisiana's volatile organic compound regulations were submitted by the Governor on June 13, 1990.

(i) *Incorporation by reference.* (A) Revisions to Title 33, Environmental Quality, Part III. Air, Chapter 21. Control

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[1] For additional information about the settlement agreement and Order, refer to the November 9, 1989, Federal Register (54 FR 47146).

[2] A July 3, 1979, memo from Richard G. Rhoads, then Director of EPA's Control Program Development Division, entitled "Appropriate Transfer Efficiency for 'Waterborne Equivalency'", explains why these two limits may be considered equivalent. Briefly, a coating that contains 2.8 pounds VOC per gallon of coating, is applied at a transfer efficiency of 30 percent, and consists of 62 percent solids by volume, will have VOC emissions at the rate of 15.1 pounds VOC per gallon of solids deposited.

of Emission of Volatile Organic Compounds, Subchapter B. Organic Solvents, Section 2123. Organic Solvents, paragraphs C.6. and D.3., effective February 20, 1990.

[FR Doc. 90-20949 Filed 9-5-90; 8:45 am]
BILLING CODE-6560-50-M

40 CFR Part 52

[FRL-3828-4]

Approval and Promulgation of State Implementation Plans; Carbon Monoxide Plan for Great Falls, MT

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action, EPA is approving various control measures for the Great Falls carbon monoxide (CO) nonattainment area in a revision to the Montana State Implementation Plan (SIP). This action is a result of a January 26, 1987, notice (52 FR 2732) in which EPA proposed to approve a Montana CO SIP revision. This revision was submitted by the Governor of Montana on March 28, 1986, as required under section 110 of the Clean Air Act (Act). The SIP revision stated an attainment date of December 31, 1986, but because of the continuing exceedance of the CO NAAQS, EPA is taking no action on the demonstration of attainment in this notice. Elsewhere today, in a separate action, EPA is proposing to disapprove the Montana CO SIP for Great Falls for failure to demonstrate attainment of the CO standard. Failure to demonstrate attainment of the CO standard resulted in a May 26, 1988, SIP Call, which was based on ambient air quality data that indicated that Great Falls violated the CO NAAQS in 1987. The March 28 submittal also included modifications to the Montana stack height regulations; these regulations were addressed in a separate rulemaking dated June 7, 1989 (54 FR 24334).

DATES: This action will be effective on October 9, 1990.

ADDRESSES: Copies of the revision are available for public inspection between 8 a.m. and 4 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2405.

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Department of Health and Environmental Sciences, Air Quality Bureau, Cogswell Building, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Michael Silverstein, Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 293-1769, FTS 564-1769.

SUPPLEMENTARY INFORMATION: On December 24, 1979, the State of Montana requested EPA to designate a portion of the City of Great Falls from attainment to nonattainment for CO. The State's request was based on ambient air monitoring at the northeast corner of the intersection of 10th Avenue South and 9th Street in Great Falls where exceedances of the 8-hour National Ambient Air Quality Standards (NAAQS) of 9 parts per million (ppm) were recorded during the winter months of 1977-78 and 1978-79. The one-hour CO NAAQS of 35 ppm was never exceeded. The State assumed these violations were due to high traffic levels along this route. On September 9, 1980 (45 FR 59315), EPA designated the 10th Avenue South Corridor in Great Falls, Montana as a nonattainment area for CO.

Also in the September 9, 1980 notice, EPA identified a study area, the Central Business District (CBD), where the City of Great Falls was to analyze certain street intersections and street segments for violations of the CO standard. The CBD study began with monitoring in the downtown area where the high CO readings were expected (monitor was located on 411 Central Avenue). Monitoring along 10th Avenue South was also occurring at this time. The study included monitoring, meteorological, modeling and statistical analyses from which the State concluded that traffic along 10th Avenue South was not the sole source of CO emissions but that there was, in fact, an area-wide problem.

In 1977, motor vehicles comprised more than 80% of all the CO emissions. The second largest source of CO emissions was a point source, the Montana Refinery Company (MRC) (formerly Phillips Refinery, then Simmons refinery). The source, located one mile north of downtown, contributed 14% of the area-wide CO emissions. The State reviewed its 1977 emission inventory from which it projected a 1985 inventory.

Elements of the Great Falls CO SIP were developed and adopted on March 7, 1984. The plan demonstrated attainment of the CO NAAQS through the implementation of the following control measures: (1) Reductions in automobile CO emissions through turnover of older model-year vehicles with newer model-year vehicles, (2) reduction of CO emissions from MRC, and (3) traffic improvements along 10th Avenue South which would increase traffic speeds and reduce CO emissions along the corridor. The traffic improvements included widening of the Warden Bridge across the Missouri River from 2 lanes to 4 lanes, improving street lighting and traffic light signalization along 10th Avenue South, and implementing a mass transit system.

The SIP was submitted to EPA by Governor Ted Schwinden in a letter dated March 20, 1984. During EPA's review, two areas of concern surfaced: (1) EPA questioned the location of the monitor on 10th Avenue South and 24th Street and the fact that no violations had been recorded since April, 1980, and (2) the State became aware of an emission reduction problem at MRC.

The State withdrew its March 20, 1984, submittal and immediately proceeded to correct the Plan's deficiencies. Subsequently, the State clarified to EPA that the CO monitor had been relocated one block south and across the street from the original monitoring site, and the State issued a federally enforceable permit (and stipulation) with MRC to lock in the refinery's CO emission level. The State also revised its emission inventory; the 1977 emissions were projected to 1986. The projections were based on the same information earlier used to project the 1985 emissions.

With the updating of the State's emission inventory and the MRC permit, the Governor resubmitted a revision to the Montana CO SIP for Great Falls in a letter dated March 28, 1986. The SIP stated an attainment date of December 1986 and contained the same control measures as identified in the 1984 submittal (see above).

Since the above plan had been implemented and monitoring data from the relocated monitor for 1984 and 1985 had shown no violations of the CO NAAQS, EPA proposed to approve the control measures and demonstration of attainment as a revision to the Montana CO SIP on January 26, 1987 (52 FR 2732). No comments were received by EPA on the January 26 notice.

On May 3, 1988, EPA released ambient air quality data which indicated that Great Falls violated the CO NAAQS on three occasions in 1987; the highest second maximum 8-hour average concentration for CO was 11.0 parts per million. Since the plan's attainment date had passed and violations were recorded, the Governor received a call for a SIP revision on May 26, 1988 The

SIP Call requires Montana to revise the area's CO emission inventory and determine if other measures are needed to attain the CO standard. In addition, EPA may require Montana to include additional control measures, based on EPA's proposed 1987 CO/ozone policy, in responding to the SIP Call.

Because the control measures currently in place are helpful in attaining the NAAQS, EPA will approve these measures as part of the SIP so that the measures will be federally enforceable. In addition, EPA is taking no action on the attainment demonstration at this time due to continuing violations of the CO standards. However, EPA will propose to disapprove the Montana CO SIP for Great Falls (in a separate action today) for failure to demonstrate attainment of the CO standard.

Final Action

EPA is today approving various control measures for the Great Falls CO nonattainment area in a revision to the Montana SIP. However, because the SIP had stated an attainment date of December 31, 1986, and because of continued exceedances of the CO NAAQS, EPA is taking no action on the demonstration of attainment in this notice. Elsewhere today, in a separate notice, EPA is proposing to disapprove the Montana CO SIP for Great Falls for failure to demonstrate attainment of the CO standard.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 6, 1990. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon Monoxide, Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the State of Montana was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 30, 1990.

William K. Reilly,

Administrator.

Part 52 of chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—(AMENDED)

Subpart BB—Montana

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1370 is amended by adding subparagraph (c)(22) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(22) Revisions to the Montana CO SIP for Great Falls were submitted by the Governor on March 28, 1986.

(i) *Incorporation by reference.* (A) Montana Refining Company permit dated October 20, 1985.

(B) Stipulation in the matter of the Montana Refining Company dated December 2, 1985.

(ii) *Additional material.* (A) Montana SIP, chapter 5(3)D. Great Falls (Date: March 14, 1986).

(B) Pre-filed testimony by the Department of Health and Environmental Services dated February 28, 1986.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435, 436 and 440

[BPD–440–F]

RIN 0938–AD 15

Medicaid Program; Eligibility of Aliens for Medicaid

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This regulation revises current Medicaid rules applicable to aliens who meet eligibility requirements as categorically needy or medically needy. It establishes that aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law may be eligible for all Medicaid services. It clarifies and identifies certain categories of persons permanently residing in the United States under color of law. It also identifies those aliens who may be eligible only for limited services as a result of recent legislation.

These revisions conform our regulations to changes made by the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509), and the Immigration Reform and Control Act of 1986 (Pub. L. 99–603), and the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360).

EFFECTIVE DATE: These regulations are effective October 9, 1990.

FOR FURTHER INFORMATION CONTACT: Marinos Svolos, (301) 966–4451.

I. Supplementary Information

The Medicaid program provides health care coverage to individuals who are receiving cash assistance (or who meet the income and resources requirements) under the Aid to Families with Dependent Children (AFDC) program, the Supplemental Security Income (SSI) program or certain other State assistance programs, as categorically needy or optional categorically needy. At State option, certain other persons who meet the categorical qualifications except for income and resource levels (the medically needy) are also eligible. The Medicaid law, title XIX of the Social Security Act (the Act), before the passage of recent legislation, did not explicitly include a citizenship requirement as a basis of entitlement to benefits. However, the AFDC program, in section 402(a)(33) of the Act, and the SSI program, in section 1614(a)(1)(B) of the Act, both limit eligibility to citizens, permanent residents or to those permanently residing in the United States under color of law (PRUCOL). Our existing regulations at 42 CFR 435.402 and 436.402 require a State or Territory to provide Medicaid to otherwise eligible residents who are citizens or aliens lawfully admitted for permanent residence or PRUCOL, including any alien who is lawfully present in the United States under section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq.).

These regulations clarify the definition of what is meant by PRUCOL for the purpose of determining the eligibility for Medicaid of aliens claiming such a status. This clarification is based on two court decisions and provisions included in the Omnibus Budget Reconciliation Act of 1986 (OBRA 86).

In *Berger* v. *Secretary,* No. 76c 1420 (E.D.N.Y. June 13, 1978), the Secretary consented to define aliens who were residing in the United States with the knowledge and permission of the Immigration and Naturalization Service (INS), and whose departure the INS did not contemplate enforcing, as permanently residing in the United

States under color of law, and, thus, potentially eligible for SSI benefits. A later District Court order, *Berger* v. *Schweiker*, CV–76–1420 (E.D.N.Y. July 26, 1984), set out specific criteria for determining if an alien is permanently residing in the United States under color of law. The court order provided that aliens residing in the United States with the knowledge and permission of the INS and whose departure the INS does not contemplate enforcing are aliens permanently residing in the United States under color of law for SSI purposes.

Under the terms of the 1984 district court order, the INS will not be considered as contemplating enforcing an alien's departure if it is the INS policy or practice not to enforce the departure of aliens in the same category or if, from all the facts and circumstances in a particular case, it appears that the INS is permitting the alien to reside in the United States indefinitely. The court order also listed certain categories of aliens as examples of categories which meet the PRUCOL definition. The court order required that regulations and operating instructions contain its criteria for color of law determinations and the specified categories of aliens who are considered PRUCOL. On appeal, the United States Court of Appeals for the Second Circuit, in *Berger* v. *Heckler*, 771 F.2d 1556 (1985), affirmed the District Court order, except that it did not require the Secretary to use the exact language specified by the District Court. Although the suit involved SSI, we decided that for Medicaid eligibles we would adopt the court's decision. We have also decided to adopt much of the language provided by the District Court, as it gives the most specific guidance on how the court's holding is to be interpreted. Because under the court's order, more aliens will meet the definition of PRUCOL than under current regulations, more aliens may now be eligible for benefits if they meet all other requirements for eligibility.

A New York District Court, in *Lewis* v. *Gross*, No. CV–79–1740 (E.D.N.Y., July 14, 1986), has held that our citizenship and alienage requirements go beyond the Secretary's scope of authority delegated under the Medicaid statute. The court reasoned that Congress "knew how to impose alienage requirements on social welfare programs when it intended, and its refusal to impose such a requirement on Medicaid should be respected" (slip op. at 54). Because the AFDC and SSI statutes do include explicit exclusions of certain classes of aliens, the result of this decision is that, in this court's jurisdiction, otherwise qualified aliens who, except for citizenship, would be eligible for Medicaid as non-cash beneficiaries—i.e., medically needy or optional categorically needy individuals—must be found entitled to Medicaid coverage.

In response to the *Lewis* opinion, Congress added a new section 1903(v) of the Act which provides that individuals who are permanently residing in the United States under color of law (PRUCOL) may receive Medicaid. Section 1903(v) of the Act also provides emergency services to individuals unable to meet the PRUCOL definition if they otherwise meet the Medicaid eligibility requirements. To comply with Congressional direction concerning PRUCOL, we have adopted for all Medicaid applicants the *Berger* description of PRUCOL, including the immigration categories found in that decision. The description of PRUCOL is the same one used by SSA in administering the SSI program. This interpretation does not include, except where specifically provided in regulations, applicants for any immigration status. This has the advantage of using a consistent interpretation of what is meant by "permanently residing in the United States under color of law" in administering both SSI and Medicaid. (OBRA 86 also added a provision to permit certain additional aliens to receive emergency services.)

II. Notice of Proposed Rulemaking

On September 29, 1988 we published a proposed rule with a 60 day comment period (53 FR 38032) that would revise sections 435, 436 and 440 in subchapter C of title 42. Briefly, these proposed changes to the regulations would—

- Restate current requirements that an agency must provide Medicaid to eligible residents of the United States who meet the citizenship and alienage requirements.
- Incorporate the provision in Public Law 99–509 (OBRA 86) which requires that States provide Medicaid to eligible individuals who are permanently residing in the United States under color of law (PRUCOL).
- Incorporate the provision in OBRA 86 which requires States, effective January 1, 1987, to furnish emergency services (including emergency labor and delivery) to otherwise eligible illegal and legal non-immigrant aliens.
- Provide that individuals granted lawful temporary resident or lawful permanent resident status under section 245A, 210 or 210A of the INA, as added to or amended by IRCA, can establish immediate eligibility for full Medicaid benefits during the five-year period beginning on the date the individual was granted lawful temporary resident status, if the individual is aged, blind, or disabled as defined in section 1614(a)(1) of the Act, under 18 years of age or a Cuban/Haitian entrant.
- Incorporate the provisions of Public Law 99–603 (IRCA) which require that States, for five years after an alien is granted lawful temporary resident status under sections 245A, 210 or 210A of the INA, as added to or amended by IRCA, may provide only emergency and/or pregnancy related services to an otherwise eligible alien who is not aged, blind, or disabled as defined in section 1614(a)(1) of the Act, under 18 years of age or a Cuban/Haitian entrant.
- Define those services available to illegal aliens and legal non-immigrants as provided by section 1903(v) of the Act, and those services available to legalized aliens, including services for pregnant women, as provided under IRCA.
- Set forth and clarify the specific categories of aliens who are PRUCOL, and the documentation that a State agency may accept and must review to establish that the INS has placed the alien in a category that qualifies the individual for Medicaid consideration.

III. Analysis of and Responses to Public Comments

In response to the September 29, 1988 proposed rule, we received 14 timely items of correspondence. The comments were from individuals, State and county social service agencies, and advocacy groups. The comments raised thoughtful questions which have resulted in some instances in changes in the final regulations to reflect the comments. A summary of these comments and our responses to them are discussed below:

Comment: Several commenters questioned whether States were prohibited from providing additional medical assistance with State-only funds to groups of aliens beyond those services set forth in the proposed regulations.

Response: Federal financial participation (FFP) is only available for individuals eligible for Medicaid as specified in a State's approved Medicaid plan (see § 435.1002). There is nothing in the Act which prohibits a State from using State-only funds to provide additional services beyond those furnished under the Medicaid program to aliens or non-aliens. We have clarified §§ 435.139 and 436.128 to specify that the State must provide services (for which FFP is available) necessary for the treatment of an

emergency medical condition of certain aliens as specified in § 435.406(c).

Comment: Several commenters pointed out the absence in the regulation of the changes in the statute made by the Medicare Catastrophic Coverage Act of 1988 (MCCA).

Response: Section 411(k)(15) of the MCCA amended section 1137(a) of the Act to delete the requirement that applicants obtain and present a social security number as a condition of eligibility if the applicant is a person described in section 1903(v)(2) of the Act. (Even though MCCA was repealed the sections containing OBRA 86 technical changes were not affected by the repeal.) Such persons are individuals who are not: citizens, aliens lawfully admitted for permanent residence, or aliens permanently residing in the United States under color of law (including persons legalized under the terms of IRCA). Rather, such applicants are aliens not eligible for legalization or PRUCOL but who otherwise meet the eligibility requirements of a State's Medicaid plan. We are revising §§ 435.406(c) and 436.406(c) to remove the requirement for a social security number as a condition of eligibility with respect to persons covered under section 1903(v)(2) of the Act. Section 411(k)(15) of the MCCA also removed the requirement that the persons described in section 1903(v)(2) of the Act sign the declaration of satisfactory immigration status and have their immigration status verified with INS. The necessary regulatory changes to implement this provision of the Act are being made in another regulation.

Comment: Several commenters stated that aliens covered by the emergency medical condition provisions must be provided services to treat the medical condition rather than "may be provided" such treatment.

Response: It was never the intent of the proposed regulations that States would have an option to provide or not provide services to treat an emergency medical condition. Rather, our intent was to limit the services for which FFP would be available to those described in section 1903(v)(3). This is consistent with the legislative history and the statutory language. Section 1903(v) states that payment shall be made under this section for services necessary to treat an emergency medical condition. The last sentence of section 1902(a) of the act reinforces this interpretation by saying that "* * * a State plan shall provide medical assistance with respect to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law only in accordance with section 1903(v)". Therefore, we agree with the commenters and are revising §§ 435.406(c) and 436.406(c) by replacing "may provide" with "must provide payment" for emergency services.

Comment: Several commenters questioned our interpretation of section 210(f) of the Immigration and Nationality Act that only Special Agriculture Workers (SAWS) who are members of the groups described in section 245 (h)(2) and (h)(3)(B)(ii) are exempt from the 5-year restriction on services.

Response: We agree that only those Medicaid-eligible SAWS who, but for the 5-year ban, would be eligible for AFDC will be subject to the restriction on services contained in section 245A of the INA. Therefore, SAWS who would not be AFDC eligible may receive full Medicaid coverage without having to fall into one of the exception categories. We are revising §§ 435.406(d) and 436.406(d) to specify that the 5-year restriction in the case of SAWS applies only to those eligible individuals who would be eligible for AFDC, but for the prohibition of receipt of AFDC payment in the INA.

Comment: A number of commenters questioned the absence of a general statement of HCFA policy stating what is required to establish that an applicant is PRUCOL. Such a statement of general policy prefaces the Social Security Administration's (SSA) regulations.

Response: We have compared the SSA regulations at 20 CFR 416.1618 with our proposed regulations at §§ 435.408 and 463.408 and have made the necessary corrections to make our regulations correspond with the SSA regulations.

Comment: Some commenters questioned whether the listed documents in §§ 435.408 and 436.408 were the only acceptable documents to establish that the alien is PRUCOL.

Response: The listed documents are the ones most commonly used to establish a particular status. They are also the preferred documents, because all aliens claiming a satisfactory immigration status must have their status verified through the Systematic Alien Verification for Entitlements (SAVE) program. They are not however the only documents which could be used to establish a particular status. We have clarified the regulations at §§ 435.408 and 436.408 to state that the listed documents are the ones most commonly used. In addition, we specified that any documents acceptable to the State that establish the required period or residence for individuals claiming PRUCOL status under section 249 of the INA, may be accepted.

Comment: A number of commenters pointed out several places where the proposed regulations differed from the SSA regulations at 20 CFR 416.1618.

Response: Our intent has always been to have our regulations mirror the SSA regulations because legislation on alien status has affected both the SSI and Medicaid programs in a similar manner and because both agencies have been subject to litigation which adopted the same definitions of what INS statuses constitute PRUCOL for program purposes. Therefore, where these regulations have inadvertently differed from the SSA regulations we have made the necessary changes in the final regulations to make HCFA policy consistent with SSA policy. We are revising §§ 435.408 and 436.408 concerning extended voluntary departure, and the extent to which an application by itself gives a person a PRUCOL status. (We note that an application may be a factor in determining whether an individual is in a particular PRUCOL status but generally an individual must have been granted the particular status before PRUCOL is established.)

Comment: Several commenters questioned our interpretation of section 1903(v) of the Act with respect to whether aliens covered by the emergency medical condition provision were ineligible for Medicaid. The commenters suggested that these aliens are eligible for Medicaid for limited services.

Response: We have reexamined this issue. At the time the proposed regulations were developed we believed that an alien for whom payment for treatment of an emergency medical condition could be made was not an eligible individual within the meaning of the law. Our position was based on the language of section 1903(v) which provides that no payment may be made to a State for medical assistance to an alien who is not a lawful permanent resident or PRUCOL. Section 1903(v) continues by stating that payment shall be made for an alien who is neither a lawful permanent resident nor PRUCOL but only to the extent that the services are for the treatment of an emergency medical condition and the alien otherwise meets the eligibility requirements of the approved State plan. Upon further review, we believe that the language found in the last sentence of section 1902(a) of the Act which was added as part of section 9406 of OBRA 86 clarifies the eligibility status of aliens who are neither lawful permanent residents nor PRUCOL. That sentence states: "Notwithstanding paragraph

(10)(B) or any other provision of this subsection, a State plan shall provide medical assistance with respect to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law only in accordance with section 1903(v)." We believe that Congress in section 1903(v) created a special eligibility group consisting of persons who meet the Medicaid program's eligibility criteria but are neither citizens nor lawful permanent resident aliens nor permanently residing in the United States under color of law. Thus, while the persons described in section 1903(v) for whom treatment of an emergency medical condition is made available are eligible for Medicaid, the services these individuals may receive under Medicaid are limited to those specified in section 1903(v). Therefore, a pregnant woman who meets the eligibility requirements under 1903(v) can receive only emergency labor and delivery services. Section 1903(v) does not authorize coverage for the non-emergency 60 days of postpartum services.

Comment: Several commenters believe that pregnant women in the population covered by section 1903(v)(2) of the Act should receive the prenatal and postpartum services provided to eligible pregnant women under other sections of title XIX. The commenters expressed the belief that the services necessary to treat an emergency medical condition of an alien who is not a lawful permanent resident, PRUCOL, or legalized under IRCA includes all of the prenatal and postpartum services provided to eligible pregnant women.

Response: As discussed above, Congress specifically limited the services available to a pregnant woman to emergency labor and delivery (including emergency postpartum care). In doing so, Congress exempted these services from the amount, duration, and scope provisions of the Act by amending section 1902. Section 1903(v)(2) of the Act authorizes FFP only for services provided to an alien with an emergency medical condition. The commenter's reliance on section 1905(n)(1) is misplaced. The language of that section says that a qualified pregnant woman is one who would be eligible for AFDC if her child were born and living with her. The individuals covered by section 1903(v)(2) of the Act are not eligible for and cannot receive AFDC because they are neither lawful permanent residents nor PRUCOL. Further, we interpret title XIX to provide medical services which benefit an unborn child exclusively through the pregnant woman. We previously permitted States to provide Medicaid eligibility to unborn children as children under 21 pursuant to section 1905(a)(i) of the Act. In 1985, this ceased to be a State plan option, based on our interpretation of provisions of several Congressional enactments, including the Omnibus Budget Reconciliation Act of 1981 (OBRA 81), the Tax Equity and Fiscal Responsibility Act of 1982, the Deficit Reduction Act of 1984, and the Consolidated Omnibus Budget and Reconciliation Act of 1985. These enactments created and expanded Medicaid coverage for pregnant women and OBRA 81 precluded AFDC cash benefits for the unborn. We rely on these provisions, as well as the explicit provision for labor and delivery room services as emergency services available to non-PRUCOL pregnant women in OBRA 86, for our interpretation that an unborn child does not have a separate status as an individual eligible for medical assistance. Therefore, we are not adopting this comment.

Comment: Several commenters suggested that the definition of emergency medical condition should be expanded and more precisely defined.

Response: We agree in part that the definition should be clarified. Therefore, we have revised the definition of emergency services to say that "after the sudden onset of a medical condition * * *". This change will make the definition of emergency services consistent with the definition already in use in the Medicaid program at 42 CFR 447.53(b)(4) and with the definition contained in section 1867(e)(1) of the Act, relating to hospital emergency departments inappropriate failure to treat certain patients (the anti-dumping provision). However, we believe the broad definition allows States to interpret and further define the services available to aliens covered by section 1903(v)(2) which are any services necessary to treat an emergency medical condition in a consistent and proper manner supported by professional medical judgement. Further, the significant variety of potential emergencies and the unique combination of physical conditions and the patient's response to treatment are so varied that it is neither practical nor possible to define with more precision all those conditions which will be considered emergency medical conditions.

Comment: Several commenters questioned the structure of the regulations at § 435.139, and, in particular, suggested that PRUCOL aliens should be included as a mandatory coverage group. One commenter noted that alien coverage groups were proposed for the mandatory categorically needy and the optional medically needy but not for the optionally categorically needy.

Response: We agree that all lawful permanent and PRUCOL aliens who meet the other eligibility requirements are eligible for Medicaid but in some cases are limited in the services they may receive. For example, some aliens legalized under IRCA are subject to a statutory 5 year limit on the services eligible individuals may receive. To eliminate the confusion and duplication of effort, we are moving material in § 435.139 of subpart B and § 435.350 of subpart D to §§ 435.406 and 435.408 of subpart E respectively, which relates to general eligibility requirements. We believe this change indicates that immigration status is one condition of Medicaid eligibility that must be met. Aliens who are not lawful permanent residents, PRUCOL, or legalized aliens under IRCA but otherwise meet the eligibility requirements of the State's Medicaid plan shall be afforded the services necessary to treat an emergency medical condition. These aliens are identified in §§ 435.139 and 435.350.

Comment: One commenter suggested the decision in *INS* v. *Chadha*, (462 U.S. 919, 103 S.Ct 2764 (1983)) applies to the suspension of deportation category, and recommended that the language in § 435.406(n) be revised to reflect the view that suspension of deportation under section 244 of the Immigration & Naturalization Act establishes "per se" PRUCOL status.

Response: We have not accepted this comment. The Supreme Court decision in *Chadha* is concerned only incidentally with the status of aliens granted a suspension of deportation by an immigration judge. This decision is almost exclusively concerned with the Constitutional issue of separation of powers and the validity of a veto of an executive action by one House of Congress. It is not the policy or practice of INS to deport an individual who has been granted a suspension of deportation pursuant to section 244 of the INA which is not lifted for two years. However, such individuals, like all applicants for Medicaid, must have their immigration status verified with the INS through the SAVE system. In verifying the status of an alien, INS will be asked, as appropriate, whether the INS contemplates enforcing the departure of the alien. If INS replies that they do not deport aliens in this category, HCFA will consider such an

individual to be PRUCOL. Further, the language used to describe this PRUCOL category is identical to the language of the *Berger* v. *Heckler* decision. However, we have changed the language in proposed §§ 435.408(n) and 436.408(n) (now appears as §§ 435.409(b)(14) and 435.408(b)(14)) to conform to the description used by SSA. In our view consistency in the use of regulatory language with SSA will produce consistent application of PRUCOL policy in determining eligibility under both agencies' programs and it is consistent with the language of the *Berger* consent decree which HCFA has adopted as its policy. Therefore, an applicant who claims PRUCOL status because he has been granted a suspension of deportation under section 244 of the INA will need to have that status verified by INS. If INS verifies that the applicant is in a granted suspension category, then the individual is PRUCOL for program purposes.

Comment: Several commenters suggested that the regulations are unclear concerning the pregnancy related services eligible legalized aliens may receive.

Response: We have clarified the regulations at § 440.250 to make it clear that the statutory provisions of section 1916(a)(2)(B) of the Act govern the services available to eligible pregnant alien women who have been granted lawful status under sections 245A, 210, and 210A of the INA and who are not members of the exempt groups specified in those sections.

Comment: Several commenters questioned whether the State residence rules at 42 CFR 435.403 apply to persons seeking coverage of services needed to treat an emergency medical condition as defined in section 1903(v) of the Act. The commenters were especially concerned that applying the State residence requirement to persons who have the status of legal non-immigrant would improperly deny such people coverage of services they require for treatment of emergency medical conditions.

Response: Section 1903(v)(2) of the Act provides that payment shall be made for services necessary to treat an emergency medical condition of an alien if that alien is: not a lawful permanent resident or permanently residing in the United States under color of law, and "*such alien otherwise meets the eligibility requirements for medical assistance under the State plan approved under this title* * * *" (emphasis added). One of the eligibility requirements of State plans for medical assistance is that applicants and recipients meet the State residence requirements at 42 CFR 435.403. These regulations provide specific rules for determining State residence depending on whether the applicant is capable of expressing intent, whether the applicant is in an institution, and whether the applicant is 21 years of age or over. Thus, with respect to an applicant who is capable, over 21, and not in an institution such a person is a resident of the State if that person is physically present in the State with the intention of remaining in the State indefinitely. The regulations at 42 CFR 435.402 do not require that the applicant have a permanent address in order to establish State residence. By requiring that aliens described in section 1903(v)(2) of the Act, who seek coverage of services to treat an emergency medical condition, meet the same State residence rules that homeless citizen applicants must meet, such aliens will be treated the same as all other applicants in determining whether they meet eligibility requirements of the State plan.

IV. Provisions of the Final Regulations

After consideration of the comments received and our further analysis, we are publishing as final the September 29, 1988 proposed regulations with a number of revisions.

In § 435.1, Introduction, which provides a brief explanation of the effect of certain laws on Medicaid eligibility, we are making minor additional changes to paragraphs (f) and (g) to improve readability.

Sections 435.139 under Subpart B, Mandatory Coverage of the Categorically Needy; § 435.350 under Subpart D, Optional Coverage of the Medically Needy; § 436.128 under Subpart B, Mandatory Coverage of the Categorically Needy (in territories); § 436.330 under Subpart D, Optional Coverage of the Medically Needy (in the territories), are revised. Each section is entitled, Coverage for certain aliens. To eliminate confusion and duplication, we are deleting material in these sections relating to general eligibility requirements and moving it to §§ 435.406 and 436.406. We are revising § 435.139 to specify that the State must provide services (for which FFP is available) necessary for the treatment of an emergency medical condition of certain aliens as specified in § 435.406(c).

Sections 435.406(a) and 436.406(a) specify current requirements that an agency must provide Medicaid to eligible residents of the United States who meet the citizenship and alienage requirements. We are adding a new paragraph (a)(4) which specifies that the agency must provide Medicaid to aliens granted lawful temporary resident status under section 210 of the Immigration and Nationality Act unless the alien would be eligible for AFDC. We are making this change as a result of comments concerning our interpretation of section 210(f) of the INA. In paragraph (c) of these sections, we are removing the eligibility requirement with respect to persons covered under section 1903(v)(2) of the Act. We are making this change because section 411(k)(15) of the MCCA amended section 1137(a) of the Act to delete the requirement that applicants obtain and present a social security number as a condition of eligibility if the applicant is a person described in section 1903(v)(2) of the Act. We are adding a paragraph (d) to §§ 435.406 and 436.406 to specify that the 5-year restriction contained in sections 245(h) and 210A of the INA applies to those eligible individuals not described in paragraph (a) of §§ 435.406 and 436.406. We are making this change to clearly implement the statutory provisions of sections 245A, 210 and 210A of the INA.

We are making several revisions to §§ 435.408 and 436.408 to make our regulations correspond with SSA regulations at 20 CFR 416.1618. The regulations include a general statement pertaining to the establishment of PRUCOL by applicants, and clarifying that the listed documents are the most common ones used to establish particular status. We are specifying that any documents that are acceptable to the State as establishing the required period of residence for individuals claiming PRUCOL status under section 249 of the INA may be accepted. We are also revising the sections covering extended voluntary departure, and the extent to which an application by itself gives a person a PRUCOL status. Except where specifically stated in the regulations an application for a status does not by itself permit an applicant to be found to be PRUCOL. An application for a status, however, is a factor which will be considered in determining the status of an applicant. In cases that are not exempt by law, however, the applicant's claimed status will be verified with the INS through the SAVE system.

In subpart B, § 440.200(a) specifies the statutory requirements and limits applicable to all services. We are making a change to paragraph (a) to include a provision of section 1903(v)(2) of the Act which provides that FFP will be available for services necessary to treat an emergency medical condition of an alien not described in paragraph (a)(3) of this section, if that alien meets the eligibility requirements of the State

plan. We are revising § 440.250, Limits on comparability of services, and § 440.255, Limited services available to certain aliens, to reorganize the material contained in these sections to better reflect the statutory provisions of section 1903(v) of the Act and sections 245, 210 and 210A of the INA.

In § 440.250, we are clarifying the regulations to make the statutory provisions of section 1916(a)(2)(B) of the Act govern the services available to eligible pregnant alien women who have been granted lawful status under section 245A, 210, and 210A of the INA and who are not members of the exempt groups specified in those sections. We are revising § 440.255, to specify that FFP is available for services and conditions which are provided to those aliens specified in this section.

V. Regulatory Impact Statement

Executive Order (E.O.) 12291 requires us to prepare and publish a regulatory impact analysis for any regulation that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or 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.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a regulation would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all providers as small entities. Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if the rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis also must conform to the provisions of section 604 of RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This rule reflects statutory changes and codifies in regulations practices which have already been implemented. The statutory changes expanding eligibility groups and coverage of services will increase Medicaid program expenditures; however, the threshold criteria of E.O. 12291 will not be met.

For these reasons, we have determined that a regulatory impact analysis is not required. Further, we have determined, and the Secretary certifies, that this rule will not have a significant economic impact on a substantial number of small entities, and will not have a significant impact on the operations of a substantial number of small rural hospitals. Therefore, we have not prepared analyses for either the RFA or small rural hospitals.

VI. Information Collection Requirements

Sections 435.1(g), 435.408 and 436.408 of this final rule contain information collection requirements that are subject to review by the Office of Management under the Paperwork Reduction Act of 1980. A notice will be published in the Federal Register after approval is obtained.

VII. List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs-health, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Wages.

42 CFR Part 436

Aid to Families with Dependent Children, Grant programs-health, Guam, Medicaid, Puerto Rico, Supplemental Security Income (SSI), Virgin Islands.

42 CFR Part 440

Grant programs-health, Medicaid.

42 CFR Chapter IV is amended as set forth below:

A. Part 435 is amended as follows:

1. The authority citation for part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents to part 435 is amended by adding a new undesignated center heading and new § 435.139 immediately after existing § 435.136 under subpart B, new § 435.350 is added immediately after existing § 435.340 under subpart D, § 435.402 is removed and reserved and new §§ 435.406 and 435.408 are added under subpart E to read as follows:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

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Subpart B—Mandatory Coverage of the Categorically Needy

* * * * *

Mandatory Coverage of Certain Aliens

Sec.

435.139 Coverage for certain aliens.

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Subpart D—Optional Coverage of the Medically Needy

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435.350 Coverage for certain aliens.

Subpart E—General Eligibility Requirements

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435.402 [Reserved]

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435.406 Citizenship and alienage.

435.408 Categories of aliens who are permanently residing in the United States under color of law.

* * * * *

3. In subpart A, § 435.1 paragraph (a) is revised; new paragraphs (f) and (g) are added as follows:

§ 435.1 Introduction.

(a) This section provides a brief explanation of Medicaid eligibility as affected by changes in the cash assistance programs under the Social Security Act, and by other public laws.

* * * * *

(f) *Changes in Medicaid eligibility for aliens as a result of Public Law 99–509.* Section 9406 of Public Law 99–509 added a provision (section 1903(v) of the Act) that requires States, effective January 1, 1987, to furnish services necessary to treat an emergency medical condition (including emergency labor or delivery) of aliens who are not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law and who otherwise meet the eligibility requirements for Medicaid. Previously, States were not required to furnish services to such aliens.

(g) *Changes in Medicaid eligibility for aliens as a result of Public Law 99–603.* In general, Medicaid eligibility is available to aliens granted lawful temporary resident status under sections 254A, 210 or 210A of the Immigration and Nationality Act who meet the eligibility requirements under the approved State Medicaid plan. Aliens must provide the State agency with documentation that they have been granted lawful temporary or permanent resident status to obtain eligibility under this provision. Some aliens granted lawful status under Public Law 99–603 are only eligible for limited services for 5 years from the date they are granted lawful temporary resident status, even though they are otherwise eligible under the Medicaid State plan.

4. Section 435.3 is amended by revising paragraph (a) introductory text

and adding in chronological order additional law citations to read as follows:

§ 435.3 Basis.

(a) This part implements the following sections of the Act and other public laws which state eligibility requirements and standards:

* * * * *

1903(v) Payment for emergency services under Medicaid provided to aliens.

* * * * *

Public Law 99-509, section 9406 Payment for emergency medical services provided to aliens.

Public Law 99-603, section 201 Aliens granted legalized status under section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) may under certain circumstances be eligible for Medicaid.

Public Law 99-603, section 302 Aliens granted legalized status under section 210 of the Immigration and Nationality Act may under certain circumstances be eligible for Medicaid (8 U.S.C. 1160).

Public Law 99-603 section 303 Aliens granted legal status under section 210A of the Immigration and Nationality Act may under certain circumstances be eligible for Medicaid (8 U.S.C. 1161).

* * * * *

5. In subpart B, a new undesignated center heading and new § 435.139 are added immediately after § 435.136 to read as follows:

Mandatory Coverage of Certain Aliens

§ 435.139 Coverage for certain aliens.

The agency must provide services necessary for the treatment of an emergency medical condition, as defined in § 440.255(c) of this chapter, to those aliens described in § 435.406(c) of this subpart.

6. In subpart D, a new § 435.350 is added to read as follows:

§ 435.350 Coverage for certain aliens.

If an agency provides Medicaid to the medically needy, it must provide the services necessary for the treatment of an emergency medical condition, as defined in § 440.255(c) of this chapter, to those aliens described in § 435.406(c) of this subpart.

§ 435.402 [Removed and Reserved]

7. In subpart E, § 435.402 is removed and reserved.

8. A new § 435.406 is added to read as follows:

§ 435.406 Citizenship and alienage.

(a) The agency must provide Medicaid to otherwise eligible residents of the United States who are—

(1) Citizens; or

(2) Aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law as defined in § 435.406 of this part;

(3) Aliens granted lawful temporary resident status under sections 245A and 210A of the Immigration and Nationality Act if the individual is aged, blind, or disabled as defined in section 1614(a)(1) of the Act, under 18 years of age, or a Cuban/Haitian entrant as defined in section 501(e)(1) and (2)(A) of Public Law 96-422; or

(4) Aliens granted lawful temporary resident status under section 210 of the Immigration and Nationality Act unless the alien would, but for the 5-year bar to receipt of AFDC contained in such section, be eligible for AFDC.

(b) The agency must only provide emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act), and services for pregnant women as defined in section 1916(a)(2)(B) of the Social Security Act to otherwise eligible residents of the United States not described in paragraph (a)(3) and (a)(4) of this section who have been granted lawful temporary or lawful permanent resident status under sections 245A, 210 or 210A of the Immigration and Nationality Act for five years from the date lawful temporary resident status was granted.

(c) The agency must provide payment for the services described in § 440.255(c) of this chapter to residents of the State who otherwise meet the eligibility requirements of the State plan (except for receipt of AFDC, SSI, or State Supplementary payments and the presentation of a social security number) but who do not meet the requirements of paragraphs (a) and (b) of this section.

(d) The limitations on eligibility set forth in paragraph (b) of this section do not apply after 5 years from the date an alien was granted lawful temporary resident status under sections 245A, 210 and 210A of the INA.

9. A new § 435.408 is added to read as follows:

§ 435.408 Categories of aliens who are permanently residing in the United States under color of law.

This section describes aliens that the agency must accept as permanently residing in the United States under color of law and who may be eligible for Medicaid.

(a) An individual may be eligible for Medicaid if the individual is an alien residing in the United States with the knowledge and permission of the Immigration and Naturalization Services (INS) and the INS does not contemplate enforcing the alien's departure. The INS does not contemplate enforcing an alien's departure if it is the policy or practice of INS not to enforce the departure of aliens in the same category, or if from all the facts and circumstances in a particular case it appears that INS is otherwise permitting the alien to reside in the United States indefinitely, as determined by verifying the alien's status with INS.

(b) Aliens who are permanently residing in the United States under color of law are listed below. None of the categories includes applicants for an Immigration and Naturalization Service status other than those applicants listed in paragraph (b)(6) of this section or those covered under paragraph (b)(16) of this section. None of the categories allows Medicaid eligibility for nonimmigrants: for example, students or visitors. Also listed are the most commonly used documents that the INS provides to aliens in these categories.

(1) Aliens admitted to the United States pursuant to 8 U.S.C. 1153(a)(7), (section 203(a)(7) of the Immigration and Nationality Act). Ask for a copy of INS Form I-94 endorsed "Refugee-Conditional Entry";

(2) Aliens, including Cuban/Haitian entrants, paroled in the United States pursuant to 8 U.S.C. 1182(d)(5) (section 212(d)(5) of the Immigration and Nationality Act). Ask for a copy of INS Form I-94 with notation that the alien was paroled pursuant to section 212(d)(5) of the Immigration and Nationality Act. For Cuban/Haitian entrants, ask for a copy of INS Form I-94 stamped Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981. (Although the forms bear this notation. Cuban/Haitian entrants are admitted under section 212(d)(5) of the Immigration and Nationality Act);

(3) Aliens residing in the United States pursuant to an indefinite stay of deportation. Ask for an Immigration and Naturalization Service letter with this information or INS Form I-94 with such a notation;

(4) Aliens residing in the United States pursuant to an indefinite voluntary departure. Ask for an Immigration and Naturalization Service letter or INS Form I-94 showing that voluntary departure has been granted for an indefinite time period;

(5) Aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure (under 8 CFR 242.5(a)(2)(vi)) and whose departure the Immigration and Naturalization Service

does not contemplate enforcing. Ask for a copy of INS Form I–94 or Form I–210 or a letter showing that status;

(6) Aliens who have filed applications for adjustment of status pursuant to section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) that the Immigration and Naturalization Service has accepted as "properly filed" (within the meaning of 8 CFR 245.2(a) (1) or (2)) and whose departure the Immigration and Naturalization service does not contemplate enforcing. Ask for a copy of INS Form I–94 or I–181 or a passport appropriately stamped;

(7) Aliens granted stays of deportation by court order, statute or regulation, or by individual determination of the Immigration and Naturalization Service pursuant to section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) or relevant Immigration and Naturalization Service instructions, whose departure that agency does not contemplate enforcing. Ask for a copy of INS Form I–94 or a letter from the Immigration and Naturalization Service, or a copy of a court order establishing the alien's status;

(8) Aliens granted asylum pursuant to section 208 of the Immigration and Nationality Act (8 U.S.C. 1158). Ask for a copy of INS Form I–94 and a letter establishing this status;

(9) Aliens admitted as refugees pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)). Ask for a copy of INS Form I–94 properly endorsed;

(10) Aliens granted voluntary departure pursuant to section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) or 8 CFR 242.5 whose departure the Immigration and Nationality Service does not contemplate enforcing. Ask for a Form I–94 or Form I–210 bearing a departure date;

(11) Aliens granted deferred action status pursuant to Immigration and Naturalization Service Operations Instruction 103.1(a)(ii) prior to June 15, 1984 or § 242.1(a)(22) issued June 15, 1984 and later. Ask for a copy of INS Form I–210 or a letter showing that departure has been deferred;

(12) Aliens residing in the United States under orders of supervision pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252(d)). Ask for a copy of Form I–220 B;

(13) Aliens who have entered and continuously resided in the United States since before January 1, 1972 (or any date established by section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259);

(14) Aliens granted suspension of deportation pursuant to section 244 of the Immigration and Naturalization Act (8 U.S.C. 1254) and whose departure the Immigration and Naturalization Service does not contemplate enforcing. Ask for an order from an immigration judge showing that deportation has been withheld;

(15) Aliens whose deportation has been withheld pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)). Ask for an order from an immigration judge showing that deportation has been withheld; or

(16) Any other aliens living in the United States with the knowledge and permission of the Immigration and Naturalization Service and whose departure that agency does not contemplate enforcing. (Including permanent non-immigrants as established by Public Law 99–239, and persons granted Extended Voluntary Departure due to conditions in the alien's home country based on a determination by the Secretary of State).

B. 42 CFR part 436 is amended as set forth below:

1. The authority citation for part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. The table of contents to part 436 is amended by removing and reserving § 436.402, adding a new § 436.128 under Subpart B, § 436.330 under subpart D, and new §§ 436.406 and 436.408 under subpart E to read as follows:

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

* * * * *

Subpart B—Mandatory Coverage, of the Categorically Needy

436.128 Coverage for certain aliens.

* * * * *

Subpart D—Optional Coverage of the Medically Needy

* * * * *

436.330 Coverage for certain aliens.

Subpart E—General Eligibility Requirements

* * * * *

436.402 [Reserved]

* * * * *

436.406 Citizenship and alienage.

436.408 Categories of aliens who are permanently residing in the United States under color of law.

* * * * *

3. In subpart A, § 436.2 is amended by revising the introductory text and adding in chronological order additional law citations to read as follows:

§ 436.2 Basis.

This part implements the following sections of the Act and other public laws which state requirements and standards for eligibility:

* * * * *

1903(v) Payment for emergency services under Medicaid provided to aliens.

* * * * *

Public Law 99–509, section 9406 Payment for emergency medical services provided to aliens.

Public Law 99–603, section 201 Aliens granted legalized status under section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) may under certain circumstances be eligible for Medicaid.

Public Law 99–603, section 302 Aliens granted legalized status under section 210 of the Immigration and Nationality Act may under certain circumstances be eligible for Medicaid (8 U.S.C. 1160).

Public Law 99–603, section 303 Aliens granted legal status under section 210A of the Immigration and Nationality Act may under certain circumstances be eligible for Medicaid (8 U.S.C. 1161).

4. A new § 436.128 is added to subpart B to read as follows:

§ 436.128 Coverage for certain qualified aliens.

The agency must provide the services necessary for the treatment of an emergency medical condition as defined in § 440.255(c) of this chapter to those aliens described in § 436.406(c) of this subpart.

5. A new § 436.330 is added to subpart D to read as follows:

§ 436.330 Coverage for certain aliens.

If an agency provides Medicaid to the medically needy, it must provide the services necessary for the treatment of an emergency medical condition, as defined in § 440.255(c) of this chapter to those aliens described in § 436.406(c) of this subpart.

§ 436.402 [Removed and Reserved]

6. In subpart E, § 436.402 is removed and reserved.

7. A new § 436.406 is added to read as follows:

§ 436.406 Citizenship and alienage.

(a) The agency must provide Medicaid to otherwise eligible residents of the United States who are—

(1) Citizens; or

(2) Aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law, as defined in § 436.408 of this part;

(3) Aliens granted lawful temporary resident status under sections 245A and 210A of the Immigration and Nationality Act if the individual is aged, blind, or disabled as defined in section 1614(a)(1) of the Act, under 18 years of age, or a Cuban/Haitian entrant as defined in section 501 (e)(1) and (2)(A) of Pub. L. 96-422; or

(4) Aliens granted lawful temporary resident status under section 210 of the Immigration and Nationality Act unless the alien would, but for the 5-year bar to receipt of AFDC contained in such section, be eligible for AFDC.

(b) The agency must only provide emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act), and services for pregnant women as defined in section 1916(a)(2)(B) of the Social Security Act to otherwise eligible residents of the United States not described in paragraphs (a)(3) and (a)(4) of this section who have been granted lawful temporary or lawful permanent resident status under section 245A, 210 or 210A of the Immigration and Nationality Act for five years from the date lawful temporary resident status was granted.

(c) The agency must provide payment for the services described in § 440.255 to residents of the State who otherwise meet the eligibility requirements of the State plan (except for receipt of AFDC, SSI, or State Supplementary payments and the presentation of a social security number) but who do not meet the requirements of paragraph (a) of this section.

(d) The limitations on eligibility set forth in paragraph (b) of this section do not apply after 5 years from the date this alien was granted lawful temporary resident status.

8. A new § 436.408 is added to read as follows:

§ 436.408 Categories of aliens who are permanently residing in the United States under color of law.

This section describes aliens that the agency must accept as permanently residing in the United States under color of law and who may be eligible for Medicaid.

(a) An individual may be eligible for Medicaid if the individual is an alien residing in the United States with the knowledge and permission of the Immigration and Naturalization Services (INS) and the INS does not contemplate enforcing the alien's departure. The INS does not contemplate enforcing the alien's departure if it is the policy or practice of INS not to enforce the departure of aliens in the same category, or if from all the facts and circumstances in the case it appears that INS is otherwise permitting the alien to reside in the United States idefinitely, as determined by verifying the alien's status with INS.

(b) Aliens who are permanently residing in the United States under color of law are listed below. None of the categories includes applicants for an Immigration and Naturalization Service status other than those applicants listed in paragraph (b)(6) of this section, or those covered under paragraph (b)(16) of this section. None of the categories allows Medicaid eligibility for nonimmigrants: for example, students or visitors. Also listed are the most common documents that the INS provides to aliens in these categories.

(1) Aliens admitted to the United States pursuant to 8 U.S.C. 1153(a)(7), (section 203(a)(7) of the Immigration and Nationality Act). Ask for a copy of INS Form I-94 endorsed "Refugee-conditional Entry";

(2) Aliens, including Cuban/Haitian entrants, paroled in the United States pursuant to 8 U.S.C. 1182(d)(5) section 212(d)(5) of the Immigration and Nationality Act). Ask for a copy of INS Form I-94 with notation that the alien was paroled pursuant to section 212(d)(5) of the Immigration and Nationality Act. For Cuban/Haitian entrants ask for a copy of INS Form I-94 stamped Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981. (Although the forms bear this notation, Cuban/Haitian entrants are admitted under section 212(d)(5) of the Immigration and Nationality Act.);

(3) Aliens residing in the United States pursuant to an indefinite stay of deportation. Ask for an Immigration and Naturalization Service letter with this information or INS Form I-94 with such a notation;

(4) Aliens residing in the United States pursuant to an indefinite voluntary departure. Ask for an Immigration and Naturalization Service letter or INS Form I-94 showing that a voluntary departure has been granted for an indefinite time period;

(5) Aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure (under 8 CFR 242.5(a)(2)(vi)) and whose departure the Immigration and Naturalization Service does not contemplate enforcing. Ask for a copy of INS Form I-94 or INS Form I-210 or a letter showing this status;

(6) Aliens who have filed applications for adjustment of status pursuant to section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) that the Immigration and Naturalization Service has accepted as "properly filed" (within the meaning of 8 CFR 245.2(a)(1) or (2)) and whose departure the Immigration and Naturalization Service does not contemplate enforcing. Ask for a copy of INS Form I-94 or I-181 or a passport properly endorsed;

(7) Aliens granted stays of deportation by court order, statute or regulation, or by individual determination of the Immigration and Naturalization Service pursuant to section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) or relevant Immigration and Naturalization Service instructions, whose departure that agency does not contemplate enforcing. Ask for a copy of INS Form I-94 or a letter from the Immigration and Naturalization Service, or a copy of a court order establishing the aliens's status;

(8) Aliens granted asylum pursuant to section 208 of the Immigration and Nationality Act (8 U.S.C. 1158). Ask for a copy of INS Form I-94 and a letter establishing this status;

(9) Aliens admitted as refugees pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)). Ask for a copy of INS Form I-94 properly endorsed;

(10) Aliens granted voluntary departure pursuant to section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) or 8 CFR 242.5 whose departure the Immigration and Naturalization Service does not contemplate enforcing. Ask for a copy of INS Form I-94 or I-210 bearing a departure date;

(11) Aliens granted deferred action status pursuant to Immigration and Naturalization Service Operations Instruction 103.1(a)(ii) prior to June 15, 1984 or § 242.1(a)(22) issued June 15, 1984 and later. Ask for a copy of INS Form I-210 or a letter showing that departure has been deferred;

(12) Aliens residing in the United States under orders of supervision pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1152(d)). Ask for a copy of Form I-220 B;

(13) Aliens who have entered and continuously resided in the United States since before January 1, 1972 (or any date established by section 249 of

the Immigration and Nationality Act, 8 U.S.C. 1259);

(14) Aliens granted suspension of deportation pursuant to section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) and whose departure the Immigration and Naturalization Service does not contemplate enforcing. Ask for an order from the Immigration judge;

(15) Aliens whose deportation has been withheld pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)). Ask for an order from an immigration judge showing that deportation has been withheld; or

(16) Any other aliens living in the United States with the knowledge and permission of the Immigration and Naturalization Service and whose departure that agency does not contemplate enforcing, including permanent non-immigrants as established by Public Law 99-239, and persons granted Extended Voluntary Departure due to conditions in the alien's home country based on a determination by the Secretary of State.

C. 42 CFR part 440, subpart B would be amended as set forth below;

1. The authority citation for part 440 continues to read as follows;

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents to part 440 is amended by adding an entry for § 440.255 to read as follows:

PART 440—SERVICE GENERAL PROVISIONS

* * * * *

Subpart B—Requirements and Limits Applicable to All Services

* * * * *

440.255 Limited services available to certain aliens.

* * * * *

3. Section 440.200 is revised to read as follows:

Subpart B—Requirements and Limits Applicable to All Services

§ 440.200 Basis, purpose, and scope.

(a) This subpart implements the following statutory requirements—

(1) Section 1902(a)(10), regarding comparability of services for groups of recipients, and the amount, duration, and scope of services described in section 1905(a) of the Act that the State plan must provide for recipients;

(2) Section 1902(a)(22)(D), which provides for standards and methods to assure quality of services;

(3) Section 1903(v)(1), which provides that no payment may be made to a State under this section for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law;

(4) Section 1903(v)(2) which provides that FFP will be available for services necessary to treat an emergency medical condition of an alien not described in paragraph (a)(3) of this section if that alien otherwise meets the eligibility requirements of the State plan;

(5) Section 1907 on observance of religious beliefs;

(6) Section 1915 on exceptions to section 1902(a)(10) and waivers of other requirements of section 1902 of the Act; and

(7) Sections 245A(h), 210 and 210A of the Immigration and Nationality Act which provide that certain aliens who are legalized may be eligible for Medicaid.

(b) The requirements and limits of this subpart apply for all services defined in Subpart A of this part.

4. Section 440.210 is revised to read as follows:

§ 440.210 Required services for the categorically needy.

(a) A State plan must specify that, as a minimum, categorically needy recipients are provided the services as specified in §§ 440.10 through 440.50, 440.70 and (to the extent nurse-midwives are authorized to practice under State law or regulation), § 440.165.

(b) A State plan must specify that eligible aliens as defined in §§ 435.406(a) and 436.406(a) of this subpart will receive at least the services provided in paragraph (a) of this section.

(c) A State plan must specify that aliens not defined in §§ 435.406(a) and 436.406(a) of this subpart will only be provided the limited services specified in § 440.255.

5. Section 440.220 is revised to read as follows:

§ 440.220 Required services for the medically needy.

(a) A State plan that includes the medically needy must specify that the medically needy are provided, as a minimum, the following services.

(1) Prenatal care and delivery services for pregnant women.

(2) Ambulatory services, as defined in the State plan, for—

(i) Individuals under age 18; and

(ii) Individuals entitled to institutional services.

(3) Home health services (§ 440.70) to any individual entitled to skilled nursing facility services.

(4) If the State plan includes services in an institution for mental diseases (§ 440.140 or § 440.160) or in an intermediate care facility for the mentally retarded (§ 440.150(c)) for any group of medically needy, either of the following sets of services to each of the medically needy groups:

(i) The services contained in §§ 440.10 through 440.50 and (to the extent nurse-midwives are authorized to practice under State law or regulation) 440.165; or

(ii) The services contained in any seven of the sections in §§ 440.10 through 440.165.

(b) A State plan must specify that eligible aliens as defined in §§ 435.406(a) and 436.406(a) of this subpart will receive at least the services provided in paragraphs (a)(4) (i) and (ii) of this section.

(c) A State plan must specify that aliens defined in §§ 435.406(b), 435.406(c), 436.406(b) and 436.406(c) of this subpart will only be provided the limited services specified in § 440.255.

6. In § 440.250, paragraph (h) is revised, new paragraphs (m) and (n) are added to read as follows:

§ 440.250 Limits on comparability of services.

* * * * *

(h) Ambulatory services for the medically needy (§ 440.220(a)(2)) may be limited to—

(1) Individuals under age 18; and

(2) Individuals entitled to institutional services.

* * * * *

(m) Eligible legalized aliens who are not in the exempt groups described in §§ 435.406(a) and 436.406(a), and considered categorically needy or medically needy must be furnished only emergency services (as defined in § 440.255), and services for pregnant women as defined in section 1916(a)(2)(B) of the Social Security Act for 5 years from the date the alien is granted lawful temporary resident status.

(n) Aliens who are not lawful permanent residents, permanently residing in the United States under color of law, or granted lawful status under section 245A, 210 or 210A of the Immigration and Nationality Act, who, otherwise meet the eligibility requirements of the State plan (except for receipt of AFDC, SSI or a State Supplementary payment) must be furnished only those services necessary to treat an emergency medical condition of the alien as defined in § 440.255(c).

7. A new § 440.255 is added to read as follows:

§ 440.255 Limited services available to certain aliens.

(a) *FFP for services.* FFP is available for services provided to aliens described in this section which are necessary to treat an emergency medical condition as defined in paragraph (b)(1) or services for pregnant women described in paragraph (b)(2).

(b) *Legalized aliens eligible only for emergency services and services for pregnant women.* Aliens granted lawful temporary resident status, or lawful permanent resident status under sections 245A, 210 or 210A of the Immigration and Nationality Act, who are not in one of the exempt groups described in §§ 435.406(a)(3) and 436.406(a)(3) and who meet all other requirements for Medicaid will be eligible for the following services—

(1) Emergency services required because of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the patient's health in serious jeopardy;

(ii) Serious impairment to bodily functions, or

(iii) Serious dysfunction of any bodily organ or part.

(2) Services for pregnant women which are included in the approved State plan. These services include routine prenatal care, labor and delivery, and routine post-partum care. States, at their option, may provide additional plan services for the treatment of conditions which may complicate the pregnancy or delivery.

(c) Effective January 1, 1987, aliens who are not lawfully admitted for permanent residence in the United States or permanently residing in the United States under the color of law must receive the services necessary to treat the condition defined in paragraph (1) of this section if—

(1) The alien has a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the patient's health in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part, and

(2) The alien otherwise meets the requirements in §§ 435.406(c) and 436.406(c) of this subpart.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance)

Dated: February 28, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: July 9, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-21055 Filed 9-6-90; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-136; RM-6997]

Radio Broadcasting Services; Destin, Florida and Fairhope, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, issued on the Commission's own motion, substitutes Channel 221C3 for Channel 221A at Destin, Florida, and modifies the license of Gulfcoast Broadcasting, Inc. for Station WMMK(FM) to specify operation on the higher powered channel. *See* 54 FR 28077, July 5, 1989. In addition, Channel 221C3 is substituted for Channel 221A at Fairhope, Alabama, in response to a counterproposal filed by WZEW, Inc., permittee of Station WZEW(FM), Fairhope, Alabama. Channel 221C3 can be allotted to Destin in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.7 kilometers (5.4 miles) east of the community. The coordinates for Channel 221C3 at Destin are North Latitude 30-23-08 and West Longitude 86-24-52. Channel 221C3 can be allotted to Fairhope in compliance with the Commission's minimum distance separation requirements with a site restriction of 18.1 kilometers (11.3 miles) west of the community. The coordinates for Channel 221C3 at Fairhope are North Latitude 30-32-00 and West Longitude 88-05-30. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 19, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-136, adopted August 17, 1990, and released September 4, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Destin, Florida, by adding Channel 221C3 and removing 221A; and is amended under Fairhope, Alabama, by adding Channel 221C3 and removing Channel 221A.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-21047 Filed 9-6-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-16; RM-7119]

Radio Broadcasting Services; Ogden, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 278C2 for Channel 278A at Ogden, Kansas, and modifies the license for Station KQLA, to specify operation on Channel 278C2, in response to a petition filed by Kaw Valley Broadcasting Company. The coordinates for Channel 278C2 are 39-20-20 and 96-38-32. See 55 FR 3751, February 5, 1990.

EFFECTIVE DATE: October 19, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-16, adopted August 21, 1990, and released September 4, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230) 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

Authority: 47 U.S.C. 154, 303.

§ 72.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Kansas by removing Channel 278A and adding Channel 278C2 at Ogden.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules, Division, Mass Media Bureau.

[FR Doc. 90-21048 Filed 9-6-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 900511-0111]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of closure.

SUMMARY: NOAA announces the closure of the recreational salmon fishery in the exclusive economic zone (EEZ) from Leadbetter Point, Washington, to Cape Falcon, Oregon, at midnight, August 30, 1990, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined that the recreational fishery quota of 122,500 coho salmon for the subarea will be reached by August 30, 1990. The closure is necessary to conform to the preseason announcement of 1990 management measures. This action is intended to ensure conservation of coho salmon.

DATES:

Effective: Closure of the EEZ from Leadbetter Point, Washington, to Cape Falcon, Oregon, to recreational salmon fishing is effective at 2400 hours local time, August 30, 1990. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.20, 661.21, and 661.23 (as amended May 1, 1989).

Comments: Public comments are invited until September 19, 1990.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by notice issued under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

In its preseason notice of 1990 management measures (55 FR 18894, May 7, 1990), NOAA announced that the 1990 recreational fishery for all salmon species in the subarea from Leadbetter Point, Washington, to Cape Falcon, Oregon, would begin on June 24 and continue through the earliest of September 20 or the attainment of either a subarea quota of 122,500 coho salmon or the overall quota of 37,500 chinook salmon north of Cape Falcon, Oregon. Based on the best available information, the recreational fishery catch in the subarea is projected to reach the 122,500 coho salmon quota by midnight, August 30, 1990. Therefore, the fishery in this subarea is closed to further recreational fishing effective 2400 hours local time, August 30, 1990.

In accordance with the revised inseason notice procedures of 50 CFR 661.20, 661.21, and 661.23, actual notice to fishermen of this closure was given prior to 2400 hours local time, August 30, 1990, by telephone hotline number (206) 526-6667 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 KHz. NOAA issues this notice of closure of the recreational salmon fishery in the EEZ from Leadbetter Point, Washington, to Cape Falcon, Oregon, which is effective 2400 hours local time, August 30, 1990.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Washington Department of Fisheries, and the Oregon Department of Fish and Wildlife regarding a closure of the recreational fishery between Leadbetter Point, Washington, and Cape Falcon, Oregon. The States of Washington and Oregon will manage the recreational fishery in State waters adjacent to this area of the EEZ in accordance with this federal action. This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted for 15 days after filing with the Office of the Federal Register, through September 19, 1990.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated: August 31, 1990.

Joe P. Clem,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-21046 Filed 9-4-90; 10:30 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 174
Friday, September 7, 1990

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 919

[Docket No. AO-102-A6; FV-88-132]

Peaches Grown in Mesa County, CO; Secretary's Decision and Referendum Order on Proposed Further Amendment of Marketing Agreement and Order No. 919

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision recommends further amendment of the Marketing Agreement and Marketing Order No. 919 (7 CFR part 919), covering Mesa County, Colorado peaches, and directs that a referendum be conducted to determine if the producers of Mesa County peaches favor the various amendment proposals. If approved, these proposals would amend the provisions of the marketing agreement and order to:

(1) Authorize the regulation of shipments of fresh peaches grown in Mesa County to locations within the State, as well as shipments to locations outside of the State; (2) amend six existing definitions and add three new definitions to the order; (3) reapportion committee membership (increasing the number of independent handler members and reducing the number of cooperative handler members), add informal rulemaking authority to reapportion committee membership and change the size and composition of the committee; (4) revise the committee nomination and selection process and add informal rulemaking authority to make changes in the process, and establish limits on the tenure of committee members; (5) increase the amount of committee compensation, add informal rulemaking authority to revise that compensation, and revise the voting procedures of the committee; (6) authorize late payment and interest charges on overdue assessments; (7) consolidate provisions regarding the regulations of shipments; (8) authorize the establishment of funding of production research projects; (9) add provisions for verification of reports and records and for maintaining confidentiality of handler records; (10) add informal rulemaking authority to change the minimum quantity of peaches per shipment exempt from regulation and include an additional requirement that peaches purchased under such exemption be removed from the sellers' premises on the day of the sale; (11) require periodic referenda to determine whether growers favor continuance of the order; and (12) make necessary conforming changes. The amendment proposals are designed to improve the administration, operation, and functioning of the marketing order.

DATES: The referendum shall be conducted during the period September 14, 1990, through October 11, 1990. The representative period for the purposes of the referendum herein ordered is July 1, 1990, through September 7, 1990.

FOR FURTHER INFORMATION CONTACT: George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone: (202) 475-3919, or Joseph C. Perrin, Northwest Marketing Field Office, 110 SW Third Ave., room 369, Portland, Oregon, 97204, telephone: (503) 326-2724. Additional copies of this decision may be obtained from either of these individuals.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued November 1, 1988, and published in the **Federal Register** on November 3, 1988 (53 FR 44407); Recommended Decision issued November 20, 1989, and published in the **Federal Register** on November 24, 1989 (54 FR 48619); Extension of Comment Period issued February 13, 1990, and published in the **Federal Register** on February 20, 1990 (55 FR 5852).

This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore is excluded from the requirements of Executive Order 12291 and Departmental Regulation 1512-1.

Preliminary Statement

This proposed amendment of the order was formulated on the record of a public hearing held at Palisade, Colorado, on November 16 and 17, 1988, to consider the proposed further amendment of Marketing Agreement and Order No. 919 (7 CFR part 919), both as amended, regulating the handling of peaches grown in Mesa County, Colorado, hereinafter referred to collectively as the order. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR part 900). The Notice of Hearing contained amendment proposals submitted by the committee, which locally administers the order. Those proposals pertained to: (1) Authorizing regulation of shipments of Mesa County fresh peaches within the State of Colorado, as well as shipments to locations outside of the State; (2) amending six existing definitions and adding three new definitions to the order; (3) reapportioning committee membership (increasing the number of independent handler members and reducing the number of cooperative handler members), adding informal rulemaking authority to reapportion committee membership and changing the size and composition of the committee; (4) revising the committee nomination and selection process, adding informal rulemaking authority to make future changes in the process, and establishing limits on the tenure of committee members; (5) increasing the amount of committee compensation, adding informal rulemaking authority to revise that compensation, and revising the voting procedures of the committee; (6) authorizing late payment and interest charges on overdue assessments; (7) consolidating provisions regarding the regulations of shipments; (8) authorizing the establishment of funding of production research projects; (9) adding provisions for verifying reports and records and for maintaining confidentiality of handler records; (10) adding informal rulemaking authority to change the minimum quantity of peaches per shipment exempt from regulation and including an additional

requirement that peaches purchased under such exemption be removed from the sellers' premises on the day of the sale; (11) requiring periodic referendum to determine whether growers favor continuance of the order. The Notice of Hearing also included a proposal by the Fruit and Vegetable Division, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA or Department), to make necessary conforming changes in the amended order.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator, AMS, on November 20, 1989, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision containing a notice of the opportunity to file written exceptions thereto by December 26, 1989. One peach grower requested that the comment period be extended to provide additional time for review of the Recommended Decision. An Extension of Comment Period (to February 28, 1990) was issued February 13, 1990 (55 FR 5852).

Numerous exceptions were filed by interested persons in the Mesa County peach industry. Eleven exceptions for 14 producers, handlers and the committee were received favoring the proposed amendments. Exceptions favoring the amendments were filed by Bruce L. Clark, Dennis, James L. and Steve Clark, Dale R. Ferguson, Dale Friesen, Aaron Hall, Jr., Helen O. Mestas, Bryan L. Noland, Max L. Noland, Robert O. and Sherri K. Nicolay, Galen R. Wallace and Lyman M. Wallace. Seventy-eight exceptions opposing the proposed amendments were filed by the 64 following producers, handlers and other interested persons: William E. Baker, Bonnie and LeRoy Bell, William R. Brauer, Charles L. Campbell, Peter D. Cantwell, Mike Cavanaugh, Roy E. Corney, Calvin E. Cowan, John J. Cox, Jr., Ronald R. Crist, Carolyn Davis, Jay W. Davis, Raymond Denison, Darius W. DeVries, Lawrence Duffey, Leslie R. Eklund, Darrell Farlow, Harold and Allyce Ford, W.C. Gitchell, Joseph I. Golliher, M.A. Grant, Tom Hayes, Perle H. Hays, Roy L. Herman, Bert Hetherington, James C. Hetherington, James E. Hetherington, Mr. and Mrs. Jack K. Hillis, R.L. Hudson, Lyle B. Larghi, Ronald Lasley, Robert Martin, Lou Massiatti, James L. Mattingley, Diana McDermott, Howard Mizushima, David A. Morton, Arthur R. Muhr, Ronald R. Muhr, Edward J. Nau, Paul I. Piquette, Bradford L. Ramer, M.E. Reese, Paul Riga, Hal H., Jean M. and Marcus Edward Roesler, Cecil I. Rost, Joe S. Roybal, Duane E. Rubarts, Carroll E. Rushold, Jerry W. and Patricia A. Searcy, Kenneth J. Searcy, Richard Skaer, Willis Strong, Charlie Talbott, Harry C. Talbott, Michael A. Turner, Herman Wagley, Earl L. Waskosky, Barbara L. West, Henry A. Wheeler, Allen M. Williams, Ivan Wood, Carol Zodrozny, and one illegible signature. Fifty-one of the opposing comments were a single form letter. One exception was received after the close of the comment period and was not considered in making the findings and determinations of this decision. Specific comments received are addressed in the appropriate material issues of this decision.

Small Business Considerations

In accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–602), the Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.2) as those having annual receipts of less than $500,000. Small agricultural service firms, which include handlers under this marketing agreement and order, are defined as those firms with annual receipts of less than $3,500,000.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Interested persons were invited in the Notice of Hearing to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments on small businesses. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both the RFA and the Act are compatible with respect to small entities.

During the 1988 season, approximately 45 handlers of Mesa County peaches were subject to regulation under the order. In addition, there are approximately 290 peach producers in Mesa County. These numbers are based on the most current information. The majority of these handlers and producers may be classified as small entities.

The Federal marketing order for peaches grown in Mesa County, Colorado, began in 1939 and was last amended in 1969. Peach acreage in Mesa County totals around 1,800 acres. Inspected production volume in 1988 was 134,275 bushels (one bushel equals approximately 50 pounds of peaches) with a value of approximately $2.75 million. In addition to the inspected production, an estimated 40,000 bushels were sold within Mesa County at packing sheds, local roadside stands and farmers' markets. These sales were not subject to grade or size requirements under the exemption found in 7 CFR 919.71. Two-thirds of the crop is handled by independent producer/handlers and one-third by a cooperative marketing organization. Currently, no Mesa County peaches are exported outside the United States or used in processed markets in commercial quantities.

The Federal marketing order for peaches operated jointly with a State order until March 1, 1989, when the State order was terminated after failing a State-run termination referendum. All programs conducted under the State program, such as paid advertising and production research, have ceased with termination of the State order. Official notice has been taken of this termination. The Federal order regulates the handling of interstate peach shipments (approximately 70 percent of the annual inspected crop) and requires that peaches shipped out of the State meet U.S. No. 1 or better standards and be at least 2⅛ inches in diameter.

The proposal amending § 919.9 (redesignated as § 919.10) would revise the definition of the term "ship" to include the handling of peaches in the current of commerce within the production area and to points outside the production area. This would require the inspection of all commercial shipments of Mesa County peaches and ensure minimum standards for all such peaches marketed. This proposal should improve the market for peaches handled within the county and the State, as well as those markets outside the State. This could benefit both producers and handlers because minimum quality and size requirements established under the order are important to the industry in fostering consumer satisfaction and increasing demand for Mesa County peaches.

Six additional definitions are proposed to be revised and three new definitions are proposed to be added to this marketing order. Section 919.4, which currently defines "peaches," would be amended to define the new term "production area." The revised definition of the term "peaches" would be inserted as § 919.5. Current §§ 919.5 through 919.11 would be amended and/or redesignated as §§ 919.6 through 919.12. Redesignated § 919.6 would change the name of the Administrative

Committee to the Colorado Peach Administrative Committee to more closely associate the name of the committee with the commodity regulated. This action would necessitate conforming changes throughout the order. The proposed amended definitions for producer, redesignated § 919.7, and handler, redesignated § 919.8, would clarify these two terms. The definitions of fiscal period, redesignated § 919.11, and district, redesignated § 919.12, would allow the committee, with the approval of the Secretary, to establish new operating periods and new district alignments for the efficient operation of the program. New definitions would be added for grade, § 919.13, and size, § 919.14, to provide an appropriate basis for determining grade and size standards for peaches grown in the production area. These changes in definitions and the addition of new definitions are meant to further define and clarify terms used in the order, and would not have a significant impact on small business entities in the industry.

The proposed amendment to § 919.20 would reapportion committee membership to reflect the position of the cooperative marketing association and independent handler segments of the industry. Section 919.20 also would include a requirement that committee members shall represent and be selected from segments of the industry (producers, independent handlers and cooperative handlers) of which they are members. Additionally, the proposed amendment to § 919.22 would provide the committee with informal rulemaking authority to recommend: (1) Reapportionment of committee membership among producer and handler members; (2) changing the size of the committee; (3) changing the composition of the committee; and (4) redefine the districts to reflect future structural changes in the industry. These two proposals would provide for appropriate representation of the various industry segments, and would allow the committee, with the approval of the Secretary, to respond to future structural changes in the industry. These proposals should benefit small entities.

Several proposed amendments would revise and consolidate the nomination and selection process for committee members under § 919.21. The new proposals would provide more appropriate lengths of time for the committee to nominate and the Department to select new members (§ 919.21) and fill vacancies (§ 919.29), revise the qualification process (§ 919.26), and standardize the length of terms and limit tenure for committee members (§ 919.27). Existing sections covering the nomination and selection of independent handler members (§ 919.22), and cooperative handler members (§ 919.23), and the eligibility for membership of all members (§ 919.24), would be removed and the requirements of these three sections would be consolidated in the nomination and selection process under § 919.21. Sections 919.23 and 919.24 would be removed and reserved. These proposals are intended to improve the committee nomination and selection process and would have no significant impact on small business entities in the industry.

Proposed § 919.30, regarding compensation and expenses for committee members, would provide for an increase in the maximum amount of money which members may receive while attending committee meetings from $5.00 to $10.00. The proposed changes would not present a financial burden on operating expenses. The proposed amendment would authorize the committee, with the approval of the Secretary, to change the compensation rate as necessary. Section 919.33 on committee voting procedures would be amended by lowering the quorum requirement for committee meetings. It would also provide, with certain safeguards, for committee votes to be cast by mail, telegraph, telephone or other means of communication. This provision is expected to improve the committee's ability to respond expeditiously to needs of the industry and should therefore be beneficial to small entities.

The proposed amendment to § 919.41 would authorize the committee, with the Secretary's approval, to establish a late payment charge and an additional interest rate charge on overdue handler assessment accounts. Such authority should provide handlers with an incentive to make assessment payments in a timely manner and would not have a significant impact on small entities.

Revisions would be made to four sections regarding the committee's annual marketing policy and the regulation of peach shipments. Various provisions in §§ 919.32, 919.50, 919.51 and 919.52 would be reorganized. These proposals are intended to improve the operation of the marketing order and would have no significant impact on small business entities in the industry.

The proposed amendment to § 919.60 would authorize the establishment of production research projects. This would be added to the current order authority for market research and development projects. Under the proposal, production research projects, as well as market research and development projects, would be paid for, with the approval of the Secretary, using handler assessment funds and other sources of income as approved by the Secretary. Such projects would benefit producers and handlers and would not adversely affect small entities. Any costs associated with this provision would be outweighed by the benefits of such projects. In addition, proposed § 919.40, regarding expenses incurred by the committee, would allow the committee, with the approval of the Secretary, to use funds, other than those collected from handler assessments, for production research and market research and development projects. Such authority should provide increased opportunity for the committee to conduct production and market research projects.

The proposed addition of § 919.67 regarding verification of reports and records would authorize the Secretary and the committee to verify the correctness of reports filed by handlers, and to verify handler compliance with recordkeeping requirements. Additionally, new § 919.68 would require confidential information provided by handlers to be protected from disclosure. These requirements would not adversely affect small entities.

The proposal to amend § 919.71, regarding peaches not subject to inspection and assessment regulations, would authorize the committee, with the approval of the Secretary, to revise the minimum quantity of peaches per shipment not subject to such regulations. This proposal is intended to provide that exempted volumes of peaches remain in line with quantities normally sold for home use. Additionally, testimony indicates that the current exemption should require that the 19 bushels per day, sold to any single individual, be removed from the seller's premises on the day of the sale. This would help to provide that only legitimate roadside sales to consumers be exempt from regulation. The authorized exemptions are intended to help small producers acting as handlers market their fruit directly to consumers at retail stands near where the fruit is grown, at nearby packing houses or at local farmers' markets.

Amendment of § 919.81 would require periodic continuance referenda which would provide producers an opportunity to periodically vote on whether the order should be continued. Such

referenda would not have a significant impact on small entities in the industry.

All of the proposed changes set forth in this document are designed to enhance the administration, operation and functioning of the order. The proposed amendments to the order would not have a significant impact on the recordkeeping and reporting burdens of Mesa County peach handlers. The proposed revisions would change the reporting and recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), which have been previously approved by the Office of Management and Buget (OMB) under OMB No. 0581–0139. The proposed addition of a record keeping requirement would require information to be retained by handlers for at least two years. The evidence of record indicates that handlers generally maintain such information in the normal course of business for periods longer than two years. The information collection requirements contained in this proposed action will be submitted to the OMB for approval. Such requirements will not become effective prior to OMB approval.

Findings and Conclusions

The findings and conclusions included in the discussion of the material issues and the rulings and general findings of the Recommended Decision set forth in the **Federal Register** (54 FR 48622, November 24, 1989) are hereby approved and adopted subject to the following additions and modifications:

Based on the exceptions filed by those opposing the proposed amendments, the findings and conclusions in material issue 1 of the Recommended Decision concerning the definition of the term "ship" to include the handling of peaches in the current of commerce within the production area and to points outside the production area are amended by adding the following seven paragraphs after the fourth paragraph of material issue 1 to read as follows:

The form letter in opposition to the proposed amendments stated that sections 608b and 608c of the Act authorize only regulation of interstate shipments and therefore, the Department does not have the authority to extend regulation to peaches marketed within the State of Colorado. Mr. Williams also commented that the proposed amendment to regulate both interstate and intrastate shipments is in direct violation of the Act which, he contended, specifically limits regulation of commodities to interstate commerce. However, the Act also provides authority (7 U.S.C. 608b and 608c(1)) to regulate the handling of commodities when the handling of such commodities or products thereof are in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce. Thus, when the handling of a commodity within a State burdens, obstructs, or affects interstate commerce, the marketing order can also regulate shipments of a commodity within a State.

On pages 22 and 23 of the hearing transcript, testimony indicated that refrigerated peach shipments along the major highway system (i.e. outside Mesa County) total less than 200,000 bushels annually and that there is "approximately an additional 30 percent of peach production sold within Mesa County that is not subject to marketing order regulations." Further testimony on page 48 indicated that 70 percent of Mesa County peaches are shipped outside the State. Messrs. Cox and Williams took exception to these two percentages, stating that they do not account for peaches marketed outside the county but inside the State. However, the quantity sold inside Mesa County currently is not required to be inspected under the marketing order and therefore was not included in the testimony figures as being regulated by either the State or Federal marketing orders. If 70 percent of the regulated (inspected) peaches were shipped in interstate markets, it follows that 30 percent of the regulated (inspected) peaches were shipped to Denver and other markets within the State. The "30 percent" of peach production referred to at pages 22 and 23 is the amount of peaches that were subject to no regulation under either the State or Federal marketing orders. These non-regulated peaches were shipped in an amount equal to 30 percent of the total regulated shipments. Of such regulated shipments, 70 percent are shipped interstate and 30 percent are shipped within the State. Therefore, the exception is denied.

Mr. Cox filed an exception which described his views of the different marketing practices used by Mesa County peach handlers. No testimony was entered onto the record evidence to either support or deny Mr. Cox's description of the handling of tree ripe, as opposed to less mature, peaches. However, the evidence of record indicated that 70 percent of the regulated peaches grown in Mesa County are inspected and shipped outside the State, and the remaining regulated peaches are marketed within the State. Inspection requirements provide a range of peach maturity conditions necessary to pass U.S. No. 1 grade standards.

Messrs. Williams and Rost both commented that regulation of intrastate commerce is a violation of the United States Constitution. However, section 608b of the Act authorizes the Secretary to regulate commerce which directly burdens, obstructs or affects such interstate commerce. The record evidence indicated that the marketing of Mesa County peaches within the State so affects interstate commerce.

Messrs. Williams, Cox and other commenters questioned the Department's finding that peaches marketed in Mesa County and within Colorado have a direct affect on the marketing of peaches shipped in interstate commerce. These commenters contended that, as Mr. Williams stated, "* * * the small quantity of Mesa County peaches finding their way into interstate markets has no effect on the price of peaches, nor does it '* * * burden, obstruct, or affect such commerce.' " However, testimony indicated that local markets "* * * can influence larger markets in other portions of the State and surrounding States if uncontrolled fruit were allowed to be sold in them."

The record evidence indicated that Mesa County peaches are produced for markets both inside and outside the State, and that the marketing of peaches produced in Mesa County within the State does have a direct affect on the interstate marketing of Mesa County peaches. Thus, the exceptions contesting this determination are denied.

The findings and conclusions in material issue 2 of the Recommended Decision concerning definitions (revising respectively: Peaches, producer, committee, handler, fiscal period and district, and adding respectively: Production area, grade and size) are amended by adding the following three paragraphs after the thirteenth paragraph of material issue 2. This amendment is based on the exception received from Mr. Williams and reads as follows:

In a comment supporting his exception, Mr. Williams stated that "the only growing area for peaches in Colorado is Mesa County." However, according to Exhibits 7 and 8 of the hearing record, the Colorado Tree Fruit Survey of 1985 presented at the hearing, Delta and Montrose counties, among others, also produce peaches for commercial markets. These statistics show that the acerage and number of peach trees in Delta, Montrose and other counties total approximately one third of the acreage and number of those in

Mesa County. Mr. Williams commented that the testimony deliberately underestimated, and thus misrepresnted, the volume of peach production in Mesa County when it stated production at less than 200,000 bushel equivalents. He calculated that the correct volume should be at least 673,200 bushels, based on peach acreage, tree spacing and average production per tree. The 200,000 bushel figure is reasonable and is supported by record evidence. Thus, the exceptions are denied.

Based on the exceptions filed by Ms. Mestas and Messrs. Hayes, Eklund, Williams and Turner, the findings and conclusions in material issue 3 of the Recommended Decision concerning the apportionment, size and composition of the committee and the committee's authority, with the Secretary's approval, to make such changes are amended by adding the following three paragraphs after the sixth paragraph of material issue 3 to read as follows:

Ms. Mestas, commenting on behalf of the committee, took exception to the Department's finding in the Recommended Decision (54 FR 48623) that the committee should have the authority to recommend to the Secretary, every two years, changes in the size of the committee. The committee believed that a two-year periodic review of committee size should not be mandatory. However, the evidence indicated that a periodic review of committee size, as well as its composition and apportionment, would allow for more timely and cost efficient changes in committee representation. While the committee should consider such a review at least every two years, there is no requirement to change committee size each time it is reviewed. Thus, the exception is denied.

Messrs. Hayes and Eklund filed separate exceptions stating that if the proposed amendments are put into effect, a minority on the committee could overrule the input from the majority of producers. The commenters did not provide an explanation of how this might occur. Of the nine member committee, four members represent the cooperative marketing association and/or the independent handlers, and five producer members are selected on a district basis and represent producers in those districts. Most producers market their production through either the cooperative marketing organization or as independent handlers. Committee actions are taken by majority vote. All members in the industry may attend committee meetings and make their views known. Thus, the exceptions are denied.

Mr. Williams commented that providing the committee the authority to recommend adjustments to the number of committee members, district boundaries and election procedures is contrary to the Act and is a violation of due process. However, said authorities are provided to the committee to administer and effectuate the order in accordance with the terms and provisions of the Act. The Act also authorizes terms and conditions that are incidental to and not inconsistent with terms and conditions specified in the Act and are necessary to effectuate the other provisions of the order. The committee's recommendations in these matters are subject to the approval and oversight of the Secretary. In addition, implementation of committee recommendations to change committee size, structure or election procedures could only be accomplished through rulemaking procedures. Because the committee is composed of members nominated and elected by the industry on a regular and frequent basis, the committee is considered to be a representative body. Thus, the exception is denied.

Mr. Turner commented that the committee would have to be constantly monitored and that he does not have enought time to do that. Practice has been that the committee meets regularly during the growing season. The meetings are, in general, open to the public and the committee keeps minutes of such meetings and makes those minutes available to industry members. Thus, it should not be burdensome to keep abreast of industry issues considered by the committee.

Therefore, exceptions to changes in the apportionment, size and composition of the committee and the committee's authority, with the Secretary's approval, to make such changes, are denied.

The findings and conclusions in material issue 4 of the Recommended Decision concerning revising and consolidating the provisions specifying the nomination and selection process for committee members are retained except for one minor change. Section 919.29 regarding vacancies has been changed by the Department by removing, in the first sentence, the phrase "* * * the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of * * *." This phrase is unnecessary considering the proposed changes to § 919.26 which provides for the qualification of member and alternate member nominees prior to selection. Under this proposed change, a nominee must qualify before selection by the Secretary. Thus, a vacancy would not occur because of a failure to qualify after selection. No exceptions were received regarding this material issue.

The findings and conclusions in material issue 5 of the Recommended Decision concerning committee compensation and voting procedures are retained without change. No comments were received regarding this material issue.

Based on the exceptions filed by Messrs. Williams, Campbell and Ms. Mestas the findings and conclusions in material issue 6 of the Recommended Decision concerning late payment and interest charges on past due assessments are amended by adding the following two paragraphs after the seventh paragraph of material issue 6 to read as follows:

Mr. Williams stated that section 608c(7)(C) of the Act does not provide the committee with authority to enforce the collection of assessments or to collect late payment charges on overdue assessments. However, the section cited by Mr. Williams specifies, in part, that the committee has the power to administer the order in accordance with the order's terms and provisions and that the committee has the power to receive, investigate, and report to the Secretary complaints of violations of the order. Both the Act and the order provide that the committee may pursue legal actions to collect unpaid handler assessments. Further, the Act also provides for terms and conditions in orders that are incidental to and not inconsistent with the terms and conditions specified in the Act and are necessary to effectuate the other provisions of the order. Accordingly, the actions referenced by Mr. Williams are authorized by the Act. The authority to impose late payment charges and interest is intended to encourage handlers to make timely payments and to assist in the committee with its compliance responsibilities.

Mr. Campbell commented that the assessment rate under the order has a high negative impact on a substantial number of small entities. However, changes to the rate of assessments were not proposed in this action. This proceeding proposed authority to charge late payment and interest charges. The Department has determined that this does not have a significant economic impact on small entities.

The proposal would provide handlers with an incentive to make assessment payments in a timely manner.

Thus, exceptions to the amendment regarding late payment and interest

charges on past due assessments are denied.

Based on the exceptions filed by Messrs. Hudson, Turner and Williams, the findings and conclusions in material issue 7 of the Recommended Decision to consolidate and reorganize the provisions on marketing policy and the regulation of peach shipments are amended by adding the following nine paragraphs after the last paragraph of material issued 7 to read as follows:

A few commenters, including Mr. Hudson, questioned why, if the order is to promote the marketing of peaches, production has dropped from over a million bushels in the 1940's and 1950's to less than 200,000 bushels in the late 1980's. Testimony notes that several severe freezes have reduced acreage and production over the years in question. Some acreage was lost to land speculation after the boom in synthetic fuels technology held promise of development in Mesa County. The marketing order provides for the establishment of minimum grade and size requirements for Mesa County peaches to keep undesirable peaches out of the marketplace. Testimony presented at the hearing indicated that over the years such standards have helped ensure high quality peach production in the county and have helped build and maintain buyer confidence in the quality of the peaches marketed. These requirements have helped prevent the sale of inferior quality peaches at low prices to the detriment of good quality peaches. Thus the order tends to effectuate the declared policy of the Act and the exceptions are denied.

The Recommended Decision discussed the amendment of § 919.51 and stated "That the intent is to establish guidelines and procedures by which the Secretary may regulate peaches grown in Mesa County." Mr. Williams took exception to that statement, claiming that section 608c of the Act prohibits the Secretary from regulating the production of a commodity. Howeer, § 919.51 and the statement Mr. Williams took exception to regards the regulation of the handling of peaches by grades and sizes. It does not refer to the regulation of the production of those peaches. Thus, the exception is denied.

Mr. Williams also contended that the proposed revision of § 919.52, authorizing the committee, with the Secretary's approval, to regulate peach shipments means that the Secretary may impose shipping quotas on producers. Proposed § 919.52 regards regulation of shipments by grade size, quality and maturity; not by the imposition of shipping quotas. Proposed § 919.52 would combine provisions already in effect under the current order. No provision authorizing the establishment of quotas has been included in the proposals to amend the order. Thus, the exception is denied.

Many commenters stated that the Perishable Agricultural Commodities Act of 1930 (PACA) (7 U.S.C. 499a *et sq.),* duplicates much of the order's regulations when it (PACA) "sets the standards and practices for interstate trading in fresh fruits and vegetables." However, the PACA does not establish grade (quality) and size requirements for individual varieties of fruits and vegetables. The PACA prohibits certain actions by commission merchants, dealers, or brokers in connection with transactions involving perishable agricultural commodities. Therefore, the exception is denied.

Many commenters also stated that Colorado State law mandates the inspection of peaches and that the Federal order is unnecessary. Evidence of record is that the Federal order helps to assure continued shipments of high quality Mesa County peaches, thereby benefitting the peach industry. Thus, the exception is denied.

Mr. Turner commented that under current inspection requirements, peaches are not inspected for maturity. However, this is not the case. Under the Federal order, Mesa County peaches shipped to interstate markets must be at least U.S. No. 1 grade (United States Standards for Grades of Peaches; 7 CFR 51.1210–51.1223). Under these standards, U.S. No. 1 quality peaches are described as "* * * peaches of one variety which are mature but not soft or overripe * * *." Under these standards, "mature" means that the peach has reached the stage of growth which will insure a proper completion of the ripening process. Therefore, the exception is denied.

Mr. Campbell opposed the grade, size and inspection requirements because he believes they impose unnecessary regulations on the industry. The proposed amendments do not add new requirements to the U.S. No. 1 requirements that are now in effect for Mesa County peaches. The proposed amendments would continue to allow the committee, with the approval of the Secretary, to establish grade and size requirements and to recommend modifications necessary to help meet the marketing needs of the industry. Therefore, the exception is denied.

Mr. Cantwell commented that the consumer has the right to choose the product that the consumer wishes to purchase, and that grades, sizes and maturity requirements are of no concern to the government. The Act authorizes the establishment of minimum standards of quality, size, and maturity. Such provisions serve the interests of the industry, since a good quality image can lead to market expansion. The record evidence indicated that the program has played a role in providing high quality peaches in the marketplace in the interest of both producers and consumers.

Thus, the exceptions to material issue 7 regarding the marketing policy and the regulation of peach shipments are denied.

The findings and conclusions in material issue 8 of the Recommended Decision concerning the committee's authority, with the Secretary's approval, to authorize production research is retained without change. No comments were received regarding this material issue.

Based on the exceptions filed by the commenters who submitted the form letter and by Messrs. Eklund, Turner and Williams, the findings and conclusions in material issue 9 of the Recommended Decision concerning committee authority to verify the correctness of reports filed by handlers and to protect the confidentiality of information provided by handlers is amended by adding the following nine paragraphs after the eighth paragraph of material issue 9 to read as follows:

Several commenters objected to proposed §§ 919.67 and 919.68. The commenters' form letter stated that proposed § 919.67 concerning verification of reports and records is a violation of constitutional rights of search and seizure and that such authority placed in the hands of committee members, who are competitors, would be a violation of the rights of the person(s) marketing peaches. Mr. Eklund commented that this provision is objectionable. Mr. Turner commented that the provision infringes on his right to privacy, and that it provides too much authority to the committee. Mr. Turner believed that there should be provisions to counterbalance the committee's authority.

Order provisions concerning verification of exports and records and concerning confidential information are authorized under the Act. Providing for the verification of handler reports and records does not violate the U.S. Constitution. The proposed new provision would authorize review of handler records by the Secretary or by the committee "through its duly authorized employees." Such employees

would not be members of the committee and would not be peach producers or handlers in the industry (section 608d(2)). Proposed § 919.68 of the order would require that proprietary information would be kept confidential by the designated employees of the committee.

Further, the proposed provision specifies that review of records would take place during normal business hours. The information being sought would be information that is necessary for the operation of the order.

Mr. Williams suggested that the methods of recordkeeping are vague and claimed that the Secretary does not have the authority to give the committee "interpretive powers" as to what is "sufficient recordkeeping." The proposed provisions of § 919.67 provide that all handlers would be required to maintain complete records that accurately show the quantity of peaches held, sold, and shipped and that the committee, with the approval of the Secretary, may establish the types of records to be maintained. Accordingly, the provision is not vague and the committee has been given authority that is consistent with the provisions of the Act.

Mr. Williams also suggested that the committee does not have the authority to inspect handler records because section 608c(13)(B) of the Act authorizes only the inspection of peaches. However, that section does not apply to the inspection of records. Section 608d(1) authorizes inspection of records.

The proposed § 919.67 also specifies that "Handlers shall furnish labor necessary to facilitate such examinations at no expense to the committee." Mr. Williams objected to this provision, believing it to be arbitrary and capricious. A review of handler records should not require extensive labor costs to the handler, assuming those records are maintained in a normal, business-like fashion. A review of peaches held also should not require additional labor efforts provided by a handler.

For the reasons stated above, the exceptions received regarding committee authority to verify the correctness of reports filed by handlers and the protection of confidential information are hereby denied.

Based on the exceptions filed by Ms. Mestas and Messrs. Cox, Williams and Campbell, the findings and conclusions in material issue 10 of the Recommended Decision concerning committee authority, with the Secretary's approval, to change the minimum quantity of peaches per shipment not subject to regulation is amended by adding the following nine paragraphs after the last paragraph of material issue 10 to read as follows:

Ms. Mestas, on behalf of the committee, requested that the words "on any one conveyance," proposed in the Notice of Hearing and deleted in the Recommended Decision, be included in the revised provision. The committee believed that this phrase would make the new provision consistent with current industry practice and would help prevent circumvention of regulation under the order. The Department's revision is proposed to meet the same purpose as the committee's proposal, which is to provide that only legitimate roadside and farmers' market peach sales to home-use consumers are exempted from regulation. The record evidence indicated that the exempted volume of peaches should remain in line with quantities normally sold for home use. The exception is therefore denied.

Mr. Cox commented that the proposed revised amendment would be an economic burden on those who sell their peaches at roadside stands and farmers' markets because they would have to have all sales in excess of 19 bushels, or other amount as recommended by the committee and approved by the Secretary, inspected prior to the sale. The purpose of this amendment is to amend a provision providing for an exemption. This amendment represents no change in the exemption level. The amendment merely provides the committee with the needed flexibility to adjust the exempted volume, with the approval of the Secretary, to best reflect industry needs. Based on the record evidence, this amendment would not be a burden on those who sell their peaches at roadside stands to home-use consumers in the quantities authorized, because such quantity reflects an amount normally sold for home use and such sales would be exempted from grade, size, quality, maturity, and assessment regulations. Therefore, the exception is denied.

Mr. Williams stated that providing the committee, with the Secretary's approval, the authority to change the volume of exempt peaches is arbitrary and capricious. He contended that the proponents did not provide substantial evidence that exempted volumes of 19 bushels or less would affect interstate commerce or compliance with the Act. The committee should be provided with the flexibility, with the Secretary's approval, to adjust the exempted volume of peaches that the industry may feel would best effectuate the intent of the Act. The inspection and assessment provisions of this subpart would not be applicable to peaches so shipped.

The phrase "or other amounts as recommended by the committee and approved by the Secretary" would authorize the committee with the Secretary's approval to make changes in the volume of peaches exempted from regulation. Mr. Williams took exception to the continued inclusion of this portion of the proposal in the amendment process because it was not in the proposed amendatory language as published in the Notice of Hearing. However, the Notice of Hearing (53 FR 44407) invited testimony on the proposed amendments and on any appropriate modifications to the proposed amendments. Such testimony was presented at the hearing and the issue was thoroughly discussed. Evidence indicated that the committee needs flexibility to adjust the exempted amount.

Mr. Williams also stated that the proposed new provision § 919.71 is contrary to section 806c(6) of the Act which, in part, specifies that effects of regulations shall be applied equitably among producers and handlers. He contended that giving the committee the authority to change the exemption volume would not have an equitable effect on all producers. However, § 919.71 refers to an exempted amount of peaches marketed by any and all handlers. Any exempted amount, whether it is 19 bushels or another volume recommended by the committee and approved by the Secretary, will be uniformly applied to all handlers of Mesa County peaches.

Mr. Williams commented that section 608c(13) prohibits the regulation of producers who sell their commodity at roadside stands on their own premises. However, producers who sell commodities at roadside stands are handlers of the commodity under the Act and order and thus are subject to the requirements within the Act and order. The exemption of section 608c(13) applies to retailers acting in their capacity as a retailer, such as grocery store or supermarket operators who receive commodities from handlers and sell those commodities at retail.

Mr. Campbell stated that the general thrust of the Recommended Decision is to bring producers under control of the order by designating them as handlers. Only handlers are subject to regulation under the order. However, the record revealed that almost all Mesa County peach producers handle some of their own production at one time or another during a harvest season—and are designated as handlers for that portion of their production that they market directly.

Section 919.71 specifies that the committee may prescribe adequate safeguards to assure that exempted peaches are not put into the channels of commerce contrary to the intent of this part. In accordance with exceptions received, the Department has added provisions requiring such safeguards proposed by the committee to be approved by the Secretary.

Exceptions to the proposed amendment providing committee authority, with the Secretary's approval, to change the minimum quantity of exempted peaches per shipment are hereby denied.

Based on the exceptions filed by Messrs. Williams and Campbell, the findings and conclusions in material issue 11 of the Recommended Decision concerning the conduct of continuance referenda within eight years of the effective date of the amendment and every six years thereafter is amended by adding the following two paragraphs after the fifth paragraph of material issue 11 to read as follows:

In one of his exceptions, Mr. Williams alleged that the Department was raising the vote count from 50 percent to two-thirds of the producers voting needed for termination. This is not the case. The requirement for passage of a continuance referendum is the same as that for issuance of an order in a promulgation, i.e., approval would be based upon a favorable vote of at least two-thirds of the producers voting in the referendum, or by a favorable vote representing at least two-thirds of the volume of the commodity produced by those voting in the referendum. The Secretary would consider termination of the order only if those favoring continuance are less than two-thirds of the producers voting in the referendum and are producers of less than two-thirds of the volume of the commodity represented in the referendum. This requirement is considered adequate to measure producer support to continue the marketing order.

In evaluating the merits of continuance versus termination, the Secretary would consider not only the results of the referendum but also would consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to producers, handlers and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

Thus, the exceptions filed concerning the conduct of continuance referenda within eight years of the effective date of the amendment and every six years thereafter are hereby denied.

The findings and conclusions in material issue 12 of the Recommended Decision concerning conforming changes made by the Department are retained without change. No exceptions were received regarding this material issue.

The following findings and conclusions are made regarding miscellaneous exceptions filed.

One exception was filed by Mr. Allen M. Williams maintaining that section 608c(4) of the Act provides authority for the Secretary, when issuing a decision, to consider evidence other than that received at the hearing. Mr. Williams wanted events in the Mesa County peach industry that happened after the hearing to be made part of the rulemaking record. However, the section referred to by Mr. Williams requires the Department to base its decision on each of the proposed amendments on the record evidence. Thus, information which Mr. Williams wanted considered was not part of the rulemaking record evidence. Therefore, Mr. Williams' exception is denied.

The majority of those opposing the proposed amendments contended that a recently terminated State marketing order and the Federal order were one collective order, or at least were so inextricably linked that the decision to terminate the State order should have automatically terminated the Federal order. However, the State and Federal orders were established under different authorities. Therefore, the decision to terminate the State order had no effect on the continuation of the Federal order.

In his exception, Mr. Charles L. Campbell stated that many small peach producers process their peaches into dried products, jellies, jams and candies and that such peaches should be exempt from the regulatory requirements of the order. Peaches shipped for processing are exempt from regulation under the existing Federal order and would continue to be exempt under the proposed amendments.

Several commenters requested that the Department conduct a referendum on terminating the existing order before conducting a referendum on the proposed amendments. This decision provides for a producer referendum on the proposed amendments. In view of this, the requests to hold a termination referendum on the current order are denied at this time.

Messrs. Cox and Hayes filed a joint exception which suggested that the existing Federal marketing order is illegal because it was never approved in a Federal referendum. They contended that only a State referendum was held when the program was implemented in 1939. Two **Federal Register** documents (Notice of Hearing (4 FR 2306, June 7, 1939) and Order Regulating the Handling of Peaches Grown in the County of Mesa, in the State of Colorado (4 FR 3599, August 15, 1939)) indicate that a referendum was conducted and issuance of the order was approved by the requisite number of producers. The Order Regulating Handling issued in 1939 indicates that the referendum held met the requirements of the Act. Therefore, the exception is denied.

Messrs. Campbell and Williams challenged the validity of this amendment proceeding because it was not requested by at least one-third of the producers. Mr. Campbell cited a requirement within section 608c(17) of the Act which applies to petitions for amending milk marketing orders. Authority to initiate fruit and vegetable marketing order amendment proceedings is specified in the Act and in the order. Section 608c(7) of the Act and § 919.31(d) of the Mesa County peach order specify that the committee may recommend to the Secretary amendments to an order. Also, 7 CFR part 900 of the Department's Rules of Practice and Procedure Governing Proceedings to Formulate Marketing Agreements and Orders provides that any person may propose amendments to Federal marketing orders. Therefore, these exceptions are denied.

Mr. Williams stated that he was not mailed a copy of the Notice of Hearing. He contends that this is a direct violation of the Act and, therefore, he believes the hearing was "useless" in providing the Secretary with substantial information. However, 7 CFR 900.4(b)(2) provides that failure to provide notice directly to all known interested persons shalll not affect the legality of a Notice of Hearing. Correct procedures were followed, as specified in 7 CFR 900.4, by **Federal Register** publication and distribution of the Notice of Hearing, and in the issuance of a press release on the Notice of Hearing. Over 330 copies of the Notice of Hearing were mailed or otherwise distributed to interested persons and industry members, including Mr. Williams. Also, the hearing was well publicized and covered by local news media. Therefore this exception is denied.

Other comments challenging the legality of the order were received. Mr. Leslie R. Eklund commented that because the State and Federal orders were implemented under a joint agreement, the Federal order no longer has a legal basis. However, any joint operating agreement would not affect termination requirements, which are different for the two orders. Mr.

Campbell contended that the order is no longer binding because some of the 1939 promulgation records have been destroyed. Mr. Campbell also contended that the destruction of the files is an ex parte communication violation and that the files were deliberately destroyed by the Department. While some records were destroyed in January, 1989, at the Washington National Records Center, the Department did not request that any documents concerning the Colorado peach order be destroyed. Mr. Campbell also argued that the amended agreement signed in 1969 cannot be modified and extended to other parties, but that it applies only to those who signed the document. However, this suggestion is contrary to the Act which provides that marketing orders may be issued with or without a marketing agreement. A marketing order issued with a marketing agreement, as in 7 CFR part 919, regulates all handlers subject to the provisions therein and may be amended in accordance with the provisions of the Act. Mr. Peter D. Cantwell stated that the order is in direct conflict with anti-trust laws. However, section 608b of the Act states in part: "The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States * * *." Therefore, these exceptions are denied.

Mr. Williams suggested that the order does not address "pricing or the posting of prices by handlers" as specified in section 608c (6) and (7) of the Act, and therefore does not effectuate the Act. Section 608c(7) of the Act does provide that orders may contain a provision that certain commodities or products thereof, or any grade, size or quality thereof shall be sold by handlers only at prices filed by such handlers in the manner provided in such order. However, neither section of the Act specifies that all of its provisions must be included in a marketing order. The sections identified by Mr. Williams include many terms and conditions, one or more of which may be included in a marketing order. The Department concludes that the order is in conformance with the Act and was promulgated in accordance with its terms and conditions. Thus, exceptions filed contesting legality of the current order are denied.

Messrs. Campbell, Cox and Williams stated that a January 1989, letter jeopardized impartiality of the proceeding and therefore requested that the Secretary terminate the amendment process. In January 1989, Mr. Dennis West, a Marketing Specialist of the USDA's Marketing Field Office in Portland, Oregon, wrote an open letter to the committee defending the concept of marketing orders and one provision, the recordkeeping requirements, that is common to all orders. A copy of that letter was subsequently distributed to all members in the industry. Ex parte communications provisions specify that no Department employee involved in a decisional process (such as amending the order) may discuss the merits of that proceeding with any person or persons having an interest in such proceeding. Once aware of the communication, the Department filed the letter, along with an explanatory memorandum on the public record of the proceeding, pursuant to 7 CFR 900.16. Further, the Department concludes that this communication has not influenced the decisional process in this proceeding. Therefore, these exceptions are denied.

Mr. Campbell commented that Mr. West has made efforts to convince at least one unidentified producer to pay Federal order assessments. Mr. Campbell contended that this activity also was an ex parte communications violation. However, as noted above, ex parte communication restrictions apply only to the merits of pending rulemaking proceedings. Such actions taken to effect compliance with order provisions and requirements are not ex parte communications. Therefore, this exception is denied.

One comment, signed by ten interested persons, petitioned for a change in the method for tabulating ballots cast, as specified in section 608c(8)(A) of the Act. Section 608c(8)(A) of the Act specifies that voting will be tabulated by two methods (number voting and volume voted) and that approval by either or both methods will constitute approval of the proposed amendments. The exception requested that only the numercial tabulation method be used and that the tabulation representating volume of production not be counted. However, such a change in procedures is not authorized under section 608c(8)(A) of the Act and therefore cannot be used by the Department.

The same comment questioned whether producers who market their peaches, unregulated, at roadside stands and farmers' markets would be eligible to vote. Section 919.6 of the order defines "producer" to mean any person engaged in growing peaches in the county of Mesa, in the State of Colorado, for market. A producer eligible to vote in a referendum is defined (7 CFR part 900) as one who is defined as a producer in the order who produced the commodity in the production area during the representative period, and who is still a producer of that commodity in the production area. Thus, producers who market their peaches at roadside stands and farmers' markets, as well as any other producer whose peaches are produced for market, are eligible to vote in the referendum.

The referendum ballot will contain a producer eligibility statement which asks, among other things, for the volume of peaches sold by the individual voting. The volume of peaches sold by those who vote, including those who market their peaches at roadside stands and farmers' markets, should be consistent with the voter's peach acreage, number of trees or sales receipts.

Several comments were received regarding the representative period. Under normal circumstances, the representative period is designated as the growing and harvest season immediately preceding a referendum. The representative period for this referendum is hereby determined to be July 1, 1990, through September 7, 1990.

Three comments were filed requesting exceptions to section 608c(8)(A) of the Act regarding the requirement that the volume determination of each producer's vote be based on the producer's individual production during the designated representative period. Mr. Thomas Hayes and Ms. Diana McDermott filed separate exceptions requesting that new trees planted after the 1989 freeze be included in a producer's production volume to be voted. Again, section 608c(8)(A) of the Act applies: Only production volume actually produced during the representative period may be counted by the producer. Estimated production from trees representing new acreage not under production during the representative period may not be counted.

Mr. Turner proposed that new producers who entered the industry after the representative period should be allowed to vote. Again, in accordance with section 608c(8)(A), any volume produced for market within the representative period in the production area will be counted.

Mr. Hayes questioned whether peaches sold jointly, but under another producer's name, would be credited to the producer. In such or similar situations, the two producers should register on their ballots the volume produced by each, provided that these volumes: Are in accordance with whatever agreement may be in effect between the two producers; and do not represent a double counting of production volume between the producers.

All of the proposed changes set forth in this document are designed to enhance the administration, operation, and functioning of the order. The proposed amendments to the order would not have a significant impact on the recordkeeping and reporting burdens of Mesa County peach handlers. The proposed revisions would change the reporting and recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), which have been previously approved by the Office of Management and Budget (OMB) under OMB No. 0581–0139. This action would require information to be retained by handlers for at least two years. The evidence of record indicates that handlers generally maintain such information in the normal course of business for periods longer than two years. The information collection requirements contained in this proposed action will be submitted to the OMB for approval. Such requirements will not become effective prior to OMB approval.

Rulings on Exceptions

In arriving at the findings and conclusions and the regulatory provisions of this decision, the exceptions to the Recommended Decision were carefully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with the exceptions, such exceptions are denied.

Marketing Agreements and Orders

Annexed hereto and made a part hereof are the documents entitled, "Order Amending the Order, As Amended, Regulating the Handling of Peaches Grown in Mesa County, Colorado" and "Marketing Agreement, As Amended, Regulating the Handling of Peaches Grown in Mesa County, Colorado." These documents have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That the entire decision, except the annexed marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical to those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with 7 CFR subpart 900.400 *et. seq.* Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended. The referendum will be conducted to determine whether the order, as hereby proposed to be amended, is favored by producers who were engaged during a representative period, and who are now engaged, in the production for market of fresh peaches in Mesa County, Colorado.

The representative period for the conduct of such referendum is hereby determined to be July 1, 1990, through September 7, 1990.

The agents of the Secretary to conduct such referendum are hereby designated to be Joseph Perrin and Teresa Hutchinson in the Northwest Marketing Field Office of the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204; telephone (503) 326–2724 and George Kelhart and Tom Tichenor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 475–5464.

List of Subjects in 7 CFR Part 919

Marketing agreements, Peaches, Reporting and recordkeeping requirements.

Dated: August 31, 1990.

John E. Frydenlund,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order Amending The Order, As Amended, Regulating The Handling Of Peaches Grown in Mesa County, Colorado [1]

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900), a public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 919, as amended (7 CFR part 919), regulating the handling of peaches grown in Mesa County, Colorado.

Upon the basis of the record, it is found that:

(1) The marketing agreement and order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The marketing agreeement and order, as amended, and as hereby further amended, regulates the handling of peaches grown in the production area in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement and order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing agreement and order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of peaches grown in the production area; and

(5) All handling of peaches grown in the production area, as defined in the marketing agreement and order, as amended and as hereby further amended, is in the current interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of fresh peaches grown in Mesa County, Colorado, shall be in conformity to and in compliance with the terms and conditions of the marketing agreement and order, as hereby amended, as follows: with the exception of a modification to § 919.29, the provisions of the proposed marketing agreement and order, amending the marketing agreement and order, contained in the Recommended

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Decision issued by the Administrator on November 20, 1989, and published in the **Federal Register** (54 FR 48619, November 24, 1989), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 919—PEACHES GROWN IN MESA COUNTY, COLORADO

1. The authority citation for 7 CFR part 919 continues to read as follows:

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

2. Section 919.4 is revised to read as follows:

§ 919.4 Production area.

Production area means all territory included within Mesa County, Colorado.

3–9. Sections 919.5 through 919.11 are newly redesignated as §§ 919.6 through 919.12; newly redesignated §§ 919.6, 919.7, 919.8, 919.10, 919.11, 919.12 are revised; and a new § 919.5 is added to read as follows:

§ 919.5 Peaches.

Peaches means all varieties of peaches grown in the production area, classified botanically as *Prunus persica.*

§ 919.6 Committee.

Committee means the Colorado Peach Administrative Committee established pursuant to the provisions of this subpart.

§ 919.7 Producer.

Producer is synonymous with "grower" and means any person engaged in growing peaches for market in fresh form in the production area, and who has a proprietary interest therein.

§ 919.8 Handler.

Handler is synonymous with "shipper" and means any person (except a common or contract carrier of peaches owned by another person) who, as owner, agent, or otherwise, handles peaches or causes peaches to be handled as defined in § 919.10.

§ 919.10 Handle.

Handle is synonymous with "ship" and means to pack, sell, consign, transport, offer for transportation, or transport peaches in fresh form by any means whatsoever in the current of commerce within the production area or between the production area and any point outside thereof: *Provided*, That the term "handle" shall not include the transportation within the production area of peaches from the orchard where grown to a packing facility located within such area for preparation for market.

§ 919.11 Fiscal period.

Fiscal period is synonymous with "fiscal year" and means the 12-month period beginning and ending on the dates as recommended by the committee and approved by the Secretary.

§ 919.12 District.

District means any one of the geographical areas into which the production area is divided as recomemded by the committee and approved by the Secretary.

10. A new § 919.13 is added to read as follows:

§ 919.13 Grade.

Grade means any one of the officially established grades of peaches as defined and set forth in the United States Standards for Grades of Peaches (§§ 51.1210–51.1223 of this title) or any amendment, or modification recommended by the committee and approved by the Secretary.

11. A new § 919.14 is added to read as follows:

§ 919.14 Size.

Size means the smallest diameter, measured through the center of the peach, at right angles to a line running from the stem to the blossom end, or such other specifications as may be recommended by the committee and approved by the Secretary.

12. Section 919.20 is revised to read as follows:

§ 919.20 Establishment and membership.

(a) A Colorado Peach Administrative Committee is hereby established consisting of nine members, each of whom shall have an alternate. The provisions of this part applicable to number, nomination, eligibility, qualification, and selection of the members shall also apply to the number, nomination, eligibility, qualification, and selection of the alternate members. Five (5) of the members, one for each district established pursuant to § 919.11 or modified pursuant to § 919.22(b), shall represent and be selected from producers or officers or employees of producers and be referred to as "producer members;" one (1) member shall represent and be selected from the cooperative marketing association of producers, and be a member or director, officer, or employee of such an association exercising a supervisory or managerial function for that association, and be referred to as a "cooperative handler member;" and three (3) members shall represent and be selected from handlers or producers who are also handlers or directors, officers, or employees exercising supervisory or managerial functions of handlers, not affiliated with the cooperative marketing association of producers, and be referred to as "independent handler members." The members of the committee and their respective alternates shall be nominated in accordance with the provisions of § 919.21.

(b) Every two years the committee, with the approval of the Secretary, may revise the composition and size of the committee and reapportion the committee membership among industry groups pursuant to § 919.22.

13. Section 919.21 is revised to read as follows:

§ 919.21 Nomination and selection.

(a) Nominations from which the Secretary may select the members of the committee and their respective alternates may be made in the following manner:

(1) The committee shall hold or cause to be held, meetings of producers and handlers, not less than 45 days prior to the expiration date of the terms of office, or the date in which vacancies otherwise occur in the producer or independent handler member position.

(2) At each meeting at least one nominee shall be nominated by producers pursuant to paragraph (b) of this section and by independent handlers pursuant to paragraph (d) of this section for each member or alternate member position to be filled. Such nominations may be by ballot or by motion at the option of those present in a voting capacity. The person receiving the highest number of votes shall be the nominee for each position to be filled. Proxy voting shall be prohibited.

(b) Nominations of producer members and their respective alternates shall be made at meetings of producers in each district, at such times and places as the committee shall designate. Only producers, including duly authorized officers or employees of producers, who are present at such nomination meetings may participate in the nomination and election of nominees. Each producer shall be entitled to cast only one vote for each position to be filled in the district that producer produces peaches. No producer shall participate in the election of nominees in more than one district in any one fiscal year.

(c) Nominations of cooperative handler members and their respective alternates shall be made as follows:

(1) When there is only one cooperative marketing association, that association may nominate its representatives in any manner as the

members of that association deem appropriate; and

(2) When there is more than one cooperative marketing association, and there is a lack of agreement on who should be nominated, the vote for each position shall be weighted by the volume of peaches each association acquired from producers and handled during the preceding fiscal period.

(d) Nominations of independent handler members and their respective alternates shall be made at a meeting of such persons at such time and place as the committee shall designate. Only independent handlers, including duly authorized officers or employees of such handlers present at such nomination meeting, may participate in the nomination and election of nominees. Each independent handler shall be entitled to cast only one vote for each position to be filled.

(e) The committee, with the approval of the Secretary, may issue rules and regulations necessary to carry out the provisions of this section or to change the procedures in this section in the event they are no longer practical.

(f) In the event that nominees for all available positions are not provided by the aforesaid procedures, then such unfilled positions shall be treated as vacancies and the provisions of § 919.29 shall apply.

14. Section 919.22 is revised to read as follows:

§ 919.22 Reapportionment of committee and reestablishment of districts.

(a) The committee may recommend, and pursuant thereto the Secretary may approve, reapportioning producer, cooperative marketing association, and independent handler member representation on the committee to reflect changes in the relative importance of these segments of the industry, and, if necessary, the size of the committee may be increased or decreased; the ratio between producer and handler members including their alternates may be changed; and the industry groups represented on the committee may be changed. Any such changes shall reflect, insofar as practicable, structural changes within the peach industry and shifts in peach production within the production area.

(b) The committee, with the approval of the Secretary, may redefine the districts into which the production area is divided, increase or decrease the number of districts, and reapportion representation among the various districts; *Provided,* That in recommending any such changes, the committee shall consider:

(1) The relative importance of production and the number of producers in each district,

(2) The geographic locations of the producing districts and how the changes would affect the efficiency of administering this part, and

(3) Other relevant factors.

§ 919.23 [Removed and reserved]

15. Section 919.23 is removed and reserved.

§ 919.24 [Removed and reserved]

16. Section 919.24 is removed and reserved.

17. Section 919.25 is revised to read as follows:

§ 919.25 Failure to nominate.

In the event the committee fails to report nominations to the Secretary in the manner specified in § 919.21 at least 30 days prior to the beginning of the term of office, the Secretary may select the members and alternate members without nomination. Such selections shall be from the groups and in the numbers specified pursuant to this part.

18. Section 919.26 is revised to read as follows:

§ 919.26 Qualification by members and alternate members.

Each person to be selected by the Secretary as a member or as an alternate member of the committee shall, prior to selection, qualify by filing a written background and acceptance statement advising the Secretary that that person agrees to serve in the position for which nominated for selection.

19. Section 919.27 is revised to read as follows:

§ 919.27 Term of office.

(a) The term of office of each member and alternate member of the committee shall be for two years beginning January 1 and ending December 31, or such other beginning and ending dates as recommended by the committee and approved by the Secretary; *Provided,* That members and alternate members of the committee serving immediately prior to the effective date of this amended subpart shall serve on the committee until their successors have qualified and been selected; *And provided further,* That a portion of the members and alternates of the new committee under the amended order shall be selected so that approximately one-half of the members and alternate members may be replaced each year; *And provided further,* That such terms may be shorter than specified if the committee is changed pursuant to § 919.22.

(b) Committee members and alternate members shall serve during the term of office for which they have qualified and are selected, and until their successors have qualified and are selected; *Provided,* That no member shall serve more than three consecutive terms as member; *And Provided further,* That the Secretary shall have the authority to exempt a person from the tenure limitation when deemed necessary.

20. Section 919.29 is revised to read as follows:

§ 919.29 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member shall be nominated and selected in the manner specified in §§ 919.20, 919.21 and 919.26; *Provided,* That the committee may in its discretion submit its recommendation to the Secretary of a nominee eligible to serve in accordance with the requirements specified in § 919.20 without conducting a formal nomination. If the vacancy is in a member position, the committee shall recommend appointment of the alternate member if that person is willing to serve in that position. In the case of a declination to serve or to fill the alternate member vacancy, the committee's recommended nominee for a producer member or alternate producer member position to represent a particular district shall be a producer recommended to the committee by the producers from that particular district; the recommended nominee for a handler member or alternate handler member position representing the cooperative marketing association, with which the former member or employee was associated, shall be recommended to the committee by the cooperative marketing association; and the recommended nominee for an independent handler member or alternate independent handler member position shall be a person recommended to the committee by independent handlers in the production area. If the committee's recommendation to fill such vacancy is not submitted to the Secretary within 45 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nomination.

21. Section 919.30 is revised to read as follows:

§ 919.30 Compensation and expenses.

The members and alternate members of the committee shall serve without salary but may be compensated for

attendance at meetings at a rate not to exceed $10 per meeting. The amount of compensation may be adjusted upon a recommendation by the committee and approval by the Secretary. Such members and alternates may also be reimbursed for reasonable expenses necessarily incurred by them in performance of duties, specifically assigned by the committee, other than attendance at committee meetings.

§ 919.31 [Reserved]

22. Section 919.31 is amended by changing the words *Administrative Committee* in the introductory paragraph to *committee.*

23. Section 919.32 is amended by changing the words "Administrative Committee" in the introductory text, paragraphs (b), (h), (j), and (k) to "committee," and by revising paragraph (d) and removing paragraph (1) to read as follows:

§ 919.32 Duties.

* * * * *

(d) Prepare and submit a marketing policy pursuant to § 919.50.

* * * * *

24. Section 919.33 is revised to read as follows:

§ 919.33 Procedure.

(a) A majority of all members of the committee shall be necessary to constitute a quorum or to pass any motion or approve any committee action. When an assembled meeting is held, all votes shall be cast in person.

(b) The committee may provide for the members thereof, including the alternate members when acting as members, to vote by mail, telegraph, telephone, or other means of communication, provided that any such vote cast orally shall be confirmed promptly in writing.

§ 919.34 [Amended]

25. Section 919.34 is amended by changing the words "Administrative Committee" in the first sentence to "committee."

§ 919.35 [Amended]

26. Section 919.35 is amended by changing the words "Administrative Committee" in paragraphs (a) and (b) to "committee."

27. Section 919.40 is revised to read as follows:

§ 919.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by such committee for its maintenance and functioning under this part during the then current fiscal year. The committee shall prepare, and submit to the Secretary, a proposed budget of expenses and a proposed rate of assessment for the then current fiscal year. The funds to cover such expenses shall be acquired by the leving of assessments as provided in § 919.41. For projects conducted pursuant to § 919.60, other funds approved by the Secretary may also be used.

28. Section 919.41 is amended by designating the existing paragraph as "(a)", changing the words "Administrative Committee" in the first sentence to "committee," and adding a new paragraph "(b)" to read as follows:

§ 919.41 Assessments.

* * * * *

(b) The Committee may impose a late payment charge on any handler who fails to pay any assessment within the term prescribed by the committee. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the committee may impose an additional charge in the form of interest on such outstanding amounts. Such rate of interest shall be added to the bill monthly until the delinquent handler's assessment plus applicable interest and late payment charges have been paid. The rate of such charges shall be prescribed by the committee, with the approval of the Secretary.

§ 919.43 [Amended]

29. Section 919.43 is amended by changing the words "Administrative Committee" to "committee."

30. Section 919.50 is revised to read as follows:

§ 919.50 Marketing policy.

Each marketing season, prior to or at the same time as recommendations are made pursuant to § 919.51, the committee shall prepare and submit to the Secretary a report setting forth the marketing policy for the ensuing season. Additional reports shall be submitted if it is deemed advisable by the committee to adopt a new marketing policy because of changes in the demand for or supply of peaches. The committee shall maintain and make available in the committee office a copy of these marketing policies, and any revisions thereof, for the examination by growers and handlers. In determining each such marketing policy, the committee shall give due consideration to the following:

(a) The estimated total production of peaches within the production area;

(b) The expected general quality and size of peaches in the production area;

(c) The expected demand conditions for peaches in different market outlets;

(d) The expected shipments of peaches from other production areas;

(e) Anticipated marketing problems;

(f) Supplies of competing commodities;

(g) Trend and level of consumer income;

(h) Establishing and maintaining such orderly marketing conditions for peaches as will be in the public interest;

(i) The type of regulations expected to be recommended during the season; and

(j) Other relevant factors having a bearing on the marketing of peaches.

31. Section 919.51 is revised to read as follows:

§ 919.51 Recommendation for regulation.

(a) Whenever the committee deems it advisable to regulate, during any period or periods, the shipment of one or more varieties of peaches by grades or sizes, or both, or by minimum standards of quality or maturity, or both, it shall so recommend to the Secretary.

(b) At the time of submitting each such recommendation for regulation by grades, sizes, minimum standards of quality or maturity, or any combination thereof, the committee shall furnish to the Secretary, in addition to all pertinent data and information on which it acted in making such recommendation, such other data and information as the Secretary may request. The committee shall promptly give adquate notice to handlers and producers of each such recommendation.

32. Section 919.52 is revised to read as follows:

§ 919.52 Establishment of regulation.

Whenever the Secretary finds from the recommendations and information submitted by the committee, or from other available information, that such regulation would be in the public interest and tend to effecutate the declared policy of the Act, the Secretary shall regulate the handling of peaches in the manner specified herein. Such regulation may limit during any period or periods the shipment of any particular grade, size, quality, or maturity, or any combination thereof, of any variety or varieties of peaches grown in the production area. The Secretary shall promptly notify the committee of each such regulation and the committee shall promptly give adequate notice thereof to handlers and producers.

§ 919.53 [Amended]

33. Section 919.53 is amended by changing the words "Administrative Committee" in paragraphs (a), (e), and (f) to "committee."

§ 919.54 [Amended]

34. Section 919.54 is amended by changing the words "Administrative Committee" in the last sentence to "committee."

§ 919.55 [Amended]

35. Section 919.55 is amended by changing the words "Administrative Committee" in the first sentence to "committee."

36. Section 919.60 is revised to read as follows:

§ 919.60 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research or marketing development projects designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of peaches. The expense of such projects shall be paid from funds collected pursuant to § 919.41, or other funds approved by the Secretary.

§ 919.65 [Amended]

37. Section 919.65 is amended by changing the words "Administrative Committee" to "committee."

§ 919.66 [Amended]

38. Section 919.66 is amended by changing the words "Administrative Committee" in the heading text to "committee."

39. A new § 919.67 is added to read as follows:

§ 919.67 Verification of reports and records.

For the purpose of checking compliance with recordkeeping requirements and verifying reports filed by handlers, the Secretary and the committee, through its duly authorized employees, shall have access to any premises where peaches are held and, at any time during reasonable business hours, shall be permitted to examine any peaches held, and any and all records with respect to matters within the purview of this part. Handlers shall furnish labor necessary to facilitate such examinations at no expense to the committee. All handlers shall maintain complete records which accurately show the quantity of peaches held, sold, and shipped. The committee, with the approval of the Secretary, may establish the types of records to be maintained. Such records shall be retained by handlers for not less than two years subsequent to the termination of each such fiscal period.

40. A new § 919.68 is added to read as follows:

§ 919.68 Confidential information.

All data or other information constituting a trade secret or disclosing a trade position, or business condition of a particular handler, shall be treated as confidential and shall at all times, be received by and kept in the custody and under the control of one or more designated employees of the committee. Information which would reveal the circumstances of a single handler shall be disclosed to no person other than the Secretary.

41. Section 919.71 is revised to read as follows:

§ 919.71 Peaches not subject to regulation.

Nothing contained in this part shall be construed to authorize any limitation of the right of any person to ship:

(a) Peaches for consumption by a charitable institution or for distribution for relief purposes or for distribution by a relief agency;

(b) Peaches for processing on a commerical scale;

(c) Peaches to any one person during any one day, if such peaches are removed from the sellers premises on the day of the sale, are not for resale and do not aggregate more than 19 bushels, or an equivalent amount, or other such amounts as recommended by the committee and approved by the Secretary.

The inspection and assessment provisions of this subpart shall not be applicable to peaches so shipped. The committee may prescribe adequate safeguards, with the approval of the Secretary, to prevent peaches, shipped for such purposes, from entering commercial channels of trade contrary to the provisions of this part.

42. Section 919.81 is amended by revising paragraph (d) to read as follows:

§ 919.81 Termination.

* * * * *

(d) Within eight years of the effective date of the amendment of this paragraph the Secretary shal conduct a continuance referendum to ascertain whether continuance of ths subpart is favored by producers. Subsequent referenda to ascertain continuance shall be conducted within every six years thereafter. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this subpart is not favored by producers who, during a representative period determined by the Secretary, have been engaged in the production for market of peaches in the production area. Such termination shall be announced on or before February 1 of the current fiscal period.

§ 919.82 [Amended]

43. Section 919.82 is amended by changing the words "Administrative Committee" in paragraphs (a), (b), and (d) to "committee."

§ 919.94 [Amended]

44. Section 919.94 is amended by changing the words "Administrative Committee" in the first sentence to "committee."

[FR Doc. 90-21033 Filed 9-6-90; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

RIN 1219-AA48

30 CFR Parts 56, 57, 58, 70, 71, 72, and 75

Air Quality, Chemical Substances, and Respiratory Protection Standards; Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule, extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the time for public comment on certain provisions in its proposed rule addressing air quality at mines. The comment period is extended to October 26, 1990, for permissible exposure limits (PELs) other than nitrogen dioxide, nitric oxide, carbon monoxide and sulfur dioxide.

DATES: The comment period on provisions in the proposed rule concerning permissible exposure limits will close on October 26, 1990.

ADDRESSES: Send comments to: Mine Safety and Health Administration, Office of Standards, Regulations and Variance, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: On August 29, 1989, MSHA published a proposed rule to revise its standards for air quality, chemical substances, and respiratory protection for coal, metal, and nonmetal mines (54 FR 35760). The Agency initially scheduled the written comment period for the proposed rule to close on November 27, 1989. On October 19, 1989, MSHA extended the comment period to March 2, 1990, (54 FR 43026) in response to requests from the mining community. On January 25, 1990, (55 FR 2535) the Agency set three separate comment periods for different provisions in the proposal and announced its intent to hold a series of three sets of public hearings. The comment period for the first group of provisions closed on March 2, 1990, and hearings were held on June 4 and 6, 1990. Provisions in the first group included permissible exposure limits for nitrogen dioxide, nitric oxide, carbon monoxide; and sulfur dioxide; exposure monitoring; abrasive blasting; drill dust control; dangerous atmospheres; and prohibited areas for food and beverages. The comment period for the second group of provisions closed on June 29, 1990, and hearings are tentatively scheduled to be held in early October 1009. The dates and locations of the hearings will be announced in a forthcoming notice in the **Federal Register**. The second group of provisions includes carcinogens, asbestos construction work, means of control, respiratory protection, and medical surveillance.

The third group of provisions includes all permissible exposure limits other than those for nitrogen dioxide, nitric oxide, carbon monoxide and sulfur dioxide. MSHA has scheduled the comment period to close on August 24, 1990. MSHA is extending this date to October 26, 1990, to allow sufficient time for interested parties to participate in the public hearings on the second group of provisions in the proposal and to prepare comments on the third group of provisions.

The Agency encourages all parties interested in making comments to do so by October 26. Although the rulemaking record will remain open until all hearings have been held, MSHA intends that the substantive issues on these provisions be fully discussed during this comment period.

Dated: August 21, 1990.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 90-21086 Filed 9-6-90; 8:45 am]

BILLING CODE 4510-43-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3828-5]

Approval and Promulgation of State Implementation Plans; Carbon Monoxide Plan for Great Falls; MT

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to disapprove the Montana Carbon Monoxide (CO) State Implementation Plan (SIP) for Great Falls for failing to demonstrate attainment of the CO National Ambient Air Quality Standards (NAAQS). The Great Falls CO SIP was submitted by the Governor on March 28, 1986. Violations of the CO NAAQS in Great Falls during 1987, which were evaluated as part of a national effort on implementing part D of the Clean Air Act, resulted in a May 26, 1988, call for a SIP revision. Elsewhere today, in a separate action, EPA is proceeding with final approval of various control measures of this SIP so that they will be federally enforceable.

DATES: Comments must be received on or before October 9, 1990.

ADDRESSES: Written comments on this action should be addressed to: Chief, Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405.

Copies of the applicable documentation are available for public inspection between 8 a.m. and 4 p.m. Monday through Friday at the following office:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2405.

Department of Health and Environmental Sciences, Air Quality Bureau, Cogswell Building, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Michael Silverstein, Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 293-1769, FTS 564-1769.

SUPPLEMENTARY INFORMATION: On December 24, 1979, the State of Montana requested EPA to designate a portion of the City of Great Falls from attainment to nonattainment for CO. The State's request was based on ambient air monitoring at the northeast corner of the intersection of 10th Avenue South and 9th Street in Great Falls where exceedances of the 8-hour National Ambient Air Quality Standards (NAAQS) of 9 parts per million (ppm) were recorded during the winter months of 1977-78 and 1978-79. The one-hour CO NAAQS of 35 ppm was never exceeded. The State assumed these violations were due to high traffic levels along this route. On September 9, 1980 (45 FR 59315), EPA designated the 10th Avenue South Corridor in Great Falls, Montana as a nonattainment area for CO.

Also in the September 9, 1980 notice, EPA identified a study area, the Central Business District (CBD), where the City of Great Falls was to analyze certain street intersections and street segments for violations of the CO standard. The CBD study began with monitoring in the downtown area where the high CO readings were expected (monitor was located on 411 Central Avenue). Monitoring along 10th Avenue South was also occurring at this time. The study included monitoring, meteorological, modeling and statistical analyses from which the State concluded that traffic along 10th Avenue South was not the sole source of CO emissions, but that there was, in fact, an area-wide problem.

The SIP was submitted to EPA by Governor Ted Schwinden in a letter dated March 20, 1984. However, during EPA's review, areas of concern surfaced. The State withdrew its March 20, 1984, submittal and immediately proceeded to correct the Plan's deficiencies. The Governor then resubmitted a revision to the Montana CO SIP for Great Falls in a letter dated March 28, 1986. The SIP stated an attainment date of December 1986. The reader is referred elsewhere in today's **Federal Register** for additional information on the Montana CO SIP control strategies for Great Falls.

Since the 1986 plan had been implemented and monitoring data from 1984 and 1985 had shown no violations of the CO NAAQS, EPA proposed to approve the control measures and demonstration of attainment as a revision to the Montana CO SIP on January 26, 1987 (52 FR 2732). No comments were received by EPA on the January 26 notice.

On May 3, 1988, EPA released ambient air quality data which indicated that Great Falls violated the CO NAAQS on three occasions in 1987; the highest second maximum 8-hour average concentration for CO was 11.0 parts per million. Subsequently, the Governor received a call for a SIP revision on May 26, 1988. The SIP Call requires Montana

to revise the area's CO emission inventory and determine if other measures are needed to attain the CO standard. In addition, EPA may require Montana to include additional control measures, based on EPA's proposed 1987 CO/ozone policy, in responding to the SIP Call.

Because the control measures currently in place are helpful in attaining the NAAQS, EPA is approving these measures, elsewhere today in a separate action, as part of the SIP so that they will be federally enforceable.

Proposed Action

EPA is today proposing to disapprove the Montana CO SIP for Great Falls for failing to demonstrate attainment of the CO NAAQS.

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, Carbon Monoxide.

Authority: 42 U.S.C. 7401–7642.

Dated: May 24, 1990.

Kerrigan Clough,

Acting Regional Administrator.

Part 52 of chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart BB—Montana

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

Authority: 42 U.S.C. 7401—7642.

2. Section 52.1370 is amended by adding subparagraph (c)(22) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(22) Revisions to the Montana CO SIP for Great Falls were submitted by the Governor on March 28, 1986.

(i) *Incorporation by reference.*

(A) Montana Refining Company permit dated October 20, 1985, including the permit application materials dated August 21, 1985.

(B) Stipulation in the matter of the Montana Refining Company dated December 2, 1985.

(ii) *Additional material.* (A) Montana SIP, Chapter 5(3)D. Great Falls (Date: March 14, 1986).

(B) Pre-filed testimony by the Department of Health and Environmental Services dated February 28, 1986.

[FR Doc. 90–21089 Filed 9–6–90; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 280

[FRL–3827–8]

RIN 2050–AC87

Underground Storage Tanks Containing Petroleum; Financial Responsibility Requirements; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Correction of public comment date.

SUMMARY: This notice corrects the date for which public comments may be submitted to the Docket Clerk for EPA's proposal of June 18, 1990 (55 FR 24692) to establish four alternative mechanisms for use by local governments to demonstrate financial responsibility for taking corrective action and compensating third parties caused by sudden and nonsudden accidential underground storage tank releases. The Agency extended the public comment period for this proposed rule in a notice that was published in the **Federal Register** on August 10, 1990, (55 FR 32647). The Agency explained in that notice that the public comment period would be extended for an additional 30 days following the original scheduled public comment period closing of August 17, 1990. The August 10, 1990 notice incorrectly stated that the public comment period for the proposed rule would close on September 10, 1990 rather than September 17, 1990.

DATES: The public comment period will remain open through September 17, 1990.

ADDRESSES: Comments may be mailed to the Docket Clerk [Docket No. UST–3], Office of Underground Storage Tanks (OS–400), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments received by EPA may be inspected in the public docket located in room 2427 (Mall), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 (toll free) or (202) 382–3000 in Washington, DC.

Dated: August 29, 1990.

Ronald Brand,

Director, Office of Underground Storage Tanks.

[FR Doc. 90–20979 Filed 9–6–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–437; RM–6721]

Radio Broadcasting Services; Illinois City, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by Martin F. Beckey ("petitioner"), requesting the allotment of Channel 223A to Illinois City, Illinois, as the community's first local FM service. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–437, adopted August 21, 1990, and released September 4, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–21051 Filed 9–6–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 90–403, RM–7279 and RM–7283]

Radio Broadcasting Services; Atchison and Wathena, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two mutually exclusive

petitions. Lee Brandt requests the allotment of Channel 229A to Wathena, Kansas, as that community's first local service. There is a site restriction of 4 kilometers northwest of the community. The coordinates for Channel 229A at Wathena are 39–47–51 and 94–57–19. KARE Radio, Inc. has proposed the allotment of FM Channel 229A to Atchison, Kansas. There is a site restriction of 13.8 kilometers northwest of the community. The coordinates for Channel 229A at Atchison are 39–39–42 and 95–13–47.

DATES: Comments must be filed on or before October 26, 1990, and reply comments on or before November 13, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultants, as follows:

John E. Carl, KARE Radio, Inc., Rt. 2, Box 325B, Kellogg, Iowa 50135, (Petitioner).

Lee Brandt, 206 Fremont Avenue, Wathena, Kansas 66090, (Petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–403, adopted August 21, 1990, and released September 4, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–21050 Filed 9–6–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 90–404, RM–7277]

Radio Broadcasting Services; Park Falls, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Northland Broadcasting, Inc., proposing the substitution of Channel 254C2 for Channel 252A at Park Falls, Wisconsin. Petitioner also requests modification of the license for Station WNBI–FM, Channel 252A, to specify operation on Channel 254C2. Canadian concurrence will be requested for this allotment at coordinates 45–50–52 and 90–24–59.

DATES: Comments must be filed on or before October 26, 1990, and reply comments on or before November 13, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Steve Walrath, General Manager, Northland Broadcasting, Inc., P.O. Box 309, Park Falls, Wisconsin 54552.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–404, adopted August 21, 1990, and released September 4, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors; International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–21049 Filed 9–6–90; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 55, No. 174
Friday, September 7, 1990

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

Forms Under Review by Office of Management and Budget

August 31, 1990.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection;

(2) Title of the information collection;

(3) Form number(s), if applicable;

(4) How often the information is requested;

(5) Who will be required or asked to report;

(6) An estimate of the number of responses;

(7) An estimate of the total number of hours needed to provide the information;

(8) An indication of whether section 3504(h) of Public Law 96-511 applies;

(9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Extension

• Animal and Plant Health Inspection Service

National Agricultural Pest Information System (NAPIS)

PPQ Forms 391, 395, 396

On occasion; Semi-annually

State or local governments; 175,900 responses; 1,017 hours; not applicable under 3504(h)

C. David McNeal, Jr., (301) 436-8247

• Food and Nutrition Service

7 CFR part 226 for the Child and Adult Care Food Program

FNS-82, 341, 342, 343, 344, 345, 345-1, 430, 431, and 433

Recordkeeping; On occasion; Monthly; Annually

Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 61,828 responses; 1,608,104 hours; not applicable under 3504(h)

Winnie McQueen, (703) 756-3607

Reinstatement

• Food and Nutrition Service

Employment and Training Requirements

FNS 583

Quarterly

State or local governments; 1,700,053 responses; 231,827 hours; not applicable under 3504(h)

Ellen Henigan, (703) 756-3762

New Collection

• Agricultural Marketing Service

7 CFR part 997—Peanuts Handled by Persons Not Subject to the Peanut Marketing Agreement

Form FV-117 through Form FV-117-10

Recordkeeping; On occasion; Weekly; Monthly; Annually

Businesses or other for-profit; Small businesses or organizations; 3,280 responses; 1,179 hours; not applicable under 3504(h)

Patrick Packnett, (202) 475-3862

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 90-21032 Filed 9-6-90; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Exemption; Plumas National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal, Grizzly Complex Insect Salvage Project, Beckwourth Ranger District, and Plumas National Forest.

SUMMARY: The USDA Forest Service, Plumas National Forest, Beckwourth Ranger District is exempting from administrative appeal, its decision to sell dead and dying trees that are being killed by the combined effects of bark beetles and severe drought and manage forest resources within the Grizzly Complex Insect Salvage Project area. The proposed project area is located in Plumas County, approximately 16 miles east of Quincy, California; 21,760 acres are located in Management area 31, Mt. Ingalls and 4,578 acres located in Management area 32, Penman Peak described in the *Plumas National Forest Land and Resource Management Plan*, 1988.

The environmental document will be completed and a decision issued in September 1990. The total estimated volume of dead and dying timber to be offered for sale in September 1990 is 19.7 to 31.7 million board feet (MMBF) on approximately 26,338 acres of National Forest System Land (NFSL). The 45 day administrative appeal period for the EA, coupled with 100 days to resolve an administrative appeal, would result in the timber not being harvested this year. With the exemption from the administrative appeal process, timber harvesting could proceed by the latter part of September and substantial harvesting completed before the onset of winter. The timber would be harvested using a combination of tractor, cable, and helicopter logging systems. The area is roaded however, each of the three action alternatives propose constructing and reconstructing roads.

The eastside of the Plumas National Forest is in the fourth consecutive year of drought conditions. As forest trees continue to experience drought caused stress, populations of the fir engraver beetle, *Scolytus ventralis*, have increased to epidemic proportions. The resulting drought and insect caused mortality has left thousands of acres on which many white fir and red fir trees are dead or dying. Many stands of mixed conifer timber have lost most or all of the white fir component, leaving jeffrey pine, ponderosa pine, Douglas-fir, and incense-cedar. Many stands of predominantly white fir, and the nearly pure stands of red fir typically growing at high elevations (above 6,000 feet) are currently understocked due to the mortality. Areas having many dead and dying trees are intermingled with areas having relatively few dead trees.

Fuel loading would increase if salvage operations don't occur in 1990. The large number of dead trees have resulted in high risk fire hazard due to large amounts of dead, dry fuels covering

large areas. If left alone, the dead trees would fall to the ground, resulting in a fuel arrangement that would pose an even higher risk of catastrophic fire. The need exists to reduce the high risk fire hazard by managing the fuels. Avoiding a catastrophic fire would serve to protect watersheds and other valuable resources and facilitate the long-term productivity provided for in the Plumas National Forest Land and Resource Management Plan, 1988 (LMP). Salvage harvest of utilizable wood fiber, following guidelines as set forth in the Forest goals, policies, and direction of the LMP, would partially accomplish the reduction of fuels while providing funds needed to accomplish additional fuel management objectives.

Approximately 98 percent of the salvage timber is true fir that has invaded east side pine stands as a result of fire suppression that has occurred since the turn of the century. There is a wide range of tree sizes however, the average diameter is 16 inches. If not harvested this year most of this small true fir will deteriorate and be unsalvable by next year. There would be no money available from timber sale collections to treat the fuel load created by this massive increase in tree mortality.

Approximately 19.7 to 31.7 MMBF of dead and dying timber will be salvaged from the infested area. The detailed inventory of the timber has not been completed date, however, approximately 98 percent of the trees to be salvaged are true fir with an average diameter of 16 inches. Using the Rate of Deterioration of Fire-Killed Timber in California (Kimmey 1955), net volume losses from sawlogs can be expected to average 80% by the spring of 1991. Volume losses at this time are 40 percent. The net value of this timber can be expected to decrease to zero with a delay into the summer of 1991; the volume would be distributed over the same acres thus increasing per unit logging costs to the point where it would be uneconomical to log.

Currently, standing dead timber is located within falling distance of numerous Forest Service system roads. These roads are used by the public for recreation including off-road vehicles, dirt bikes, and hunters. A delay in removing this timber would create a hazardous situation whereby the Forest Service could be held liable for damage, injury, or death.

Therefore, pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeals the decision for the Grizzly Complex Insect Salvage environmental document. The decision to reduce the fire hazard on Plumas NFSL and offer salvage timber for sale in the Grizzly Complex Insect Salvage Project will not be subject to administrative appeal and review pursuant to 36 CFR part 217.

EFFECTIVE DATE: This decision will be effective September 7, 1990.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, USDA Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705–2648, or Mary J., Coulombe, Forest Supervisor, Plumas National Forest, P.O. Box 11500, Quincy, CA 95971, (916) 283–2050.

ADDITIONAL INFORMATION: The environmental analysis for this proposal will be documented in the Grizzly Complex Insect Salvage Project environmental document. Pursuant to 40 CFR 1501.7, scoping is currently in progress for the project. Scoping was conducted by the Beckwourth District Ranger to determine the issues to be addressed in the environmental analysis.

Public scoping has included letters to interested individuals/groups, the California Department of Forestry, the California Department of Fish and Game; this letter was posted in the post offices in the vicinity. The *Portola Reporter* published two articles requesting public input for the salvage sale program. The *Feather River Bulletin* has published several articles on the general insect problem on the Plumas National Forest and requested concerns be addressed to the appropriate District Ranger. On May 10, 1990, the District held an open house to discuss the insect problem on the District and identify public concerns. Written responses have been received from Sierra Pacific Industries, Friends of Plumas Wilderness, Sierra Club (Sierra Nevada Group), and California Sportfishing Protection Alliance. The comments are addressed in the environmental document.

There are no Roadless Areas, Wild and Scenic Rivers, or Spotted Owl Habitat Areas associated with this project. There are three spotted owl nesting pairs, one bald eagle, and 5 goshawks in the project area. Impacts to these species are minimized through project mitigation measures which are documented in the Grizzly Complex environmental document.

The Beckwourth Ranger District is expected to complete the environmental documentation in August 1990 and a decision is expected to be issued in September 1990. The environmental document will be available for public review at the Supervisor's Office located at 159 Lawrence Street, Quincy, CA, and at the Beckwourth Ranger District Office, Mohawk Road, Blairsden, CA 96103.

Dated: August 30, 1990.

David M. Jay,

Deputy Regional Forester.

[FR Doc. 90–21062 Filed 9–6–90; 8:45 am]

BILLING CODE 3410–11–M

Norbeck Wildlife Preserve, Black Hills National Forest, Custer and Pennington Counties, SD

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplement to an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare a supplement to the Norbeck Wildlife Preserve Final Environmental Impact Statement, which was issued in July 1989. The supplement to the environmental impact statement will provide additional information about environmental effects on wildlife habitat diversity and on non-game wildlife species.

DATES: Comments providing information relevant to the scope of the supplement should be received in writing by September 30, 1990.

ADDRESSES: Comments should be sent to Mary Sue Waxler, Environmental Coordinator, Black Hills National Forest, RR 2, Box 200, Custer, SD 57730.

FOR FURTHER INFORMATION CONTACT: Questions about the supplement to the environmental impact statement can be directed to Mary Sue Waxler, at the address above (telephone 605/673–2251).

SUPPLEMENTARY INFORMATION: The Norbeck Wildlife Preserve Final Environmental Impact Statement (EIS) was issued on July 28, 1989. It examined ten alternatives for management of Norbeck Wildlife Preserve, as well as the option of introducing bison to the Preserve. The accompanying Record of Decision documented the following decisions: (1) vegetative management will be accomplished through a combination of commercial timber harvest and noncommercial treatments; road construction, reconstruction, and obliteration are allowed; (2) livestock grazing will continue with some adjustments; (3) bison will not be introduced; (4) there will be no expansion of the recreational trail system; (5) with some exceptions to allow travel on federal, state, and county roads, and to provide access to private land and recreational sites, motorized recreation is prohibited; (6)

summer home permits will be renewed; (7) new mineral entry is prohibited in most of Norbeck; (8) hunting and trapping will continue; (9) the options of National Forest System land sale, exchange, and interchange are available with certain limitations. The Record of Decision also amended direction for Norbeck Wildlife Preserve contained in the Black Hills National Forest Land and Resource Management Plan.

Following issuance of the Final EIS and Record of Decision, concerns were expressed about effects on non-game species and wildlife habitat diversity. A supplement to the EIS is being prepared to incorporate additional information about effects of the alternatives on non-game species. The supplement will also discuss effects of the alternatives on wildlife habitat diversity from a Forest-wide perspective.

Upon completion of the supplement to the EIS, the responsible official will determine whether changes in the original decisions are warranted, based on the additional information, and if so, what changes will be made.

Specific information or comments pertinent to effects on non-game species and diversity will be considered during preparation of the supplement to the EIS.

The draft supplement to the EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in November 1990. At that time, the EPA will publish a notice of availability of the draft document in the **Federal Register.**

The comment period on the draft supplement to the EIS will end 45 days from the date the EPA publishes the notice of availability in the **Federal Register.**

The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EISs must structure their participation in the environmental review of the document so that it is meaningful and alerts an agency to the reviewer's position and contentions *Vermont Yankee Nuclear Power Corp* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft EIS stage, but are not raised until after completion of the final EIS, may be waived or dismissed by the courts *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this matter participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final supplement to the EIS.

To assist the Forest Service in identifying and considering issues and concerns, comments on the draft supplement to the EIS should be as specific as possible. It is also helpful if comments refer to the specific pages or chapters of the draft document.

The final supplement to the EIS is scheduled to be completed by January 1991.

The responsible official is Darrel Kenops, Forest Supervisor, Black Hills National Forest, RR 2, Box 200, Custer, SD 57730.

Dated: August 27, 1990.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 90-21009 Filed 9-6-90; 8:45 am]

BILLING CODE 3410-11-M

Oil and Gas Leasing; Little Missouri National Grasslands; Custer National Forest; McKenzie, Billings, Golden Valley and Dunn Counties, ND

AGENCY: Forest Service, USDA.

ACTION: Notice; revision of notice of intent to prepare an environmental impact statement.

SUMMARY: The Notice of Intent was published in the **Federal Register** (54 FR 42001) on Friday October 13, 1989 that an environmental impact statement (EIS) would be prepared on the proposal to lease Federal oil and gas minerals in North Dakota on the Little Missouri National Grasslands, Custer National Forest. The Notice of Intent is revised to designate the Forest Service, Department of Agriculture, and the Bureau of Land Management (BLM), Department of Interior, as "joint lead" agencies for the EIS, amend the decision to be made to reflect direction in 36 CFR 228.102 (d) and (e), and change the schedule for completion of the draft and final EIS.

Joint lead status will allow both agencies to fullfill their interrelated responsibilities in managing the process of preparation of the draft and final EIS documents. The BLM has responsibility for the subsurface Federal oil and gas minerals, but they have also provided available surface information. The Forest Service has responsibility for the Federal surface land and resources. The two agencies will share responsibilities and work together with the Contractor to complete the EIS.

The Record of Decision will: (1) Identify what National Forest System lands have been found administratively available for leasing (36 CFR 228.102(d); and (2) make the leasing decision for specific land authorizing the BLM to offer specific lands for lease (36 CFR 228.102(e)) and what lease stipulations are deemed necessary to protect other resource values. The "administratively available" decision is made for all lands within the project area. The "leasing decision for specific lands" authoirzes the BLM to offer specific tracts of land for lease. Both the Forest Service and the Bureau of Land Management will sign the decision document as joint lead.

The original schedule estimated delivery of the draft EIS for public review is October 1990 and the final EIS in April of 1991. The changes brought about by the new 36 CFR part 28 Regulations have resulted in schedule changes of about three-and-a-half months. Additional agency review time is also added. The draft EIS should be available for public review in February 1991 and the final EIS is scheduled for release in September of 1991.

DATES: This action is effective September 7, 1990.

ADDRESSES: Custer National Forest, Carl Fager, Leasing EIS Coordinator, 2602 1st Ave. North, P.O. Box 2556, Billings, MT 59103 or William B. Hansen, Granite Tower, 222 N. 32nd Street, P.O. Box 36800, Billings, MT 59107.

FOR FURTHER INFORMATION CONTACT: Carl Fager, Leasing EIS Coordinator, (406) 657-6361 or William B. Hansen at (406) 255-2849.

Dated: August 28, 1990.

Curtis W. Bates,

Forest Supervisor.

[FR Doc. 90-21061 Filed 9-6-90; 8:45 am]

BILLING CODE 3410-11-M

Control of Unwanted Vegetation, Diseases, Insects, and Animals in the Pacific Southwest Region Nurseries and Tree Improvement Center

AGENCY: Forest Service, USDA.

ACTION: Correction to notice of intent to prepare environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, is in the process of preparing an environmental impact statement (EIS) for pest management at the Humboldt Nursery, McKinleyville, California; Placerville Nursery, Camino, California; and Chico Tree Improvement Center, Chico, California. As stated in the Notice of Intent, published in the **Federal Register** of August, 1988 (53 FR 32417), this EIS

was to cover pest management activities in the seed orchard at the Chico Tree Improvement Center as well as seedling production in the nursery beds and greenhouses at Chico, Humboldt, and Placerville. Due to anticipated delays in collecting sufficient information on the pesticides used in the seed orchard and because a seed orchard EIS is planned for all seed orchards in the Pacific Southwest Region in 1991, analysis of the seed orchard will not be covered in the Pacific Southwest Nursery EIS.

FOR FURTHER INFORMATION CONTACT: Cathy Stanko, Nursery Manager, Chico Tree Improvement Center, 2741 Cramer Lane, Chico, California 95928. Telephone (916) 895–1176.

Jerald N. Hutchins,

Forest Supervisor, Eldorado National Forest.

[FR Doc. 90–21059 Filed 9–6–90; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Electronic Instrumentation Technical Advisory Committee, Partially Closed Meeting

A meeting of the Electronic Instrumentation Technical Advisory Committee will be held September 28, 1990, 9 a.m., Herbert C. Hoover Building, room 1629, 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to electronics and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.

Executive Session

3. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, Technical Support Staff, BXA, Room 1600, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the General Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377–2583.

Dated: August 29, 1990.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 90–21015 Filed 9–6–90; 8:45 am]

BILLING CODE 3510–UTL–M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council will hold a public meeting on September 25–29, 1990, at the Sheraton Hotel, 401 East 6th Avenue, Anchorage, AK; telephone: (1–800–325–3535). The meeting is scheduled to begin on September 25 at 8 a.m. and is anticipated to continue into September 29. Also, the Council's Advisory Panel (AP) and Scientific and Statistical Committee (SSC) will meet beginning at 10:30 a.m., on September 23 at the Sheraton Hotel, Anchorage, AK (address listed above). Other committee and workgroup meetings may be scheduled on short notice throughout the week. All meetings are open to the public with the exception of a closed Council executive session (not open to the public) tentatively scheduled for noon on September 27.

The meeting agenda will include: (1) Reports by the Alaska Department of Fish and Game, National Marine Fisheries Service and the U.S. Coast Guard, and reports on current legislation and international Fisheries; (2) review of changes for the domestic observer program for 1991; (3) status report on inshore-offshore allocation analysis; (4) further direction to staff for analysis of a proposed moratorium on entry to all fisheries under the Council's jurisdiction, except salmon, and consideration of limited access schedules for those fisheries; (5) status of stock report for halibut and review of allocative proposals submitted by industry; (6) initial review of guidelines on the incidental taking of marine mammals in commercial fishing operations; (7) final considerations of overfishing definitions for the Council's salmon and crab Fishery Management Plans (FMPs); (8) status of stocks report on Bering Sea/Aleutian Islands crabs, review of the State of Alaska crab observer program, and consideration of an industry request for a federal crab observer program; (9) stock assessment and fishery evaluation reports for groundfish of the Gulf of Alaska and Bering Sea/Aleutian Islands; (10) initial consideration of 1991 groundfish harvests, apportionments and prohibited species apportionments for the Gulf of Alaska and Bering Sea/Aleutian Islands; (11) initial consideration of regulatory amendments for the Gulf of Alaska to adjust sablefish seasons, apportion longline halibut PSC to sablefish, Pacific cod, and other species fisheries, and require pots to be fished on single lines (in the Gulf of Alaska and Bering Sea/Aleutian Islands); (12) selection of groundfish amendment proposals for analysis and consideration in the 1990–91 groundfish amendment cycle; (13) consideration of final approval of Amendment 16a to the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan (FMP), (bycatch); (14) discussion of policy on U.S. fisheries outside the Exclusive Economic Zone in the Central Bering Sea.

For more information contact Steve Davis, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

Dated: August 30, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–21003 Filed 9–6–90; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meetings and Public Hearing

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council and its advisory entities will meet on September 17–21, 1990, at the Carmel Mission Inn, 3665 Rio Road, Carmel, CA. Except as noted below, the meetings are open to the public. Additionally, on September 20, immediately prior to taking action on the definition of overfishing for groundfish, the Council will hold a public hearing to accept testimony on the definition. The Council is expected to approve a definition for overfishing, and submit it to the Secretary of Commerce for approval as Amendment #5 to the Groundfish Fishery Management Plan (FMP).

The Council will begin meeting on September 19 at 8 a.m., to discuss administrative matters and groundfish management issues. The discussion of groundfish management issues will continue on September 20 and include: (1) Limited entry; (2) inseason management measure adjustments for rockfish and sablefish; (3) Canadian/U.S. allocation of Pacific whiting; (4) preliminary harvest levels for 1991; (5) proposed management measures for 1991; (6) A definition of overfishing; and (7) offshore processor reporting regulations. Also on September 20, the Council will adopt Amendment #6 to the Anchovy EMP for submission for the federal review process. Amendment #6 defines overfishing, provides for a small reduction fishery at low levels of spawning biomass, and considers habitat and vessel safety issues.

On September 21, the Council will discuss salmon management and habitat issues. Salmon agenda items include: (Status of the 1990 fishery; (2) adoption of Amendment #10 for public review; (3) status of consultation on the threatened winter run of chinook on the Sacramento River; and (4) status of Columbia River endangered species petitions.

On September 19 at 4 p.m., the Council will accept public comments on issues not on the agenda. On September 20 at 8 a.m., the Council will meet in closed session (not open to the public) to discuss litigation and personnel matters. The open session will start at 8:30 a.m.

The *Scientific and Statistical Committee* will meet on September 17 at 1 p.m., to address scientific issues on the Council's agenda, and will reconvene on September 18 at 8 a.m.

The *Ad Hoc Fixed Gear Group*, a group of sablefish fishermen and processors, will meet on September 17 at 2 p.m., to develop recommendations to the Council on management measures for the non-trawl sablefish fishery in 1991.

The *Groundfish Management Team* will meet as necessary on September 17–21, to address groundfish management issues on the Council's agenda.

The *Groundfish Advisory Subpanel* will meet on September 18 at 8 a.m., to address groundfish management matters on the Council's agenda, and will reconvene on September 19 at 8 a.m.

The *Budget Committee* will meet on September 18 at 3 p.m., to review the status of the 1990 Council's budget.

The *Habitat Committee* will meet on September 18 at 4 p.m., to address timely and relevant actions affecting the habitat of fish stocks under the Council's jurisdiction.

Detailed agendas for the above meetings will be made available to the public after September 7, 1990. For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 SW. First Avenue, room 420, Portland, OR 97201; telephone: (503) 326–6352.

Dated: August 31, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–21004 Filed 9–6–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals: Application Denied; Gulfarium, Gulf Exhibition Corp. (P90E)

On December 28, 1989, notice was published in the **Federal Register** (53 FR 52458) that an application had been filed by Gulfarium, Gulf Exhibition Corporation, Highway 98, Fort Walton Beach, Florida 32548 for a permit to import and display two Pacific false killer whales (*Pseudorca crassidens*).

Notice is hereby given that on August 22, 1990, National Marine Fisheries Service has denied Gulfarium, Gulf Exhibition Corporation a marine mammal permit. Denial was based on Gulfarium's failure to maintain standards of animal care consistent with Animal and Plant Health Inspection Service regulations. This resulted in the application not meeting a criterion for issuance of public display permits, as set forth in 50 CFR 216.31(c), namely,

> In determining whether to issue a public display permit, the Secretary (of Commerce) shall, among other criteria, consider * * * the applicant's qualifications for the proper care and maintenance of the marine mammal or the marine mammal product, and the adequacy of his facilities.

Documents submitted in connection with the above application are available for review by interested persons in the following Offices:

By appointment: Office of Protected Resources, Permit Division, National Marine Fisheries Service, 1335 East West Highway, Suite 7324, Silver Spring, Maryland 20910, (301/427–2289);

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702

Dated: August 22, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90–21005 Filed 9–6–90; 8:45 am]

BILLING CODE 3510–22–M

National Telecommunications and Information Administration

Meetings; Frequency Management Advisory Council

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of meeting of the CITEL VI subcommittee of the frequency management advisory council.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. Appendix 2 and the Department of Commerce Committee Management Handbook, a subcommittee of the Frequency Management Advisory Council was established on June 27, 1990 to assist United States in preparation for the VIth InterAmerican Telecommunications Conference (CITEL VI) to be held in mid-1991. Major goals of United States participation in this conference are to strengthen the interAmerican alliance, create additional market opportunities for U.S. industry in Latin America, and provide opportunities to further U.S. goals of privatization while assisting Latin American countries in improving their telecommunication infrastructures.

NOTICE OF MEETING: The FMAC Subcommittee on Preparations for CITEL VI will meet on September 21, 1990, from 9:30 a.m. to 12 noon in Room 1605 of the United States Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC.

Note: This is a change from the previous meeting notice published in the **Federal Register** for the CITEL VI subcommittee. Public entrance to the building is on 14th Street between Pennsylvania Avenue and Constitution Avenue.

AGENDA: The agenda for the Subcommittee on Preparations for CITEL VI will be:

I. Opening Comment by Ken Bleakely
II. Status report for previously assigned tasks
III. Review of Recommendations of Dr. Segal's Report on the Future of the CITEL
IV. Review of Comments by John O'Neill
V. Update on the Santiago Telecommunications Exhibition
VI. Progress Report on the Ad Hoc Meeting of PTC-1

PUBLIC PARTICIPATION: This meeting of the CITEL VI Preparation Subcommittee will be held in accordance with the Federal Advisory Committee Act and will be open to public observations. A period will be set aside for oral comments or questions by the public. More extensive questions or comments should be submitted in writing before September 14, 1990. Other public statements regarding CITEL VI Subcommittee activities may be submitted at any time before or after the meeting. Approximately 25 seats will be available for the public on a first-come, first-served basis. Copies of the minutes will be available on request 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Inquiries or comments concerning the CITEL VI Subcommittee may be addressed to the Designated Federal Official, Mr. William Moran, National Telecommunications and Information Administration, room 4701, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230, telephone (202) 377-1866.

Dated: August 10, 1990.

Michael W. Allen,

Executive Secretary, Frequency Management Advisory Council, National Telecommunications and Information Administration.

[FR Doc. 90-21073 Filed 9-6-90; 8:45 am]

BILLING CODE 3510-60-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 commodities to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 8, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540):

Pad, Writing Paper
7530-01-124-5660
(Requirements for GSA Region 2)
7530-01-124-7632
Requirements for GSA Regions 8 and 9)
Belt, High Visibility
8465-01-163-8835

Beverly L. Milkman,

Executive Director.

[FR Doc. 90-21098 Filed 9-6-90; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1990; Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletions from procurement list.

SUMMARY: This action deletes from Procurement List 1990 services which have been provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 8, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 20, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (55 FR 29647) of proposed deletions from Procurement List 1990, which was published on November 3, 1989 (54 FR 46540).

Deletions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6. Accordingly, the following services are hereby deleted from Procurement List 1990:

Janitorial/Custodial,
New Castle U.S. Army Reserve Center
New Castle, Delaware

Janitorial/Custodial
U.S. Army Reserve Center at the following locations:
John Williams Street, Attleboro, Massachusetts
675 American Legion Highway, Roslindale, Massachusetts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 90-21099 Filed 9-6-90; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Defense Contract Audit Agency

Privacy Act of 1974; Delete and Amend Record Systems

AGENCY: Defense Contract Audit Agency (DCAA), DOD.

ACTION: Deletion and amendment of record systems.

SUMMARY: The Defense Contract Audit Agency proposes to delete four record systems and amend fourteen record systems in its inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: The deletions will be effective (insert date published in the **Federal Register**). The proposed amendments will be effective without further notice on October 9, 1990, unless comments are received which would result in a contrary determination.

ADDRESSES: Send any comments to Mr. Dave Henshall, Attn: CMR, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178. Telephone (202) 274-4400.

SUPPLEMENTARY INFORMATION: The Defense Contract Audit Agency record system notices, as prescribed by the Privacy Act of 1974, as amended (5 U.S.C. 552a), have been published in the **Federal Register** as follows:

50 FR 22943, May 29, 1985 (DoD Compilation, changes follow)
50 FR 50339, Dec. 10, 1985
51 FR 18017, May 16, 1986
54 FR 37360, Sep. 8, 1989
54 FR 43316, Oct. 24, 1989

54 FR 46756, Nov. 7, 1989
55 FR 6818, Feb. 27, 1990

The specific changes to the record systems being amended are set forth below, followed by the system notices, as amended, in their entirety. These notices are not within the purview of subsection (r) of the Privacy Act, as amended (5 U.S.C. 552a), which requires the submission of altered system reports.

Dated: August 30, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

RDCAA 260.5

System name:

Congressional Correspondence (50 FR 22891, May 29, 1985).

Reason:

This system is no longer needed.

RDCAA 322.7

System name:

Students and Instructors (50 FR 22891, May 29, 1985).

Reason:

This system is satisfactorily addressed by the Office of Personnel Management notice OPM/GOVT-1, (55 FR 3838, February 5, 1990).

RDCAA 358.1

System name:

General EEO Files (50 FR 22892, May 29, 1985).

Reason:

This system is satisfactorily addressed by the Equal Employment Opportunity Commission notice EEOC/GOVT-1 (47 FR 18664, April 30, 1982).

RDCAA 358.21

System name:

EEO Complaints (50 FR 22892, May 29, 1985).

Reason:

This system is satisfactorily addressed by the Equal Employment Opportunity Commission notice EEOC/GOVT-1 (47 FR 18664, April 30, 1982).

Amendments

RDCAA 152.2

System name:

152.2 Personnel Security Data Files, (50 FR 22888, May 29, 1985).

Changes:

* * * * *

Categories of records in the system:

Delete the second paragraph and substitute with "Section Two contains verification of investigations conducted to determine suitability, eligibility or qualifications for Federal civilian employment, military service, or access to classified information."

Delete the words "or extracts" from the first line of the third paragraph.

* * * * *

RDCAA 152.2

SYSTEM NAME:

152.2 Personnel Security Data Files.

SYSTEM LOCATION:

Primary System—Security Officer, Headquarters, Defense Contract Audit Agency (DCAA), Cameron Station, Alexandria, VA 22304-6178.

Decentralized Segment—Director of Personnel, DCAA; Chiefs of Personnel Divisions and Regional Security Officers at DCAA Regional Offices. Official mailing addresses are published as an appendix to DCAA's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants for employment with DCAA; all DCAA employees; all military personnel assigned, detailed, or attached to DCAA; all persons hired on a contractual basis by, or serving in an advisory capacity to DCAA, who require access to classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Section One contains copies of individual's employment applications, security investigative questionnaires, requests for, and approval or disapproval of, emergency appointment authority; requests for investigation or security clearance; interim and final security clearance certificates.

Section Two contains verification of investigations conducted to determine suitability, eligibility or qualifications for Federal civilian employment, military service, or access to classified information.

Section Three contains summaries of reports of investigation, internal Agency memorandums and correspondence furnishing analysis of results of investigations in so far as their relationship to the criteria set forth in the Executive Order 10450, in the Federal Personnel Manual and in Department of Defense and DCAA Directives and Regulations; comments and recommendations of the DCAA Central Clearance Group to the Director, DCAA, and determination by the Director, DCAA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133; 50 U.S.C. 781; Executive Orders 10450, 10865, and Executive Order 12356, "National Security Information"; and DoD Directive 5105.36 which is published in 32 CFR part 357.

PURPOSE(S):

To provide a basis for requesting appropriate investigations; to permit determinations on employment or retention; to authorize and record access to classified information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Sections One and Three are on paper records stored in file folders. Section Two is on paper records and microfiche which are stored in file folders.

RETRIEVABILITY:

Folders are filed by file series then by organizational element (DCAA Headquarters or DCAA field activities) and then alphabetically by last name of individual concerned.

SAFEGUARDS:

Records are stored in locked filing cabinets after normal business hours. Records are accessible only to authorized personnel who are properly cleared and trained and who require access in connection with their official duties.

RETENTION AND DISPOSAL:

Records pertaining to Federal employees, military personnel, and persons furnishing services to DCAA on a contract basis are destroyed upon separation of employees, transfer of military personnel from DCAA, and upon termination of the contracts for contractor personnel. Records pertaining to applicants are destroyed if an appointment to DCAA is not made.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves

is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178. Telephone (202) 274–4400.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

Written requests for information should contain the full name of the individual, current address and telephone number and current business address.

For personal visits, the individual should be able to provide some acceptable results of investigations received from Federal agencies and recommendations for action from appropriate DCAA Headquarters staff elements.

Acceptable identification, that is, driver's license or employing offices' identification card. Visits are limited to those offices (Headquarters and 6 regional offices) listed in the official mailing addresses published as an appendix to DCAA's compilation of record system notices.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing records and for contesting contents and appealing initial DCAA determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178 or the system manager.

RECORD SOURCE CATEGORIES:

Security Officer and the Director of Personnel at Headquarters, DCAA; Chiefs of Personnel Divisions, Regional Security Officers, Chiefs of Field Audit Offices at the DCAA Regional Offices and the individual concerned.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 152.5

System name:

152.5 Notification of Security Determination, (50 FR 52995, December 27, 1985).

Changes:

* * * * *

System location:

Delete the entire entry and substitute "Primary System-Regional Security Offices, Defense Contract Audit Agency (DCAA) Regional Office and Security Control Offices, Defense Contract Audit Institute (DCAI), 4075 Park Avenue, Memphis, TN 38111–7492. Official mailing addresses are published as an appendix to DCAA's compilation of record system notices."

* * * * *

Authority for maintenance of the system:

Delete the entire entry and substitute "10 U.S.C. 133; 50 U.S.C. 781; and Executive Orders 10450, 10865, and 12356."

* * * * *

RDCAA 152.5

SYSTEM NAME:

152.5 Notification of Security Determinations.

SYSTEM LOCATION:

Primary System-Regional Security Offices, Defense Contract Audit Agency (DCAA) Regional Office and Security Control Offices, Defense Contract Audit Institute (DCAI), 4075 Park Avenue, Memphis, TN 38111–7492. Official mailing addresses are published as an appendix to DCAA's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DCAA personnel and applicants for DCAA employment on whom specific security or suitability action must be taken.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may contain a summary of pertinent security or suitability information; the results of security determinations approved by the Director, DCAA; and directed or recommended actions to be taken at DCAA Regional Office, Field Audit Office or DCAI level.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133; 50 U.S.C. 781; and Executive Orders 10450, 10865, and 12356.

PURPOSE(S):

To permit required actions of a suitability or security nature to be taken by appropriate DCAA officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Folders are filed by organizational element, then alphabetically by name of person concerned.

SAFEGUARDS:

Records are accessible only to authorized personnel who are properly cleared and trained and who require access in connection with their official duties. Records are stored in locked filing cabinets after normal business hours.

RETENTION AND DISPOSAL:

Destruction is directed individually in each case upon completion of final security or suitability actions or automatically upon nonappointment of applicants or separation of employees, whichever is earlier.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178. Telephone (202) 274–4400.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

Written requests for information should contain the full name of the individual, current address and telephone number, and current business address.

Personal visits are limited to those offices (Headquarters and 6 regional offices) listed in the appendix to the agency's compilation of record system

notices. For personal visits, the individual should be able to provide some acceptable identification, that is driver's license or employing office's identification card.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing record and for contesting contents and appealing initial determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178 or the system manager.

RECORD SOURCE CATEGORIES:

Results of investigations received from Federal agencies and recommendations for action from appropriate DCAA Headquarters staff elements.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 152.6

152.6 Regional and DCAI Security Clearance Request Files, (50 FR 22887, May 29, 1985).

Changes:

* * * * *

Categories of records in the system:

Delete in line four the words "changes of sensitivity of positions" and substitute "appointments to sensitive positions".

* * * * *

RDCAA 152.6

SYSTEM NAME:

152.6 Regional and DCAI Security Clearance Request Files.

SYSTEM LOCATION:

Primary System-Security Officers of Defense Contract Audit Agency (DCAA) Regional Offices and Security Control Officers, Defense Contract Audit Institute (DCAI). Official mailing addresses are published as an appendix to DCAA's compilation of record system notices.

Decentralized Segment-Security Officer, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants for employment with DCAA; all DCAA employees; all military personnel assigned, detailed, or attached to DCAA; all persons hired on a contractural basis by, or serving in an advisory capacity to DCAA, who require access to classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain personnel security data forms submitted by employees and applicants required in the processing of security investigations; requests for various types of security clearance actions; and requests for and approvals/disapprovals of appointments to sensitive positions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133; 50 U.S.C. 781; Executive Orders 10450, 10865, and 12356; and DoD Directive 5105.36 which is published in 32 CFR part 357.

PURPOSE(S):

To prepare necessary paperwork and documentation upon which to base requests to Headquarters, DCAA for appointments to sensitive positions, and for security clearance and to retain support documents pending approval of appointment and/or granting clearance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of indiviudal concerned.

SAFEGUARDS:

Records are accessible only to those authorized personnel required to prepare, review, process, and type necessary documents. Records are stored in locked filing cabinets after normal business hours and are stored in locked rooms and buildings after normal business hours.

RETENTION AND DISPOSAL:

These are transitory files at DCAA Regional Offices and DCAI level and are maintained only during processing and pending final action on requests. Upon receipt of final action taken on request, files are destroyed.

Segments of the system held by the Security Officer, DCAA are destroyed upon separation of the employee or after nonappointment of an applicant.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

Regional Security Officers, DCAA and Security Control Officers, Defense Contract Audit Institute. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178. Telephone (202) 274–4400.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

The request should contain the full name of the individual, current address and telephone number, and current business address.

Personal visits may be made but are limited to those offices (Headquarters and 6 Regional Offices) listed in DCAA's official mailing addresses published as an appendix to DCAA's compilation of record system notices. In personal visits, the individual should be able to provide acceptable identification, that is, driver's license or employing offices' identification card.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing records and for contesting contents and appealing initial DCAA determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Chiefs of Personnel Divisions and Regional Security Officers at the DCAA Regional Offices, Chiefs of DCAA field audit offices, and the Manager, Defense Contract Audit Institute and the individual concerned.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RECAA 152.7

System name:

152.7 Clearance Certification, (50 FR 22888, May 29, 1985).

Changes:

* * * * *

Categories of records in the system:

Delete the words "as well as the Field Audit Offices, Field Detachment and DCAI,".

* * * * *

RDCAA 152.7

SYSTEM NAME:

152.7 Clearance Certification.

SYSTEM LOCATION:

Primary System-Regional Security Officers at Defense Contract Audit Agency (DCAA) Regional Offices; Security Control Officers at DCAA Field Audit Offices; Field Detachment and Defense Contract Audit Institute (DCAI).

Decentralized Segments-Security Officer and Director of Personnel at Headquarters, DCAA and Chiefs of Personnel Divisions at DCAA Regional Offices. Official mailing addresses are published as an appendix to DCAA's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DCAA personnel who require access to classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain interim and final security clearance certificates attesting to type of investigation conducted and degree of access to classified information which is authorized copies, of security acknowledgement certificates and special access briefing statements executed by individuals upon being granted security clearances or access to special access information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133; 50 U.S.C. 781; Executive Orders 10450, 10865, and Executive Order 12365, National Security Information; and DoD Directive 5105.36 which is published in 32 CFR part 357.

PURPOSE(S):

To maintain a record of the security clearance status of all DCAA personnel as well as certification of briefings for access to classified information and special access information.

To DoD contractors to furnish notice of security clearance and access authorization of DCAA employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Retrieved by last name of individual concerned.

SAFEGUARDS:

Records are stored in locked filing cabinets after normal business hours and stored in locked rooms or buildings. Records are accessible only to those authorized personnel required to act upon a request for access to classified defense information.

RETENTION AND DISPOSAL:

Files pertaining to Federal employees, military personnel, and persons furnishing services to DCAA on a contract basis are destroyed upon separation or transfer of employees or military personnel and upon termination of contractor personnel.

Files of individuals transferring within DCAA are transferred to security control office of gaining element for maintenance.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178 and Regional Security Officers in DCAA Regional Offices. Official mailing addresses are published as an appendix to DCAA's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22305-6178. Telephone (202) 274-4400.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178.

The request should contain the full name of the individual, current address and telephone number, and current busines address.

Personal visits may be made but are limited to those offices (Headquarters and 6 Regional Offices) listed in DCAA's official mailing addresses published as an appendix to DCAA's compilation of record system notices. In personal visits, the individual should be able to provide acceptable identification, that is, driver's license or employing offices' identification card.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing records and for contesting contents and appealing initial DCAA determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Chiefs of Personnel Divisions and Regional Security Officers at the DCAA Regional Offices; Chiefs of DCAA field audit offices; the Manager, Defense Contract Audit Institute and the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 152.17

System name:

152.17 Security Status Master List, (50 FR 22885, May 29, 1985).

Changes:

* * * * *

System location:

Delete the entire entry and substitute "Security Officer, Headquarters, Defense Contract Audit Agency (DCAA), Cameron Station, Alexandria, VA 22304-6178."

Authority for maintenance of the system:

Delete the entire entry and substitute "50 U.S.C. 781 and Executive Orders 10450, 10865, 12036, and 12065."

Record source categories:

Delete the entire entry and substitute "Security Officer, Headquarters, DCAA; Director of Personnel, Headquarters, DCAA; Chiefs of Personnel Divisions, DCAA regional offices; Regional Security Officers, DCAA Regional Offices; Chiefs of DCAA Field Audit Offices; Manager, DCAI; the individual concerned; and reports of investigation conducted by Federal investigative agencies."

* * * * *

RDCAA 152.17

SYSTEM NAME:

152.17 Security Status Master List.

SYSTEM LOCATION:

Security Office, Headquarters, Defense Contact Audit Agency (DCAA), Cameron Station, Alexandria, VA 22304–6178.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants for employment with DCAA; all military personnel assigned, detailed or attached to DCAA; all persons hired on a contractual basis by, or serving in an advisory capacity to, DCAA who require access to classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record contains type of investigation, date completed, file number, agency which conducted investigation, investigation, security clearance data information, name, Social Security Number, date and place of birth, organizational assignment, dates interim and final clearance issued, position sensitivity and related data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133; 50 US..C. 781; Executive Orders 10450, 10865, and Executive Order 12356, National Security Information; and DoD Directive 5105.36 which is published in 32 CFR part 357.

PURPOSE(S):

To maintain a ready reference of security clearances on DCAA personnel, to include investigative data and position sensitivity.

To provide security clearance data to DoD contractors and other Federal agencies on DCAA employees assigned to or visiting a contractor facility or visiting or applying for employment with another Federal agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSITING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in a card file.

RETRIEVABILITY:

Cards are filed alphabetically by last name of individual concerned for all DCAA regional personnel. Separate file maintained alphabetically by last name of individual concerned for DCAA Headquarters elements.

SAFEGUARDS:

Cards are accessible only to those authorized personnel required to prepare, process, and type necessary documents; and answer authorized inquiries for information contained therein. Cards are stored in locked filing cabinets after normal business hours and are stored in a locked room and building which is protected by a guard force system after normal business hours.

RETENTION AND DISPOSAL:

These cards are destroyed two years after an individual is separated from the Agency.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, Headquarters, DCAA, Cameron Station, Alexandria, VA 22304–6178.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178. Telephone (202) 274–4400.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

Written requests for information should contain the full name of the individual, current address and telephone number, and current business address.

Personal visits are limited to those offices (Headquarters and 6 regional offices) listed in the appendix to the agency's compilation of record system notices. For personal visits, the individual should be able to provide some acceptable identification, that is driver's license or employing office's identification card.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing records and for contesting contents and appealing intiial agency determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178 or the system manager.

RECORD SOURCE CATEGORIES:

Security Officer, Headquarters, DCAA; Director of Personnel, Headquarters, DCAA; Chiefs of Personnel Divisions, DCAA regional offices; Regional Security Officers, DCAA Regional Offices; Chiefs of DCAA Field Audit Offices; Manager, DCAI; the individual concerned; and reports of investigation conducted by Federal investigative agencies.

EXEPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 152.22

System name:

152.22 Classified Information Nondisclosure Agreement (NdA), (50 FR 50339, December 10, 1985).

Changes:

* * * * *

Categories of records in the system:

Delete the entire entry and substitute with "File contains originals of SF 189 and SF 312, Classified Information Nondisclosure Agreements signed by DCAA employees."

Purpose(s):

Insert in the first line after "SFs 189" the words "and SFs 312".

* * * * *

RDCAA 152.22

SYSTEM NAME:

152.22 Classified Information Nondisclosure Agreement (NdA).

SYSTEM LOCATION:

Agency Security Officer, Headquarters, Defense Contract Audit Agency (DCAA), Cameron Station, Alexandria, VA 22304–6178.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of DCAA assigned to sensitive positions who are authorized access to classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains originals of SF 189 and SF 312, Classified Information Nondisclosure Agreements signed by DCAA employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133; 50 U.S.C. 781; Executive Orders 10450, 10865, 12036, 12065 and Executive Order 12356, National Security Information; and DoD Directive 5105.36 which is published in 32 CFR part 357.

PURPOSE(S):

To maintain a record of signed Standard Forms 312 and 189 which are used as a condition precedent to authorizing individuals access to classified information. The use of the form will enhance the protection of national security information and/or will reduce the costs associated with its protection.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM;

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by surname of individual.

SAFEGUARDS:

Records are stored in locked filing cabinets after normal business hours. Records are accessible only by authorized personnel who are properly cleared and trained and who require access in connection with their official duties.

RETENTION AND DISPOSAL:

Records are retained for 50 years from date of signature and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Agency Security Officer, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178. Telephone (202) 274–4400.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

The request should contain the full name of the individual, current address and telephone number, and current business address.

Personal visits may be made but are limited to those offices (Headquarters and 6 Regional Offices) listed in DCAA's official mailing addresses published as an appendix to DCAA's compilation of record system notices. In personal visits, the individual should be able to provide acceptable identification, that is, driver's license or employing offices' identification card.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing records and for contesting contents and appealing initial DCAA determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Agency Security Officer, Headquarters, DCAA and the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 160.5

System name:

160.5 Travel Orders, (51 FR 18018, May 16, 1986).

Changes:

* * * * *

System manager(s) and address:

Delete in the first line the words "Chief, Field Administrative Support Office" and substitute "Assistant Director, Resources".

* * * * *

RDCAA 160.5

SYSTEM NAME:

160.5 Travel Orders.

SYSTEM LOCATION:

Headquarters, Defense Contract Audit Agency (DCAA), Cameron Station, Alexandria, VA 22304–6178; DCAA Regional Offices; and field audit offices, whose addresses may be obtained from their cognizant regional office. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any DCAA employee who performs official travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains individual's orders directing or authorizing official travel to include approval for transportation of automobiles, documents relating to dependents travel, bills of lading, vouchers, contracts, and any other documents pertinent to the individual's official travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133 and DoD Directive 5105.36 which is published in 32 CFR part 357.

PURPOSE(S):

To document all entitlements, authorizations, and paperwork associated with an employee's official travel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By fiscal year and alphabetically by surname. May be filed in numerical sequence by travel order number.

SAFEGUARDS:

Under control of office staff during duty hours. Building and/or office locked and/or guarded during nonduty hours.

RETENTION AND DISPOSAL:

Records are destroyed after 4 years.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Resources, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178; Regional Directors, DCAA; and Chiefs of Field Audit Offices, whose addresses may be obtained from their cognizant regional office. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178. Telephone (202) 274–4400.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandira, VA 22304–6178.

THE REQUEST SHOULD CONTAIN THE FULL NAME OF THE INDIVIDUAL, CURRENT ADDRESS AND TELEPHONE NUMBER, AND CURRENT BUSINESS ADDRESS.

PERSONAL VISITS MAY BE MADE TO THOSE OFFICES LISTED IN DCAA'S OFFICIAL MAILING ADDRESSES PUBLISHED AS AN APPENDIX TO DCAA'S COMPILATION OF RECORD SYSTEM NOTICES. IN PERSONAL VISITS, THE INDIVIDUAL SHOULD BE ABLE TO PROVIDE ACCEPTABLE IDENTIFICATION, THAT IS, DRIVER'S LICENSE OR EMPLOYING OFFICES' IDENTIFICATION CARD.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency (DCAA) rules for accessing records and for contesting contents and appealing initial DCAA determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Administrative offices; personnel offices; servicing payroll offices; employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 240.2

System name:

240.2 Statements of Employment and Financial Interest, (50 FR 22889, May 29, 1985).

Changes:

* * * * *

Categories of individuals covered by the system:

Delete in the second line the numbers "11222" and substitute "12674".

Authority for maintenance of the system:

Delete in the first line the words "11222 dated May 8, 1965" and substitute "12674 dated April 12, 1989".

Purpose(s):

Delete the number "11222" in the first line and substitute "12674".

* * * * *

RDCAA 240.2

SYSTEM NAME:

240.2 Statements of Employment and Financial Interest.

SYSTEM LOCATION:

Office of Counsel, Headquarters, Defense Contract Audit Agency (DCAA); Supervisors of all DCAA auditor employees, GS–13 and above. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel in grades GS/GM–13 and above who occupy positions covered by Executive Order 12674 and Section 201 of the Ethics in Government Act of 1978.

CATEGORIES OF RECORDS IN THE SYSTEM:

Department of Defense Forms 1555 and 1555–1 and Standard Form 278.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133; Executive Order 12674; and Section 201 of the Ethics in Government Act of 1978.

PURPOSE(S):

To comply with the requirements of Executive Order 12674 and Section 201 of the Ethics in Government Act of 1978 that designated employees file such statements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by last name of employee.

SAFEGUARDS:

Stored in locked tumbler safe during nonduty hours; only the staff of the DCAA Counsel is permitted access during duty hours.

RETENTION AND DISPOSAL:

Records are destroyed two years after termination of employment with DCAA or upon transfer or separation of the employee.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178. Telephone (202) 274–4400.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178. Telephone (202) 274–4400.

Written requests for information should contain the full name of the individual, current address and telephone number. Visits are limited to the Office of Counsel, Building 4, Room 4A175, Cameron Station, Alexandria, VA 22304–6178.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or employment identification card.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing records and for contesting contents and appealing initial DCAA determinations by the individuals concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 240.3

System name:

240.3 Legal Opinions, (50 FR 22889, May 29, 1985).

Changes:

* * * * *

System locations:

Delete the entire entry and substitute "Office of Counsel, Headquarters, Defense Contact Audit Agency (DCAA), Cameron Station, Alexandria, VA 22304–6178."

RDCAA 240.3

* * * * *

SYSTEM NAME:

240.3 Legal Opinions.

SYSTEM LOCATIONS:

Office of Counsel, Headquarters, Defense Contact Audit Agency (DCAA), Cameron Station, Alexandria, VA 22304–6178.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any DCAA employee who files a complaint, with regard to personnel problems, that requires a legal opinion for resolution.

CATEGORIES OF RECORDS IN THE SYSTEM:

Fraud files contain interoffice memorandums, citations used in determining legal opinion, in some cases copies of investigations (FBI), copies of Agency determinations.

EEO files contain initial appeal, copies of interoffice memorandums, testimony at EEO hearings, copy of Agency determinations. Citations used in determining legal opinions.

Grievance files contain correspondence relating to DCAA employees filing grievances regarding leave, removals, resignations, suspensions, disciplinary actions, travel, citations used in determining legal opinion, Agency determinations.

MSPB Appeal files contain interoffice memorandums, citations used in determining the legal position, statements of witnesses, pleadings and MSPB decisions.

Award files contain correspondence relating to DCAA employee awards, suggestion evaluations, citations used for legal determinations, Agency determination.

Security Violation files contain interoffice correspondence relating to DCAA employee security violations, citations used in determinations, Agency determination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133; 5 U.S.C. chapters 43, 51, and 75 and the Civil Service Reform Act of 1978.

PURPOSE(S):

To maintain a historical reference for matters of legal precedence within DCAA to ensure consistency of action and the legal sufficiency of personnel actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the Agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Primary filing system is by subject; within subjects, files are alphabetical by subject, corporation, name of individual.

SAFEGUARDS:

Under staff supervision during duty hours; security guards are provided during nonduty hours.

RETENTION AND DISPOSAL:

These files are for permanent retention. They are retained in active files for five years and retired to Washington National Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178. Telephone (202) 274–4400.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

Written requests for information should contain the full name of the individual, current address and telephone number.

Personal visits are limited to those offices (Headquarters and 6 regional offices) listed in the appendix to the agency's compilation of record system notices. For personal visits, the individual should be able to provide some acceptable identification, that is driver's license or employing office's identification card and give some verbal information that could be verified with "case" folder.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing records and for contesting contents and appealing initial determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178 or the system manager.

RECORD SOURCE CATEGORIES:

Correspondence from individual's supervisor, DCAA employees, former employers, between DCAA staff members, and between DCAA and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 240.5

System name:

240.5 Standards of Conduct, Conflict of Interest, (50 FR 22890, May 29, 1985).

Changes

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Authority for maintenance of the system:

Delete "11222 dated May 8, 1965" and substitute "12674 dated April 12, 1989".

* * * * *

RDCAA 240.5

SYSTEM NAME:

240.5 Standards of Conduct, Conflict of Interest.

SYSTEM LOCATION:

Office of Counsel, Headquarters, Defense Contract Audit Agency (DCAA), Cameron Station, Alexandria, VA 22304–6178.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any DCAA employee who has accepted gratuities from contractors or who has business, professional or financial interests that would indicate a conflict between their private interests and those related to their duties and responsibilities as DCAA personnel. Any DCAA employee who is a member or officer of an organization that is incompatible with their official government position, using public office for private gain, or affecting adversely the confidence of the public in the integrity of the Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Office of Counsel-Files contain documents and background material on any apparent conflict of interest or acceptance of gratuities by DCAA personnel. Correspondence may involve interoffice memorandums, correspondence between former DCAA employees and Headquarters staff members, citations used in legal determinations and Agency determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133.

PURPOSE(S):

To provide a historical reference file of cases that are of precedential value to ensure equality of treatment of individuals in like circumstances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Primary filing system is by subject, within subject, files are alphabetical by subject, corporation, name of individual.

SAFEGUARDS:

Under staff supervision during duty hours; buildings have security guards during nonduty hours.

RETENTION AND DISPOSAL:

These files are for permanent retention. They are retained in active files for five years and then retired to Washington National Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178. Telephone (202) 274-4400.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquires to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178.

The request should contain the full name of the individual, current address and telephone number.

Personal visits may be made to the above address. In personal visits, the individual should be able to provide acceptable identification, that is, driver's license or employing offices' identification card, and give some verbal information that can be verified with 'case' folder.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency (DCAA) rules for accessing records and for contesting contents and appealing initial DCAA determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Correspondence from individual's supervisor, DCAA employees, former employees, between DCAA staff members, and between DCAA and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 358.3

System name:

358.3 Grievance and Appeal Files, (50 FR 22893, May 29, 1985).

Changes:

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete in the second line the word "of" and substitute "or".

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RDCAA 358.3

SYSTEM NAME:

358.3 Grievance and Appeal Files.

SYSTEM LOCATION:

Grievant's servicing personnel office in Headquarters or Defense Contract Audit Agency (DCAA) Regional Offices. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees who have filed formal grievances that may be adjudicated under either Chapter 58, DCAA Personnel Manual or a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The written grievance; assignment of examiner; or selection of an arbitrator or referee; statements of witnesses; written summary of interviews; written summary of group meetings; transcript of hearing if one held; correspondence relating to the grievance and conduct of the inquiry; exhibits; evidence; transmittal; memorandums and letters; decision.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133 and DoD Directive 5105.36 which is published in 32 CFR part 357.

PURPOSE(S):

To record the grievance, the nature and scope of inquiry into the matter being grieved, and the treatment accorded the matter by management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To arbitrators, referees, or other third party hearing officers selected by management and/or the parties to the grievance to serve as fact finders or deciders of the matter grieved.

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Grievance files are filed by subject matter, contract clause, or by name alphabetically.

SAFEGUARDS:

During nonduty hours the personnel office and/or filing cabinet is locked. Grievance files are under the control of the personnel office staff during duty hours.

RETENTION AND DISPOSAL:

Files are destroyed 1 year after the grievance has been decided or after the transfer or separation of the employee, whichever is shorter.

SYSTEM MANAGER(S) AND ADDRESS:

Each servicing personnel officer in Headquarters or DCAA Regional Offices. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the personnel office in the region in which the grievance originated. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

Written requests should contain individual's full name, current address,

telephone number and office of assignment.

Individuals may visit the personnel office of the region in which the grievance was filed/originated. For personal visits, individual must furnish positive identification.

RECORD ACCESS PROCEDURES:

Individuals may obtain information on access to records by communicating in writing or personally with the servicing personnel officer in DCAA Headquarters or DCAA Regional Offices. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

The request should contain the full name of the individual, current address and telephone number.

Personal visits may be made to the servicing personnel officer in Headquarters or DCAA Regional Offices or the system manager. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing records and for contesting contents and appealing initial DCAA determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The grievant; witnesses; exhibits furnished in evidence by grievant and witnesses; grievance examiner; and persons interviewed by the grievance examiner; deciding official arbitrator, referee, or other third party fact finder or decider.

EXEMPTIONS CLAIMED FOR THE SYSTEM.

None.

RDCAA 371.5

System name:

371.5 Locator Records, (50 FR 22894, May 29, 1985).

Changes:

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System location:

Delete the words "Director of Personnel" in the first line and substitute "Personnel Officer, Civilian Personnel Office,".

Purpose(s):

Insert the world "and" in the second line between "business" and "protocol" and delete the words "and social".

System manager(s) and address:

Delete the words "Director of Personnel" in the first line and substitute "Personnel Officer, Civilian Personnel Office,".

* * * * *

RDCAA 371.5

SYSTEM NAME:

371.5 Locator Records.

SYSTEM LOCATION:

Personnel Officer, Civilian Personnel Office, Headquarters, Defense Contract Audit Agency (DCAA), Cameron Station, Alexandria, VA 22304–6178 and DCAA Regional Offices. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

System is also maintained at DCAA Field Audit Offices. Addresses for the Field Audit Offices may be obtained from the cognizant Regional Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees of DCAA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, office room number, office telephone number, office symbol, home address, home telephone number, date prepared, spouse's name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133 and DoD Directive 5105.36 which is published in 32 CFR part 357.

PURPOSE(S):

To provide a ready reference of employee home address and telephone number for business and protocol purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3x5 cards stored in an index card box.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Under control of office staff during duty hours. Building and/or office locked and/or guarded during nonduty hours.

RETENTION AND DISPOSAL:

Retained until separation of employee, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Officer, Civilian Personnel Office, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178 and Personnel Officers at DCAA Regional Offices. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

Manager of DCAA Field Audit Offices. Addresses for the Field Audit Offices may be obtained from the cognizant Regional Office.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in record system should address written inquiries to the Personnel Officer, Civilian Personnel Office, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178 and Personnel Officers at DCAA Regional Offices. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

Managers of DCAA Field Audit Offices. Addresses for the Field Audit Offices may be obtained from the cognizant Regional Office.

Written requests for information must include individual's full name, current address, telephone number and office of assignment.

Personal visits may be made to the offices identified above. Individual must furnish positive identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves is contained in this record system should address written inquiries to the Personnel Officer, Civilian Personnel Office, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178 and Personnel Officers at DCAA Regional Offices. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

Managers of DCAA Field Audit Offices. Addresses for the Field Audit Offices may be obtained from the cognizant Regional Office.

Written requests for information must include individual's full name, current address, telephone number and office of assignment.

Personal visits may be made to the offices identified above. Individual must furnish positive identification.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing records and for contesting contents and appealing initial DCAA determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR Part 290a; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 440.2

System name:

440.2 Time and Attendance Reports, (50 FR 22894, May 29, 1985).

Changes:

* * * * *

Authority for maintenance of the system:

Delete the entire entry and substitute "5 U.S.C. 301; 10 U.S.C. 133; and 31 U.S.C. 3512."

* * * * *

Record source categories:

Delete the entire entry and substitute "Time and attendance reports are completed by the time and attendance clerk based on information provided by the individual employee."

RDCAA 440.2

SYSTEM NAME:

440.2 Time and Attendance Reports.

SYSTEM LOCATION:

Primary System-Management Division, Headquarters, Defense Contract Audit Agency (DCAA), Cameron Station, Alexandria, VA 22304–6178.

Decentralized Segments-DCAA Regional Offices and Field Audit Offices. Official mailing addresses are published as an appendix to the DCAA's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees of the Defense Contract Audit Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains a copy of individual's time and attendance report and other papers necessary for the submission of time and attendance reports and collecting of pay from the non-DCAA payroll office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 133; and 31 U.S.C. 3512.

PURPOSE(S):

To record the number of hours an employee works each day and the amount of sick and/or annual leave used. Supervisors review and certify accuracy of reports which are furnished to the appropriate Finance and Accounting office within the DoD for payroll purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OR SUCH USES:

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of employee.

SAFEGUARDS:

Files are under staff supervision during duty hours; buildings are locked and/or guarded by security guards during non-duty hours.

RETENTION AND DISPOSAL:

These records are destroyed six months after end of pay period to which applicable.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Resources, Headquarters, DCAA and the Regional Directors, DCAA and Chiefs of Field Audit Offices. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178. Telephone (202) 274–4400.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

Written requests for information should contain the full name, address, telephone number of the individual and the employee payroll number.

Personal visits are limited to those offices (Headquarters and 6 regional offices) listed in the appendix to the agency's compilation of record system notices. For personal visits, the individual should be able to provide some acceptable identification, that is driver's license or employee identification card.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing record and for contesting contents and appealing initial determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178 or the system manager.

RECORD SOURCE CATEGORIES:

Time and attendance reports are completed by the time and attendance clerk based on information provided by the individual employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RDCAA 590.9

System name:

590.9 DCAA Automated Personnel Inventory System (APIS), (50 FR 22895, May 29, 1985).

Changes:

* * * * *

System location:

Delete the entire entry and substitute "Office, Director of Personnel, and the Field Administrative Support Organization Systems Operations Section, Headquarters, DCAA, Cameron Station, Alexandria, VA, 22304–6178, and DCAA Regional Offices. Official mailing addresses are published as an appendix to the agency's compilation of record system notices."

"Compuserve, Inc., 500 Arlington Center Boulevard, Columbus, OH 43220, which maintains systems data under contract with General Services Administration."

* * * * *

RDCAA 590.9

SYSTEM NAME:

590.9 DCAA Automated Personnel Inventory System (APIS).

SYSTEM LOCATION:

Office, Director of Personnel, and the Field Administrative Support Organization Systems Operations Section, Headquarters, Defense Contract Audit Agency (DCAA), Cameron Station, Alexandria, VA, 22304–6178, and DCAA Regional Offices. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

Compuserve, Inc., 500 Arlington Center Boulevard, Columbus, OH 43220, which maintains systems data under contract with the General Services Administration.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current civilian employees of DCAA, and former employees who were on DCAA rolls any time after January 1, 1977.

CATEGORIES OF RECORDS IN THE SYSTEM:

Current and historical records contain the following types of data: Data related to positions employee has occupied in DCAA such as grade, occupational series, title, organizational location, salary and step, competitive area and level, geographical location, supervisory designation, financial reporting requirements, and bargaining unit status; data related to employees status and tenure in the Federal civil service including veterans preference, competitive status, service computation date, tenure group; data personal to the employee such as birth date, physical and mental handicap code, and minority group designation code and sex; benefits data such as enrollment in Federal employee life and health insurance and retirement programs; education and training data such as educational level, professional certifications, training accomplishment and requirements; career management data such as performance evaluation and promotion evaluation; and awards and recognition data such as performance and suggestion awards received.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133; Executive Order 9397; and DoD Directive 5105.36 which is published in 32 CFR part 357.

PURPOSE(S):

To collect, store and retrieve information to meet personnel and manpower management information requirements in support of program operations, evaluation and analysis activities, and for satisfying external and internal reporting requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Designated automated data processing vendors with whom DCAA may contract are authorized to maintain and enhance data and computer operating systems necessary for DCAA personnel to process data and produce required outputs. Vendors neither obtain output from the system nor access the stored data for other than validated, approved test procedures.

The DCAA "Blanket Routine Uses" that appear at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Input paper documents are stored in file folders and/or file cabinets. Information converted to automated form for storage in system is stored on magnetic tape and/or disks. Output reports on computer printout paper are stored in file cabinets, specialized file containers, or library shelving. Individual employee output reports are filed in folders retained with official personnel records and/or employee performance.

RETRIEVABILITY:

Records and/or reports pertaining to an individual employee or applicant are retrieved by social security number.

SAFEGUARDS:

Access to computerized data requires knowledge and use of series of system identification codes and passwords which must be entered in proper sequence. Access to computerized data is restricted to systems analysts and programmers assigned to Headquarters, DCAA and personnel office employees and EEO specialists in Headquarters and regional offices. Regional personnel can access system only for the purpose of obtaining output reports.

Output reports are retained in personnel offices or other authorized Headquarters, regional, or field audit offices. Access to reports is controlled by assigned personnel during duty hours. After duty hours, reports are retained in locked offices or in buildings controlled by security personnel or alarm systems.

RETENTION AND DISPOSAL:

Records in the data base are permanent; however, paper input documents and output printouts and reports are retained for reference purposes only until superseded or not longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Director of Personnel, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

Written requests for information must include individual's full name, current address, telephone number and office of assignment.

Personal visits may be made to the office identified above. Individual must furnish positive identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves is contained in this record system should address written inquiries to the Director of Personnel, Headquarters, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

Written requests for information must include individual's full name, current address, telephone number and office of assignment.

Personal visits may be made to the office identified above. Individual must furnish positive identification.

CONTESTING RECORD PROCEDURES:

The Defense Contract Audit Agency rules for accessing records and for contesting contents and appealing initial DCAA determinations by the individual concerned are published in DCAA Instruction 5410.10; 32 CFR part 290a; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Basic personnel and position information is obtained from documents prepared by personnel offices in accordance with regulations prescribed by the Office of Personnel Management.

Performance evaluation and promotion appraisal information are obtained from documents completed by employee's supervisors.

Training data are obtained from employee's supervisors, Agency training facilities, and documents prepared by employee's personnel office.

All other information is obtained from questionnaires or other documents completed by employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:
None.

[FR Doc. 90-20828 Filed 9-6-90; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Floodplain Statement of Findings: Expansion of the Live Firing Range, Sandia Canyon, Los Alamos National Laboratory, New Mexico

AGENCY: Department of Energy.

ACTION: Floodplain response to public comment period and statement of findings concerning implementation of proposed action.

SUMMARY: Pursuant to 10 CFR part 1022, "Compliance with Floodplain/Wetlands Environmental Review Requirements," the U.S. Department of Energy (DOE) has prepared a floodplain assessment for expansion of the existing small arms live firing range on DOE lands of the Los Alamos National Laboratory, New Mexico. Portions of the proposed action will take place within a floodplain in Sandia Canyon. DOE has determined that there are no practicable alternatives to the proposed action, and that the proposal has been designed to minimize potential harm to the floodplain. A previous notification soliciting public comments and outlining the proposed action was published in the **Federal Register**, 53 FR 43,256 (1988). No comments were received during the public comments period. Therefore, DOE plans to begin implementation of the proposed action no sooner than 15 days following the date of publication in the **Federal Register**.

DATES: DOE plans to begin implementation of the proposed action no sooner than September 24, 1990.

SUPPLEMENTAL INFORMATION: The following information summarizes the project, the alternatives that were considered by DOE, the findings of the floodplain assessment, the mitigative measures DOE will use to reduce any adverse effects, and the final determination by the Department which will be implemented in accordance with 10 CFR 1022.18.

Project Description

The project is an expansion of an existing 20 year old firing range within Sandia Canyon, Los Alamos National Laboratory. The expansion of the present firing range will be a naturally landscaped firing course within the Canyon bottom, and in the floodplain of Sandia Canyon. Buildings and firing courses will be upgraded within the present range (see figure). Structures within the expansion area (which consist of an observation tower, administration and training facility, magazine, berms, and fencing, water supply lines, and an above ground propane tank) will be built to avoid stream channels and frequently flooded areas with the exception of a few backstops. The project will not necessitate removal of vegetation within the locations designated as floodplain.

Alternatives

Reasonable alternatives to the proposed action include (1) No action, and (2) choosing an alternative site. No action is not practicable because the range must be upgraded to meet DOE guidelines for security weapons training. Alternative sites were examined but not accepted because of safety issues, presence of endangered species, noise disruption to surrounding areas, and limitations of topography.

Findings

Potential effects resulting from the proposed activity are associated with disturbance of the floodplain. The proposed firing range within the floodplain will remain undisturbed with the exception of some target supports and backstops.

A floral and faunal survey of the proposed firing site indicates that the proposed construction will not significantly change specific plant or animal composition/density and that impact of this project will be minimal. (Ref. Foxx and Kent, Vegetation/ Ecological Survey of Upper Sandia Canyon, September 1987, on file at DOE Los Alamos Area Office.) Surveys have not identified endangered, unusual, or threatened plant or faunal species within the corridor of this project. The project will not cause local extinction of any species. The vegetation within the Canyon bottom is consistent with other canyons at similar elevations and aspect.

Mitigation

Mitigative measures to reduce the risk of adverse environmental consequences to or within the floodplain include revegetation of disturbed areas with grasses, trees, shrubs and forbs to prevent erosion and best engineering practices to prevent excessive erosion.

Determination

As a result of its review of alternatives and evaluation of the environmental impacts, DOE has determined that there is no practicable alternative to the proposed action and that the proposed action has been designed to minimize harm to and within the floodplain. All actions will be in conformity with applicable state or local floodplain protection standards.

ADDRESSES: All correspondence should refer to the project by title. Address comments or requests to: John G. Themelis, Director, Environment and Health Division, Albuquerque Operations Office, U.S. Department of Energy, P.O. Box 5400, Albuquerque, New Mexico 87115, (505) 845-6660.

FOR FURTHER INFORMATION CONTACT: J.B. Tillman, Area Manager, Los Alamos Area Office, Los Alamos, New Mexico 87544, (505) 667-5105.

Dated in Washington, DC, this 25th day of July, 1990, for the U.S. Department of Energy.

Donald F. Knuth,

Acting Deputy Assistant Secretary for Operations, Defense Programs.

[FR Doc. 90-21016 Filed 9-6-90; 8:45 am]
BILLING CODE 6450-01-M

Intent to Award a Grant to East West Center, Resource Systems Institute

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.7(b)(2)(i)(A), it is making a financial assistance award under Grant Number DE-FG01-90IE10859 to the East West Center, Resource Systems Institute to assist in the "Asian-Pacific/Indian Ocean Energy Study."

SCOPE: This grant will aid in providing funding in the amount of $334,467 to broaden DOE's knowledge of Asia Pacific and Indian Ocean energy development. This information is essential in enriching DOE's ability to assess current trends and their implications for U.S. energy and national interests and to identify opportunities for U.S. Industry. The DOE and the East West Center are cost-sharing this grant. The DOE will provide funding in the amount of $165,000 and the East West Center will provide $169,467.

The purpose of this project is to provide assistance to study the Asia Pacific/Indian Ocean energy situation for two and one-half years. These studies in conjunction with earlier grants, will provide a comprehensive picture of the current and future state of the energy market in the Asia Pacific and Indian Ocean Regions. Primary

consideration will be in the hydrocarbon sector.

The overall objective is to attain a fundamental understanding of the developing patterns of resource development and exploitation within the regions as well as trade in energy between nations of the region and other areas of the world. The undertaking should reveal opportunities for U.S. exports of energy technology and services; provide an assessment on the role of government policies; and their impact on energy resource development and energy trade; assess critical issues that concern developments in the region's energy trade patterns that could impact the U.S. energy situation and U.S. policies. The results of the research are to provide an integrated view of energy sources, energy policies, and energy planning in the target countries.

ELIGIBILITY: Eligibility for this award is being limited to the East West Center in order to provide satisfactory completion of the project pursuant to 10 CFR 600(b)(2)(i)(A). The DOE knows of no entity which is conducting or planning to conduct such a study. The East West Center is a national non-profit research and educational organization. The East West Center has been a focal point for Asia Pacific and Arab energy studies and consultative groups. The consultative groups are composed of members of fourteen nations which meet annually to discuss issues of mutual interest. The east West Center is viewed by the Asia Pacific region as a center for studies in the region, and has gained the respect and cooperation of these countries. This grant is unique in that it will build on the East West Center's established liason with many Asia Pacific and Arab nations, and their energy agencies. It has been determined that this project has high technical merit representing an innovative and novel idea that has strong possibilities of allowing for future reductions and additions to the national energy resources.

The term of the grant is for thirty (30) months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U. S. Department of Energy, Office of Procurement Operations, ATTN: Lisa Tillman, PR-541, 100 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 90-21102 Filed 9-6-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP89-1571-000 and CP89-1571-001]

Niagara Mohawk Power Corp.; Intent To Prepare Environmental Assessment for Proposed Trans York Extension and Request for Comments on Its Scope

August 31, 1990.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) on the natural gas facilities proposed in the above-referenced docket. The proposal will be referred to as the Trans York Extension.

Pursuant to §§ 153.10 through 153.12 of the Commission's regulations, Niagara Mohawk Power Corporation (Niagara Mohawk) seeks the issuance of a Presidential Permit to connect a natural gas facility at a point of entry on the United States/Canadian border near the Town of Clayton, New York. Niagara Mohawk also seeks Natural Gas Act Section 3 authorization from the Commission to construct, operate, and maintain such facilities at the point of entry for the importation of natural gas.

The jurisdictional point of importation into the United States would be located on the Saint Lawrence River in the town of Clayton, near Sawmill Bay, Jefferson County, New York.

Additional facilities related to this proposal would also be owned and operated by Niagara Mohawk and would consist of 27.4 miles of 16-inch-diameter pipeline extending from Clayton in a southeasterly direction to Watertown, all located within Jefferson County, New York.

Niagara Mohawk proposes to import 51,000 Mcf of natural gas per day, on a firm basis, from TransCanada PipeLines Limited (TransCanada) through the proposed Trans York Extension to its existing distribution system. The Trans York Extension would become part of Niagara Mohawk's distribution system and the imported natural gas would be used to meet the demands of its growing system. Niagara Mohawk is also requesting authority to import up to 105,000 Mcf of natural gas per day, on an interruptible basis, if such volumes are needed and are available.

TransCanada has applied to the National Energy Board of Canada (NEB) for authorization to construct the facilities required to transport such volumes from its Ganaoque supply area—the Ganaoque Extension. The Ganaoque Extension is 15.3 miles (25.5 kilometers) of 20.3-inch (508-millimeter) pipeline to be constructed by TransCanada. Under the terms of an agreement between TransCanada and Niagara Mohawk, TransCanada would construct the Saint Lawrence River crossing.

Maps showing the location of the pertinent facilities are contained in the attached appendix.[1]

The subject facilities consist of the 27.4 miles of 16-inch-diameter pipeline (Pipeline #59) extending from Clayton, near Sawmill Bay, in a southeasterly direction, to Watertown, in Jefferson County, New York. The pipeline would cross the towns of Clayton, Cape Vincent, Brownville, Pamelia, Watertown, and the Village of Glen Park. Odorization and metering facilities would be located at the Sawmill Bay Gate Station located about 1.4 miles southeast of the point of importation and about 0.3 mile southeast of the landfall point, adjacent to Route 12E (see map appendix, page A1). At the Black River (see map appendix, page A7), Niagara Mohawk proposes a tie-in to its existing Pipeline #49 to avoid construction in the river. Niagara Mohawk proposes a tie-in to its existing distribution system at Beutel Road (previously named Rices Road) (see map appendix, page A8) in the town of Watertown at the existing Rices Road Gas Regulator Station #319.

The pipeline would be constructed on new gas pipeline right-of-way (ROW) but would utilize existing road and powerline ROWs for over 30 percent of its length. Niagara Mohawk proposes to clear a 40-foot-wide construction ROW and to maintain 20 feet as permanent ROW.

Niagara Mohawk has filed an application with the New York Public Service Commission for a Certificate of Environmental Compatibility and Public Need. As part of that proceeding, the Department of Public Service is currently conducting a detailed environmental review of the proposed pipeline route. Other Federal and state permits or approvals would be required such as the U.S. Army Corps of Engineers Sections 10 (Rivers and Harbors Act) and 404 (Clean Water Act) permits, and individual State 401 water quality certificates for pipeline construction in streams; a State Coastal Zone Management Consistency Determination; and an easement from the State Office of General Services for

[1] The map appendix is not being printed in the **Federal Register.** Copies are available from the Commission's Public Reference Branch, telephone (202) 208-1371.

placing a pipeline within state-owned lands.

Current Environmental Issues

The EA will address the environmental concerns that have been and will be identified by the FERC staff, interveners, and by concerned resource agencies and individuals. The EA will address the entire 27.4 miles of proposed pipeline. The following issues have been identified for consideration in the EA:

Cultural Resources—Effect of the project on properties listed or eligible for listing on the National Register of Historic Places.

Biological Resources—Impact of the project on threatened and endangered species.—Impact on wetlands and fisheries.—Habitat alteration.

Land Use—Utilization of existing right-of-way.—Consistency with approved coastal zone management plans.—Impact of the facilities at the point of importation and landfall on residences, private land, and public recreation areas.

Alternatives—Alternative landfall locations to avoid environmentally sensitive areas.

Comment Procedures

Comments from Federal, state, and local agencies and the public are requested to help identify significant issues or concerns related to the proposed action, to determine the scope of issues that need to be analyzed, and to identify and eliminate from detailed review the issues which are not significant. All comments on specific environmental issues should contain supporting documentation or rationale.

If no significant issues are raised concerning the facilities, which are mostly nonjurisdictional, and the facilities have been approved at the state or local level, the Commission staff intends to limit its environmental review of these facilities. However, in this case, the review would still address the potential effects on federally listed or proposed threatened and endangered species, cultural resources, and consistency with approved coastal zone management plans.

Written comments should be submitted on or before October 1, 1990, reference Docket No. CP89–1571–000, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. A copy of the comments should also be sent to Mr. Howard Wheeler, Project Manager, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., room 7312, Washington, DC 20416.

The EA will be based on the FERC staff's independent analysis of the proposal, and together with the comments received, will comprise part of the record to be considered by the Commission in this proceeding.

The EA may be offered as evidentiary material if an evidentiary hearing is held in this proceeding. In the event that an evidentiary hearing is held, anyone not previously a party to this proceeding and wishing to present evidence on environmental or other matters must first file with the Commission a motion to intervene pursuant to rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

Lois D. Cashell,

Secretary.

[FR Doc. 90–21031 Filed 9–6–90; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 90–75–NG]

Access Energy Corp.; Application to Export Natural Gas to Canada or Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Canada or Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on August 30, 1990, of an application filed by Access Energy Corporation (Access) requesting blanket authorization to export from the United States to Canada or Mexico up to 296 Bcf of natural gas over a two-year period beginning on October 1, 1990, the date of first export. Access intends to sell the gas obtained from producers in various producing states for sale to a wide range of markets, including local distribution companies and end-users. Access intends to use existing pipeline facilities within the United States and at the international borders for transportation of the exported gas. Access states that it will advise the DOE of the date of first delivery and submit quarterly reports detailing each transaction

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.d.t., October 9, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Perry Bolger, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–1789.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of Federal Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Access, a Delaware corporation with its principal place of business in Dublin, Ohio, is engaged in the marketing of natural gas throughout the U.S. and in Canada. Access requests authorization to export gas for its own account as well as for the accounts of others. Access states that the contractual arrangements will be the product of arms-length negotiations and will result in competitive prices and contract flexibility.

In support of its application, Access states that the gas volumes to be exported would be over and above the U.S. regional and national needs for natural gas. In addition, the short-term nature of the individual transactions would ensure the availability of the gas in the U.S. in the event a domestic need for the gas should arise.

Access requests expedited treatment of its application. A decision on Access' request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic

gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, the authorization may permit the export of the gas at any point of exit on the international border where existing pipeline facilities are located.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notices 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 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. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed 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 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, notice will be provided 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 response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Access' application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., e.d.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC on August 31, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-21104 Filed 9-6-90; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 88-70-NG]

Atlantic Richfield Co.; Final Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of a final order authorizing importation of natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued a final order granting Atlantic Richfield Company (ARCO) blanket authorization to import up to 25 Bcf per year of natural gas from Canada over a two-year period beginning on the date of first delivery. The Canadian natural gas will be used as fuel in ARCO's Cherry Point oil refinery located near Ferndale, Washington.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 30, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-21017 Filed 9-6-90; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 88-71-NG]

Intalco Aluminum Corp.; Final Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of a final order authorizing importation of natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued a final order granting Intalco Aluminum Corporation (Intalco) blanket authorization to import up to 2 Bcf per year of natural gas from Canada over a two-year period beginning on the date of first delivery. The Canadian natural gas will be used as fuel in Intalco's aluminum smelting plant located near Ferndale, Washington.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 30, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-21018 Filed 9-6-90; 8:45 am]

BILLING CODE 6450-01-M

Office of the General Counsel

Eyeonics Corp.

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Notice of intent to grant partially exclusive patent license.

SUMMARY: Notice is hereby given of an intent to grant to Eyeonics Corporation of Portland, Oregon, a partially exclusive license to practice the invention described in U.S. Patent No. 4,645,308, entitled "Low Voltage Solid-State Lateral Coloration Electrochromic Device" and foreign counterparts in Canada, Great Britain, France,

Germany, Italy, and Japan, and U.S. Patent No. 4,687,560, entitled "Method of Synthesizing a Plurality of Reactants and Producing Thin Films of Electro-Optically Active Transition Metal Oxides." The proposed license will be limited to the field of use of eyeglasses and lenses. The patents are owned by the United States of America, as represented by the Department of Energy (DOE).

DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, DC 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to either of the inventions, in which applicant states that, in the field of use of eyeglasses or lenses, he already has brought either invention to practical application or is likely to bring either invention to practical application expeditiously.

DATES: Written comments or nonexclusive license applications are to be received at the address listed below no later than November 6, 1990.

ADDRESSES: Office of Assistant General Counsel for Patents, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION: Robert J. Marchick, Office of the Assistant General Counsel for Patents, U.S. Department of Energy, Forrestal Building, room 6F-067, 1000 Independence Avenue, Washington, DC 20585; telephone (202) 586-4792.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 209(c) provides the Department with authority to grant exclusive or partially exclusive licenses in Department-owned inventions, where a determination can be made, among other things, that the desired practical application of the invention has not been achieved, or is not likely expeditiously to be achieved, under a nonexclusive license. The statute and implementing regulations (37 CFR part 404) require that the necessary determinations be made after public notice and opportunity for filing written objections.

The proposed license will be partially exclusive, subject to a license and other rights retained by the U.S. Government, and subject to a negotiated royalty. The Department will review all timely written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, DC, on August 29, 1990.

Stephen A. Wakefield,

General Counsel.

[FR Doc. 90-21105 Filed 9-6-90; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Record of Decision and Floodplain Statement of Findings for the Mead-Phoenix 500-Kilovolt Alternating Current/±500-Kilovolt Direct Current (DC) Transmission Line Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of decision.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western), has made the decision to participate in the construction, operation, and maintenance of the Mead-Phoenix 500-kilovolt (kV) alternating current (AC)/±500-kV direct current (DC) Transmission Line Project.

Western, Salt River Project (SRP), Southern California Public Power Authority (SCPPA), and Modesto—Santa Clara—Redding (MSR) Public Power Agency (collectively referred to as the project sponsors) propose to construct a 500-kV AC-transmission line with the capability to be upgraded to ±500-kV DC when warranted by increased demand for transmission capacity. This transmission line will connect the Westwing Substation, located northwest of Phoenix, Arizona; through a new 500-kV AC substation near/or in Mead Substation, located 3 miles south of Boulder City, Nevada; with an expanded McCullough Substation or at a new McCullough II Substation in the immediate vicinity, located approximately 14 miles southwest of Boulder City, Nevada. This proposed AC project is a modification of the original Mead-Phoenix DC project [a ±500-kV DC project approved by the State of Arizona and the State of Nevada in 1985). A Federal environmental impact statement (EIS) was prepared for the Mead-Phoenix ±500-kV DC-transmission line, but the record of decision (ROD) was not filed pending the participants' election to proceed with the project. Western has prepared the ROD anticipating that the "election to proceed" will occur in 1990. Additionally, a State of Arizona Certificate of Environmental Compatibility was approved November 26, 1985; a Clark County, Nevada, Special Use Permit was approved October 17, 1985; and a State of Nevada Public Utilities construction permit was approved November 12, 1985, for the Mead-Phoenix ±500-kV DC-transmission line. Appropriate steps have been taken by project sponsors to update these permits. To date the permits have been updated and approved by the appropriate State/County agencies.

Since 1986, load growth in the areas served by the proposed project has slowed. It now appears that a much longer time will elapse before the full transmission capacity provided by the DC project will be needed. Accordingly, it is now proposed to construct the Mead-Phoenix project as a 500-kV AC-transmission line with a capacity in the 1300 megawatt (MW) range and change its end points to two existing substations which have 500-kV AC capability. The two AC substations selected at each end of the project are the Westwing Substation, about 2 miles west of the previously proposed Eastwing DC terminal along the approved Mead-Phoenix route, and McCullough II Substation, about 13.5 miles southwest of Mead Substation connecting to another approved 500-kV AC-line known as the Mead-McCullough-Victorville-Adelanto route. As noted above, the line will stop at or go through a new intermediate 500-kV AC substation to be constructed at Mead before proceeding on to the McCullough II Substation.

The resulting transmission line will be operated at 500-kV AC on an interim basis, until the system need grows to the point that the cost of the AC/DC conversion equipment can be justified. At that time, two AC/DC terminals will be constructed at Mead and Eastwing and the existing transmission line will be operated as a DC-line at a higher capacity than could be achieved with the interim AC-transmission line.

The proposed project would serve the following purposes:

1. Help reduce dependence on oil and natural gas for electricity consumed in the SCPPA member and MSR service areas.

2. Furnish access by all project sponsors to the economy energy market.

3. Provide a path for sale of SRPs off-peak surplus capacity to California markets.

4. Provide a path for Western to sell economy energy and firm transmission from the Phoenix area to southern California.

5. Help provide a link for movement of power and energy between the Pacific Northwest, the Desert Southwest, and Southern California.

6. Enhance system reliability.

7. Help meet the forecast need for power of SCPPA and MSR members by providing firm, long-term transmission capacity.

8. Provide out-of-basin support during Los Angeles' air quality Stage III episodes.

FOR FURTHER INFORMATION CONTACT:
Mr. Tom Hine, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, Nevada 89005-0200, (702) 477-3200.

Mr. Chuck Saylor, Environmental Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, Nevada, 89005-0200, (702) 477-3244.

Mr. Gary Frey, Director, Division of Environmental Affairs, Western Area Power Administration; P.O. Box 3402, Golden, Colorado 80401-3398, (303) 231-1527.

SUPPLEMENTARY INFORMATION: The Department of Energy, Western Area Power Administration, has made the decision to participate in the construction, operation, and maintenance of the Mead-Phoenix 500-kV AC/±500-kV DC-transmission line project.

Western's decision for the ±500-kV DC transmission line is based on the information contained in the draft and final EIS issued for the project (DOE/EIS-0107; D/1983, F/1986). In 1989-1990 Western prepared an environmental analysis to verify data contained in the EIS and determine if any changes in the project or changes in environmental conditions in the project area would affect any decisions reached in the EIS. The analysis was prepared pursuant to the Council on Environmental Quality regulations 1502.9, and completed in February 1990. Coordination was conducted with Federal and State agencies on the proposed changes to the project and on the environmental analysis. Responses from the agencies indicated they did not see any significant differences in impacts resulting from the proposed changes to the project. Based on the analysis, which showed no unexpected changes or significant impacts, DOE determined that a supplement to the EIS was not needed. This analysis is available for public review from the Division of Environmental Affairs, Western Area Power Administration, P.O. Box 3402, Colden, Colorado 80401.

Since the EIS was published, the U.S. Fish and Wildlife Service (FWS) made an emergency listing of the Mojave desert tortoise. The emergency listing on August 4, 1989, placed the tortoise on the endangered species list for 240 days. On April 2, 1990, the Mojave desert tortoise was listed as a threatened species. As a result of the listing, the project sponsors felt that surveys for the tortoise should be completed in appropriate areas of the project right-of-way (ROW). This survey indicated the presence of four (4) tortoises along the ROW in Nevada. Western has already begun informal consultation with FWS regarding endangered and threatened species in the project area and based on those discussions has identified several alternative mitigative measures which will minimize impacts to the threatened Mojave desert tortoise. These measures may include, but not necessarily be limited to (1) restrictions on construction activities during portions of the annual life cycle of the tortoise; (2) moving potentially impacted tortoises to nearby unimpacted areas; (3) conducting burrow surveys immediately prior to construction activites; and (4) having a tortoise biologist accompany construction crews in areas known to contain the threatened species. Based on these mitigative measures, Western concluded that the proposed action would not further endanger the Mojave desert tortoise. The Phoenix field office of the FWS has tentatively concurred with that conclusion, pending the formal section 7 consultation which will start with the submission of the biological assessment.

An issue identified in the EIS regarding the Wilderness Study Area (WSA) boundary at Burro Creek has been resolved with the BLM. Initially, the WSA boundary was set at the east edge of the existing Mead-Liberty 345-kV transmission line ROW which would have forced the subject line to cross over and then recross the Mead-Liberty line within a one-half mile area. The subject new line would be located on the same side as the WSA. Proposed draft legislation recommended to Congress that the WSA boundary should be set back one-fourth mile to the east which would resolve the problem.

The Mead-Phoenix project will be constructed along the project sponsors' preferred route as described in the final EIS (FEIS). This route is substantially the same as the environmentally preferred route with the exception of about 8 miles (see figure 3-9F, in the FEIS). There were no significant differences in the impacts between the environmentally preferred and the project sponsors' preferred routes.

All mitigation measures identified in the draft and FEIS as well as the environmental analysis will be adopted by Western and will be made part of the specifications for construction. Any unforeseen site-specific requirements will be coordinated with the appropriate Federal, State, and local agencies.

Public Involvement

An extensive public involvement program was implemented during project planning. This included newspaper notices, television spots, Federal Register notices, and a newsletter entitled "Power Update" was sent to approximately 350 interested agencies and individuals. Numerous agency meetings were held and several public information workshops were conducted during the project. (See the FEIS, section S-3f and chapter 2 in the draft EIS [DEIS], for a more detailed description). Chapter 1 in the FEIS describes the process followed for the public review of the DEIS. The issues raised by the public and the responses are addressed in tables 1-1 and 1-2. In fact, the FEIS must be used in conjunction with the DEIS. The FEIS contains only a summary, responses to public, and agency comments on the DEIS, and errata and changes to the DEIS.

Description of the Proposed Action

1. Facilities

As a result of systems investigations, the project sponsors' propose the Mead to Phoenix ±500-kV DC-transmission line. This line would transmit power between the Mead area and the Phoenix area. The proposal includes a ±500-kV DC-transmission line, two substations and converter terminals, associated communication facilities, and ground electrodes. Power transfer capability would initially be rated at 1600 MW on a continual basis with an ultimate capability of transmitting 2200 MW.

As discussed above in the ROD and in the environmental analysis, the present 500-kV AC-transmission line interim project is for a Westwing-Mead-McCullough II 500-kV AC/±500-kV DC-transmission line.

The 500-kV line from Westwing to Mead includes the series capacitors, all terminal facilities at Westwing including the 230-kV phase shifters and 500/230-kV transformers, a new 230-kV bay at Westwing and replacement of seven existing 230-kV circuit breakers at Westwing, and one-third of the Mead 500-kV switchyard.

The 500-kV line from Mead to McCullough II includes one-third of the

Mead 500-kV switchyard, single line termination at McCullough II, one-half of MuCullough II common costs including the 500-kV ties to the McCullough 500-kV bus, and one-half of the static var compensator installed as part of the Mead-Phoenix and the Mead-Adelanto projects.

Mead Switchyard and 500/230-kV transformer: The 500/230-kV transformer(s) at Mead, one-third of the Mead 500-kV switchyard, 230-kV terminal facilities at Mead, and replacement of four existing 230-kV circuit breakers at Mead.

The design, construction, operation, and maintenance of the Mead-Phoenix 500-kV AC/±500-kV DC-transmission line would meet or exceed the requirements of the National Electrical Safety Code, U.S. Department of Labor Occupational Safety and Health Standards, and the project sponsor's own requirements for maximum safety and protection of landowners and their property. Electrical characteristics of the proposed transmission facilities are shown in table 3–1 in the DEIS.

Towers for the proposed 500-kV transmission line would be free-standing lattice-type made of unpainted galvanized steel. Typical tower-to-tower spans are anticipated to be approximately 1,200 feet. Free-standing, square-based towers would be used along the entire route. Typical tower height would be 120 feet. A 200-foot ROW would be required for these towers. Four foundations for each tower would be required. Electrical conductors would provide the medium over which electrical energy for the project would flow.

2. Proposed Route

The route selected is the project sponsors route which is similar to the environmentally preferred route (see figure 3–9F in the FEIS). This route would parallel existing transmission lines for 235 miles of its 243.5 mile distance. Starting at McCullough II Substation, the line would proceed northeast across Eldorado Valley over the dry lake area to Mead Substation. From Mead Substation, the route would parallel an existing 345–kV line, proceed southeast through Eldorado Valley, and enter the Lake Mead National Recreation Area where the route would traverse the Eldorado Mountains in southeastern Nevada, cross the Colorado River in Black Canyon and continue east into Mohave County, Arizona, crossing the Black Mountains, U.S. Highway 93 and Detrital Valley. The route would then proceed southeast across the White Hills, traverse the northern portion of Hualapai Valley north of Red Lake, then generally parallel the Grand Wash Cliffs along the eastern side of Hualapai Valley before crossing U.S. Highway 66 just northeast of the Peacock Mountains. The route would parallel the east side of the Peacock Mountains, cross Interstate 40, and continue south through the Big Sandy River valley between the Hualapai and Aquarius mountains roughly paralleling U.S. Highway 93. The route would cross the Big Sandy River north of Wikieup and proceed southeast before crossing Burro Creek and entering Yavapai County. Continuing southeast, the route would cross the Santa Maria River, parallel a section of U.S. Highway 93 designated by the Arizona Highway Department as the Joshua Tree Parkway and pass west of the Date Creek Mountains. No longer paralleling U.S. Highway 93, the route would continue southeast, cross State Highway 71 and enter Maricopa County. From there, the route would continue southeast through Aguila Valley, cross U.S. Highway 60, pass through the Vulture Mountains and into the Hassayampa Plain before turning east (leaving the existing 345–kV transmission line), crossing the Hassayampa River and passing north of the White Tank Mountains (parallel to the Palo Verde-Westwing 500–kV transmission line). The route would cross U.S. Highway 93, Beardsley Canal and continue on to the Eastwing terminal site east of the Agua Fria River. The preferred route of the project sponsors is the same as the environmentally preferred route with the exception of links 64, 33 and 49/50. As shown on figure 3–9F in the FEIS, the project sponsors preferred route deviates east on Link 21a, then turns south on Links 77 and 78 to the point where it intersects with the environmentally preferred route.

3. Western's Role in the Project

Western will obtain the ROW and will operate and maintain the line and facilities after construction by SRP.

4. Construction Practices

Construction of the transmission line and supporting facilities consists of several phases of work including, but not limited to, surveying, clearing, regrading the existing access roads with construction of some short new access spur roads, foundation installation, allocation of materials along the construction route, structure assembly and erection, conductor stringing, site restoration, and final cleanup. Additionally, there will be construction of four microwave communication sites. All these activities are further described in the DEIS.

5. Operation and Maintenance Practices

The nominal voltage of the Mead to Phoenix transmission line would initially be 500–kV AC and later ±500–kV DC. There may be minor excursions of up to plus 5 percent above the nominal level depending upon load flow. Systems dispatchers in power control centers will direct the day-to-day line scheduling and equipment operation by supervisory control to operate, maintain, and protect the system. Circuit breakers will operate automatically in an emergency to ensure the safety of the system.

Safety is a primary concern in the design of the 500–kV AC/±500–kV DC-transmission line. The transmission line would be protected at both ends with valve controls or circuit breakers. If conductor failure occurs, power would be automatically removed from the line. Lightning protection is provided by overhead groundwires along the line. Electrical equipment and fencing at the substation would be grounded. All fences and metal gates crossing or within the transmission line ROW would be grounded to prevent shock potential.

The 500–kV AC/±500–kV DC-transmission line would be inspected on a regular basis by both land and air patrols. Maintenance would be performed as needed. Frequent access to the transmission lines for maintenance purposes is generally not necessary. When access is required for nonemergency maintenance and repairs, the project sponsors would adhere to the same precautions that were taken during the original construction. Crews would be instructed to protect crops, plants, wildlife and other resources of significance. The comfort and safety of any local residents would be provided for by limiting noise, dust, and movement of maintenance vehicles.

After the transmission line has been energized, land uses that are compatible with safety regulations would be permitted in and adjacent to the ROW. Existing land uses such as agriculture and grazing are generally permitted within the ROW. Compatible uses of the ROW on public lands would have to be approved by the appropriate agency. Incompatible land uses within the ROW include constructing buildings, drilling wells, and any use requiring changes in surface elevation that would affect Western's operation and maintenance activities.

Various techniques will be used within the ROW to control or eliminate

vegetation that could interfere with reliable service. The ROW will not be cleared; as much vegetation will be left as possible. Techniques include hand and mechanical cutting as well as selective application of approved herbicides. The management objective, type of vegetation present, adjacent land use and development, and impacts of the control technique will be considered in selecting the most appropriate method to use at each facility and along each ROW segment. Herbicides will not be used on Federally-owed lands, consistent with current Federal court restrictions, but may be used on other lands in cooperation with the landowners.

The electrical converter stations that are proposed at a later date in the life of the project may be manned and/or operated from a remote site. Electrical equipment would be operated from the converter building (see figure 3–4 in the DEIS). The substation equipment and facility layout would be designed to limit radio and television interference, audible noise, and magnetic and electrical fields to values indicated on table 3–3 in the DEIS. All terminals would be fenced, locked, and secured. Entry would be restricted to appropriate utility personnel.

Communication facilities associated with the proposed project would be unmanned and would operate automatically. The buildings would be fenced, locked, and secured. The maximum microwave transmitter power at each facility would be five watts.

Alternatives Considered

Five general alternatives were considered and evaluated by the project sponsors during the early planning of the proposed project to meet the need by providing additional power in their respective service areas. These alternatives were: (1) No Action, (2) Energy Conservation, (3) Alternative Generation Sources, (4) Alternative Transmission Technologies, and (5) The Original Proposed Project (the original ±500-kV DC-transmission line) with routing alternatives. Investigation of the alternatives described in the DEIS and FEIS led the project sponsors to the conclusion that the optimal means for supplying power to their service territories within the timeframe of the stated need, (given the economic, environmental, and state-of-the-art constraints of alternative actions) is to construct an overhead DC-transmission system between the Mead Substation in Nevada and the Phoenix metropolitan area.

1. No Action

The no action alternative for this project is interpreted to mean that there would be no additional transmission facilities beyond those that are already constructed or approved for construction by the sponsors of this project. The advantages of the no action alternative would be the preclusion of environmental impacts and costs associated with the construction and operation of a new transmission line.

The disadvantages of the no action alternative include the loss of potential project tax revenues in addiition to positive environmental, socioeconomic, and electric service impacts that would result. Another disadvantage of the no action alternative would be that some of the project sponsors would probably increase generation from existing oil and gas-fired powerplant units in an effort to meet the forecasted need. Not only are oil and gas more expensive than coal, but their use is discouraged by Federal energy policy as stated in the Powerplant and Industrial Fuel Act of 1978. Increased generation would reduce reserve margins to unacceptable reliability standards. The project sponsors would also continue to expand their energy conservation efforts in an attempt to mitigate the no action alternative. Some significant disadvantages would result from the shortage in electrical supply if there was no action. Some of the project sponsors would not be able to diversify fuel sponsors and, accordingly, reduce their oil dependency. An interruption to the oil supply could seriously affect their service. Access to coal-based energy in Arizona and New Mexico would be precluded. Service may be interrupted more frequently for maintenance and emergency outages, and a moratorium on new hookups may become necessary. Such a situation could adversely affect residential, commerical, and industrial customers in terms of income, health, safety and general convenience.

2. Energy Conservation

Energy conservation has the advantage of reducing energy consumption with no documented adverse environmental impacts. However, factors such as high capital costs, cost-effectiveness and public acceptance may inhibit the implementation of some energy conservation programs. The project sponsors have developed and put into effect numerous energy conservation and load-management programs that have reduced energy consumption and system peak demand compared to earlier forecasts. Current demand forecasts for the utilities incorporate anticipated energy savings and reduction in peak demand from conservation and load-management programs, and demonstrate that despite these efforts, a significant difference remains between projected demand and existing capacity.

3. Alternative Generation Sources

The project sponsors in California could meet their stated needs by adding generation capacity. However, because of the high capital costs, environmental regulations and lead time required to construct a new generating facility, new power could not be provided to users in a realistic time period.

4. Alternative Tranmission Technologies

Other possible alternatives include the use of existing or other planned transmission systems or alternative technologies. Use of existing and planned lines is not considered feasible because at present, all lines are being utilized to capacity in the tramsmission systems from Arizona to southern Nevada and California. Future transmission lines now committed or under construction will have little, if any, uncommitted excess capacity.

Several options, both AC and DC, were evaluated as alternatives to a new ±500-kV DC-transmission line. AC alternatives included upgrading the capacity of the existing Mead-Liberty 345-kV line, upgrading the existing Mead-Liberty 345-kV line to 500-kV AC, and building a new 500-kV AC-transmission line parallel to the existing Mead-Liberty 345-kV line. The DC alternatives included converting the existing Mead-Liberty 345-kV line to a 250-kV, 300-kV, or 400-kV DC-line. None of the AC alternatives provide the required transfer capability between Mead and Eastwing while the DC alternatives were not economically competitive with a new ±500-kV DC-transmission line.

5. The Original Proposed Project

Major Project facilities would include the following:

- Approximately 240 miles of ±500-kV DC-transmission line;
- A substation and converter terminal at the existing Mead Substation site;
- A substation and converter terminal at the proposed Eastwing site on the east bank of the Agua Fria River north of Phoenix;
- Two ground electrodes, probably in Detrital Valley and northwest of the White Tank Mountains, Arizona;
- Communication facilities; and

• Access roads.

Power transfer capability would be initially rated at 1600 MW on a continual basis with an ultimate capability of transmitting 2200 MW. Project construction was planned to begin in 1987 and to be completed in 1991. Estimated capital cost for the project is $500,000,000. The estimated life of the project is 35 years.

A. Alternative Terminals

The Mead Substation was the only DC terminal considered in Nevada. Five alternative terminal sites and associated ancillary transmission systems in the Phoenix area were evaluated utilizing regional data to determine environmental conflicts. As a result of these analyses, the Estella and Library Substation alternatives were eliminated because of greater potential conflicts with land use, visual, and cultural resources. The third station alternative was subsequently eliminated because of system engineering constraints and cost. The two remaining sites analyzed in detail were the Eastwing Terminal and the Westwing Substation.

B. Routine Alternatives

Regional environmental studies were conducted to identify a set of alternative corridors to be assessed in details. A literature search and agency contact program were implemented in order to collect the data necessary to assemble an inventory of the environmental resources within the regional study area. Following the completion of the resource inventory, an analysis was conducted to determine the sensitivity of each environmental resource to the introduction of the proposed transmission line. Approximately 1,500 miles of the most feasible routing alternatives or opportunities (primarily areas of least sensitivity or existing utility corridors) were identified. The project sponsors then reviewed these routing alternatives to determine apparent engineering or economic constraints. The review resulted in the elimination of about 300 miles. Aerial field review of the routing alternatives, conducted with the project sponsors, contracted environmental planners, and BLM personnel as participants, resulted in further elimination of the least feasible routing alternatives and refinement of the locations of those alternatives remaining in the study. As a result of this screening, approximately 840 miles of routing opportunities were addressed during the corridor-specific environmental studies and impact assessment.

Mitigation/Environmental Consequences

Environmental consequencies from the present proposed action (a new 500-kV AC-transmission line which can be converted later to a ±500-kV DC-transmission line) and alternatives are the residual impacts derived through a process that first identified, and subsequently evaluated and integrated, initial (unmitigated) impacts and appropriate mitigating measures. The process involved:

(1) Assessing impact based upon a comparison of the proposed project with the preproject environment;

(2) Determining mitigation that would effectively avoid, effectively reduce or eliminate impacts; and

(3) Identifying "residual" impacts, or impacts remaining after the application of mitigation measures to which the project sponsors had committed.

The impact assessment and mitigation planning process is described in more detail in the DEIS; therefore, reference should be made to figure 5–1 in the DEIS. The new AC-transmission line and associated impacts were discussed in the 1989 environmental analysis report. The potential residual impacts along the project sponsors' preferred route resulting from the COM of the proposed project are generally summarized in table S–IF in the FEIS. This table presents a quantitative analysis of impacts for the final project sponsors' preferred route. Route 3F. This table is an addendum to the DEIS table S–1 and can be used in conjunction to compare all final routing alternatives.

All practicable means to avoid or minimize environmental effects have been adopted for the preferred alternative. Western is committed to adopt the provisions of the generic, as well as site specific, mitigation measures. Some of the required mitigation will be coordinated through additional consultation with Federal and State agencies.

Residual impacts to biological resources are considered low to moderate given the predicted effectiveness of proposed mitigation measures. The preferred route would cross habitats of local desert tortoise populations, and would potentially disturb special-status riparian habitat (2.7 miles), State listed wildlife species, BLM listed sensitive plant and animal species, and Federal threatened and endangered plant and animal species.

Direct and long-term impact for land use include any impact that displaces, alters, or otherwise physically affects any existing development of a planned residential, commercial, industrial, or institutional use or activity, utility line or a facility, communication facility or related activity, air facility or related activity; or affects official general or regional plans, policies, goals, or operations of communities or governmental agencies. As shown on table S–IF in the FEIS, no significant potential impacts were identified along the preferred route, and residual impacts are, therefore, low.

Residual visual impacts along the preferred route are considered low for the majority of the route where the Mead-Phoenix line would parallel existing transmission lines. Moderate impacts were assigned to 2.3 miles on Link 77 where the route deviates from existing transmission lines east of the Douglas Land Corporation property.

The socioeconomic impact analysis addressed potential positive and negative effets of construction workers' activities and expenditure and fiscal matters that would result from the construction of the proposed facilities. The maximum demand by construction workers for temporary accommodations could be met with existing facilities in each community and community services would be adequate. Potential indirect tax revenues that accrue to communities and taxing jurisdictions in the study area would be minimal during construction, but would be a beneficial impact of the proposed project. Increases in property tax revenues during operation would be a significant long-term beneficial impact without requiring additional services.

Impacts to archaeological resources, which are nonrenewable, would be adverse and permanent. Impact levels were identified based on an evaluation of levels of sensitivity and access road requirements. Along the preferred route, significant potential impacts include 1.3 miles of high impact and 24.8 miles of moderate impact in areas exhibiting high to moderate resource sensitivity. Overall, the route is considered to have low to moderate residual impacts. Significant potential impacts of historic resources along the preferred route include 0.2 mile of high impact and 22.8 miles of moderate impact in very high and high/moderate sensitivity areas, respectively. Overall, impacts are low to moderate.

Along the preferred route, residual impacts would occur for approximately 6 miles and moderate impact for 2 miles to Native American sites associated with resource exploitation, rock art, cremation/burial, habitation, and historic events.

No significant potential impacts to air and earth resources or acoustical

characteristics were identified. Transmission lines are not major sources of air pollution. While some ozone and nitrous oxide might be expected to result from the operation of high-voltage line, tests have shown the amounts to be below the detectable limits of modern day instrumention. Electrical, biological, health, and safety effects were addressed in the FEIS and found to be of no significant impact.

In general, impacts to paleontological resources are direct, adverse, and long-term. Along the final routing alternatives, paleontological resources would be crossed by Links, 1, 13, 14a, 14b, 17/58/18, 41, 43, 44, and 45/46/30. However, potential impacts in these areas are anticipated to be low with the exception of moderate initial impacts along Links 43 and 44. The project sponsors' commitment to modifying tower placement along Links 43 and 44 result in a predicted low residual impact. Because low impacts identified were throughout the entire study area, paleontological resources were not factored into the final route selection process.

In addition, the 1989 environmental analysis report indicates that land use along the certified project route is occurring as predicted in the original EIS. In those areas where residential development has occurred, visual impacts have increased accordingly. Biological resources have remained largely the same since the original assessments, with some changes in special status. Mitigation measures have been modified as needed to avoid or reduce the level of any new, potential effect on biological resources.

Based on the environmental analysis, conditions along the certified route have remained the same or development has occurred as anticipated in the original EIS. Therefore, it does not appear that the basis of the original route decision has changed in any significant manner since the route certification. This analysis included the change from a ±500-kV DC-transmission line to an interim 500-kV AC-transmission line.

Relationships With Other Projects

Related to the Mead-Phoenix Project is the proposed Mead/McCullough-Victorville/Adelanto Transmission Project, with could accommodate power transfer west into California. The Los Angeles Department of Water and Power (DWP), a member of SCPPA, and other project sponsors (some of the project sponsors of the Mead-Phoenix will not be a part of this project) propose to design, construct, operate, and maintain a 500-kV AC-transmission line from the Mead or McCullough Substation near Boulder City, Nevada, to the Victorville or Adelanto Substation in California. An AC-line would have a nominal capacity of 1200 MW, and would begin at McCullough and terminate at either Adelanto or Victorville. A DC-line would have a nominal capacity of 2000 MW from Mead Substation to Adelanto Substation. A converter station and associated facilities would be required within or adjacent to Adelanto Substation. The BLM and DWP have prepared a combined DEIS/Environmental Impact Report for the proposed Mead-McCullough-Victorville/Adelanto Transmission Project. Therefore, the focus of the Mead-Phoenix EIS documents are for siting studies for the Mead-Phoenix 500-kV AC/±500-kV DC-transmission line and directly realated facilities.

Floodplains/Wetlands Statement of Findings

Along the final routing alternatives, moderate residual impacts to wetlands are anticipated at crossings of the Colorado River, the only true wetlands within the study corridors (Links 45/46/30, 41 and 44). The project sponsors have committed to spanning sensitive features, thus avoiding, to the extent possible, removal of riparian vegetation. Impacts to floodplains crossed by the alternative corridors are anticipated to be minimal because of project sponsors' mitigation commitment of spanning sensitive features. However, the potential for damage to towers from severe flooding does exist in areas where spanning may not be possible (e.g., the Hassayampa River). Where tower placement occurs in a floodplain, construction disturbance, potentially increasing erosion, and stream sedimentation will be minimal since the majority of the stream/river crosses are generally dry. In addition, the project sponsors have agreed to conduct a preconstruction survey to determine the most effective means of mitigation site-specific impacts. Further information regarding the location of floodplains and wetlands (displayed as riparian areas) is available in figures 4–2 and 4–4 in the DEIS and in Volume 2: Natural Environment Report.

As discussed in the paragraph above, the potential for avoiding most of the floodplains and wetlands during final siting and construction of the facilities is very high and is the preferred method of mitigating potential impacts. Avoidance of construction in all floodplains is not practicable; however, structures will be placed as far from the center of the floodplain as is possible to reduce potential for debris to collect near the towers and for damage to the towers to be reduced. Alternatives to locating the facilities were analyzed during the environmental studies and further surveys/studies will be conducted just prior to construction. The proposed facilities will conform with all applicable State and local floodplain protection standards. Final mitigation measures will be made part of the COM Plan.

Issued at Golden, Colorado, August 21, 1990.

William H. Clagett,

Administrator.

[FR Doc. 90–21020 Filed 9–6–90; 8:45 am]

BILLING CODE 6450–01–M

Notice of Rate Order; Loveland Area Projects

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order No. WAPA–47 for the proposed firm power and transmission service rates for the Loveland Area Projects.

SUMMARY: Notice is given of the confirmation and approval by the Deputy Secretary of the Department of Energy (DOE) of Rate Order No. WAPA–47 and Rate Schedules L–F2, L–T1, and L–T2, placing increased firm power and transmission service rates for the Loveland Area Projects (LAP) into effect on an interim basis. The rates will remain in effect on an interim basis until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them into effect on a final basis or until they are replaced by another rate.

The final Post-1989 General Power Marketing and Allocation Criteria; Pick-Sloan Missouri Basin Program-Western Division (Criteria) were published in the **Federal Register** on January 31, 1986 (51 FR 4012). The Criteria contractually integrated the resources of the Pick-Sloan Missouri Basin Program-Western Division (P–SMBP–WD) and the Fryingpan-Arkansas Project (Fry-Ark), both commonly referred to as the LAP, and called for the establishment of an initial rate for LAP power.

The fiscal year (FY) 1989 power repayment study (PRS) for the Pick-Sloan Missouri Basin Program (P–SMBP) and the FY 1989 PRS for Fry-Ark indicate that the existing rates do not yield sufficient revenue to satisfy the cost-recovery criteria through the study periods. The proposed P–SMBP–Eastern Division rate Schedules in Rate Order No. WAP–46, along with the P–SMBP–WD revenue requirements, will yield

adequate revenue to satisfy the cost-recovery criteria for the P–SMBP. Rate Order No. WAPA–47 includes the revenue requirements for the P–SMBP–WD that was discussed in Rate Order No. WAPA–46, and will also satisfy the cost-recovery criteria for the Fry-Ark.

The LAP firm power rate was developed by combining the revenue requirements from the FY 1989 PRS for both the P–SMBP–WD and Fry-Ark. The proposed rate for firm power is $2.15 per kilowatt-month (kW-month) for firm capacity and 8.39 mills per kilowatthour (mills/kWh) for firm energy for the first step to be implemented in FY 1991, and $2.21 per kW-month for firm capacity and 8.60 mills/kWh for firm energy for the second step to be implemented in FY 1992.

To establish the LAP transmission rate, Western's Loveland Area Office developed a cost-of-service concept method. The proposed transmission rate design is based upon LAP generation and firm transmission commitments. This design is also based upon the financial data of the P–SMBP–WD transmission system. Western used a 5-year average of budgeted expenses reflecting the 5-year period for which the rates will be effective. The proposed LAP transmission service rates are $1.52/kW-month or 2.1 mills/kWh for firm transmission service and 2.1 mills/kWh for nonfirm transmission service.

EFFECTIVE DATE: The proposed rates will be placed in effect on an interim basis on the first day of the first full billing period beginning on or after October 1, 1990.

FOR FURTHER INFORMATION CONTACT:

Mr. Stephen A. Fausett, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539, Telephone: (303) 490–7201

Mr. Robert C. Fullerton, Director, Division of Marketing and Rates, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, Telephone: (303) 231–1545

Mr. Ronald K. Greenhalgh, Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G–061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Telephone (202) 586–5581.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), the Secretary of Energy delegated the authority to develop long-term power and transmission rates to the Administrator of Western; the authority to confirm, approve, and place such rates in effect on an interim basis to the Under Secretary of DOE; and the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to the FERC. On March 12, 1990, the Secretary issued a notice, SEN–10C–90, which has the effect of amending Delegation Order No. 0204–108 by transferring authority to place rates in effect on an interim basis from the Under Secretary of DOE to the Deputy Secretary of DOE.

The power and transmission rates for the LAP are established pursuant to the DOE Organization Act, 42 U.S.C. 7101, *et seq.;* the Reclamation Act, 43 U.S.C. 372, *et seq.,* as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h; section 9 of the Flood Control Act of 1944, 58 Stat. 887, 891; and the other acts specifically applicable to the project system involved.

The March 1990 Customer Brochure explaining the background for the proposed LAP firm power and transmission service rate adjustment and for the transmission service rate-design concept was distributed to all LAP customers and other interested parties. Public information and public comment forums were held in accordance with procedures for public participation in general rate adjustments (10 CFR Part 903). A public information forum was held on March 28, 1990, in Northglenn, Colorado. The public comment forum was held on April 20, 1990, in Northglenn, Colorado. The consultation and comment period ended on June 1, 1990. During this period, interested parties made comments to Western concerning the proposed rates. Following review and consideration of public comments received during the consultation and comment period, Western developed this Rate Order No. WAPA–47 to respond to the comments. The rates as developed in Rate Order No. WAPA–47 will meet the requirements for project repayment.

Rate Order No. WAPA–47 confirming and approving the LAP firm power and transmission services rates on an interim basis is issued, and the new Rate Schedules L–F2, L–T1, and L–T2 will be promptly submitted to the FERC for confirmation and approval on a final basis.

Issued at Washington, DC, August 27, 1990.

W. Henson Moore,

Deputy Secretary.

Order Confirming, Approving, and Placing in Effect on an Interim Basis the Loveland Area Projects Firm Power and Transmission Service Rates

(————————, 1990)

In the matter of Western Area Power Administration Firm Power and Transmission Service Rates for the Loveland Area Projects, Rate Order No. WAPA–47.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7101, the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation), under the Reclamation Act of 1902, 43 U.S.C. 372, *et seq.,* as amended and supplemented by subsequent enactments, and particularly by section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the Pick-Sloan Missouri Basin Program (P–SMBP) and the Fryingpan-Arkansas Project (Fry-Ark), were transferred to and vested in the Secretary of Energy, 42 U.S.C. 7152(a).

By Delegation Order No. 0204–108, issued on December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates to the Administator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Under Secretary of DOE; and (3) the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). On March 12, 1990, the Secretary of Energy issued a notice, SEN–10C–90, which has the effect of transferring authority to place rates into effect on an interim basis from the Under Secretary of DOE to the Deputy Secretary of DOE. This rate order is issued pursuant to the delegation to the Administrator and the Deputy Secretary and the rate adjustment procedures at 10 CFR Part 903, published in the **Federal Register** on September 18, 1985 (50 FR 37835).

Acronyms and Definitions

As used in this rate, the following acronyms and definitions apply:

BAO—Billings Area Office.
CBT—Colorado-Big Thompson Project.
Corps—The Corps of Engineers.
Criteria—Post-89 General Power Marketing and Allocation Criteria, P–SMBP–WD.
DC—Direct Current.
DOE—U.S. Department of Energy.

DOE Order RA 6120.2—Power Marketing Administration Financial Reporting.
FERC—Federal Energy Regulatory Commission.
Fry-Ark—Fryingpan-Arkansas Project.
FY—Fiscal Year.
Integrated Projects—The combined sales and resources of the Colorado-Big Thompson, Kendrick, North Platte, and Shoshone Projects.
kW—Kilowatts.
kWH—Kilowatthour.
kW-month—Kilowatts per Month.
LAO—Loveland Area Office.
LAP—Loveland Area Projects.
M&I—Municipal and Industrial.
mills/kWh—Mills per Kilowatthour.
MW—Megawatts.
O&M—Operations and Maintenance.
PRS—Power Repayment Study.
P-SMBP—Pick-Sloan Missouri Basin Program.
P-SMBP-ED—Pick-Sloan Missouri Basin Program—Eastern Division.
P-SMBP-WD—Pick-Sloan Missouri Basin Program—Western Division.
Rate Brochure—A document prepared for public distribution explaining the background of the rate proposal contained in this rate order.
REC—Rural Electric Cooperatives.
Reclamation—Bureau of Reclamation of the Department of the Interior.
WAPA-40—Western Area Power Administration Rate Order No. 40 rate adjustment for Loveland Area Projects based on the FY 1987 PRS.
WAPA-46—Western Area Power Administration Rate Order No. 46 rate adjustment for P-SMBP-ED based on the FY 1989 PRS.
WAPA-47—Western Area Power Administration Rate Order No. 47 rate adjustment for Loveland Area Projects based on the FY 1989 PRS.
Western (WAPA)—Western Area Power Administration of the Department of Energy.

Effective Date

The proposed rates for firm power and transmission service will become effective on the first day of the first full billing period beginning on or after October 1, 1990, and will be in effect pending the FERC's approval of them or substitute rates on a final basis, or until superseded.

Background

Public Notice and Comments

1. Discussions on the proposed power and transmission rates took place on December 18, 1989, and again on February 12, 1990, when informal meetings were held with Western's customers. At these meetings, Western explained the philosophy used in the development of the rates.

2. On February 21, 1990, the formal comment and consultation period began with the publication in the **Federal Register** of the Loveland Area Projects; Pick-Sloan Missouri Basin Program-Western Division and Fryingpan-Arkansas Project; Proposed Firm Power and Transmission Service Rates (55 FR 6043), which officially announced the proposed rates and the procedures for public participation.

3. On March 12, 1990, a letter was mailed to all customers announcing a March 28, 1990, public information forum. A copy of the customer brochure was mailed to each of the Loveland Area Projects (LAP) firm power and transmission service customers.

4. The pubic comment forum was held in Northglenn, Colorado, on April 20, 1990. Two persons representing customer organizations made oral comments on the proposed rates and rate methodology.

5. The comment and consultation period ended on June 1, 1990. During this period, interested parties made comments to Western concerning the proposed power and transmission rates. Five written comment letters were received. All comments were considered in preparing this rate order. Western responded to each commentor, and has included these responses as part of the record.

Project Histories

P-SMBP. The initial stages of the Missouri River Basin Project were authorized by section 9 of the Flood Control Act of December 22, 1944 (Pub. L. 534, 58 Stat. 877, 891). The Missouri River Basin Project, later renamed the Pick-Sloan Missouri Basin Program to honor its two principle authors, has been under construction since 1944. The P-SMBP encompasses a comprehensive program of flood control, navigation improvement, irrigation, municipal and industrial water development, and hydroelectric production for the entire Missouri River Basin. Multipurpose projects have been developed on the Missouri River and its tributaries in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

Fryingpan-Arkansas Project. The Fry-Ark is a transmountain diversion development in southeastern Colorado authorized by the Act of August 16, 1962 (Pub. L. 87-590, 76 Stat. 389, as amended by Title XI, Pub. L. 93-493, 88 Stat. 1486, 1497 (1974)). The Fry-Ark diverts water from the Fryingpan River and other tributaries of the Roaring Fork River in the Colorado River Basin on the West Slope of the Rocky Mountains to the Arkansas River on the East Slope of the Continental Divide. The water diverted from the West Slope, together with regulated Arkansas River water, provides supplemental irrigation, municipal and industrial water supplies, and produces hydroelectric power. Flood control, fish and wildlife enhancement, and recreation are other important purposes of Fry-Ark.

A complete discussion of the project histories is found in the March 1990 customer brochure, which is included in the supporting documentation.

Power Repayment Studies (PRS)

The PRS for P-SMBP is prepared annually by Western's Buillings Area Office (BAO) with the cooperation of the Loveland Area Office (LAO), Reclamation, and the Corps of Engineers (Corps). Basic river basin hydrology, water depletions, power generation, project-development data, and cost information are among the many items Reclamation and the Corps contribute to the studies. For the Fry-Ark, Western's LAO prepares the PRS in cooperation with Reclamation.

All PRS's are prepared in accordance with authorizing legislation and DOE Order No. RA 6120.2 on Power Marketing Administration Financial Reporting. The PRS's array historic income, expenses, and investments to be repaid from power revenues, along with estimates for future years. They also portray the repayment of generation and transmission costs of the power system, as well as nonpower costs assigned to power for repayment, through the application of revenues over the repayment period of the project. The PRS's show, among other items, estimated revenues and expenses, the estimated amount of Federal investment that will be repaid, and the total estimated amount of Federal investment remaining to be repaid over the repayment period. The PRS's do not deal with rate design.

The PRS's are conducted to assure that projected revenues will balance projected expenses and investment repayment. There are currently seven different categories of revenue in the P-SMBP PRS. These are Irrigation Pumping, Firm Commercial, Western Division Project Use, Eastern Division Peaking Energy, Eastern Division Peaking-Winter, Eastern Division Peaking-Summer, and Other Revenue. Other revenue, such as that from Rocky Mountain Generation Cooperative, Inc., is shared by P-SMBP and Fry-Ark, based upon the ratio of the individual project capacity to the total marketable capacity in the Post-1989 General Power Marketing and Allocation Criteria; Pick-Sloan Missouri Basin Program-Western Division (Criteria). Other revenue that is project specific is only credited to that project. For example, the transmission revenue received for the transmission of

energy over the LAP transmission system is credited to the P-SMBP-Western Division (P-SMBP-WD). Operations and maintenance (O&M) expenses and interest expenses are found in each PRS and are only charged to the specific project that has incurred the expenses.

The treatment of purchased power and wheeling expenses will be modified slightly starting in 1991, based on several additional months of operating experience. In developing the existing rate, Western divided purchased power and wheeling expenses by the ratio of the individual project capacity to the total marketable capacity. For the FY 89 PRS, Western has refined the process so that any costs that can be directly attributable to a specific project will be charged only to that project. For example, if only one project is energy deficient due to weather conditions, all purchased power costs resulting from that shortage will be assigned to that project. The remaining common costs, such as operational purchases or wheeling, will be divided according to the capacity ratio described above. In the event that the projects generate surplus energy, the same procedure will be used to distribute the benefits.

The revenues in both PRS's are used for repayment of replacement and project investment, while the P-SMBP PRS also has to consider the repayment of irrigation aid.

Existing and Proposed Rates

Existing and proposed rates for LAP firm power sales are as follows:

Class of power	Existing rate (FY 1990)	Proposed rate (FY 1991)	Proposed rate (FY 1992-1995)
Firm Capacity (kW)	$1.84/kW-month	$2.15/kW-month	$2.21/kW-month.
Firm Energy (kWh)	7.15 mills/kWh	8.39 mills/kWh	8.60 mills/kWh.
Composite Rate (kWh)	14.29 mills/kWh	16.77 mills/kWh	17.19 mills/kWh.

The existing and proposed rates for the LAP transmission service are as follows:

Class of service	Existing rate	Proposed rate
Firm Transmission (kW).	$0.95/kW-month or $11.40 kW-year or 1.3 mills/kWh.	$1.52/kW-month or $18.24 kW-year or 2.1 mills/kWh.
Nonfirm Transmission (kWh).	1.3 mills/kWh	2.1 mills/kWh.

The revenues and related costs for the P-SMBP, including the P-SMBP-WD transmission service, over the same period are detailed in Rate Order No. WAPA-46.

Certification of Rates

The Administrator of Western has certified that the LAP firm power and transmission rates are the lowest possible rates consistent with sound business principles. The rates have been developed in accordance with administrative polices and applicable laws.

Discussion

The final Criteria were published in the **Federal Register** on January 31, 1986 (51 FR 4012). The Criteria operationally and contractually integrated the resources of the P-SMBP-WD and Fry-Ark. The integrated resources are referred to as LAP. A blended rate was established for the sale of LAP power.

A. *LAP Firm Power.* The fiscal year (FY) 1989 P-SMBP PRS reflects the P-SMBP-WD revenue requirement for the firm power sales as follows:

FY 1991	P-SMBP-WD revenue requirement
Present Revenue Requirement 10.12 mills/kWh×2,036,000,000 KWh.	=$20,604,320
Proposed 1st Step Increase 1.31 mills/kWh×2,036,000,000 KWh.	=2,667,160
Total	=23,271,480
FY 1992-1995	**P-SMBP-WD revenue requirement**
Present Revenue Requirement 10.12 mills/kWh×2,036,000,000 kWh.	=$20,604,320
Proposed 2nd Step Increase (1.31+.43 mills/kWh×2,036,000,000 kWh).	=3,542,640
Total	= 24,146,960

The revenue requirement for the P-SMBP will be increased over a 2-year period to yield the FY 1991 P-SMBP-WD amount of $23,271,480 and the FY 1992-1995 amount of $24,146,960.

The FY 1989 Fry-Ark PRS showed that the present revenue requirement is not sufficient to meet the repayment criteria, and that the revenue requirement from capacity sales must increase by $2,505,800 annually. The total Fry-Ark revenue requirement is as follows:

	Fry-Ark revenue requirement
Present Revenue Requirement of Fry-Ark	$9,242,000
Proposed Increase	2,505,800
Total Proposed Fry-Ark Revenue Requirement	11,747,800

The Fry-Ark revenue requirement contains two components. The project has an average annual energy generation of 52,000,000 kWh from flow-through water. This energy is assigned the current LAP energy value; i.e., 7.15 mills/kWh. The remaining revenue requirement is derived from the firm capacity component. This is a procedure used in the study to account for the Fry-Ark portion of the energy marketed by LAP.

A table comparing the LAP existing revenue requirement to the proposed revenue requirement is shown below:

SUMMARY OF LAP REVENUE REQUIREMENTS

	Existing (FY 1990)	Proposed (FY 1991)	Proposed (FY 1992-1995)
P-SMBP-WD	$20,604,320	$23,271,480	$24,146,960
Fry-Ark	9,242,000	11,747,800	11,747,800
Total LAP	29,846,320	35,019,280	35,894,760

To establish the LAP rate, Western developed the revenue requirements for LAP from the FY 1989 PRS's for both the P-SMBP and Fry-Ark, as shown above. The revenue requirements from both projects were combined to develop the LAP revenue requirement of $35,019,280 for the first step effective on the first day of the first full billing period beginning on or after October 1, 1990, and $35,894,760 for the second beginning on or after October 1, 1990, and $35,894,760 for the second step effective on the first day of the first full billing period beginning on or after October 1, 1991. To meet the LAP revenue requirements, the rates for firm capacity

and energy of $2.20 per kilowatt-month (kW-month) and 8.57 mills/kWh were developed and initially proposed in the "March 1990, Customer Brochure, Loveland Area Projects." This brochure explains the background for the LAP and how the rate design concept was developed. The brochure was distributed to all LAP customers and other interested parties. Subsequently, in response to customer comments, western developed the two-step method to determine the firm capacity and energy rates of $2.15 per kW-month and 8.39 mills/kWh for LAP firm power for the first step and $2.21 per kW-month and 8.60 mills/kWh for the second step.

Western is proposing a two-step increase based upon availability of data and current drought conditions. Western has improved its financial system allowing more timely completion of PRS's. As a result, this rate adjustment combines the effect of 2 years of financial data and results in a larger increase than if only 1 year's data had been available to use. However, since Western expects data to be available on a current basis in future years, Western does not expect data availability to be a reason to adopt future two-step increases.

Severe drought conditions for the last 3½ years are aggravating an already poor economic situation in the marketing area. For example, the unemployment rate in three P-SMBP States is expected to continue to be nearly 1 percent higher than the national average. The civilian employment growth rate in most P-SMBP States is expected to be less than the national average (1.3 percent annually) for some time in the future, and growth of disposable income is expected to fall short of the national average (1.7 percent annually). These reasons prompted Western to propose a two-step increase.

B. *LAP Transmission Service.* The proposed transmission service rate is based upon a cost-of-service concept for the transmission system. Previously, the rate was determined by increasing the transmission service rate by the same percentage that the firm power rate increased. This cost of service approach uses a yearly annuity for the investment and an average of the O&M costs expected during the rate-approval period.

The yearly annuity for the P-SMBP-WD transmission investment of $256,814,140 at the composite interest rate of 3.9514 percent using a typical 45-year service life of the transmission system is $12,297,885. The yearly expenses for O&M are $19,167,200. These yearly expenses are the average of the budgeted O&M expenses, excluding purchased power and replacements.

LAP TRANSMISSION SERVICE AVERAGE ANNUAL COSTS

O&M Expenses	$19,167,200
Investment Annuity	12,297,885
Total	31,465,085

The proposed LAP transmission service rate is calculated by dividing the average annual cost of $31,465,085 by the LAP transmission system obligation of 1,728,661 kW as follows:

$$\text{Proposed monthly rate} = \frac{\$31,465,085}{1,728,661\ \text{kW} \times (12\ \text{months})} = \$1.52/\text{kW-month or } \$18.24/\text{kW-year}$$

For those customers with existing firm transmission contracts utilizing an energy rate, the rate will be 2.1 mills/kWh calculated as follows:

$$\frac{1\ \text{kW} \times \$18.24/\text{kW-year}}{8,760\ \text{hrs/year}} = 2.1\ \text{mills/kWh}$$

The proposed rate for nonfirm transmission will also be 2.1 mills/kWh to be equitable to both firm and nonfirm customers.

Statements of Revenues and Costs

The rate schedule for firm power would produce average annual power revenues of $35,019,280 for the first step and $35,894,760 for the second step for LAP. This is necessary to satisfy the cost-recovery criteria as set forth in DOE Order No. RA 6120.2. The following table provides revenue (taken from the revised FY 1989 PRS's) for firm power through the proposed rate-approval period.

FY	Western division firm sales	Fry-Ark firm sales	Total LAP
1991	$23,271,480	$11,747,800	$35,019,280
1992	24,146,960	11,747,800	35,894,760
1993	24,146,960	11,747,800	35,894,760
1994	24,146,960	11,747,800	35,894,760
1995	24,146,960	11,747,800	35,894,760

The P-SMBP PRS solves for the composite rate in mills/kWh for future firm power (capacity and energy) sales. In the Fry-Ark PRS, the study solves for the capacity rate in dollars per kW-year. The PRS adjusts the selected rate until sufficient revenues are generated to met the cost-recovery requirement. The actual LAP rate design to recover these revenues is determined after the revenue requirements from the PRS's are calculated. The following table provides revenues and related costs associated with Fry-Ark over the 5-year rate-approval period.

FRYINGPAN-ARKANSAS COMPARISON OF 5-YEAR RATE APPROVAL PERIOD REVENUES AND EXPENSES

	Current FY 89 PRS data (1991-1995)	Previous FY 87 [1] PRS data (1989-1993)	Difference
Total Operating Revenues	$59,037,200	$46,296,570	$12,740,630
Expenses:			
Operation and Maintenance	$14,062,739	$10,650,776	$3,411,963
Other (Deficits)	0	0	0
Interest	37,935,891	29,868,829	8,067,062
Total Expenses	51,998,630	40,519,605	11,479,025
Repayment:			
Payments on Deficit	$7,038,570	$4,632,471	$2,406,099
Payments on Project Investment	0	437,826	(437,826)
Payments on Additions	0	568,668	(568,668)
Payments on Replacements	0	138,000	(138,000)
Total Investments:			
Projects	184,923,909	185,751,797	(827,888)
Additions	240,342	568,668	(328,326)
Replacements	215,000	138,000	77,000
Unpaid Investment:			
Project	184,923,909	185,313,971	(390,062)
Additions	240,342	0	240,342
Replacements	215,000	0	215,000

[1] Previous rate-approval period was for 3 years (1989-1991).

Discussion of Issues—Public Comments

During the 100-day comment period, Western's LAO received five comment letters. These letters consisted of 1 association representing 11 customer organizations, and 4 additional letters. During the April 20, 1990, public comment forum, 2 persons representing 12 organizations commented orally.

Written comments were received from the following sources:

Platte River Power Authority (Colorado)
Loveland Area Customer Association and Tri-State Generation and Transmission Association, Inc. (Colorado, Wyoming, Nebraska, and Kansas)
Colorado Springs Electric (Colorado)
Kansas Electric Power Cooperative, Inc. (Kansas)
Arkansas River Power Authority (Colorado)

Representatives of the following organizations made oral comments:

Municipal Energy Agency of Nebraska (Colorado, Nebraska)
Loveland Area Customer Association (Colorado, Wyoming, Nebraska, and Kansas)

The LAP rate adjustment, Rate Order No. WAPA-47, contains components derived both from the P-SMBP and Fry-Ark repayment studies, and also includes development of the LAP transmission rate. Comments received during the comment and consultation period for the LAP pertain to both projects. Western has grouped the comments into three categories: P-SMBP only, LAP firm power rate (may include only Fry-Ark or a combined comment that addresses both projects), and the LAP transmission rate.

Western is concurrently preparing a rate adjustment for P-SMBP, Rate Order No. WAPA-46. All comments directed specifically to P-SMBP issues will be addressed in Rate Order No. WAPA-46 and will not be addressed in this rate order (WAPA-47). A copy of Rate Order No. WAPA-46 is included as supporting documentation for this rate submission.

LAP Firm Power

1. *Comment:* The customers requested that Western make two administrative changes to the rate development process. First, they asked that Western's Administrator disapprove the rate in its present form. Second, they requested an extension of the comment period for at least 15 days after they received additional supporting data from Western on the Fry-Ark cost allocations.

Response: Western's Administrator does not approve rate actions for long-term power sales. He has been delegated authority to propose rate adjustments, and to submit these proposed rates to the Deputy Secretary of the Department of Energy. The Deputy Secretary may approve the rates on an interim basis, subject to final approval by the FERC.

Western's staff has reviewed the assumptions within the PRS to ensure that the rate package meets the criteria for appropriate rate actions. The rates are the lowest possible consistent with sound business principles.

Western provided its customers with extensive information received from Reclamation relating to the Fry-Ark cost allocating during the consultation and comment period. Western is aware that some customers are not satisfied with the supporting data. Western believes that it has made a good-faith effort to provide sufficient data to its customers. Western based its PRS on the best available data. That data for Fry-Ark represents preliminary cost allocations. Reclamation plans on making final determinations on cost allocations during FY 1991. Extending the comment period to further discuss preliminary cost allocations will not be useful since the increase in Fry-Ark revenue requirements was not cuased by any change in the preliminary cost allocations. The appropriate forum for addressing this issue is the development of final cost allocations for Fry-Ark. Western and Reclamation have agreed that Western will be involved in the final cost allocation process. Western will continue to supply its customers with updated data on cost allocations as it becomes available.

2. *Comment:* The customers commented that they need supporting data for revised cost allocations on Fry-Ark, specifically the separable cost and remaining benefits cost allocation process.

Response: This is not a new issue. In development of the Fry-Ark rate, FA-C1, Rate Order No. WAPA 31, in 1986 and 1987, the customers raised the issue of data availability to support the cost allocation process, which is a Reclamation responsibility. Western provided extensive assistance to the customers in acquiring all the data necessary to evaluate the rate adjustment. Western arranged a meeting

between the customers and the Reclamation staff and facilitated a customer inspection of records at Reclamation facilities. However, the customers were not completely satisfied with the information received at that time.

The customers again have raised the same issue of data availability on preliminary cost allocations in the public process for Rate Order No. WAPA-47. Western has recently received additional preliminary cost allocation data from Reclamation. Western is in the process of reviewing this data and will be providing it to the customers in the near future. The content of this data has in no way affected the development of the current rate. Western did not change the investments allocated to power for the 1989 PRS from that used in the 1987 PRS, although with Reclamation concurrence certain joint costs were reassigned to coincide with the in-service dates for the Units No. 1 and No. 2 at the Mt. Elbert Pumped-Storage Powerplant. No changes were made to investment dollars based on a change in the cost allocations in either the 1987 or 1989 PRS's.

Although Western regrets that to date it has not been able to provide what the customers consider to be satisfactory cost-allocation data, Western has made a good-faith effort to provide all available data to its customers. The appropriate forum for challenging the multipurpose cost allocations is the process through which Reclamation determines the final cost allocations for Fry-Ark. Reclamation has informed Western that this process will occur during FY 1991. In the meantime, Western will utilize the preliminary cost allocations as the best available data from Reclamation. This data is sufficient to run PRS's to determine power rates until final cost allocations are determined. If the final cost allocations for Fry-Ark are determined to be lower than the preliminary cost allocations, Western will make an appropriate adjustment to the power replayment study.

3. *Comment:* The customers believe that due to the high cost and poor performance record of the Fry-Ark Mt. Elbert Pumped-Storage Powerplant, Western and Reclamation should consider an outside review to recommend the best course for correcting the plant operational problems or for disposing of the powerplant.

Response: Due to the geology at the forebay site and early problems with the Twin Lakes Fishery, construction at the pump-generator plant was delayed and costs were increased over the original estimates. However, it is normal for a new plant to take approximately 5 years for the maintenance and start-up problems to diminish. The first unit at Mt. Elbert Powerplant has been in commercial service since 1984. Western expects that the plant has now matured sufficiently to resolve most of the initial problems. Western does not believe that an outside review is necessary at this time.

4. *Comment:* The majority of the customers requested that the proposed 1.69-mill increase in the rate for the P-SMBP portion be brought into effect in two steps over the next 2 years because of the magnitude of the rate increase.

Response: Western's original proposal was to have a single-step rate adjustment. However, after considering the events leading to this rate adjustment and the economic conditions in the area, Western proposes and recommends approval of a 2-year implementation for the P-SMBP portion of this rate adjustment. This decision is based upon the following discussion.

The existing power rates for P-SMBP are based on the FY 1987 PRS. Western's financial information system has recently been improved, and fiscal data is now available earlier than it has been in the past. PRS's can now be prepared 3 months after the close of the fiscal year. As a result, this rate adjustment combines the effect of 2 years of financial data and results in a larger increase than if only 1 year's data had been available to use. However, since Western expects data to be available on a current basis in future years, Western does not expect data availability to be a reason to adopt future two-step increases.

Severe drough conditions for the last 3½ years are aggravating an already poor economic situation in the marketing area. For example, the unemployment rate in three P-SMBP States is expected to continue to be nearly 1 percent higher than the national average. The civilian employment growth rate in most P-SMBP States is expected to be less than the national average (1.3 percent annually) for some time in the future, and growth of disposable income is expected to fall short of the national average (1.7 percent annually). These reasons prompted Western to propose a two-step increase. Western believes that the above conditions justify implementation of this rate adjustment over a 2-year period.

In designating the LAP rate, Western has determined the P-SMBP-WD revenue requirement for each of the two steps. Western will not split that portion of the LAP revenue requirement associated with Fry-Ark into steps because such a split would slow repayment of accumulated capitalized deficits in the project.

LAP Transmission Service

5. *Comment:* The customers appreciated Western's attempt to provide a cost-based method for determining transmission rates. However, they were not convinced that the proposed methodology is truly cost-based because the capacity portion of the proposed formula deals with committed capacity rather than installed capacity.

Response: Western operates its transmission system as part of a complex interconnected system with its neighboring utilities. Utilities frequently disagree on the methods used to allocate available transmission capacity. It is difficult for Western to determine an installed system capacity that recognizes Western's total transmission investments and yet is acceptable to surrounding utilities. Additionally, installed capacity is significantly higher than committed capacity. If a revenue requirement were assigned to the difference between the installed and committed capacity, that requirement would be unrecoverable because of operational constraints and contract limitations. Western believes that using the committed capacity is a more realistic and equitable basis for transmission rate design. The methodology used to develop the transmission rate is explained in the March 1990 brochure.

6. *Comment:* Several customers asked for clarification of charges for wheeling support energy and auxiliary energy as related to the firm wheeling charge. They believe that customers paying the firm capacity rate should be allowed to schedule and wheel support energy and auxiliary energy amounts that do not exceed the contracted rate of delivery for transmission service without additional charge.

Response: Western's Contracts and Policy staff is reviewing this issue and will respond separately to the customers. The issue is not a rate issue.

7. *Comment:* A customer suggested that Western use the historical 5-year average for the O&M costs, rather than the projected 5-year average in the development of the transmission rate.

Response: The projected 5-year average of transmission and O&M expenses is directly related to the 5-year time period for which Western is requesting rate approval from FERC. The use of 5 future years is consistent

with Federal budget projections and is sanctioned by DOE Order RA 6120.2.

8. *Comment:* One customer observed that of the approximate $257 million of plant-in-service investment used in determining the transmission rates, over 50 percent of this investment was added in the last 2 years (1988 and 1989). The customer is concerned about this trend, and presumed that this level of investment would not continue.

Response: Prior to 1988, Western's financial system did not record many plant investments that were substantially complete and in service. They were only recorded when the investments were totally complete. Western now has the mechanism to transfer these investments from construction-work-in-progress to plant-in-service on a timely basis. As a result, a number of outstanding substantially completed items were transferred to plant-in-service status in 1988 and 1989, thereby leading to an uncharacteristic increase in project investment. This trend should be more realistic in future PRS's.

9. *Comment:* One customer suggested that Western weigh the small amount of revenue increase to be received from the proposed transmission service rate increase against the significant financial impact to many of Western's small customers and suggested that Western take an extended approach to implement a new rate as a result of a new cost-allocation methodology.

Response: Western recognizes that the cost-of-service concept is a significant change in the transmission rate-determination methodology. Western is confident that this new method is reliable and future adjustments to this method will be minor. Western agrees that the transmission revenue contributed by its smaller customers will not be large in comparison to the total firm power revenue. However, Western's largest wheeling customers will pay the greatest amount of dollars for transmission service, and the revenues collected will have a stabilizing effect on the firm power rate.

10. *Comment:* A customer questioned how Western intended to assess the transmission rate for different transmission customers.

Response: Of the 1728 MW of transmission commitment, 757 MW is reserved for LAP power and is not assessed the transmission rate, since cost recovery for that portion of the transmission system is included in the firm power rate. The second portion of the transmission commitment, 971 MW, will be assessed a rate based on each utility's contract terms. In some contracts, the rate is charged on an energy basis, in which case we will use the 2.1-mills/kWh rate. In other cases, the demand rate of $1.52/kW-month will apply. In future contracts, Western plans to charge for firm transmission service based upon demand.

Conditions will vary for interconnected utilities, such as PacifiCorp (Pacific) and Public Service Company of Colorado (PSCo). Pacific is under a long-term contract for transmission service, which we provide at 1.0 mills/kWh. Conversely, they will provide transmission service for us at 1.0 mills/kWh. The term of that contract runs until 2046. We presently have a contract with PSCo that allows use of 1.0 mills/kWh or exchange transmission that we provide for each other at no charge. That contract is being renegotiated, and we anticipate that PSCo will pay the monthly rate of $1.52 per kW-month, if the negotiations are successful.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et. seq.*, Council on Environmental Quality regulations (40 CFR Part 1500–1508), and DOE guidelines published in the **Federal Register** (52 FR 47662–47670, December 15, 1987), Western has reviewed the environmental impacts of the rates for LAP. The proposed rate adjustments are clearly an economic action with no repercussions on the physical human environment. The preparation of an environmental assessment or environmental impact statement is not required.

Executive Order 12291

DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of Executive Order 12291. In addition, Western is exempt from section 3, 4, and 7 of that order, and therefore will not prepare a regulatory impact statement.

Availability of Information

Information regarding this rate adjustment, including all studies, letters, memorandums, and other documents made or kept by Western for the purpose of developing the power rates, is available for public review at the Western Area Power Administration, Loveland Area Office, Division of Rates, Studies, and Customer Service, 5555 East Crossroads Boulevard, Loveland, Colorado 80539; Division of Marketing and Rates, Western Area Power Administration, 1627 Cole Boulevard, Golden, Colorado 80401; and the Office of the Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Submission to Federal Energy Regulatory Commission

The proposed rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be promptly submitted to the FERC for confirmation and approval on a final basis.

ORDER

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective on the first day of the first full billing period beginning on or after October 1, 1990, Rate Schedules L–F2, L–T1, and L–T2 for wholesale firm power, and firm and nonfirm transmission for the Loveland Area Projects. These rate schedules shall remain in effect on an interim basis pending FERC confirmation and approval of them or substitute rates on a final basis for a period of 5 years, or until they are superseded.

Issued at Washington, DC, August 27, 1990.

W. Henson Moore,

Deputy Secretary.

Department of Energy Western Area Power Administration; Loveland Area Projects

[Schedule L–F2 (Supersedes Rate Schedule L–F1)]

Schedule of Rates for Wholesale Firm Electric Service

Effective—1st step: The first day of the first full billing period beginning on or after October 1, 1990.

2nd step: The first day of the first full billing period beginning on or after October 1, 1991.

Available: Within the marketing area served by the Loveland Area Office.

Applicable: To wholesale power customers for general power service supplied through each meter at each point of delivery.

Character and Conditions of Service: Alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthly Rate—1st step—Capacity Charge: $2.15 per kilowatt of billing demand for firm electric service contract.

Energy Charge: 8.39 mills per kilowatthour of use.

Billing Demand: The billing demand will be the greater of (1) the highest 30-minute integrated demand measured

during the month up to, but not in excess of, the delivery obligation under the power service contract, or (2) contract rate of delivery.

2nd step—Capacity Charge: $2.21 per kilowatt of billing demand for firm electric service contract.

Energy Charge: 8.60 mills per kilowatthour of use.

Billing Demand: The billing demand will be the greater of (1) the highest 30-minute integrated demand measured during the month up to, but not in excess of, the delivery obligation under the power service contract, or (2) contract rate of delivery.

Adjustments—For Transformer Losses: If delivery is made at transmission voltage, but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

For Power Factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 95-percent lagging and 95-percent leading.

[Schedule L-T1 (Supersedes Schedule P-S WD-T3)]

Schedule of Rates for Firm Transmission Service

Effective: The first day of the first full billing period beginning on or after October 1, 1990.

Available: Within the marketing area served by the Loveland Area Office.

Applicable: To firm transmission service customers where power and energy are supplied to the LAP system at points of interconnection with other systems and transmitted and delivered, less losses, to points of delivery on the LAP system specified in the service contract.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate—Transmission Service Charge: $18.24 per kilowatt per year for each kilowatt delivered at the point of delivery, as specified in the service contract; payable monthly at the rate of $1.52 per kilowatt. For those customers with existing contracts utilizing an energy rate, the rate will be 2.1 mills per kilowatthour.

Adjustments—For Reactive Power: None. There shall be no entitlement to transfer of reactive kilovoltamperes at delivery points, except when such transfers may be mutually agreed upon by contractor and contracting officer or their authorized representatives.

For Losses: Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

[Schedule L-T2 (Supersedes Schedule P-S WD-T4)]

Schedule of Rates for Nonfirm Transmission Service

Effective: The first day of the first full billing period beginning on or after October 1, 1990.

Available: Within the marketing area served by the Loveland Area Office.

Applicable: To nonfirm transmission service customers where power and energy are supplied to the LAP system at points of interconnection with other systems and transmitted and delivered subject to the availability of transmission capacity; less losses, to points of delivery on the LAP system specified in the service contract.

Character and Conditions of Service: Transmission service on an intermittent basis for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate—Transmission Service Charge: 2.1 mills per kilowatthour delivered at the point of delivery for each kilowatthour scheduled; payable monthly.

Adjustment—For Reactive Power: None. There shall be no entitlement of transfer of reactive kilovoltamperes at delivery point, except when such transfers may be mutually agreed upon by contractor and contracting officer or their authorized representatives.

For Losses: Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

[FR Doc. 90-21022 Filed 9-6-90; 8:45 am]
BILLING CODE 6450-01-M

Pick-Sloan Missouri Basin Program-Eastern Division; Notice of Rate Order No. WAPA-46

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order—Pick-Sloan Missouri Basin Program-Eastern Division (P-SMBP-ED) Firm Power Service and Firm Peaking Power Service Rate Adjustment.

SUMMARY: Notice is given of the confirmation and approval by the Deputy Secretary of the Department of Energy (DOE) of Rate Order No. WAPA-46 and rate Schedules P-SED-F4 and P-SED-FP4 placing increased firm power and firm peaking power rates for the P-SMBP-ED into effect on an interim basis. The rates will remain in effect on an interim basis until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them in effect on a final basis for a 5-year period or until they are replaced by other rates.

COMPARISON OF EXISTING AND PROPOSED RATES, EASTERN DIVISION OF P-SMBP

	Existing (FY 1990)	Proposed (FY 1991)	Proposed (FY 1992-95)
Firm Power Service			
Rate Schedules	P-SED-F3	P-SED-F4	P-SED-F4.
Firm Capacity Charge	$1.85/kW-month.	$2.25kW-month.	$2.35/kW-month.
Firm Energy Charge	5.06 mills/kWh.	5.57mills/kWh.	5.81 mills/kWh.
Composite Rate	8.55 mills/kWh.	9.86 mills/kWh.	10.29 mills/kWh.
Additional Charge for Firm Energy in Excess of 60-Percent Monthly Load Factor	3.38 mills/kWh.	3.38 mills/kWh.	3.38 mills/kWh.
Firm Peaking			
Rate Schedule	P-SED-F3	P-SED-F4	P-SED-F4
Capacity Charge	$11.10/kW-season..	$13.50/kW-season..	$14.10/kW-season.
Energy Charge	5.06 mills/kWh.	5.57 mills/kWh.	5.81 mills/kWh.

Effective Date

The new rates will become effective on the first day of the first full billing period beginning on or after October 1, 1990, and will be in effect pending the FERC's approval of them or substitute rates on a final basis for a 5-year period, or until superseded.

FOR FURTHER INFORMATION CONTACT:

Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box 35800, Billings, MT 59107-5800, (406) 657-6532

Mr. Robert C. Fullerton, Director, Division of Marketing and Rates, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231-1545

Mr. Ronald K. Greenhalgh, Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-5581.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), reassigned by DOE Notice 1110.29 dated October 17, 1988, and clarified by Secretary of Energy Notice SEN-10-89 dated August 3, 1989, and subsequent revisions, the Secretary of Energy delegated: (1) The authority on a nonexclusive basis to develop long-term power and transmission rates to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Deputy Secretary of DOE; and the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to FERC.

Discussions on the proposed rate adjustment were initiated on October 19, 1989, when a letter announcing preliminary informal customer meetings was mailed to all firm power customers and other interested persons. These meetings were conducted at four different locations on December 18 and 19, 1989. A second letter was mailed to all firm power customers and other interested persons announcing a second round of preliminary informal meetings for February 12 and 13, 1990, to discuss the power repayment study (PRS) in greater detail. At these preliminary meetings, Western representatives explained the need for the increase and answered questions from those attending.

The consultation and comment period was initiated on March 7, 1990, with publication of a Federal Register notice (55 FR 8188) that officially announced the proposed rate adjustment and procedures for public participation. The Federal Register notice announced a series of public information forums that were held on March 28 and 29, 1990, at Northglenn, Colorado; Sioux Falls, South Dakota; Fargo, North Dakota; and Billings, Montana. Two public comment forums were held April 19 and 20, 1990, at Northglenn, Colorado, and Sioux Falls, South Dakota. The consultation and comment period extended through June 6, 1990.

During the comment period, Western received 30 comment letters on the P-SMBP rate adjustment. At the April 19 and 20, 1990, public comment forums, six persons representing customers, customer groups, and a legislator commented orally. The Billings Area Office also received 14 written comments outside of the comment period. Four major issues and several miscellaneous issues were raised. All public comments were considered in the preparation of the rate order. Western has concluded that the P-SMBP rate adjustment is needed to meet cost-recovery criteria.

A PRS is prepared annually in accordance with DOE Order RA 6120.2. The existing power rates for P-SMBP are based on the fiscal year (FY) 1987 PRS. Western's financial information system has recently improved, and fiscal data is now available earlier than it has been in the past. Thus, the FY 1989 PRS results were available at the time the ratemaking process was to begin for the FY 1988 PRS. Both the FY 1988 PRS and FY 1989 PRS indicate that the existing rates do not yield sufficient revenue to satisfy the cost-recovery criteria through the study period.

The proposed rate adjustment is based upon the FY 1989 PRS. A rate adjustment based upon the FY 1989 PRS provides timely repayment but places an additional burden on P-SMBP firm power customers. This burden, along with that of the prolonged drought in the area and the drought's effect on the regional farm economy, prompted the P-SMBP customers to request that Western implement this rate adjustment over a 2-year period. Western believes conditions justify implementation of this rate adjustment over a 2-year period.

In Rate Order No. WAPA-46, results of the FY 1989 PRS are being compared to the FY 1987 PRS, which was the basis for the existing P-SMBP rates. The comparison shows the following differences:

1. The projected operation and maintenance (O&M) expenses for the 100-year study period have increased a total of $15.7 million per year.

2. The power investments in the 5-year budget period have increased $89 million. New power investments are not projected beyond the 5-year budget period.

3. The projected Integrated Projects (Colorado-Big Thompson, Kendrick, North Platte, and Shoshone) expense over the 100-year study period has increased $255 million.

4. Surplus energy sales and purchased power expenses different from those asociated with projected long-term median generation have delayed investment repayment and thus increased interest expenses from what was estimated in the 1987 PRS. If the system had not experienced the drought, an estimated additional $62 million would have been available for repayment of power investment, which would have reduced future interest expense.

Of the above factors, the one with the most impact is the matter of increased O&M expenses. O&M expenses are increasing due to inflation as well as responses to programmatic and administrative requirements, such as safety programs and environmental compliance. Also, support services contracts have increased to accommodate additional program requirements.

Rate Order No. WAPA-46, confirming and approving the P-SMBP-ED rate adjustment on an interim basis, is issued, and Rate Schedules P-SED-F4 and P-SED-FP4 will be promptly submitted to the FERC for confirmation and approval on a final basis.

Issued in Washington, DC, August 27, 1990.

W. Henson Moore,

Deputy Secretary.

Order Confirming, Approving, and Placing the Pick-Sloan Missouri Basin Program-Eastern Division Firm Power Service and Firm Peaking Power Service Rates in Effect on an Interim Basis

———— ——, 1990)

In the matter of Western Power Administration Rate Adjustment for Pick-Sloan Missouri Basin Program-Eastern Division, Rate Order No. WAPA-46.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7101, *et seq.*, the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation), under the Reclamation Act of 1902, 42 U.S.C. 372, *et seq.*, as amended and supplemented by subsequent enactments, and particularly by section 9(c) of the Reclamation Act of 1939, 42 U.S.C. 485h(c), and acts specifically applicable

to the Pick-Sloan Missouri Basin Program (P–SMBP), were transferred to and vested in the Secretary of Energy.

By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), reassigned by DOE Notice 1110.29 dated October 27, 1988, and clarified by Secretary of Energy Notice SEN–10–89 dated August 3, 1989, and subsequent revisions, the Secretary of Energy delegated: (1) The authority on a nonexclusive basis to develop long-term power and transmission rates to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Deputy Secretary of DOE; and the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This rate order is issued pursuant to the delegation to the Administrator and the Deputy Secretary and the rate adjustment procedures at 10 CFR part 903, published in the **Federal Register** on September 18, 1985 (50 FR 37835).

Acronyms and Definitions

As used in this rate order, the following acronyms and definitions apply:

CBT Colorado-Big Thompson Project.
Corps The Corps of Engineers.
Criteria Post-1989 General Power Marketing and Allocation Criteria; Pick-Sloan Missouri Basin Program-Western Division.
DOE U.S. Department of Energy.
DOE Order RA 6120.2 Power Marketing Administration Financial Reporting.
FERC Federal Energy Regulatory Commission.
Fry-Ark Fryingpan-Arkansas Project.
FY Fiscal Year.
Integrated Projects Colorado-Big Thompson, Kendrick, North Platte, and Shoshone Projects.
kW Kilowatts.
kWh Kilowatthour.
kW-Month Kilowatts per Month.
LAP Loveland Area Projects.
M&I Municipal and Industrial.
Mills/kWh Mills per Killowatthour.
MW Megawatts.
O&M Operations and Maintenace.
PRS Power Repayment Study.
P–SMBP Pick-Sloan Missouri Basin Program.
P–SMBP–ED Pick-Sloan Missouri Basin Program-Eastern Division.
P–SMBP–WD Pick-Sloan Missouri Basin Program-Western Division.
Rate Brochure A document prepared for public distribution explaining the background of the rate proposal contained in this rate order.
REC Rural Electric Cooperatives.
Reclamation Bureau of Reclamation of the Department of the Interior.
WAPA–40 Western Area Power Administration Rate Order No. WAPA–40 for LAP based on the FY 1987 PRS. This rate order is the basis for current LAP rates.
WAPA–46 Western Area Power Administration Rate Order No. WAPA–46 for P–SMBP–ED based on the FY 1989 PRS.
WAPA–47 Western Area Power Administration Rate Order No. WAPA–47 for LAP based on the FY 1989 PRS.
Western (WAPA) Western Area Power Administration of the Department of Energy.
Wheeling Transmission Service.

Effective Date

The new rates will become effective on an interim basis on the first day of the first full billing period beginning on or after October 1, 1990, and will be in effect pending the FERC's approval of them or substitute rates on a final basis for a 5-year period, or until superseded.

Public Notice and Comment

1. Discussions on the proposed rate adjustment were initiated on October 19, 1989, when a letter announcing preliminary informal customer meetings was mailed to all firm power customers and other interested persons. These meetings were conducted at four different locations on December 18 and 19, 1989. Both the fiscal year (FY) 1988 power repayment study (PRS) and the FY 1989 PRS were discussed at these preliminary meetings.

2. A second letter was mailed to all firm power customers and other interested persons announcing a second round of preliminary informal meetings for February 12 and 13, 1990, to discuss the FY 1989 PRS in greater detail. At these preliminary meetings, Western representatives explained the need for the increase and answered questions from those attending.

3. On March 7, 1989, a formal 91-day customer consultation and comment period was initiated with an announcement of the proposed rate adjustment published in the **Federal Register** at 55 FR 8188. That notice also announced four public information forums conducted March 28 and 29, 1990, and two public comment forums conducted April 19 and 20, 1990. The information forums were further advertised with a March 19, 1990, press release.

4. On March 9, 1990, a final brochure was mailed to all customers and other interested persons. This mailing also included a letter announcing the public information and comment forums.

5. At the information forums held on March 28 and 29, 1990, Western representatives further explained the need for the rate increase and answered questions.

6. The comment forums were conducted on April 19 and 20, 1990, to give the public an opportunity to comment for the record. Six persons representing customers, customer groups, and a legislator made oral presentations. Thirty comment letters were received during the 91-day comment period ending June 6, 1990. Fourteen additional comments were received after June 6, 1990; however, no additional issues were presented. All formally submitted comments have been addressed in this rate order. Western responded to each commentor, and has included these responses as part of the record.

The FY 1989 PRS results were available at the time the ratemaking process was to begin for the FY 1988 PRS rate adjustment. The notice of proposed power rate adjustment published at 55 FR 8188 on March 7, 1990, was based on the FY 1989 PRS and indicated a need for an increase of 1.69 mills per kilowatthour (mills/kWh) above the existing firm power rate. Although the customers agreed that Western should use the most recent data available for this rate adjustment, many weighed the hardship of this increase in conjunction with the economic impact of the drought on the regional farm economy. This prompted their request and Western's agreement that the rate adjustment be implemented over a 2-year period to mitigate the impact on the customers.

Project History

The initial stages of the Missouri River Basin Project were authorized by section 9 of the Flood Control Act of December 22, 1944 (Pub. L. 534, 58 Stat. 877, 891). The Missouri River Basin Project, later renamed the Pick-Sloan Missouri Basin Program to honor its two principal authors, has been under construction since 1944. The P–SMBP encompasses a comprehensive program of flood control, navigation improvement, irrigation, municipal and industrial (M&I) water development, and hydroelectric production for the entire Missouri River Basin. Multipurpose projects have been developed on the Missouri River and its tributaries in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

Power Repayment Study

The PRS for the P–SMBP is prepared by Western with the cooperation of the Bureau of Reclamation (Reclamation) and the Corps of Engineers (Corps). River basin hydrology, water depletions, power generation, and project development data are among the many

items Reclamation and the Corps contribute to the study. The PRS is prepared in accordance with P–SMBP authorizing legislation and with DOE Order No. RA 6120.2 on Power Marketing Administration Financial Reporting.

The PRS is conducted to assure that projected revenues will balance projected expenses. Some categories of expenses in the PRS are operations and maintenance (O&M) expenses, interest expenses, repayment of replacements and investment, payments to the Colorado-Big Thompson, Kendrick, North Platte, and Shoshone Projects (Integrated Projects), and repayment of those irrigation costs that are to be repaid from power revenues. Future annual power revenue estimates are based on the latest hydrology, depletions, and marketing projections. Revenues are first applied to repayment of annual expenses, which include O&M costs, payments to Integrated Projects, purchased power and interest expenses, and other costs. Next, power revenues available after paying the annual expenses and any required power or irrigation investment payments are then applied to the repayment of interest-bearing commercial power investments. Any remaining power revenues are lastly applied to aid to irrigation. The study is designed to repay the investment carrying the highest interest rate first. However, all investments are required to be repaid within their authorized repayment periods; 50 years for power investments, expected service life for replacements, and up to 60 years for irrigation, which includes a 10-year development period.

Pursuant to the 1965 Garrison Unit Authorization Act, costs relating to specific irrigation units (including main stem and other reservoir storage and irrigation pumping-power cost assignments, if appropriate) constructed or under construction on June 30, 1964, are to be repaid within the earliest practicable time period after completion of repayment of interest-bearing commercial power investment, but prior to irrigation units constructed after that date. Costs relating to new (constructed after June 30, 1964) and future irrigation units, divisions, or irrigation blocks (including main stem and other reservoir storage and irrigation pumping power cost assignments, if appropriate) are to be repaid within 50 years following an allowable development period (usually 10 years) after an individual unit, division, or irrigation block becomes benefit-producing. The first new irrigation not constructed or under construction on June 30, 1964, is expected to be placed in service in 1990, thus establishing the end of the repayment period for the old irrigation.

The legislative history of the P–SMBP, principally Senate Document No. 191, 78th Congress, 2nd Session (1944), recognized that portions of the power-producing generation capacity of the project would be used for Federal project irrigation and drainage pumping service. It also established that the cost of that portion of the power system reserved for irrigation pumping would be interest free. Accordingly, analyses of the P–SMBP have assumed that a percentage of the power would be considered as pumping power reserved for irrigation pumping, and as such, the same percentage of the power investment would be suballocated as interest-free irrigation pumping cost. The percentage for suballocation of the costs is determined by the relationship of total project pumping peak load demand at the generators to power system generating capacity (398,360 kW of ultimate pumping requirements divided by 2,522,600 kilowatts (kW) of total system capacity). The application of this ratio results in 15.8 percent of the investment costs allocated to power being suballocated to pumping purposes. These suballocated costs are scheduled for repayment with the associated irrigation projects or units.

A complete discussion of the project history and a general description of the PRS are found in the March 1990 customer brochure that is included in the record.

Existing and Proposed Rates

Eastern Division

The existing firm power rates and the proposed firm power rates necessary to meet the revenue requirements for the P–SMBP–Eastern Division (ED) are listed below. These proposed rates will be implemented over a 2-year period and are to become effective on an interim basis on the first day of the first full billing period beginning on or after October 1, 1990.

	Existing (FY 1990)	Proposed (FY 1991)	Proposed (FY 1992–95)
Firm Power Service Rate Schedule	P–SED–F3	P–SED–F4	P–SED–F4
Firm Capacity Charge, $/kW-Month	1.85	2.25	2.35
Firm Energy Charge, Mills/kWh	5.06	5.57	5.81
Additional Charge for Firm Energy in Excess of 60-Percent Monthly Load Factor, Mills/kWh	3.38	3.38	3.38
Composite, Mills/kWh	8.55	9.86	10.29
Firm Peaking Rate Schedule	P–SED–FP3	P–SED–FP4	P–SED–FP4
Capacity Charge, $/kW-Season	11.10	13.50	14.10
Energy Charge, Mills/kWh	5.06	5.57	5.81

Western Division

The Loveland Area Projects (LAP) rates will be designed to recover the P–SMBP–Western Division (WD) revenue requirements for P–SMBP and the revenue requirements for the Fryingpan-Arkansas Project (Fry-Ark). The adjustment to the LAP rate is a separate formal procedure which is documented in Rate Order No. WAPA–47. WAPA–47 is also scheduled to go in effect on the first day of the first full billing period beginning on or after October 1, 1990. The LAP rates will yield the revenue requirements for FY 1991 and FY 1992–95 for the P–SMBP–WD.

Certification of Rate

The Administrator of Western has certified that the P–SMBP–ED firm power and firm peaking rates are the lowest possible consistent with sound business principles. The rates have been developed in accordance with administrative policies and applicable laws.

Discussion

Although the P–SMBP is considered a single entity for financial and repayment purposes, the power generated by the P–SMBP is marketed in two separate and distinct areas. These are known as the Eastern Division and the Western Division, and each has its own marketing plan and method for determining the revenues required from firm power sales.

The rate adjustment would increase annual firm power revenues from $92.1 million in FY 1990 to $105.7 million in FY 1991 and to $110.2 in FY 1992. The increase is necessary to satisfy the cost-

recovery criteria as set forth in DOE Order No. RA 6120.2.

The existing and proposed revenue requirements for the Eastern and Western Division for the P–SMBP are as follows:

REVENUE REQUIREMENTS

	Existing (FY 1990)	Proposed (FY 1991)	Proposed (FY 1992–95)
Firm Power Service			
P–SMBP (Total)	$92,056,670	$105,727,320	$110,197,600
Eastern Division	71,452,350	82,455,840	86,050,640
Western Division	20,604,320	23,271,480	24,146,960
Firm Peaking Power Service			
Eastern Division	8,325,000	10,030,500	10,476,360

Statement of Revenue and Related Expenses

The following table provides a summary of revenue and expense data through the proposed rate-approval period.

P–SMBP

Comparison of 5-Year Rate Period

Revenues and Expenses

($1,000)

	FY 1989 Rate Study 1991–1995	FY 1987 Rate Study 1989–1993	Difference
Revenues			
ED Firm Commercial	$427,698	$335,418	$92,280
WD Firm Commercial	119,859	103,015	16,844
ED Peaking Power	51,936	38,254	13,682
Other	287,878	317,226	(29,348)
Total Revenues	887,371	793,913	93,458
Expenses			
Operation & Maintenance	480,739	402,516	78,223
Purchased Power	0	9,870	(9,780)
Interest	263,681	199,361	64,320
Amortization	65,052	134,062	(69,010)
Capitalized Expense	20,919	0	20,919
Integrated Projects	56,980	48,194	8,786
Total Expenses	887,371	793,913	94,458

A breakdown of costs by class of service is not available.

Basis for Rate Development—P–SMBP–ED

The P–SMBP–ED rate design strives to maintain approximately a 50/50 split between the revenue yields from the demand and energy charges as a basis for the rate design. The revenue yield will vary among customers because of a customer's individual load characteristics.

The proposed $2.25/kW-month firm capacity charge and 5.57 mills/kWh firm energy charge in FY 1991 will yield the necessary revenue for the first year of the rate adjustment effective on the first day of the first full billing period on or after October 1, 1990. To provide the necessary revenue, an increase to a $2.35/kW-month firm capacity charge and 5.81 mills/kWh firm energy charge is proposed to be in effect on the first day of the first full billing period beginning on or after October 1, 1991. The rate-approval period terminates on September 30, 1995.

Basis for Rate Development—P–SMBP–WD

The revenue requirements for the P–SMBP–WD are used in developing the LAP rate schedules. These schedules are the subject of a separate formal rate adjustment procedure which is documented in Rate Order No. WAPA–47, which is also scheduled to go in effect on the first day of the full billing period beginning on or after October 1, 1990, and continuing through September 30, 1995. A copy of Rate Order No. WAPA–47 is included as supporting documentation for this rate submission.

Primary Issues—Public Comments

During the 91-day comment period, Western received 30 comment letters on the P–SMBP rate adjustment. At the April 19 and 20, 1990, public comment forums, six persons representing customers, customer groups, and a legislator commented orally. The Billings Area Office also received 14 written comments outside of the comment period.

Written comments were received from the following sources:

Arkansas River Power Authority (Colorado)
Beadle Electric Cooperative (South Dakota)
Bon Homme Yankton Electric Association (South Dakota)
Capital Electric Cooperative, Inc. (North Dakota)
Central Power Electric Cooperative (North Dakota)
Charles Mix Electric Association (South Dakota)
City of Alta (Iowa)
City of Laurel (Nebraska)
Clay-Union Electric Corporation (South Dakota)
Colorado Springs Electric (Colorado)
Cooperative Power (North Dakota)
Douglas Electric Cooperative (South Dakota)
Federated REA (Minnesota)
FEM Electric Association, Inc. (South Dakota)
H–D Electric Cooperative (South Dakota)
Intercounty Electric Association, Inc. (South Dakota)
James Valley Electric Cooperative (North Dakota)
Kansas Electric Power Cooperative (Kansas)
Kingsbury Electric Cooperative (South Dakota)
Lake Region Electric Association (South Dakota)
Lincoln Electric System (Nebraska)
Loveland Area Customers Association (Colorado)

McLean Electric Cooperative (North Dakota)
Midwest Electric Consumers Association (Colorado)
Minnesota Valley L&P Association (Minnesota)
Nebraska Public Power District (Nebraska)
Nobles Cooperative Electric (Minnesota)
Northern Electric Cooperative (South Dakota)
Oahe Electric Cooperative (South Dakota)
Platte River Power Authority (Colorado)
Redwood Electric Cooperative (Minnesota)
Renville-Sibley Cooperative Power Association (Minnesota)
Rushmore Electric Power Cooperative (South Dakota)
Sprink Electric Cooperative, Inc. (South Dakota)
Stearns Electric Association (Minnesota)
Todd-Wadena Electric Cooperative (Minnesota)
Tri-County Electric Cooperative (North Dakota)
Tri-State Generation & Transmission Association, Inc. (Colorado
Turner-Hutchinson Electric Cooperative (South Dakota)

Representatives of the following organizations made oral comments:

Arkansas River Power Authority (Colorado)
Capital Electric Cooperative, Inc. (North Dakota)
Central Montana Electric Power Cooperative (Montana)
Central Power Electric Cooperative (North Dakota)
City of Detroit Lakes (Minnesota)
East River Electric Power Cooperative (South Dakota)
Heartland Consumers Power District (South Dakota)
Lake Region Cooperative Electric (Minnesota)
Lincoln Electric System (Nebraska)
Loveland Area Customer Association (Colorado)
Nebraska Public Power District (Nebraska)
Omaha Public Power District (Nebraska)
Senator Pressler's Office (South Dakota)
Tri-State Generation & Transmission Association, Inc. (Colorado)

Most of the comments received at the public meetings and in correspondence throughout the 91-day customer consultation and comment period dealt with requests to implement the rate adjustment over a 2-year period; requests for Western and the generating Agencies to undertake cost-containment measures aimed at reducing overall costs; requests to prepare an annual forecast of future rate estimates for a 10-year period of time; and objections to inclusion of the P–SMBP–WD peaking revenue requirement. The comments and responses, which are paraphrased for brevity and consistency, are discussed below:

1. *Comment:* Two-step rate adjustment process. Would it be possible for Western to implement the rate adjustment over a 2-year period?

Response: Western has accommodated this request. Western's original proposal was to have a single-step rate adjustment. However, after considering the events leading to this rate adjustment and the economic conditions in the area, Western proposes and recommends approval of a 2-year implementation for this rate adjustment.

The existing power rates for P–SMBP are based on the FY 1987 PRS. Western's financial information system has recently been improved and fiscal data are now available earlier than in the past. A PRS can now be prepared 3 months after the close of the fiscal year. Thus the FY 1989 PRS results were available at the time the ratemaking process was to begin for the FY 1988 PRS rate adjustment. As a result, this rate adjustment combines the effect of 2 years of financial data and results in a larger increase than if only 1 year's data had been available to use. Western expects data will be available on a current basis in future years and therefore does not expect data availability to be a reason to adopt future two-step increases.

Customers generally agreed with Western's suggestion to use the most recent data available for the rate determination. The proposed rate adjustment is based upon the FY 1989 PRS, which incorporates the previously identified revenue requirements from the FY 1988 PRS. A rate adjustment based upon the FY 1989 PRS provides timely repayment but places an additional burden on P–SMBP firm power customers.

Severe drought conditions for the last 3½ years are aggravating an already poor economic situation in the marketing area. For example, the unemployment rate in three P–SMBP States is expected to continue to be nearly 1 percent higher than the national average. The civilian employment growth rate in most P–SMBP States is expected to be less than the national average (1.3 percent annually) for some time in the future, and growth of disposable income is expected to fall short of the national average (1.7 percent annually).

The drought has two effects: it reduces the hydrogeneration and impacts the agricultural economy of the basin. The reduced generation results in increased power rates. Yet, the impact of the drought upon the economy is that reduced cash flow is available to pay for the increases.

Western believes these conditions justify implementation of the rate adjustment over a 2-year period.

2. *Comment:* Cost containment measures. Western and the other generating Agencies were requested to undertake measures of cost containment. The comments most frequently addressed the rising costs of O&M. Some customers suggested that Western scrutinize each Agency's O&M and other projections and disallow any costs with which Western does not agree.

Response: Early in the informal process, each agency provided customers the basis for their O&M projections, including comparisons of the expenditures for the previous fiscal year. This data was included with the draft rate brochure mailed to customers and interested parties on January 31, 1990. Since that time, each Agency has been made aware of the customers' concerns about rising costs and the desire that these costs be controlled. Western has formed a cost-containment task force with the objective of reducing its O&M expenses and other costs. Each Agency has reviewed its own O&M budget, and it has been determined that only those items that are considered essential to the operation of the P–SMBP are included. Thus, Western will not modify the budgeted projections submitted by Reclamation or the Corps for use in the PRS's. All involved Agencies are continuing their dialogue on this issue, and they are committed to minimizing O&M costs.

As noted in comment number 8 (below), Western has questioned the Corps assignment of joint-use O&M expenses on the basis of the current-use concept.

3. *Comment:* Annual forecast of future rates. The customers requested that Western stabilize rates, or at a minimum provide annually a forecast of rates covering a 10-year period.

Response: Western has committed itself to provide this information after the rate process has been completed and has begun discussions with the customers regarding assumptions that could be used in long-term rate projections. Such information will assist the customers in their budgeting process; however, the information and assumptions will not be binding to Western when determining future long-term rates.

4. *Comment:* P–SMBP–WD peaking revenue requirement. The P–SMBP–WD customers commented that it is unreasonable and unfair for the Western Division peaking revenue obligation to be assessed only to the LAP. They argue

that the P–SMBP excess capacity process ceased to exist in the post-1989 marketing period, and the projected revenues from the sale of the P–SMBP excess capacity were incorrectly included in the PRS for the P–SMBP beyond September 30, 1989.

Response: The P–SMBP–WD customers raised this issue in 1989 during the public process for Rate Order No. WAPA–40 (which was based on the FY 1987 PRS). Rate Order No. WAPA–40 established the current LAP rate, and Western provided an explanation during that process. In WAPA–40, Western discussed the historical basis for the decision to include revenues expected from sale of the capacity resource. Western also discussed the inclusion of the peaking sales revenue as being a justifiable and required revenue based on the historical projections of the future sale of unmarketed P–SMBP–WD peaking capacity. The rate order was reviewed by Western, DOE, and the FERC. The FERC did not indicate that Western used a faulty process for assessing the revenue requirement. Western has not changed its position on this issue since the previous rate order.

The P–SMBP–WD peaking revenues have been shown as future revenues in the P–SMBP PRS since the mid-1950's. These future resource projections were realistic; the associated revenues have held P–SMBP firm power revenue requirements lower than what would otherwise have been the case. Beginning with the FY 1980 P–SMBP PRS, P–SMBP–WD peaking sales were shown in the PRS as firm excess capacity sales starting in FY 1990 and continuing through the end of the study. That representation was continued through the FY 1987 P–SMBP PRS. Since the unmarketed capacity that was historically associated with P–SMBP–WD peaking was marketed as a firm resource in the Criteria, it is equitable to recover the revenue historically projected for the resource as part of the P–SMBP Western Division revenue requirement in the post-1989 period.

It should be noted that this peaking resource was marketed successfully beginning in FY 1984. The sale of 80 megawatts (MW) of peaking capacity yielded $2,210,790 of revenue over 6 years of sales, with a maximum being $842,361 in FY 1989. The entities that purchased this capacity also received credit for additional LAP energy allocations under the Criteria.

Additional Issues

In addition to the above, several issues were raised by customers and other interested persons, and addressed by Western. These issues are grouped in the following general categories:

5. *Comment:* Could Western comment further on the outstanding issue of the reallocation of multipurpose costs as related to the Garrison Diversion Unit Reformulation Act of 1986? What would be the effect on the power rate or removing the Garrison Diversion Project from the P–SMBP PRS?

Response: Reclamation and the Corps have not completed the final reallocation of multpurpose costs as a result of the Garrison Diversion Unit Reformulation Act of 1986. In order to proceed with PRS's, Western has developed a methodology to calculate the additional multipurpose investment costs allocated to power. This amount was determined to be $87 million. Western adivsed Reclamation and the Corps of Western's methodology, and they have agreed to use $87 million on an interim basis in the PRS. This will change when the final allocation process is completed. The $87 million is considered to be a conservative estimate.

If it is assumed new legislation would deauthorize the Garrison Diversion Project with provisions similar to the Garrison Diversion Unit Reformulation Act of 1986, Western estimates the firm power rate would be increased by approximately 0.15 mills/kWh.

6. *Comment:* Several peaking power customers expressed concern that the firm peaking capacity rate was the same as the firm capacity rate.

Response: Western reviewed the relative value of firm peaking capacity versus firm capacity to the customers. Western is working with the Mid-Continent Area Power Pool regarding the customer's reporting of reserves for peaking capacity in offpeak months. This will enhance the value of peaking capacity and should mitigate some of the concerns.

7. *Comment:* Will the irrigation pumping power rate be adjusted from the present 2.5 mills/kWh? Why is the rate remaining constant when other rates are being increased?

Response: Reclamation is reviewing the criteria that established the irrigation pumping power rate with the intent of addressing customer concerns that irrigation pumping power rates are not being adjusted. No response has been received to date. The irrigation rate schedules are a Reclamation responsibility, and Western neither approves nor disapproves them. However, exhibit E to the agreement between Western and Reclamation dated March 26, 1980, states:

> To the extent the Service's power rates are subject to revision, such rates from any project shall be revised by the Service at the same time that Western effects an adjustment in rates to its customers for the power from the project. (Note: Service was the term for the Bureau of Reclamation in 1980.)

Western has encouraged Reclamation to adjust the irrigation pumping rate to be more in line with Reclamation instructions, part 221, chapter 3, paragraph 1A, which states:

> * * * such rates shall cover the average cost per kWh of operation, maintenance, and replacement expenses of the power system, and without interest, the payment of that part of the power investment allocated to irrigation. Rates lower than those established in conformity with this policy may be established * * *.; however, such lower rate shall be at least the average cost per kWh of operation, maintenance, and replacement expenses of the power system.

8. *Comment:* Who will resolve the issue of the Corps using the current use method of assigning multipurpose O&M expense to power for repayment purposes if the Corps and Western cannot agree?

Response: Western is working to resolve this issue through discussions with the Corps. Until Western fully understands the Corps' basis for its decision and can determine if the costs are inappropriately assigned, the costs will remain in the PRS.

9. *Comment:* Has Western ever phased in a rate increase over a period of 2 or more years?

Response: There have been phased-in rate adjustments for some of Western's other projects. Western has not previously used a phase-in process for the P–SMBP.

10. *Comment:* Will Western be updating the estimated FY 1990 PRS discussed during the information forums prior to the end of the comment period?

Response: Western did not make any additional changes in the estimate prior to the expiration of the comment period. These estimates will be updated in the preparation of the final FY 1990 PRS. That PRS will form the basis for the decision on the need for a future rate adjustment.

11. *Comment:* Is the rate adjustment required by the FY 1988 PRS included in this rate adjustment?

Response: Yes, the data contained in the FY 1988 PRS are incorporated into the FY 1989 PRS and therefore are included in the proposed rate adjustment?

12. *Comment:* Two customers opposed any proposed rate increase by Western.

Their comments are paraphrased as follows:

The rural electric cooperatives (REC) in South Dakota average less than two customers per mile as opposed to investor-owned utilities who have a much higher ratio. This disparity has caused rural customers to pay higher rates for electricity than people living in towns and cities. A mitigating factor in determining rural rates has been the Federal hydropower allocations. Federal hydropower has enabled REC's to remain competitive in charging for electricity. The proposed rate increase of 21 percent for 1990 and another in 1991 will certainly have a negative impact for REC members. Phasing in the rate in two steps will do nothing long term to change the impact of this rate adjustment.

Response: Western has acknowledged the receipt of the comments and has made them part of the record. Western understands the customers' concerns. However, when the costs of alternative power sources are considered, P-SMBP resources still remain competitive. The power marketing functions transferred to and vested in the Secretary of Energy established an obligation for Western to raise rates when costs are not being recovered.

13. *Comment:* Several customers submitted comments to the effect that in pricing Federal power, the guiding principle should continue to be the adequate recovery of the costs of the projects. This is the proper application of existing statutes. Any attempts by the DOE to include pricing criteria not provided for in the laws authorizing Federal power projects are unfair to rural consumers and will be strenuously opposed. The customers urge Western to incorporate these concerns as a factor in setting rate increases.

Response: Western's rates are cost-based and follow the repayment criteria based on the authorizing legislation and DOE Order RA 6120.2.

14. *Comment:* Several customers stated that Western, in designing its rates, inappropriately changed the revenue level outside of the confines of the PRS. The customers stated that a process called rate design has somehow increased the revenue yield above the level supported by the PRS, and that they consider this to be inconsistent with power marketing administration ratemaking procedures. The customers believe that DOE Order RA 6120.2 does not provide for such methodology, and that it is a violation of due process when rate design is used to alter the levels of collectible revenue.

Response: In effect, the historic method of designing the rate did change the revenue requirements outside of the PRS. Western explained that in the FY 1989 PRS the P-SMBP changes the procedure that is used to determine the annual expenses, and for this rate order, changes the subsequent P-SMBP-ED rate design. Western is now including the wheeling discount provided to many P-SMBP-ED customers as an expense item in the FY 1989 P-SMBP PRS. This is not a new expense but a reclassification of the expense from a revenue deduction in rate design to an annual expense in the PRS. During meetings related to the rate adjustment for the FY 1987 PRS, a great deal of discussion focused on the actual dollar impact that a customer may experience in monthly power costs, as compared to the increment of rate adjustment required for PRS solution. As discussed during those meetings, one factor contributing to the differences between customer power costs and PRS solutions was Western's method of accounting for the 1-mill/kWh wheeling discount in the P-SMBP-ED rate design. Accounting for the wheeling discount in the PRS rather than in the rate design is the resolution to this customer concern and does not impact the true rate adjustment.

15. *Comment:* Several customers stated that the cost of additional transmission facilities and associated O&M costs have been included on the expense side of the PRS, but the benefits and anticipated revenues from these additional facilities have not been included on the revenue side of the PRS. The customers state that the costs and benefits should both be considered, and the anticipated revenue should also be shown in the PRS process.

Response: Western's construction work projected during the budget period falls primarily into two categories. The first is rehabilitation and/or replacement. Many sections of the P-SMBP-WD transmission system are more than 40 years old and in need of replacement. Funds committed to these projects will not necessarily result in increased transmission revenues; however, they tend to stablize O&M costs. Western also commits funds to system upgrades necessary to meet Federal load reliably and to ensure the stability of the Federal transmission system. There are revenues recovered in the P-SMBP-ED under the joint transmission system rates that increase with the addition of each facility. These revenues are included in the PRS.

The P-SMBP-WD has identified two construction projects that could have potential revenue impacts on the PRS. The first is the Buffalo Bill Transmission Line. This line is necessary to market the increased power output of the Buffalo Bill Powerplant in Wyoming. Secondly, Western contracts with another utility to provide the transmission necessary to operate the Sidney (Nebraska) direct current tie at its full 200 MW rating during normal and certain outage conditions. Western is in the process of uprating its transmission system in the Sidney area. Construction of the Sidney-North Yuma Transmission Line should reduce future wheeling costs by approximately $600,000 per year; the savings will be incorporated in future PRS's when project participation agreements are signed.

16. *Comment:* Several customers commented that the increase in aid to irrigation is contributing to the overall proposed rate increase. Why are there increases in irrigation investments?

Response: The change in the aid to irrigation payments between the FY 1987 PRS and the FY 1989 PRS does not contribute to the rate increase because repayment of power system investment is the rate-setting feature in the study. The increases in aid to irrigation between the FY 1987 PRS and the FY 1989 PRS are due to the suballocation of additional power investments booked to completed plant, and an increase in the construction-cost index for features to be built in the future.

17. *Comment:* Several customers commented they have reviewed the list of future power investments provided on January 8, 1990, and that construction of new control systems, communications systems, new buildings, and facilities appear to be extravagant. They suggest that the Agencies tighten management controls over such expenditures.

Response: Western explained that the list provided on January 8, 1990, included data from the FY 1987, FY 1988, and FY 1989 PRS's. Western has tightened management controls over construction and rehabilitation activities. For example, a comparison of the planned transmission system investments for the cost-evaluation periods in the FY 1987 PRS and in the FY 1989 PRS shows a reduction in forecast construction of approximately $165 million. This reflects a reduction in the pace of the program and increased emphasis on life extension procedures in lieu of replacement. The managing Agencies are evaluating future investments to look for additional opportunities to defer or cancel construction.

18. *Comment:* A customer questioned the handling of river depletions that tends to increase the P-SMBP power rates by reducing energy available for firm power sales when no specific irrigation developments are identified.

Response: Western explained that the P–SMBP is an ultimate development project with irrigation recognized in the original plan. In the FY 1989 PRS, irrigation development is accounted for beyond Reclamation's planning horizon (FY 2006) by using equal annual irrigation investments for the remainder of the study. Water depletions are projected to match irrigation investment. The PRS reflects decreased firm and nonfirm power sales, increased irrigation pumping sales, and increased aid to irrigation obligations consistent with the depletion projections.

The PRS has been designed to reflect all segments of the ultimate development project. Depletions are related to the construction of facilities that both utilize water and require pumping power to deliver that water to the projects. In both cases, depletions reduce the amount of energy available for firm sales or other uses.

19. *Comments:* Several customers stated that future P–SMBP–WD wheeling income has been understated in the FY 1989 PRS.

Response: Western has reviewed the methodology used by the customers to estimate independently future wheeling income. Western believes that based on current contractual arrangements, it would be incorrect to use the customers' methodology. The customers have assumed that existing contractual arrangements allow Westen to charge for the full annual capacity amount. However, Western's major transmission users currently pay on energy wheeled or monthly capacity amounts. Although some of these contracts are currently under negotiation or will be renegotiated within the next several years, Western cannot, in good faith, project revenues based on speculative contractual negotiations.

20. *Comment:* Some customers believe that costs associated with the Integrated Projects have increased significantly since the 1987 PRS. Customers did not object when Reclamation's Denver Office was consolidated with its Billings Office because the customers were told there would be substantial savings from the move. The customers questioned whether Reclamation's reorganization cost savings have been realized. They also believe that cost allocations should be reviewed and adjusted when the waters from irrigated lands are converted to M&I use.

Response: The purpose of combining the Upper and Lower Missouri Regional Offices in Denver, Colorado, and Billings, Montana, was to streamline operations and to eliminate duplicate functions. The original estimates for the consolidation were for a one-time cost of $600,000 and an annual savings of $3 million. A savings of 113 personnel was achieved with a first-year annual reduction in costs of $5 million. However, not all of the savings were for costs that were to be reimbursable by power. Direct savings to power users were attributable to the elimination of one Power Division. Indirect cost savings result from a reduction in charges from centralized project overhead. There were some additional cost savings due to reduced office space requirements; however, these savings were partially offset by the increased cost of travel to and from the Regional Office in Billings.

Reclamation is reviewing the laws and applicable procedures that are relevant to the allocations of costs among benefiting uses for the Integrated Projects. Reclamation has completed its analysis of the Colorado-Big Thompson Project (CBT), and is preparing individual analyses on the remaining Integrated Projects and the various P–SMBP units. The CBT has the largest impact of any of the four integrated projects on the P–SMBP PRS. The CBT repayment contract does not distinguish between irrigation and other uses of water. The only restriction is that the water must be used within the Northern Colorado Water Conservancy District. Since there is no distinction between irrigation and other water uses, there are no separate allocations of costs among those uses. Therefore, there is no change in allocations when water is diverted from one use to another.

21. *Comment:* Several customers requested that Western make two administrative changes to the rate development process. First they asked that Western's Administrator disapprove the rate in its present form. Secondly, they requested an extension of the comment period for at least 15 days after they have received additional supporting data from Western on cost allocations.

Response: Western's Administrator does not approve rates for long-term power sales. Rather, he has been delegated authority to propose rate adjustments, and to submit these proposed rates to the Deputy Secretary of the DOE. The Deputy Secretary will approve the rates on an interim basis, subject to final approval by FERC. Western's staff has reviewed the assumptions within the PRS to ensure that the rate package meets the criteria for appropriate rate actions. The rates are the lowest possible consistent with sound business principles.

The request for an extension of the comment period is related to P–SMBP–WD customer concerns regarding cost allocations for the Fry-Ark. Therefore, the request to extend the comment period is not a consideration for the P–SMBP–ED rate adjustment.

22. *Comment:* A customer's representative commented that the rate increase as described by Western is not correct, but is much larger.

Response: The magnitude of the rate increase required in the P–SMBP is best understood by examining the annual firm power revenue requirements arising out of the FY 1987 and FY 1989 P–SMBP PRS. These annual revenue requirements are as follows:

FIRM REVENUE REQUIREMENTS

	FY 1987	FY 1987 adjusted	FY 1989	Increase (percent)
Eastern Division	$67,052,350	$71,452,350	$86,050,640	20.4
Western Division	20,603,222	20,604,320	24,146,960	17.2
Total	87,655,572	92,056,670	110,197,600	19.7

The $4,400,000 difference in Eastern Division between the FY 1987 and FY 1987 adjusted revenue requirement is the wheeling discount. In summary, the expense associated with the 1-mill wheeling discount was shifted from an after-the-fact adjustment in the rate design to an item of annual expense in the PRS. It does not change the revenue requirement.

The P–SMBP–WD revenue requirements continue to include the revenue associated with P–SMBP–WD peaking sales contained in the FY 1987 (and earlier) PRS. (The small increase in

the P–SMBP–WD revenue requirements, $1,098, was due to the use of a rounded value of the P–SMBP–WD energy production; i.e., 2,036,000,000 kWh versus 2,035,841,000 kWh.) The magnitude of the rate adjustment associated with the FY 1989 PRS is the difference between the FY 1987 adjusted and the FY 1989 revenue requirements, which is 20.4, 17.2, and 19.7 percent for the P–SMBP–ED, P–SMBP–WD, and total revenues, respectively. This percentage increase in revenue requirements for the respective divisions translates directly into the percentage increase in composite firm power rates.

The changes in the P–SMBP–ED, P–SMBP–WD, and composite firm power rates in mills/kWh are as follows:

FIRM POWER RATES

	FY 1987 (mills/kWh)	FY 1987 adjusted (mills/kWh)	FY 1989 (mills/kWh)	Percent increase
Eastern Division	8.02	8.55	10.29	20.4
Western Division	9.42	10.12	11.86	17.2
Composite	8.32	8.86	10.60	18.7

The increase in PRS firm power rates from the FY 1987 adjusted to the FY 1989 values corresponds to the increase in revenue requirements detailed above.

Since both of the adjustments (the P–SMBP–ED wheeling discount and P–SMBP–WD peaking revenue requirement) have no effect on PRS revenue requirements, it is incorrect to characterize the yield increase from the FY 1987 to the FY 1989 values (2.28 mills/kWh or 27.4 percent on the composite yield) as the rate increase for the same period.

23. *Comment:* What are the annual costs of the Buffalo Bill Dam project and what is the annual generation? What is the cost per kWh? Is the cost of the project included in the repayment study as part of the Integrated Projects?

Response: Western has included in the P–SMBP PRS $2.2 million annually for the 35-year term of the contract for repayment of Wyoming's approximately $17.4-million investment in the power features. The PRS shows the repayment of the State's share as an annual expense. The PRS also includes the Federal investment portion contributed by Reclamation. This portion is approximately $58 million and is included in the PRS as an investment at the project interest rate for repayment over a 50-year period. The 21,000-kW powerplant is expected to produce an average generation of 71.8 million kWh annually. The estimated composite rate for energy sold from the Buffalo Bill Dam is 93.06 mills/kWh. Buffalo Bill modifications are not authorized as an Integrated Project but are a P–SMBP investment.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et. seq.*, Council on Environmental Quality regulations (40 CFR parts 1500–1508), and DOE guidelines published in the Federal Register (52 FR 47662–47670, December 15, 1987), Western has reviewed the environmental impacts of the rates for the P–SMBP. The proposed rate adjustments are clearly an economic action with no repercussions on the physical human environment. The preparation of an environmental assessment or environmental impact statement is not required.

Executive Order 12291

DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of Executive Order 12291. In addition, Western is exempt from section 3, 4, and 7 of that order, and therefore will not prepare a regulatory impact statement.

Availability of Information

Information regarding this rate adjustment, including studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the power rates, is available for public review at the Billings Area Office, Western Area Power Administration, Division of Marketing Studies, Rates, and Resources, 2525 4th Avenue North, Billings, Montana 59107–5800, telephone: (406) 657–6532; Division of Marketing and Rates, Western Area Power Administration, 1627 Cole Boulevard, Golden, Colorado 80401; and the Office of the Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Submission to FERC

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

ORDER

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective the first day of the first full billing period beginning on or after October 1, 1990, rate Schedules P-SED-F4 and P-SED-FP4. These rate schedules shall remain in effect on an interim basis pending the FERC confirmation and approval of them or substitute rates on a final basis for a period of 5 years, or until they are superseded.

Issued at Washington, DC, August 27, 1990.

W. Henson Moore,

Deputy Secretary.

Department of Energy; Western Area Power Administration; Billing Area Office; Pick-Sloan Missouri Basin Program-Eastern Division

[Schedule P-SED-F4 (Supersedes Schedule P-SED-F3)]

Schedule of Rates for Firm Power Service

Effective: The first day of the first full billing period beginning on or after October 1, 1990.

Available: Within the marketing area served by the Eastern Division of the Pick-Sloan Missouri Basin Program.

Applicable: To the power and energy sold to customers as firm power service through each meter at each point of delivery.

Monthly Rate FY 1991: The following rates shall be in effect beginning with the effective date of this schedule and ending with the first day of the first full billing period beginning on or after October 1, 1991.

Capacity Charge: $2.25 per kilowatt of billing demand for firm power service as defined by the power sales contract.

Energy Charge: 5.57 mills per kilowatthour for all energy delivered as firm power service. An additional charge of 3.38 mills per kilowatthour will be assessed for all energy delivered as firm power service that is in excess of 60-percent monthly load factor and within the delivery obligations under the provisions of the power sales contracts.

Monthly Rate FY 1992–95: The following rates shall be in effect on the first day of the first full billing period beginning after October 1, 1991, and shall continue in effect through the term of this schedule.

Capacity Charge: $2.35 per kilowatt of billing demand for firm power service as defined by the power sales contract.

Energy Charge: 5.81 mills per kilowatthour for all energy delivered as firm power service. An additional charge of 3.38 mills per kilowatthour will be assessed for all energy delivered as firm power service that is in excess of 60-percent monthly load factor and within the delivery obligations under the provisions of the power sales contracts.

Adjustments: For Character and Conditions of Service: Customers who receive deliveries at transmission voltage may in some instances be eligible to receive a five-percent discount on capacity and energy charges when facilities are provided by the customer that result in a sufficient savings to the United States to justify the discount. The determination of eligibility for receipt of the voltage discount shall be exclusively vested in the United States.

Billing for Unauthorized Overruns: For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overrun shall be billed at 10 times the above rate.

For Power Factor: None. The customer will normally be required to maintain a power factor at the point of delivery between 95-percent lagging and 95-percent leading.

Schedule of Rates for Firm Peaking Power Service

Effective: The first day of the first full billing period beginning on or after October 1, 1990.

Available: To the customers of the Billings Area Office with generating resources enabling them to use firm peaking power service.

Applicable: To the power sold to customers as firm peaking power service.

Monthly Rate FY 1991: The following rates shall be in effect beginning with effective date of this schedule and ending with the first day of the first full billing period on or after October 1, 1991.

Capacity Charge: $2.25 per kilowatt of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is the greater.

Energy Charge: 5.57 mills per kilowatthour for all energy scheduled for delivery without return.

Monthly Rate FY 1992–95: The following rates shall be in effect the first day of the first full billing period beginning on or after October 1, 1991, and shall continue in effect through the term of this schedule.

Capacity Charge: $2.35 per kilowatt of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is the greater.

Energy Charge: 5.81 mills per kilowatthour for all energy scheduled for delivery without return.

Adjustments: Billing for Unauthorized Overruns: For each billing period in which there is contract violation involving an unauthorized overrun of the contractual obligation for peaking capacity and/or energy, such overrun shall be billed at 10 times the above rate.

[FR Doc. 90–2102 Filed 9–6–90; 8:45 am]
BILLING CODE 6450–01–M

Parker-Davis Project; Rate Order

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of a rate order—Parker-Davis Project firm power and firm and nonfirm transmission rate adjustment.

SUMMARY: Notice is given of Rate Order WAPA–48 of the Deputy Secretary of the Department of Energy (DOE) placing in effect, on an interim basis, Rate Schedules PD–F3, Schedule of Rates for Wholesale Firm Power; PD–FT3, Schedule of Rates for Firm Transmission Service; PD–FCT3, Schedule of Rates for Transmission Service of Salt Lake City Area Integrated Projects Power; PD–NFT3, Schedule of Rates for Nonfirm Transmission Service.

FOR FURTHER INFORMATION CONTACT:
Mr. Earl W. Hodge, Assistant Area Manager for Power Marketing, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 477–3255
or
Ms. Deborah M. Linke, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1535.

SUPPLEMENTARY INFORMATION: Pursuant to the Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. IV, 1981), the power marketing functions, as vested in the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, 43 U.S.C. 372, *et seq.* (1976), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c) (1976), and the acts specifically applicable to the project, were transferred to the Department of Enegy (DOE).

By Delegation Order No. 0204–108, effective December 14, 1983, (48 FR 55664), as amended May 30, 1986 (51 FR 19744), the Secretary of Energy delegated the authority to develop long-term power and transmission rates to the Administrator of the Western Area Power Administration (Western); the authority to confirm, approve, and place such rates in effect on an interim basis to the Under Secretary of DOE; and the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). On March 12, 1990, the Secretary issued a notice, SEN–1OC–90, which has the effect of amending Delegation Order No. 0204–108 by transferring authority to place rates in effect on an interim basis from the Under Secretary of DOE to the Deputy Secretary of DOE.

Western developed these rates in accordance with Reclamation law; DOE financial reporting policies, procedures, and methodology (DOE Order No. RA 6120.2 (September 20, 1979); the procedures for public participation in rate adjustments found at 10 CFR part 903 (1987), as amended; the filing requirements and procedures for approving the rates of Federal power marketing administrations (18 CFR part 300); and the FERC Order (Docket No. EF89–5041–000, 51 FERC 61,147) dated May 4, 1990.

These Parker-Davis Project (P–DP) rates are substitute rates based on the FERC order dated May 4, 1990. The FERC remanded the extension of the P–DP rates put into effect on an interim basis by the Deputy Secretary of the Department of Energy, effective January 1, 1989 (54 FR 3840, January 26, 1989). The FERC ordered that Western file substitute rates and accompanying documents, revised in conformity with the terms of the order, or, in the alternative, refile its rates and include demonstration of compliance with the terms of DOE Order RA 6120.2, Power Marketing Administration Financial Reporting, within 120 days. The power

repayment study (PRS) supporting the extension of the P–DP rates did not provide for projected replacement costs beyond the cost-evaluation period. Western was persuaded by the FERC's argument that the P–DP is expected to remain in service beyond the cost-evaluation period and will continue to incur replacements costs. Based on the FERC order, Western decided to include replacement costs projected to be incurred through the end of the repayment period and to file substitute rates.

The PRS and related analyses indicate that the subsitute rates are sufficient to maintain the financial integrity of the P–DP and provide sufficient revenues to recover all operation, maintenance, and replacement costs through the end of the repayment period. Further, revenues since the P–DP was placed into commercial service have been sufficient to satisfy the repayment to the Treasury of the United States, with interest, all reimbursable Federal funds advanced through FY 1987 for the construction of the P–DP's features, including the assumed obligations of other electrical facilities associated with the reclamation of lands and treaties of the United States with the Republic of Mexican States.

In accordance with 10 CFR 903.22(c), the Administrator of Western has determined that his action, resulting from the FERC remanding the P–DP rate extension, does not require a public consultation and comment period. Western held an informal public meeting for the P–DP customers in Phoenix, Arizona, on June 19, 1990, to discuss the action of the FERC and the substitute rates. Copies of the PRS used in the development of the substitute rates was provided to the P–DP customers at the informal meeting. The materials from the meeting were mailed to all P–DP customers and interested parties on June 25, 1990. The substitute rates are expected to be placed in effect on an interim basis, effective on October 1, 1990, and will be forwarded by the Deputy Secretary of the Department of Energy to the FERC for approval on a final basis.

Issued at Washington, DC August 14, 1990.

W. Hanson Moore,

Deputy Secretary.

Order Confirming and Approving Power Rates and Transmission Rates on an Interim Basis

In the Matter of Western Area Power Administration Parker-Davis Project Power Rates, Rate Order No. WAPA–48.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, 43 U.S.C. 372, *et seq.*, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and the acts specifically applicable to the Parker-Davis Project, were transferred to and vested in the Secretary of Energy.

By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), the Secretary of Energy delegated (1) The authority to develop long-term power and transmission rates to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Under Secretary of DOE; and (3) the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). On March 12, 1990, the Secretary of Energy issued a notice, SEN–10C–90, which has the effect of transferring authority to place rates into effect on an interim basis from the Under Secretary of DOE to the Deputy Secretary of DOE.

Western developed these rates in accordance with Reclamation law; DOE financial reporting policies, procedures, and methodology (DOE Order RA 6120.2 (September 20, 1979)), the procedures for public participation in rate adjustments found at 10 CFR part 903 (1987), as amended; the filing requirements and procedures for approving the rates of Federal power marketing administrations (18 CFR part 300); and the FERC Order dated May 4, 1990 (Docket No. EF89–5041–000, 51 FERC 61,147).

Background

The Parker Dam Project was authorized by section 2 of the Rivers and Harbors Act of August 30, 1935 (49 Stat. 1039), and the Davis Dam Project was authorized April 26, 1941, by the Acting Secretary of the Interior under provisions of the Reclamation Project Act of 1939 (43 U.S.C. 485, *et seq.*). The Parker-Davis Project (P–DP) was formed by the consolidation of the two projects under the terms of the act of May 28, 1954 (68 Stat. 143).

Parker Dam, which creates the Lake Havasu Reservoir, is located on the Colorado River between Arizona and California, 155 miles downstream from Hoover Dam. The dam was constructed by Reclamation, partially with funds advanced by the Metropolitan Water District (MWD) of Southern California. Under contract, MWD is entitled to one-half of the net energy generated. Davis Dam, which creates the Lake Mohave Reservoir, is located on the Colorado River between Arizona and Nevada, 67 miles downstream from Hoover Dam. The P–DP is operated in conjunction with other hydroelectric installations in the Colorado River Basin.

Construction of Parker Dam was authorized for the purpose of controlling floods, improving navigation, regulating flow of the streams of the United States, providing for storage and delivery of the stored waters thereof, reclamation of public lands and Indian reservations, other beneficial uses, and the generation of electric energy as a means of financially aiding and assisting such undertakings.

Davis Dam was constructed to provide reregulation for the fluctuating water releases from Lake Mead at Hoover Dam, from hourly to seasonal, to facilitate water delivery for downstream irrigation requirements, for delivery of water beyond the boundary of the United States as required by the Mexican Water Treaty, and for the generation of electric energy as a means of financially aiding and assisting such undertakings.

Discussion

The P–DP rates for wholesale firm power, firm transmission, and nonfirm transmission service were approved by the Federal Energy Regulatory Commission (FERC) on July 23, 1984, for the period from December 15, 1983, through December 31, 1988. Effective January 1, 1989, the Deputy Secretary of the Department of Energy (Deputy Secretary) confirmed and approved on an interim basis, an extension of the P–DP wholesale firm power, firm transmission, and nonfirm transmission service rates (54 FR 3840, January 26, 1989). On December 28, 1988, the Deputy Secretary filed a request with the FERC for final confirmation and approval of an extension of the P–DP rates. On May 4, 1990, the FERC issued an order remanding the extension of the P–DP rates (FERC Order dated May 4, 1990, Docket No. EF89–5041–000, 51 FERC 61,147). The FERC ordered that Western file substitute rates and accompanying documents, revised in conformity with the terms of the order, or in the alternative, refile its rates and include a demonstration of compliance with the terms of DOE Order RA 6120.2, Power Marketing Administration Financial Reporting, within 120 days.

The FERC remanded the extension of the P–DP rates because it believed that

Western did not comply with section 10 of DOE Order RA 6120.2, which requires that future replacement costs be included in repayment studies by adding the estimated capital cost of replacements to the unpaid Federal investment in the year each replacement is estimated to go into service, and adding it to the allowable unpaid investment. Western did not include estimated replacement costs after the cost-evaluation period. The original P–DP investment has been fully repaid. Therefore, Western felt that setting rates for today based upon major replacement costs that may occur in the year 2005 and subsequent years could result in an overcollection of revenue during the rate approval period. Western is persuaded by the FERC's argument that although the investments have been repaid, the P–DP is expected to remain in service beyond the cost-evaluation period and continue to incur replacement costs. Based on the FERC Order, Western has decided to include replacement costs projected to be incurred through 2042, the end of the repayment period, and file substitute rates to be placed in effect on an interim basis.

The changes in the P–DP wholesale firm power, firm transmission, and nonfirm transmission service rates reflect the need for additional revenues to recover projected replacement costs. The assumptions and methodology for the assignment of all costs between power and transmission have been applied in the same manner as in the previous rates, approved by the FERC on July 23, 1984 (Docket No. EF84–5041–000, 28 FERC 62,086, July 23, 1984).

Western determines the P–DP revenue requirements by developing a power repayment study (PRS). The PRS incorporates the methodology described in DOE Order RA 6120.2. The PRS filed with this request and related analysis indicates that the substitute rates are sufficient to maintain the financial integrity of the P–DP and provide sufficient revenues to recover all operation, maintenance, and replacement costs through the cost-evaluation period ending September 30, 1993, and the repayment period ending September 30, 2042. Further, revenues since the project was placed into commercial service through September 30, 1987, have been sufficient to satisfy the repayment to the Treasury of the United States, with interest, all reimbursable Federal funds advanced for the construction of the P–DP's features, including the assumed obligations of other electrical facilities associated with the reclamation of lands and treaties of the United States with the Republic of Mexican States.

Operating revenues for fiscal year 1987 were approximately $24.2 million, while average annual estimated operating revenues for the cost-evaluation period, based on the substitute rates, are approximately $21.0 million. P–DP revenues are impacted by two factors: (1) The sales of power and transmission service and (2) the rates for such sales. Projection of future sales are based on firm power, transmission contractual commitments, and nonfirm transactions as appropriate. The PRS uses budget data to project the operation, maintenance, and replacement costs for both Reclamation and Western during the cost-evaluation period. The estimates for operation and maintenance costs for the last budget year (cost-evaluation period) is carried through the end of the repayment period. The replacement study associated with the PRS projects statistically estimated replacement costs for the period 1994–2042, based on the inservice date of specific investments, the estimated useful service life, and the replaceable components of the investments. The replacement costs displayed for any specific year in the PRS represents the total cost of all replacements projected to occur in that year.

The PRS on which the substitute rates are based includes, since 1983, additional economy energy revenues. The additional economy energy revenues beginning in FY 1983 are a result of Western's Salt Lake City Area and Boulder City Area Offices establishing guidelines for the accounting of revenues received from the Joint Fuel Replacement Energy Program between these two offices. Initially, revenues from these economy energy transactions were being allocated only to the P–DP. However, it was determined that both the P–DP and the Pacific Northwest-Pacific Southwest Intertie/Southern Division (Intertie) transmission systems are utilized to effect the economy energy transaction. In FY 1988, approximately 30 percent, or $10,502,544, of the net revenues to the Boulder City Area from these economy energy transactions from 1983–1988 were allocated to the Intertie and transferred from the P–DP. Since FY 1988, these revenues are annually distributed, 30 percent to the Intertie and 70 percent to the P–DP.

The PRS on which the substitute rates are based differs from the PRS submitted with the rate extension in that Western is projecting replacement costs through the end of the repayment period. The PRS does not project any surplus Federal revenues, therefore, the PRS does not reflect the transfer of surplus revenues from the P–DP to the Lower Colorado River Basin Development Fund, and provided for in section 403(c) of the Colorado River Basin Project Act (Pub. L. 90–537). Western determines if revenues are surplus to the needs of the P–DP only after all repayment obligations have been satisfied. Western deposits all P–DP revenues into the Reclamation Fund in the United States Treasury. The funds deposited are used for the repayment of P–DP opertion, maintenance, purchased power, interest, investments, additions, and replacement expenses. P–DP revenues deposited into the Reclamation Fund, which are surplus to the P–DP's needs at the end of any year, will remain in the Reclamation Fund for the use of the P–DP in subsequent years. Since Western is projecting replacement costs through the end of the repayment period, the PRS does not indicate any deposited revenues that are surplus to the needs of P–DP, in accordance with section 403(c)(2) of the Colorado River Basin Project Act. In addition, the PRS does not reflect the collection and transfer of surplus revenues referred to in section 403(c) of the Colorado River Basin Project Act as amended by the Hoover Power Plant Act of 1984 (Pub. L. 98–381). These surplus revenues are to be collected commencing June 1, 2005, which is beyond the cost-evaluation period. This surplus revenue will be collected and deposited into the Lower Colorado River Basin Development Fund as required by the Hoover Power Plant Act and the Colorado River Basin Project Act. This future revenue requirement does not impact the substitute power and transmission rates.

The transmission rate schedules have been revised to state that the delivery is unidirectional. This change was made to clarify some confusion on the character of the transmission service.

Public Notice

Since these are substitute rates being filed in response to an order of the FERC, the Administrator has determined that a public consultation and comment period is not required pursuant to 10 CFR 903.22(c). However, Western held an informal meeting for the P–DP customers and interested parties in Phoenix, Arizona, on June 19, 1990. The actions of the FERC and the substitute rates were discussed. Copies of the PRS used in the development of the substitute rates were provided to the customers. All materials from the meeting were mailed to all P–DP customers and interested parties on June

25, 1990. Copies of all principal documents are available for review by all interested parties at the Boulder City Office.

Certification of Rates

Western transmits and disposes of capacity and energy in such a manner as to encourage the most widespread use thereof at the lowest possible rates consistent with sound business principles. With these substitute rates in effect, the Administrator has certified that the P-DP wholesale firm power, and firm and nonfirm transmission service rates are the lowest possible rates consistent with sound business principles. Rates have been developed in accordance with administrative policies and applicable laws and in compliance with the FERC Order dated May 4, 1990.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, and DOE regulations published in the **Federal Register** (45 FR 20694-20701, March 28, 1986, as amended), Western has reviewed the environmental impacts of the rates for the P-DP. The substitute rates do not reflect an increase that exceeds the rate of inflation for the time period since the last rate increase. Western has determined that the substitute rates clearly do not involve a major Federal action having a significant adverse impact on the human environment. The preparation of an environmental assessment or environmental impact statement is not required.

Executive Order 12291

DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of Executive Order 12291. In addition, Western has received an exemption from sections 3, 4, and 7 of that Order, and therefore will not prepare a regulatory impact statement.

Availability of Information

All studies, letters, memorandums, and other documents made or kept by Western for the purpose of developing the power rates are and will be available for inspection and copying at the Boulder City Office, Phoenix Area, Western Area Power Administration, P.O. Box 200, 3 miles South on Buchanan Blvd., Boulder City, Nevada 89005.

Effective June 17, 1990, Western's Boulder City Area Office and Phoenix District Office were consolidated as the Phoenix Area Office. However, the ratesetting function of the Phoenix Area Office will temporarily remain at the Boulder City, Nevada, location.

Submission to the FERC

The substitute rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 1990, through September 30, 1992, Rate Schedules PD-F3, PD-FT3, PD-NFT3, and PD-FCT3 for wholesale firm power rates, and firm and nonfirm transmission rates for the Parker-Davis Project.

Issued in Washington, DC, August 14, 1990.

W. Henson Moore,

Deputy Secretary.

Department of Energy Western Area Power Administration; Parker-Davis Project

[Rate Schedule PD-F3 (Supersedes Rate Schedule PD-F2)]

Schedule of Rates for Wholesale Firm Power Service

Effective: October 1, 1990.

Available: In the area served by the Parker-Davis Project.

Applicable: To wholesale power customers for firm power service supplied through one meter at one point of delivery, unless otherwise specified by contract.

Character and conditions of service: Three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the power service contract.

Monthly Rate: Capacity Charge: $1.98 per kilowatt of billing demand. Energy charge: 4.52 mills per kilowatthour for each kilowatthour scheduled or delivered, not to exceed the delivery obligation under the power service contract.

Billing demand: The billing demand will be the greater of (1) The highest 30-minute integrated demand established during the month up to, but not in excess of, the delivery obligation under the power service contract, or (2) the contract rate of delivery.

Billing for Unauthorized Overruns: For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm capacity and/or energy obligations, such overrun shall be billed at ten times the above rates.

Adjustments for Transformer Losses: If delivery is made at transmission voltage but metered on the low voltage side of the transformer, the meter readings will be increased 2 percent to compensate for transformer losses.

For Power Factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 95-percent lagging and 95-percent leading.

[Rate Schedule PD-FT3 (Supersedes Rate Schedule PD-FT2)]

Schedule of Rates for Firm Transmission Service

Effective: October 1, 1990.

Available: In the area served by the Parker-Davis Project transmission facilities.

Applicable: To firm transmission service customers where capacity and energy are supplied to the Parker-Davis Project system at points of interconnection with other systems and transmitted and delivered on a unidirectional basis, less losses, to points of delivery on the Parker-Davis Project system specified in the service contract.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate: $8.20 per kilowatt per year, payable monthly at the rate of $0.68 per kilowatt for the greater of each kilowatt contracted for or delivered at the point of delivery during that month, as specified in the service contract.

Adjustments for Reactive Power: None. There shall be no entitlement to transfer of reactive kilovolt-amperes at points of delivery except when such transfers may be mutually agreed upon by contractor and contracting officer or their authorized representatives.

For Losses: Capacity and energy losses incurred in connection with the transmission delivery of capacity and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

[Rate Schedule PD-NFT3 (Supersedes Rate Schedule PD-NFT2)]

Schedule of Rates for Nonfirm Transmission Service

Effective: October 1, 1990.

Available: In the area served by the Parker-Davis Project transmission facilities.

Applicable: To nonfirm transmission service customers where capacity and energy are supplied to the Parker-Davis Project system at points of interconnection with other systems,

transmitted subject to the availability of transmission capacity, and delivered on a unidirectional basis, less losses, to points of delivery on the Parker-Davis Project system specified in the service contract.

Character and Conditions of Service: Transmission service on an intermittent basis for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate: 1.5 mills per kilowatthour of the scheduled or delivered kilowatthours at the point of delivery, pursuant to the contract, payable monthly.

Adjustments for Reactive Power: None. There shall be no entitlement to transfer of reactive kilovolt-amperes at points of delivery except when such transfers may be mutually agreed upon by contractor and contracting officer or their authorized representatives.

For Losses: Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

[Rate Schedule PD-FCT3 (Supersedes Rate Schedule PD-FCT2)]

Schedule of Rates for Transmission Service of Salt Lake City Area Integrated Projects Power (SLCA/IP)

Effective: October 1, 1990.

Available: In the area served by the Parker-Davis Project transmission facilities.

Applicable: To SLCA/IP Southern Division customers where SLCA/IP capacity and energy are supplied to the Parker-Davis Project system by the Colorado River Storage Project (CRSP) at points of interconnection with the CRSP system and for transmission and delivery on a unidirectional basis, less losses, to Southern Division customers at points of delivery on the Parker-Davis Project system specified in the service contract.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Seasonal Rate: $4.10 per kilowatt of the maximum allowable rate of delivery made available at each point of delivery during each season as specified in the service contract, payable monthly at the rate of $0.68 per kilowatt.

Adjustments for Reactive Power: None. There shall be no entitlement to transfer of reactive kilovolt-amperes at points of delivery except when such transfers may be mutually agreed upon by contractor and contracting officer or their authorized representatives.

For Losses: Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

[FR Doc. 90-21019 Filed 9-6-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3828-1]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed August 27, 1990 Through August 31, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900325, FINAL EIS, IBR, CO, Uncompahgre Valley Reclamation Project, AB Lateral Hydropower Facility Construction and Operation, Leasing, Delta and Montrose Counties, CO, Due: October 8, 1990, Contact: Dr. Wayne Deason (303) 236-9336.

EIS No. 900326, FINAL SUPPLEMENT, COE, OR, WA, McNary Lock and Dam Project, Juvenile Fish Loading and Holding Facility Expansion, Implementation, Umatilla County, OR and Benton County, WA, Due: October 9, 1990, Contact: Robert Palmer (509) 522-6927.

EIS No. 900327, DRAFT EIS, AFS, NM, Creek Diversity Unit Timber Sales and Road Construction, Implementation, Santa Fe National Forest, Pecos Ranger District, San Miguel County, NM, Due: October 22, 1990, Contact: Larry Roybal (505) 757-6121.

EIS No. 900328, DRAFT EIS, EPA, FL, Miami Offshore Ocean Dredged Material Disposal Site (ODMDS), Designation, FL, Due: October 22, 1990, Contact: Wesley Crum (404) 347-2126.

EIS No. 900329, DRAFT EIS, AFS, MT, Lakalaho Timber Sale and Road Construction, Implementation, Flathead National Forest, Glacier View Ranger District, Flathead County, MT, Due: October 22, 1990, Contact: Tom Hope (406) 892-4372.

EIS No. 900330, DRAFT EIS, FAA, NY, Stewart International Airport Master Plan, Implementation, Orange County, NY, Due: November 7, 1990, Contact: Frank Squeglia (718) 917-0902.

EIS No. 900331, DRAFT EIS, USN, AK, Second Relocatable-Over-The-Horizon-Rader (ROTHR) System/ Surveillance Installations in the Northwest Pacific Base Camp Facilities, Improvement and Construction, Section 404 and 10 Permits, NPDES Permit, Amchitka Island, AK, Due: October 22, 1990, Contact: Joe DeVittorio (206) 476-5775.

EIS No. 900332, FINAL EIS, BLM, CA, Castle Mountain Open Pit Heap Leach Gold Mine Project, Construction and Operation, Permit Approval, Regulation Changes and Modifications, San Bernardino County, CA, Due: October 9, 1990, Contact: Elena Daly (619) 326-3896.

EIS No. 900333, FINAL EIS, AFS, AK, Frosty Bay Timber Sale, Implementation, Frosty Study Area, Tongass National Forest, Wrangell Ranger District, AK, Due: October 8, 1990, Contact: Richard K. Kohrt (907) 874-2323.

EIS No. 900334, DRAFT EIS, AFS, CA, M-70 Pipeline Replacement and System Optimization Project, Construction, Operation and Abandonment, Right-of-Way Grant, Special Use Permit and COE Permits, Angeles and Los Padres National Forests, Los Angeles and Kern Counties, CA, Due: October 31, 1990, Contact: Michael J. Rogers (818) 574-1613.

EIS No. 900335, DRAFT EIS, UMT, TX, South Oak Cliff Corridor Transit Improvements, South Oak Cliff Communities to the Dallas Central Business District, Funding, Dallas County, TX, Due: October 22, 1990, Contact: Blas Uribe (817) 334-3787.

Dated: September 4, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-21100 Filed 9-6-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3828-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 20, 1990 Through August 24, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact

statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

Draft EISs

ERP No. D-AFS-K08016-CA Rating EC1.

Goleta and Gaviota Substations 66kV Transmission Line Construction, Phase I, Goleta Substation to Exgen Substation, Las Flores Canyon, Santa Barbara County, CA.

Summary

EPA expressed environmental concerns regarding potential violations of Federal and State of California air quality standards and potential loss of riparian vegetation. EPA requested modifications in the section concerning the public health effects resulting from exposure to electric and magnetic fields and supported related monitoring and mitigation.

ERP No. D-BLM-J02019-CO Rating EC2.

Colorado Oil and Gas Leasing and Development Plan, Glenwood Springs, Kremmling and Little Snake Resource Areas and Northeast and San Juan/San Miguel Planning Areas Resource Management Plans Amendment, Approval, CO.

Summary

EPA has environmental concerns with the proposed action. Project implementation, monitoring and evaluation plans may require significant changes. EPA finds the amount of information provided in some areas to be inadequate.

ERP No. DR-AFS-J61074-MT Rating EC2.

White Stallion Timber Sale and Road Reconstruction Management, Implementation, Additional Information and Changes, Bitterroot National Forest, Ravalli County, MT.

Summary

Even though the Forest Service selected preferred Alternative E, EPA feels that Alternative D still provides the greatest degree of environmental protection while meeting timber harvest goals.

Alternative D would yield a profitable timber sale, while all other alternatives yield deficient sales. The final EIS and Record of Decision should commit to adquate funding for water monitoring resource prior to initiation of harvest activities to ensure the effectiveness of the selection, implementation and enforcement of BMPs.

Final EISs

ERP No. F-AFS-K65088-CA

Tahoe National Forest, Land and Resource Management Plan, Implementation, Nevada, Placer, Plumas, Sierra, and Yuba Counties, CA.

Summary

Review of the final EIS was not deemed necessary. No formal letter was sent to the agency.

ERP No. F-BLM-J20010-UT

USPCI Clive Transfer/Storage/Incineration Facility and Associated Transportation/Utility Corridors, Construction and Operation, Right-of-Ways and/or Land Exchange, Tooele County, UT.

Summary

EPA supports the Bureau of Land Management's decision for the proposed action as described in the final EIS.

ERP No. F-COE-F35039-OH

Toledo Harbor Confined Disposal Facility and Maintenance Dredging, Construction, Implementation, Lake Erie, Lucas County, OH.

Summary

EPA continues to have concerns regarding the environmental impacts with this proposal. EPA believes these concerns can be resolved without much difficulty.

ERP No. FS-COE-E35027-NC

Wilmington Harbor, Northeast Cape Fear River Navigation Improvements, Fourth East Jetty Channel to near Hilton Railroad Bridge, Project Changes and Additional Information, Implementation, New Hanover and Brunswick Counties, NC.

Summary

EPA continues to disagree with Wilmington District's position that the 2,800 acres of natural, undeveloped habitat associated with this project is a separable enhancement measure rather than an integral mitigation item. The subsequent election to categorize this habitat as unscheduled is immediately related to be the Corps' decision. The rationale for this decision will be put to the test if the Dirtrict's upcoming General Investigation Study for navigation shows a need for deep-water capacity above the limits of the current federal project.

Dated: September 4, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-21101 Filed 9-6-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

August 30, 1990.

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Tricia Gallagher, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: 3060-0219.

Title: Section 90.49(b), Communications standby facilities "Special Eligibility Showing".

Action: Extension.

Respondents: Businesses or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 200 responses; 150 hours total annual burden; 45 minutes average burden per response.

Needs and Uses: A communications common carrier normally providing safety-related communication landline circuits may request licensing on private radio service frequencies to be used as standby facilities for these safety-related communications when normal (i.e., common carrier) circuits are inoperative due to circumstances beyond the control of the carrier. Applicants are required to submit information that is used to ensure that the requested facilities are necessary for the protection of life or public property.

OMB Number: 3060-0222.

Title: Section 97.213, Remote control of a station.

Action: Extension.

Respondents: Individuals or households.

Frequency of Response: Recordkeeping requirements.

Estimated Annual Burden: 500 recordkeepers; 100 hours total annual burden; 12 minutes average burden per recordkeeper.

Needs and Uses: The recordkeeping requirement contained in section 97.213 consists of posting a photocopy of the station license, a label with the name, address, and telephone number of the station licensee, and the name of at least one authorized control operator. This requirement is necessary so that quick resolution of any harmful interference problems can be achieved and to ensure that the station is operating in acordance with the Communications Act of 1934, as amended.

OMB Number: 3060–0258.

Title: Section 90.176, Interservice sharing of frequencies in the 150–174 and 450–470 MHz bands.

Action: Extension.

Respondents: Individuals or households, state or local governments, businesses or other for-profit (including small businesses), and non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 1,050 responses; 2,100 hours total annual burden; 2 hour average burden per response.

Needs and Uses: Private radio frequencies are arranged in a block allocation format with each block serving a particular type of user. Frequencies allocated to one service, however, may be sparsely used in a specific geographic area, and can be used to meet a demand for frequencies by other radio services in that same area. Therefore, it is desirable to allow applicants to cross the boundary from one service frequency pool to another on a case-by-case basis. To determine if such interservice sharing is in the public interest in a particular case, the applicant is required to submit information that such sharing is necessary and that interference will not result to the primary users of the frequency requested.

OMB Number: 3060–0263.

Title: Section 90.177, Protection of certain radio receiving locations.

Action: Extension.

Respondents: Individuals or households, state or local governments, businesses or other for-profit (including small businesses), and non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 300 responses; 150 hours total annual burden; 30 minutes average burden per response.

Needs and Uses: The rule requires that applicants proposing new or modified transmitting facilities in the vicinity of the National Radio Astronomy Observatory, the Table Mountain radio receiving zone, and Federal Communications Commission monitoring stations, consult with those parties to avoid interference to radio equipment at these sites. The rule enumerates threshold conditions which trigger the requirement that applicants notify these respective receiving sites of their proposal. This requirement is needed to preserve the interference-free reception conditions necessary at these sensitive sites.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–21044 Filed 9–6–90; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review.

August 31, 1990.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on these information collections should contact Tricia Gallagher, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0208.

Title: Section 73.1870, Chief operators.

Action: Extension.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 12,342 recordkeepers; 322,941 hours total annual burden; 26.166 hours average burden per recordkeeper.

Needs and Uses: Section 73.1870 requires licensees of radio and television stations to designate chief operators and post designation with operator license. Also requires chief operator to review station records weekly. Data is used by chief operator, and FCC staff in investigations, to assure that station is operating in accordance with station authorization.

OMB Number: 3060–0209.

Title: Section 73.1920, Personal attacks.

Action: Extension.

Respondents: Businesses or other for-profit (including shall businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 1,201 responses; 601 hours total annual burden; .5 hours average burden per response.

Needs and Uses: Section 73.1920 requires licensees of AM, FM or TV broadcast stations to notify the person or group on which a personal attack was made giving date, time, and identification of broadcast, a script or tape of attack, and offer of a reasonable opportunity to respond over the licensee's facilities. Notification is used by person/group to respond to attack.

OMB Number: 3060–0310.

Title: Section 76.12, Registration statement required.

Action: Extension.

Respondents: State or local governments, businesses or other for-profit (including small businesses), and non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 1,600 responses; 400 hours total annual burden; .25 hours average burden per response.

Needs and Uses: Section 76.12 requires that a registration statement be filed with the FCC before a system community unit shall be authorized to commence operation. The data is used by FCC staff to maintain complete records regarding cable systems and to ensure compliance with FCC rules and regulations.

OMB Number: 3060–0393.

Title: Section 73.54, Antenna resistance and reactance measurements.

Action: Extension.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 400 recordkeepers; 400 hours total annual burden; 1 hour average burden per recordkeeper.

Needs and Uses: Section 73.54(d) requires that background information regarding antenna resistance measurement data for AM stations be kept on file at the station. Data is used by FCC staff in field investigations to ensure measurements are taken properly and by AM licensees to identify any problems that may occur.

Federal Communications Commission.
Donna R. Seracy,
Secretary.
[FR Doc. 90-21045 Filed 9-6-90; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties, may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 224-200405.

Title: Tampa Port Authority/Tampa Bay International Terminals, Inc. Terminal Agreement.

Parties: Tampa Port Authority (Port), Tampa Bay International Terminals, Inc. (TBIT).

Synopsis: The Agreement provides for the Port to assess TBIT an incentive wharfage rate of 95 cents per net ton on paper waste in bundles moving through the facilities of the Port of Tampa. This rate incentive is based on a minimum annual volume of 4,000 net tons. The Agreement is effective through August 19, 1991, and may be extended for an additional one-year period.

Agreement No: 224-200332-002.

Title: Port of San Francisco/Nedlloyd Lines Terminal Agreement.

Parties: Port of San Francisco, Nedlloyd Lines.

Synopsis: The Agreement amends the basic agreement to provide for a guaranteed minimum annual throughput of 23,000 twenty-foot equivalent units and an annual minimum of 49 vessel calls. The Agreement also provides for an amended schedule of rates for wharfage and dockage. The basic agreement's term is also modified to be effective for five years, commencing on September 1, 1990.

By Order of the Federal Maritime Commission.

Dated: August 31, 1990.
Joseph C. Polking,
Secretary.
[FR Doc. 90-20995 Filed 9-6-90; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Board of Governors of the Federal Reserve System; Agency Forms under Review

August 31, 1990.

BACKGROUND:

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulation on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer. Frederick J. Schroeder, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

OMB Desk Officer. Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503 (202-395-7340).

Final approval under OMB delegated authority of the extension, without revision, of the following reports:

1. *Report title:* Monthly Report of Foreign Branch Assets and Liabilities.
Agency form number: FR 2502.
OMB Docket number: 7100-0078.
Frequency: Monthly.
Reporters: Foreign branches of U.S. banks.
Annual reporting hours: 17,753.
Estimated average hours per response: 2.6.
Number of respondents: 569.
Small businesses are not affected.
General description of report: The FR 2502 report collects data on assets and liabilities, by category of customer, from foreign branches of U.S. banks and Edge and Agreement corporations with assets of $150 million or more. The data show the balance of accounts denominated in U.S. dollars, the balance of those denominated in all other currencies combined (reported in U.S. dollars), and the total thereof. The data are used in the construction of the monetary aggregates, in the supervision and regulation of U.S. banks, and in the construction of measures of transactions with foreign countries.

Individual respondent data are regarded as confidential under the Freedom of Information Act (FOIA) [5 U.S.C. 552(b)(4) and (b)(8)]. Aggregate data for all branches are published monthly in the Federal Reserve Bulletin.

2. *Report title:* Quarterly Report of Foreign Branch Assets and Liabilities.
Agency form number: FR 2502S.
OMB Docket number: 7100-0079.
Frequency: Quarterly.
Reporters: Foreign branches of U.S. banks.
Annual reporting hours: 7,966.
Estimated average hours per response: 3.5.
Number of respondents: 569.
Small businesses are not affected.
General description of report: The FR 2502 report collects the amount, by country, of assets and liabilities held by foreign branches of U.S. banks and Edge and Agreement corporations with assets of $150 million or more. The data are used to monitor international banking developments.

Individual respondent data are regarded as confidential under the Freedom of Information Act (FOIA) [5 U.S.C. 552(b)(4)]. Aggregate data are published by the Federal Reserve System in a quarterly statistical release. Aggregate data on claims on foreigners held by U.S.-chartered banks are published monthly in the Federal Reserve Bulletin. Data relating to offshore branches are provided to the Bank for International Settlements.

Final approval under OMB delegated authority of the discontinuance of the following report:

Report title: Report of Claims on Selected Foreign Countries by U.S. Branches and Agencies of Foreign Banks.
Agency form number: FR 2029b.
OMB Docket number: 7100-0064.
Frequency: Semiannually.
Reporters: U.S. branches and agencies of foreign banks.
Annual reporting hours: 342.
Estimated average hours per response: 3.
Number of respondents: 57.
Small business are not affected.
General description of report: The FR 2029b collected information as of the last day of June and December on the maturity distribution of the claims on foreigners held by U.S. branches and agencies of foreign banks, as well as their commitments to extend future credit. The Federal Reserve System approved discontinuance of the collection of these data because acceptable substitutes are available on the Treasury International Capital (TIC) reports.

Board of Governors of the Federal Reserve System, August 31, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-21039 Filed 9-6-90; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Michigan National Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 27, 1990.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Michigan National Corporation, Farmington Hills, Michigan; to acquire 100 percent of the voting shares of Lockwood Banc Group, Inc., Houston, Texas, and thereby indirectly acquire Lockwood National Bank of Houston, Houston, Texas. In connection with this application, Mergerco, Inc., Farmington Hills, Michigan, a wholly-owned subsidiary of Michigan National Corporation, Farmington Hills, Michigan, has applied to become a bank holding company by acquiring 100 percent of the voting shares of Lockwood Banc Group, Inc., Houston, Texas, and thereby indirectly acquire Lockwood National Bank of Houston, Houston, Texas.

2. Rock Rivers Bancorp, Rock Rapids, Iowa; to become a bank holding company by acquiring 98.96 percent of the voting shares of Rock Rapids State Bank, Rock Rapids, Iowa.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Arvada Bank Holding Company, Arvada, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Arvada, Arvada, Colorado.

Board of Governors of the Federal Reserve System, August 31, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-21040 Filed 9-6-90; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage de Novo in Permissible Nonbanking Activities; Philippine National Bank, et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 27, 1990.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Assistant Vice President) 101 Market Street, San Francisco, California 94105:

1. Philippine National Bank, Manila, Philippines; to engage *de novo* through its subsidiary, PNB Investments Limited, Central Hong Kong, in furnishing general economic information and advice, general economic statistical forecasting services and industry studies pursuant to § 225.25(b)(4)(iv) of the Board's Regulation Y. These activities will be conducted in the Philippines.

2. Philippine National Bank, Manila, Philippines; to engage *de novo* in management consulting services including advising management concerning operations, financial management and planning attending Board meetings on an ex officio basis pursuant to § 225.25(b)(11) of the Board's Regulation Y. These activities will be conducted in Southern California and Agana, Guam.

Board of Governors of the Federal Reserve System, August 31, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-21041 Filed 9-6-90; 8:45 am]

BILLING CODE 6210-01-M

Request for Exemption From Tying Provisions; PNC Financial Corp.

PNC Financial Corp, Pittsburgh, Pennsylvania ("PNC"), has requested, pursuant to section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971 *et seq.*) ("section 106"), that the Board grant an exemption from the anti-tying provisions of section 106, in order to permit its lead banking subsidiary, PNC National Bank, Wilmington, Delaware ("National Bank"), to offer reduced annual fees and periodic interest rates on credit card accounts. In particular, through its subsidiary banks, PNC proposes to combine credit card products, which are offered by National Bank, with traditional banking products offered by other PNC subsidiary banks in such a way that the total price to the customer for the combined products would be lower than the price to such customer for the products if purchased separately. Although section 106 permits a bank to fix or to vary the consideration for extending credit or furnishing services on condition that a customer also obtain a traditional banking service (loan,

discount, deposit or trust service) from that bank, it prohibits a bank from engaging in these same activities on condition that the customer obtain any additional credit or services from any other subsidiary of the bank's parent holding company. The Board may grant, however, an exception that is not contrary to the purposes of this provision.

PNC, with consolidated assets of $47.9 billion on June 30, 1990, is the largest banking organization in Pennsylvania. It operates 26 subsidiary banks and engages directly and indirectly in a variety of permissible non-banking activities. PNC's credit card operations are centralized in National Bank. PNC proposes that National Bank provide credit cards on advantageous terms to customers of its affiliated banks. Accordingly, the variation in consideration afforded by National Bank under the special reduced-rate credit card program would be conditioned upon a customer obtaining additional banking services from PNC's subsidiary banks, and would, therefore, be barred by the literal terms of section 106 without exemption from the Board.

In support of its request for an exemption, PNC cites the precedents of (a) the Board's June 20, 1990, order approved requests by Norwest Corporation and NCNB Corporation for an exemption to permit their banks to offer a credit card at lower cost in conjunction with traditional banking services provided by their other subsidiary banks; and (b) the notice of proposed rulemaking issued by the Board on June 22, 1990, proposing to amend § 225.4(d) of the Board's Regulation Y (12 CFR 225.4(d)) to permit a bank owned by a bank holding company to vary the consideration (including the interest rates and fees) charged in connection with extensions of credit pursuant to a credit card offered by the bank on the basis of the condition or requirement that a customer also obtain a traditional banking service from another bank subsidiary of the card-issuing bank's holding company. National Bank and its affiliated banks will continue to offer credit cards and traditional banking services on a separate basis.

Notice of the request is published solely in order to seek the views of interested persons on the issues presented by the request and does not represent a determination by the Board that the request meets or is likely to meet the standards of section 106. Any request for a hearing on this issue must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the request for exemption.

The request may be inspected at the offices of the Board of Governors. Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary of the Board of Governors of the Federal Reserve System, Washington, DC 20551 not later than October 9, 1990.

Board of Governors of the Federal Reserve System, August 31, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-21042 Filed 9-6-90; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Dennis J. Zaun, et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and §225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 21, 1990.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Dennis J. Zaun, St. Cloud, Minnesota; Robert D. Edwards, Duluth, Minnesota; and Thomas J. Sexton; to acquire 100 percent of the voting shares of Farmers & Merchants Agency, Inc., Pierz, Minnesota, and thereby indirectly acquire Farmers and Merchants State Bank of Pierz, Pierz, Minnesota.

Board of Governors of the Federal Reserve System, August 31, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-21043 Filed 9-6-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following are those information collections recently submitted to OMB.

1. Health Care Program Violations Notification Form—0990-0141—Extension No Change—This information is necessary to notify the Office of the Inspector General of providers engaged in Medicaid fraud to enable the Department to exclude such providers from the Medicare program; to impose civil money penalties, and to take other appropriate remedial action.—*Respondents:* State or local governments; *Annual Number of Responses:* 660; *Average Burden per Response:* 5 minutes; *Total Annual Burden:* 55 hours.

OMB Desk Officer: Allison Herron.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619-0511. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: August 28, 1990.

James F. Trickett,

Deputy Assistant Secretary for Management and Acquisition.

[FR Doc. 90-20806 Filed 9-6-90; 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control

Carcinogenic Potential of Selected Dusts Assessment; NIOSH Meeting

The following meetings will be convened by the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), and will be open to the public for observation and participation, limited only by the space available.

Name: Assessment of the Carcinogenic Potential of Selected Dusts.

Time and Date: 9 a.m.–10 a.m., September 18, 1990.

Name: Induction of DNA-Adduct in the Lung by Industrial Chemicals.

Time and Date: 10:30 a.m.–11:30 a.m., September 18, 1990.

Place for the Above Meetings: Appalachian Laboratory for Occupational Safety and Health, room 203, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Purpose for the Above Meetings: To review the research project in the Division of Respiratory Disease Studies, NIOSH.

Contact Person for Additional Information for the Above Meetings: Tong-man Ong, Ph.D., NIOSH, CDC, 944 Chestnut Ridge Road, Mailstop 206, Morgantown, West Virginia 26505, telephone 304/291–4516 or FTS 923–4516.

Name: Effect of Silica Exposure on the Lung: Biochemical and Pathological Studies.

Time and Date: 2 p.m.–3 p.m., September 18, 1990.

Name: Development of Bioassays: Identify Health Risks of Asbestos Substitutes.

Time and Date: 3 p.m.–4 p.m., September 18, 1990.

Place for the Above Two Meetings: Appalachian Laboratory for Occupational Safety and Health, room 203, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Purpose for the Above Two Meetings: To review the research program in the Division of Respiratory Disease Studies, NIOSH.

Contact Person for Additional Information for the Above Two Meetings: Vincent Castranova, Ph.D., NIOSH, CDC, 944 Chestnut Ridge Road, Mailstop 211, Morgantown, West Virginia 26505, telephone 304/291–4591 or FTS 923–4591.

Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Dated: August 30, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90–21605 Filed 9–6–90; 8:45 am]

BILLING CODE 4160–19–M

[Announcement No. 106]

Public Health Conference Support Grant Program for Human Immunodeficiency Virus (HIV) Prevention

Introduction

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1991 for the Public Health Conference Support Grant Program related to Human Immunodeficiency Virus (HIV) prevention.

Authority

This program is authorized under sections 301 and 317 of the Public Health Service Act, as amended. Program regulations are set forth in 42 CFR part 52, entitled "Grants for Research Projects."

Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, public and private organizations, state and local government agencies, and small, minority and/or woman-owned businesses are eligible for these grants.

Availability of Funds

Approximately $225,000 will be available in Fiscal Year 1991 to fund approximately ten to fifteen awards. The awards will average about $22,000 and will be funded with a 12-month budget and project period. The funding estimate outlined above may vary and is subject to change.

The following are examples of the most frequently encountered costs which may or may not be charged to the grant:

1. Grant funds may be used for direct cost expenditures: salaries, speaker fees, rental of equipment, registration fees, transportation costs (not to exceed economy class fares) for non-federal employees.

2. Funds may not be used for the purchase of equipment, payments of honoraria, organizational dues, entertainment/personal expenses, cost of travel and payment of a full-time federal employee, for per diem or expenses other than local mileage for local participants, or reimbursement of indirect costs.

Although the practice of handing out novelty items at meetings is often employed in the private sector to provide participants with souvenirs, federal funds cannot be used for this purpose.

Purpose

The purpose of the HIV-related conference support grants is to provide partial support for specific non-federal conferences in order to intensify efforts to prevent the transmission of HIV infection.

Program Requirements

The programmatic areas of interest in which applications are being solicited by CDC for HIV-related conferences are:

(1) Disease prevention;

(2) Information/education (specifically regarding the cause and transmission of the virus); and

(3) Statistical methods related to HIV.

Some examples of areas that conferences might address are:

(1) HIV/AIDS education and risk reduction messages including the need to prevent and treat drug use and STDs among high-risk populations;

(2) Sources of referrals for medical, psychosocial support and behavioral services;

(3) Information on how to prevent, reduce or eliminate high-risk behaviors and how to change community norms by discouraging high-risk behaviors and by supporting low/no-risk behaviors;

(4) Eliminating, reducing, or preventing high-risk behaviors; and

(5) Statistical methods for using available data to estimate and project the prevalence of HIV infection and disease in communities.

Those topics concerned with health care and health services issues and areas other than prevention should be directed to other public health agencies.

Evaluation Criteria

Applications for support of the types of conferences listed in the Program Requirements section above will be evaluated and ranked for funding. The major factors to be considered in the evaluation of responsive applications will include:

Proposed Program (50%)

a. The public health significance of the proposed conference as it relates to HIV prevention, including the degree to which the conference can be expected to influence public health practices;

b. The feasibility of the conference based on the operational plan;

c. The quality of the conference objectives in terms of specificity; and

d. The extent to which evaluation mechanisms for the conference will be able to adequately assess increased knowledge, attitudes, and behaviors of the target attendees.

2. Applicant Capability (30%)

a. The adequacy and commitment of institutional resources to administer the program;

b. The degree to which the applicant has established and referenced critical linkages with health and education agencies with the mandate for HIV prevention (letters of supprot from such agencies could demonstrate these linkages); and

c. The adequacy of the facilities to be used for the conference.

3. Program Personnel (20%)

a. The qualifications, experience, and commitment of the principal staff person, and his/her ability to devote adequate time and effort to provide effective leadership;

b. The competence of associate staff persons, discussion leaders, and speakers to accomplish the proposed conference; and

c. The degree to which the application demonstrates the knowledge of all key personnel about the transmission of HIV, as well as nationwide information and education efforts currently underway which may affect, and be affected by, the proposed conference.

4. Program Budget (Not scored)

Evaluated for the extent to which the budget is reasonable, clearly justified, and consistent with the intended use of grant funds.

Other Requirements

Recipients must comply with the document entitled: "Content of HIV/AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Education Sessions in Centers for Disease Control Assistance Programs" (55 FR 23414, June 7, 1990). In complying with the Program Review Panel requirements contained in the document, recipients are encouraged to use an existing Program Review Panel such as the one created by the State Health Department's AIDS/HIV Prevention Program.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Number is 13.118.

Application Submission and Deadline

The original and two copies of the Application Form PHS 5161–1 shall be submitted in accordance with the schedule below. The schedule also sets forth the anticipated award date:

Application deadline	*Anticipated award date*
November 15, 1990	February 28, 1991.
February 15, 1991	May 31, 1991.
June 3, 1991	September 30, 1991.

Applications must be submitted on or before the deadline date to: Mr. Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a or 1.b will be considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, and an application package may be obtained from Ms. Carole J. Tully, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, (404) 842–6630.

Please refer to Announcement Number 106 when requesting information and when submitting your application in response to the announcement.

Dated: August 30, 1990.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 90–21063 Filed 9–6–90; 8:45 am]

BILLING CODE 4160–19–M

Interagency Committee on Smoking and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control (CDC) announces the following Committee meeting.

Name: Interagency Committee on Smoking and Health.

Time and Date: 9 a.m.–4 p.m., October 23, 1990.

Place: Hubert H. Humphery Building Auditorium, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by space available.

Purpose: The Interagency Committee on Smoking and Health advises the Secretary, Department of Health and Human Services, and the Assistant Secretary for Health on the: (a) Coordination of all research and education programs and other activities within the Department and with other Federal, State, local, and private agencies, and (b) establishment and maintenance of liaison with appropriate private entities, Federal agencies, and State and local public health agencies with respect to smoking and health activities.

Matters to be Discussed: The agenda will include a discussion on the issue of women and smoking.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from John Bagrosky, Executive Secretary, Interagency Committee on Smoking and Health, Center for Chronic Disease Prevention and Health Promotion, CDC, Park Building, room 1–16, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301/443–1575.

Dated: August 30, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90–21066 Filed 9–6–90; 8:45 am]

BILLING CODE 4160–18–M

National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), Neurobehavioral Assessment of Pesticide Applicators: Meeting

Name: Neurobehavioral Assessment of Pesticide Applicators.

Time and Date: 9 a.m.–2:30 p.m., September 28, 1990.

Place: Robert A. Taft Laboratories, room B28, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Status: Open to the public, limited only by the space available.

Purpose: To solicit individual recommendations from an expert panel regarding behavioral and neurochemical testing methods applicable to the study of the neurobehavioral function of applicators of organophosphorus pesticides.

Contact Person for Additional Information: John M. Russo, Ph. D., NIOSH CDC, 4676 Columbia Parkway, Mailstop C24, Cincinnati, Ohio 45226, telephone 513/533-8383 or FTS 684-8383.

Dated: August 31, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

FR Doc. 90-21064 Filed 9-6-90; 8:45 am]

BILLING CODE 4160-19-M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meeting of Microbiology and Infectious Diseases Research Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on October 18-19, 1990, in Building 31C, Conference Room 7, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 10:30 a.m. on October 18, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10:30 a.m. until recess on October 18, and from 8:30 a.m. until adjournment on October 19. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Peter R. Jackson, Executive Secretary, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Westwood Building, room 3A06, Bethesda, Maryland 20892, telephone (301-496-8426), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.

Dated: August 24, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-21035 Filed 9-6-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of National Advisory Dental Research Council

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research, to be held October 1-2, 1990, Conference Room 10, Building 31C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:30 a.m. to recess on October 1 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting of the Council will be closed to the public on October 1 from 8:30 a.m. to 9:30 a.m. and on October 2 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Brent M. Jaquet, Executive Secretary, National Advisory Dental Research Council, and Special Assistant to the Director, National Institute of Dental Research, National Institutes of Health, Building 31, room 2C39, Bethesda, Maryland 20892, (telephone 301-496-9469) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121-Diseases of the Teeth and Support Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122-Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845-Dental Research Institute; National Institutes of Health)

Dated August 24, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-21036 Filed 9-6-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological Disorders and Stroke; Meeting, Board of Scientific Counselors

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke, Division of Intramural Research on October 17-19, 1990, Conference Room 1B07, Building 36, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 5 p.m. on October 18th in Bldg. 36, Rm. 1B07, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provision set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public from 8 p.m. to 10 p.m. on October 17th and from 9 a.m. until adjournment on October 19th in Bldg. 36, Rm. 1B07 for the review, discussion and evaluation of individual programs and projects conducted by the NINDS. The programs and discussions include consideration of personnel qualifications and performances, the competance of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Ms. Mary Whitehead, Federal Building, room 1004, 7550 Wisconsin Avenue, Bethesda, MD 20892, telephone (301) 496-9231 or the Executive Secretary, Dr. Irwin J. Kopin, Director, Division of Intramural Research, NINDS, Building 10, room 5N214, National Institutes of Health, Bethesda, MD 20892, telephone (301) 496-4297 will furnish a summary of the meeting and a roster of committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: August 24, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-21037 Filed 9-6-90; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Office of the Assistant Secretary for Health

Privacy Act of 1974; Addition of Routine Use to an Existing System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of addition of a new routine use to an existing system of records.

SUMMARY: The Public Health Service (PHS) is publishing a notice that we have added a new routine use for the disclosure of information from the Privacy Act system of records, 09-15-0055, "Organ Procurement and Transplantation Newwork (OPTN) Data System, HHS/HRSA/BHRD." The notice will also modify the first routine use of that system of records for clarification.

DATES: PHS invites public comments on the new routine use on or before October 9, 1990. This routine use will become effective without further notice October 9, 1990 unless we receive comments which would result in a contrary determination.

ADDRESSES: Please address comments to the HRSA Privacy Act Coordinator, Department of Health and Human Services, Parklawn Building, Room 14A-20, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3780. This is not a toll-free number. Comments received will be available for public inspection at the above address during normal business hours 8:30 a.m.-5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Remy Aronoff, Chief, Operations and Analysis Branch, Division of Organ Transplantation, Bureau of Health Resources Development, Parklawn Building, room 11A-22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-7577. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On December 12, 1989, PHS originally published a notice establishing this system of records under the title "Organ Procurement and Transplantation Network (OPTN) Data System, HHS/HRSA/BHRD." One entity commented on the Notice. The commenter recommended that the first and third routine uses be modified to specify the authorized use of released data, to require that entities requesting data certify that data is requested solely for authorized uses, and to prohibit redisclosure of the data except to facilities eligible to receive it under this Notice. The commenter also requested that a routine use for research use be added.

We carefully considered the comments and amended the first routine use to reflect the commenter's request and added a research routine use. However, we believe the third routine use of redisclosure of an individual's record at that individual's request through a Congressional office is satisfactory as it was written in the original Notice. The first routine use now reads:

"The Health Resources and Services Administration (HRSA), through its contractor, may disclose records regarding organ donors, organ transplant candidates, and organ transplant recipients to transplant centers, histocompatibility laboratories, and organ procurement organizations, provided that such disclosure is compatible with the purpose for which the records were collected. These records consist of names, addresses, Social Security numbers, other patient identification information and pertinent medical information."

The fourth routine use reads:

A record may be disclosed for a research purpose, when the Department:

a. Has determined that the use or disclosure does not violate a law or policy under which the record was provided, collected, or obtained;

b. Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; and

d. Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by, these provisions.

Dated: August 29, 1990.

John C. West,

Acting Director, Office of Management.

09-15-0055

SYSTEM NAME:

Organ Procurement and Transplantation Network (OPTN) Data System, HHS/HRSA/BHRD

SECURITY CLASSIFICATION:

None

SYSTEM LOCATION:

United Network for Organ Sharing (UNOS), P.O. Box 13770, 1100 Boulders Parkway, Suite 500, Richmond, Virginia 23225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons from whom organs have been obtained for transportation, persons who are candidates for organ transplantation, and persons who have been recipients of transplated organs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Donor registration, transplant recipient registration, histocompatibility forms, and transplant recipient follow-up forms. Data items include: Name, Social Security number (voluntary), identifiers assigned by OPTN contractors, hospital and hospital provider number, city and State, race/ethnicity, date and time of organ recovery and transplantation, name of transplant center, histocompatibility status, patient condition before and after transplantation, immunosuppressive medication, and cause of death (if appropriate).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 274 requires that the Secretary, by contract, provide for the establishment and operation of an OPTN, and 42 U.S.C. 274a requires that the Secretary, by grant or contract, develop and maintain a Scientific Registry of the recipients of organ transplants.

PURPOSE(S):

The purpose of the system is to: (1) Match donor organs with recipients; (2) monitor compliance of member organizations with membership requirements of the OPTN; (3) review and report periodically on the status of organ donation and transplantation in the United States; and (4) assist the

Health Care Financing Administration (HCFA) in evaluating their financial support of organ transplantation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The Health Resources and Services Administration (HRSA), through its contractor, may disclose records regarding organ donors, organ transplant candidates, and organ transplant recipients to transplant centers, histocompatibility laboratories, and organ procurement organizations, provided that such disclosure is compatible with the purpose for which the records were collected. These records consist of Social Security numbers, other patient identification information and pertinent medical information.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to effect directly the operation of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Department of Justice has agreed to represent such employee, for example, in defending a claim against the Public Health Service in connection with such individual, disclosure may be made to the Department of Justice to enable the Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

4. A record may be disclosed for a research purpose, when the Department:

a. Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable forms, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; and

d. Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tapes, and disc packs.

SAFEGUARDS:

1. Authorized Users: Access is limited to authorized Bureau of Health Resources Development and contract personnel responsible for administering the program. Authorized personnel include the System Manager and Project Officer, and the HRSA Automated Information System (AIS) Systems Security Officer; and the contractors's employees and officials, computer personnel, and program managers who have responsibilities for implementing the program. Both HRSA and the contractor shall maintain current lists of authorized users.

2. Physical Safeguards: Magnetic tapes, disc packs, computer equipment, and hard copy files are stored in areas where fire and life safety codes are strictly enforced. All automated and nonautomated documents are protected on a 24-hour basis in locked storage areas. Security guards perform random checks on the physical security of the records storage area. The contractor is required to maintain offsite a complete copy of the system and all necessary files to run the computer organ donor-recipient match and update software.

3. Procedural Safeguards: A password is required to access the terminal and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs protect information from public view and from unauthorized personnel entering an unsupervised office. All authorized users must sign a nondisclosure statement.

Access to records is limited to those staff members trained in accordance with the Privacy Act and Automated Data Procesing (ADP) security procedures. The contractor is required to assure that the confidentiality safeguards of these records will be employed and that it complies with all provisions of the Privacy Act. All individuals who have access to these records must have the appropriate ADP security clearances. Privacy Act and ADP system security requirements are included in the contract. The BHRD Project Officer and the System Manager oversee compliance with these requirements. The HRSA authorized users will make site visits to the contractor's facilities to assure security and Privacy Act compliance.

RETENTION AND DISPOSAL:

Each record shall be retained for 25 years beyond the known death of the organ recipient.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operations and Analysis Branch, Division of Organ Transplantation, Bureau of Health Resources Development, Room 11A-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURES:

1. Requests by mail: To determine if a record about you exists, write to the contractor operating the bank (see SYSTEM LOCATION). The request should contain the name and address of the individual; the Social Security number if the individual chooses to provide it; the name of his/her transplant center, a written statement that the requester is the person he/she claims to be and that he/she understands that the request or acquisition of records pertaining to another individual under false pretenses is a criminal offense subject to a $5,000 fine.

2. Requests in person: The individual must meet all the requirements stated above for a request by mail, providing the information in written form. The individual should recognize that in order to maintain confidentiality, and thus the accuracy of data released through repeated internal verification, securing the information by request in person will be time consuming.

3. Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also provide a reasonable description of the record being sought. Requestors also may request an accounting of disclosures that have been made of their records, if any.

A parent or guardian who requests notification of, or access to, a minor's/incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the minor/incompetent person as well as his/her own identity.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedure above and reasonably identify the record, specify the information being contested, and the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Organ procurement organizations, histocompatibility laboratories, and organ transplant centers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc: 90-20990 Filed 9-6-90; 8:45 am]

BILLING CODE 4160-15

Office of the Assistant Secretary for Health

Office of International Health; Privacy Act of 1974; New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a new system of records, 09-37-0022, "Records of Health Experts Maintained by the Office of International Health, HHS/OASH/OIH." The purpose of this system is to establish a roster of experts on health policy, health care financing, and in the health sciences who are appropriately qualified and interested in provision of technical assistance to or consultation with other countries under arrangements which the PHS has with the Agency for International Development and/or under its own bilateral health agreements with other countries.

DATES: PHS invites interested parties to submit comments on the proposed routine uses on or before October 9, 1990. PHS has sent a Report of a New System to the Congress and to the Office of Management and Budget (OMB) on August 24, 1990. The system of records will be effective 60 days from the date submitted to OMB unless PHS receives comments which would result in a contrary determination.

ADDRESSES: Please submit comments to: PHS Privacy Act Officer, Office of the Assistant Secretary for Health, Room 17-41, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2055.

Comments received will be available for inspection at this same address from 8:30 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Deputy Director, Office of International Health, Room 18-87, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1774.

The numbers listed above are not toll free.

SUPPLEMENTARY INFORMATION: The Office of International Health (OIH) proposes to establish a new system of records: 09-37-0022, "Records of Health Experts Maintained by the Office of International Health (OIH), HHS/OASH/OIH." This proposed system of records will comprise records maintained by the OIH, and OIH's contractor, Devres, Inc., and subcontractor, Logical Technical Services, Inc. These records will be used to establish a roster of experts in health policy, health care financing and health sciences fields who are qualified and interested in providing technical assistance to and/or consultation with other countries. These services will be in connection either with OIH agreements with the Agency for International Development and/or PHS bilateral health relationships with other countries.

Records collected under this system will be organized and maintained according to area of specialization (e.g., health economics; epidemiology; health care financing, etc.).

Individuals will be required to supply Social Security numbers in order to receive payments which may be applicable to the specific use of services. However, OIH will not use records in this system to make any other determination concerning rights, benefits, or privileges of the individuals.

The records in this system will be maintained in a secure manner compatible with their content and use. Access will be given only to authorized personnel whose official duties require access for purposes of carrying out this activity. Individually identifiable records will be kept in a locked, secured area. Computerized records will be maintained in accordance with Part 6, "ADP System Security," in the HHS Information Resource Management Manual.

The first routine use proposed for this system allows disclosure to the Department of Justice or a court in the event of litigation. The second routine use, permitting disclosure to a congressional office, is proposed to allow subject individuals to obtain assistance from their representatives in Congress, should they so desire. The third routine use is proposed to allow OIH's contractor/subcontractor to accomplish logistical work related to projects. The fourth routine use proposes to allow disclosure to the Internal Revenue Service of customary tax information related to payment of experts. The fifth routine use proposes to allow disclosure to the U.S. Agency for International Development, both its headquarters and field missions, and to U.S. Embassies in cooperating countries. The sixth routine use proposes disclosure of pertinent biographical data of experts to Ministries of Health or other appropriate entities in countries with which the activities/programs are being carried out. The purpose of providing this information is to apprise cooperating governments of the skills/expertise of the individuals who will be working with them.

This system notice is written in the present, rather than the future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after it becomes effective.

Dated: August 28, 1990.

John C. West,

Director, Office of Management.

09-37-0022

SYSTEM NAME:

Records of Health Experts Maintained by the Office of International Health (OIH), HHS/OASH/OIH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of International Health, Office of the Assistant Secretary for Health/ HHS, 5600 Fishers Lane, room 18–87, Rockville, Maryland 20857.
Devres, Inc., 7201 Wisconsin Avenue, suite 500, Bethesda, Maryland 20814.
Logical Technical Services, Inc., 7222 47th Street, suite 100, Chevy Chase, Maryland 20815.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Experts who have responded to inquiry(s) of interest to provide short-term technical assistance in health disciplines identified by the Office of International Health.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, work and home telephone numbers, technical expertise, language capability, international experience, schools and degrees received, professional affiliations, principal publications, references, curricula vitae, travel records, payment records for consultants, Social Security number, and passport number, including date and place issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2421, regarding International Cooperation, and the Foreign Assistance Act.

PURPOSE(S):

The purpose of this system is:

(1) To locate experts with a particular area of expertise to respond to requests for technical assistance from AID/ Washington or from an USAID overseas Mission; (2) to participate in cooperative bilateral health programs of the Public Health Service; (3) to communicate areas of expertise to the cooperating country to facilitate travel arrangements; (4) to monitor payments; and, (5) to coordinate the location of experts with various components of the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

2. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

3. OIH contracts with a contractor, Devres, Inc., and a subcontractor, Logical Technical Services, Inc., to obtain the services of experts. Relevant records will be disclosed to the contractor/subcontractor or may be developed by the contractor/ subcontractor for use in such requests. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. Information in this system of records is used by the contractor/ subcontractor to prepare W–2 and 1099 Forms to submit to the Internal Revenue Service and applicable State and local governments those items to be included as income to an individual.

5. Disclosure may be made to AID/ Washington and to USAID overseas Missions, and/or the American Embassy, in response to a request under the ANE–OIH agreement for technical assistance.

6. Information may be disclosed to foreign governments, in the form of official cable transmissions, to inform the foreign government of a proposed candidate for an assignment and to obtain necessary foreign government clearance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, on index cards, computer tapes and disks, microfiche, microfilm.

RETRIEVABILITY:

Information will be retrieved by name, technical expertise, language capability, and/or international expertise.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as follows:

1. Authorized Users: OIH, HCFA, Devres and LTS employees involved with the AID–OIH interagency agreement, and the OIH–HCFA subagreement, concerning health care financing issues are authorized users as designated by the System Manager.

2. Physical Safeguards: Records are stored in locked rooms, locked file cabinets, and/or secured computer facilities.

3. Procedural Safeguards: Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the System Manager and permitted by the Privacy Act. Privacy Act requirements are specifically included in the Devres contract. HHS project directors, contract officers, and project officers oversee compliance with these requirements.

4. Implementation Guidelines: DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual, and Part 6, "ADP System Security" in the HHS Information Resource Management Manual.

RETENTION AND DISPOSAL:

Records will be retained until the termination of the interagency agreements and will be disposed of in accordance with the OASH disposal standard.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Deputy Director, Office of International Health, 5600 Fishers Lane, Room 18–87, Rockville, Maryland 20857.

NOTIFICATION PROCEDURES:

To determine whether a record exists, write to the OIH System Manager at the address above. Provide notarized signature as proof of identity. The request should include as much of the following information as possible: (a) Full name; (b) identification of assignment; and (c) approximate date(s) of participation.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager and reasonably identify the record, specify the information being contested, and state the corrective action sought and the reason(s) for requesting the correction, along with supporting justification to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Information gathered from individual experts and from assignment or travel documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 90-21106 Filed 9-6-90; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities To Assist the Homeless

[Docket No. N-90-1917; FR-2606-N-88]

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: September 7, 1990.

ADDRESS: For further information, contact James Forsberg, Department of Housing and Urban Development, room 7228, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Dated: August 29, 1990.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 90-20965 Filed 9-6-90; 8:45 am]

BILLING CODE 4210-29-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 five notices describing records maintained by the U.S. Geological Survey. Except as noted below, all changes being published are editorial in nature, clarify and update existing statements, and reflect organization, address, and other miscellaneous administrative revisions which have occurred since the previous publication of the material in the Federal Register. The five notices being revised, which are published in their entirety below, are:

1. USGS-3; Accounts Receivable—Interior, USGS-3 (formerly published on July 5, 1985; 50 FR 27693, as amended on December 21, 1988; 53 FR 51325).
2. USGS-4; Employee Assistance Program Records—Interior, USGS-4 (formerely Employee Counseling Services Program Records—EGS-4, published on December 13, 1984; 49 FR 48617).
3. USGS-5; Contract Files-Interior, USGS-5 (formerly published on March 13, 1986; 51 FR 8710).
4. USGS-9; National Research Council Grants Program—Interior, USGS-9 (formerly published on February 16, 1988; 53 FR 4466).
5. USGS-15; Earth Science Information Customer Records—Interior, USGS-15 (formerly published on October 2, 1986; 51 FR 35306).

In one notice (USGS-3), the existing routine disclosure statement is revised to include release to another Federal agency for the purpose of collecting a debt owed the Federal Government. In three notices (USGS-5, USGS-9, and USGS-15) the categories of records statements are respectively amended to include individual employee resumes and salary data, the social security number, date of birth, and marital status of individuals and the "Application for Federal Employment" (SF 171) for each individual, and an individual's credit card number and expiration date (as provided). Also in USGS-15 and in USGS-4 the retention and disposal statements are amended to reflect the correct Bureau Disposition Schedule.

Since these changes do not involve any new or intended use of the information in the systems of records, the notices shall be effective on September 7, 1990. Additional information regarding this action may be obtained from the Privacy Act Officer, U.S. Geological Survey, U.S. Department of the Interior, Mail Stop 208, 12201 Sunrise Valley Drive, Reston, Virginia 22092, telephone 703-648-7309.

Dated: August 28, 1990.

Leon W. Transeau,

Acting Director, Office of Management Improvement.

INTERIOR/USGS-3

SYSTEM NAME:

Accounts Receivable—Interior, USGS-3.

SYSTEM LOCATION:

U.S. Geological Survey, 270 National Center, Reston, Virginia 22092

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Debtors owing money to the Geological Survey, including employees, former employees, business firms, institutions and private individuals. (Only records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, social security number (SSN), ID number, amount owed, invoice or bill number, reason for the debt, and any other information on debts owed to the Bureau.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701-09; FPMR 101-7; Treasury Fiscal Requirements Manual; Pub. L. 97-365.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to bill persons and firms owing money to the Geological Survey. Disclosures outside the Department of the Interior may be made to: (1) The Office of Personnel Management for reporting purposes; (2) the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or

necessary to the litigation and is compatible with the purpose for which the records were compiled; (3) disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (4) a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (5) a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit; (6) Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit; (7) disclose debtor information to the IRS, or another Federal agency or its contractor solely to aggregate information for the IRS, to collect debts owed to the Federal Government through the offset of tax refunds; (8) a Federal agency for the purpose of collecting a debt owed to the Federal Government through administrative or salary offset; and (9) other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual form in file folders.

RETRIEVABILITY:

By SSN and individual name.

SAFEGUARDS:

Handling by authorized personnel only.

RETENTION AND DISPOSAL:

Retained until payment received and account audited, the disposed of in accordance with the Bureau Records Disposition Schedule RCS/Item 703–01a.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Financial Management, U.S. Geological Survey, 270 National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed to the System Manager and must meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Petitions for amendment should be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEORIES:

Subject individual, contracting officer, accounting records.

INTERIOR/USGS–4

SYSTEM NAME:

Employee Assistance Program Records—Interior, USGS–4.

SYSTEM LOCATION:

This system of records is located with the contractor providing counseling services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Geological Survey employees and their families who seek, are referred, and/or receive assistance through the Employee Assistance Program (EAP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselors (Federal, State, local government, or private), the problem assessment, the 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 EAP 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:

42 U.S.C. 290dd–1; 42 U.S.C. 290ee–1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by the Employee Assistance Program Counselor to document the nature of an individual's problem and progress made to correct the problem. The primary uses of these records are: (1) For the EAP counselor to document the nature of an individual's problem and progress made to correct the problem, and, (2) record an individual's participation in and the results of community or private referrals for solution of problems, rehabilitation, or treatment programs.

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 STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are maintained in locked file cabinets with access strictly limited to those persons employed by the contractor(s) who are directly involved in the alcohol and drug abuse prevention function of Geological Survey's Employee Assistance Program as that term is defined in 42 CFR part 2.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 405–04 a and b.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Employee/Labor Management Relations, Office of Personnel, U.S. Geological Survey, 215 National Center, Reston, Virginia 22092;

Atlanta Personnel Officer, U.S. Geological Survey, 75 Spring Street SW, Atlanta, Georgia 30303;

Rolla Personnel Officer, U.S. Geological Survey, 1400 Independence Road, Rolla, Missouri 65401;

Chief, Employee Relations Section, Central Region Personnel Branch, U.S. Geological Survey, Denver Federal Center, Denver, Colorado 80225;

Western Region EAP Administrator, Employee Relations and Development Section, Western Region Personnel Branch, 345 Middlefield Road, Menlo Park, California 94025.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate System Manager. Individuals must furnish their name and date of birth for their records to be located and identified.

RECORD ACCESS PROCEDURES:

Same as notification above. Any individual must also follow the Department Privacy Act Regulations regarding verification of identity and access to records (see 43 CFR 2.62).

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager. An individual must follow the Department's Privacy Act Regulations regarding verification and identity and amendment of records (see 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 Employer Assistance Program staff who records the counseling session, and therapists or institutions used as referrals or providing treatment.

INTERIOR/USGS-5

SYSTEM NAME:

Contract Files—Interior, USGS–5.

SYSTEM LOCATION:

The primary location of this system of records is in the Office of Procurement and Contracts, U.S. Geological Survey, 205 National Center, Reston, VA 22092. These records are also maintained in several Survey administrative field offices. A listing of these locations may be obtained from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have contracts or subcontracts with the Geological Survey and certain contractor employees. The system also contains records concerning individuals in their entrepreneurial capacity, corporations and other business entities. These records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of contract information, from inception of requirement, through contract award, contract administration and completion of the contract. Copies of contractor technical and cost proposals, including individual employee résumés and salary data, documentation pertaining to the award, contract administration, miscellaneous correspondence, and information on debts owed by a contractor as a result of overpayment, default, disallowed costs or other contractual obligation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 481.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is in awarding and administering contracts through their completion. Disclosure outside the Department of the Interior may be made to: (1) The U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit; (5) Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee; or the issuance of a security clearance, license, contract, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 (a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

By name of individual contractor and by contract number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 802–01.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Procurement Policy Branch, Office of Procurement and Contracts, U.S. Geological Survey, 205 National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her must be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access shall be addressed to the System Manager, signed by the requester and meet the content requirement of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information comes from the individual contractor.

INTERIOR/USGS-9

SYSTEM NAME:

National Research Council Grants Program—Interior, USGS–9.

SYSTEM LOCATION:

Office of the Chief Geologist, Geologic Division, U.S. Geological Survey, National Center, Mail Stop 912, Reston, Virginia 22092

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned to U.S. Geological Survey who are considered for grants made through the National Research Council.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, social security number, date of birth, and marital status of individuals considered for a grant. Records included are: The SF 171 (Application for Federal Employment) for each individual; research proposal; internal memoranda; correspondence between the National Research Council and the applicant; travel requests, if appropriate; and documentation for renewal of assignment, if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

43 U.S.C. 31 et seq., 5 U.S.C. 3101

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to evaluate individuals being considered for grants made through the National Research Council. Disclosures outside the Department of the Interior may be made to: (1) The National Research Council for evaluation purposes; (2) the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (3) disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (4) a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (5) a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (6) Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORD IN THE SYSTEM:

STORAGE:

Manual system maintained in files showing data on Research Associates assigned to the Geological Survey under this program.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are disposed of periodically as prescribed under Bureau Records Disposition Schedule RCS/Item 802–06b and 802–07.

SYSTEM MANAGER(S) AND ADDRESS:

Manpower Officer for Scientific Personnel, Geologic Division, U.S. Geological Survey, National Center, Mail Stop 912, Reston, Virginia 22092.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority of 5 U.S.C. 552a(k)(5), the Department of the Interior has adopted a regulation (43 CFR 2.79(c)(2)) which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) to the extent that the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for federal civilian employment. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

INTERIOR/USGS–15

SYSTEM NAME:

Earth Science Information Customer Records—Interior, USGS–15.

SYSTEM LOCATION:

(1) Earth Science Information Office (ESIO), National Mapping Division, U.S. Geological Survey, 509 National Center, Reston, Virginia 22092. (2) Earth Science Information Centers (for specific locations contact the System Manager).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested Earth Science information directly from, or whose requests have been forwarded to the Earth Science Information Office or its sponsored field centers. The system also contains records concerning individuals in their entrepreneurial capacity, corporations, and other business entities whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, credit card number and expiration date (as provided), customer's inquiry, response to inquiry, orders for products, appropriate accounting entries, and information on deposits with and debts owed the Bureau as a result of customer orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 3206; OMB Circular A–16; 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for reference by Geological Survey (GS) and GS contract employees in processing customer inquires, orders, and complaints. Disclosure outside the Department of the Interior may be made to: (1) The U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) a congressional office form the record of an individual in response to an inquiry the individual has made to the congressional office.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C.

552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 (a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders, correspondence may be recorded on microfilm and key information recorded on magnetic disk or on magnetic tape in some instances.

RETRIEVABILITY:

Stored by account number, indexed by name and zip code.

SAFEGUARDS:

Maintained in GS or GS contract areas occupied by GS or GS contract personnel during working hours with the building locked and/or guarded during off hours.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 1500-07.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Earth Science Information Office (ESIO), National Mapping Division, U.S. Geological Survey, 509 National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 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:

Customers on whom record(s) are maintained and GS or GS contract information researchers.

[FR Doc. 90-20869 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[CA-050-1530-70-U656]

Temporary Closure Order of Public Lands

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Temporary closure order of public lands.

SUMMARY: Notice is hereby given related to the closure of Bureau of Land Management (BLM) administered lands to all public use in accordance with regulations contained in 43 CFR subpart 8364.1. This action affects approximately 10 miles of the Smith-Etter Road from its intersection with Wilder Ridge Road to Telegraph Ridge Road within the King Range National Conservation Area. This portion of the road will be temporarily closed to public use to protect persons and property until restoration work is completed. Employees, agents and permittees of the BLM, private landowners or residents who require access along the Smith-Etter Road may be exempt from this closure as determined by the authorized officer. The area will be temporarily closed effective with the date of publication and continuing through September 20, 1990.

DATES: This closure order is effective by September 7, 1990.

SUPPLEMENTARY INFORMATION: The purpose of temporarily closing a portion of the Smith-Etter Road is to help prevent accidents from occurring. Intensive restoration work is currently being conducted as a result of efforts to contain a recent wildfire in the area. Several hand crews and a variety of heavy equipment with operators and support vehicles are covering the roadway, and safe passage by the visiting public is difficult. The area is also currently open to deer hunting, and numerous hunters with loaded weapons have been observed near the hand crews.

Upon the completion of the restoration work, tentatively scheduled for September 20, 1990, this emergency closure will be cancelled.

ADDRESSES: Maps and supporting documentation of the area temporarily closed to public use are available for review at the following location: Bureau of Land Management, Arcata Resource Area, 1125 16th Street, rm. 219, Arcata, CA 95521.

FOR FURTHER INFORMATION CONTACT: Barron Bail, Acting Area Manager at the Arcata address given above: telephone (707) 822-7648.

Edwin G. Katlas,

Acting District Manager, Ukiah.

[FR Doc. 90-21079 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-40-M

[AA-740-49-1510-02]

National Commission on Wildfire Disasters—Call for Nominations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; request for nominations.

SUMMARY: The Secretary of the Interior solicits nominations of persons to serve as members of the National Commission on Wildfire Disasters Authorized by the Wildfire Disaster Recovery Act of 1989, the Commission will be composed of 25 members, 13 appointed by the Secretary of Agriculture and 12 by the Secretary of the Interior. The role of the Commission, selection criteria and how to make nominations are described in the **SUPPLEMENTARY INFORMATION** of this notice.

DATES: Nominations must be received in writing by October 9, 1990.

ADDRESSES: Send written nominations to Director, Bureau of Land Management (WO-740), Division of Fire and Aviation Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Roger D. Erb, Division of Fire and Aviation Management, Bureau of Land Management (202) 653-8800.

SUPPLEMENTARY INFORMATION:

Committee Purpose

The National Commission on Wildfire Disasters is established by the "Wildfire Disaster Recovery Act of 1989" (16 U.S.C. 551 note.) to study the effects of disastrous wildfires on natural resources and on the financial and cultural aspects of the affected communities and to make recommendations on such policies as are needed to assist in an effective and efficient recovery of those resources and communities.

The Commission must make a final report of fundings and recommendations to the Secretaries of Agriculture and the Interior no later than December 1, 1991. As required by the Act, these findings and recommendations shall address the effects of disastrous fires on:

(1) The current and future economy of affected communities;
(2) The availability of sufficient timber supplies to meet future industry needs;
(3) Fish and wildlife habitats;
(4) Recreation in the affected areas;
(5) Watershed and water quality protection plans in effect within National Forest System lands;
(6) Ecosystems in the areas;
(7) Management plans of the affected National Forest System lands;
(8) National Parks;
(9) Bureau of Land Management Public lands;
(10) Wilderness; and
(11) Biodiversity of the affected areas.

Committee Membership

The Commission is to be composed of 25 people, 13 members to be appointed by the Secretary of Agriculture and 12 to

be appointed by the Secretary of the Interior. The Act requires the Secretary of the Interior to appoint at least one member from each of the following categories:

State or local officials,
Employees of the Department of the Interior,
Scientists from the academic community,
Wildlife biologists,
Members of environmental organizations,
Members of private nonprofit National Park organizations,
Conservationists,
Community leaders, and
Fire ecologists.

In making appointments, the Secretaries will seek to achieve diversity in membership, representative of the country's population as a whole. No more than three members will be named to the Commission from any one State. At least five members will be appointed from the following States, which have experienced disastrous fires since 1986: California, Oregon, Idaho, Wyoming, Montana, Colorado, Florida, North Carolina, and Arizona.

All nominees should have demonstrated ability to analyze and interpret data and information, evaluate programs, identify problems, and formulate and recommend corrective actions.

The Commission will meet at least twice in the next year. Additional meetings may be called by the Commission Chairperson, to be elected by the Commission members.

The "Wildfire Disaster Recovery Act of 1989" specifies that the work of this commission is to be funded through contributions. Commission members will serve without compensation; however, they may be reimbursed for travel expenses from contributions received. If sufficient funds are not raised, the Commission will not meet.

How to submit Nominations

Nominations must be received by October 9, 1990. The Secretary has designated the Bureau of Land Management as the USDI agency to receive and transmit the nominations to the Secretary. Persons wishing to make nominations should include names, addresses, occupations, current employer or organizational afiliation, and a brief summary of the nominee's suitability to serve on the Commission. Send nominations to Roger D. Erb at the address listed earlier in this notice.

Dated: Dated: August 23, 1990.

Manuel Lujan, Jr.,

Secretary of the Interior.

[FR Doc. 90-20942 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-84-M

[NM-060-00-4211-90]

Intent To Prepare an Amendment to the West Roswell Management Framework Plan Amendment; NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare an amendment to the West Roswell Management Framework Plan Amendment (MFPA). The plan amendment will be called the "Rio Bonito Amendment to the West Roswell MFPA".

SUMMARY: The BLM announces that it will prepare an amendment to the West Roswell MFPA to address the possible acquisition of approximately five thousand (5,000) acres of land in Lincoln County, State of New Mexico. The amendment will also address possible interim management if these lands are acquired by the BLM.

ADDRESSES: Those people wanting to be involved in the planning process, or be notified of any public participation opportunities and receive copies of the amendment to the West Roswell MFPA should write to: Area Manager, Roswell Resource Area, BLM, P.O. Drawer 1857, Roswell, NM 88201.

FOR FURTHER INFORMATION CONTACT: Saundra L. Porenta, Area Manager, at the address above or telephone (505) 624-1790.

SUPPLEMENTAL INFORMATION: The West Roswell MFPA does not address the issue of the BLM acquiring lands. The Federal Land Policy and Management Act (FLPMA) of 1976 (Pub. L. 94-579) requires that all acquisitions be consistent with land use plans. Section 205(b) of FLPMA states "Acquisition pursuant to this section shall be consistent with the mission of the Department involved and with applicable Departmental land use plans."

The area to be covered by this amendment is in Lincoln County along the Rio Bonito from the National Forest Boundary between sections 15 and 16 in Township 10 South, Range 13 East to its confluence with the Rio Ruidoso in section 4, Township 11 South, Range 17 East. Since the completion of the MFPA in March 1985, an increased awareness of both the lands issue and the value of riparian areas has occurred. The BLM is considering an exchange of lands that would bring into Federal ownership riparian acreage along the Rio Bonito, for BLM lands located elsewhere within the State of New Mexico. The land to be offered contains a diverse ecosystem of woodlands, wetlands, and cultivated areas. Potentially these lands can provide recreation, riparian areas, and wildlife habitat for upland game, big game and fisheries. These lands border on or are contained within the historical district which surrounds the townsite of Lincoln, New Mexico.

The BLM will amend the West Roswell MFPA to address the acquisition of lands along the Rio Bonito. The amendment will address possible interim management of the area until the Roswell Resource Management Plan (RMP) is completed in 1994. Acquisition of lands along the Rio Bonito offers the unique opportunity of developing a comprehensive resource management program which meets the Bureau's riparian goals and enhances protection of the historical and cultural values of the Lincoln Historical District.

Dated: August 29, 1990.

Monte G. Jordan,

State Director.

[FR Doc. 90-21070 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-FB-M

[OR-010-00-4320-02: GPO-392]

Lakeview District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a meeting of the Lakeview District Grazing Advisory Board.

SUMMARY: The Lakeview District Grazing Advisory Board will meet at 10 a.m. on October 10, 1990. The meeting will be held in the conference room of the Lakeview district office at 1000 South Ninth, Lakeview, OR 97630. The following items will be discussed:

1. Fiscal year 1990/91 range improvement projects
2. Warner Wetlands mitigation process
3. Drought related issues
4. Lakeview District prescribed burning program

FOR FURTHER INFORMATION CONTACT: Renee Snyder, Public Affairs Officer, Lakeview District, Bureau of Land Management, P.O. Box 151, Lakeview, OR 97630, (503) 947-6110.

Judy Ellen Nelson,

District Manager.

[FR Doc. 90-21060 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-33-M

[WY-030-00-4351-02]

Rawlins District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Rawlins District Advisory Council.

SUMMARY: Notice is hereby given of a meeting of the Rawlins District Advisory Council, in accordance with Public Law 94-597.

DATES: Thursday, October 4, 1990.

ADDRESSES: Bureau of Land Management, 1300 Third Street, Rawlins, Wyoming 92301.

FOR FURTHER INFORMATION CONTACT: Jack Kelly, BLM Lander Resource Area Manasger, 125 Sunflower, Lander, WY 82520, (307) 332-7822; or, Grant Petersen, Public Affairs Specialist, BLM Rawlins District, P.O. Box 670, Rawlins, WY 82301, (307) 324-7171.

SUPPLEMENTARY INFORMATION: The meeting will begin at 8:30 a.m. at the Lander Resource Area, 125 Sunflower, Lander, Wyoming. A public comment period will be held at 9 a.m. Following an orientation, the meeting will move to the South Pass area. The agenda items include: Public comment period, field review of the proposed Altamont Pipeline, status of wilderness studies, wild horse program update, and update of the Red Creek land exchange.

Dated: August 30, 1990.

Richard Bastin,

District Manager.

[FR Doc. 90-21072 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-22-M

[ID-010-90-4332-10]

Cascade Resource Area Off-Road Vehicle Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given relating to the use of off-road motorized vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR part 8340. The following described lands under administration of the Bureau of Land Management (BLM) are designated as either open, limited, or closed for off-road motorized vehicle use.

The area affected by this designation is known as the Cascade Resource Area. This designation is a result of planning decisions made in the 1988 Cascade Resource Management Plan. Public involvement was utilized in the formation of this decision. The Plan cleary states which areas are open, limited, or closed.

The Cascade Resoruce Area consists of valleys, hills, and mountains lying east, west, and north of Boise, Idaho. There are 487,466 acres of BLM managed lands within the area. These designations become effective upon publication in the Federal Register and will remain in effect until rescinded or modified by the authorized officer. An environmental analysis describing the impacts of this designation is available for inspection at the office listed below.

FOR FURTHER INFORMATION CONTACT: Richard A. Geier, Cascade Area Manager, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705, (208) 334-1310.

David B. Vaili,

Acting District Manager.

[FR Doc. 90-21038 Filed 9-6-90; 8:45 am]

BILLING CODE 4130-66-M

[AZ-921-00-4212-13; AZA-24131]

Exchange of Public and Private Lands in Mohave, Pima and Santa Cruz Counties; AZ

August 9, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange of land.

SUMMARY: This action informs the public of the completion of a private land exchange between the United States and PFL Enterprises, an Arizona General Partnership. The United States patented 1,375.00 acres in Mohave County and PFL Enterprises deeded 3,827.84 acres in Pima and Santa Cruz Counties.

FOR FURTHER INFORMATION CONTACT: John Gaudio, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 640-5534.

SUPPLEMENTARY INFORMATION: On May 22, 1990, pursuant to the Federal Land Policy and Management Act of October 21, 1976, the Bureau of Land Management conveyed the following described land by Patent No. 02-90-0016 to PFL Enterprises, an Arizona General Partnership:

Gila and Salt River Meridian, Arizona

T. 19 N., R. 21 W.,
Sec. 30, E½SE¼NW¼, E½NE¼SW¼, S½ NW¼NE¼SW¼, SW¼NE¼SW¼, SE¼ SW¼.
T. 22 N., R. 19 W.,
Sec. 22, all;
Sec. 28, all.

The areas described aggregate 1,375.00 acres in Mohave County.

In exchange, 24 parcels of land totaling 3,827.84 acres were deeded from PFL Enterprises to the United States. These lands are located in sec. 33, T. 17 S., R. 17 E.; secs. 1, 3, 4, 8, 9, 17, 18 and 19, T. 18 S., R. 17 E.; and secs. 3, 4, 8, 9 and 10, T. 20 S., R. 17 E., Gila and Salt River Meridian, in Pima and Santa Cruz Counties, Arizona. Specific descriptions are available at the address given above.

The purpose of this notice is to inform the public and interested State and local government officials of this exchange of public and private land.

The land transfered to the United States will be administered by the Bureau of Land Management as part of the Empire/Cienega Resource Conservation Area.

Mary Jo Yoas,

Chief, Branch of Lands Operations.

[FR Doc. 90-21011 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-32-M

[CA-050-00-4212-13, CA-26934]

Realty Actions; Sales, Leases, etc.: California

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Realty Action; Determination of Suitability and Exchange of Public and Private Lands in Shasta, Siskiyou and Tehama Counties, California.

SUMMARY: The following described public lands and mineral estates (subject to the completion of mineral reports) are being exchanged under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). Not all of the lands identified below will be involved in the exchange. Some may be deleted to eliminate possible conflicts that could arise during processing. The final selection of properties will be made to achieve comparable values between the selected public land and the offered private land.

Shasta County

M.D.M., T. 31 N., R. 5 W.,
Section 18, Lot 7. 8.09 acres.
M.D.M., T. 30 N., R. 3 W.,
Section 9, SENW, 40 ± acres.

Tehama County

M.D.M., T. 24 N., R. 2 E.,
Section 32, NENE, 40± acres.

In exchange for the above lands the United States will acquire the following described lands in Siskiyou County from The Trust for Public Land, 118 New

Montgomery Street, San Francisco, California 94105–3607.

Offered Private Land

Siskiyou County

M.D.M, T. 48 N., R. 6 W.,
Section 21, E½, 325± acres.

DATES: This notice, as provided in 43 CFR 2201.1(b), shall segregate the public lands proposed for exchange. By publication of this notice, those vacant, unappropriated and unreserved public lands described above are segregated from settlement, location and entry under the public land laws, including the mining laws, but not the mineral leasing laws. The segregative effect shall terminate upon issuance of patent, upon publication in the **Federal Register** of a termination of the segregation, or two (2) years from the date of this notice, whichever occurs first.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire non-Federal lands which have high public values for deer winter range in the Horseshoe Ranch Habitat Management Area.

The value of lands to be exchanged will be approximately equal. Full equalization of values will be achieved by payment to the United States by The Trust for Public Land an amount not to exceed 25 percent of the total value of the lands to be transferred out of public ownership. Selected lands not utilized in this exchange will be put in the Statewide exchange pool developed between The Trust for Public Lands and the California Bureau of Land Management to acquire lands identified in the statewide pooling agreement.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

2. Authorized pipelines, power lines, roads, highways, telephone lines, mineral leases, and any other authorized land uses will be identified as prior existing rights.

3. All necessary clearances for archaeology, rare plants and animals, and hazardous materials shall be obtained prior to conveyance of title.

FOR FURTHER INFORMATION: Information concerning this exchange is available from Howard Matzat at the Redding Resource Area Office, 355 Hemsted Dr., Redding, California 96002; (916) 246–5325. For a period of forty-five (45) days interested parties may submit comments to Mark Morse, Area Manager, at the above listed address. Comments on exchange parcels should identify the subject parcel.

Mark T. Morse,

Redding Resource Area Manager.

[FR Doc. 90–21075 Filed 9–6–90; 8:45 am]

BILLING CODE 4310–40–M

[ID–030–00–4212–12]

Amendment of Big Desert Management Framework Plan (MFP)/ Notice of Realty Action (NORA), Exchange of Public Lands in Bingham County, Idaho, I–26444

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of action; amendment of Big Desert Management Framework Plan (MFP), notice of realty action (NORA), exchange of public lands in Bingham County, Idaho.

NOTICE: Notice is hereby given that BLM has amended the Big Desert MFP to allow for the transfer of certain public lands in Bingham County in exchange for scattered sections of State of Idaho lands in Binghams, Blaine, Butte, Custer, and Power Counties, Idaho. The exchange will include surface and mineral estates.

SUMMARY: The following described lands have been examined and through the public supported land use planning process have been determined to be suitable for transfer by land exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Public lands to be transferred are described as:

Boise Meridian, Idaho

T. 2 N., R 30 E.,
Sec. 3, Lots 1–4, S½N½, S½,
Sec. 4, Lots 1–4, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼,
Sec. 8, S½S½,
Sec. 17, All,
Sec. 18, Lots 1–4, E½W½, E½,
Sec. 19, Lots 1–4, E½W½, E½,
Sec. 20, All,
Sec. 29, All,
Sec. 30, Lots 1–4, E½W½, E½,
Sec. 31, Lots 1–4, E½W½, E½,
Sec. 32, All.
T. 1 N., R. 33 E.,
Sec. 5, Lots 1–4, S½N½, S½,
Sec. 6, Lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.

Comprising 7,549.35 acres.

Non-federal lands to be acquired are described as:

Boise Meridian, Idaho

T. 1 N., R. 29 E.,
Sec. 36, All.
T. 1 N., R. 30 E.,
Sec. 16, All.
T. 5 N., R. 26 E.
Sec. 36, Lots 1–10, N½NE¼, NE¼NW¼, NE¼SW¼, N½SE¼.
T. 9 N., R. 25 E.,
Sec. 16, All.
T. 1 S., R. 30 E.,
Sec. 16, All.
Sec. 36, All.
T. 3 S., R. 28 E.,
Sec. 16, All.
T. 3 S., R. 30 E.,
Sec. 16, All.
T. 4 S., R. 28 E.,
Sec. 16, All.
T. 5 S., R. 28, E.,
Sec. 16, All.

Comprising 6,410.86 acres.

The purpose of the exchange is to consolidate existing land ownership patterns of the public and state lands which would result in more efficient land management by both agencies. The exchange will also allow the Bureau to acquire certain State lands with important wildlife and riparian habitat.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted to equalize the values upon completion of the final appraisal of the lands.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions: Ditches and canals (Act of August 30, 1890—43 U.S.C. 945) and powerline right-of-way I–0881 to Utah Power and Light. Continued use of the land by the right-of-way holder is proper, subject to the terms and conditions of the grant. Administrative responsibility previously held by the United States will be assumed by the patentee.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant.

SUPPLEMENTARY INFORMATION: Detailed information concerning the conditions of the land exchange cna be obtained by contacting Barbara Klingenberg, Realty Specialist, at (208) 524–7555.

PLANNING PROTEST: Any party that participated in the plan amendment and is adversely affected by the amendment may protest this action only as it affects issues submitted for the record during the planning process. The protest shall be in writing and filed with the Director (760), Bureau of Land Management, 1800

"C" Street, NW., Washington, DC 20240, within 30 days of this notice.

LAND EXCHANGE COMMENTS: For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments regarding the land exchange to the District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401. Objection will be reviewed by the State Director who may sustain, vacate, or modify the realty action. In the absence of any planning protests or objections regarding the land exchange, this realty action will become the final determination of the Department of the Interior and the planning amendment will be in effect.

Dated: August 29, 1990.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 90-21078 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-GG-M

[NM-030-00-4212-11; NMNM83857]

Recreation and Public Purpose Lease/Conveyance, Dona Ana County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; recreation and public purposes (R&PP) act classification.

SUMMARY: The following public land in Dona Ana County, New Mexico has been examined and found suitable for classification for lease or conveyance to the Gadsden Independent School District under the provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*): T. 26 S., R. 3 E., NMPM

Section 14, Lots 51, 52, 59, 60, 73, and 74, containing 15.016 acres, more or less.

The school district proposes to use the subject land for an elementary school site. The subject land has been identified for disposal in the BLM's Record of Decision for the Southern Rio Grande Plan Amendment (December 1986).

EFFECTIVE DATE: Comments on the proposed lease/conveyance or classification of public land must be submitted on or before October 28, 1990.

ADDRESSES: Comments should be sent to the Bureau of Land Management, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Marvin M. James at the address above or at (505) 525-8228.

SUPPLEMENTARY INFORMATION: The lease/patent, when issued, will be subject to the following terms, conditions, and reservations:

1. All valid existing rights of record.
2. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.
3. A right-of-way for ditches and canals constructed by the authority of the United States.
4. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Dated: August 31, 1990.

Robert R. Calkins,

Associate District Manager.

[FR Doc. 90-21077 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-FB-M

[NDM79389A through NDM79389C; MT-030-00-4212-14]

Realty Actions; Sales, Leases, etc.: North Dakota

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice of realty action, sale of public land in North Dakota.

SUMMARY: The following land has been found suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the estimated fair market value (FMV). The land will not be offered for sale for at least 60 days following the date of this notice.

Parcel	Legal Description	Acreage	County	FMV
NDM79389A	T. 146 N., R. 97 W., 5th PM sec. 28: NE¼	160.00	Dunn	$7,200
NDM79389B	T. 143 N., R. 89 W., 5th PM sec. 34: NW¼SW¼	40.00	Mercer	3,200
NDM79389C	T. 139 N., R. 104 W., 5th PM sec. 30: Lot 2	37.15	Golden Valley	2,800
		237.15		

SUPPLEMENTARY INFORMATION: The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

The land will be offered for sale at public auction beginning at 10 a.m. MDT, on November 9, 1990, at 2933 Third Avenue West, Dickinson, North Dakota 58601. The sale will be done by modified competitive procedures. The tract's lessees or adjoining land owners will be given the opportunity to meet the highest bid received at public auction. The sale will be by sealed bid only.

All sealed bids must be submitted to the BLM's Dickinson District Office at 2933 Third Avenue West, Dickinson, North Dakota 58601, no later than 4:30 p.m. MDT on November 8, 1990. Bid envelopes must be marked on the left front corner with the parcel number and the sale date. Bids must not be for less than the appraised FMV specified in this notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior, BLM for not less than 10 percent of the amount bid.

Bids on unsold parcels will be opened each following Wednesday at 10 a.m. Mountain Time until the parcels are sold.

The terms and conditions applicable to the sale are:

1. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this office.

2. A right-of-way is reserved for ditches and canals constructed by the authority of the United States under the Authority of the Act of August 30, 1890 (26 Stat. 291; 43 U.S.C. 945).

3. The patents will be subject to all valid existing rights to include rights-of-way.

Federal law requires that all bidders must be U.S. Citizens 18 years old or older, or, in the case of corporations, be subject to the laws of any State of the U.S. Proof of these requirements must accompany the bid.

Under the modified competitive sale procedures, an apparent high bid will be declared at the public auction. The apparent high bidder and the lessee and adjoining land owners will be notified. They will have 30 days from the date of the sale to exercise the preference consideration given to meet the high bid.

Should they fail to submit a bid that matches the apparent high bid within the specified time period, the apparent high bidder shall be declared the high bidder. The total purchase price for the land shall be paid within 180 days from the date of the sale.

Detailed information concerning the sale, including the reservations, procedures for and condition of sale, and planning and environmental documents, is available at the Dickinson District Office, Bureau of Land Management, 2933 Third Avenue West, Dickinson, North Dakota 58601.

For a period of 45 days from the date of this Notice in the Federal Register, interested parties may submit comments to the District Manager, Dickinson District, at the above address. In the absence of any objections, this proposal will become the final determination of the Department of the Interior.

Dated: August 28, 1990.

William F. Krech,

District Manager.

[FR Doc. 90-21074 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-DN-M

Bureau of Reclamation

Narrows Project, Utah; Scoping Meetings and Intention to Prepare a Draft Environmental Impact Statement

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS) and notice of scoping meetings.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) proposes to prepare a DEIS for the Narrows Project, Utah. The project sponsor, Sanpete Water Conservancy District, has given notice to Reclamation that it intends to apply for financing for the Narrows Project under the Small Reclamation Projects Act of 1956, as amended. The purpose of the project is to develop a supplemental irrigation water supply of 5,400 acre-feet per year for approximately 12,000 acres of irrigated land in northern Sanpete County, Utah.

DATES AND LOCATIONS: Two scoping meetings have been scheduled to solicit information from all interested public entities and individuals to assist in determining the scope of the DEIS and to identify any significant issues related to the proposed actions.

- October 3, 1990, 7 p.m., Fairview City Hall, 85 South State Street, Fairview, Utah; and
- October 4, 1990, 7 p.m., Carbon County Courthouse, 120 East Main Street, Price, Utah.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Stuver, Regional Loan Engineer, and/or Mr. Harold Sersland, Regional Environmental Officer, Upper Colorado Region, Bureau of Reclamation, 125 South State Street, P.O. Box 11568, Salt Lake City, Utah 84147; telephones: (801) 524-3304 or (801) 524-5580, respectively.

SUPPLEMENTARY INFORMATION: The Narrows Project would be accomplished by constructing a dam in the Gooseberry Creek drainage approximately 2.5 miles upstream from the existing Lower Gooseberry Reservoir, or about 4 miles east of Fairview, Utah. Two alternative damsites have been identified, one located on Gooseberry Creek and the other located offstream.

The reservoir would store flows from Gooseberry Creek and its tributaries, which are tributary to the Price River, located in the Colorado River Basin. The stored water would be released through the existing Narrows Tunnel to Cottonwood Creek, a tributary of the San Pitch River, located in the Sevier River Basin of the Great Basin. The Narrows Tunnel would be rehabilitated under the project. An annual total of 5,400 acre-feet of water would be diverted by the project from the Price River drainage to the San Pitch River drainage.

Reclamation makes every effort to assure that its meetings are accessible to persons with disabilities. Those needing special assistance should contact the above named individuals.

Dated: August 31, 1990.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 90-21067 Filed 9-6-90; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Meeting; National Capital Region

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission will be held on Tuesday, September 25, 1990 at 1:30 p.m., in the Executive Conference Room at the National Capital Planning Commission, 1325 G Street, NW., Washington, DC.

The Commission was established by Public Law 99-652, for the purpose of advising the Secretary of the Interior or the Administrator of the General Services Administration, depending on which agency has jurisdiction over the lands involved in the matter, on policy and procedures for establishment of (and proposals to establish)a commemorative works in the District of Columbia or its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission evaluates each memorial proposal and makes recommendations to the Secretary or the Administrator with respect to appropriateness, site location and design, and serves as an information focal point for those seeking to erect memorials on Federal land in Washington, DC, or its environs.

The members of the Commission are as follows:

James Ridenour, Chairman, Director, National Park Service, Washington, DC
George M. White, Architect of the Capitol, Washington, DC
Honorable Andrew J. Goodpaster, Chairman, American Battle Monuments Commission, Washington, DC
J. Carter Brown, Chairman, Commission of Fine Arts, Washington, DC
Glen Urquhart, Chairman, National Capital Planning Commission, Washington, DC
Honorable Marion S. Barry, Jr., Mayor of the District of Columbia, Washington, DC
Honorable John Alderson, Administrator, General Services Administration, Washington, DC
Honorable Frank Carlucci, Secretary of Defense, Washington, DC

The purpose of the meeting will be to review and take action on the following:

I. Request for Area I approval for the Memorial to George Mason authorized

by Public Law 101–358, which became effective on August 10, 1990.

II. Review of new memorial proposals introduced into the Congress.

Dated: August 29, 1990.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 90–21082 Filed 9–4–90; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Microenterprise Advisory Committee

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of an A.I.D. Advisory Committee on Microenterprise public meeting on Tuesday, September 18, 1990, in room 3886, Department of State. The subcommittee of the full Advisory Committee will review the current issues being dealt with by the Agency for International Development's microenterprise programs and will set an agenda for Committee action over the coming two years. The next meeting of the full Committee is scheduled for December 1990; an announcement giving the exact time and place of that meeting will be published subsequently in the **Federal Register.**

The September 18 public meeting will begin at 1 p.m. and adjourn at 5 p.m. The meeting is open to the public. Any interested person may attend, file written statements with the Committee before or after the meeting, or present oral statements in accordance with procedures established by the Committee and as time permits. To ensure pre-security clearance through the State Department at the C Street entrance, persons planning to attend must notify A.I.D. by September 12.

Dr. Ross E. Bigelow, Deputy Director, Office of Small, Micro and Informal Enterprise, Bureau for Private Enterprise, is designated as the A.I.D. representative at the meeting. Those who plan to attend the September 18 meeting, or who wish more specific information concerning this meeting, should contact Dr. Bigelow, at 202-647-2727.

Dated: August 28, 1990.

Ross E. Bigelow,

Federal Representative, A.I.D. Advisory Committee on Microenterprise.

[FR Doc. 90–21010 Filed 9–6–90; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31656]

Joppa and Eastern Railroad Co.; Construction; Joppa Plant to Burlington Northern Railroad near Joppa, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of availability of environmental assessment.

SUMMARY: By decision served July 5, 1990 in this proceeding, the Commission granted, subject to environmental review, Joppa and Eastern Railroad Company's (J&E) petition for exemption from the requirements of 49 U.S.C. 10901 for the construction of 4.05 miles of rail line extending from Burlington Northern Railroad's main line in Massac County IL, to the Joppa Steam Electric Generating Plant near Joppa, IL. The effective date of the decision was postponed until completion of the Commission's environmental review and further decision. The Commission has prepared its environmental assessment which concludes that the proposed action will not significantly affect the quality of the human environment provided the mitigation measures set forth in the environmental assessment are implemented by J&E. The Commission will consider any comments to the conclusions reached in the environmental assessment before rendering a final decision in this proceeding.

DATES: Written comments must be filed by October 9, 1990.

ADDRESSES: Send an original and 10 copies of comments referring to Finance Docket No. 31656 to:

(1) Section of Energy and Environment, room 3219, Interstate Commerce Commission, Washington, DC 20423, and

one copy of the comments to:

(2) Petitioner's representative: John R. Molm; Troutman, Sanders, Lockerman and Ashmore; Suite 1400, Candler Bldg., 127 Peachtree St. NE.; Atlanta, GA 30303–1810.

FOR FURTHER INFORMATION CONTACT: Harold M. McNulty (202) 275–6875 or Elaine K. Kaiser, Section Chief (202) 275–7684. (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Copies of the Environmental Assessment may be obtained from the Section of Energy and Environment, Office of Economics, room 3219, Interstate Commerce Commission, Washington, DC 20423. Telephone (202) 275–7684. Assistance for the hearing impaired is available through TDD Services at (202) 275–1721.

By the Commission, Howard K. Face, Director, Office of Economics.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–21097 Filed 9–6–90; 8:45 am]

BILLING CODE 7035–01–M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Southwestern Bell Corporation, One Bell Center, St. Louis, Missouri 63101, a Delaware Corporation.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

Company	Jurisdiction of incorporation
(i) Southwestern Bell Telephone Company.	Missouri.
(ii) SBC Administrative Services, Inc.	Delaware.
(iii) SBC Corporate Services, Inc.	Delaware.
(iv) SBC Technology Resources, Inc.	Delaware.
(v) Southwestern Bell Publications, Inc.	Delaware.
(vi) SBC Asset Management, Inc.	Delaware.
(vii) Southwestern Bell Telecommunications, Inc.	Delaware.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–21094 Filed 9–6–90; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–C–30174]

Petition for Declaratory Order—American Movers Conference Consumer Marketing and Research Program—Section 11910(a)(2)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of proceeding.

SUMMARY: The Commission is granting the request by American Movers Conference Consumer Marketing and Research Program (AMC) for institution of a declaratory order proceeding. Petitioner seeks a determination that the marketing and research program it wishes to establish would not violate

the provisions of 49 U.S.C. 11910(a)(2), which prohibits disclosure by carriers of information about their shippers if that information may: (1) Be used to the shipper's detriment; or (2) improperly reveal the shipper's business transactions. The Commission invites comments on whether the release by household goods carriers of shipper information, including names and addresses, without shipper consent, to the AMC for use in its marketing and research program will result in any detriment or harm to the shipper.

DATES: Persons interested in participating in this proceeding should so advise the Commission in writing by September 24, 1990. A list of interested parties will then be compiled and served. Petitioner will have 10 days after the service date of that list to serve each party on the list and the Commission with a copy of its petition and any additional information. Parties will then have 35 days after the service date of the service list to submit their comments to the Commission and to all other parties. Parties will have 50 days after service of the service list to reply.

ADDRESSES: Send written notice of intent to participate and an original and, if possible, 10 copies of comments referring to No. MC–C–30174 to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Judy Ann Barnes, (202) 275–7962,

or

Richard B. Felder, (202) 275–7291.

(TDD for hearing impaired: (202) 275–1721.)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 275–7428. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

Decided: August 29, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–21095 Filed 9–6–90; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 394 (Sub-No. 3)]

Cost Ratios for Recyclables—Compliance Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of postponement of procedural schedule.

SUMMARY: The procedural schedule for submission of evidence and issuance of a decision is postponed pending a further order of the Commission. This suspension is necessary to allow time for the railroads to prepare their initial submission after 1989 cost data are published under the Uniform Railroad Costing System (URCS) and to permit resolution of pending issues regarding recyclable rate compliance procedures.

EFFECTIVE DATE: September 6, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Notice of postponement of procedureal schedule. Set forth in the Commission's recyclable rate compliance regulations (49 CFR part 1145, published at 54 FR 42509, October 17, 1989), as it applies to a proceeding to be conducted beginning September 15, 1990.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

This decision will not significantly affect the quality of the human environment or conservation of energy resources.

Decided: August 20, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–21098 Filed 9–6–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31726]

Exemption; Fernglen Railroad Co., Inc.—Acquisition and Operation Exemption—Continental Rail-Freight Services, Inc.

Fernglen Railroad Co., Inc. (FRC), has filed a notice of exemption to acquire and operate 9.1 miles of rail line owned by Continental Rail-Freight Services, Inc., between milepost 150.0, at Harleigh Junction, and milepost 159.1, at Gowan, in Luzerne County, PA. The transaction was to be consummated immediately after the effective date of the exemption, which was August 16, 1990.

Any comments must be filed with the Commission and served on Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

FRC shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This 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: August 22, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–20969 Filed 9–6–90; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to CERCLA

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on August 16, 1990, a proposed Consent Decree in *United States* v. *General Laminates, Inc., Basil J. Falcone, and J. Bryan Dowling*, (M.D. FLA.) (Civil No. 89–947–Civ–J–12), has been lodged with the Federal District Court for the Middle District of Florida. The Complaint sought recovery of approximately $206,000 in costs incurred by EPA to date in response to the release and threatened release of hazardous substances at a laminating facility in Jasper, Florida ("General Laminates") pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), *as amended*, 42 U.S.C. 9601 *et al.* This settlement resolves claims of the United States against defendant J. Bryan Dowling. The Complaint alleged that Dowling was a 3% owner of the company and operator of the facility. Under the proposed Consent Decree, Dowling will pay $10,000.

The Department of Justice will receive for a period of thirty (30) days from the

date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *General Laminates, Inc., Basil J. Falcone, and J. Bryan Dowling,* DJ #90-11-3-479.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Middle District of Florida, 409 Post Office Building, 311 West Monroe Street, Jacksonville, Florida 32201; (2) the U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365; and (3) the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202-347-7829. Copies of the proposed Decree may be obtained in person or by mail from the Document Center. In requesting a copy lease enclose a check in the amount of $3.50 ($0.25 per page for reproduction costs) payable to Consent Decree Library.

George W. Van Cleve,

Deputy Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 90-21012 Filed 9-6-90; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Final Judgment by Consent Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 27, 1990, a consent decree in *United States* v. *Hercules, Incorporated, et al.,* Civil Action No. 89-562-LON, was lodged with the United States District Court for the District of Delaware.

The complaint filed by the United States on October 16, 1989, alleges that Hercules, Incorporated, Avon Products, Inc., Champlain Cable Corporation, Chrysler Corporation, E.I. duPont de Nemours & Co., Inc., General Motors Corporation, ICI Americas, Inc., and Witco Corporation, are responsible to reimburse the United States costs totalling in excess of $745,928.00 incurred by the Environmental Protection Agency ("EPA") between November 1, 1979 and May 31, 1984, in responding to the release and threatened release of hazardous substances from the Delaware Sand & Gravel Superfund Site in New Castle County, Delaware (the "Site"). The complaint alleges that the defendants arranged for the transport to and disposal of liquid wastes containing hazardous substances at the Site. The United States, on behalf of EPA, sought judgment against the defendants joinly and severally for reimbursement of the aforementioned past response costs under section 107(a) of CERCLA, 9607(a), and a determination under section 113(g)(2) of CERCLA, 42 U.S.C. 9613(g)(2), that any finding of liability would be binding in any subsequent action for further response costs.

In the consent decree, seven "Settling Defendants", Hercules, Incorporated, Champlain Cable Corporation, Chrysler Corporation, E.I. duPont de Nemours & Co., Inc., General Motors Corporation, ICI Americas, Inc., and Witco Corporation, have agreed to reimburse the Hazardous Substance Reponse Trust Fund (the "Fund") in the amount of $600,000.00 The consent decree does not resolve the Settling defendants' liability for any costs other than those incurred by the Untied States between November 1, 1979 and May 31, 1984, and costs of enforcement associated with and statutory interest accrued upon those costs. Defendant Avon Products, Inc., has not agreed to resolve its liability to the United States. Under the consent decree, the Court will retain jurisdiction over the United States' claim against Avon Products, Inc., and the United States' request for declaratory relief against all of the defendants under section 113(g)(2) of CERCLA, 42 U.S.C. 9613(g)(2).

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Hercules, Incorporated, et al.,* DOJ Ref. No. 90-11-2-298. The proposed consent decree may be examined at the office of the United States Attorney, District of Delaware, J. Caleb Boggs Federal Building, 844 King Street, room 5110, Wilmington, Delaware. Copies of the consent decree may also be examined and obtained in person at the Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice, room 6314, Tenth and Pennsylvania Avenue, NW., Washington, DC. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice, Box 7611, Ben Franklin Station, Washington, DC 20044. When requesting a copy of the consent decree by mail, please enclose a check in the amount of $1.80 (ten cents per page reproduction costs) payable to the "Consent Decree Library."

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-21013 Filed 9-6-90; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree in United States v. Sheller-Globe Corporation, et al., Under the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2), and the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Sheller-Globe Corporation, et al.,* Civil Action No. 1:90 CV 733 was lodged with the United States District Court for the Western District of Michigan, on August 28th, 1990. This action was brought for the cleanup of the Auto Ion Superfund site ("Site") located in Kalamazoo, Michigan, and for the recovery of costs expended by the United States in connection with the Site.

The consent decree is entered into between plaintiff, the United States, and numerous parties referred to as "Settling Defendants," including one party that is alleged to have owned the Site at the time of disposal of hazardous substances there, and 40 additional parties that are alleged to have arranged for treatment or disposal of hazardous substances at the Site. The Decree requires the Settling Defendants to finance, design, and perform an operable unit remedial action for the Site. The main components of this remedial action include: (1) Excavation, treatment and off-site disposal of contaminated soils found above the groundwater table at the Site, (2) replacement of such contaminated soils with clean fill and (3) maintaining a security fence to control access to the Site pending completion of remedial action at the Site. The Decree also requires the Settling Defendants to pay all oversight costs and other response costs incurred by the U.S. Environmental Protection Agency after December 27, 1989.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Sheller-Globe Corporation, et al.*, DJ Ref. #90-11-2-479.

The proposed consent decree may be examined at the office of the United States Attorney for the Western District of Michigan, 399 Federal Building, Grand Rapids, Michigan 49503 and at the Region V Office of the U.S. Environmental Protection Agency, 111 West Jackson Street, Third floor, Chicago, Illinois 60604, (202) 347-2072. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $40.00 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Divison.

[FR Doc. 90-21014 Filed 9-6-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 17, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 17, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 27th day of August 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm	Location	Date received	Date of petition	Petition No.	Articles produced
American Fibrit-Wayne Road (UPIU)	Battle Creek, MI	8/27/90	7/31/90	24,769	Door panels.
American Fibrit-Armstrong Road (UPIU)	Battle Creek, MI	8/27/90	7/31/90	24,770	Door panels.
American Home Products/Whitehall Laboratories (OCAW).	Elkhart, IN	8/27/90	8/13/90	24,771	Medicine.
Champion Intl., Corp., Klickitat Div. (Workers)	Klickitat, WA	8/27/90	8/15/90	24,772	Softwood lumber.
CNG Development Co. (Workers)	Pittsburgh, PA	8/27/90	8/14/90	24,773	Oil & gas.
DeeVille Blouse Co., Inc. (ILGWU)	Danielsville, PA	8/27/90	8/16/90	24,774	Womens' blouses.
DICO Inc. (Workers)	Des Moines, IA	8/27/90	8/14/90	24,775	Motor parts.
ELW (Workers)	Lafayette, GA	8/27/90	8/16/90	24,776	Yarn.
Evanite Fiber Corp., Battery Separator Div. (UPIU).	Corvallis, OR	8/27/90	8/13/90	24,777	Battery separators.
Gallagher & David, Inc. (Company)	Havermill, MA	8/27/90	8/15/90	24,778	Shoe patterns.
Gear Drilling Co. (Company)	Denver, CO	8/27/90	8/17/90	24,779	Oil & gas.
ICL Retail Systems (Company)	Utica, NY	8/27/90	8/15/90	24,780	Cash registers.
L.A. Shirt Co., Inc. (ACTWU)	Northampton, PA	8/27/90	8/17/90	24,781	Ladies' shirts & blouses.
Lexington Sportswear Co. (Workers)	Lexington, SC	8/27/90	8/14/90	24,782	Men's & boys' outerwear.
N.I. (Norris) Ind., (IAM)	Riverbank, CA	8/27/90	8/09/90	24,783	Casings.
Olin Specialty Products, Inc. (Workers)	Limerock, RI	8/27/90	8/13/90	24,784	Photo. chemicals.
Red Eagle Resources Corp. (Workers)	Oklahoma City, OK	8/27/90	8/09/90	24,785	Oil & gas.
Ristance Corp. (Workers)	Mentone, IN	8/27/90	8/09/90	24,786	Wire assemblies & harness products.
Sherwood Medical Co. (Workers)	Waterbury, CT	8/27/90	8/16/90	24,787	Tubing.
Slawson, Exploration Co., Inc. (Company)	Amarillo, TX	8/27/90	8/06/90	24,788	Oil & gas.
White Storage & Retrieval Systems, Inc. (Company).	Kenilworth, NJ	8/27/90	8/14/90	24,789	Retrieval systems.

[FR Doc. 90-21087 Filed 9-6-90; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each

of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-24, 541; Anchor Hocking Industrial Glass Co., Monaca, PA

TA-W-24, 565; Ben-Mont Corp, Bennington, VT

TA-W-24, 583; My Lady Sportswear, Newark, NJ

TA-W-24, 585; Pollington Machine & Tool, Inc., Marion, MI

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24, 639; J.H. Collectibles, Nevada, MO

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA-W-24, 584; Panhandle Royalty Co., Oklahoma City, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24, 582; Lynell, Inc., Zanesville, OH

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24, 570; Egyptian Drilling, Fairfield, IL

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-24, 571; The Eureka Co., Bloomington, IL

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24, 574; GID Energy, Inc., Houston, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24, 590; Ampacet Corp., Mt. Vernon, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24, 568; Bundy Tubing, Winchester, KY

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-24, 557; Varco International, Inc., Martin-Decker, Marshall, TX

A certification was issued covering all workers separated on or after January 1, 1990.

TA-W-24, 579; Lomax Exploration Co., Roosevelt, UT

A certification was issued covering all workers separated on or after June 21, 1989.

TA-W-24, 580; Lomax Exploration Co., Salt Lake City, UT

A certification was issued covering all workers separated on or after June 21, 1989.

TA-W-24, 546; Flextronics International, Fitchburg, MA

A certification was issued covering all workers separated on or after June 13, 1989.

TA-W-24, 577; Shirley of Atlanta, Inc., d.b.a. Lafayette Mfg Co., Lafayette, GA

A certification was issued covering all workers separated on or after June 3, 1989 and before May 31, 1990.

TA-W-24, 577A; Shirley of Atlanta, Inc., Headquarters, Atlanta, GA

A certification was issued covering all workers separated on or after June 3, 1989 and before May 31, 1990.

TA-W-24, 577B; Shirley of Atlanta, Inc., d.b.a. Georgia Sportswear, Carnesville, GA

A certification was issued covering all workers separated on or after June 3, 1989 and before May 31, 1990.

TA-W-24, 577C; Shirley of Atlanta, Inc., d.b.a. Georgia Sportswear, Ila, GA

A certification was issued covering all workers separated on or after June 3, 1989 and before May 31, 1990.

TA-W-24, 577D; Shirley of Atlanta, Inc., d.b.a. Rainsville Garment Co., Rainsville, AL

A certification was issued covering all workers separated on or after June 3, 1989 and before May 31, 1990.

TA-W-24, 577E; Shirley of Atlanta, Inc., d.b.a. Crossville Mfg Co., Crossville, AL

A certification was issued covering all workers separated on or after June 3, 1989 and before May 31, 1990.

TA-W-24, 556; Laser Magnetic Storage International Co., Norristown, PA

A certification was issued covering all workers separated on or after June 12, 1989.

TA-W-24, 587; Thomson Co., Thomson, GA

A certification was issued covering all workers separated on or after June 21, 1989.

TA-W-24, 554; Kellwood Co., Greenfield, TN

A certification was issued covering all workers separated on or after May 24, 1989.

TA-W-24, 562; Robertshaw—Tennessee Div., Inc., Carthage, TN

A certification was issued covering all workers separated on or after June 15, 1989.

TA-W-24, 534; Prophecy Corp., Carrollton, TX

A certification was issued covering all workers separated on or after June 6, 1989.

TA-W-24, 586; Sunstrand Advanced Technology Group, Denver, CO

A certification was issued covering all workers separated on or after June 20, 1989.

TA-W-24, 543; Bridal Originals, St Louis, MO and Operating at Various Other Locations:

TA-W-24, 543A Collinsville, IL

TA-W-24, 543B Belleville, IL

TA-W-24, 543E Bowling Green, MO

TA-W-24, 543C Duquoin, IL

TA-W-24, 543D Sparta, IL

A certification was issued covering all workers separated on or after June 15, 1989.

I hereby certify that the aforementioned determinations were issued during the month of August 1990. Copies of these determinations are available for inspection in room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: August 29, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-21088 Filed 9-6-90; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well a such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or government agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Florida:
FL90-17 (Jan. 5, 1990)... p. 143, p. 144.
New Jersey:
NJ90-2 (Jan. 5, 1990)..... p. 665, pp. 666-671.
NJ90-3 (Jan. 5, 1990)..... p. 685, pp. 686-692.
NJ90-4 (Jan. 5, 1990)..... p. 709, pp. 710-712,715.
NJ90-7 (Jan. 5, 1990)..... p. 731, pp. 732,734-734b.
New York:
NY90-2 (Jan. 5, 1990).... p. 739, pp. 744,755-757.
NY90-7 (Jan. 5, 1990).... p. 797, pp. 799,807.
NY90-13 (Jan. 5, 1990).. p. 861, p. 863.
Pennsylvania:
PA90-2 (Jan. 5, 1990).... p. 921, p. 922.
PA90-5 (Jan. 5, 1990).... p. 951, p. 951.
PA90-8 (Jan. 5, 1990).... p. 987, p. 988.
PA90-9 (Jan. 5, 1990).... p. 997, p. 999.
PA90-14 (Jan. 5, 1990).. p. 1019, pp. 1020-1021.
Virginia:
VA90-5 (Jan. 5, 1990).... p. 1213, p. 1214.
VA90-23 (Jan. 5, 1990).. p. 1271, p. 1272.

Volume II

None

Volume III

Arizona:
AZ90-1 (Jan. 5, 1990).... p. 9, pp. 11-14.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 31st day of August, 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90-21002 Filed 9-6-90; 8:45 am]

BILLING CODE 4510-27-M

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Pension Fund Investment Behavior of the Advisory Council on Employee Welfare and

Pension Benefit Plans will be held at 9 a.m. Monday, September 24, 1990, in room N–3437 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This nine member Working Group was formed by the Advisory Council to study issues relating to Pension Fund Investment Behavior for employee welfare plans covered by ERISA.

The purposes of the September 24, meeting are (1) to conduct a general discussion by members of the work group regarding testimony taken and findings to date, and (2) to develop preliminary findings and recommendations for consideration by the Advisory Council. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the Working Group should submit written requests on or before September 19, 1990, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 19, 1990.

Signed at Washington, DC this 4th day of September, 1990.

David George Ball,

Assistant Secretary for Pension and Welfare Benefits Administration.

[FR Doc. 90–21091 Filed 9–6–90; 8:45 am]

BILLING CODE 4510–29–M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Enforcement of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 1:30 p.m. Monday, September 24, 1990, in room N–3437 A&B, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This ten member Working Group was formed by the Advisory Council to study issues relating to Annuities for employee welfare plans covered by ERISA.

The purpose of the September 24, meeting is to invite and hear comments from interested groups and the general public concerning proposals to amend the current ERISA enforcement scheme. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and or groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the Working Group should submit written requests on or before September 19, 1990, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 19, 1990.

Signed at Washington, DC this 4th day of September, 1990.

David George Ball,

Assistant Secretary for Pension and Welfare Benefits Administration.

[FR Doc. 90–21092 Filed 9–6–90; 8:45 am]

BILLING CODE 4510–29–M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Tuesday, September 25, 1990, in room S–4215, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the Sixty-Fourth meeting of the Secretary's ERISA Advisory Council which will begin at 9:30 a.m., is to review and discuss a status report being prepared by each of the Council's work group i.e., Annuities: Pension Fund Investment Behavior; Enforcement, and to invite public comment on any aspect of the administration of ERISA.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before September 19, 1990 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210 Individuals, or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 523–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 18, 1990.

Signed at Washington, DC this 4th day of September, 1990.

David George Ball,

Assistant Secretary for Pension and Welfare Benefits Administration.

[FR Doc. 90–21093 Filed 9–6–90; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Act (44 U.S.C. chapter 35).

DATES: Comments on these information collections must be submitted by October 9, 1990.

ADDRESSES: Send comments to Mr. Dan Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Mrs. Anne C. Doyle, National Endowment for the Arts, Adminsitrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

FOR FURTHER INFORMATION CONTACT: Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the reinstatement of two previously approved collections of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Fellowship and Individual Project Final Report Form
Frequency of Collection: One time.
Respondents: Individuals or households.
Use: The requested information is needed to enable Endowment fellowship grant recipients to comply with Agency and OMB final report requirements and for the Endowment to comply with its legislative requirement to conduct post-award evaluations.
Estimated Number of Respondents: 700.
Average Burden Hours per Responses: 1.
Total Estimated Burden: 700.

Title: Fellowship and Individual Project Grant Compliance Agreement and Payment Request Form.
Frequency of Collection: One time.
Respondents: Individuals or households.
Use: The requested information is needed to enable Endowment to pay fellowship grant recipients their grant funds.
Estimated Number of Respondents: 700.
Average Burden Hours per Response: .2.
Total Estimated Burden: 140.

Anne C. Doyle,
Administrative Services Division, National Endowment for the Arts.

[FR Doc. 90-20993 Filed 9-6-90; 8:45 am]
BILLING CODE 7537-01-M

Meeting; Design Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Advancement Grants for Organizations Section) to the National Council on the Arts will be held on September 25, 1990 from 9 a.m.-6:30 p.m., September 26 from 9-6, September 27 from 9-6 and September 28 from 9-2 in room M14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on September 28 from 12 noon-2 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on September 25 from 9 a.m.-6:30 p.m., September 26 from 9 a.m.-6 p.m., September 27 from 9 a.m.-6 p.m. and September 28 from 9 a.m.-12 noon are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of August 7, 1990, as amended, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: August 30, 1990.

Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-21068 Filed 9-6-90; 8:45 am]
BILLING CODE 7537-01-M

Meeting; Visual Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Overview Section) to the National Council on the Arts will be held on September 24, 1990, from 9:30 a.m.-5 p.m. and on September 25 from 9 a.m.-5 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The Topics for discussion will be Congressional Update, Agency Update, FY 92 Guidelines/Organizations, FY 90 Visual Artists Fellowships and Five-Year Planning Document Update.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National, Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: August 30, 1990.

Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-21069 Filed 9-6-90; 8:45 am]
BILLING CODE 7537-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Health Benefits Program; Medically Underserved Areas for 1991

AGENCY: Office of Personnel Management.

ACTION: Notice of medically underserved areas for 1991.

SUMMARY: The Office of Personnel Management has completed its annual determination of the states that qualify as Medically Underserved Areas under the Federal Employees Health Benefits (FEHB) Program for calendar year 1991. This determination is necessary to comply with a provision of FEHB law that mandates special consideration for enrollees of certain FEHB plans who receive covered health services in states with critical shortages of primary care physicians. Accordingly, for calendar year 1991, OPM has determined that the following states are Medically Underserved Areas under the FEHB Program: Idaho, Louisiana, Mississippi, New Mexico, North Dakota, South Dakota, West Virginia, and Wyoming.

EFFECTIVE DATES: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Karen Leibach, (202) 607–0775, ext. 207.

SUPPLEMENTARY INFORMATION: FEHB law (5 U.S.C. 8902(m)(2)) mandates special consideration for enrollees of certain FEHB plans who receive covered health services in states with critical shortages of primary care physicans. Such states are designated as Medically Underserved Areas for purposes of the FEHB Program, and the law requires payment to all qualified providers in these states.

FEHB regulations (5 CFR 890.701) require OPM to make an annual determination of the states that qualify as Medically Underserved Areas for the next calendar year by comparing the latest Department of Health and Human Services state-by-state population counts on primary medical care manpower shortage areas with U.S. Census figures on state resident population.

U.S. Office of Personnel Management.
Constance Berry Newman,
Director.

[FR Doc. 90–21058 Filed 9–6–90; 8:45 am]
BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–28392; File No. SR–NASD–90–45]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Proposed Rule Change Relating to Amendments to the Uniform Application for Securities Industry Registration or Transfer, Form U–4

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 1, 1990, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD has proposed amendments to the Uniform Application for Securities Industry Registration or Transfer, Form U–4 which will allow a previously registered person to certify as to the completeness and accuracy of his disciplinary record in the Central Registration Depository ("CRD") system and alleviate the need to resubmit full details of all reportable items upon transfer of his registration to a new broker-dealer.

II. Self-regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD is proposing to make certain amendments to the Uniform Application for Securities Industry Registration or Transfer, Form U–4. Over the last several years, the North American Securities Administrators Association (NASAA) and self-regulatory organizations including the NASD, the New York Stock Exchange (NYSE), and others, accumulated a number of requested modifications to clarify and strengthen the existing provisions contained in this form. Representatives of NASAA and the NASD considered the requested modifications and proposed that certain modifications be adopted by their respective organizations. NASAA and the NASD Board of Governors have approved the modifications which are the subject of this filing.

The Form U–4 is being amended to provide for a previously registered person, who is transfering his registration to another broker-dealer, to certify that he has reviewed a copy of his disclosure information taken from the CRD system, and that the information is accurate, complete and in DRP [1] format. If the certification is utilized, only the appropriate "yes" answers on Page 3 of Form U–4 need to be answered to correspond with the disclosed information, but no DRPs are required.

There are three certification alternatives available to the individual. The first alternative simply states that there is no new information to add to the disclosure file. The second alternative allows the individual to certify to the completeness of all previously provided information and to report something new. Only the new DRP needs to be provided. The third alternative allows the agent to certify to previously provided information, but further allows him to update a specific matter. Again, only the updated information needs to be disclosed. The individual would indicate in the certification the occurrence to which the updated information belongs, and the updated information would be posted accordingly. No details relating to other matters are required.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act.

Section 15A(b)(6) mandates that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest, among other things. The NASD believes the proposed rule change is fully consistent with the NASD's authority to adopt appropriate qualification and registration requirements for persons associated with NASD members or applicants for NASD membership. Article IV, Section 2 of the NASD By-Laws authorizes the Board to prescribe the form used by any person who wishes to make application for registration with the NASD. The NASD believes this proposed change will eliminate the time-consuming and burdensome requirement of a person resubmitting to CRD, previously

[1] DRP stands for Disclosure Reporting Page.

disclosed items on Form U-4, each time such person transfers his registration to a new broker-dealer.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of NASD. All submissions should refer to the file number in the caption above and should be submitted by September 28, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: August 29, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-21053 Filed 9-6-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28393; International Series Rel. No. 147; File No. SR-NASD-90-46]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Filing and Order Granting Accelerated Approval to Proposed Rule Change Relating to Use of New York Stock Exchange Modified General Securities Representative Examination To Qualify as General Securities Representative

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 1, 1990, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the NASD's Schedule C of the By-Laws to allow persons registered with The Securities Association of the United Kingdom to qualify as general securities representatives (Series 7) by passing a modified general securities representative examination which has been developed by the New York Stock Exchange.

II. Self-regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

It is the NASD's responsibility under section 15A(g)(3) of the Securities Exchange Act of 1934 (the "Act") to prescribe standards of training, experience and competence for persons associated with NASD members. Pursuant to this statutory obligation, the NASD has developed examinations and administers examinations developed by other self-regulatory organizations designed to establish that persons associated with NASD members have attained specific levels of competence and knowledge.

This proposed amendment to Schedule C is intended to coordinate with the recent SEC approval of a New York Stock Exchange rule which allows a qualified registered representative in good standing with The Securities Association ("TSA") of the United Kingdom to become qualified as a general securities representative (Series 7) by passing a modified general securities representative examination developed by the New York Stock Exchange ("NYSE"). This amendment is also necessary because of the requirement of section 15(b)(8) of the Act which requires most New York Stock Exchange members to also be members of the NASD. Thus there is a dual registration requirement with both the NYSE and the NASD for individuals who perform certain functions with NYSE members. At the present time the NASD has no rule which allows for NASD registration of a person who has passed the modified qualification examination.

The statutory basis for the proposed rule change is section 15A(g)(3) of the Securities Exchange Act of 1934 which requires the NASD to prescribe standards of training, experience and competence for persons associated with NASD members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed change to Schedule C of the NASD By-Laws will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests that the Commission find good cause to grant accelerated approval pursuant to section 19(b)(2) of the Act to the proposed rule change prior to the thirtieth day after publication in the **Federal Register** so that dual NYSE/NASD members and NASD only members may take advantage of the recently approved NYSE modified general securities representative examination to qualify persons presently registered and in good standing with the TSA.[1]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and, in particular, the requirements of section 15A(g)(3). The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of the filing thereof in that accelerated approval will allow dual NYSE/NASD and NASD only members to utilize the recently approved modified general securities examination to qualify persons registered with the TSA. The Commission believes that the benefits of accelerated approval of the rule change outweigh any potential adverse effects.[2]

IV. Solicitation of Comment

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by September 28, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: August 29, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-21054 Filed 9-6-90; 8:45 am]

BILLING CODE 8010-01-M

[1] The NASD has amended the proposed rule change to indicate that it will implement the proposal upon Commission approval. See letter from Craig L. Landauer, Assistant General Counsel, NASD, to Katherine England, Branch Chief SEC, dated August 16, 1990.

[2] See Securities Exchange Act Release No. 27967 (May 1, 1990), 55 FR 19131 (May 8, 1990); approving the modified Series 7 exam for use by TSA qualified representatives. The Commission did not receive any comments on that proposal.

[Rel. No. IC-17714; 811-4931]

Gardner Managed Asset Trust; Application

August 30, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Gardner Managed Asset Trust.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on June 11, 1990, and amended on August 20, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 24, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 105 Hazel Path, P.O. Box 1256, Hendersonville, Tennessee 37077-1256.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant, an open-end investment company organized as a Massachusetts business trust, registered under the 1940 Act and the Securities Act of 1933 on December 9, 1986, with respect to an indefinite number of shares, which registration statement was declared effective on March 20, 1987.

2. On February 6, 1990, Applicant's board of trustees adopted a plan of liquidation upon determining that liquidation was in the shareholders' best interest. Among the factors considered by the trustees in reaching their decision were the small size of Applicant, the number of sales and redemptions, and the level of expenses. On February 14, 1990, a letter was mailed to all shareholders of Applicant informing them of the trustees' decision to liquidate and encouraging shareholders to redeem their shares. Pursuant to the terms of Applicant's trust indenture, no shareholder vote was required to liquidate Applicant. By March 9, 1990, all shareholders of Applicant had redeemed their shares at net asset value.

3. Applicant's accrued but unpaid known liabilities total $16,854.70, including legal fees, filing fees, and miscellaneous expenses. Harvey L. Gardner & Associates, Inc., Applicant's investment adviser, will pay any remaining liabilities of Applicant, if any.

4. Applicant has filed a termination of its declaration of trust with the state of Massachusetts, which became effective on June 7, 1990. Applicant is not a party to any litigation or administrative proceeding and has no remaining shareholders. Applicant is not engaged, nor proposes to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-21052 Filed 9-6-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Gulfstream International Airlines, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 90-8-61, order to show cause.

SUMMARY: The Department of Transportation is proposing to find Gulfstream International Airlines, Inc., fit, willing, and able to provide commuter air service under section 419(e)(1) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than September 17, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P-56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: August 31, 1990.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90-21083 Filed 9-6-90; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

August 31, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB number: 1545-0146.
Form number: IRS Form 2553.
Type of review: Extension.
Title: Election by a Small Business Corporation.
Description: Form 2553 is filed by a qualifying corporation to elect to be an S corporation as defined in Code section 1361. The information obtained is necessary to determine if the election should be accepted by IRS. When the election is accepted, the qualifying corporation is classified as an S corporation and the corporation's income is taxed to the shareholders of the corporation.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations.
Estimated number of respondents/recordkeepers: 500,000.
Estimated burden hours per respondent/recordkeeper:

Recordkeeping	6 hours, 42 minutes.
Learning about the law or the form.	3 hours, 16 minutes.
Preparing, copying, assembling, and sending the form to IRS.	3 hours, 32 minutes.

Frequency of response: Other (Nonrecurring, one-time filing).
Estimated total reporting/recordkeeping burden: 6,755,000 hours
Clearance officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-21027 Filed 9-6-90; 8:45 am]

BILLING CODE 4830-01-M

[Supplement to Department Circular—Public Debt Series—No. 24-90]

Treasury Notes, Series AD-1992

Washington, August 29, 1990.

The Secretary announced on August 28, 1990, that the interest rate on the notes designated Series AD-1992, described in Department Circular—Public Debt Series—No. 24-90 dated August 23, 1990, will be 8⅛ percent. Interest on the notes will be payable at the rate of 8⅛ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-21028 Filed 9-6-90; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—Public Debt Series—No. 25-90]

Treasury Notes, Series M-1995

Washington, August 30, 1990.

The Secretary announced on August 29, 1990, that the interest rate on the notes designated Series M-1995, described in Department Circular—Public Debt Series—No. 25-90 dated August 23, 1990, will be 8½ percent. Interest on the notes will be payable at the rate of 8½ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-21029 Filed 9-6-90; 8:45 am]

BILLING CODE 4810-40-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of

Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 9, 1990.

Dated: August 22, 1990.

By direction of the Secretary.

Kenneth H. Hoffman,

Director, Policy and Standards Service.

Extension

1. Veterans Benefits Administration.
2. Fuel and Heating Systems Inspection Report (Manufactured Home).
3. VA Form 26–8731c.
4. The form serves as an inspection report on fuel and heating systems of used manufactured homes proposed as security for guaranteed loans. The information is used to determine acceptability of the units for VA guaranteed financing.
5. On occasion.
6. Individuals or house; Businesses or other for-profit; Small businesses or organizations.
7. 250 responses.
8. 2 hours.
9. Not applicable.

[FR Doc. 90–20996 Filed 9–6–90; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Office on or before October 9, 1990.

Dated: August 22, 1990.

By direction of the Secretary.

Kenneth H. Hoffman,

Director, Policy and Standards Service.

Extension

1. Veterans Benefits Administration.
2. Certification of School Attendance—REPS.
3. VA Form 21–8926.
4. The form is used to verify the school attendance of dependent children in REPS (Restored Entitlement Program for Survivors). The information is used to determine entitlement for continued benefits.
5. On occasion.
6. Individuals or households.
7. 900 responses.
8. 1/4 hour.
9. Not applicable.

[FR Doc. 90–20997 Filed 9–6–90; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 9, 1990.

Dated: August 24, 1990.

By direction of the Secretary.

Kenneth H. Hoffmann,

Director, Policy and Standards Service.

Extension

1. Veterans Benefits Administration.
2. Request for Change of Program or Place of Training Survivors' and Dependents' Educational Assistance.
3. VA Form 22–5495.
4. The form is used by spouses, surviving spouses, and children of veterans who are eligible for DEA (Dependents' Educational Assistance) to apply for a change of their education program or place of training. The information is used to determine eligibility to receive DEA for a new program or place of training.
5. On occasion.
6. Individuals or households.
7. 10,500 responses.
8. ½ hour.
9. Not applicable.

[FR Doc. 90–20998 Filed 9–6–90; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following

proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number or responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 9, 1990.

Dated: August 24, 1990.

By direction of the Secretary.

Kenneth H. Hoffman,

Director, Policy and Standards Service.

Extension

1. Veterans Benefits Administration.
2. Request for Determination of Loan Guaranty Eligiblity—Unmarried Spouses.
3. VA Form 26–1817.
4. The form is used by the unmarried surviving spouses of veterans to request a certificate of eligibility for VA home loan benefits. The information is used to determine eligibility.
5. On occasion.
6. Individuals or house.
7. 500 responses.
8. 1/4 hour.
9. Not applicable.

[FR Doc. 90–20999 Filed 9–6–90; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following informaiton: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Lw 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, VA Clearance Officer (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 9, 1990.

Dated: August 24, 1990.

Kenneth H. Hoffmann,

Director, Policy and Standards Service.

Extension

1. Office of Personnel and Labor Relations.
2. Inquiry Concerning Applicant for Employment.
3. Form Letter 5–127.
4. The form is used to obtain information from individuals who have knowledge of applicants' past work record, performance, and character. The information is used by VA personnel officials to verify qualifications and determine suitability of applicants for VA employment.
5. On occasion.
6. Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees.
7. 12,500 responses.
8. ¼ hour.
9. Not applicable.

[FR Doc. 90–21000 Filed 9–6–90; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 9, 1990.

Dated: August 24, 1990.

By direction of the Secretary.

Kenneth H. Hoffmann,

Director, Policy and Standards Service.

Revision

1. Veterans Benefits Administration
2. Notice of Default.
3. VA Form 26–6850.

4. The form is used by holders of guaranteed or insured loans to notify VA of loans which are in default. The information is used to determine the need for and extent of supplemental servicing to avoid foreclosure and claim under guaranty.

5. On occasion.

6. Businesses or other for-profit.

7. 125,000 responses.

8. ⅙ hour.

9. Not applicable.

[FR Doc. 90-21001 Filed 9-6-90; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 174
Friday, September 7, 1990

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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, September 11, 1990, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Revised Delegations of Authority to the Committee on Liquidations, Loans and Purchases of Assets, to the Division of FSLIC Operations, and to Other Employees of the Corporation.

Memorandum and resolution re: Final amendments to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," which amendments establish, with respect to state savings associations, application and notice procedures governing: (1) The conduct of, and requests to engage directly in, certain activities; (2) the divestiture of equity investments and junk bonds; and (3) prior notice of the establishment or acquisition of a subsidiary.

Memorandum and resolution re: Proposed amendments to Subpart A of Part 326 of the Corporation's rules and regulations, entitled "Minimum Security Devices and Procedures and Bank Secrecy Act Compliance," which would reflect changes in the technology of security devices and implement certain changes made by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Memorandum and resolution re: Final amendment to the Corporation's rules and regulations in the form of a new Part 357, entitled "Determination of Economically Depressed Regions," which final rule identifies those geographical regions which the Corporation has determined to be "economically depressed regions" for purposes related to Corporation assistance for certain troubled thrift institutions prior to the appointment of a receiver or conservator.

Memorandum and resolution re: Proposed amendments to Part 325 of the Corporation's rules and regulations, entitled "Capital Maintenance," which would establish the criteria and standards the Corporation would use in calculating the minimum leverage capital requirement and in determining capital adequacy.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: September 4, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90-21125 Filed 9-5-90; 9:30 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, September 11, 1990, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured depository institutions or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendation regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,598
United American Bank in Knoxville, Knoxville, Tennessee

Reports of the Office of Inspector General:

Audit Report re:
Alliance Bank, National Association, Oklahoma City, Oklahoma, Assistance Agreement (Memo dated August 3, 1990)

Audit Report re:
Citizens Federal Savings and Loan Association, Miami, Florida, Assistance Agreement, Case Number: C-279c (Memo dated July 20, 1990)

Audit Report re:
Meritor Savings, F.A., Arlington, Virginia, Assistance Agreement, Case Number: C-231c (Memo dated July 20, 1990)

Audit Report re:
Metropolitan National Bank, San Antonio, Texas, Assistance Agreement (Memo dated July 18, 1990)

Audit Report re:
Oak Forest National Bank, Longview, Texas, Assistance Agreement (Memo dated August 3, 1990)

Audit Report re:
Pacific First Federal Savings Bank, Seattle, Washington, Assistance Agreement, Case Number: C-277c (Memo dated August 1, 1990)

Audit Report re:

Texas Bank, National Association, San Antonio, Texas, Assistance Agreement (Memo dated July 18, 1990)
Audit Report re:
Audit of Bulk Sales, DOL Irvine Consolidated Office (Memo dated July 13, 1990)
Audit Report re:
Audit of Bulk Sales of Assets, DOL Oklahoma City Consolidated Office (Memo dated August 6, 1990)
Audit Report re:
Information Systems Audit of the Orlando Consolidated Office, Cost Center 104 (Memo dated August 3, 1990)
Audit Report re:
Audit of Bulk Sales, DOL Westmont Consolidated Office (Memo dated July 17, 1990)

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Matters relating to the Corporation's corporate activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: September 4, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90–21126 Filed 9–5–90; 9:30 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., September 12, 1990.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, DC 20573–0001.

STATUS: Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTER(S) TO BE CONSIDERED:

Portion Open to the Public

1. Proposed Rulemaking on the Publication and Filing of Payments Made by Common Carriers to Foreign Freight Forwarders and Ocean Freight Brokers in Tariffs and Service Contracts.

Portion Closed to the Public

1. Docket No. 88–15—*California Shipping Line, Inc.* v. *Yangming Transport Corp.*—Discussion of the Record.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 90–21180 Filed 9–5–90; 3:08 pm]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, September 12, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed amendments to Regulation Z (Truth in Lending) relating to rate caps on, and timing of disclosures of, home equity lines of credit. (Proposed earlier for public comment; Docket No. R–0687)
2. Proposed 1991 Federal Reserve Bank of Boston employee salary structure adjustments.

Discussion Agenda

3. Proposed 1991 Federal Reserve board budget guideline.
4. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–21133 Filed 9–5–90; 10:24 pm]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 10:30 a.m., Wednesday, September 12, 1990, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed Federal Reserve Bank and Branch director appointments.
2. Proposed computer maintenance contract for the Federal Reserve System.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–21134 Filed 9–5–90; 10:24 am]

BILLING CODE 6210–01–M

NATIONAL CREDIT UNION ADMINISTRATION:

Notice of Meeting

TIME AND DATE: 9:00 a.m., Thursday, September 13, 1990.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Economic Commentary.
3. Central Liquidity Facility Report and Review of CLF Lending Rate.
4. Central Liquidity Facility Reserving Policy.
5. Central Liquidity Facility Agent Commitment Fee.
6. Insurance Fund Report.

RECESS: 10:30 a.m.

TIME AND DATE: 11:00 a.m., Thursday, September 13, 1990.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Central Liquidity Facility Lines of Credit for Fiscal Year 1991. Closed pursuant to exemptions (4) and (9)(A)(ii).
3. Administrative Action under Part 745 of the NCUA Rules and Regulations. Closed pursuant to exemptions (6) and (8).
4. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (5), (8), (9)(A)(ii), and (9)(B).
5. Administrative Action under Sections 116 and 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
6. Administrative Actions under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 90–21176 Filed 9–5–90; 1:56 pm]

BILLING CODE 7535–01–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors

TIME AND DATE: 1 p.m. (closed portion), 3:30 p.m. (open portion), Tuesday, September 18, 1990.

PLACE: Offices of the Corporation, fourth floor Board Room, 1615 M Street, NW., Washington, DC.

STATUS: The first part of the meeting from 1 p.m. to 3:30 p.m. will be closed to the public. The open portion of the meeting will commence at 3:30 p.m. (approximately).

MATTERS TO BE CONSIDERED: (Closed to the public 1:00 p.m. to 3:30 p.m.):

1. President's Report
2. Policy Revision on "Country List" and "High Income" Country Designations
3. Finance and Insurance project in Venezuela
4. Insurance Project in Argentina
5. Insurance Project in Malaysia
6. Insurance Project in Pakistan
7. Insurance Project in Philippines
8. Insurance Project in Chile
9. Insurance Project in Argentina
10. Claims Report
11. Finance and Insurance Reports
12. Approval of 7/10/90 Minutes (Closed Portion)

FURTHER MATTERS TO BE CONSIDERED: (Open to the Public 3:30 p.m.)

1. Approval of 7/10/90 Minutes (Open Portion)
2. Allocation of Retained Earnings
3. Information Reports
4. Reconfirmation of meetings schedule for remainder of 1990

CONTACT PERSON FOR INFORMATION: Information with regard to the meeting may be obtained from the Secretary of the Corporation on (202) 457–7007.

Dated: September 4, 1990.

Dennis K. Dolan,

OPIC Corporate Secretary.

[FR Doc. 90–21170 Filed 9–5–90; 1:24 pm]

BILLING CODE 3210–01–M

Corrections

Federal Register
Vol. 55, No. 174
Friday, September 7, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2960-5]

RIN 2060-AA30

Standards of Performance for New Stationary Sources; Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Processes

Correction

In rule document 90-14263 beginning on page 26912 in the issue of Friday, June 29, 1990, make the following corrections:

1. On page 26922, in the first column, above the signature line, the dated line should read "June 13, 1990".

§ 60.611 [Corrected]

2. On the same page, in the third column, in § 60.611 under the definition for "*Air Oxidation Reactor*", in the third line, "combine" should read "combined".

§ 60.614 [Corrected]

3. On page 26928, in § 60.614 in Table 2, in the third column, the second entry should read "0.0619".

§ 60.615 [Corrected]

4. In § 60.615(b)(3), on page 26929, in the first column, in the 4th complete paragraph, in the 12th line "records" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2960-6]

RIN 2060-AA35

Standards of Performance for New Stationary Sources; Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations

Correction

In rule document 90-14265 beginning on page 26931 in the issue of Friday, June 29, 1990, make the following correction:

§ 60.665 [Corrected]

In § 60.665(g)(4), on page 26950, in the first column, in the first and second lines of the sixth paragraph, the words "adsorber" and "absorber" were transposed.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 421

[OW-FRL-3729-8]

RIN 2040-AB31

Nonferrous Metals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

Correction

In rule document 90-17782 beginning on page 31692, in the issue of Friday, August 3, 1990, make the following corrections:

§ 421.152 [Corrected]

1. In § 421.152(m), on page 31698, in the first column, in the second column of the table, the fourth entry, "2.117" should read "2.118".

§ 421.263 [Corrected]

2. On page 31708, in the first column, in § 421.263(j), the first word, "Platinum" should read "Palladium".

3. On page 31712, in the first column, under [6] **421.266 [Corrected]**, in amendatory instruction 109, in the next to last line remove the text following "metals" and insert "to read as follows:".

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

46 CFR Part 580

[Docket No. 88-19]

Rule on Effective Date of Tariff Changes

Correction

In rule document 90-20084 beginning on page 34929, in the issue of Monday, August 27, 1990, make the following correction:

On page 34931, in the third column, in the last line, "October 20, 1990." should read "October 26, 1990."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Correction

In notice document 90-18425 appearing on page 32149, in the issue of Tuesday, August 7, 1990, make the following correction:

On page 32149, in the third column, under "B. Office of the Attorney Advisor (FA-2)", in the 12th and 13th lines, "Section 1886(d)(1)(C)(iii)(II)" should read "section 1886(d)(10)(C)(iii)(II)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Early Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

Correction

In rule document 90-20242 beginning on page 35266 in the issue of Tuesday, August 28, 1990, make the following correction:

§ 20.105 [Corrected]

In § 20.105(d), on page 35278, in the first column of the table "Florida" should have appeared above the first entry "Wood ducks".

BILLING CODE 1505-01-D

federal register

Friday
September 7, 1990

Part II

Department of Agriculture

Rural Electrification Administration

7 CFR Part 1767

Accounting Requirements for REA Electric Borrowers; Proposed Rule

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1767

RIN 0572-AA23 .

Accounting Requirements for REA Electric Borrowers

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR chapter XVII by adding a new part, part 1767, Accounting Requirements for REA Electric Borrowers, and a new subpart, subpart B, Uniform System of Accounts. Current REA policy on this subject is set forth in REA Bulletin 181–1, Uniform System of Accounts Prescribed for Electric Borrowers of the Rural Electrification Administration and REA Bulletin 181–3, Accounting Interpretations for REA Electric Borrowers. REA is proposing a Uniform System of Accounts (USoA) and is prescribing specific accounting procedures to be followed by REA electric borrowers in certain circumstances.

DATES: Public comments must be received or postmarked no later than November 6, 1990.

ADDRESSES: Submit written comments to Mr. William E. Davis, Director, Borrower Accounting Division, Rural Electrification Administration, room 2231, South Building, U.S. Department of Agriculture, Washington, DC, 20250–1500. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address. REA requests an original and two copies of all comments.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Davis, Director, Borrower Accounting Division, Rural Electrification Administration, room 2231, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382–9450.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR chapter XVII by adding a new part, Part 1767, Accounting Requirements for REA Electrification Borrowers, and a new subpart, subpart B, Uniform System of Accounts. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) Have an annual effect on the economy of $100 million or more; (2) result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to Compete with foreign-based enterprises in domestic or export markets and, therefore, has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and, therefore, does not require an environmental impact statement or an environmental assessment. The reporting and/or recordkeeping requirements contained in these proposed rules have been submitted for approval to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). They will not be effective until approved by OMB. Public reporting burden for this collection of information is estimated to average 260 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this correction of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Office, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0572–0002), Washington, DC 20503. The program listed in the Catalog of Federal Domestic Assistance that is impacted is 10.850—Rural Electric Loans and Loan Guarantees. For reasons set forth in the Final Rule related Notice to 7 CFR part 3015, subpart V (50 FR 47034, November 14, 1985) this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background

In order to facilitate the effective and economical operation of a business enterprise, adequate and reliable financial records must be maintained. Accounting records must provide a clear and accurate picture of the enterprise's current economic condition from which management can make informed decisions in charting the company's future. An electric utility, because of the rate regulated environment in which it operates, possesses an even greater need for financial information that is accurate, complete, and comparable with that generated by other electric utilities.

REA, as a federal lender and mortgagee, and in furthering the objectives of the Rural Electrification Act, has a financial interest in requiring adequate records to be maintained. In order to provide REA with financial information that can be analyzed and compared with the operations of other borrowers in the REA program, all REA borrowers must maintain financial records that utilize uniform accounts and uniform accounting policies and procedures. The standard REA mortgage requires borrowers to maintain its accounts in accordance with the USoA prescribed by REA for its electric borrowers. This regulation implements those requirements by requiring borrowers to maintain their accounts in accordance with this part 1767. Because of the cooperative organizational structure of REA borrowers, REA is prescribing a USoA that must be maintained and is proposing to set forth specific accounting procedures to be followed for certain circumstances that either the USoA does not specifically address or for which REA has specific accounting procedures that it requires. The USoA and required accounting procedures will provide the financial information necessary to operate a rural electric cooperative. The uniformity of the accounts and accounting procedures prescribed will enable REA to make determinations concerning the current financial stability of REA borrowers.

Due to the importance of uniform financial information, REA has revised its previous policy of requiring REA borrowers to keep accounts and records in conformity with the rules and regulations prescribed by a state regulatory commission. In accordance with this part 1767, REA borrowers are required to account for all transactions as prescribed herein. REA borrowers must receive REA's written approval prior to requesting any deviations from a state regulatory commission or the Tennessee Valley Authority. The information proposed in this part 1767 is now contained in REA Bulletins 181–1 and 181–3. These bulletins will be rescinded, if this proposal is published as a final rule.

List of Subjects in 7 CFR Part 1767

Accounting.

In view of the above, REA proposes to add a new part 1767, Accounting Requirements for REA Electric Borrowers, consisting at this time of subpart B, Uniform System of Accounts, to 7 CFR chapter XVII to read as follows:

PART 1767—ACCOUNTING REQUIREMENTS FOR REA ELECTRIC BORROWERS

Subpart A—General Provisions

§ 1767.1–1767.9 [Reserved]

Subpart B—Uniform System of Accounts

§ 1767.10, Definitions.
§ 1767.11, Purpose.
§ 1767.12, Accounting System Requirements.
§ 1767.13, Deviations.
§ 1767.14, Interpretation of the REA Uniform System of Accounts.
§ 1767.15, General Instructions.
§ 1767.16, Electric Plant Instructions.
§ 1767.17, Operating Expense Instructions.
§ 1767.18, Accounts Required of All REA Borrowers.
§ 1767.19–1767.20 [Reserved]
§ 1767.21, Accounting Methods and Procedures Required of All REA Borrowers.
§ 1767.22–1767.25 [Reserved]

Subpart C—Depreciation Rates and Procedures

§ 1767.26–1767.45 [Reserved]

Subpart D—Preservation of Records

§ 1767.46–1767.65 [Reserved]

Authority: 7 U.S.C. 901 et seq.

Subpart A—General Provisions

§§ 1767.1–1767.9 [Reserved]

Subpart B—Uniform System of Accounts

§ 1767.10 Definitions.

(a) When used in this subpart and in the REA USoA:

(1) *Accounting borrower* shall mean REA borrower.

(2) *Accounts* are the accounts prescribed in this system of accounts.

(3) *Actually issued*, as applied to securities issued or assumed by the utility, are those which have been sold to bona fide purchasers for a valuable consideration, those issued as dividends on stock, and those which have been issued in accordance with contractual requirements direct to trustees of sinking funds.

(4) *Actually outstanding*, as applied to securities issued or assumed by the utility, are those which have been actually issued and are neither retired nor held by or for the utility; *Provided, however*, That securities held by trustees shall be considered as actually outstanding.

(5) *Amortization* is the gradyal extinguishment of an amount in an account by distributing such amount over a fixed period, over the life of the asset or liability to which it applies, or over the period during which it is anticipated the benefit will be realized.

(6) *Associated (affiliated) companies* are companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or under common control with, the accounting company.

(7) *Book cost* means the amount at which property is recorded in these accounts without deduction of related provisions for accrued depreciation, amortization, or for other purposes.

(8) *Capital lease* is a lease of property used in utility or nonutility operations, which meets one or more of the criteria stated in § 1767.15(s).

(9) *CFC* shall mean the National Rural Utilities Cooperative Finance Corporation.

(10) *Continuing property records* are company plant records for retirement units and mass property that provide, as either a single record, or in separate records readily obtainable by references made in a single record, the following information:

(i) For each retirement unit:

(A) The name or description of the unit, or both;

(B) The location of the unit;

(C) The date the unit was placed in service;

(D) The cost of the unit as set forth in § 1767.16 (b) and (c) of this system; and

(E) The plant control account to which the cost of the unit is charged; and

(ii) For each category of mass property:

(A) A general description of the property and quantity;

(B) The quantity placed in service by vintage year;

(C) The average cost as set forth in § 1767.16 (b) and (c) of this system; and

(D) The plant control account to which the costs are charged.

(11) *Control* (including the terms *controlling, controlled by,* and *under common control with*) is the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement, and whether such power is established through a majority or minority ownership or through voting of securities; common directors, officers, or stockholders; voting trusts; holding trusts; associated companies; contracts; or any other direct or indirect means.

(12) *Cost* is the amount of money actually paid for property or services. When the consideration given is other than cash in a purchase and sale transaction, as distinguished from a transaction involving the issuance of common stock in a merger or a pooling of interest, the value of such consideration shall be determined on a cash basis.

(13) *Cost of removal* is the cost of demolishing, dismantling, tearing down or otherwise removing electric plant, including the cost of transportation and handling incidental thereto.

(14) *Customer* shall mean consumer or patron.

(15) *Debt expense* includes all expenses incurred in connection with the issuance and initial sale of evidence of debt, such as fees for drafting mortgages and trust deeds; fees and taxes for issuing or recording evidences of debt; costs of engraving and printing bonds and certificates of indebtedness; fees paid to trustees' specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing such evidences of debt; fees and expenses of listing on exchanges; and other like costs.

(16) *Depreciation*, as applied to depreciable electric plant, is the loss in service value, not restored by current maintenance, incurred in connection with the consumption or prospective retirement of electric plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand and requirements of public authorities.

(17) *Discount*, as applied to the securities issued or assumed by the utility, is the excess of the par (stated value of no-par stocks) or face value of the securities plus interest or dividends accrued at the date of the sale over the cash value of the consideration received from their sale.

(18) *FASB* shall mean the Financial Accounting Standards Board.

(19) *G&T* shall mean generation and transmission cooperative.

(20) *Investment advances* are advances, represented by notes or by book accounts only, with respect to which it is mutually agreed or intended between the creditor and debtor that they shall be settled by the issuance of securities or shall not be subject to current settlement.

(21) *Minor items of property* are the associated parts or items of which retirement units are composed.

(22) *Net salvage value* is the salvage value of property retired less the cost of removal.

(23) *Nominally issued,* as applied to securities issued or assumed by the utility, are those which have been signed, certified, or otherwise executed, and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special funds of the utility, but which have not been sold, or issued direct to trustees of sinking funds in accordance with contractual requirements.

(24) *Nominally outstanding,* as applied to securities issued or assumed by the utility, are those which, after being actually issued, have been reacquired by or for the utility under circumstances which require them to be considered as held alive and not retired: *Provided, however,* That securities held by trustees shall be considered as actually outstanding.

(25) *NRECA* shall mean the National Rural Electric Cooperative Association.

(26) *Operating lease* is a lease of property used in utility or nonutility operations, which does not meet any of the criteria stated in § 1767.15(s).

(27) *Original cost,* as applied to electric plant, is the cost of such property to the person first devoting it to public service.

(28) *Person* is an individual, a corporation, a partnership, an association, a joint stock company, a business trust, or any organized group of persons, whether incorporated or not, or any receiver or trustee.

(29) *Premium,* as applied to securities issued or assumed by the utility, is the excess of the cash value of the consideration received from their sale over the sum of their par (stated value of no-par stocks) or face value and interest or dividends accrued at the date of sale.

(30) *Project* is a complete unit of improvement or development, consisting of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power therefrom to the point of junction with the distribution system or with the interconnected primary transmission system, all miscellaneous structures used and useful in connection with said unit or any part thereof, and all water rights, rights of way, ditches, dams, reservoirs, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit.

(31) *Property retired,* as applied to electric plant, is property which has been removed, sold, abandoned, destroyed, or which for any cause has been withdrawn from service.

(32) *REA USoA* shall mean the USoA prescribed in this subpart.

(33) *Replacing (including replacement)* when not otherwise indicated in the context, is the construction or installation of electric plant in place or property retired, together with the removal of the property retired.

(34) *Research, Development, and Demonstration* (RD&D) includes all expenditures incurred by borrowers either directly or through another person or organization (such as a research institute, industry association, foundation, university, engineering company or similar contractor) in pursuing research, development, and demonstration activities including experiment, design, installation, construction, or operation. This definition includes expenditures for the implementation or development of new and/or existing concepts until technically feasible and commercially feasible operations are verified. Such research, development, and demonstration costs should be reasonably related to the existing or future utility business, broadly defined, of the borrower or in the environment in which it operates or expects to operate. The term includes, but is not limited to, all such costs incidental to the design, development or implementation of an experimental facility, a plant process, a product, a formula, an invention, a system or similar items, and the improvement of already existing items of a like nature; amounts expended in connection with the proposed development and/or proposed delivery of alternate sources of electricity; and the costs of obtaining its own patent, such as attorney's fees expended in making and perfecting a patent application. The term includes preliminary investigations and detailed planning of specific projects for securing for customers non-conventional electric power supplies that rely on technology that has not been verified previously to be feasible. The term does not include expenditures for efficiency surveys; studies of management, management techniques, and organization; or consumer surveys, advertising, promotions, or items of a like nature.

(35) *Retirement units* are those items of electric plant which, when retired with or without replacement, are accounted for by crediting the book cost thereof to the electric plant accounts in which included.

(36) *Salvage value* is the amount received for property retired, less any expenses incurred in connection with the sale or in preparing the property for sale; or, if retained, the amount at which the material recovered is chargeable to materials and supplies, or other appropriate accounts.

(37) *Service life* is the time between the date electric plant is includible in electric plant in service, or electric plant leased to others, and the date of its retirement. If depreciation is accounted for on a production basis rather than on a time basis, service life should be measured in terms of the appropriate unit of production.

(38) *Service value* is the difference between original cost and net salvage value of electric plant.

(39) *State* is a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

(40) *Subsidiary company* is a company which is controlled by the utility through ownership of voting stock. (See § 1767.10 (a)(11).) A corporate joint venture in which a corporation is owned by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group is a subsidiary company for the purposes of this system of accounts.

(41) *Utility* shall mean accounting borrower, REA borrower.

(42) *Work order* shall mean an order authorizing the construction of utility plant. It serves as the basis for the accounts or subaccounts in which costs are recorded.

§ 1767.11 Purpose.

The standard form of REA loan documents for electric borrowers requires that the borrower keep books, records, and accounts in which full and true entries will be made of all of the dealings, business and affairs of the borrower in accordance with the methods and principles of accounting in the REA USoA. This subpart implements these provisions of the REA loan documents by prescribing the REA USoA for electric borrowers and by providing accounting methodologies and procedures which are applicable to particular situations.

§ 1767.12 Accounting system requirements.

(a) Each REA electric borrower shall maintain and keep its books of accounts and all other books and records which support the entries in such books of accounts in accordance with § 1767.18,

Accounts Required of All REA Borrowers, herein.

(b) Each REA electric borrower shall maintain and keep its books of accounts and all other books and records which support the entries in such books of accounts in accordance with § 1767.21, Accounting Methods and Procedures Required of All REA Borrowers, herein, which prescribes accounting principles to be applied to specific factual circumstances.

§ 1767.13 Deviations.

(a) No deviations are to be made the REA USoA without the prior written approval of REA.

(b) No REA borrower subject to the jurisdiction of a state regulatory authority with jurisdiction over rates and/or accounting for electric utilities shall, without the prior written approval of REA:

(1) Request approval of such authority to use accounting methods and principles inconsistent with the provisions herein; or

(2) File with such authority any documents or information, including without limitation, any filings associated with the borrower's rates, based upon accounting methods and principles inconsistent with the provisions herein.

(c) If any state regulatory authority with jurisdiction over an REA borrower shall prescribe for the borrower, accounting methods or principles which are inconsistent with the provisions herein, the borrower shall immediately notify REA and provide REA with such documents, information, and reports as REA may request in order to evaluate the impacts that such accounting may have on the interests of REA. If REA determines that the accounting methods and principles will not adversely effect REA interests, REA shall permit the borrower to use the accounting methods and principles as prescribed in complying with the provisions of the REA loan documents. If REA determines that the accounting methods and principles may adversely effect REA's interests, REA may require that, for the purposes of complying with provisions of the REA loan documents, including, without limitation, those provisions relating to financial coverage standards (e.g. "TIER"), the borrower continue to maintain its books, records, and accounts in accordance with this subpart. REA may, however, approve requests by the borrower to maintain such additional books, records, and accounts as necessary to comply with the requirements of the state regulatory authority; such approval shall not waive, modify or amend the requirements of the REA loan documents or of this subpart.

(d) REA borrowers shall not take any action to implement the provisions of Statement of Financial Accounting Standards (SFAS) No. 71, Accounting for the Effects of Certain Types of Regulation, SFAS No. 90, Regulated Enterprises—Accounting for Abandonments and Disallowances of Plant Costs, SFAS No. 92, Regulated Enterprises—Accounting for Phase-in Plans, without the prior written approval of REA.

§ 1767.14 Interpretations of the REA Uniform System of Accounts.

To maintain uniformity in accounting, borrowers shall submit questions of doubtful interpretations of the REA USoA to REA for consideration and decision.

§ 1767.15 General instructions.

(a) *Records.* (1) Each utility shall keep its books of account, and all other books, record, and memoranda which support the entries in such books of account so as to be able to furnish readily full information as to any item included in any account. Each entry shall be supported by such detailed information as will permit ready identification, analysis, and verification of all facts relevant thereto.

(2) The books and records referred to herein include not only accounting records in a limited technical sense, but all other records, such as minute books, stock books, reports, correspondence, memoranda, etc., which may be useful in developing the history of or facts regarding any transaction.

(3) No utility shall destroy any such books or records unless the destruction thereof is permitted by the rules and regulations of REA.

(4) In addition to the prescribed accounts, clearing accounts, temporary or experimental accounts, and subdivisions of any accounts may be kept, provided the integrity of the prescribed accounts is not impaired.

(5) All amounts included in the accounts prescribed herein for electric plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426.5, Other Deductions.

(6) The arrangement or sequence of the accounts prescribed herein shall not be controlling as to the arrangement or sequence in report forms which may be prescribed by REA.

(b) *Numbering system.* (1) The account numbering plan used herein consists of a system of three-digit whole numbers as follows:

100–199 Assets and other debits.
200–299 Liabilities and other credits.
300–399 Plant accounts.
400–432, 434–435 Income accounts.
433, 436–439 Retained earnings accounts.
440–459 Revenue accounts.
500–599 Production, transmission, and distribution expenses.
900–949 Customer accounts, customer service and informational, sales, and general and administrative expenses.

(2) In certain instances, numbers have been skipped in order to allow for possible later expansion or to permit better coordination with the numbering system for other utility departments.

(3) The numbers prefixed to account titles are to be considered as parts of the titles. Each utility, however, may adopt, for its own purposes, a different system of account numbers provided that the numbers herein prescribed shall appear in the descriptive headings of the ledger accounts and in the various sources of original entry; however, if a utility uses a different group of account numbers and it is not practicable to show the prescribed account numbers in the various sources of original entry, such reference to the prescribed account numbers may be omitted from the various sources of original entry. Moreover, each utility using different account numbers for its own purposes shall keep readily available, a list of such account numbers which it uses and a reconciliation of such account numbers with the account numbers provided herein. It is intended that the utility's records shall be so kept as to permit ready analysis by prescribed accounts (by direct reference to sources of original entry to the extent practicable) and to permit preparation of financial and operating statements directly from such records at the end of each accounting period according to the prescribed accounts.

(c) *Accounting period.* Each utility shall keep its books on a monthly basis so that for each month, all transactions applicable thereto, as nearly as may be ascertained, shall be entered in the books of the utility. Amounts applicable or assignable to specific utility departments shall be so segregated monthly. Each utility shall close its books at the end of each fiscal year unless otherwise authorized by REA.

(d) *Submission of questions.* To maintain uniformity of accounting, utilities shall submit questions of

doubtful interpretation to REA for consideration and decision.

(e) *Item lists.* Lists of "items" appearing in the texts of the accounts or elsewhere herein are for the purpose of more clearly indicating the application of the prescribed accounting. The lists are intended to be representative, but not exhaustive. The appearance of an item in a list warrants the inclusion of the item in the account mentioned only when the text of the account also indicates inclusion inasmuch as the same item frequently appears in more than one list. The proper entry in each instance must be determined by the texts of the accounts.

(f) *Extraordinary items.* It is the intent that net income shall reflect all items of profit and loss during the period with the exception of prior period adjustments as described in § 1767.15(g)(1) and long-term debt as described in § 1767.15(q) below. Those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities of the company shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business. (In determining significance, items of a similar nature should be considered in the aggregate. Dissimilar items should be considered individually; however, if they are few in number, they may be considered in the aggregate.) To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. REA approval must be obtained to treat an item of less than 5 percent, as extraordinary. (See Accounts 434 and 435.)

(g) *Prior period items.* (1) Items of profit and loss related to the following shall be accounted for as prior period adjustments and excluded from the determination of net income for the current year:

(i) Correction of an error in the financial statements of a prior year.

(ii) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

(2) All other items of profit and loss recognized during the year shall be included in the determination of net income for that year.

(h) *Unaudited items.* Whenever a financial statement is required by REA, if it is known that a transaction has occurred which affects the accounts but the amount involved in the transaction and its effect upon the accounts cannot be determined with absolute accuracy, the amount shall be estimated and such estimated amount included in the proper accounts. The utility is not required to anticipate minor items which would not appreciably affect the accounts.

(i) *Distribution of pay and expenses of employees.* Charges to electric plant, operating expense, and other accounts for services and expenses of employees engaged in activities chargeable to various accounts, such as construction, maintenance, and operations, shall be based upon the actual time engaged in the respective classes of work, or in case that method is impracticable, upon the basis of a study of the time actually engaged during a representative period.

(j) *Payroll distribution.* Underlying accounting data shall be maintained so that the distribution of the cost of labor charged direct to the various accounts will be readily available. Such underlying data shall permit a reasonably accurate distribution to be made of the cost of labor charged initially to clearing accounts so that the total labor cost may be classified among construction, cost of removal, electric operating functions (steam generation, nuclear generation, hydraulic generation, transmission, distribution, etc.) and nonutility operations.

(k) *Accounting on an accrual basis.* (1) The utility is required to keep its accounts on the accrual basis. This requires the inclusion, in its accounts, of all known transactions of appreciable amount which affect the accounts. If bills covering such transactions have not been received or rendered, the amounts shall be estimated and appropriate adjustments made when the bills are received.

(2) When payments are made in advance for items such as insurance, rents, taxes, or interest, the amount applicable to future periods shall be charged to Account 165, Prepayments, and spread over the periods to which applicable, by credits to Account 165, and charges to the accounts appropriate for the expenditure.

(l) *Records for each plant.* Separate records shall be maintained by electric plant accounts of the book cost of each plant owned, including additions by the utility to plant leased from others, and of the cost of operating and maintaining each plant owned or operated. The term "plant" as used herein includes each generating station and each transmission line or appropriate group of transmission lines.

(m) *Accounting for other departments.* If the utility also operates other utility departments, such as gas or water, it shall keep such accounts for the other departments as may be prescribed by proper authority and in the absence of prescribed accounts, it shall keep such accounts as are proper or necessary to reflect the results of operating each such department. It is not intended that proprietary and similar accounts which apply to the utility as a whole shall be departmentalized.

(n) *Transactions with associated companies.* Each utility shall keep its accounts and records so as to be able to furnish accurately and expeditiously statements of all transactions with associated companies. The statements may be required to show the general nature of the transactions, the amounts involved therein and the amounts included in each account prescribed herein with respect to such transactions. Transactions with associated companies shall be recorded in the appropriate accounts for transactions of the same nature. Nothing herein contained, however, shall be construed as restraining the utility from subdividing accounts for the purpose of recording separately transactions with associated companies.

(o) *Contingent assets and liabilities.* Contingent assets represent a possible source of value to the utility contingent upon the fulfillment of conditions regarded as uncertain. Contingent liabilities include items which may, under certain conditions, become obligations of the utility but which are neither direct nor assumed liabilities at the date of the balance sheet. The utility shall be prepared to give a complete statement of significant contingent assets and liabilities (including cumulative dividends on preference stock) in its annual report and at such other times as may be requested by REA.

(p) *Separate accounts or records for each licensed project.* The accounts or records of each borrower shall be so kept as to show for each project (including pumped storage) under license:

(1) The actual legitimate original cost of the project, including the original cost of the original project, the original cost of additions thereto and betterments thereof, and credits for property retired from service, as determined under REA's regulations;

(2) The charges for operation and maintenance of the project property directly assignable to the project;

(3) The credits and debits to the depreciation and amortization accounts, and the balances in such accounts; and

(4) The credits and debits to the operating revenue, income, and retained earnings accounts that can be identified with and directly assigned to the project.

Note: The purpose of this instruction is to insure that accounts or records are currently maintained by each borrower from which reports may be made to REA for use in determining the net investment in each licensed project. The instruction covers only the debit and credit items appearing in the borrower's accounts which may be identified with and assigned directly to any project. In the determination of the net investment, allocations of items affecting the net investment may be required where direct assignment is not practicable.

(q) *Long-term debt.* Premium, Discount and Expense, and Gain or Loss on Reacquisition.

(1) Premium, discount and expense. A separate premium, discount and expense account shall be maintained for each class and series of long-term debt (including receivers' certificates) issued or assumed by the utility. The premium will be recorded in Account 225, Unamortized Premium on Long-Term Debt, the discount will be recorded in Account 226, Unamortized Discount on Long-Term Debt—Debit, and the expense of issuance shall be recorded in Account 181, Unamortized Debt Expense. The premium, discount and expense shall be amortized over the life of the respective issues under a plan which will distribute the amounts equitably over the life of the securities. The amortization shall be charged or credited on a monthly basis with the amounts relating to discount and expense charged to Account 428, Amortization of Debt Discount and Expense. The amounts relating to premium shall be credited to Account 429, Amortization of Premium on Debt—Credit.

(2) Reacquisition, without refunding. When long-term debt is reacquired or redeemed without being converted into another form of long-term debt and when the transaction is not in connection with a refunding operation (primarily redemptions for sinking fund purposes), the difference between the amount paid upon reacquisition and the face value; plus any unamortized premium less any related unamortized debt expense and reacquisition costs; or less any unamortized discount, related debt expense and reacquisition costs applicable to the debt redeemed, retired and cancelled, shall be included in account 189, Unamortized Loss on Reacquired Debt, or Account 257, Unamortized Gain on Reacquired Debt, as appropriate. The utility shall amortize the recorded amounts equally on a monthly basis over the remaining life of the respective security issues (old original debt). The amount so amortized shall be charged to Account 428.1, Amortization of Loss on Reacquired Debt, or credited to Account 429.1, Amortization of Gain on Reacquired Debt—Credit, as appropriate.

(3) Reacquisition, with refunding. When the redemption of one issue or series of bonds or other long-term obligations is financed by another issue or series before the maturity date of the first issue, the difference between the amount paid upon refunding and the face value; plus any unamortized premium less related debt expense or less any unamortized discount and related debt expense, applicable to the debt refunded, shall be included in Account 189, Unamortized Loss on Reacquired Debt, or Account 257, Unamortized Gain on Reacquired Debt, as appropriate. The utility may elect to account for such amounts as follows:

(i) Write them off immediately when the amounts are insignificant.

(ii) Amortize them by equal monthly amounts over the remainder of the original life of the issue retired, or

(iii) Amortize them by equal monthly amounts over the life of the new issue.

Once an election is made, it shall be applied on a consistent basis. The amounts in paragraph (q)(3) (i), (ii), or (iii) of this section shall be charged to Account 428.1, Amortization of Loss on Reacquired Debt, or credited to Account 429.1, Amortization of Gain on Reacquired Debt—Credit, as appropriate.

(4) Under methods paragraph (q)(3) (ii) and (iii) of this section, the increase or reduction in current income taxes resulting from the reacquisition should be apportioned over the remainder of the original life of the issued retired or over the life of the new issue, as appropriate, as directed more specifically in paragraphs (q) (5) and (6) of this section.

(5) When the utility recognizes the loss in the year of reacquisition as a tax deduction, Account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, shall be debited and Account 283, Accumulated Deferred Income Taxes—Other, shall be credited with the amount of the related tax effect, such amount to be allocated to the periods affected in accordance with the provisions of Account 283.

(6) When the utility chooses to recognize the gain in the year of reacquisition as a taxable gain, Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, shall be debited with the amount of the related tax effect, such amount to be allocated to the periods affected in accordance with the provisions of Account 190, Accumulated Deferred Income Taxes.

(7) When the utility chooses to use the optional privilege of deferring the tax on the gain attributable to the reacquisition of debt by reducing the depreciable basis of utility property for tax purposes, pursuant to section 108 of the Internal Revenue Code, the related tax effects shall be deferred as the income is recognized for accounting purposes, and the deferred amounts shall be amortized over the life of the associated property on a vintage year basis. Account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, shall be debited, and Account 282, Accumulated Deferred Income Taxes—Other Property, shall be credited with an amount equal to the estimated income tax effect applicable to the portion of the income, attributable to reacquired debt, recognized for accounting purposes during the period. Account 282 shall be debited and Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, shall be credited with an amount equal to the estimated income tax effects, during the life of the property, attributable to the reduction in the depreciable basis for tax purposes.

(8) The tax effects relating to gain or loss shall be allocated as above to utility operations except in cases where a portion of the debt reacquired is directly applicable to nonutility operations. In that event, the related portion of the tax effects shall be allocated to nonutility operations. Where it can be established that reacquired debt is generally applicable to both utility and nonutility operations, the tax effects shall be allocated between utility and nonutility operations based on the ratio of net investment in utility plant to net investment in nonutility plant.

(9) Premium, discount, or expense on debt shall not be included as an element in the cost of construction or acquisition of property (tangible or intangible), except under the provisions of Account 432, Allowance for Borrowed Funds Used During Construction—Credit.

(10) Alternate method. Where a regulatory authority or a group of regulatory authorities having prime rate jurisdiction over the utility specifically disallows the rate principle of amortizing gains or losses on reacquisition of long-term debt without refunding, and does not apply the gain

or loss to reduce interest charges in computing the allowed rate of return for rate purposes, the following alternate method may be used to account for gains or losses relating to reacquisition of long-term debt, with or without refunding:

(i) The difference between the amount paid upon reacquisition of any long-term debt and the face value, adjusted for unamortized discount, expenses or premium, as the case may be, applicable to the debt redeemed shall be recognized currently in income and recorded in Account 421, Miscellaneous Nonoperating Income, or Account 426.5, Other Deductions.

(ii) When this alternate method of accounting is used, the utility shall include a footnote to each financial statement, prepared for public use, explaining why this method is being used along with the treatment given for ratemaking purposes.

(r) *Comprehensive interpreted income tax allocation.* (1) Where there are timing differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income, the income tax effects of such transactions are to be recognized in the periods in which the differences between book accounting income and taxable income arise and in the periods in which the differences reverse using the deferred tax method. In general, comprehensive interperiod tax allocation should be followed whenever transactions enter into the determination of pretax accounting income for the period even though some transactions may affect the determination of taxes payable in a different period, as further qualified below.

(2) Utilities are not required to utilize comprehensive interperiod income tax allocation until the deferred income taxes are included as an expense in the rate level by the regulatory authority having rate jurisdiction over the utility. Where comprehensive interperiod tax allocation accounting is not practiced the utility shall include as a note to each financial statement, prepared for public use, a footnote explanation setting forth the utility's accounting policies with respect to interperiod tax allocation and describing the treatment for rate making purposes of the tax timing differences by regulatory authorities having rate jurisdiction.

(3) Should the utility be subject to more than one agency having rate jurisdiction, its accounts shall appropriately reflect the ratemaking treatment (deferral or flow through) of each jurisdiction.

(4) Once comprehensive interperiod tax allocation has been initiated either in whole or in part it shall be practiced on a consistent basis and shall not be changed or discontinued without prior REA approval.

(5) Tax effects deferred currently will be recorded as deferred debits or deferred credits in Accounts 190, Accumulated Deferred Income Taxes; 281, Accumulated Deferred Income Taxes—Accelerated Amortization Property; 282, Accumulated Deferred Income Taxes—Other Property, and 283, Accumulated Deferred Taxes—Other, as appropriate. The resulting amounts recorded in these accounts shall be disposed of as prescribed in this system of accounts or as otherwise authorized by REA.

(s) *Criteria for classifying leases.* (1) If, at its inception, a lease meets one or more of the following criteria, the lease shall be classified as a capital lease:

(i) The lease transfers ownership of the property to the lessee by the end of the lease term.

(ii) The lease contains a bargain purchase option.

(iii) The lease term is equal to 75 percent or more of the estimated economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease.

(iv) The present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, including any profit thereon, equals or exceed 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by lessor. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease. The lessee utility shall compute the present value of the minimum lease payments using its incremental borrowing rate, unless it is practicable for the utility to learn the implicit rate computed by the lessor, and the implicit rate computed by the lessor is less than the lessee's incremental borrowing rate. If both of those conditions are met, the lessee shall use the implicit rate.

(2) If, at any time, the lessee and lessor agree to change the provisions of the lease, other than by renewing the lease or extending its term, in a manner that would have resulted in a different classification of the lease under the criteria in paragraph A had the changed terms been in effect at the inception of the lease, the revised agreement shall be considered as a new agreement over its term, and the criteria in paragraph (1) shall be applied for purpose of the expiration of the existing lease term, such as the exercise of a lease renewal option other than those already included in the lease term, shall be considered as a new agreement and shall be classified according to the above provision. Changes in estimates (for example, changes in estimates of the economic life or of the residual value of the leased property) or changes in circumstances (for example, default by the lessee) shall not give rise to a new classification of a lease for accounting purposes.

(t) *Accounting for leases.* (1) All leases shall be classified as either capital or operating leases.

(2) The utility shall record a capital lease as an asset in Account 101.1, Property Under Captial Leases, and Account 120.6, Nuclear Fuel Under Capital Leases; as appropriate, and an obligation in Account 227, Obligations Under Capital Leases—Noncurrent, or Account 243, Obligations Under Capital Leases—Current, at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, together with any profit thereon. However, if the amount so determined exceeds the fair value of the leased property at the inception of the lease, the amount recorded as the asset and obligation shall be the fair value.

(3) Rental payments on all leases shall be charged to rent expense, fuel expense, construction work in progress, or other appropriate accounts as they become payable.

(4) For a capital lease, for each period during the lease term, the amounts recorded for the asset and obligation shall be reduced by an amount equal to the portion of each lease payment that would have been allocated to the reduction of the obligation, if the payment had been treated as a payment on an installment obligation (liability) and allocated between interest expense and a reduction of the obligation so as to produce a constant periodic rate of interest on the remaining balance.

§ 1767.16 Electric plant instructions

(a) *Classification of electric plant at effective date of system of accounts.* (1) The electric plant accounts provided herein are the same as those contained in the prior system of accounts except for inclusion of accounts for nuclear production plant and some changes in classification in the general equipment accounts. Except for these changes, the balances in the various plant accounts, as determined under the prior system of accounts, should be carried forward. Any remaining balance of plant which has not yet been classified, pursuant to the requirements of the prior system, shall be classified in accordance with the following instructions.

(2) The cost to the utility of its unclassified plant shall be ascertained by analysis of the utility's records. Adjustments shall not be made to record in utility plant accounts amounts previously charged to operating expenses or to income deductions in accordance with the uniform system of accounts in effect at the time or in accordance with the discretion of management as exercised under a uniform system of accounts, or under accounting practices previously followed.

(3) The detailed electric plant accounts (301 to 399, inclusive) shall be stated on the basis of cost to the utility of plant constructed by it and the original cost, estimated if not known, of plant acquired as an operating unit or system. The difference between the original cost, as above, and the cost to the utility of electric plant after giving effect to any accumulated provision for depreciation or amortization shall be recorded in Account 114, Electric Plant Acquisition Adjustments. The original cost of electric plant shall be determined by analysis of the utility's records or those of the predecessor or vendor companies with respect to electric plant previously acquired as operating units or systems and the difference between the original cost so determined, less accumulated provisions for depreciation and amortization and the cost to the utility with necessary adjustments for retirements from date of acquisition, shall be entered in Account 114, Electric Plant Acquisition Adjustments. Any difference between the cost of electric plant and its book cost, when not properly includible in other accounts, shall be recorded in Account 116, Other Electric Plant Adjustments.

(b) *Electric plant to be recorded at cost.* (1) All amounts included in the accounts for electric plant acquired as an operating unit or system, except as otherwise provided in the texts of the intangible plant accounts, shall be stated at the cost incurred by the person who first devoted the property to utility service. All other electric plant shall be included in the accounts at the cost incurred by the utility except for property acquired by lease which qualifies as capital lease property under § 1767.15(s), Criteria for Classifying Leases, and is recorded in Account 101.1, Property Under Capital Lease, or Account 120.6, Nuclear Fuel Under Capital Leases. Where the term "cost" is used in the detailed plant accounts, it shall have the meaning stated in this paragraph.

(2) When the consideration given for property is other than cash, the value of such consideration shall be determined on a cash basis (see, however, § 1767.10(a)(12)). In the entry recording such transition, the actual consideration shall be described with sufficient particularity to identify it. The utility shall be prepared to furnish REA the particulars of its determination of the cash value of the consideration if other than cash.

(3) When property is purchased under a plan involving deferred payments, no charge shall be made to the electric plant accounts for interest, insurance, or other expenditures occasioned solely by such form of payment.

(4) The electric plant accounts shall not include the cost or other value of electric plant contributed to the company. Contributions in the form of money or its equivalent toward the construction of electric plant shall be credited to accounts charged with the cost of such construction. Plant constructed from contributions of cash or its equivalent shall be shown as a reduction to gross plant constructed when assembling cost data in work orders for posting to plant ledgers of accounts. The accumulated gross costs of plant accumulated in the work order shall be recorded as a debit in the plant ledger of accounts along with the related amount of contributions concurrently being recorded as a credit.

(c) *Components of construction cost.* The cost of construction properly includible in the electric plant accounts shall include, where applicable, the direct and overhead costs as listed and defined hereunder:

(1) *Contract work* includes amounts paid for work performed under contract by other companies, firms, or individuals, costs incident to the award of such contracts, and the inspection of such work.

(2) *Labor* includes the pay and expenses of employees of the utility engaged on construction work, and related workmen's compensation insurance, payroll taxes, and similar items of expense. It does not include the pay and expenses of employees which are distributed to construction through clearing accounts nor the pay and expenses included in other items hereunder.

(3) *Materials and supplies* includes the purchase price at the point of free delivery plus customs duties, excise taxes, the cost of inspection, loading and transportation, the related stores expenses, and the cost of fabricated materials from the utility's shop. In determining the cost of materials and supplies used for construction, proper allowance shall be made for unused materials and supplies, for materials recovered from temporary structures used in performing the work involved, and for discounts allowed and realized in the purchase of materials and supplies.

Note: The cost of individual items of equipment of small value (for example, $500 or less) or of short life, including small portable tools and implements, shall not be charged to utility plant accounts unless the correctness of the accounting therefor is verified by current inventories. The cost shall be charged to the appropriate operating expense or clearing accounts, according to the use of such items, or, if such items are consumed directly in the construction work, the cost shall be included as part of the cost of the construction.

(4) *Transportation* includes the cost of transporting employees, materials and supplies, tools, purchased equipment, and other work equipment (when not under own power) to and from points of construction. It includes amounts paid to others as well as the cost of operating the utility's own transportation equipment. (See paragraph (c)(5) of this section.)

(5) *Special machine service* includes the cost of labor (optional), materials and supplies, depreciation, and other expense incurred in the maintenance, operation and use of special machines, such as steam shovels, pile drivers, derricks, ditchers, scrapers, material unloaders, and other labor saving machines; also expenditures for rental, maintenance and operation of machines of others. It does not include the cost of small tools and other individual items of small value or short life which are included in the cost of materials and supplies. (See paragraph (c)(3) of this section.) When a particular construction job requires the use for an extended period of time of special machines, transportation or other equipment, the net book cost thereof, less the appraised or salvage value at time of release from

the job, shall be include in the cost of construction.

(6) *Shop service* includes the proportion of the expense of the utility's shop department assignable to construction work except that the cost of fabricated materials from the utility's shop shall be included in "materials and supplies."

(7) *Protection* includes the cost of protecting the utility's property from fire or other casualties and the cost of preventing damages to others, or to the property of others, including payments for discovery or extinguishment of fires, cost of apprehending and prosecuting incendiaries, witness fees in relation thereto, amounts paid to municipalities and others for fire protection, and other analogous items of expenditures in connection with construction work.

(8) *Injuries and damages* includes expenditures or losses in connection with construction work on account of injuries to persons and damages to the property of others; also the cost of investigation of and defense against actions for such injuries and damages. Insurance recovered or recoverable on account of compensation paid for injuries to persons incident to construction shall be credited to the account or accounts to which such compensation is charged. Insurance recovered or recoverable on account of property damages incident to construction shall be credited to the account or accounts charged with the cost of the damages.

(9) *Privileges and permits* includes payments for and expenses incurred in securing temporary privileges, permits or rights in connection with construction work, such as for the use of private or public property, streets, or highways, but it does not include rents, or amounts chargeable as franchises and consents for which see Account 302, Franchises and Consents.

(10) *Rents* includes amounts paid for the use of construction quarters and office space occupied by construction forces and amounts properly includible in construction costs for such facilities jointly used.

(11) *Engineers and supervision* includes the portion of the pay and expenses of engineers, surveyors, draftsmen, inspectors, superintendents and their assistants applicable to construction work.

(12) *General administration capitalized* includes the portion of the pay and expenses of the general officers and administrative and general expenses applicable to construction work.

(13) *Engineering services* includes amounts paid to other companies, firms, or individuals engaged by the utility to plan, design, prepare estimates, supervise, inspect, or give general advice and assistance in connection with construction work.

(14) *Insurance* includes premiums paid or amounts provided or reserved as self-insurance for the protection against loss and damages in connection with construction, by fire or other casualty, injuries or deaths of persons other than employees, damages to property of others, defalcation of employees and agents, and the nonperformance of contractual obligations of others. It does not include workmen's compensation or similar insurance on employees included as "labor" in paragraph (c)(2) of this section.

(15) *Law expenditures* includes the general law expenditures incurred in connection with construction and the court and legal costs directly related thereto, other than law expenses included in *Protection*, paragraph (c)(7) of this section, and in *Injuries and damages*, paragraph (c)(8) of this section.

(16) *Taxes* includes taxes on physical property (including land) during the period of construction and other taxes properly includible in construction costs before the facilities become available for service.

(17) *Allowance for funds used during construction* includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used, not to exceed, without prior approval of REA, allowances computed in accordance with the formula prescribed in paragraph (c)(17)(i) of this section. No allowance for funds used during construction charges shall be included in these accounts upon expenditures for construction projects which have been abandoned.

(i) The formula and elements for the computation of the allowance for funds used during construction shall be:

$$A_t = s\frac{(S)}{(W)}\frac{+d\ (D)}{(D+P+C)}\qquad\frac{(1-S)}{(\quad W)}$$

$$A_c = \frac{[1-\ S]}{[\quad W]}\frac{[p\quad (P)}{[\ (D+P+C)}\qquad +c\frac{(C)]}{(D+P+C)]}$$

A_t = Gross allowance for borrowed funds used during construction rate.

A_c = Allowance for other funds used during construction rate.

S = Average short-term debt.

S = Short-term debt interest rate.

D = Long-term debt.

d = Long-term debt interest rate.

P = Preferred stock.

P = Preferred stock cost rate.

C = Common equity.

C = Common equity cost rate.

W = Average balance in construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment, and fabrication.

(ii) The rate shall be determined annually. The balance for long-term debt, preferred stock, and common equity shall be the actual book balances as of the end of the prior year. The cost rate for long-term debt and preferred stock shall be the weighted averaged cost. The cost rate for common equity shall be the rate granted common equity in the last rate proceeding before the ratemaking body having primary rate jurisdictions. If such cost rate is not available, the average rate actually earned during the preceding three years shall be used. The short-term debt balances and related cost and the average balance for construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment, and fabrication shall be estimated for the current year with appropriate

adjustments as actual data becomes available.

Note: When only a portion of a plant or project is placed in operation or is completed and ready for service but the construction work as a whole is incomplete, that part of the cost of the property placed in operation or ready for service shall be treated as "Electric Plant in Service," and an allowance for funds used during construction thereon as a charge to construction shall cease. Allowance for funds used during construction on that part of the cost of the plant which is incomplete may continue to be charged to construction until such time as it is placed in operation or is ready for service, except as limited in paragraph (c)(17) of this section.

(18) *Earnings and expenses during construction.* The earnings and expenses during construction shall constitute a component of construction costs.

(i) The earnings shall include revenues received or earned for power produced by generating plants during the construction period and sold or used by the utility. Where such power is sold to an independent purchaser before intermingling with power generated by other plants, the credit shall consist of the selling price of the energy. Where the power generated by a plant under construction is delivered to the utility's electric system for distribution and sale, or is delivered to an associated company, or is delivered to and used by the utility for purposes other than distribution and sale (for manufacturing or industrial use, for example), the credit shall be the fair value of the energy so delivered. Revenue shall also include rentals for lands, buildings, and other property, and miscellaneous receipts not properly includible in other accounts.

(ii) Expenses shall consist of the cost of operating the power plant, and other costs incident to the production and delivery of the power for which construction is credited under paragraph (c)(18)(i) of this section, including the cost of repairs and other expenses of operating and maintaining lands, buildings, and other property, and other miscellaneous and like expenses not properly includible in other accounts.

(19) *Training costs.* When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are not conventional in nature, or are new to the company's operations, these costs may be capitalized as a component of construction cost. Once plant is placed in service, the capitalization of training costs shall cease and subsequent training costs shall be expensed. (See § 1767.17 (d).)

(20) *Studies* includes the costs of studies such as nuclear operational, safety, or seismic studies, or environmental studies mandated by regulatory bodies relative to plant under construction. Studies relative to facilities in service shall be charged to Account 183, Preliminary Survey and Investigation Charges.

(d) *Overhead construction costs.* (1) All overhead construction costs, such as engineering, supervision, general office salaries and expenses, construction engineering and supervision performed by others than the accounting utility, law expenses, insurance, injuries and damages, relief and pensions, taxes and interest, shall be charged to particular jobs or units on the basis of the amounts of such overheads reasonably applicable thereto, to the end that each job or unit shall bear its equitable proportion of such costs and that the entire cost of the unit, both direct and overhead, shall be deducted from the plant accounts at the time the property is retired.

(2) As far as practicable, the determination of payroll charges includible in construction overheads shall be based on time card distributions there. Where this procedure is impractical, special studies shall be made periodically of the time of supervisory employees devoted to construction activities to the end that only such overhead costs as have a definite relation to construction shall be capitalized. The addition to direct construction cost of arbitrary percentages or amounts to cover assumed overhead costs is not permitted.

(3) The records supporting the entries for overhead construction costs shall be so kept as to show the total amount of each overhead for each year, the nature and amount of each overhead expenditure charged to each construction work order and to each electric plant account, and the bases of distribution of such costs.

(e) *Electric plant purchased or sold.* (1) When electric plant constituting an operating unit or system is acquired by purchase, merger, consolidation, liquidation, or otherwise, after the effective date of this system of accounts, the costs of acquisition, including expenses incidental thereto properly includible in electric plant, shall be charged to Account 102, Electric Plant Purchased or Sold.

(2) The accounting for the acquisition shall then be completed as follows:

(i) The original cost of plant, estimated if not known, shall be credited to Account 102, Electric Plant Purchased or Sold, and concurrently charged to the appropriate electric plant in service accounts and to Account 104, Electric Plant Leased to Others; Account 105, Electric Plant Held for Future Use; and Account 107, Construction Work in Progress—Electric, as appropriate.

(ii) The depreciation and amortization applicable to the original cost of the properties purchased shall be charged to Account 102, Electric Plant Purchased or Sold, and concurrently credited to the appropriate account for accumulated provision for depreciation or amortization.

(iii) The cost to the utility of any property includible in Account 121, Nonutility Property, shall be transferred thereto.

(iv) The amount remaining in Account 102, Electric Plant Purchased or Sold, shall then be closed to Account 114, Electric Plant Acquisition Adjustments.

(3) If property acquired in the purchase of an operating unit or system is in such physical condition when acquired that it is necessary to substantially rehabilitate it in order to bring the property up to the standards of the utility, the cost of such work, except replacements, shall be accounted for as a part of the purchase price of the property.

(4) When any property acquired as an operating unit or system includes duplicate or other plant which will be retired by the accounting utility in the reconstruction of the acquired property or its consolidation with previously owned property, the proposed accounting for such property shall be presented to REA.

(5) In connection with the acquisition of electric plant constituting an operating unit or system, the utility shall procure, if possible, all existing records relating to the property acquired or certified copies thereof, and shall preserve such records in conformity with regulations or practices governing the preservation of records of its own construction.

(6) When electric plant constituting an operating unit or system is sold, conveyed, or transferred to another by sale, merger, consolidation, or otherwise, the book cost of the property sold or transferred to another shall be credited to the appropriate utility plant accounts, including amounts carried in Account 114, Electric Plant Acquisition Adjustments, and the amounts (estimated if not known) carried with respect thereto in the accounts for accumulated provision for depreciation and amortization and in Account 252, Customer Advances for Construction, shall be charged to such accounts and contra entries made to Account 102, Electric Plant Purchased or Sold. Unless

otherwise ordered by REA, the difference, if any, between:

(i) The net amount of debits and credits, and

(ii) The consideration received for the property (less commissions and other expenses of making the sale) shall be included in Account 421.1, Gain on Disposition of Property, or Account 421.2, Loss on Disposition of Property. (See Account 102, Electric Plant Purchased or Sold.

Note: In cases where existing utilities merge or consolidate because of financial or operating reasons or statutory requirements rather than as a means of transferring title of purchased properties to a new owner, the accounts of the constitutent utilities, with the approval of REA, may be combined. In the event original cost has not been determined, the resulting utility shall proceed to determine such cost as outlined herein.

(f) *Expenditures on leased property.* (1) The cost of substantial initial improvements (including repairs, rearrangements, additions, and betterments) made in the course of preparing for utility service property leased for a period of more than one year, and the cost of subsequent substantial additions, replacements, or betterments to such property, shall be charged to the electric plant account appropriate for the class of property leased. If the service life of the improvements is terminable by action of the lease, the cost, less net salvage, of the improvements shall be spread over the life of the lease by charges to Account 404, Amortization of Limited-Term Electric Plant. However, if the service life is not terminated by action of the lease but by depreciation proper, the cost of the improvements, less net salvage, shall be accounted for as depreciable plant. The provisions of this paragraph are applicable to property leased under either capital leases or operating leases.

(2) If improvements made to property leased for a period of more than one year are of relatively minor cost, or if the lease is for a period or not more than one year, the cost of the improvements shall be charged to the account in which the rent is included, either directly or by amortization thereof.

(g) *Land and land rights.* (1) The accounts for land and land rights shall include the cost of land owned in fee by the utility and rights, interests, and privileges held by the utility in land owned by others, such as leaseholds, easements, water and water power rights, diversion rights, submersion rights, rights-of-way, and other like interests in land. Do not include in the accounts for land and land rights and rights-of-way costs incurred in connection with first clearing and grading of land and rights-of-way and the damage costs associated with the construction and installation of plant. Such costs shall be included in the appropriate plant accounts directly benefited.

(2) Where special assessments for public improvements provide for deferred payments, the full amount of the assessments shall be charged to the appropriate land account and the unpaid balance shall be carried in an appropriate liability account. Interest on unpaid balances shall be charged to the appropriate interest account. If any part of the cost of public improvements is included in the general tax levy, the amount thereof shall be charged to the appropriate tax account.

(3) The net profit from the sale of timber, cord wood, sand, gravel, other resources or other property acquired with the rights-of-way or other lands shall be credited to the appropriate plant accounts to which related. Where land is held for a considerable period of time and timber and other natural resources on the land at the time of purchase increase in value, the net profit (after giving effect to the cost of the natural resources) from the sale of timber or its products or other natural resources shall be credited to the appropriate utility operating income account when such land has been recorded in Account 105, Electric Plant Held for Future Use, or classified as plant in service, otherwise to Account 421, Miscellaneous Nonoperating Income.

(4) Separate entries shall be made for the acquisition, transfer, or retirement of each parcel of land, and each land right (except rights-of-way for distribution lines), or water right, having a life of more than one year. A record shall be maintained showing the nature of ownership, full legal description, area, map reference, purpose for which used, city, county, and tax district on which situated, from whom purchased or to whom sold, payment given or received, other costs, contract date and number, date of recording of deed, and book and page of record. Entries transferring or retiring land or land rights shall refer to the original entry recording its acquisition.

(5) Any difference between the amount from the sale of land or land rights, less agents' commissions and other costs incident to the sale, and the book cost of such land or rights, shall be included in Account 411.6, Gains from Disposition of Utility Plant, or 411.7, Losses from Disposition of Utility Plant, when such property has been recorded in Account 105, Electric Plant Held for Future Use, otherwise to Account 421.1, Gain on Disposition of Property, or 421.2, Loss on Disposition of Property, as appropriate, unless a reserve therefor has been authorized and provided. Appropriate adjustments of the accounts shall be made with respect to any structures or improvements located on land sold.

(6) The cost of buildings and other improvements (other than public improvements) shall not be included in the land accounts. If, at the time of acquisition of an interest in land, such interest extends to buildings or other improvements (other than public improvements) which are then devoted to utility operations, the land and improvements shall be separately appraised and a cost allocated to land and buildings or improvements on the basis of the appraisals. If the improvements are removed or wrecked without being used in operations, the cost of removing or wrecking shall be charged and the salvage credited to the account in which the cost of land is recorded.

(7) When the purchase of land for electric operations requires the purchase of more land than needed for such purposes, the charge to the specific land account shall be based upon the cost of the land purchased, less the fair market value of that portion of the land which is not to be used in utility operations. The portion of the cost measured by the fair market value of the land not to be used shall be included in Account 105, Electric Plant Held for Future Use, or Account 121, Nonutility Property, as appropriate.

(8) Provisions shall be made for amortizing amounts carried in the accounts for limited-term interest in land so as to apportion equitably the cost of each interest over the life thereof. (See Account 111, Accumulated Provision for Amortization of Electric Utility Plant, and Account 404, Amortization of Limited-Term Electric Plant.)

(9) The items of cost to be included in the accounts for land and land rights are as follows:

(i) Bulkheads, buried, not requiring maintenance or replacement.

(ii) First cost of acquisition including mortgages and other liens assumed (but not subsequent interest thereon).

(iii) [Reserved]

(iv) Condemnation proceedings, including court and counsel costs.

(v) Consents and abutting damages.

(vi) Conveyancers' and notaries' fees.

(vii) Fees, commissions, and salaries to brokers, agents, and other in

connection with the acquisition of the land or land rights.

(viii) [Reserved]

(ix) Leases, cost of voiding upon purchases to secure possession of land.

(x) Removing, relocating, or reconstructing property of others, such as buildings, highways, railroads, bridges, cemeteries, churches, telephone and power lines, etc., in order to acquire quiet possession.

(xi) Retaining walls unless identified with structures.

(xii) Special assessments levied by public authorities for public improvements on the basis of benefits for new roads, new bridges, new sewers, new curbing, new pavements, and other public improvements, but not taxes levied to provide for the maintenance of such improvements.

(xiii) Surveys in connection with the acquisition, but not amounts paid for topographical surveys and maps where such costs are attributable to structures or plant equipment erected or to be erected or installed on such land.

(xiv) Taxes assumed, accrued to date of transfer of title.

(xv) Title, examining, clearing, insuring, and registering in connection with the acquisition and defending against claims relating to the period prior to the acquisition.

(xvi) Appraisals prior to closing title.

(xvii) Cost of dealing with distributees or legatees residing outside of the state or county, such as recording power of attorney, recording will or exemplification of will, recording satisfaction of state tax.

(xviii) Filing satisfaction of mortgage.

(xix) Documentary stamps.

(xx) Photographs of property at acquisition.

(xxi) Fees and expenses incurred in the acquisition of water rights and grants.

(xxii) Cost of fill to extend bulkhead line over land under water, where riparian rights are held, which is not occasioned by the erection of a structure.

(xxiii) Sidewalks and curbs constructed by the utility on public property.

(xxiv) Labor and expenses in connection with securing rights of way, where performed by company employees and company agents.

(h) *Structures and improvements.* (1) The accounts for structures and improvements shall include the cost of all buildings and facilities to house, support, or safeguard property or persons, including all fixtures permanently attached to and made a part of buildings and which cannot be removed therefrom without cutting into the walls, ceilings, or floors, or without in some way impairing the buildings, and improvements of a permanent character on or to land. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant.

(2) The cost of specially provided foundations not intended to outlast the machinery or apparatus for which provided, and the cost of angle irons, and castings installed at the base of an item of equipment, shall be charged to the same account as the cost of the machinery, apparatus, or equipment.

(3) Minor buildings and structures, such as valve towers, patrolmen's towers, telephone stations, fish and wildlife, and recreation facilities which are used directly in connection with or form a part of a reservior, dam or waterway shall be considered a part of the facility in conneciton with which constructed or operated and the cost thereof accounted for accordingly.

(4) Where furnaces and boilers are used primarily for furnishing steam for some particular department and only incidentally for furnishing steam for heating a building and operating the equipment therein, the entire cost of such furnaces and boilers shall be charged to the appropriate plant account, and no part to the building account.

(5) Where the structure of a dam forms also the foundation of the power plant building, such foundation shall be considered a part of the dam.

(6) The cost of disposing of materials excavated in connection with construction of structures shall be considered as a part of the cost of such work, except when such material is used for filling, the cost of loading, hauling, and dumping shall be equitably apportioned between the work in connection with which the removal occurs and the work in connection with which the material is used; and when such material is sold, the net amount realized from such sales shall be credited to the work in connection with which the removal occurs. If the amount realized from the sale of excavated materials exceeds the removal costs and the costs in connection with the sale, the excess shall be credited to the land account in which the site is carried.

(7) Lighting or other fixtures temporarily attached to building for purposes of display or demonstration shall not be included in the cost of the building but in the appropriate equipment account.

(8) The items of cost to be included in the accounts for structures and improvements are as follows:

(i) Architects' plans and specifications including supervision.

(ii) Ash pits (when located within the building).

(iii) Athletic field structures and improvements.

(iv) Boilers, furnaces, piping, wiring, fixtures, and machinery for heating, lighting, signaling, ventilating, and air conditioning systems, plumbing, vacuum cleaning systems, incinerator and smoke pipe, flues, etc.

(v) Bulkheads, including dredging, riprap fill, piling, decking, concrete, fenders, etc., when exposed and subject to maintenance and replacement.

(vi) Chimneys.

(vii) Coal bins and bunkers.

(viii) Commissions and fees to brokers, agents, architects and others.

(ix) Conduit (not to be removed) with its contents.

(x) Damages to abutting property during construction.

(xi) Docks.

(xii) Door checks and door stops.

(xiii) Drainage and sewerage systems.

(xiv) Elevators, cranes, hoists, etc., and the machinery for operating them.

(xv) Excavation, including shoring, bracing, bridging, refill and disposal of excess excavated material, cofferdams around foundation, pumping water from cofferdams during construction and test borings.

(xvi) Fences and fence curbs (not including protective fences isolating items of equipment, which shall be charged to the appropriate equipment accounts).

(xvii) Fire protection systems when forming a part of a structure.

(xviii) Flagpole.

(xix) Floor covering (permanently attached).

(xx) Foundations and piers for machinery, constructed as a permanent part of a building or other item listed herein.

(xxi) Grading and clearing when directly occasioned by the building of a structure.

(xxii) Intrasite communication system, poles, pole fixtures, wires, and cable.

(xxiii) Landscaping, lawns, shrubbery, etc.

(xxiv) Leases, voiding upon purchase to secure possession of structures.

(xxv) Leased property, expenditures on.

(xxvi) Lighting fixtures and outside lighting system.

(xxvii) Mailchutes when part of a building.

(xxviii) Marquee, permanently attached to the building.
(xxix) Painting, first cost.
(xxx) Permanent paving, concrete, brick, flagstone, asphalt, etc., within the property lines.
(xxxi) Partitions, including movable.
(xxxii) Permits and privileges.
(xxxiii) Platforms, railings and gratings when constructed as a part of a structure.
(xxxiv) Power boards for services to a building.
(xxxv) Refrigeration systems for general use.
(xxxvi) Retaining walls except when identified with land.
(xxxvii) Roadways, railroads, bridges, and trestles intrasite except railroads provided for in equipment accounts.
(xxxviii) Roofs.
(xxxix) Scales, connected to and forming a part of a structure.
(xl) Screens.
(xli) Sewer systems, for general use.
(xlii) Sidewalks, culverts, curbs and streets constructed by the utility on its property.
(xliii) Sprinkling systems.
(xliv) Sump pumps and pits.
(xlv) Stacks—brick, steel, or concrete, when set on foundation forming part of general foundation and steelwork of a building.
(xlvi) Steel inspection during construction.
(xlvii) Storage facilities constituting a part of a building.
(xlviii) Storm doors and windows.
(xlix) Subways, areaways, and tunnels, directly connected to and forming part of a structure.
(l) Tanks, constructed as part of a building or as a distinct structural unit.
(li) Temporary heating during construction (net cost).
(lii) Temporary water connection during construction (net cost).
(liii) Temporary shanties and other facilities used during construction (net cost).
(liv) Topographical maps.
(lv) Tunnels, intake and discharge, when constructed as part of a structure, including sluice gates, and those constructed to house mains.
(lvi) Vaults constructed as part of a building.
(lvii) Watchmen's sheds and clock systems (net cost when used during construction only).
(lviii) Water basins or reservoirs.
(lix) Water front improvements.
(lx) Water meters and supply system for a building or for general company purposes.
(lxi) Water supply piping, hydrants, and wells.
(lxii) Wharves.
(lxiii) Window shades and ventilators.
(lxiv) Yard drainage system.
(lxv) Yard lighting system.
(lxvi) Yard surfacing, gravel, concrete, or oil (First cost only).

Note: Structures and improvements accounts shall be credited with the cost of coal bunkers, stacks, foundations, subways, and tunnels, the use of which has terminated with the removal of the equipment with which they are associated even though they have not been physically removed.

(i) *Equipment.* (1) The cost of equipment chargeable to the electric plant accounts, unless otherwise indicated in the text of an equipment account, includes the net purchase price thereof, sales taxes, investigation and inspection expenses necessary to such purchase, expenses of transportation when borne by the utility, labor employed, materials, and supplies consumed, and expenses incurred by the utility in unloading and placing the equipment in readiness to operate. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant.

(2) Exclude from equipment accounts hand and other portable tools, which are likely to be lost or stolen or which have relatively small value (for example, $500 or less) or short life, unless the correctness of the accounting therefor as electric plant is verified by current inventories. Special tools acquired and included in the purchase price of equipment shall be included in the appropriate plant accounts. Portable drills and similar tool equipment when used in connection with the operation and maintenance of a particular plan or department, such as production, transmission, or distribution or in "stores", shall be charged to the plant accounts appropriate for their use.

(3) The equipment accounts shall include angle irons and similar items which are installed at the base of an item of equipment, but piers and foundations which are designed to be as permanent as the buildings which house the equipment, or which are constructed as a part of the building and which cannot be removed without cutting into the walls, ceilings, or floors or, without in some way impairing the building, shall be included in the building accounts.

(4) The equipment accounts shall include the necessary costs of testing or running a plant or parts thereof during an experimental or test period prior to such plant becoming ready for or placed in service. The utility shall furnish REA with full particulars of and justification for any test or experimental run extending beyond a period of 120 days for nuclear plant, and a period of 90 days for all other plant. Such particulars shall include a detailed operational and downtime log showing days of production, gross kilowatts generated by hourly increments, types, and periods of outages by hours with explanation thereof, beginning with the first date the equipment was either tested or synchronized on the line to the end of the test period.

(5) The cost of efficiency or other tests made subsequent to the date equipment becomes available for service shall be charged to the appropriate expense accounts, except that tests to determine whether equipment meets the specifications and requirements as to efficiency, or performance guaranteed by manufacturers, made after operations have commenced and within the period specified in the agreement or contract of purchase, may be charged to the appropriate electric plant accounts.

(j) *Additions and retirements of electric plant.* (1) For the purpose of avoiding undue refinement in accounting for additions to and retirements and replacements of electric plant, all property shall be considered as consisting of retirement units and minor items of property. Each utility shall use such list of retirement units as is in use by it at the effective date hereof or as may be prescribed by REA, with the option, however, of using smaller units, provided the utility's practice in this respect is consistent.

(2) The addition and retirement of retirement units shall be accounted for as follows:

(i) When a retirement unit is added to electric plant, the cost thereof shall be added to the appropriate electric plant account, except that when units are acquired in the acquisition of any electric plant constituting an operating system, they shall be accounted for as provided in § 1767.16(e).

(ii) When a retirement unit is retired from electric plant, with or without replacement, the book cost thereof shall be credited to the electric plant account in which it is included, determined in the manner set forth in item (D), below. If the retirement unit is of a depreciable class, the book cost of the unit retired and credited to electric plant shall be charged to the accumulated provision for depreciation applicable to such property. The cost of removal and the salvage shall be charged or credited, as appropriate, to such depreciation account.

(3) The addition and retirement of minor items of property shall be accounted for as follows:

(i) When a minor item of property which did not previously exist is added to plant, the cost thereof shall be accounted for in the same manner as for the addition of a retirement unit, as set forth in paragraph (j)(2)(i) of this section if a substantial addition results, otherwise the charge shall be to the appropriate maintenance expense account.

(ii) When a minor item of property is retired and not replaced, the book cost thereof shall be credited to the electric plant account in which it is included; and, in the event the minor item is a part of depreciable plant, the account for accumulated provision for depreciation shall be charged with the book cost and cost of removal and credited with the salvage. If, however, the book cost of the minor item retired and not replaced has been or will be accounted for by its inclusion in the retirement unit of which it is a part when such unit is retired, no separate credit to the property account is required when such minor item is retired.

(iii) When a minor item of depreciable property is replaced independently of the retirement unit of which it is a part, the cost of replacement shall be charged to the maintenance account appropriate for the item, except that if the replacement effects a substantial betterment (the primary aim of which is to make the property affected more useful, more efficient, of greater durability, or of greater capacity), the excess cost of the replacement over the estimated cost at current prices of replacing without betterment shall be charged to the appropriate electric plant accounts.

(4) The book cost of electric plant retired shall be the amount at which such property is included in the electric plant accounts, including all components of construction costs. The book cost shall be determined from the utility's records and if this cannot be done, it shall be estimated. When it is impracticable to determine the book cost of each unit, due to the relatively large number or small cost thereof, an appropriate average book cost of the units with due allowance for any differences in size and character, shall be used as the book cost of the units retired.

(5) The book cost of land retired shall be credited to the appropriate land accounts. If the land is sold, the difference between the book cost (less any accumulated provision for depreciation or amortization therefore which has been authorized and provided) and the sale price of the land (less commissions and other expenses of making the sale) shall be recorded in Account 411.6, Gains from Disposition of Utility Plant, or Account 411.7, Losses from Disposition of Utility Plant, when the property has been recorded in Account 105, Electric Plant Held for Future Use, otherwise to Accounts 421.1, Gain on Disposition of Property, or 421.2, Loss on Disposition of Property, as appropriate. If the land is not used in utility service but is retained by the utility, the book cost shall be charged to Account 105, Electric Plant Held for Future Use, or Account 121, Nonutility Property, as appropriate.

(6) The book cost less net salvage of depreciable electric plant retired shall be charged in its entirety to Account 108, Accumulated Provision for Depreciation of Electric Utility Plant in Service. Any amounts which, by approval or order of REA, are charged to Account 182.1, Extraordinary Property Losses, shall be credited to Account 108.

(7) The accounting for the retirement of amounts included in Account 302, Franchises and Consents, and Account 303, Miscellaneous Intangible Plant, and the items of limited-term interest in land included in the accounts for land and land rights, shall be a provided for in the text of Account 111, Accumulated Provision for Amortization of Electric Utility Plant in Service; Account 404, Amortization of Limited-Term Electric Plant; and Account 405, Amortization of Other Electric Plant.

(k) *Work order and property record system required.* (1) Each utility shall record all construction and retirements of electric plant by means of work orders or job orders. Separate work orders may be opened for additions to and retirements of electric plant or the retirements may be included with the construction work order: *Provided, however,* That all items relating to the retirements shall be kept separate from those relating to construction and *Provided, further,* That any maintenance costs involved in the work shall likewise be segregated.

(2) Each utility shall keep its work order systems so as to show the nature of each addition to or retirement of electric plant, the total cost thereof, the source or sources of costs, and the electric plant account or accounts to which charged or credited. Work orders covering jobs of short duration may be cleared monthly.

(3) Each utility shall maintain records in which, for each plant account, the amounts of the annual additions and retirements, subsequent to the effective date of this system of accounts, are classified so as to show the number and cost of the various record units or retirement units.

(l) *Transfers of property.* When property is transferred from one electric plant account to another, from one utility department to another, such as from electric to gas, from one operating division or area to another, to or from Account 101, Electric Plant in Service; Account 104, Electric Plant Leased to Others; Account 105, Electric Plant Held for Future Use, and Account 121, Nonutility Property, the transfer shall be recorded by transferring the original cost thereof from the one account, department, or location to the other. Any related amounts carried in the accounts for accumulated provision for depreciation or amortization shall be transferred in accordance with the segregation of such accounts.

(m) *Common utility plant.* (1) If the utility is engaged in more than one utility service, such as electric, gas, and water, and any of its utility plant is used in common for several utility services or for other purposes to such an extent and in such manner that it is impracticable to segregate it by utility services currently in the accounts, such property, with the approval of REA, may be designated and classified as "common utility plant."

(2) The book amount of utility plant designated as common plant shall be included in Account 118, Other Utility Plant, and if applicable in part to the electric department, shall be segregated and accounted for in subaccounts as electric plant is accounted for in Accounts 101 to 107, inclusive, and electric plant adjustments in Account 116, Other Electric Plant Adjustments; any amounts classifiable as common plant acquisition adjustments or common plant adjustments shall be subject to disposition as provided in Paragraphs C and B of Accounts 114 and 116, respectively, for amounts classified in those accounts. The original cost of common utility plant in service shall be classified according to the detailed utility plant accounts appropriate for the property.

(3) The utility shall be prepared to show, at any time, and to report to REA annually, or more frequently, if required, and by utility plant accounts (301 to 399) the book cost of common utility plant, the allocation of such cost to the respective departments using the common utility plant, and the basis of the allocation.

(4) The accumulated provision for depreciation and amortization of the utility shall be segregated so as to show the amount applicable to the property classified as common utility plant.

(5) The expenses of operation, maintenance, rents, depreciation and

amortization of common utility plant shall be recorded in the accounts prescribed herein, but designated as common expenses, and the allocation of such expenses to the departments using the common utility plant shall be supported in such manner as to reflect readily the basis of allocation used.

(n) *Transmission and distribution plant.* For the purpose of this system of accounts:

(1) *Transmission system* is all land, conversion structures, and equipment employed at a primary source of supply (i.e. generating station, or point of receipt in the case of purchased power) to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission; all land, structures, lines, switching and conversion stations, high tension apparatus, and their control and protective equipment between a generating or receiving point and the entrance to a distribution center or wholesale point; and all lines and equipment whose primary purpose is to augment, integrate or tie together the sources of power supply.

(2) *Distribution system* is all land, structures, conversion equipment, lines, line transformers, and other facilities employed between the primary source of supply (i.e. generating station, or point of receipt in the case of purchased power) and of delivery to customers, which are not includible in transmission system, as defined in paragraph (n)(1) of this section, whether or not such land, structures, and facilities are operated as part of a transmission system or as part of a distribution system.

Note: Stations which change electricity from transmission to distribution voltage shall be classified as distribution stations.

(3) Where poles or towers support both transmission and distribution conductors, the poles, towers, anchors, guys, and rights-of-way shall be classified as transmission system. The conductors, cross-arms, braces, grounds, tiewire, and insulators shall be classified as transmission or distribution facilities, according to the purpose for which used.

(4) Where underground conduit contains both transmission and distribution conductors, the underground conduit and right-of-way shall be classified as distribution system. The conductors shall be classified as transmission or distribution facilities according to the purpose for which used.

(5) Land (other than rights-of-way) and structures used jointly for transmission and distribution purposes shall be classified as transmission or distribution according to the major use thereof.

(o) *Hydraulic production plant.* For purpose of this system of accounts hydraulic production plant is all land and land rights, structures and improvements used in connection with hydraulic power generation, reservoirs, dams and waterways, water wheels, turbines, generators, accessory electric equipment, roads, railroads, and bridges and structures and improvements used in connection with fish and wildlife, and recreation.

(p) *Nuclear fuel records required.* Each utility shall keep all the necessary records to support the entries to the various nuclear fuel plant accounts classified under "Assets and Other Debits," Utility Plant Accounts 120.1 through 120.5, inclusive; Account 518, Nuclear Fuel Expense; and Account 157, Nuclear Materials Held for Sale. These records shall be so kept as to readily furnish the basis of the computation of the net nuclear fuel costs.

§ 1767.17 Operating expense instructions.

(a) *Supervision and engineering.* The supervision and engineering includible in the operating expense accounts shall consist of the pay and expenses of superintendents, engineers, clerks, other employees, and consultants engaged in supervising and directing the operation and maintenance of each utility function. Whenever allocations are necessary in order to arrive at the amount to be included in any account, the method and basis of allocation shall be reflected by underlying records.

(1) Labor Items:

(i) Special tests to determine efficiency of equipment operation.

(ii) Preparing or reviewing budgets, estimates, and drawings relating to operation or maintenance for departmental approval.

(iii) Preparing instructions for operations and maintenance activities.

(iv) Reviewing and analyzing operating results.

(v) Establishing organizational setup of departments and executing changes therein.

(vi) Formulating and reviewing routines of departments and executing changes therein.

(vii) General training and instruction of employees by supervisors whose pay is chargeable hereto. Specific instructions and training in a particular type of work is chargeable to the appropriate functional account (See § 1767.16 (c)(19)).

(viii) Secretarial work for supervisory personnel, but not general clerical and stenographic work chargeable to other accounts.

(2) Expense Items:

(i) Consultants' fees and expenses.

(ii) Meals, traveling and incidental expenses.

(b) *Maintenance.* (1) The cost of maintenance chargeable to the various operating expense and clearing accounts includes labor, materials, overheads and other expenses incurred in maintenance work. A list of work operations applicable generally to utility plant is included hereunder. Other work operations applicable to specific classes of plant are listed in functional maintenance expense accounts.

(2) Materials recovered in connection with the maintenance of property shall be credited to the same account to which the maintenance cost was charged.

(3) If the book cost of any property is carried in Account 102, Electric Plant Purchased or Sold, the cost of maintaining such property shall be charged to the accounts for maintenance of property of the same class and use, the book cost of which is carried in other electric plant in service accounts. Maintenance of property leased from others shall be treated as provided in § 1767.17(c).

(i) Items:

(A) Direct field supervision of maintenance.

(B) Inspecting, testing, and reporting on condition of plant specifically to determine the need for repairs, replacements, rearrangements and changes and inspecting and testing the adequacy of repairs which have been made.

(C) Work performed specifically for the purpose of preventing failure, restoring serviceability or maintaining life of plant.

(D) Rearranging and changing the location of plant not retired.

(E) Repairing for reuse materials recovered from plant.

(F) Testing for, locating, and clearing trouble.

(G) Net cost of installing, maintaining, and removing temporary facilities to prevent interruptions in service.

(H) Replacing or adding minor items of plant which do not constitute a retirement unit.

(c) *Rents.* (1) The rent expense accounts provided under the several functional groups of expense accounts shall include all rents, including taxes paid by the lessee on leased property, for property used in utility operations, except minor amounts paid for occasional or infrequent use of any property or equipment and all amounts paid for use of equipment that, if owned, would be includible in plant Accounts

391 to 398 inclusive, which shall be treated as an expense item and included in the appropriate function account and rents which are chargeable to clearing accounts, and distributed therefrom to the appropriate account. If rents cover property used for more than one function such as production and transmission, or by more than one department, the rents shall be apportioned to the appropriate rent expense or clearing accounts of each department on an actual, or if necessary, an estimated basis.

(2) When a portion of property or equipment rented from others for use in connection with utility operations is subleased, the revenue derived from such subleasing shall be credited to the rent revenue account in operating revenues; provided, however, that in case the rent was charged to a clearing account, amounts received from subleasing the property shall be credited to such clearing account.

(3) The cost, when incurred by the lessee, of operating and maintaining leased property, shall be charged to the accounts appropriate for the expense if the property were owned.

(4) The cost incurred by the lessee of additions and replacements to electric plant leased from others shall be accounted for as provided in § 1767.16(f).

(d) *Training costs.* When it is necessary that employees be trained to specifically operate or maintain plant facilities that are being constructed, the related costs shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred. However, when the training costs involved relate to facilities which are not conventional in nature, or are new to the company's operations, see § 1767.16(c)(19), for the accounting.

§ 1767.18 Accounts required of all REA borrowers.

The accounts identified below shall be used by all REA borrowers.

Assets and Other Debits

Utility Plant

101 Electric Plant in Service
101.1 Property Under Capital Leases
102 Electric Plant Purchased or Sold
103 Experimental Electric Plant Unclassified
104 Electric Plant Leased to Others
105 Electric Plant Held for Future Use
106 Completed Construction not Classified—Electric
107 Construction Work in Progress—Electric
107.1 Construction Work in Progress—Contract
107.2 Construction Work in Progress—Force Account
107.3 Construction Work in Progress—Special Equipment
108 Accumulated Provision for Depreciation of Electric Utility Plant
108.1 Accumulated Provision for Depreciation of Steam Production Plant
108.2 Accumulated Provision for Depreciation of Nuclear Production Plant
108.3 Accumulated Provision for Depreciation of Hydraulic Production Plant
108.4 Accumulated Provision for Depreciation of Other Production Plant
108.5 Accumulated Provision for Depreciation of Transmission Plant
108.6 Accumulated Provision for Depreciation of Distribution Plant
108.7 Accumulated Provision for Depreciation of General Plant
108.8 Retirement Work in Progress
109 [Reserved]
110 [Reserved]
111 Accumulated Provision for Amortization of Electric Utility Plant
112 [Reserved]
113 [Reserved]
114 Electric Plant Acquisition Adjustments
115 Accumulated Provision for Amortization of Electric Plant Acquisition Adjustments
116 Other Electric Plant Adjustments
118 Other Utility Plant
119 Accumulated Provision for Depreciation and Amortization of Other Utility Plant
120.1 Nuclear Fuel in Process of Refinement, Conversion, Enrichment, and Fabrication
120.2 Nuclear Fuel Materials and Assemblies—Stock Account
120.3 Nuclear Fuel Assemblies in Reactor
120.4 Spent Nuclear Fuel
120.5 Accumulated Provision for Amortization of Nuclear Fuel Assemblies
120.6 Nuclear Fuel Under Capital Leases

Other Property and Investments

121 Nonutility Property
122 Accumulated Provision for Depreciation and Amortization of Nonutility Property
123 Investment in Associated Companies
123.1 Patronage Capital from Associated Cooperatives
123.11 Investment in Subsidiary Companies
123.21 Subscriptions to Capital Term Certificates—Supplemental Financing
123.22 Investments in Capital Term Certificates—Supplemental Financing
123.23 Other Investments in Associated Organizations
124 Other Investments
125 Sinking Funds
126 Depreciation Fund
128 Other Special Funds

Current and Accrued Assets

131 Cash
131.1 Cash—General
131.12 Cash—General—Economic Development Funds
131.2 Cash—Construction Fund—Trustee
131.3 Cash—Installation Loan and Collection Fund
131.4 Transfer of Cash
132 Interest Special Deposits
133 Dividend Special Deposits
134 Other Special Deposits
135 Working Funds
136 Temporary Cash Investments
141 Notes Receivable
141.1 Accumulated Provision for Uncollectible Notes—Credit
142 Customer Accounts Receivable
142.1 Customer Accounts Receivable—Electric
142.2 Customer Accounts Receivable—Other
143 Other Accounts Receivable
144 Accumulated Provision for Uncollectible Accounts—Credit
144.1 Accumulated Provision for Uncollectible Customer Accounts—Credit
144.2 Accumulated Provision for Uncollectible Merchandising Accounts—Credit
144.3 Accumulated Provision for Uncollectible Accounts, Officers and Employees—Credit
144.4 Accumulated Provision for Other Uncollectible Accounts—Credit
145 Notes Receivable from Associated Companies
146 Accounts Receivable from Associated Companies
151 Fuel Stock
152 Fuel Stock Expenses Undistributed
153 Residuals
154 Plant Materials and Operating Supplies
155 Merchandise
156 Other Materials and Supplies
157 Nuclear Materials Held for Sale
163 Stores Expense Undistributed
165 Prepayments
165.1 Prepayments—Insurance
165.2 Other Prepayments
171 Interest and Dividends Receivable
172 Rents Receivable
173 Accrued Utility Revenues
174 Miscellaneous Current and Accrued Assets

Deferred Debits

181 Unamortized Debt Expense
182.1 Extraordinary Property Losses
182.2 Unrecovered Plant and Regulatory Study Costs
183 Preliminary Survey and Investigation Charges
184 Clearing Accounts
184.1 Transportation Expenses—Clearing
184.2 Clearing Accounts—Other
185 Temporary Facilities
186 Miscellaneous Deferred Debits
187 Deferred Losses from Disposition of Utility Plant
188 Research, Development, and Demonstration Expenditures
189 Unamortized Loss on Reacquired Debt
190 Accumulated Deferred Income Taxes

Liabilities and Other Credits

Margins and Equities

200 Memberships
200.1 Memberships Issued
200.2 Memberships Subscribed But Unissued
201 Patronage Capital
201.1 Patronage Capital Credits
201.2 Patronage Capital Assignable
202 [Reserved]

203 [Reserved]
204 [Reserved]
205 [Reserved]
206 [Reserved]
207 [Reserved]
208 Donated Capital
209 [Reserved]
210 [Reserved]
211 Consumers' Contributions for Debt Service
212 [Reserved]
213 [Reserved]
214 [Reserved]
215 Appropriated Margins
216 [Reserved]
216.1 Unappropriated Undistributed Subsidiary Earnings
217 Retired Capital Credits—Gain
218 Capital Gains and Losses
219 Other Margins and Equities
219.1 Operating Margins
219.2 Nonoperating Margins
219.3 Other Margins
219.4 Other Margins and Equities—Prior Periods

Long-Term Debt

221 Bonds
222 Reacquired Bonds
223 Advances from Associated Companies
224 Other Long-Term Debt
224.1 Long-Term Debt—REA Construction Loan Contract
224.2 REA Loan Contract—Construction—Debit
224.3 Long-Term Debt—REA Construction Notes Executed
224.4 REA Notes Executed—Construction—Debit
224.5 Interest Accrued—Deferred—REA Construction
224.6 Advance Payments Unapplied—REA Long-Term Debt—Debit
224.7 Long-Term Debt—Installation Loan Contract
224.8 REA Loan Contract—Installation—Debit
224.9 Long-Term Debt—Installation Notes Executed
224.10 REA Notes Executed—Installation—Debit
224.11 Other Long-Term Debt—Subscriptions
224.12 Other Long-Term Debt—Supplemental Financing
224.13 Supplemental Financing Notes Executed—Debit
224.14 Other Long-Term Debt—Miscellaneous
224.15 Notes Executed—Other—Debit
224.16 Long-Term Debt—REA Economic Development Notes Executed
224.17 REA Notes Executed—Economic Development—Debit
225 Unamortized Premium on Long-Term Debt
226 Unamortized Discount on Long-Term Debt—Debit

Other Noncurrent Liabilities

227 Obligations Under Capital Leases—Noncurrent
228.1 Accumulated Provision for Property Insurance
228.2 Accumulated Provision for Injuries and Damages
228.3 Accumulated Provision for Pensions and Benefits
228.4 Accumulated Miscellaneous Operating Provisions
229 Accumulated Provision for Rate Refunds

Current and Accrued Liabilities

231 Notes Payable
232 Accounts Payable
232.1 Accounts Payable—General
232.2 Accounts Payable—REA Construction
232.3 Accounts Payable—Other
233 Notes Payable to Associated Companies
234 Accounts Payable to Associated Companies
235 Customer Deposits
236 Taxes Accrued
236.1 Accrued Property Taxes
236.2 Accrued U.S. Social Security Tax—Unemployment
236.3 Accrued U.S. Social Security Tax—F.I.C.A.
236.4 Accrued State Social Security Tax—Unemployment
236.5 Accrued State Sales Tax—Customers
236.6 Accrued Gross Revenue or Gross Receipts Tax
236.7 Accrued Taxes—Other
237 Interest Accrued
238 Patronage Capital and Patronage Refunds Payable
238.1 Patronage Capital Payable
238.2 Patronage Refunds Payable
239 Matured Long-Term Debt
240 Matured Interest
241 Tax Collections Payable
242 Miscellaneous Current and Accrued Liabilities
242.1 Accrued Rentals
242.2 Accrued Payroll
242.3 Accrued Employees' Vacations and Holidays
242.4 Accrued Insurance
242.5 Other Current and Accrued Liabilities
243 Obligations Under Capital Leases—Current

Deferred Credits

251 [Reserved]
252 Customer Advances for Construction
253 Other Deferred Credits
253.1 Other Deferred Credits—Customers' Energy Prepayments
255 Accumulated Deferred Investment Tax Credits
256 Deferred Gains from Disposition of Utility Plant
257 Unamortized Gain or Reacquired Debt
281 Accumulated Deferred Income Taxes—Accelerated Amortization Property
282 Accumulated Deferred Income Taxes—Other Property
283 Accumulated Deferred Income Taxes—Other

Intangible Plant

301 Organization
302 Franchises and Consents
303 Miscellaneous Intangible Plant

Production Plant

Steam Production

310 Land and Land Rights
311 Structures and Improvements
312 Boiler Plant Equipment
313 Engines and Engine Driven Generators
314 Turbogenerator Units
315 Accessory Electric Equipment
316 Miscellaneous Power Plant Equipment

Nuclear Production

320 Land and Land Rights
321 Structures and Improvements
322 Reactor Plant Equipment
323 Turbogenerator Units
324 Accessory Electric Equipment
325 Miscellaneous Power Plant Equipment

Hydraulic Production

330 Land and Land Rights
331 Structures and Improvements
332 Reservoirs, Dams and Waterways
333 Water Wheels, Turbines and Generators
334 Accessory Electric Equipment
335 Miscellaneous Power Plant Equipment
336 Roads, Railroads and Bridges

Other Production

340 Land and Land Rights
341 Structures and Improvements
342 Fuel Holders, Producers and Accessories
343 Prime Movers
344 Generators
345 Accessory Electric Equipment
346 Miscellaneous Power Plant Equipment

Transmission Plant

350 Land and Land Rights
351 [Reserved]
352 Structures and Improvements
353 Station Equipment
354 Tower and Fixtures
355 Poles and Fixtures
356 Overhead Conductors and Devices
357 Underground Conduit
358 Underground Conductors and Devices
359 Roads and Trails

Distribution Plant

360 Land and Land Rights
361 Structures and Improvements
362 Station Equipment
363 Storage Battery Equipment
364 Poles, Towers and Fixtures
365 Overhead Conductors and Devices
366 Underground Conduit
367 Underground Conductors and Devices
368 Line Transformers
369 Services
370 Meters
371 Installations on Customers' Premises
372 Leased Property on Customers' Premises
373 Street Lighting and Signal Systems

General Plant

389 Land and Land Rights
390 Structures and Improvements
391 Office Furniture and Equipment
392 Transportation Equipment
393 Stores Equipment
394 Tools, Shop and Garage Equipment
395 Laboratory Equipment
396 Power Operated Equipment
397 Communication Equipment
398 Miscellaneous Equipment
399 Other Tangible Property

Utility Operating Income

400 Operating Revenues
401 Operation Expense
402 Maintenance Expense
403 Depreciation Expense
403.1 Depreciation Expense—Steam Production Plant
403.2 Depreciation Expense—Nuclear Production Plant
403.3 Depreciation Expense—Hydraulic Production Plant
403.4 Depreciation Expense—Other Production Plant
403.5 Depreciation Expense—Transmission Plant
403.6 Depreciation Expense—Distribution Plant
403.7 Depreciation Expense—General Plant
404 Amortization of Limited—Term Electric Plant
405 Amortization of Other Electric Plant
406 Amortization of Electric Plant Acquisition Adjustments
407 Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs
408 Taxes Other than Income Taxes
408.1 Taxes—Property
408.2 Taxes—U.S. Social Security—Unemployment
408.3 Taxes—U.S. Social Security—F.I.C.A.
408.4 Taxes—State Social Security—Unemployment
408.5 Taxes—State Sales—Consumers
408.6 Taxes—Gross Revenue or Gross Receipts Tax
408.7 Taxes—Other
409 [Reserved]
409.1 Income Taxes, Utility Operating Income
409.2 Income Taxes, Other Income and Deductions
409.3 Income Taxes, Extraordinary Items
410 [Reserved]
410.1 Provision for Deferred Income Taxes, Utility Operating Income
410.2 Provision for Deferred Income Taxes, Other Income and Deductions
411 [Reserved]
411.1 Provision for Deferred Income Taxes—Credit, Utility Operating Income
411.2 Provision for Deferred Income Taxes—Credit, Other Income and Deductions
411.3 [Reserved]
411.4 Investment Tax Credit Adjustments, Utility Operations
411.5 Investment Tax Credit Adjustments, Nonutility Operations
411.6 Gains from Disposition of Utility Plant
411.7 Losses from Disposition of Utility Plant
412 Revenues from Electric Plant Leased to Others
413 Expenses of Electric Plant Leased to Others
414 Other Utility Operating Income

Other Income and Deductions

415 Revenues from Merchandising, Jobbing, and Contract Work
416 Costs and Expenses of Merchandising, Jobbing, and Contract Work
417 Revenues from Nonutility Operations
417.1 Expenses of Nonutility Operations
418 Nonoperating Rental Income
418.1 Equity in Earnings of Subsidiary Companies
419 Interest and Dividend Income
419.1 Allowance for Funds Used During Construction
420 Investment Tax Credits
421 Miscellaneous Nonoperating Income
421.1 Gain on Disposition of Property
421.2 Loss on Disposition of Property
422 Nonoperating Taxes
423 Generation and Transmission Cooperative Capital Credits
424 Other Capital Credits and Patronage Capital Allocations
425 Miscellaneous Amortization
426 [Reserved]
426.1 Donations
426.2 Life Insurance
426.3 Penalties
426.4 Expenditures for Certain Civic, Political, and Related Activities
426.5 Other Deductions

Interest Charges

427 Interest on Long-Term Debt
427.3 Interest Charged to Construction—Credit
428 Amortization of Debt Discount and Expense
428.1 Amortization of Loss on Reacquired Debt
429 Amortization of Premium on Debt—Credit
429.1 Amortization of Gain on Reacquired Debt—Credit
430 Interest on Debt to Associated Companies
431 Other Interest Expense
432 Allowance for Borrowed Funds Used During Construction—Credit

Extraordinary Items

434 Extraordinary Income
435 Extraordinary Deductions
435.1 Cumulative Effect on Prior Years of a Change in Accounting Principle

Retained Earnings

433 [Reserved]
436 [Reserved]
437 [Reserved]
438 [Reserved]
439 [Reserved]

Operating Revenue

Sales of Electricity

440 Residential Sales
440.1 Residential Sales—Excluding Seasonal
440.2 Residential Sales—Seasonal
441 Irrigation Sales
442 Commercial and Industrial Sales
442.1 Commercial and Industrial Sales—1000 kVA or Less
442.2 Commercial and Industrial Sales—Over 1000 kVA
444 Public Street and Highway Lighting
445 Other Sales to Public Authorities
446 Sales to Railroads and Railways
447 Sales for Resale
447.1 Sales for Resale—REA Borrowers
447.2 Sales for Resale—Other
448 Interdepartmental Sales
449.1 Provision for Rate Refunds

Other Operating Revenues

450 Forfeited Discounts
451 Miscellaneous Service Revenues
453 Sales of Water and Water Power
454 Rent from Electric Property
455 Interdepartmental Rents
456 Other Electric Revenues

Operation and Maintenance Expense Accounts

Power Production Expenses

Steam Power Generation

Operation

500 Operation Supervision and Engineering
501 Fuel
502 Steam Expenses
503 Steam from Other Sources
504 Steam Transferred—Credit
505 Electric Expenses
506 Miscellaneous Steam Power Expenses
507 Rents

Maintenance

510 Maintenance Supervision and Engineering
511 Maintenance of Structures
512 Maintenance of Boiler Plant
513 Maintenance of Electric Plant
514 Maintenance Miscellaneous Steam Plant

Nuclear Power Generation

Operation

517 Operation Supervision and Engineering
518 Nuclear Fuel Expense
519 Coolants and Water
520 Steam Expenses
521 Steam from Other Sources
522 Steam Transferred—Credit
523 Electric Expenses
524 Miscellaneous Nuclear Power Expenses
525 Rents

Maintenance

528 Maintenance Supervision and Engineering
529 Maintenance of Structures
530 Maintenance of Reactor Plant Equipment
531 Maintenance of Electric Plant
532 Maintenance of Miscellaneous Nuclear Plant

Hydraulic Power Generation

Operation

535 Operation Supervision and Engineering
536 Water for Power
537 Hydraulic Expenses
538 Electric Expenses
539 Miscellaneous Hydraulic Power Generation Expenses
540 Rents

Maintenance

541 Maintenance Supervision and Engineering
542 Maintenance of Structures
543 Maintenance of Reservoirs, Dams, and Waterways
544 Maintenance of Electric Plant
545 Maintenance of Miscellaneous Hydraulic Plant

Other Power Generation

Operation

546 Operation Supervision and Engineering
547 Fuel
548 Generation Expenses
549 Miscellaneous Other Power Generation Expenses
550 Rents

Maintenance

551 Maintenance Supervision and Engineering
552 Maintenance of Structures
553 Maintenance of Generating and Electric Equipment
554 Maintenance of Miscellaneous Other Power Generation Plant

Other Power Supply Expenses

555 Purchased Power
556 System Control and Load Dispatching
557 Other Expenses

Transmission Expenses

Operation

560 Operation Supervision and Engineering
561 Load Dispatching
562 Station Expenses
563 Overhead Line Expenses
564 Underground Line Expenses
565 Transmission of Electricity by Others
566 Miscellaneous Transmission Expenses
567 Rents

Maintenance

568 Maintenance Supervision and Engineering
569 Maintenance of Structures
570 Maintenance of Station Equipment
571 Maintenance of Overhead Lines
572 Maintenance of Underground Lines
573 Maintenance of Miscellaneous Transmission Plant

Distribution Expenses

Operation

580 Operation Supervision and Engineering
581 Load Dispatching
582 Station Expenses
583 Overhead Line Expenses
584 Underground Line Expenses
585 Street Lighting and Signal System Expenses
586 Meter Expenses
587 Customer Installations Expenses
588 Miscellaneous Distribution Expenses
589 Rents

Maintenance

590 Maintenance Supervision and Engineering
591 Maintenance of Structures
592 Maintenance of Station Equipment
593 Maintenance of Overhead Lines
594 Maintenance of Underground Lines
595 Maintenance of Line Transformers
596 Maintenance of Street Lighting and Signal Systems
597 Maintenance of Meters
598 Maintenance of Miscellaneous Distribution Plant

Customer Accounts Expenses

Operation

901 Supervision
902 Meter Reading Expenses
903 Customer Records and Collection Expenses
904 Uncollectible Accounts
905 Miscellaneous Customer Accounts Expenses

Customer Service and Informational Expenses

907 Supervision
908 Customer Assistance Expenses
909 Informational and Instructional Advertising Expenses
910 Miscellaneous Customer Service and Informational Expenses

Sales Expenses

Operation

911 Supervision
912 Demonstrating and Selling Expenses
913 Advertising Expenses
916 Miscellaneous Sales Expenses

Administrative and General Expenses

Operation

920 Administrative and General Salaries
921 Office Supplies and Expenses
922 Administrative Expenses Transferred—Credit
923 Outside Services Employed
924 Property Insurance
925 Injuries and Damages
926 Employee Pensions and Benefits
927 Franchise Requirements
928 Regulatory Commission Expenses
929 Duplicate Charges—Credit
930.1 General Advertising Expenses
930.2 Miscellaneous General Expenses
931 Rents

Maintenance

935 Maintenance of General Plant

Assets and Other Debits

Utility Plant

101 *Electric Plant in Service*

A. This account shall include the original cost of electric plant, included in Accounts 301 to 399, prescribed herein, owned and used by the utility in its electric utility operations, and having an expectation of life in service of more than one year from date of installation, including such property owned by the utility but held by nominees.

B. (See also Account 106 for unclassified construction costs of completed plant actually in service.)

C. The cost of additions to and betterments of property leased from others, which are includible in this account, shall be recorded in subdivisions separate and distinct from those relating to owned property. (See § 1767.16(f).)

101.1 *Property Under Capital Leases*

A. This account shall include the amount recorded under capital leases for plant leased from others and used by the utility in its utility operations.

B. The electric property included in this account shall be classified separately according to the detailed accounts (301 to 399) prescribed for electric plant in service.

C. Records shall be maintained with respect to each capital lease reflection: (1) name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost or fair market value of property leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lease payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid.

102 *Electric Plant Purchased or Sold*

A. This account shall be charged with the cost of electric plant acquired as an operating unit or system by purchase, merger, consolidation liquidation, or otherwise, and shall be credited with the selling price of like property transferred to others pending the distribution to appropriate accounts in accordance with § 1767.16(e).

B. Within 6 months from the date of acquisition or sale of property recorded herin, the borrower shall file with REA the proposed journal entries to clear from this account the amounts recorded herein.

103 *Experimental Electric Plant Unclassified*

A. This account shall include the cost of electric plant which was constructed as a research, development, and demonstration plant under the provisions of Paragraph C, Account 107, Construction Work in Progress—Electric, and due to the nature of the plant, it is desirous to operate it for a period of time in an experimental status.

B. Amounts in this account shall be transferred to Account 101, Electric Plant in Service, or Account 121, Nonutility Property, as appropriate when the project is no longer considered as experimental.

C. The depreciation on property in this account shall be charged to Account 403, Depreciation Expense, and credited to Account 108, Accumulated Provision for Depreciation of Electric Utility Plant. The amounts herein shall be depreciated over a period which would correspond to the estimated useful life of the relevant project considering the characteristics involved. However, when projects are transferred to Account 101, Electric Plant in Service, a new depreciation rate based upon the remaining service life and undepreciated amounts, will be established.

D. Records shall be maintained with respect to each unit of experiment so that full details may be obtained as to the cost, depreciation, and the experimental status.

E. Should it be determined that experimental plant recorded in this account will fail to satisfactorily perform its function, the costs thereof shall be accounted for as directed or authorized by REA.

104 *Electric Plant Leased to Others*

A. This account shall include the original cost of electric plant owned by the utility, but leased to others as operating units or systems, where the lessee has exclusive possession.

B. The property included in this account shall be classified according to the detailed accounts (301 to 399) prescribed for electric plant in service and this account shall be maintained in such detail as though the property were used by the owner in its utility operations.

105 *Electric Plant Held for Future Use*

A. This account shall include the original cost of electric plant (except land and land rights) owned and held for future use in electric service under a definite plan for such use, to include: (1) Property acquired (except land and land rights) but never used by the utility in electric service, but held for such service in the future under a definite plan, and (2) property (except land and land rights) previously used by the utility in service but retired from such service and held pending its reuse in the future, under a definite plan, in electric service.

B. This account shall also include the original cost of land and land rights owned and held for future use in electric service under a plan for such use, to include land and land rights: (1) Acquired but never used by the utility in electric service, but held for such service in the future under a plan, and (2) previously held by the utility in service, but retired from such service and held pending its reuse in the future under a plan, in electric service. (See § 1767.16(g).)

C. In the event that property recorded in this account shall no longer be needed or appropriate for future utility operations, the borrower shall notify REA of such condition and request approval of journal entries to remove such property from this account.

D. Gains or losses from the sale of land and land rights or other disposition of such property previously recorded in this account and not placed in utility service shall be recorded directly in Account 411.6 or 411.7, as appropriate, except when determined to be significant by REA. Upon such a determination, the amounts shall be transferred to Account 256, Deferred Gains from Disposition of Utility Plant, or Account 187, Deferred Losses from Disposition of Utility Plant, and amortized to Account 411.6, Gains from Disposition of Utility Plant, or Account 411.7, Losses from Disposition of Utility Plant, as appropriate.

E. The property included in this account shall be classified according to the detail accounts (301 to 399) prescribed for electric plant in service and the account shall be maintained in such detail as though the property were in service.

Note: Materials and supplies, meters and transformers held in reserve, and normal space capacity of plant in service shall not be included in this account.

106 *Completed Construction not Classified—Electric*

At the end of the year or such other date as a balance sheet may be required by REA, this account shall include the total of the balances of work orders for electric plant which has been completed and placed in service but which work orders have not been classified for transfer to the detailed electric plant accounts.

Note: For the purpose of reporting to REA, the classification of electric plant in service by accounts is required, the utility shall also report the balance in this account tentatively classified as accurately as practicable according to prescribed account classifications. The purpose of this provision is to avoid any significant omissions in reported amounts of electric plant in service.

107 *Construction Work in Progress—Electric*

A. This account shall include the total of the balances of work orders for electric plant in process of construction.

B. Work orders shall be cleared from this account as soon as practicable, after completion of the job. Further, if a project, such as a hydroelectric project, a steam station, or a transmission line, is designed to consist of two or more units or circuits which may be placed in service at different dates, any expenditures which are common to and which will be used in the operation of the project as a whole shall be included in electric plant in service upon the completion and the readiness for service of the first unit. Any expenditures which are identified exclusively with units of property not yet in service shall be included in this account.

C. Expenditures on research, development, and demonstration projects for construction of utility facilities are to be included in a separate subdivision in this account. Records must be maintained to show separately each project along with complete detail of the nature and purpose of the research, development, and demonstration project together with the related costs.

D. Account 107 shall be subaccounted as follows:

107.1 Construction Work in Progress—Contract

107.2 Construction Work in Progress—Force Account

107.3 Construction Work in Progress—Special Equipment

108 *Accumulated Provision for Depreciation of Electric Utility Plant*

A. This account shall be credited with the following:

1. Amounts charged to Account 403, Depreciation Expense, or to clearing accounts for current depreciation expense for electric plant in service.

2. Amounts charged to Account 421, Miscellaneous Nonoperating Income, for depreciation expense on property included in Account 105, Electric Plant Held for Future Use. Include, also, the balance of accumulated provision for depreciation on property when transferred to Account 105, Electric Plant Held for Future Use, from other property accounts. Normally, Account 108 will not be used for current depreciation provision because, as provided herein, the service life during which depreciation is computed commences with the date property is included in electric plant in service; however, if special circumstances indicate the property of current accruals for depreciation, such charges shall be made to Account 421, Miscellaneous Nonoperating Income.

3. Amounts charged to Account 413, Expenses of Electric Plant Leased to Others, for electric plant included in Account 104, Electric Plant Leased to Others.

4. Amounts charged to Account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work, or to clearing accounts for current depreciation expense.

5. Amounts of depreciation applicable to electric properties acquired as operating units or systems. (See § 1767.16 (e).)

6. Amounts charged to Account 182.1, Extraordinary Property Losses, when authorized by REA.

7. Amounts of depreciation applicable to electric plant donated to the utility.

The utility shall maintain separate subaccounts for depreciation applicable to electric plant in service, electric plant leased to others, and electric plant held for future use.)

B. At the time of retirement of depreciable electric utility plant, this account shall be charged with the book cost of the property retired and the cost of removal and shall be credited with the salvage value and any other

amounts recovered, such as insurance. When retirement, costs of removal and salvage are entered originally in retirement work orders, the net total of such work orders may be included in a separate subaccount hereunder. Upon completion of the work order, the proper distribution to subdivisions of this account shall be made as provided in the following paragraph.

C. Account 108 shall be subaccounted as follows:

108.1 Accumulated Provision for Depreciation of Steam Production Plant
108.2 Accumulated Provision for Depreciation of Nuclear Production Plant
108.3 Accumulated Provision for Depreciation of Hydraulic Production Plant
108.4 Accumulated Provision for Depreciation of Other Production Plant
108.5 Accumulated Provision for Depreciation of Transmission Plant
108.6 Accumulated Provision for Depreciation of Distribution Plant
108.7 Accumulated Provision for Depreciation of General Plant
108.8 Retirement Work in Progress

These subsidiary records shall reflect the current credits and debits to this account in sufficient detail to show separately for each such functional classification: (1) the amount of accrual for depreciation, (2) the book cost of property retired, (3) cost of removal, (4) salvage, and (5) other items, including recoveries from insurance.

D. When transfers of plant are made from one electric plant account to another, or from or to another utility department, of from or to nonutility property accounts, the accounting for depreciation shall be as provided in § 1767.16 (1).

E. The utility is restricted in its use of the accumulated provision for depreciation to the purposes set forth above. It shall not transfer any portion of this account to retained earnings or make any other use thereof without authorization by REA.

109 [Reserved]
110 [Reserved]

111 *Accumulated Provision for Amortization of Electric Utility Plant*

A. This account shall be credited with the following:

1. Amounts charged to Account 404, Amortization of Limited-Term Electric Plant, for the current amortization of limited-term electric plant investments.

2. Amounts charged to Account 421, Miscellaneous Nonoperating Income, for amortization expense on property included in Account 105, Electric Plant Held for Future Use. Include also the balance of accumulated provision for amortization on property when transferred to Account 105, Electric Plant Held for Future Use, from other property accounts. See also Paragraph A(2), Account 108, Accumulated Provision for Depreciation of Electric Utility Plant.

3. Amounts charged to Account 405, Amortization of Other Electric Plant.

4. Amounts charged to Account 413, Expenses of Electric Plant Leased to others, for the current amortization of limited-term or other investments subject to amortization included in Account 104, Electric Plant Leased to Others.

5. Amounts charged to Account 425, Miscellaneous Amortization, for the amortization of intangible or other electric plant which does not have a definite or terminable life and is not subject to charges for depreciation expense, with REA approval.

(The utility shall maintain subaccounts of this account for the amortization applicable to electric plant in service, electric plant leased to others and electric plant held for future use.)

B. When any property to which this account applies is sold, relinquished, or otherwise retire from service, this account shall be charged with the amount previously credited in respect to such property. The book cost of the property so retired less the amount chargeable to this account and less the net proceeds realized at retirement shall be included in Account 421.1, Gain on Disposition of Property, or Account 421.2, Loss on Disposition of Property, as appropriate.

C. For general ledger and balance sheet purposes, this account shall be regarded and treated as a single composite provision for amortization. For purposes of analysis, however, each utility shall maintain subsidiary records in which this account is segregated according to the following functional classification for electric plant: (1) Steam production, (2) Nuclear production, (3) Hydraulic production, (4) Other production, (5) Transmission, (6) Distribution, and (7) General. These subsidiary records shall reflect the current credits and debits to this account in sufficient detail to show separately for each such functional classification: (1) the amount of accrual for amortization, (2) the book cost of property retired, (3) cost of removal, (4) salvage, and (5) other items, including recoveries from insurance.

D. The utility is restricted in its use of the accumulated provision for amortization to the purposes set forth above. It shall not transfer any portion of this account to retained earnings or make any other use thereof without authorization by REA.

112 [Reserved]
113 [Reserved]

114 *Electric Plant Acquisition Adjustments*

A. This account shall include the difference between the cost to the accounting utility of electric plant acquired as an operating unit or system by purchase, merger, consolidation, liquidation, or otherwise, and the original cost, estimated, if not known, of such property, less the amount or amounts credited by the accounting utility at the time of acquisition to accumulated provisions for depreciation and amortization and contributions in aid of construction with respect to such property.

B. With respect to acquisitions after the effective date of this system of accounts, this account shall be subdivided so as to show the amounts included herein for each property acquisition and to electric plant in service, electric plant held for future use, and electric plant leased to others. (See § 1767.16 (e).)

C. Debit amounts recorded in this account related to plant and land acquisition may be amortized to Account 425, Miscellaneous Amortization, over a period not longer than the estimated remaining life of the properties to which such amounts relate. Amounts related to the acquisition of land only may be amortized to Account 425 over a period of not more than 15 years. Should a utility wish to account for debit amounts in this account in any other manner, it shall petition REA for authority to do so. Credit amounts recorded in this account shall be accounted for as directed by REA.

115 *Accumulated Provision for Amortization of Electric Plant Acquisition Adjustments*

This account shall be credited or debited with amounts which are includible in Account 406, Amortization of Electric Plant Acquisition Adjustments, or Account 425, Miscellaneous Amortization, for the purpose of providing for the extinguishment of amounts in Account 114, Electric Plant Acquisition Adjustments, in instances where the amortization of Account 114 is not being made by direct write-off of the account.

116 *Other Electric Plant Adjustments*

A. This account shall include the difference between the original cost, estimated if not known, and the book cost of electric plant to the extent that such difference is not properly includible in Account 114, Electric Plant Acquisition Adjustments. (See § 1767.16 (a) (3).)

B. Amounts included in this account shall be classified in such manner as to show the origin of each amount and shall be disposed of as REA may approve or direct.

Note: The provisions of this account shall not be construed as approving or authorizing the recording of appreciation of electric plant.

118 *Other Utility Plant*

This account shall include the balances in accounts for utility plant, other than electric plant, such as gas, or railway.

119 *Accumulated Provision for Depreciation and Amortization of Other Utility Plant*

This account shall include the accumulated provision for depreciation and amortization applicable to utility property other than electric plant.

120.1 *Nuclear Fuel in Process of Refinement, Conversion, Enrichment and Fabrication*

A. This account shall include the original cost to the utility of nuclear fuel materials while in process of refinement, conversion, enrichment, and fabrication into nuclear fuel assemblies and components, including processing, fabrication, and necessary shipping costs. This account shall also include the salvage value of nuclear materials which are actually being reprocessed for use and were transferred from Account 120.5, Accumulated Provision for Amortization of Nuclear Fuel Assemblies. (See § 1767.10 (a) (27).)

B. This account shall be credited and Account 120.2, Nuclear Fuel Materials and Assemblies—Stock Account, shall be debited for the cost of completed fuel assemblies delivered for use in refueling or to be held as spares. In this case of the initial core loading, the transfer shall be made directly to Account 120.3, Nuclear Fuel Assemblies in Reactor, upon the conclusion of the experimental or test period of the plant prior to its becoming available for service.

Items

1. Cost of natural uranium, uranium ores concentrates or other nuclear fuel sources, such as thorium, plutonium, and U–233.
2. Value of recovered nuclear materials being reprocessed for use.
3. Milling process costs.
4. Sampling and weighing, and assaying costs.
5. Purification and conversion process costs.
6. Costs of enrichment by gaseous diffusion or other methods.
7. Costs of fabrication into fuel forms suitable for insertion in the reactor.
8. All shipping costs of materials and components, including shipping of fabricated fuel assemblies to the reactor site.
9. Use charges on leased nuclear materials while in process of refinement, conversion, enrichment, and fabrication.

120.2 *Nuclear Fuel Materials and Assemblies—Stock Account*

A. This account shall be debited and Account 120.1, Nuclear Fuel in Process of Refinement, Conversion, Enrichment and Fabrication, shall be credited with the cost of fabricated fuel assemblies delivered for use in refueling or to be carried in stock as spares. It shall also include the original cost of fabricated fuel assemblies purchased in completed form. This account shall also include the original cost of partially irradiated fuel assemblies being held in stock for reinsertion in a reactor which had been transferred from Account 120.3, Nuclear Fuel Assemblies in Reactor.

B. When fuel assemblies included in this account are inserted in a reactor, this account shall be credited and Account 120.3, Nuclear Fuel Assemblies in Reactor, debited for the cost of such assemblies.

C. This account shall also include the cost of nuclear materials and byproduct materials being held for future use and not actually in process in Account 120.1, Nuclear Fuel in Process of Refinement, Conversion, Enrichment and Fabrication.

120.3 *Nuclear Fuel Assemblies in Reactor*

A. This account shall include the cost of nuclear fuel assemblies when inserted in a reactor for the production of electricity. The amounts included herein shall be transferred from Account 120.2, Nuclear Fuel Materials and Assemblies—Stock Account, except for the initial core loading which will be transferred directly from Account 120.1, Nuclear Fuel in Process of Refinement, Conversion, Enrichment and Fabrication.

B. Upon removal of fuel assemblies from a reactor, the original cost of the assemblies removed shall be transferred to Account 120.4, Spent Nuclear Fuel, or Account 120.2, Nuclear Fuel Materials and Assemblies—Stock Account, as appropriate.

120.4 *Spent Nuclear Fuel*

A. This account shall include the original cost of nuclear fuel assemblies, in the process of cooling, transferred from Account 120.3, Nuclear Fuel Assemblies in Reactor, upon removal from a reactor pending reprocessing.

B. This account shall be credited and Account 120.5, Accumulated Provision for Amortization of Nuclear Fuel Assemblies, debited for fuel assemblies, after the cooling period is over, at the cost recorded in this account.

120.5 *Accumulated Provision for Amortization of Nuclear Fuel Assemblies*

A. This account shall be credited and Account 518, Nuclear Fuel Expense, shall be debited for the amortization of the net cost of nuclear fuel assemblies used in the production of energy. The net cost of nuclear fuel assemblies subject to amortization shall be the original cost of nuclear fuel assemblies, plus or less the expected net salvage value of uranium, plutonium, and other by-products.

B. This account shall be credited with the net salvage value of uranium, plutonium, and other nuclear by-products when such items are sold, transferred or otherwise disposed. Account 120.1, Nuclear Fuel in Process of Refinement, Conversion, Enrichment and Fabrication, shall be debited with the net salvage value of nuclear materials to be reprocessed. Account 157, Nuclear Materials Held for Sale, shall be debited for the net salvage value of nuclear materials not to be reprocessed but to be sold or otherwise disposed of and Account 120.2, Nuclear Fuel Materials and Assemblies—Stock Account, will be debited with the net salvage value of nuclear materials that will be held for future use and not actually in process, in Account 120.1, Nuclear Fuel in Process of Refinement, Conversion, Enrichment, and Fabrication.

C. This account shall be debited and Account 120.4, Spent Nuclear Fuel, shall be credited with the cost of fuel assemblies at the end of the cooling period.

120.6 *Nuclear Fuel Under Capital Leases*

A. This account shall include the amount recorded under capital leases for nuclear fuel leased from others for use by the utility in its utility operations.

B. Records shall be maintained with respect to each capital lease reflecting: (1) Name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost or fair market value of nuclear fuel leased, (5) future minimum lease payments, (6) the amount representing interest and the interest rate used, and (7) expenses paid.

Other Property and Investments

121 *Nonutility Property*

A. This account shall include the book cost of land, structures, equipment, or other tangible or intangible property owned by the utility, but not used in utility service and not properly

includible in Account 105, Electric Plant Held for Future Use.

B. This account shall also include the amount recorded under capital leases for property leased from others and used by the utility in its nonutility operations. Records shall be maintained with respect to each lease reflecting: (1) Name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost or fair market value of property leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lessee payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid.

C. This account shall be subdivided so as to show the amount of property used in operations which are nonutility in character but nevertheless constitute a distinct operating activity of the company (such as operation of an ice department where such activity is not classed as a utility) and the amount of miscellaneous property not used in operations. The records in support of each subaccount shall be maintained so as to show an appropriate classification of the property.

Note: The gain from the sale or other disposition of property included in this account which had been previously recorded in Account 105, Electric Plant Held for Future Use, shall be accounted for in accordance with Paragraph C of Account 105.

122 *Accumulated Provision for Depreciation and Amortization of Nonutility Property*

This account shall include the accumulated provision for depreciation and amortization applicable to nonutility property.

123 *Investment in Associated Companies*

A. This account shall include the book cost of investments in securities issued or assumed by associated companies and investment advances to such companies, including interest accrued thereon when such interest is not subject to current settlement, provided that the investment does not relate to a subsidiary company. (If the investment relates to a subsidiary company, it shall be included in Account 123.11, Investment in Subsidiary Companies.) Include herein the offsetting entry to the recording of amortization of discount or premium on interest bearing investments. (See Account 419, Interest and Dividend Income.)

B. This account shall be maintained in such manner as to show the investment in securities of, and advances to, each associated company together with full particulars regarding any of such investments that are pledged.

Note A: Securities and advances of associated companies owned and pledged shall be included in this account, but such securities, if held in special deposits or in special funds, shall be included in the appropriate deposit or fund account. A complete record of securities pledged shall be maintained.

Note B: Securities of associated companies held as temporary cash investments are includible in Account 136, Temporary Cash Investments.

Note C: Balances in open accounts with associated companies, which are subject to current settlement, are includible in Account 146, Accounts Receivable from Associated Companies.

Note D: The utility may write down the cost of any security in recognition of a decline in the value thereof. Securities shall be written off or written down to a nominal value if there is no reasonable prospect of substantial value. Fluctuations in market value shall not be recorded but a permanent impairment in the value of securities shall be recognized in the accounts. When securities are written off or written down, the amount of the adjustment shall be charged to Account 426.5, Other Deductions, or to an appropriate account for accumulated provisions for loss in value established as a separate subdivision of this account.

C. Account 123 shall be subaccounted as follows:

123.1 Patronage Capital from Associated Cooperatives.
123.11 Investment in Subsidiary Companies.
123.21 Subscriptions to Capital Term Certificates—Supplemental Financing.
123.22 Investments in Capital Term Certificates—Supplemental Financing
123.23 Other Investments in Associated Organizations

123.1 *Patronage Capital from Associated Cooperatives*

This account shall include patronage capital credits allocated to the accounting borrower by G&T cooperatives. It shall also include capital credits, deferred patronage refunds, or like items from other associated cooperatives. The account shall be maintained so as to reflect separately, the allocations of patronage capital and patronage refunds from each organization that makes such allocations to the borrower.

123.11 *Investment in Subsidiary Companies*

A. This account shall include the cost of investments in securities issued or assumed by subsidiary companies and investment advances to such companies, including interest accrued thereon when such interest is not subject to current settlement, plus the equity in indistributed earnings or losses of such subsidiary companies since acquisition. This account shall be credited with any dividends declared by such subsidiaries.

B. This account shall be maintained in such a manner as to show separately for each subsidiary: The cost of such investments in the securities of the subsidiary at the time of acquisition; the amount of equity in the subsidiary's undistributed net earnings or net losses since acquisition; advances or loans to such subsidiary; and full particulars regarding any such investments that are pledged.

123.21 *Subscriptions to Capital Term Certificates—Supplemental Financing*

This account shall include the total subscriptions to capital term certificates of CFC. When subscriptions are paid, this account shall be credited and Account 123.22, Investments in Capital Term Certificates—Supplemental Financing, debited.

123.22 *Investments in Capital Term Certificates—Supplemental Financing*

This account shall include paid subscriptions in capital term certificates of CFC or other supplemental lenders.

123.23 *Other Investments in Associated Organizations*

This account shall include investments in capital stock, securities, membership fees, and investment advances to associated organizations other than provided for elsewhere. This account shall be maintained in such a manner as to show the investment in stock and securities of and advances to each associated organization.

Items

1. Investments in capital stock of associated organizations.
2. Investments in securities issued by associated organizations.
3. Membership fees in associated organizations, including NRECA, and Statewide associations of REA-financed borrowers.
4. Investment advances to associated organizations.

124 *Other Investments*

A. This account shall include the book cost of investments in securities issued or assumed by nonassociated companies, investment advances to such companies, and any investments not accounted for elsewhere. Include also the offsetting entry to the recording of amortization of discount or premium on interest bearing investments. (See Account 419, Interest and Dividend Income.)

B. The records shall be maintained in such manner as to show the amount of each investment and the investment advances to each person.

Note A: Securities owned and pledged shall be included in this account, but securities held in special deposits or in special funds shall be included in appropriate deposit or fund accounts. A complete record of securities pledged shall be maintained.

Note B: Securities held as temporary cash investments shall not be included in this account.

Note C: See Note D of Account 123.

125 *Sinking Funds*

This account shall include the amount of cash and book cost of investments held in sinking funds. A separate account, with appropriate title, shall be kept for each sinking fund. Transfers from this account to special deposit accounts, may be made as necessary for the purpose of paying matured sinking fund obligations, or obligations called for redemption but not presented, or the interest thereon.

126 *Depreciation Fund*

This account shall include the amount of cash and the book cost of investments which have been segregated in a special fund for the purpose of identifying such assets with the accumulated provisions for depreciation.

128 *Other Special Funds*

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for insurance, employee pensions, savings, relief, hospital, and other purposes not provided for elsewhere. A separate account, with appropriate title, shall be kept for each fund.

Note: Amounts deposited with a trustee under the terms of an irrevocable trust agreement for pensions or other employee benefits shall not be included in this account.

Current and Accrued Assets

Current and accrued assets are cash, those assets which are readily convertible into cash or are held for current use in operations or construction, current claims against others, payment of which is reasonably assured, and amounts accruing to the utility which are subject to current settlement, except such items for which accounts other than those designated as current and accrued assets are provided. There shall not be included in the category of accounts designated as current and accrued assets any item, the amount or collectibility of which is not reasonably assured, unless an adequate provision for possible loss has been made therefor. Items of current character but of doubtful value may be written down, and for record purposes carried in these accounts at nominal value.

131 *Cash*

A. This account shall include the amount of current cash funds except working funds.

B. Account 131 shall be subaccounted as follows:

131.1 Cash—General
131.12 Cash—General—Economic Development Funds
131.2 Cash—Construction Fund—Trustee
131.3 Cash—Installation Loan and Collection Fund
131.4 Transfer of Cash

131.1 *Cash—General*

This account shall include all cash of the organization not provided for elsewhere. Separate subaccounts may be maintained for each bank account in which general cash is maintained. Funds held by others for current obligations shall be recorded in Account 134, Other Special Deposits.

131.12 *Cash—General—Economic Development Funds*

This account shall include the cash received from the Rural Electrification Administration for Rural Economic Development Loans. Economic development loan advances shall be charged to this account and credited to Account 224.17, REA Notes Executed—Economic Development—Debit.

131.2 *Cash—Construction Fund—Trustee*

This account shall include the cash received from the Rural Electrification Administration, CFC, and any other source of supplemental financing for financing the construction, purchase, and operation of electric facilities. REA construction loan fund advances shall be charged to this account and credited to Account 224.4, REA Notes Executed—Construction—Debit. CFC and other supplemental lender construction loan fund advances shall be charged to this account and credited to Account 224.13, Supplemental Financing Notes Executed—Debit.

131.3 *Cash—Installation Loan and Collection Fund*

A. This account shall include the cash advanced on installation loans made subsequent to September 13, 1957. Such advances shall be debited to this account as received and credited to Account 224.10, REA Notes Executed—Installation—Debit. This account shall also include interest and principal collections received on consumers' loans financed from REA loans made subsequent to September 13, 1957.

B. Payments shall be made from this account solely for financing consumers' loans for the purpose of wiring of consumers' premises, and the acquisition and installation of electrical and plumbing appliances and equipment by consumers. The cash in this account is also used for the payment of principal and interest on installation loans made by REA, subsequent to September 13, 1957, in accordance with the terms of the loan agreement.

131.4 *Transfer of Cash*

This account shall be used in transferring funds from one bank account to another. This account is charged when the check is drawn for the transfer and entered in the check register, and credited when the amount transferred is entered in the cash receipts book. This account is to be used as a clearing account and should not have a balance at the end of an accounting period.

132 *Interest Special Deposits*

This account shall include special deposits with fiscal agents or others for the payment of interest.

133 *Dividend Special Deposits*

This account shall include special deposits with fiscal agents or others for the payment of dividends.

134 *Other Special Deposits*

This account shall include deposits with fiscal agents or others for special purposes other than the payment of interest and dividends. Such special deposits may include cash deposited with federal, state, or municipal authorities as a guaranty for the fulfillment of obligations; cash deposited with trustees to be held until mortgaged property sold, destroyed, or otherwise disposed of is replaced; and cash realized from the sale of the accounting utility's securities and deposited with trustees to be held until invested in property of the utility. Entries to this account shall specify the purpose for which the deposit is made.

Note: Assets available for general corporate purposes shall not be included in this account. Further, deposits for more than one year, which are not offset by current liabilities, shall not be charged to this account but to Account 128, Other Special Funds.

135 *Working Funds*

This account shall include cash advanced to officers, agents, employees, and others as petty cash or working funds.

136 *Temporary Cash Investments*

A. This account shall include the book cost of investments, such as demand and time loans, bankers' acceptances, United States Treasury certificates, marketable securities, and other similar investments, acquired for the purpose of temporarily investing cash.

B. This account shall be so maintained as to show separately temporary cash

investments in securities of associated companies and of others. Records shall be kept of any pledged investments.

141 *Notes Receivable*

This account shall include the book cost, not includible elsewhere, of all collectible obligations in the form of notes receivable and similar evidences (except interest coupons) of money due on demand or within one year from the date of issue, except, however, notes receivable from associated companies. (See Account 136, Temporary Cash Investments, and Account 145, Notes Receivable from Associated Companies.)

Note: The face amount of notes receivable discounted, sold, or transferred without releasing the utility from liability as endorser thereon, shall be credited to a separate subdivision of this account and appropriate disclosure shall be made in the financial statements of any contingent liability arising from such transactions.

B. Account 141 shall be subaccounted as follows:

141.1 Accumulated Provision for Uncollectible Notes—Credit

141.1 *Accumulated Provision for Uncollectible Notes—Credit*

This account shall be credited with amounts provided for losses on notes receivable which may become uncollectible, and also with collections on notes previously charged hereto. Concurrent charges shall be made to Account 904, Uncollectible Accounts.

142 *Customer Accounts Receivable*

A. This account shall include amounts due from customers for utility service and for merchandising, jobbing, and contract work. This account shall not include amounts due from associated companies.

B. This account shall be maintained so as to permit ready segregation of the amounts due for merchandising, jobbing, and contract work.

C. Account 142 shall be subaccounted as follows:

142.1 Customer Accounts Receivable—Electric

142.2 Customer Accounts Receivable—Other

142.1 *Customer Accounts Receivable—Electric*

This account shall include amounts due from customers for utility service.

142.2 Customer Accounts Receivable—Other

This account shall include amounts due from customers for merchandising, jobbing, and contract work.

143 *Other Accounts Receivable*

A. This account shall include amounts due the utility upon open accounts, other than amounts due from associated companies and from customers for utility services and merchandising, jobbing and contract work.

B. This account shall be maintained so as to show separately amounts due on subscriptions to capital stock and from officers and employees. The account shall not include amounts advanced to officers or others as working funds. (See Account 135, Working Funds.)

144 *Accumulated Provision for Uncollectible Accounts—Credit*

A. This account shall include amounts provided for losses on accounts receivable which may become uncollectible, and also with collections on accounts previously charged hereto. Concurrent charges shall be made to Account 904, Uncollectible Accounts, for amounts applicable to utility operations, and to corresponding accounts for other operations. Records shall be maintained so as to show the write-offs of accounts receivable for each utility department.

B. Account 144 shall be subaccounted as follows:

144.1 Accumulated Provision for Uncollectible Customer Accounts—Credit

144.2 Accumulated Provision for Uncollectible Merchandising Accounts—Credit

144.3 Accumulated Provision for Uncollectible Accounts, Officers and Employees—Credit

144.4 Accumulated Provision for Other Uncollectible Accounts—Credit

144.1 *Accumulated Provision for Uncollectible Customer Accounts—Credit*

This account shall be credited with amounts provided for losses on accounts receivable which may become uncollectible, and also with collections on accounts previously charged hereto. Concurrent charges shall be made to Account 904, Uncollectible Accounts.

144.2 *Accumulated Provision for Uncollectible Merchandising Accounts—Credit*

This account shall be credited with amounts provided for losses on merchandising, jobbing, and contract work which may become uncollectible, and also with collections on accounts previously charged hereto. Concurrent charges shall be made to Account 904, Uncollectible Accounts, for amounts applicable to utility operations, and to corresponding accounts for other operations.

144.3 *Accumulated Provision for Uncollectible Accounts, Officers and Employees—Credit*

This account shall be credited with amounts provided for losses on accounts receivable from officers and employees which may become uncollectible and also with collections on accounts previously charged hereto. Concurrent charges shall be made to Account 904, Uncollectible Accounts.

144.4 *Accumulated Provision for Other Uncollectible Accounts—Credit*

This account shall be credited with amounts provided for losses on accounts receivable which may become uncollectible and for which the recording of this credit has not been provided for elsewhere. This account shall also be credited with collections on accounts previously charged hereto. Concurrent charges shall be made to Account 904, Uncollectible Accounts, for amounts applicable to utility operations and to corresponding accounts for other operations.

145 *Notes Receivable From Associated Companies*

This account shall include notes upon which associated companies are liable, and which mature and are expected to be paid in full not later than one year from the date of issue, together with any interest thereon, and debit balances subject to current settlement in open accounts with associated companies. Items which do not bear a specified due date but which have been carried for more than twelve months and items which are not paid within twelve months from due date shall be transferred to Account 123, Investment in Associated Companies.

Note: The face amount of notes receivable discounted, sold or transferred without releasing the utility from liability as endorser thereon, shall be credited to a separate subdivision of this account and appropriate disclosure shall be made in the financial statements of any contingent liability arising from such transactions.

146 *Accounts Receivable From Associated Companies*

This account shall include drafts upon which associated companies are liable, and which mature and are expected to be paid in full not later than one year from the date of issue, together with any interest thereon, and debit balances subject to current settlement in open accounts with associated companies. Items which do not bear a specified due date but which have been carried for more than twelve months and items which are not paid within twelve months from due date shall be transferred to Account 123, Investment in Associated Companies.

Note: On the balance sheet, accounts receivable from an associated company may be offset against accounts payable to the same company.

151 *Fuel Stock*

This account shall include the book cost of fuel on hand.

Items

1. Invoice price of fuel less any cash or other discounts.
2. Freight, switching, demurrage, and other transportation charges, not including, however, any charges for unloading from the shipping medium.
3. Excise taxes, purchasing agents' commissions, insurance and other expenses directly assignable to cost of fuel.
4. Operating, maintenance and depreciation expenses, and ad valorem taxes on utility-owned transportation equipment used to transport fuel from the point of acquisition to the unloading point.
5. Lease or rental costs of transportation equipment used to transport fuel from the point of acquisition to the unloading point.

152 *Fuel Stock Expenses Undistributed*

A. This account may include the cost of labor and of supplies used and expenses incurred in unloading fuel from the shipping medium and in the handling thereof prior to its use, if such expenses are sufficiently significant in amount to warrant being treated as a part of the cost of fuel inventory rather than being charged direct to expense as incurred.

B. Amounts included herein shall be charged to expense as the fuel is used to the end that the balance herein shall not exceed the expenses attributable to the inventory of fuel on hand.

Items

Labor:

1. Procuring and handling of fuel.
2. All routine fuel analyses.
3. Unloading from shipping facility and placing in storage.
4. Moving of fuel in storage and transferring from one station to another.
5. Handling from storage or shipping facility to first bunker, hopper, bucket, tank, or holder of boiler house structure.
6. Operation of mechanical equipment such as locomotives, trucks, cars, boats, barges, and cranes.

Supplies and Expenses:

1. Tools, lubricants and other supplies.
2. Operating supplies for mechanical equipment.
3. Transportation and other expenses in moving fuel.
4. Stores expenses applicable to fuel.

153 *Residuals*

This account shall include the book cost of any residuals produced in the production or manufacturing processes.

154 *Plant Mmaterials and Operating Supplies*

A. This account shall include the cost of materials purchased primarily for use in the utility business for construction, operation and maintenance purposes. It shall also include the book cost of materials recovered in connection with construction, maintenance, or the retirement of property, such materials being credited to construction, maintenance, or accumulated depreciation provision, respectively, and included herein as follows:

1. Reusable materials consisting of large individual items shall be included in this account at original cost, estimated if not known. The cost of repairing such items shall be charged to the maintenance account appropriate for the previous use.
2. Reusable materials consisting of relatively small items, the identity of which (from the date of original installation to the final abandonment or sale thereof) cannot be ascertained without undue refinement in accounting, shall be included in this account at current prices new for such items. The cost of repairing such items shall be charged to the appropriate expense account as indicated by previous use.
3. Scrap and nonusable materials included in this account shall be carried at the estimated net amount realizable therefrom. The difference between the amounts realized for scrap and nonusable materials sold and the net amount at which the materials were carried in this account, as far as practicable, shall be adjusted to the accounts credited when the materials were charged to this account.

B. Materials and supplies issued shall be credited hereto and charged to the appropriate construction, operating expense, or other account on the basis of a unit price determined by the use of cumulative average, first-in-first-out, or such other method of inventory accounting as conforms with accepted accounting standards consistently applied.

Items

1. Invoice price of materials less cash or other discounts.
2. Freight, switching, or other transportation charges when practicable to include as part of the cost of particular materials to which they relate.
3. Customs duties and excise taxes.
4. Costs of inspection and special tests prior to acceptance.
5. Insurance and other directly assignable charges.

Note: Where expenses applicable to materials purchased cannot be directly assigned to particular purchases, they shall be charged to Account 163, Stores Expense Undistributed.

155 *Merchandise*

This account shall include the book cost of materials and supplies and appliances and equipment held primarily for merchandising, jobbing, and contract work. The principles prescribed in accounting for utility materials and supplies shall be observed with respect to items carried in this account.

156 *Other Materials and Supplies*

This account shall include the book cost of materials and supplies held primarily for nonutility purposes. The principles prescribed in accounting for utility materials and supplies shall be observed with respect to items carried in this account.

157 *Nuclear Materials Held for Sale*

This account shall include the net salvage value of uranium, plutonium, and other nuclear materials held by the company for sale or other disposition that are not to be reused by the company in its electric utility operations. This account shall be debited and Account 120.5, Accumulated Provision for Amortization of Nuclear Fuel Assemblies, credited for such net salvage value. Any difference between the amount recorded in this account and the actual amount realized from the sale of materials shall be debited or credited, as appropriate, to Account 518, Nuclear Fuel Expense, at the time of such sale.

163 *Stores Expense Undistributed*

A. This account shall include the cost of supervision, labor, and expenses incurred in the operation of general storerooms, including purchasing, storage, handling, and distribution of materials and supplies.

B. This account shall be cleared by adding to the cost of materials and supplies issued, a suitable loading charge which will distribute the expense equitably over stores issues. The balance in the account at the close of the year shall not exceed the amount of stores expenses reasonably attributable to the inventory of materials and supplies, exclusive of fuel, as any amount applicable to fuel costs should be included in Account 152, Fuel Stock Expenses Undistributed.

Items

Labor:

1. Inspecting and testing materials and supplies when not assignable to specific items.
2. Unloading from shipping facility and placing in storage.

3. Supervision of purchasing and stores department to extent assignable to materials handled through stores.

4. Getting materials from stock and in readiness to go out.

5. Inventorying stock received or stock on hand by stores employees but not including inventories by general department employees as part of internal or general audits.

6. Purchasing department activities in checking material needs, investigating sources of supply, analyzing prices, preparing and placing orders, and related activities to extent applicable to materials handled through stores. (Optional: Purchasing department expenses may be included in administrative and general expenses.)

7. Maintaining stores equipment.

8. Cleaning and tidying storerooms and stores offices.

9. Keeping stock records, including the recording and posting of material receipts and issues and maintaining inventory records of stock.

10. Collecting and handling scrap materials in stores.

Supplies and Expenses:

1. Adjustments of inventories of materials and supplies but not including large differences which can readily be assigned to important classes of materials and equitably distributed among the accounts to which such classes of materials have been charged since the previous inventory.

2. Cash and other discounts not practically assignable to specific materials.

3. Freight and express charges when not assignable to specific items.

4. Heat, light, and power for storerooms and store offices.

5. Brooms, brushes, sweeping compounds and other supplies used in cleaning and tidying storerooms and stores offices.

6. Injuries and damages.

7. Insurance on materials and supplies and on stores equipment.

8. Losses due to breakage, leakage, evaporation, fire or other causes, less credits for amounts received from insurance, transportation companies, or others in compensation of such losses.

9. Postage, printing, stationery, and office supplies.

10. Rent of storage space and facilities.

11. Communication service.

12. Excise and other similar taxes not assignable to specific materials.

13. Transportation expense on inward movement of stores and on transfer between storerooms but not including charges on materials recovered from retirements which shall be accounted for as part of the cost of removal.

Note: A physical inventory of each class of materials and supplies shall be made at least every two years.

165 *Prepayments*

A. This account shall include amounts representing prepayments of insurance, rents, taxes, interest, and miscellaneous items, and shall be kept or supported in such manner as to disclose the amount of each class of prepayment.

B. Account 165 shall be subaccounted as follows:

165.1 Prepayments—Insurance
165.2 Other Prepayments

171 *Interest and Dividends Receivable*

This account shall include the amount of interest on bonds, mortgages, notes, commercial paper, loans, open accounts, and deposits, the payment of which is reasonably assured, and the amount of dividends declared or guaranteed on stocks owned.

Note A: Interest which is not subject to current settlement shall not be included herein but in the account in which the associated principle is recorded.

Note B: Interest and dividends receivable from associated companies shall be included in Account 146, Accounts Receivable from Associated Companies.

172 *Rents Receivable*

This account shall include rents receivable or accrued on property rented or leased by the utility to others.

Note: Rents receivable from associated companies shall be included in Account 146, Accounts Receivable from Associated Companies.

173 *Accrued Utility Revenues*

At the option of the utility, the estimated amount accrued for service rendered, but not billed at the end of any accounting period, may be included herein. If accruals are made for unbilled revenues, accruals shall also be made for unbilled expenses, such as the purchase of energy.

174 *Miscellaneous Current and Accrued Assets*

This account shall include the book cost of all other current and accrued assets, appropriately designated and supported so as to show the nature of each asset included herein.

Deferred Debits

181 *Unamortized Debt Expense*

This account shall include expenses related to the issuance or assumption of debt securities. Amounts recorded in this account shall be amortized over the life of each respective issue under a plan which will distribute the amount equitably over the life of the security. The amortization shall be on a monthly basis, and the amounts thereon shall be charged to Account 428, Amortization of Debt Discount and Expense. Any unamortized amounts outstanding at the time that the related debt is prematurely reacquired shall be accounted for as indicated in § 1767.15(q).

182.1 *Extraordinary Property Losses*

A. When authorized or directed by REA, this account shall include extraordinary losses which could not reasonably have been anticipated and which are not covered by insurance or other provisions, such as unforeseen damages to property.

B. Application to REA for permission to use this account shall be accompanied by a statement giving a complete explanation with respect to the items which it is proposed to include herein, the period over which, and the accounts to which it is proposed to write off the charges, and other pertinent information.

182.2 *Unrecovered Plant and Regulatory Study Costs*

A. This account shall include: (1) Nonrecurring costs of studies and analyses mandated by regulatory bodies related to plants in service, transferred from Account 183, Preliminary Survey and Investigations Charges, and not resulting in construction; and (2) when authorized by REA, significant unrecovered costs of plant facilities where construction has been cancelled or which have been prematurely retired.

B. This account shall be credited and Account 407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs, shall be debited over the period specified by REA.

C. Any additional costs incurred, relative to the cancellation or premature retirement, may be included in this account and amortized over the remaining period of the original amortization period. Should any gains or recoveries be realized relative to the cancelled or prematurely retired plant, such amounts shall be used to reduce the unamortized amount of the costs recorded herein.

D. In the event that the recovery of costs included herein is disallowed in the rate proceedings, the disallowed costs shall be charged to Account 426.5, Other Deductions, in the year of such disallowance.

183 *Preliminary Survey and Investigation Charges*

A. This account shall be charged with all expenditures for preliminary surveys, plans, and investigations made for the purpose of determining the feasibility of utility projects under contemplation. If construction results, this account shall be credited and the appropriate utility

plant account charged. If the work is abandoned, the charge shall be made to Account 426.5, Other Deductions, or to the appropriate operating expense account.

B. This account shall also include costs of studies and analyses mandated by regulatory bodies related to plant in service. If construction results from such studies, this account shall be credited and the appropriate utility plant account charged with an equitable portion of such study costs directly attributable to new construction. The portion of such study costs not attributable to new construction or the entire cost if construction does not result shall be charged to Account 182.2, Unrecovered Plant and Regulatory Study Costs, or the appropriate operating expense account. The costs of such studies relative to plant under construction shall be included directly in Account 107, Construction Work in Progress—Electric.

C. The records supporting the entries to this account shall be so kept that the utility can furnish complete information as to the nature and the purpose of the survey, plans, or investigations, and the nature and amounts of the several charges.

Note: The amount of preliminary survey and investigation charges transferred to utility plant shall not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to utility plant.

184 *Clearing Accounts*

A. This caption shall include undistributed balances in clearing accounts at the date of the balance sheet. Balances in clearing account shall be substantially cleared not later than the end of the calendar year unless items held therein relate to a future period.

B. Account 184 shall be subaccounted as follows:

184.1 Transportation Expense—Clearing
184.2 Clearing Accounts—Other

185 *Temporary Facilities*

This account shall include amounts shown by work orders for plant installed for temporary use in utility service for periods of less than one year. Such work orders shall be charged with the cost of temporary facilities and credited with payments received from customers and net salvage realized on removal of the temporary facilities. Any net credit or debit resulting shall be cleared to Account 451, Miscellaneous Service Revenues.

186 *Miscellaneous Deferred Debits*

This account shall include all debits not elsewhere provided for, such as miscellaneous work in progress, and unusual or extraordinary expenses, not included in other accounts, which are in process of amortization and items the proper final disposition of which is uncertain.

187 *Deferred Losses from Disposition of Utility Plant*

This account shall include losses from the sale or other disposition of property previously recorded in Account 105, Electric Plant Held for Future Use, under the provisions of Paragraphs B, C, and D thereof, where such losses are significant and are to be amortized over a period of 5 years, unless otherwise authorized by REA. The amortization of the amounts in this account shall be made by debits to Account 411.7, Losses from Disposition of Utility Plant. (See Account 105, Electric Plant Held for Future Use.)

188 *Research, Development, and Demonstration Expenditures*

A. This account shall be charged with the cost of all expenditures coming within the meaning of Research, Development, and Demonstration (RD&D) of this Uniform System of Accounts (See § 1767.10(a)(34)) except those expenditures properly chargeable to Account 107, Construction Work in Progress—Electric.

B. Costs that are minor or of a general or recurring nature shall be transferred from this account to the appropriate operating expense function or if such costs are common to the overall operations or cannot be feasibly allocated to the various operating accounts, such costs shall be recorded in Account 930.2, Miscellaneous General Expenses.

C. In certain instances, a company may incur large and significant research, development, and demonstration expenditures which are nonrecurring and which would distort the annual research, development, and demonstration charges for the period. In such a case, the portion of such amounts that cause the distortion may be amortized to the appropriate operating expense account over a period not to exceed 5 years unless otherwise authorized by REA.

D. The entries in this account must be so maintained as to show separately each project along with complete detail of the nature and purpose of the research, development, and demonstration project together with the related costs.

189 *Unamortized Loss on Reacquired Debt*

This account shall include the losses on long-term debt reacquired or redeemed. The amounts in this account shall be amortized in accordance with § 1767.15(q).

190 *Accumulated Deferred Income Taxes*

A. This account shall be debited and Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or Account 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited with an amount equal to that by which income taxes payable for the year are higher because of the inclusion of certain items in income for tax purposes, which items for general accounting purposes will not be fully reflected in the utility's determination of annual net income until subsequent years.

B. This account shall be credited and Account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or Account 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, shall be debited with an amount equal to that by which income taxes payable for the year are lower because of prior payment of taxes as provided by Paragraph A above, because of difference in timing for tax purposes of particular items of income or income deductions from that recognized by the utility for general accounting purposes. Such credit to this account and debit to Account 410.1 or Account 410.2 shall, in general, represent the effect on taxes payable in the current year of the smaller amount of book income recognized for tax purposes as compared to the amount recognized in the utility's current accounts with respect to the item or class of items for which deferred tax accounting by the utility was authorized by REA.

C. Vintage year records with respect to entries to this account, as described above, and the account balance, shall be so maintained as to show the factor of calculation with respect to each annual amount of the item or class of items for which deferred tax accounting by the utility is utilized.

D. The utility is restricted in its use of this account to the purpose set forth above. It shall not make use of the balance in this account or any portion thereof except as provided in the text of this account, without prior approval of REA. Any remaining deferred tax account balance with respect to an amount for any prior year's tax deferral, the amortization of which or other recognition in the utility's income accounts has been completed, or other disposition made, shall be debited to

Account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or Account 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, or otherwise disposed of as REA may authorize or direct. (See § 1767.15(t).)

Liabilities and Other Credits

Margins and Equities

200 *Memberships*

A. This account shall include the total amount of memberships issued and subscribed.

B. Account 200 shall be subaccounted as follows:

200.1 Memberships Issued
200.2 Memberships Subscribed But Unissued

200.1 *Memberships Issued*

A. This account shall include the face value of membership certificates outstanding. A detailed record shall be maintained to show for each member, the name, address, date of payment, amount paid, and certificate number.

B. If membership fees are applied against energy bills, this account shall be debited for the full amount of the membership with the offsetting credit to the appropriate accounts receivable, and to accounts payable for any refundable amounts. Any balances that cannot be refunded, due to inability to locate the member or because of bylaw restrictions, shall be credited to Account 208, Donated Capital. If determination of the ultimate disposition of the fees cannot be made immediately, the amount involved should be transferred to Account 253, Other Deferred Credits, until the determination is made.

C. When a transfer fee is collected, the transaction shall be recorded by debiting Account 131.1, Cash—General, and crediting Account 451, Miscellaneous Service Revenues, with the fee collected.

200.2 *Memberships Subscribed But Unissued*

This account shall include the face value of memberships subscribed for but not issued. When certificates are issued, the amount of the memberships shall be transferred to Account 200.1, Memberships Issued.

201 *Patronage Capital*

A. This account shall include the total amount of patronage capital assignable and assigned.

B. Account 201 shall be subaccounted as follows:

201.1 Patronage Capital Credits
201.2 Patronage Capital Assignable

201.1 *Patronage Capital Credits*

A. This account shall include the amounts of patronage capital which have been assigend to individual patrons. A subsidiary record, "Patronage capital ledger," shall be maintained, containing an account for each patron who has furnished capital under a capital credits plan.

B. When the return of patrons' capital to individual patrons has been authorized by the board of directors (or trustees), the amounts authorized shall be transferred to Account 238.1, Patronage Capital Payable. (See also Account 217, Retired Capital Credits—Gain.)

201.2 *Patronage Capital Assignable*

A. This account shall include all amounts transferred from Account 219.1, Operating Margins; Account 219.2, Nonoperating Margins; Account 219.3, Other Margins; and Account 219.4, Other Margins and Equities—Prior Periods, which are assignable to individual patrons' capital accounts.

B. Entries to this account shall be made so as to clearly disclose the nature and source of each transaction. Amounts so assigned shall be transferred to Account 201.1, Patronage Capital Credits.

202 [Reserved]
203 [Reserved]
204 [Reserved]
205 [Reserved]
206 [Reserved]
207 [Reserved]

208 *Donated Capital*

This account shall include credits arising from forfeiture of membership fees and from donations of capital not otherwise provided for. Entries to this account shall be made so as to clearly disclose the nature and source of each transaction.

209 [Reserved]
210 [Reserved]

211 *Consumers' Contributions for Debt Service*

This account shall include the amounts billed to consumers as "amortization charges" for the purpose of servicing long-term debt.

212 [Reserved]
213 [Reserved]
214 [Reserved]

215 *Appropriated Margins*

This account shall include all amounts appropriated as reserves from margins. The account shall be so maintained as to show the amount of each separate reserve and the nature and amounts of the debits and credits thereto.

216 [Reserved]

216.1 *Unappropriated Undistributed Subsidiary Earnings*

This account shall include the balances, either debit or credit, of undistributed retained earnings of subsidiary companies since their acquisition. When dividends are received from subsidiary companies relating to amounts included in this account, this account shall be debited and Account 219.2, Nonoperating Margins.

217 *Retired Capital Credits—Gain*

A. This account shall include credits resulting from the retirement of patronage capital through settlement of individual patrons' capital credits at less than 100 percent of the capital assigned to the patron. The portion of patronage capital not returned to the patrons, under such settlements, shall be debited to Account 201.1, Patronage Capital Credits, and credited to this account.

B. This account shall also include amounts representing patronage capital authorized to be retired to patrons who cannot be located. Returned checks issued for retirements of patronage capital, after an appropriate waiting period, shall be credited to this account, and a record maintained adequate to enable the cooperative to make payment to the patron if and when a claim has been established by the consumer.

218 *Capital Gains and Losses*

No entries shall be made to this account without the prior approval of REA unless it is to distribute past capital gains and losses as capital credits or to eliminate accumulated capital losses in conformance with the bylaws of the cooperative.

219 *Other Margins and Equities*

A. This account shall include total amount of margins and equities from all sources.

B. Account 219 shall be subaccounted as follows:

219.1 Operating Margins
219.2 Nonoperating Margins
219.3 Other Margins
219.4 Other Margins and Equities—Prior Periods

219.1 *Operating Margins*

This account shall be debited or credited with the balances arising from transactions, the details of which have been recorded in Accounts 400, 401, 402, 403, 404, 405, 406, 407, 408, 412, 413, 414, 423, 424, 425, 426, 427, 428, and 431. Accounts 400, 401, and 402 are control accounts and, at the option of the borrower may or may not be used. If they are not used, the detailed revenue and expense accounts shall be closed directly to this account.

219.2 *Nonoperating Margins*

This account shall be debited or credited with the balances arising from

transactions, the details of which have been recorded in Accounts 415, 416, 417, 417.1, 418, 419, 419.1, 421, 421.1, 421.2, 422, 434, and 435.

219.3 *Other Margins*

No entries shall be made to this account unless it is to distribute or eliminate prior balances in conformance with the bylaws of the cooperative.

219.4 *Other Margins and Equities—Prior Periods*

A. This account shall include significant nonrecurring transactions relating to prior periods. To be significant, the transaction must be of sufficient magnitude to justify redistribution of patronage capital credits already allocated for such prior periods.

B. All entries to this account must receive REA prior approval.

C. These transactions are limited to items to (1) correct an error in the financial statements of a prior year, and (2) make adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards. This account shall also include the related income taxes (state and Federal) on items included herein.

D. Amounts in this account shall be transferred at the end of the year to Account 219.1, Operating Margins, or Account 219.2, Nonoperating Margins, as appropriate. Also, at the end of the year, these amounts should be transferred from Account 219.1, or Account 219.2 to Account 201.2, Patronage Capital Assignable, when appropriate.

Long-Term Debt

221 *Bonds*

This account shall include, in a separate subdivision for each class and series of bonds, the face value of the actually issued and unmatured bonds which have not been retired or cancelled; also the face value of such bonds issued by others, the payment of which has been assumed by the utility.

222 *Reacquired Bonds*

A. This account shall include the face value of bonds actually issued or assumed by the utility and reacquired by it and not retired or cancelled. The account for reacquired debt shall not include securities which are held by trustees in sinking or other funds

B. When bonds are reacquired, the difference between face value, adjusted for unamortized discount, expenses or premium, and the amount paid upon reacquisition, shall be included in Account 189, Unamortized Loss on Recquired Debt, or Account 257, Unamortized Gain on Reacquired Debt, as appropriate. (See § 1767.15(q).)

223 *Advances from Associated Companies*

A. This account shall include the face value of notes payable to associated companies and the amount of open book accounts representing advances from associated companies. It does not include notes and open accounts representing indebtedness subject to current settlement which are includible in Account 233, Notes Payable to Associated Companies, or Account 234, Accounts Payable to Associated Companies.

B. The records supporting the entries to this account shall be so kept that the utility can furnish complete information concerning each note and open account.

224 *Other Long-Term Debt*

A. This account shall include, until maturity, all long-term debt not otherwise provided for. This covers such items as receivers' certificates, real estate mortgages executed or assumed, assessments for public improvements, notes and unsecured certificates of indebtedness not owned by associated companies, receipts outstanding for long-term debt, and other obligations maturing more than one year from the date of issue or assumption.

B. Account 224 shall be subaccounted as follows:

224.1 Long-Term Debt—REA Construction Loan Contract
224.2 REA Loan Contract—Construction—Debit
224.3 Long-Term Debt—REA Construction Notes Executed
224.4 REA Notes Executed—Construction—Debit
224.5 Interest Accrued—Deferred—REA Construction
224.6 Advance Payments Unapplied—REA Long-Term Dept—Debit
224.7 Long-Term Debt—Installation Loan Contract
224.8 REA Loan Contract—Installation—Debit
224.9 Long-Term Debt—Installation Notes Executed
224.10 REA Notes Executed—Installation—Debit
224.11 Other Long-Term Debt—Subscriptions
224.12 Other Long-Term Debt—Supplemental Financing
224.13 Supplemental Lender Notes Executed—Debit
224.14 Other Long-Term Debt—Miscellaneous
224.15 Notes Executed—Other—Debit
224.16 Long-Term Debt—REA Economic Development Notes Executed
224.17 REA Notes Executed—Economic Development—Debit

224.1 *Long-Term Debt—REA Construction Loan Contract*

A. This account shall include the contractual obligation to REA on construction loans covered by loan contract but not by executed notes.

B. This account is to be used at the option of the borrower.

224.2 *REA Loan Contract—Construction—Debit*

A. This account shall include the total loans (for construction purposes) which are covered by loan contract but not by executed notes.

B. This account is to be used at the option of the borrower.

224.3 *Long-Term Debt—REA Construction Notes Executed*

This account shall include the contractual liability to REA on construction notes executed. Records shall be maintained to show separately for each class of obligation all details as to the date of obligation, date of maturity, interest date and rate, and securities for the obligations.

224.4 *REA Notes Executed—Construction—Debit*

This account shall include the total amount of the unadvanced REA loans for construction purposes, which are covered by executed notes. When advances are received from the REA for construction, this account shall be credited and Account 131.2, Cash—Construction Fund—Trustee, debited with the amount of cash advanced.

224.5 *Interest Accrued—Deferred—REA Construction*

This account shall include interest on REA construction obligations deferred by the terms of mortgage notes or extension agreements.

224.6 *Advance Payments Unapplied—REA Long-Term Debt—Debit*

A. This account shall include principal payments on mortgage notes paid in advance of the date due and not applied to a specific note. Also, include in this account interest savings which are accrued and added to the advance payment unapplied.

B. At such time as these payments are applied to a specific note or loan balances, this account shall be credited and the long-term debt account debited with the amount so applied.

224.7 *Long-Term Debt—Installation Loan Contract*

A. This account shall include the contractual obligation to REA on installation loans covered by loan contract but not covered by executed notes.

B. This account is to be used at the option of the borrower.

224.8 *REA Loan Contract—Installation—Debit*

A. This account shall include the total loans for installation purposes which are covered by loan contract but not by executed notes.

B. This account is to be used at the option of the borrower.

224.9 *Long-Term Debt—Installation Notes Executed*

This account shall include the contractual liability to REA on installation notes executed.

224.10 *REA Notes Executed—Installation—Debit*

This account shall include the total amount of unadvanced loans for installation purposes, which are covered by executed note. When advances are received from REA, this account shall be credited and Account 131.3, Cash—Installation Loan and Collection Fund, debited with the amount of cash advanced.

224.11 *Other Long-Term Debt—Subscriptions*

This account shall include the contractual obligation to purchase CFC Capital Term Certificates and any other similar obligation relating to supplemental financing.

224.12 *Other Long-Term Debt—Supplemental Financing*

This account shall include the contractual liability to CFC or other supplemental lenders for that portion of funds borrowed which mature in more than one year.

224.13 *Supplemental Lender Notes Executed—Debit*

This account shall include the total amount of the unadvanced loans for construction purposes, which are covered by executed notes to CFC or other supplemental lender. This account shall be debited with the face amount of notes executed. When advances are received from a supplemental lender for construction, this account shall be credited and Account 131.2, Cash—Construction Fund—Trustee, debited with the amount of cash advanced.

224.14 *Other Long-Term Debt—Miscellaneous*

This account shall include the amount of other long-term debt not provided for elsewhere.

224.15 *Notes Executed—Other—Debit*

This account shall include the total amount of the unadvanced loans for construction purposes, which are covered by executed notes to others not included in the foregoing accounts. When advances are received from such supplemental lender, this account shall be credited and Account 131.2, Cash—Construction Fund—Trustee, debited with the amount of cash so advanced.

224.16 *Long-Term Debt—REA Economic Development Notes Executed*

This account shall include the contractual liability to REA on rural economic development notes executed. Records shall be maintained to show separately for each class of obligation all details as to the date of obligation, date of maturity, interest date and rate, and securities for the obligation.

224.17 *REA Notes Executed—Economic Development—Debit*

This account shall include the total amount of the unadvanced REA loans for rural economic development purposes, which are covered by executed notes. When advances are received from the REA for rural economic development projects, this account shall be credited and Account 131.12, Cash—General—Economic Development Funds, debited with the amount of cash advanced.

225 *Unamortized Premium on Long-Term Debt*

A. This account shall include the excess of the cash value of consideration received over the face value upon the issuance or assumption of long-term debt securities.

B. Amounts recorded in this account shall be amortized over the life of each respective issue under a plan which will distribute the amount equitably over the life of the security. The amortization shall be on a monthly basis, with the amounts thereof to be credited to Account 429, Amortization of Premium on Debt—Credit. (See § 1767.15 (q).)

226 *Unamortized Discount on Long-Term Debt—Debit*

A. This account shall include the excess of the face value of long-term debt securities over the cash value of consideration received therefor, related to the issue or assumption of all types and classes of debt.

B. Amounts recorded in this account shall be amortized over the life of the respective issues under a plan which will distribute the amount equitably over the life of the securities. The amortization shall be on a monthly basis, with the amounts thereof charged to Account 428, Amortization of Debt Discount and Expense. (See § 1767.15 (q).)

Other Noncurrent Liabilities

227 *Obligations Under Capital Leases—Noncurrent*

This account shall include the portion not due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in Account 101.1, Property Under Capital Leases; Account 120.6, Nuclear Fuel Under Capital Leases; or Account 121, Nonutility Property.

228.1 *Accumulated Provisions for Property Insurance*

A. This account shall include amounts reserved by the utility for losses through accident, fire, flood, or other hazards to its own property or property leased from others, not covered by insurance. The amounts charged to Account 924, Property Insurance, or other appropriate accounts to cover such risks shall be credited to this account. A schedule of risks covered shall be maintained, giving a description of the property involved, the character of the risks covered and the rates used.

B. Charges shall be made to this account for losses covered, not to exceed the account balance. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

228.2 *Accumulated Provision for Injuries and Damages*

A. This account shall be credited with amounts charged to Account 925, Injuries and Damages, or other appropriate accounts, to meet the probable liability, not covered by insurance, for deaths or injuries to employees and others and for damages to property neither owned nor held under lease by the utility.

B. When liability for any injury or damage is admitted by the utility either voluntarily or because of the decision of a court or other lawful authority, such as a workmen's compensation board, the admitted liability shall be charged to this account and credited to the appropriate current liability account. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

Note: Recoveries or reimbursements for losses charged to this account shall be credited hereto; the cost of repairs to property of others, if provided for herein, shall be charged to this account.

228.3 *Accumulated Provision for Pensions and Benefits*

A. This account shall include provisions made by the utility and amounts contributed by employees for pensions, accident and death benefits, savings, relief, hospital, and other provident purposes, where the funds are included in the assets of the utility either

in general or in segregated fund accounts.

B. Amounts paid by the utility for the purpose for which this liability is established shall be charged hereto.

C. A separate account shall be kept for each kind of provision included herein.

Note.—If employee pension or benefit plan funds are not included among the assets of the utility but are held by outside trustees, payments into such funds, or accruals therefor, shall not be included in this account.

228.4 *Accumulated Miscellaneous Operating Provisions*

A. This account shall include all operating provisions which are not provided for elsewhere.

B. This account shall be maintained in such a manner as to show the amount of each separate provision and the nature and amounts of the debits and credits thereto.

Note: This account includes only provisions as may be created for operating purposes and does not include any reservations of income, the credits for which should be recorded in Account 215, Appropriated Margins.

229 *Accumulated Provision for Rate Refunds*

A. This account shall be credited with amounts charged to Account 449.1, Provision for Rate Refunds, to provide for estimated refunds where the utility is collecting amounts in rates subject to refund.

B. When a refund of any amount recorded in this account is ordered by a regulatory authority, such amount shall be charged hereto and credited to Account 242, Miscellaneous Current and Accrued Liabilities.

C. Reports supporting the entries to this account shall be kept so as to identify each amount recorded by the respective rate filing docket number.

Current and Accrued Liabilities

Current and accrued liabilities are those obligations which have either matured or which become due within 1 year from the date thereof; except however, bonds, receivers' certificates, and similar obligations which shall be classified as long-term debt until date of maturity; accrued taxes, such as income taxes, which shall be classified as accrued liabilities even though payable more than one year from date; compensation awards, which shall be classified as current liabilities regardless of date due; and minor amounts payable in installments which may be classified as current liabilities. If a liability is due more than 1 year from the date of issuance or assumption by the utility, it shall be credited to a long-term debt account appropriate for the transaction; except however, the current liabilities previously mentioned.

231 *Notes Payable*

This account shall include the face value of all notes, drafts, acceptances, or other similar evidences of indebtedness, payable on demand or within a time not exceeding 1 year from the date of issue, to other than associated companies.

232 *Accounts Payable*

A. This account shall include all amounts payable by the utility within 1 year, which are not provided for in other accounts.

B. Account 232 shall be subaccounted as follows:

232.1 Accounts Payable—General
232.2 Accounts Payable—REA Construction
232.3 Accounts Payable—Other

233 *Notes Payable to Associated Companies*

This account shall include amounts owing to associated companies on notes, drafts, acceptances, or other similar evidences of indebtedness payable on demand or not more than 1 year from the date of issue or creation.

Note: Notes which are includible in Account 223, Advances from Associated Companies, shall be excluded from this account.

234 *Accounts Payable to Associated Companies*

This account shall include amounts owing to associated companies on open accounts payable on demand.

Note: Accounts which are includible in Account 223, Advances from Associated Companies, shall be excluded from this account.

235 *Customer Deposits*

This account shall include all amounts deposited with the utility by customers as security for the payment of bills.

236 *Taxes Accrued*

A. This account shall be credited with the amount of taxes accrued during the accounting period, corresponding debits being made to the appropriate accounts for tax charges. Such credits may be based upon estimates, but from time to time during the year as the facts become known, the amount of the periodic credits shall be adjusted so as to include, as nearly as can be determined in each year, the taxes applicable thereto. Any amount representing a prepayment of taxes applicable to the period subsequent to the date of the balance sheet, shall be shown under Account 165, Prepayments.

B. If accruals for taxes are found to be insufficient or excessive, correction therefor shall be made through current tax accruals.

C. Accruals for taxes shall be based upon the net amounts payable after credit for any discounts, and shall not include any amounts for interest on tax deficiencies or refunds. Interest received on refunds shall be credited to Account 419, Interest and Dividend Income, and interest paid on deficiencies shall be charged to Account 431, Other Interest Expense.

D. Account 236 shall be subaccounted as follows:

236.1 Accrued Property Taxes
236.2 Accrued U.S. Social Security Tax—Unemployment
236.3 Accrued U.S. Social Security Tax—F.I.C.A.
236.4 Accrued State Social Security Tax—Unemployment
236.5 Accrued State Sales Tax—Consumers
236.6 Accrued Gross Revenue or Gross Receipts Tax
236.7 Accrued Taxes—Other

237 *Interest Accrued*

This account shall include the amount of interest accrued but not matured on all liabilities of the utility not including, however, interest which is added to the principal of the debt on which incurred. Supporting records shall be maintained so as to show the amount of interest accrued on each obligation.

238 *Patronage Capital and Patronage Refunds Payable*

A. This account shall include the total amount of patronage capital authorized to be returned and paid to patrons.

B. Account 238 shall be subaccounted as follows:

238.1 Patronage Capital Payable
238.2 Patronage Refunds Payable

238.1 *Patronage Capital Payable*

This account shall include the amount of patronage capital which has been authorized to be returned to the patron.

238.2 *Patronage Refunds Payable*

This account shall include the amount of patronage refunds which have been authorized to be paid to patrons.

239 *Matured Long-Term Debt*

This account shall include the amount of long-term debt (including any obligation for premiums) matured and unpaid, without specific agreement for extension of the time of payment and bonds called for redemption but not presented.

240 *Matured Interest*

This account shall include the amount of matured interest on long-term debt or other obligations of the utility at the date of the balance sheet unless such interest is added to the principal of the debt on which incurred.

241 *Tax Collections Payable*

This account shall include the amount of taxes collected by the utility through payroll deductions or otherwise, pending transmittal of such taxes to the proper taxing authority.

Note: Do not include liabilities for taxes assessed directly against the utility which are accounted for as part of the utility's own tax expense.

242 *Miscellaneous Current and Accrued Liabilities*

A. This account shall include the amount of all other current and accrued liabilities not provided for elsewhere appropriately designated and supported so as to show the nature of each liability.

B. Account 242 shall be subaccounted as follows:

242.1 Accrued Rentals
242.2 Accrued Payroll
242.3 Accrued Employees' Vacations and Holidays
242.4 Accrued Insurance
242.5 Other Current and Accrued Liabilities

242.1 *Accrued Rentals*

This account shall include unpaid joint use pole rentals and other rentals. The records supporting the entries to this account shall be maintained so as to show for each class of rental, the amount accrued, the basis for the accrual, the accounts to which charged, and the amount of rentals paid.

242.2 *Accrued Payroll*

This account shall include the accrued liability for salaries and wages at the end of an accounting period for which the appropriate expense or other accounts have been charged. This account is to be used whether salaries and wages are paid on a weekly, semimonthly, or monthly basis.

242.3 *Accrued Employees' Vacations and Holidays*

This account shall include the liability for accrued wages for employees' vacation, holidays, and sick leave.

242.4 *Accrued Insurance*

A. This account shall most commonly be used in case of workmen's compensation and public liability insurance for recording the excess amounts of earned premium over the advance premiums. Earned premiums are computed each month by applying the insurance rates to the actual payrolls.

B. Until the amount of the advance premiums is exhausted the earned premium is credited to Account 165, Prepayments. Earned premiums in excess of the advance premiums are credited to this account.

242.5 *Other Current and Accrued Liabilities*

This account shall include current and accrued liabilities not provided for elsewhere.

243 *Obligations Under Capital Leases—Current*

This account shall include the portion, due within 1 year, of the obligations recorded for the amounts applicable to leased property recorded as assets in Account 101.1, Property Under Capital Leases; Account 120.6, Nuclear Fuel Under Capital Leases; or Account 121, Nonutility Property.

Deferred Credits

251 [Reserved]

252 *Customer Advances for Construction*

This account shall include consumer advances for construction which are to be refunded either wholly or in part. When a customer is refunded the entire amount to which he is entitled, according to the agreement or rule under which the advance was made, the balance, if any, remaining in this account shall be credited to the respective plant accounts.

253 *Other Deferred Credits*

This account shall include advance billings and receipts and other deferred credit items, not provided for elsewhere, including amounts which cannot be entirely cleared or disposed of until additional information has been received.

253.1 *Other Deferred Credits—Consumers' Energy Prepayments*

This account shall include the amount of advance payments made by consumers in connection with electric service.

255 *Accumulated Deferred Investment Tax Credits*

A. This account shall be credited with all investment tax credits deferred by companies which have elected to follow deferral accounting, partial or full, rather than recognizing, in the income statement, the total benefits of the tax credit as realized. After such election, a company may not transfer amounts from this account, except as authorized herein and in Account 411.4, Investment Tax Credit Adjustments, Utility Operations; Account 411.5, Investment Tax Credit Adjustments, Nonutility Operations; and Account 420, Investment Tax Credits, or with approval of REA.

B. Where the company's accounting provides that investment tax credits are to be passed on to customers, this account shall be debited and Account 411.4 credited with a proportionate amount determined in relation to the average useful life of electric utility property to which the tax credits relate or such lesser period of time as allowed by a regulatory agency having rate jurisdiction. If, however, the deferral procedure provides that investment tax credits are not to be passed on to customers, the proportionate restorations to income shall be credited to Account 420.

C. Subdivisions of ths account, by department, shall be maintained for deferred investment tax credits that are related to nonelectric utility or other operations. Contra entries affecting such account subdivisions shall be appropriately recorded in Account 413, Expenses of Electric Plant Leased to Others; or Account 414, Other Utility Operating Income. Use of deferral or nondeferral accounting procedures adopted for nonelectric utility or other operations are to be followed on a consistent basis.

D. Separate records for electric and nonelectric utility or other operations shall be maintained identifying the properties giving rise to the investment tax credits for each year with the weighted-average service life of such properties and any unused balances of such credits. Such records are not necessary unless the tax credits are deferred.

256 *Deferred Gains from Disposition of Utility Plant*

This account shall include gains from the sale or other disposition of property previously recorded in Account 105, Electric Plant Held for Future Use, under the provisions of Paragraphs B, C, and D thereof, where such gains are significant and are to be amortized over a period of 5 years, unless otherwise authorized by REA. The authorization of the amounts in this account shall be made by credits to Account 411.6, Gains form Disposition of Utility Plant. (See Account 105, Electric Plant Held for Future Use.)

257 *Unamortized Gain on Reacquired Debt*

This account shall include the amounts of discount realized upon reacquisition or redemption of long-term debt. The amounts in this account shall be amortized in accordance with § 1767.15 (q).

Special Instructions

Accumulated Deferred Income Taxes

Before using the deferred tax accounts provided below, refer to § 1767.15 (r). Comprehensive Interperiod Income Tax Allocation.

The text of these accounts are designed primarily to cover deferrals of Federal income taxes. However, they are also to be used when making

deferrals of state and local income taxes. Public utilities and licensees which, in addition to an electric utility department, have another utility department, gas or water and nonutility property, and which have deferred taxes on income with respect thereto shall separately classify such deferrals in the accounts provided below so as to allow ready identification of items relating to each utility deductions.

281 *Accumulated Deferred Income Taxes—Accelerated Amortization Property*

A. This account shall include tax deferrals resulting from adoption of the principles of comprehensive interperiod tax allocation described in § 1767.15 (s) of this system of accounts that relate to property for which the utility has availed itself of the use of accelerated (5-year) amortization of (1) certified defense facilities as permitted by Section 167 of the Internal Revenue Code, and (2) certified pollution control facilities as permitted by Section 169 of the Internal Revenue Code.

B. This account shall be credited and Account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or Account 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, shall be debited with tax effects related to property described in Paragraph A above where taxable income is lower than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

C. This account shall be debited and Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or Account 411.2, Provision for Deferred Income Taxes-Credit, Other Income and Deductions, as appropriate, shall be credited with taxes related to property described in Paragraph A above where taxable income is higher than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

D. The utility is restricted in its use of this account to the purposes set forth above. It shall not transfer the balance in this account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account without prior approval of REA. Upon the disposition by sale, exchange, transfer, abandonment, or premature retirement of plant on which there is a related balance therein, this account shall be charged with an amount equal to the related income tax expense, if any, arising from such disposition and Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or Account 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited. When the remaining balance, after consideration of any related income tax expense, is less than $25,000, this account shall be charged and Account 411.1 or Account 411.2, as appropriate, credited with such balance. If after consideration of any related income tax expense, there is a remaining amount of $25,000 or more, REA shall authorize or direct how such amount shall be accounted for at the time approval for the disposition of accounting is granted. When plant is disposed of by transfer to a wholly owned subsidiary, the related balance in this account shall also be transferred. When the disposition relates to retirement of an item or items under a group method of depreciation where there is no tax effect in the year of retirement, no entries are required in this account if it can be determined that the related balances would be necessary to be retained to offset future group item tax deficiencies.

282 *Accumulated Deferred Income Taxes—Other Property*

A. This account shall include the tax deferrals resulting from adoption of the principle of comprehensive interperiod income tax allocation described in § 1767.15 (r) of this system of accounts which are related to all property other than accelerated amortization property.

B. This account shall be credited and Account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or Account 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, shall be debited with tax effects related to property described in Paragraph A above where taxable income is lower than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

C. This account shall be debited and Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or Account 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited with tax effects related to property described in Paragraph A above where taxable income is higher than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

D. The utility is restricted in its use of this account to the purposes set forth above. It shall not transfer the balance in this account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account without prior approval of REA. Upon the disposition by sale, exchange, transfer, abandonment, or premature retirement of plant on which there is a related balance herein, this account shall be charged with an amount equal to the related income tax expense, if any, arising from such disposition and Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or Account 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, shall be credited. When the remaining balance after consideration of any related tax expenses, is less than $25,000, this account shall be charged and Account 411.1 or Account 411.2, as appropriate, credited with such balance. If after consideration any related income tax expense, there a remaining amount of $25,000 or more, REA shall authorize or direct how such amount shall be accounted for at the time approval for the disposition of accounting is granted. When plant is disposed of by transfer to a wholly owned subsidiary, the related balance in this account shall also be transferred. When the disposition relates to retirement of an item or items under a group method of depreciation where there is no tax effect in the year of retirement, no entries are required in this account if it can be determined that the related balance would be necessary to be retained to offset future group item tax deficiencies.

283 *Accumulated Deferred Income Taxes—Other*

A. This account shall include all credit tax deferrals resulting from the adoption of the principles of comprehensive interperiod income tax allocation described in § 1767.15 (r) of this system of accounts other than those deferrals which are includible in Account 281, Accumulated Deferred Income Taxes—Accelerated Amortization Property, and Account 282, Accumulated Deferred Income Taxes—Other Property.

B. This account shall be credited and Account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or Account 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, shall be

debited with tax effects related to items described in Paragraph A above where taxable income is lower than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

C. This account shall be debited and Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income or Account 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited with tax effects related to items described in Paragraph A above where taxable income is higher than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

D. Records with respect to entries to this account, as described above, and the account balance, shall be so maintained as to show the factors of calculation with respect to each annual amount of the item or class of items.

E. The utility is restricted in its use of this account to the purposes set forth above. It shall not transfer the balance in the account or any portion thereof to retained earnings or to any other account or make any use thereof except as provided in the text of this account, without prior approval of REA. Upon the disposition by sale, exchange, transfer, abandonment, or premature retirement of items on which there is a related balance herein, this account shall be charged with an amount equal to the related income tax effect, if any, arising from such disposition and Account 411.1, Provision For Deferred Income Taxes—Credit, Utility Operating Income, or Account 411.2, Provision For Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited. When the remaining balance, after consideration of any related tax expenses, is less than $25,000, this account shall be charged and Account 411.1 or Account 411.2, as appropriate, credited with such balance. If after consideration of any related income tax expense, there is a remaining amount of $25,000 or more, REA shall authorize or direct how much amount shall be accounted for at the time approval for the disposition of accounting is granted.

When plant is disposed of by transfer to a wholly owned subsidiary, the related balance in this account shall also be transferred. When the disposition relates to retirement of an item or items under a group method of depreciation where there is no tax effect in the year of retirement, no entries are required in this account if it can be determined that the related balance would be necessary to be retained to offset future group item tax deficiencies.

Intangible Plant

301 *Organization*

This account shall include all fees paid to Federal or state governments for the privilege of incorporation and expenditures incident to organizing the corporation, partnership, or other enterprise and putting it into readiness to do business.

Items

1. Cost of obtaining certificates authorizing an enterprise to engage in the public-utility business.
2. Fees and expenses for incorporation.
3. Fees and expenses for mergers or consolidations.
4. Office expenses incident to organizing the utility.
5. Stock and minute books and corporate seal.

Note A: This account shall not include any discounts upon securities issued or assumed; nor shall it include any costs incident to negotiating loans, selling bonds or other evidences of debt or expenses in connection with the authorization, issuance, or sale of capital stock.

Note B: Exclude from this account and include in the appropriate expense account the cost of preparing and filing papers in connection with the extension of the term of incorporation unless the first organization costs have been written off. When charges are made to this account for expenses incurred in mergers, consolidations, or reorganizations, amounts previously included herein or in similar accounts in the books of the companies concerned shall be excluded from this account.

302 *Franchises and Consents*

A. This account shall include amounts paid to the Federal Government, to a state or to a political subdivision thereof in consideration for franchises, consents, water power licenses, or certificates, running in perpetuity or for a specified term of more than one year, together with necessary and reasonable expenses incident to procuring such franchises, consents, water power licenses, or certificates of permission and approval, including expenses of organizing and merging separate corporations, where statutes require, solely for the purpose of acquiring franchises.

B. If a franchise, consent, water power license, or certificate is acquired by assignment, the charge to this account in respect thereof shall not exceed the amount paid therefor by the utility to the assignor, nor shall it exceed the amount paid by the original grantee, plus the expense of acquisition to such grantee. Any excess of the amount actually paid by the utility over the amount above specified shall be charged to Account 426.5, Other Deductions.

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to Account 426.5, Other Deductions, or to Account 111, Accumulated Provision for Amortization of Electric Utility Plant, as appropriate.

D. Records supporting this account shall be kept so as to show separately the book cost of each franchise or consent.

Note: Annual or other periodic payments under franchises shall not be included herein but in the appropriate operating expense account.

303 *Miscellaneous Intangible Plant*

A. This account shall include the cost of patent rights, licenses, privileges, and other intangible property necessary or valuable in the conduct of utility operations and not specifically chargeable to any other account.

B. When any item included in this account is retired or expires, the book cost thereof shall be credited hereto and charged to Account 426.5, Other Deductions, or Account 111, Accumulated Provision for Amortization of Electric Utility Plant, as appropriate.

C. This account shall be maintained in such a manner that the utility can furnish full information with respect to the amounts included herein.

Production Plant

Steam Production

310 *Land and Land Rights*

This account shall include the cost of land and land rights used in connection with steam-power generation. (See § 1767.16(g).)

311 *Structures and Improvements*

This account shall include the cost, in place, of structures and improvements used in connection with steam-power generation. (See § 1767.16(h).)

Note: Include steam production roads and railroads in this account.

312 *Boiler Plant Equipment*

This account shall include the cost installed of furnaces, boilers, coal and ash handling and coal preparing equipment, steam and feed water piping, boiler apparatus, and accessories used in the production of steam, mercury, or other vapor, to be used primarily for generating electricity.

Items

1. Ash handling equipment, including hoppers, gates, cars, conveyors, hoists, sluicing equipment, including pumps and motors, sluicing water pipe and fittings, sluicing trenches and accessories, except sluices which are a part of a building.
2. Boiler feed system, including feed water heaters, evaporator condensers, heater drain pumps, heater drainers, deaerators, and vent condensers, boiler feed pumps, surge tanks, feed water regulators, feed water measuring equipment, and all associated drives.
3. Boiler plant cranes and hoists and associated drives.
4. Boilers and equipment, including boilers and baffles, economizers, superheaters, soot blowers, foundations and settings, water walls, arches, grates, insulation, blowdown system, drying out of new boilers, also associated motors or other power equipment.
5. Breeching and accessories, including breeching, dampers, soot spouts, hoppers and gates, cinder eliminators, breeching insulation, soot blowers and associated motors.
6. Coal handling and storage equipment, including coal towers, coal lorries, coal cars, locomotives and tracks when devoted principally to the transportation of coal, hoppers, downtakes, unloading and hoisting equipment, skip hoists and conveyors, weighing equipment, magnetic separators, cable ways, and housing and supports for coal handling equipment.
7. Draft equipment, including air preheaters and accessories, induced and forced draft fans, air ducts, combustion control mechanisms, and associated motors or other power equipment.
8. Gas-burning equipment, including holders, burner equipment and piping, and control equipment.
9. Instruments and devices, including all measuring, indicating, and recording equipment for boiler plant service together with mountings and supports.
10. Lighting systems.
11. Oil-burning equipment, including tanks, heaters, pumps with drive, burner equipment and piping, and control equipment.
12. Pulverized fuel equipment, including pulverizers, accessory motors, primary air fans, cyclones and ducts, dryers, pulverized fuel bins, pulverized fuel conveyors and equipment, burners, burner piping, priming equipment, air compressors, and motors.
13. Stacks, including foundations and supports, stack steel and ladders, stack brickwork, stack concrete, stack lining, stack painting (first), when set on separate foundations, independent of substructures or superstructures of building.
14. Station piping, including pipe, valves, fittings, separators, traps, desuperheaters, hangers, excavation, and covering for station piping system, including all steam, condensate, boiler feed and water piping, but not condensing water, plumbing, building heating, oil, gas, air piping or piping specifically provided for in Account 313.
15. Stoker or equivalent feeding equipment, including stokers and accessory motors, clinker grinders, fans and motors.
16. Ventilating equipment.
17. Water purification equipment, including softeners and accessories, evaporators and accessories, heat exchanges, filters, tanks for filtered or softened water, pumps, and motors.
18. Water-supply systems, including pumps, motors, strainers, raw-water storage tanks, boiler wash pumps, intake and discharge pipes, and tunnels not a part of a building.
19. Wood fuel equipment, including hoppers, fuel hogs and accessories, elevators and conveyors, bins and gates, spouts, measuring equipment and associated drives.

Note: When the system for supplying boiler or condenser water is elaborate, and when it includes a dam, reservoir, canal, pipe line, cooling ponds, or where gas or oil is used as a fuel for producing steam and is supplied through a pipe line system owned by the utility, the cost of such special facilities shall be charged to a subdivision of Account 311, Structures and Improvements.

313 *Engines and Engine Driven Generators*

This account shall include the cost installed of steam engines, reciprocating or rotary, and their associated auxiliaries; and engine-driven main generators, except turbogenerator units.

Items

1. Air cleaning and cooling apparatus, including blowers, drive equipment, air ducts, not a part of building, louvers, pumps, and hoods.
2. Belting, shafting, pulleys, and reduction gearing.
3. Circulating pumps, including connections between condensers and intake and discharge tunnels.
4. Cooling system, including towers, pumps, tank, and piping.
5. Condensers, including condensate pumps, air and vacuum pumps, ejector unloading valves and vacuum breakers, expansion devices, and screens.
6. Cranes and hoists, including items wholly identified with items listed herein.
7. Engines, reciprocating or rotary.
8. Fire-extinguishing systems.
9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.
10. Generators-Main, a.c. or d.c., including field rheostats and connections for self-excited units, and excitation systems when identified with the generating unit.
11. Governors.
12. Lighting systems.
13. Lubricating systems, including gauges, filters, tanks, pumps, piping, and motors.
14. Mechanical meters, including gauges, recording instruments, sampling and testing equipment.
15. Piping-main exhaust, including connections between generator and condenser and between condenser and hotwell.
16. Piping-main stream, including connections from main throttle valve to turbine inlet.
17. Platforms, railings, steps, and gratings appurtenant to apparatus listed herein.
18. Pressure oil system, including accumulators, pumps, piping, and motors.
19. Throttle and inlet valve.
20. Tunnels, intake and discharge, for condenser system, when not a part of a structure.
21. Water screens and motors.

314 *Turbogenerator Units*

This account shall include the cost installed of main turbine-driven units and accessory equipment used in generating electricity by steam.

Items

1. Air leaning and cooling apparatus, including blowers, drive equipment, air ducts not a part of building, louvers, pumps, and hoods.
2. Circulating pumps, including connections between condensers and intake and discharge tunnels.
3. Condensers, including condensate pumps, air and vacuum pumps, ejectors, unloading valves and vacuum breakers, expansion devices, and screens.
4. Generators hydrogen, gas piping, and detrainment equipment.
5. Cooling system, including towers, pumps, tanks, and piping.
6. Cranes and hoists, including items wholly identified with items listed herein.
7. Excitation system, when identified with main generating units.
8. Fire-extinguishing systems.
9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.

10. Governors.
11. Lighting systems.
12. Lubricating systems, including gauges, filters, water separators, tanks, pumps, piping, and motors.
13. Mechanical meters, including gauges, recording instruments, sampling and testing equipment.
14. Piping-main exhaust, including connections between turbogenerator and condenser and between condenser and hotwell.
15. Piping-main steam, including connections from main throttle valve to turbine inlet.
16. Platforms, railings, steps, and gratings appurtenant to apparatus listed herein.
17. Pressure oil systems, including accumulators, pumps, and piping motors.
18. Steelwork, specially constructed for apparatus listed herein.
19. Throttle and inlet valve.
20. Tunnels, intake and discharge, for condenser system, when not a part of structure, and water screens.
21. Turbogenerators-main, including turbine and generator, field rheostats and electric connections for self-excited units.
22. Water screens and motors.
23. Moisture separator for turbine steam.
24. Turbine lubricating oil (initial charge).

315 *Accessory Electric Equipment*

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced by steam power, and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts. Such motors shall be included in the account in which the equipment with which they are associated is included.

Items

1. Auxiliary generators, including boards, compartments, switching equipment, control equipment, and connections to auxiliary power bus.
2. Excitation system, including motor, turbine and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter bus tie panels, generator and exciter rheostats and special housing and protective screens.
3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads, grounding switch, and special housings and protective screens.
4. Station buses including main, auxiliary, transfer, synchronizing and fault ground buses, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors, starting transformers, current transformers, potential transformers, protective relays, storage batteries and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special housings, concrete pads, general station grounding system, special fire-extinguishing system, and test equipment.
5. Station control system, including station switchboards with panel wiring, panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, truck-type boards complete, cubicles, station supervisory control boards, generator and exciter signal stands, temperature recording devices, frequency-control equipment, master clocks, watt-hour meters and synchronoscope in the turbine room, station totalizing wattmeter, boiler-room load indicator equipment, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special supports for conduit, switchboards, batteries, special housing for batteries, protective screens, and doors.

Note A: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electricity for the purposes of transmission or distribution.

Note B: When any item of equipment listed herein is used wholly to furnish power to equipment included in another account, its cost shall be included in such other account.

316 *Miscellaneous Power Plant Equipment*

This account shall include the cost installed of miscellaneous equipment in and about the steam generating plant devoted to general station use, and which is not properly includible in any of the foregoing steam-power production accounts.

Items

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, and piping.
2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, and hoists with electric and mechanical connections.
3. Fire-extinguishing equipment for general station use.
4. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.
5. Locomotives cranes not includible elsewhere.
6. Locomotives not includible elsewhere.
7. Marine equipment, including boats and barges.
8. Miscellaneous belts, pulleys, and countershafts.
9. Miscellaneous equipment, including atmospheric and weather indicating devices, intrasite communication equipment, laboratory equipment, signal systems, callophones, emergency whistles and sirens, fire alarms, insect-control equipment, and other similar equipment.
10. Railway cars not includible elsewhere.
11. Refrigerating systems, including compressors, pumps, and cooling coils.
12. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, and grinders with motors, shafting, hangers, and pulleys.
13. Ventilating equipment, including items wholly identified with apparatus listed herein.

Note: When any item of equipment listed herein is wholly used in connection with equipment included in another account, its cost shall be included in such other account.

Nuclear Production

320 *Land and Land Rights*

This account shall include the cost of land and land rights used in connection with nuclear power generation. (See § 1767.16, (g).)

321 *Structures and Improvements*

This account shall include the costs, in place, of structures and improvements used and useful in connection with nuclear power generation. (See § 1767.16 (h).)

Note: Include vapor containers and nuclear production roads and railroads in this account.

322 *Reactor Plant Equipment*

This account shall include the installed cost of reactors, reactor fuel

handling and storage equipment, pressurizing equipment, coolant charging equipment, purification and discharging equipment, radioactive waste treatment and disposal equipment, boilers, steam and feed water piping, reactor and boiler apparatus and accessories and other reactor plant equipment used in the production of steam to be used primarily for generating electricity, including auxiliary superheat boilers and associated equipment in systems which change temperatures or pressure of steam from the reactor system.

Items

1. Auxiliary superheat boilers and associated fuel storage handling preparation and burning equipment. (See Account 321, Boiler Plant Equipment, for items, but exclude water supply, water flow lines, and steam lines, as well as other equipment not strictly within the superheat function.)
2. Boiler feed system, including feed water heaters, evaporator condensers, heater drain pumps, heater drainers, deaerators, and vent condensers, boiler feed pumps, surge tanks, feed water regulators, feed water measuring equipment, and all associated drivers.
3. Boilers and heat exchangers.
4. Instruments and devices, including all measuring, indicating, and recording equipment for reactor and boiler plant service together with mountings and supports.
5. Lighting systems.
6. Moderators, such as heavy water, and graphite, initial charge.
7. Reactor coolant; primary and secondary systems, initial charge.
8. Radioactive waste treatment and disposal equipment, including tanks, ion exchangers, incinerators, condensers, chimneys, and diluting fans and pumps.
9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.
10. Reactor including shielding, control rods and mechanisms.
11. Reactor fuel handling equipment, including manipulating and extraction tools, underwater viewing equipment, seal cutting and welding equipment, fuel transfer equipment, and fuel disassembly machinery.
12. Reactor fuel element failure detection system.
13. Reactor emergency poison container and injection system.
14. Reactor pressuring and pressure relief equipment, including pressurizing tanks and immersion heaters.
15. Reactor coolant or moderator circulation charging, purification, and discharging equipment, including tanks, pumps, heat exchangers, demineralizers, and storage.
16. Station piping, including pipes, valves, fittings, separators, traps, desuperheaters, hangers, excavation, and covering for station piping system, including all-reactor coolant, steam, condensate, boiler feed and water supply piping, but not condensing water, plumbing, building heating, oil, gas, or air piping.
17. Ventilating equipment.
18. Water purification equipment, including softeners, demineralizers and accessories, evaporators and accessories, heat exchangers, filters, tanks for filtered or softened water, pumps, and motors.
19. Water supply systems, including pumps, motors, strainers, raw-water storage tanks, boiler wash pumps, intake and discharge pipes and tunnels not a part of a building.
20. Reactor plant cranes and hoists, and associated drives.

Note: When the system for supplying boiler or condenser water is elaborate, as when it includes a dam, reservoir, canal, pipe lines, or cooling ponds, the cost of such special facilities shall be charged to a subdivision of Account 321, Structures and Improvements.

323 *Turbogenerator Units*

This account shall include the cost installed of main turbine-driven units and accessory equipment used in generating electricity by steam.

Items

1. Air cleaning and cooling apparatus, including blowers, drive equipment, air ducts, not a part of building, louvers, pumps, and hoods.
2. Circulating pumps, including connections between condensers, and intake and discharge tunnels.
3. Condensers, including condensate pumps, air and vacuum pumps, ejectors, unloading valves and vacum breakers, expansion devices, and screens.
4. Generator hydrogen gas piping system and hydrogen detrainment equipment, and bulk hydrogen gas storage equipment.
5. Cooling system, including towers, pumps, tanks, and piping.
6. Cranes and hoists, including items wholly identified with items listed herein.
7. Excitation system, when identified with main generating units.
8. Fire extinguishing systems.
9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.
10. Governors.
11. Lighting systems.
12. Lubricating systems, including gauges, filters, water separators, tanks, pumps, piping, and motors.
13. Mechanical meters, including gauges, recording instruments, sampling and testing equipment.
14. Piping-main steam, including connections between turbogenerator and condenser and between condenser and hotwell.
15. Piping-main steam, including connections from main throttle valve to turbine inlet.
16. Platforms, railings, steps, and gratings appurtenant to apparatus listed herein.
17. Pressure oil systems, including accumulators, pumps, piping, and motors.
18. Steelwork, specially constructed for apparatus listed herein.
19. Throttle and inlet valve.
20. Tunnels, intake and discharge, for condenser system, when not a part of structure, and water screens.
21. Turbogenerators-main, including turbine and generator, field rheostats and electric connections for self-excited units.
22. Water screens and motors.
23. Moisture separators for turbine steam.
24. Turbine lubricating oil, initial charge.

324 *Accessory Electric Equipment*

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced by nuclear power, and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts. Such motors shall be included in the account in which the equipment with which they are associated is included.

Note: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electric energy for the purpose of transmission or distribution.

Items

1. Auxiliary generators, including boards, compartments, switching equipment, control equipment, and connections to auxiliary power bus.
2. Excitation system, including motor, turbine and dual-drive exciter sets and rheostats, storage batteries, and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch

panels, exciter bus tie panels, generator and exciter rheostats and special housing and protective screens.

3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads, grounding switch, special housings and protective screens.

4. Station buses, including main, auxiliary, transfer, synchronizing and fault ground buses, including oil circuit breakers and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors, starting transformers, current transformers, potential transformers, protective relays, storage batteries and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special housings, concrete pads, general station grounding system, fire-extinguishing system, and test equipment.

5. Station control system, including station switchboards with panel wiring, panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, truck-type boards complete, cubicles, station supervisory control boards, generator and exciter signal stands, temperature recording devices, frequency-control equipment, master clocks, watt-hour meters and synchronoscope in the turbine room, station totalizing wattmeter, boiler-room load indicator equipment, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special supports for conduit, switchboards, batteries, special housing for batteries, protective screens, and doors.

Note: When any item of equipment listed herein is used wholly to furnish power to equipment included in another account, its cost shall be included in such other account.

325 *Miscellaneous Power Plant Equipment*

This account shall include the cost installed of miscellaneous equipment in and about the nuclear generating plant devoted to general station use, which is not properly includible in any of the foregoing nuclear-power production accounts.

Items

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, and piping.

2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, and hoists with electric and mechanical connections.

3. Fire-extinguishing equipment for general station and site use.

4. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.

5. Locomotive cranes not includible elsewhere.

6. Locomotives not included elsewhere.

7. Marine equipment, including boats and barges.

8. Miscellaneous belts, pulleys, and countershafts.

9. Miscellaneous equipment, including atmospheric and weather recording devices, intrasite communication equipment, laboratory equipment, signal systems, callophones, emergency whistles and sirens, fire alarms, insect-control equipment, and other similar equipment.

10. Railway cars or special shipping containers not includible elsewhere.

11. Refrigerating systems, including compressors, pumps, and cooling coils.

12. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, and grinders with motors, shafting, hangers, and pulleys.

13. Ventilating equipment, including items wholly identified with apparatus listed herein.

14. Station and area radiation monitoring equipment.

Note: When any item of equipment listed herein is wholly used in connection with equipment included in another account, its cost shall be included in such other account.

Hydraulic Production

330 *Land and Land Rights*

This account shall include the cost of land and land rights used in connection with hydraulic power generation. (See § 1767.16(g).) It shall also include the cost of land and land rights used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above.

331 *Structures and Improvements*

This account shall include the cost, in place, of structures and improvements used in connection with hydraulic power generation. (See § 1767.16(h).) It shall also include the cost, in place, of structures and improvements used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above.

332 *Reservoirs, Dams, and Waterways*

This account shall include the cost in place of facilities used for impounding, collecting, storage, diversion, regulation, and delivery of water used primarily for generating electricity. It shall also include the cost in place of facilities used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above. (See § 1767.16(h)(3).)

Items

1. Bridges and culverts, when not a part of roads or railroads.

2. Clearing and preparing land.

3. Dams, including wasteways, spillways, flash boards, spillway gates with operating and control mechanisms, tunnels, gate houses, and fish ladders.

4. Dikes and embankments.

5. Electric system, including conductors, control system, transformers, and lighting fixtures.

6. Excavation, including shoring, bracing, bridging, refill, and disposal of excess excavated material.

7. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.

8. Intakes, including trash racks, rack cleaners, control gates and valves with operating mechanisms, and intake house when not a part of station structure.

9. Platforms, railings, steps, and gratings appurtenant to structures listed herein.

10. Power line wholly identified with items included herein.

11. Retaining walls.

12. Water conductors and accessories, including canals, tunnels, flumes, penstocks, pipe conductors, forebays, tailraces, navigation locks and operating mechanisms, water-hammer and surge tanks, and supporting trestles and structures.

13. Water storage reservoirs, including dams, flashboards, spillway gates and operating mechanisms, inlet and outlet tunnels, regulating valves and valve towers, silt and mud sluicing tunnels with valve or gate towers, and all other structures wholly identified with any of the foregoing items.

333 *Water Wheels, Turbines and Generators*

This account shall include the cost installed of water wheels and hydraulic turbines (from connection with penstock or flume to tailrace) and generators driven thereby devoted to the production of electricity by water power

or for the production of power for industrial or other purposes, if the equipment used for such purpose is a part of the hydraulic power plant works.

Items

1. Exciter water wheels and turbines, including runners, gates, governors, pressure regulators, oil pumps, operating mechanisms, scroll cases, draft tubes, and draft-tube supports.
2. Fire-extinguishing equipment.
3. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
4. Generator cooling system, including air cooling and washing apparatus, air fans and accessories, and air ducts.
5. Generators—main, a.c. or d.c., including field rheostats and connections for self-excited units and excitation system when identified with the generating unit.
6. Lighting systems.
7. Lubricating systems, including gauges, filters, tanks, pumps, and piping.
8. Main penstock values and appurtenances, including main valves, control equipment, bypass valves and fittings, and other accessories.
9. Main turbines and water wheels, including runners, gates, governors, pressure regulators, oil pumps, operating mechanisms, scroll cases, draft tubes, and draft-tube supports.
10. Mechanical meters and recording instruments.
11. Miscellaneous water-wheel equipment, including gauges, thermometers, meters, and other instruments.
12. Platforms, railings, steps, and gratings appurtenant to apparatus listed herein.
13. Scroll case filling and drain system, including gates, pipe, valves, and fittings.
14. Water-actuated pressure-regulator system, including tanks and housings, pipes, valves, fittings and insulators, piers and anchorage, and excavation and backfill.

334 *Accessory Electric Equipment*

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced by hydraulic power and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts, such motors being included in the account in which the equipment with which they are associated is included.

Items

1. Auxiliary generators, including boards, compartments, switching equipment, control equipment, and connections to auxiliary power bus.
2. Excitation system, including motor, turbine, and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter bus tie panels, generator and exciter rheostats and special housings and protective screens.
3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads, grounding switch, and special housings and protective screens.
4. Station buses, including main, auxiliary, transfer, synchronizing, and fault ground buses, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors starting transformers, current transformers, potential transformers, protective relays, storage batteries, and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special fire-extinguishing system, and test equipment.
5. Station control system, including station switchboards with panel wiring, panels with instruments and control equipment only, panels with switching equipment mounted for mechanically connected, truck-type boards complete, cubicles, station supervisory control devices, frequency control equipment, master clocks, watt-hour meter, station totalizing watt-meter, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special supports for conduit, switchboards, batteries, special housings for batteries, protective screens, and doors.

Note A: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electricity for the purpose of transmission or distribution.

Note B: When any item of equipment listed herein is used wholly to furnish power to equipment, it shall be included in such equipment account.

335 *Miscellaneous Power Plant Equipment*

This account shall include the cost installed of miscellaneous equipment in and about the hydroelectric generating plant which is devoted to general station use and is not properly includible in other hydraulic production accounts. It shall also include the cost of equipment used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above.

Items

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, and piping.
2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, and hoists with electric and mechanical connections.
3. Fire-extinguishing equipment for general station use.
4. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
5. Locomotive cranes not includible elsewhere.
6. Locomotives not includible elsewhere.
7. Marine equipment, including boats and barges.
8. Miscellaneous belts, pulleys, and countershafts.
9. Miscellaneous equipment, including atmospheric and weather indicating devices. Intrasite communication equipment, laboratory equipment, insect control equipment, signal systems, callophones, emergency whistles and sirens, fire alarms, and other similar equipment.
10. Railway cars, not includible elsewhere.
11. Refrigerating system, including compressors, pumps, and cooling coils.
12. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, and grinders with motors, shafting, hangers, and pulleys.
13. Ventilating equipment, including items wholly identified with apparatus listed herein.

Note: When any item of equipment, listed herein, is used wholly in connection with equipment included in another account, its cost shall be included in such other account.

336 *Roads, Railroads, and Bridges*

This account shall include the cost of roads, railroads, trails, bridges, and trestles used primarily as production facilities. It also includes those roads necessary to connect the plant with

highway transportation systems, except when such roads are dedicated to public use and maintained by public authorities.

Items

1. Bridges, including foundations, piers, girders, trusses, and flooring.
2. Clearing land.
3. Railroads, including grading, ballast, ties, rails, culverts and hoists.
4. Roads, including grading, surfacing, and culverts.
5. Structures, constructed and maintained in connection with items listed herein.
6. Trails, including grading, surfacing, and culverts.
7. Trestles, including foundations, piers, girders, trusses, and flooring.

Note A: Roads intended primarily for connecting employees' houses with the power plant, and roads used primarily in connection with fish and wildlife, and recreation activities, shall not be included herein but in Account 331, Structures and Improvements.

Note B: The cost of temporary roads and bridges necessary during the period of construction but abandoned or dedicated to public use upon completion of the plant, shall not be included herein but shall be charged to the accounts appropriate for the construction.

Other Production

340 *Land and Land Rights*

This account shall include the cost of land and lands rights used in connection with other power generation. (See §1767.16(g).)

341 *Structures and Improvements*

This account shall include the cost in place of structures and improvements used in connection with other power generation. (See §1767.16(h).)

342 *Fuel Holders, Producers, and Accessories*

This account shall include the cost installed of fuel handling and storage equipment used between the point of fuel delivery to the station and the intake pipe through which fuel is directly drawn to the engine, also the cost of gas producers and accessories devoted to the production of gas for use in prime movers driving main electric generators.

Items

1. Blower and fans.
2. Boilers and pumps.
3. Economizers.
4. Exhauster outfits.
5. Flues and piping.
6. Pipe system.
7. Producers.
8. Regenerators.
9. Scrubbers.
10. Steam injectors.
11. Tanks for storage of oil and gasoline.
12. Vaporizers.

343 *Prime Movers*

This account shall include the cost installed of Diesel or other prime movers devoted to the generation of electric energy, together with their auxiliaries.

Items

1. Air-filtering system.
2. Belting, shafting, pulleys, and reduction gearing.
3. Cooling system, including towers, pumps, tanks, and piping.
4. Cranes and hoists, including items wholly identified with apparatus listed herein.
5. Engines, Diesel, gasoline, gas, or other internal combustion.
6. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.
7. Governors.
8. Ignition system.
9. Inlet valve.
10. Lighting systems.
11. Lubricating systems, including filters, tanks, pumps, and piping.
12. Mechanical meters, including gauges, recording instruments, sampling, and testing equipment.
13. Mufflers.
14. Piping.
15. Starting systems, compressed air, or other, including compressors and drives, tanks, piping, motors, boards and connections, and storage tanks.
16. Steelwork, specially constructed for apparatus listed herein.
17. Waste heat boilers and antifluctuators.

344 *Generators*

This account shall include the cost installed of Diesel or other power driven main generators.

Items

1. Cranes and hoists, including items wholly identified with such apparatus.
2. Fire-extinguishing equipment.
3. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
4. Generator cooling system, including air cooling and washing apparatus, air fans and accessories, and air ducts.
5. Generators—main, a.c. or d.c., including field rheostats and connections for self-excited units and excitation system when identified with the generating unit.
6. Lighting systems.
7. Lubricating system, including tanks, filters, strainers, pumps, piping, and coolers.
8. Mechanical meters and recording instruments.
9. Platforms, railings, steps, and gratings appurtenant to apparatus listed herein.

Note: If prime movers and generators are so integrated that it is not practical to classify them separately, the entire unit may be included in Account 344, Generators.

345 *Accessory Electric Equipment*

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced in other power generating stations, and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts. Such motors shall be included in the account in which the equipment with which it is associated is included.

Items

1. Auxiliary generators, including boards, compartments, switching equipment, control equipment, and connections to auxiliary power bus.
2. Excitation system, including motor, turbine and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter bus tie panels, generator and exciter rheostats and special housings and protective screens.
3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads, grounding switch, and special housing and protective screens.
4. Station control system, including station switchboards with panel wiring, panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, trunk-type boards complete, cubicles, station supervisory control boards, generator and exciter signal stands, temperature-recording devices, frequency control equipment, master clocks, watt-hour meter, station totalizing wattmeter, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special

supports for conduit, switchboards, batteries, special housing for batteries, protective screens, and doors.

5. Station buses, including main, auxiliary, transfer, synchronizing and fault ground buses, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors, starting transformers, current transformers, potential transformers, protective relays, storage batteries and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special housings, concrete pads, general station ground system, special fire-extinguishing system, and test equipment.

Note A: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electric energy for the purpose of transmission or distribution.

Note B: When any item of equipment listed herein is used wholly to furnish power to equipment included in another account, its cost shall be included in such other account.

346 *Miscellaneous Power Plant Equipment*

This account shall include the cost installed of miscellaneous equipment in and about the other power generating plant, devoted to general station use, and not properly includible in any of the foregoing other power production accounts.

Items

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, and piping.
2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, and hoists with electric and mechanical connections.
3. Fire-extinguishing equipment for general station use.
4. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
5. Miscellaneous equipment, including atmospheric and weather indicating devices, intrasite communication equipment, laboratory equipment, signal systems, callophones, emergency whistles and sirens, fire alarms, and other similar equipment.
6. Miscellaneous belts, pulleys, and countershafts.
7. Refrigerating systems including compressors, pumps, and cooling coils.
8. Station maintenance equipment, including lathes, shapers, planters, drill presses, hydraulic presses, and grinders with motors, shafting, hangers, or pulleys.
9. Ventilating equipment, including items wholly identified with apparatus listed herein.

Note: When any item of equipment, listed herein is used wholly in connection with equipment included in another account, its cost shall be included in such other account.

Transmission Plant

350 *Land and Land Rights*

This account shall include the cost of land and land rights used in connection with transmission operations. (See § 1767.16(g).)

351 [Reserved]

352 *Structures and Improvements*

This account shall include the cost, in place, of structures and improvements used in connection with transmission operations. (See § 1767.16(h).)

353 *Station Equipment*

This account shall include the cost installed of transforming, conversion, and switching equipment used for the purpose of changing the characteristics of electricity in connection with its transmission or for controlling transmission circuits.

Items

1. Bus compartments, concrete, brick, and sectional steel, including items permanently attached thereto.
2. Conduit, including concrete and iron duct runs not a part of a building.
3. Control equipment, including batteries, battery charging equipment, transformers, remote relay boards, and connections.
4. Conversion equipment, including transformers, indoor and outdoor, frequency changers, motor generator sets, rectifiers, synchronous converters, motors, cooling equipment, and associated connections.
5. Fences.
6. Fixed and synchronous condensers, including transformers, switching equipment, blowers, motors and connections.
7. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
8. General station equipment, including air compressors, motors, hoists, cranes, test equipment, and ventilating equipment.
9. Platforms, railings, steps, and gratings appurtenant to apparatus listed herein.
10. Primary and secondary voltage connections, including bus runs and supports, insulators, potheads, lighting arresters, cable and wire runs from and to outdoor connections or to manholes and the associated regulators, reactors, resistors, surge arresters, and accessory equipment.
11. Switchboards, including meters, relays, and control wiring.
12. Switching equipment, indoor and outdoor, including oil circuit breakers and operating mechanisms, truck switches, and disconnect switches.
13. Tools and appliances.

354 *Towers and Fixtures*

This account shall include the cost installed of towers and appurtenant fixtures used for supporting overhead transmission conductors.

Items

1. Anchors, guys, and braces.
2. Brackets.
3. Crossarms, including braces.
4. Excavation, backfill, and disposal of excess excavated material.
5. Foundations.
6. Guards.
7. Insulator pins and suspension bolts.
8. Ladder and steps.
9. Railings.
10. Towers.

355 *Poles and Fixtures*

This account shall include the cost installed of transmission line poles, wood, steel, concrete, or other materials, together with appurtenant fixtures used for supporting overhead transmission conductors.

Items

1. Anchors, head arm and other guys, including guy guards, guy clamps, strain insulators, and pole plates.
2. Brackets.
3. Crossarms and braces.
4. Excavation and backfill, including disposal of excess excavated material.
5. Extension arms.
6. Gaining, roofing, stenciling, and tagging.
7. Insulator pins and suspension belts.
8. Paving.
9. Pole Steps.
10. Poles, wood, steel, concrete, or other material.
11. Racks complete with insulators.
12. Reinforcing and stubbing.
13. Settings.
14. Shaving and painting.

356 *Overhead Conductors and Devices*

This account shall include the cost installed of overhead conductors and devices used for transmission purposes.

Items

1. Circuit breakers.
2. Conductors, including insulated and bare wires and cables.
3. Ground wires and ground clamps.

4. Insulators, including pin, suspension, and other types.
5. Lightning arresters.
6. Switches.
7. Other line devices.

357 *Underground Conduit*

This account shall include the cost installed of underground conduit and tunnels used for housing transmission cables or wires. (see § 1767.16(n).)

Items

1. Conduit, concrete, brick or tile, including iron pipe, fiber pipe, Murray duct, and standpipe on pole or tower.
2. Excavation, including shoring, bracing, bridging, backfill, and disposal of excess excavated material.
3. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.
4. Lighting systems.
5. Manholes, concrete or brick, including iron or steel, frames and covers, hatchways, gratings, ladders, cable racks and hangers, permanently attached to manholes.
6. Municipal inspection.
7. Pavement disturbed, including cutting and replacing pavement, pavement base and sidewalks.
8. Permits.
9. Protection of street openings.
10. Removal and relocation of subsurface obstructions.
11. Sewer connections, including drains, traps, tide valves, and check valves.
12. Sumps, including pumps.
13. Ventilating equipment.

358 *Underground Conductors and Devices*

This account shall include the cost installed of underground conductors and devices used for transmission purposes.

Items

1. Armored conductors, buried, including insulators, insulating materials, splices, potheads, and trenching.
2. Armored conductors, submarine, including insulators, insulating materials, splices in terminal chambers, and potheads.
3. Cables in standpipe, including pothead and connection from terminal chamber of manhole to insulators on pole.
4. Circuit breakers.
5. Fireproofing, in connection with any items listed herein.
6. Hollow-core oil-filled cable, including straight or stop joints, pressure tanks, auxiliary air tanks, feeding tanks, terminals, potheads and connections, and ventilating equipment.
7. Lead and fabric covered conductors, including insulators, compound filled, oil filled, or vacuum splices, and potheads.
8. Lightning arresters.
9. Municipal inspection.
10. Permits.
11. Protection of street openings.
12. Racking of cables.
13. Switches.
14. Other line devices.

359 *Road and Trails*

This account shall include the cost of roads, trails, and bridges used primarily as transmission facilities.

Items

1. Bridges, including foundation piers, girders, trusses, and flooring.
2. Clearing land.
3. Roads, including grading, surfacing, and culverts.
4. Structures, constructed and maintained in connection with items included herein.
5. Trails, including grading, surfacing, and culverts.

Note: The cost of temporary roads and bridges necessary during the period of construction but abandoned or dedicated to public use upon completion of the plant, shall be charged to the accounts appropriate for the construction.

Distribution Plant

360 *Land and Land Rights*

This account shall include the cost of land and land rights used in connection with distribution operations. (see § 1767.16 (g).)

Note: Do not include the cost of permits to erect poles, or towers or to trim trees in this account. (See Account 364, Poles, Towers and Fixtures, and Account 365, Overhead Conductors and Devices.)

361 *Structures and Improvements*

This account shall include the cost, in place, of structures and improvements used in connection with distribution operations. (See § 1767.16 (h).)

362 *Station Equipment*

This account shall include the cost installed of station equipment, including transformer banks, which are used for the purpose of changing the characteristics of electricity in connection with its distribution.

Items

1. Bus compartments, concrete, brick and sectional steel, including items permanently attached thereto.
2. Conduit, including concrete and iron duct runs not part of building.
3. Control equipment, including batteries, battery charging equipment, transformers, remote relay boards, and connections.
4. Conversion equipment, indoor and outdoor, frequency changers, motor generator sets, rectifiers, synchronous converters, motors, cooling equipment, and associated connections.
5. Fences.
6. Fixed and synchronous condensers, including transformers, switching equipment, blowers, motors and connections.
7. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
8. General station equipment, including air compressors, motors, hoists, cranes, test equipment, and ventilating equipment.
9. Platforms, railings, steps, and gratings appurtenant to apparatus listed herein.
10. Primary and secondary voltage connections, including bus runs and supports, insulators, potheads, lightning arresters, cable and wire runs from and to outdoor connections or to manholes and the associated regulators, reactors, resistors, surge arresters, and accessory equipment.
11. Switchboards, including meters, relays, and control wiring.
12. Switching equipment, indoor and outdoor, including oil circuit breakers and operating mechanisms, trust switches, disconnect switches.

Note: The cost of rectifiers, series transformers, and other special station equipment devoted exclusively to street lighting service shall not be included in this account, but in Account 373, Street Lighting and Signal Systems.

363 *Storage Battery Equipment*

This account shall include the cost installed of storage battery equipment used for the purpose of supplying electricity to meet emergency or peak demands.

Items

1. Batteries, including elements, tanks, and tank insulators.
2. Battery room connections, including cable or bus runs and connections.
3. Battery room flooring, when specially laid for supporting batteries.
4. Charging equipment, including motor generator sets and other charging equipment and connections, and cable runs from generator or station bus to battery room connections.
5. Miscellaneous equipment, including instruments, and water stills.
6. Switching equipment, including endcell switches and connections, boards and panels, used exclusively for battery control, not part of general station switchboard.

7. Ventilating equipment, including fans and motors, louvers, and ducts not part of building.

Note: Storage batteries used for control and general station purposes shall not be included in this account but in the account appropriate for their use.

364 *Poles, Towers and Fixtures*

This account shall include the cost installed of poles, towers, and appurtenant fixtures used for supporting overhead distribution conductors and service wires.

Items

1. Anchors, head arm, and other guys, including guy guards, guy clamps, strain insulators, and pole plates.
2. Brackets.
3. Crossarms and braces.
4. Excavation and backfill, including disposal of excess excavated material.
5. Extension arms.
6. Foundations.
7. Guards.
8. Insulator pins and suspension bolts.
9. Paving.
10. Permits for construction.
11. Pole steps and ladders.
12. Poles, wood, steel, concrete, or other material.
13. Racks complete with insulators.
14. Railings.
15. Reinforcing and stubbing.
16. Settings.
17. Shaving, painting, gaining, roofing, stenciling, and tagging.
18. Towers.
19. Transformer racks and platforms.

365 *Overhead Conductors and Devices*

This account shall include the cost installed of overhead conductors and devices used for distribution purposes.

Items

1. Circuit breakers.
2. Conductors, including insulated and bare wires and cables.
3. Ground wires and clamps.
4. Insulators, including pin, suspension, and other types, and tie wire or clamps.
5. Lightning arresters.
6. Railroad and highway crossing guards.
7. Splices.
8. Switches.
9. Tree trimming, initial cost including the cost of permits therefor.
10. Other line devices.
11. Oil circuit reclosers (OCR).
12. Sectionalizers.
13. Labor costs for installation of OCRs and Sectionalizers, first only.

Note. The cost of conductors used solely for street lighting or signal systems shall not be included in this account but in Account 373, Street Lighting and Signal Systems.

366 *Underground Conduit*

This account shall include the cost installed of underground conduit and tunnels used for housing distribution cables or wires.

Items

1. Conduit, concrete, brick and tile, including iron pipe, fiber pipe, Murray duct, and standpipe on pole or tower.
2. Excavation, including shoring, bracing, bridging, backfill, and disposal of excess excavated material.
3. Foundations and settings specially constructed for and not expected to outlast the apparatus for which constructed.
4. Lighting systems.
5. Manholes, concrete or brick, including iron or steel frames and covers, hatchways, gratings, ladders, cable racks, and hangers permanently attached to manholes.
6. Municipal inspection.
7. Pavement disturbed, including cutting and replacing pavement, pavement base, and sidewalks.
8. Permits.
9. Protection of street openings.
10. Removal and relocation of subsurface obstructions.
11. Sewer connections, including drains, traps, tide valves, and check valves.
12. Sumps, including pumps.
13. Ventilating equipment.

Note. The cost of underground conduit used solely for street lighting or signal systems shall be included in Account 373, Street Lighting and Signal Systems.

367 *Underground Conductors and Devices*

This account shall include the cost installed of underground conductors and devices used for distribution purposes.

Items

1. Armored conductors, buried, including insulators, insulating materials, splices, potheads, and trenching.
2. Armored conductors, submarine, including insulators, insulating materials, splices in terminal chamber, and potheads.
3. Cables in standpipe, including pothead and connection from terminal chamber or manhole to insulators on pole.
4. Circuit breakers.
5. Fireproofing, in connection with any items listed herein.
6. Hollow-core oil-filled cable, including straight or stop joints, pressure tanks, auxiliary air tanks, feeding tanks, terminals, potheads and connections.
7. Lead and fabric covered conductors, including insulators, compound-filled, oil-filled or vacuum splices, and potheads.
8. Lightning arresters.
9. Municipal inspection.
10. Permits.
11. Protection of street openings.
12. Racking of cables.
13. Switches.
14. Other line devices.

Note. The cost of underground conductors and devices used solely for street lighting or signal systems shall be included in Account 373, Street Lighting and Signal Systems.

368 *Line Transformers*

A. This account shall include the cost installed of overhead and underground distribution line transformers and pole-type and underground voltage regulators owned by the utility, for use in transforming electricity to the voltage at which it is to be used by the customer, whether actually in service or held in reserve.

B. When a transformer is permanently retired from service, the original installed cost thereof shall be credited to this account.

C. The records covering line transformers shall be so kept that the utility can furnish the number of transformers of various capacities in service and those in reserve, and the location and the use of each transfer.

Items

1. Installation, labor of (first installation only).
2. Transformer cut-out boxes.
3. Transformer lightning arresters.
4. Transformers, line and network.
5. Capacitors.
6. Network protectors.
7. Voltage regulators.

Note. The cost of removing and resetting line transformers shall not be charged to this account but to Account 583, Overhead Line Expenses, or Account 584, Underground Line Expenses, as appropriate. The cost of line transformers used solely for street lighting or signal systems shall be included in Account 373, Street Lighting and Signal Systems.

369 *Services*

This account shall include the cost installed of overhead and underground conductors leading from a point where wires leave the last pole of the overhead system or the distribution box or manhole, or the top of the pole of the distribution line, to the point of connection with the customer's outlet or wiring. Conduit used for underground service conductors shall be included herein.

Items

1. Brackets.
2. Cables and wires.

3. Conduit.
4. Insulators.
5. Municipal inspection.
6. Overhead to underground, including conduit or standpipe and conductor from last splice on pole to connection with customer's wiring.
7. Pavement disturbed, including cutting and replacing pavement, pavement base, and sidewalks.
8. Permits.
9. Protection of street openings.
10. Service switch.
11. Suspension wire.

370 *Meters*

A. This account shall include the cost installed of meters or devices and appurtenances thereto, for use in measuring the electricity delivered to its users, whether actually in service or held in reserve.

B. When a meter is permanently retired from service, the installed cost included herein shall be credited to this account.

C. The records covering meters shall be so kept that the utility can furnish information as to the number of meters of various capacities in service and in reserve as well as the location of each meter owned.

Items

1. Alternate current, watt-hour meters.
2. Current limiting devices.
3. Demand indicators.
4. Demand meters.
5. Direct current watt-hour meters.
6. Graphic demand meters.
7. Installation, labor of (first installation only).
8. Instrument transformers.
9. Maximum demand meters.
10. Meter badges and their attachments.
11. Meter boards and boxes.
12. Meter fittings, connections, and shelves (first set).
13. Meter switches and cut-outs.
14. Prepayment meters.
15. Protective devices.
16. Testing new meters.

Note A: This account shall not include meters for recording output of a generating station, or substation meters. It includes only those meters used to record energy delivered to customers.

Note B: The cost of removing and resetting meters shall be charged to Account 586, Meter Expenses.

371 *Installations on Customers' Premises*

This account shall include the cost installed of equipment on the customer's side of a meter when the utility incurs such cost and when the utility retains title to and assume full responsibility for maintenance and replacement of such property. This account shall not include leased equipment. (See Account 372, Leased Property on Customers' Premises.)

Items

1. Cable vaults.
2. Commercial lamp equipment.
3. Foundations and settings specially provided for equipment included herein.
4. Frequency changer sets.
5. Motor generator sets.
6. Motors.
7. Switchboard panels, high or low tension.
8. Wire and cable connections to incoming cables.

Note: Do not include in this account any costs incurred in connection with merchandising, jobbing, or contracting work activities.

372 *Leased Property on Customers' Premises*

This account shall include the cost of electric motors, transformers, and other equipment on customers' premises (including municipal corporations), leased or loaned to customers, but not including property held for sale.

Note A: The cost of setting and connecting such appliances or equipment on the premises of customers and the cost of resetting or removal shall not be charged to this account but to operating expenses, Account 587, Customer Installations Expenses.

Note B: Do not include in this account any costs incurred in connection with merchandising, jobbing, or contract work activities..

373 *Street Lighting and Signal Systems*

This account shall include the cost installed of the equipment used wholly for public street and highway lighting or traffic, fire alarm, police, and other signal systems.

Items

1. Armored conductors, buried or submarine, including insulators, insulating materials, splices, and trenching.
2. Automatic control equipment.
3. Conductors, overhead or underground, including lead or fabric covered, parkway cables, including splices, and insulators.
4. Lamps, arc, incandescent, or other types, including glassware, suspension fixtures, and brackets.
5. Municipal inspection.
6. Ornamental lamp posts.
7. Pavement disturbed, including cutting and replacing pavement, pavement base, and sidewalks.
8. Permits.
9. Posts and standards.
10. Protection of street openings.
11. Relays or time clocks.
12. Series contactors.
13. Switches.
14. Transformers, pole or underground.

General Plant

389 *Land and Land Rights*

This account shall include the cost of land and land rights used for utility purposes, the cost of which is not properly includible in other land and land rights accounts. (See § 1767.16(g).)

390 *Structures and Improvements*

This account shall include the cost, in place, of structures and improvements used for utility purposes, the cost of which is not properly includible in other structures and improvements accounts. (See § 1767.16(h).)

391 *Office Furniture and Equipment*

This account shall include the cost of office furniture and equipment owned by the utility and devoted to utility service, and not permanently attached to buildings, except the cost of such furniture and equipment which the utility elects to assign to other plant accounts on a functional basis.

Items

1. Bookcases and shelves.
2. Desks, chairs, and desk equipment.
3. Drafting-room equipment.
4. Filing, storage, and other cabinets.
5. Floor covering.
6. Library and library equipment.
7. Mechanical office equipment, such as accounting machines, and typewriters.
8. Safes.
9. Tables.

392 *Transportation Equipment*

This account shall include the cost of transportation vehicles used for utility purposes.

Items

1. Airplanes.
2. Automobiles.
3. Bicycles.
4. Electrical vehicles.
5. Motor trucks.
6. Motorcycles.
7. Repair cars or trucks.
8. Tractors and trailers.
9. Other transportation vehicles.

393 *Stores Equipment*

This account shall include the cost of equipment used for the receiving, shipping, handling, and storage of materials and supplies.

Items

1. Chain falls.
2. Counters.
3. Cranes (portable).

4. Elevating and stacking equipment (portable).
5. Hoists.
6. Lockers.
7. Scales.
8. Shelving.
9. Storage bins.
10. Trucks, hand and power driven.
11. Wheelbarrows.

394 *Tools, Shop and Garage Equipment*

This account shall include the cost of tools, implements, and equipment used in construction, repair work, general shops and garages and not specifically provided for or includible in other accounts.

Items

1. Air compressors.
2. Anvils.
3. Automobile repair shop equipment.
4. Battery charging equipment.
5. Belts, shafts and countershafts.
6. Boilers.
7. Cable pulling equipment.
8. Concrete mixers.
9. Drill presses.
10. Derricks.
11. Electric equipment.
12. Engines.
13. Forges.
14. Furnaces.
15. Foundations and settings specially constructed for and not expected to outlast the equipment for which provided.
16. Gas producers.
17. Gasoline pumps, oil pumps, and storage tanks.
18. Greasing tools and equipment.
19. Hoists.
20. Ladders.
21. Lathes.
22. Machine tools.
23. Motor-driven tools.
24. Motors.
25. Pipe threading and cutting tools.
26. Pneumatic tools.
27. Pumps.
28. Riveters.
29. Smithing equipment.
30. Tool racks.
31. Vises.
32. Welding apparatus.
33. Work benches.

395 *Laboratory Equipment*

This account shall include the cost installed of laboratory equipment used for general laboratory purposes and not specifically provided for or includible in other departmental or functional plant accounts.

Items

1. Ammeters.
2. Current batteries.
3. Frequency changers.
4. Galvanometers.
5. Inductometers.
6. Laboratory standard millivolt meters.
7. Laboratory standard volt meters.
8. Meter-testing equipment.
9. Millivolt meters.
10. Motor generator sets.
11. Panels.
12. Phantom loads.
13. Portable graphic ammeters, voltmeters, and wattmeters.
14. Portable loading devices.
15. Potential batteries.
16. Potentiometers.
17. Rotating standards.
18. Standard cell, reactance, resistor, and shunt.
19. Switchboards.
20. Synchronous timers.
21. Testing panels.
22. Testing resistors.
23. Transformers.
24. Voltmeters.
25. Other testing, laboratory, or research equipment not provided for elsewhere.

396 *Power Operated Equipment*

This account shall include the cost of power operated equipment used in construction or repair work exclusive of equipment includible in other accounts. Include, also, the tools and accessories acquired for use with such equipment and the vehicle on which such equipment is mounted.

Items

1. Air compressors, including driving unit and vehicle.
2. Back filling machines.
3. Boring machines.
4. Bulldozers.
5. Cranes and hoists.
6. Diggers.
7. Engines.
8. Pile drivers.
9. Pipe cleaning machines.
10. Pipe coating or wrapping machines.
11. Tractors—Crawler type.
12. Trenchers.
13. Other power operated equipment.

Note: It is intended that this account include only such large units as are generally self-propelled or mounted on movable equipment.

397 *Communication Equipment*

This account shall include the cost installed of telephone, telegraph, and wireless equipment for general use in connection with utility operations.

Items

1. Antennae.
2. Booths.
3. Cables.
4. Distributing boards.
5. Extension cords.
6. Gongs.
7. Hand sets, manual and dial.
8. Insulators.
9. Intercommunicating sets.
10. Loading coils.
11. Operators' desks.
12. Poles and fixtures used wholly for telephone or telegraph wire.
13. Radio transmitting and receiving sets.
14. Remote control equipment and lines.
15. Sending keys.
16. Storage batteries.
17. Switchboards.
18. Telautograph circuit connections.
19. Telegraph receiving sets.
20. Telephone and telegraph circuits.
21. Testing instruments.
22. Towers.
23. Underground conduit used wholly for telephone or telegraph wires and cable wires.

398 *Miscellaneous Equipment*

This account shall include the cost of equipment, and apparatus used in the utility operations, which is not includible in other accounts.

Items

1. Hospital and infirmary equipment.
2. Kitchen equipment.
3. Employees' recreation equipment.
4. Radios.
5. Restaurant equipment.
6. Soda fountains.
7. Operators' cottage furnishings.
8. Other miscellaneous equipment.

Note: Miscellaneous equipment of the nature indicated above wherever practicable, shall be included in the utility plant accounts on a functional basis.

399 *Other Tangible Property*

This account shall include the cost of tangible utility plant not provided for elsewhere.

Utility Operating Income

400 *Operating Revenues*

There shall be shown under this caption the total amount included in the electric operating revenue accounts provided herein.

401 *Operation Expense*

There shall be shown under this caption the total amount included in the electric operation expense accounts provided herein. (See note to § 1767.17(c).)

402 *Maintenance Expense*

There shall be shown under this caption the total amount included in the electric maintenance expense accounts provided herein.

403 *Depreciation Expense*

A. This account shall include the amount of depreciation expense for all classes of depreciable electric plant in service except such depreciation expense as is chargeable to clearing accounts or to Account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work.

B. The utility shall keep such records of property and property retirements as will reflect the service life of property which has been retired and aid in estimating probable service life by mortality, turnover, or other appropriate methods; and also such records as will reflect the percentage of salvage and costs of removal for property retired from each account, or subdivision thereof, for depreciable electric plant.

Note A: Depreciation expense applicable to property included in Account 104, Electric Plant Leased to Others, shall be charged to Account 413, Expenses of Electric Plant Leased to others.

Note B: Depreciation expenses applicable to transportation equipment, shop equipment, tools, work equipment, power operated equipment, and other general equipment may be charged to clearing accounts as necessary in order to obtain a proper distribution of expenses between construction and operation.

Note C: Depreciation expense applicable to transportation equipment used for transportation of fuel from the point of acquisition to the unloading point shall be charged to Account 151, Fuel Stock.

C. Account 403 shall be subaccounted as follows:

403.1 Depreciation Expense—Steam Production Plant
403.2 Depreciation Expense—Nuclear Production Plant
403.3 Depreciation Expense—Hydraulic Production Plant
403.4 Depreciation Expense—Other Production Plant
403.5 Depreciation Expense—Transmission Plant
403.6 Depreciation Expense—Distribution Plant
403.7 Depreciation Expense—General Plant

404 *Amortization of Limited-Term Electric Plant*

This account shall include amortization charges applicable to amounts included in the electric plant accounts for limited-term franchises, licenses, patent rights, limited-term interests in land, and expenditures on leased property where the service life of the improvements is terminable by action of the lease. The charges to this account shall be such as to distribute the book cost of each investment as evenly as may be over the period of its benefit to the utility. (See Account 111, Accumulated Provision for Amortization of Electric Utility Plant.)

405 *Amortization of Other Electric Plant*

A. When authorized by REA, this account shall include charges for amortization of intangible or other electric utility plant which does not have a definite or terminable life and which is not subject to charges for depreciation expense.

B. This account shall be supported in such detail as to show the amortization applicable to each investment being amortized, together with the book cost of the investment and the period over which it is being written off.

406 *Amortization of Electric Plant Acquisition Adjustments*

This account shall be debited or credited, as appropriate, with amounts includible in operating expenses, pursuant to approval or order of REA, for the purpose of providing for the extinguishment of the amount in Account 114, Electric Plant Acquisition Adjustments.

407 *Amortization of Property Losses, Unrecovered Plant and Recovery Study Costs*

This account shall be charged with amounts credited to Account 182.1, Extraordinary Property Losses, when REA has authorized the amount in the latter account to be amortized by charges to electric operations.

408 *Taxes Other Than Income Taxes*

A. This account shall include the amounts of ad valorem, gross revenue, or gross receipts taxes, state unemployment insurance, franchise taxes, Federal excise taxes, social security taxes, and all other taxes assessed by Federal, state, county, municipal, or other local governmental authorities, except income taxes.

B. These accounts shall be charged in each accounting period with the amounts of taxes which are applicable thereto, with concurrent credits to Account 236, Taxes Accrued, or Account 165, Prepayments, as appropriate. When it is not possible to determine the exact amounts of taxes, the amounts shall be estimated and adjustments made in current accruals as the actual tax levies become known.

C. The charges to these accounts shall be made or supported so as to show the amount of each tax and the basis upon which each charge is made. In the case of a utility rendering more than one utility service, taxes of the kind includible in these accounts shall be assigned directly to the utility department the operation of which gave rise to the tax, in sofar as practicable. Where the tax is not attributable to a specific utility department, it shall be distributed among the utility departments or nonutility operations on an equitable basis after appropriate study to determine such basis.

Note A: Special assessments for street and similar improvements shall be included in the appropriate utility plant or nonutility property account.

Note B: Taxes specifically applicable to construction shall be included in the cost of construction.

Note C: Gasoline and other sales taxes shall be charged as far as practicable to the same account as the materials on which the tax is levied.

Note D: Social security and other forms of payroll taxes shall be distributed to utility departments and to nonutility functions on a basis related to payroll. Amounts applicable to construction shall be charged to the appropriate plant account.

Note E: Interest on tax refunds or deficiencies shall not be included in these accounts but in Account 419, Interest and Dividend Income, or Account 431, Other Interest Expense, as appropriate.

D. Account 408 shall be subaccounted as follows:

408.1 Taxes—Property
408.2 Taxes—U.S. Social Security—Unemployment
408.3 Taxes—U.S. Social Security—F.I.C.A.
408.4 Taxes—State Social Security—Unemployment
408.5 Taxes—State Sales—Consumers
408.6 Taxes—Gross Revenue or Gross Receipts Tax
408.7 Taxes—Other

409 [Reserved]

Special Instructions

Accounts 409.1, 409.2, and 409.3

A. These accounts shall include the amount of local, state, and Federal income taxes on income properly accruable during the period covered by the income statement to meet the actual liability for such taxes. Concurrent credits for the tax accruals shall be made to Account 236, Taxes Accrued, and as the exact amounts of taxes become known, the current tax accruals shall be adjusted by charges or credits to these accounts.

B. The accruals for income taxes shall be apportioned among utility departments and to Other Income and Deductions so that, as nearly as practicable, each tax shall be included in the expenses of the utility department or Other Income and Deductions, the income from which gave rise to the tax. The tax effects relating to interest charges shall be allocated between utility and nonutility operations. The basis for this allocation shall be the ratio of net investment in utility plant to net investment in nonutility plant.

Note A: Taxes assumed by the utility on interest shall be charged to Account 431, Other Interest Expenses.

Note B: Interest on tax refunds or deficiencies shall not be included in these accounts but in Account 419, Interest and Dividend Income, or Account 431, Other Interest Expense, as appropriate.

409.1 *Income Taxes, Utility Operating Income*

This account shall include the amount of those local, state, and Federal income taxes which relate to utility operating income. This account shall be maintained so as to allow ready identification of tax effects (both positive and negative relating to Utility Operating Income (by department), Utility Plant Leased to Others, and Other Utility Operating Income.

409.2 *Income Taxes, Other Income and Deductions*

This account shall include the amount of those local, state, and Federal income taxes (both positive and negative), which relate to Other Income and Deductions.

409.3 *Income Taxes, Extraordinary Items*

This account shall include the amount of those local, state, and Federal income taxes (both positive and negative), which relate to Extraordinary Items.

410 [Reserved]

Special Instructions

Accounts 410.1, 410.2, 411.1, and 411.2

A. Accounts 410.1 and 410.2 shall be debited, and Accumulated Deferred Income Taxes, shall be credited, with amounts equal to any current deferrals of taxes on income at any allocations of deferred taxes originating in prior periods, as provided by the texts of Accounts 190, 281, 282, and 283. There shall not be netted against entries required to be made to these accounts any credit amounts appropriately includible in Account 411.1 or Account 411.2.

B. Accounts 411.1 or 411.2 shall be credited, and Accumulated Deferred Income Taxes, shall be debited, with amounts equal to any allocations of deferred taxes originating in prior periods or any current deferrals of taxes on income, as provided by the texts of Accounts 190, 281, 282, and 283. There shall not be netted against entries required to be made to these accounts any debit amounts appropriately includible in Account 410.1 or Account 410.2.

410.1 *Provision for Deferred Income Taxes, Utility Operating Income*

This account shall include the amounts of those deferrals of taxes and allocations of deferred taxes which relate to Utility Operating Income (by department).

410.2 *Provision for Deferred Income Taxes, Other Income and Deductions*

This account shall include the amounts of those deferrals of taxes and allocations of deferred taxes which relate to Other Income and Deductions.

411 [Reserved]

411.1 *Provision for Deferred Income Taxes—Credit, Utility Operating Income*

This account shall include the amounts of those allocations of deferred taxes and deferrals of taxes, credit, which relate to Utility Operating Income (by department).

411.2 *Provision for Deferred Income Taxes—Credit, Other Income and Deductions*

This account shall include the amounts of those allocations of deferred taxes and deferrals of taxes, credit, which relate to Other Income and Deductions

411.3 [Reserved]

Special Instructions

Accounts 411.4 and 411.5

A. Account 411.4 shall be debited with the amounts of investment tax credits related to electric utility property that are credited to Account 255, Accumulated Deferred Investment Tax Credits, by companies which do not apply the entire amount of the benefits of the investment credit as a reduction of the overall income tax expense in the year in which such credit is realized. (See Account 255).

B. Account 411.4 shall be credited with the amounts debited to Account 255 for proportionate amounts of tax credit deferrals allocated over the average useful life of electric utility property to which the tax credits relate or such lesser period of time as may be adopted and consistently followed by the company.

C. Account 411.5 shall be debited and credited as directed in paragraphs A and B, for investment tax credits related to nonutility property.

411.4 *Investment Tax Credit Adjustments, Utility Operations*

This account shall include the amount of those investment tax credit adjustments related to property used in Utility Operations (by department).

411.5 *Investment Tax Credit Adjustments, Nonutility Operations*

This account shall include the amount of those investment tax credit adjustments related to property used in Nonutility Operations.

411.6 *Gains from Disposition of Utility Plant*

This account shall include, as approved by REA, amounts relating to gains from the disposition of future use utility plant including amounts which were previously recorded in and transferred from Account 105, Electric Plant Held for Future Use, under the Provisions of Paragraphs B, C, and D thereof. Income taxes relating to gains recorded in this account shall be recorded in Account 409.1, Income Taxes, Utility Operating Income.

411.7 *Losses from Disposition of Utility Plant*

This account shall include, as approved by REA, amounts relating to losses from the disposition of future use utility plant including amounts which were previously recorded in and transferred from Account 105, Electric Plant Held for Future Use, under the provisions of Paragraphs B, C, and D thereof. Income taxes relating to losses recorded in this account shall be recorded in Account 409.1, Income Taxes, Utility Operating Income.

412 *Revenues from Electric Plant Leased to Others*

This account shall include revenues from electric property constituting a distinct operating unit or system leased by the utility to others, and which property is properly includible in Account 104, Electric Plant Leased to Others.

Note: Related taxes shall be recorded in Account 408, Taxes Other Than Income Taxes, or Account 409.1, Income Taxes, Utility Operating Income, as appropriate.

413 *Expenses of Electric Plant Leased to Others*

A. This account shall include expenses from electric property constituting a distinct operating unit or system leased by the utility to others, and which property is properly includible in Account 104, Electric Plant Leased to Others.

B. The detail of expenses shall be kept or supported so as to show separately the following:

1. Operation.
2. Maintenance.
3. Depreciation.
4. Amortization.

Note: Related taxes shall be recorded in Account 408, Taxes Other Than Income Taxes, or Account 409.1, Income Taxes, Utility Operating Income, as appropriate.

414 *Other Utility Operating Income*

A. This account shall include the revenues received and expenses

incurred in connection with the operations of utility plant, the book cost of which is included in Account 118, Other Utility Plant.

B. The expenses shall include every element of cost incurred in such operations, including depreciation, rents, and insurance.

Note: Related taxes shall be recorded in Account 408, Taxes Other Than Income Taxes, or Account 409.1, Income Taxes, Utility Operating Income, as appropriate.

Other Income and Deductions

415 *Revenues from Merchandising, Jobbing and Contract Work*

A. This account shall include all revenues derived from the sale of merchandise and jobbing or contract work, including any profit or commission accruing to the utility on jobbing work performed by it as agent under contracts whereby it does jobbing work for another for a stipulated profit or commission. Interest related income from installment sales shall be recorded in Account 419, Interest and Dividend Income.

B. Records in support of this account shall be so kept as to permit ready summarization of revenues by such major items as are feasible.

Note: The classification of revenues of merchandising, jobbing, and contract work as nonoperating, and thus included in this account, is for accounting purposes. It does not preclude consideration of justification to the contrary for ratemaking or other purposes.

Items

1. Revenues from sale of merchandise and from jobbing and contract work.

2. Discounts and allowances made in settlement of bills for merchandise and jobbing work.

416 *Costs and Expenses of Merchandising, Jobbing and Contract Work*

A. This account shall include all expenses derived from the sale of merchandise and jobbing or contract work.

B. Records in support of this account shall be so kept as to permit ready summarization of costs and expenses by such major items as are feasible.

Note: The classification of costs and expenses of merchandising, jobbing, and contract work as nonoperating, and thus included in this account, is for accounting purposes. It does not preclude consideration of justification to the contrary for ratemaking or other purposes.

Items

Labor:

1. Canvassing and demonstrating appliances in homes and other places for the purpose of selling appliances.

2. Demonstrating and selling activities in sales rooms.

3. Installing appliances on customer premises where such work is done only for purchasers of appliances from the utility.

4. Installing wire, piping, or other property work, on a jobbing or contract basis.

5. Preparing and advertising materials for appliance sales purposes.

6. Receiving and handling customer orders for merchandise or for jobbing services.

7. Cleaning and tidying sales rooms.

8. Maintaining display counters and other equipment used in merchandising.

9. Arranging merchandise in sales rooms and decorating display windows.

10. Reconditioning repossessed appliances.

11. Bookkeeping and other clerical work in connection with merchandise and jobbing activities.

12. Supervising merchandise and jobbing operations.

13. Advertising in newspapers, periodicals, radio, and television.

14. Cost of merchandise sold and of materials used in jobbing work.

15. Stores expenses on merchandise and jobbing stocks.

16. Fees and expenses of advertising and commercial artists' agencies.

17. Printing booklets, dodgers, and other advertising data.

18. Premiums given as inducement to buy appliances.

19. Light, heat, and power.

20. Depreciation on equipment used primarily for merchandise and jobbing operations.

21. Rent of sales rooms or of equipment.

22. Transportation expense in delivery and pick-up of appliances by utility's facilities or by others.

23. Stationery and office supplies and expenses.

24. Losses from uncollectible merchandise and jobbing accounts.

417 *Revenues from Nonutility Operations*

This account shall include revenues applicable to operations which are nonutility in character but nevertheless constitute a distinct operating activity of the enterprise as a whole, such as the operation of an ice department where applicable statutes do not define such operation as a utility, or the operation of a servicing organization for furnishing supervision, management, engineering, and similar services to others.

Note: Related taxes shall be recorded in Account 408, Taxes Other Than Income Taxes, or Account 409.2, Income Taxes, Other Income and Deductions, as appropriate.

417.1 *Expenses of Nonutility Operations*

A. This account shall include expenses applicable to operations which are nonutility in character but nevertheless constitute a distinct operating activity of the enterprise as a whole, such as the operation of an ice department where applicable statutes do not define such operation as a utility, or the operation of a servicing organization for furnishing supervision, management, engineering, and similar services to others.

B. The expenses shall include all elements of costs incurred in such operations, and the accounts shall be maintained so as to permit ready summarization as follows:

1. Operation.
2. Maintenance.
3. Rents.
4. Depreciation.
5. Amortization.

Note: Related taxes shall be recorded in Account 408, Taxes Other Than Income Taxes, or Account 409.2, Income Taxes, Other Income and Deductions, as appropriate.

418 *Nonoperating Rental Income*

A. This account shall include all rent revenues and related expenses of land, buildings, or other property included in Account 121, Nonutility Property, which is not used in operations covered by Account 417 or Account 417.1

B. The expenses shall include all elements of costs incurred in the ownership and rental of property and the accounts shall be maintained so as to permit ready summarization as follows.

1. Operation.
2. Maintenance.
3. Rents.
4. Depreciation.
5. Amortization.

Note: Related taxes shall be recorded in Account 408, Taxes Other Than Income Taxes, or Account 409.2, Income Taxes, Other Income and Deductions, as appropriate.

418.1 *Equity in Earnings of Subsidiary Companies*

This account shall include the utility's equity in the earnings or losses of subsidiary companies for the year.

419 *Interest and Dividend Income*

A. This account shall include interest revenues on securities, loans, notes, advances, special deposits, tax refunds, and all other interest-bearing assets, and dividends on stocks of other companies, whether the securities on

which the interest and dividends are received are carried as investments or included in sinking or other special fund accounts.

Note A: Related taxes shall be recorded in Account 408, Taxes Other Than Income Taxes, or Account 409.2, Income Taxes, Other Income and Deductions, as appropriate.

Note B: Interest accrued, the payment of which is not reasonably assured, dividends receivable which have not been declared or guaranteed, and interest or dividends upon reacquired securities issued or assumed by the utility shall not be credited to this account.

419.1 *Allowance for Funds Used During Construction*

This account shall include concurrent credits for allowance for funds other than borrowed funds used for construction purposes during the period of construction, based upon a reasonable rate. (See § 1767.16(c)(17).)

420 *Investment Tax Credits*

This account shall be credited as follows with investment tax credit amounts not passed on to customers:

1. By amounts equal to debits to Account 411.4, Investment Tax Credit Adjustments, Utility Operations, and Account 411.5, Investment Tax Credit Adjustments, Nonutility Operations, for investment tax credits used in calculating income taxes for the year when the company's accounting provides for non-deferral of all or a portion of such credits.

2. By amounts equal to debits to Account 255, Accumulated Deferred Investment Tax Credits, for proportionate amounts of tax credit deferrals allocated over the average useful life of the property to which the tax credits relate, or such lesser period of time as may be adopted and consistently used by the company.

421 *Miscellaneous Nonoperating Income*

This income shall include all revenue and expense items, except taxes properly includible in the income account, not provided for elsewhere. Related taxes shall be recorded in Account 408, Taxes Other Than Income Taxes, or Account 409.2, Income Taxes, Other Income and Deductions, as appropriate.

Items

1. Profit on sale of timber. (See § 1767.16(g)(3).)

2. Profits from operations of others realized by the utility under contracts.

3. Gains on disposition of investments. Also, gains on reacquisition and resale or retirement of the utility's debt securities when the gain is not amortized or used by a jurisdictional regulatory agency to reduce embedded debt cost in establishing rates. (See § 1767.15, (q).)

421.1 *Gain on Disposition of Property*

This account shall be credited with the gain on the sale, conveyance, exchange, or transfer of utility or other property to another. Amounts relating to gains on land and land rights held for future use recorded in Account 105, Electric Plant Held for Future Use, will be accounted for as prescribed in Paragraphs B, C, and D thereof. (See § 1767.16(e)(6), (g)(5), and (j)(5).) Income taxes on gains recorded in this account shall be recorded in Account 409.2, Income Taxes, Other Income and Deductions.

421.2 *Loss on Disposition of Property*

This account shall be charged with the loss on the sale, conveyance, exchange, or transfer of utility or other property to another. Amounts relating to losses on land and land rights held for future use recorded in Account 105, Electric Plant Held for Future Use, will be accounted for as prescribed in Paragraphs B, C, and D thereof. (See §1767.16 (e)(6), (g)(5), and (j)(5).) The reduction in income taxes relating to losses recorded in this account shall be recorded in Account 409.2, Income Taxes, Other Income and Deductions.

422 *Nonoperating Taxes*

This account shall be charged with taxes relating to nonoperating income.

423 *Generation and Transmission Cooperative Capital Credits*

This account shall be credited with the annual capital furnished the power supply cooperative through payment of power bills. The amount of capital furnished the power supply cooperative should be recorded in the applicable year even though, in most cases, the power supplier's notice of the allocation will not have been received until after the close of the year to which it relates.

424 *Other Capital Credits and Patronage Capital Allocations*

This account shall be credited with the capital furnished in connection with patronage of cooperative or mutual-type service organization such as CFC and other financing cooperatives, and insurance, oil product, telephone, and data processing cooperatives. This account should be credited in the year in which the notice of the capital credit or patronage capital allocation is received.

425 *Miscellaneous Amortization*

This account shall include amortization charges not includible in other accounts which are properly deductible in determining the income of the utility before interest charges. Charges includible herein, if significant in amount, must be in accordance with an orderly and systematic amortization program.

Items

1. Amortization of utility plant acquisition adjustments, or of intangibles included in utility plant in service when not authorized to be included in utility operating expenses by REA.

2. Other miscellaneous amortization charges allowed to be included in this account by REA.

426 [Reserved]

Special Instructions

Accounts 426.1, 426.2, 426.3, 426.4, and 426.5

These accounts shall include miscellaneous expense items which are nonoperating in nature but which are properly deductible before determining total income before interest charges.

Note: The classification of expenses as nonoperating and their inclusion in these accounts is for accounting purposes. It does not preclude REA consideration of proof to the contrary for ratemaking or other purposes.

426.1 *Donations*

This account shall include all payments or donations for charitable, social, or community welfare purposes.

426.2 *Life Insurance*

This account shall include all payments for life insurance of officers and employees where the company is the beneficiary (net premiums less the increase in the cash surrender value of policies.)

426.3 *Penalties*

This account shall include payments by the company for penalties or fines for violation of any regulatory statutes by the company or its officials.

426.4 *Expenditures for Certain Civic, Political, and Related Activities*

This account shall include expenditures for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new referenda, legislation or ordinances or repeal or modification of existing referenda, legislation or ordinances) or approval, modification, or revocation of franchises; or for the purpose of influencing the decisions of public officials, but shall not include such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection

with the reporting utility's existing or proposed operations.

426.5 *Other Deductions*

This account shall include other miscellaneous expenses which are nonoperating in nature, but which are properly deductible before determining total income before interest charges.

Items

1. Loss relating to investments in securities written-off or written-down.
2. Loss on sale of investments.
3. Loss on reacquisition, resale, or retirement of the utility's debt securities, when the loss is not amortized and used by a jurisdictional regulatory agency to increase embedded debt cost in establishing rates. (See § 1767.15(q).)
4. Preliminary survey and investigation expenses related to abandoned projects, when not written-off to the appropriate operating expense account.
5. Costs of preliminary abandonment costs recorded in Account 182.1, Extraordinary Property Losses, and Account 182.2, Unrecovered Plant and Regulatory Study Costs, not allowed to be amortized to Account 407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs.

Interest Charges

427 *Interest on Long-Term Debt*

A. This account shall include the amount of interest on outstanding long-term debt issued or assumed by the utility, the liability for which included in Account 221, Bonds, or Account 224, Other Long-Term Debt.

B. This account shall be so kept or supported as to show the interest accruals on each class and series of long-term debt.

Note: This account shall not include interest on nominally issued or nominally outstanding long-term debt, including securities assumed.

427.3 *Interest Charged to Construction—Credit*

This account shall include concurrent credits for interest charged to construction based upon the net cost for the period of construction of borrowed funds used for construction purposes.

428 *Amortization of Debt Discount and Expense*

A. This account shall include the amortization of unamortized debt discount and expense on outstanding long-term debt. Amounts charged to this account shall be credited concurrently to Account 181, Unamortized Debt Expense, and Account 226, Unamortized Discount on Long-Term Debt—Debit.

B. This account shall be so kept or supported as to show the debt discount and expense on each class and series of long-term debt.

428.1 *Amortization of Loss on Reacquired Debt*

A. This account shall include the amortization of the losses on reacquisition of debt. Amounts charged to this account shall be credited concurrently to Account 189, Unamortized Loss on Reacquired Debt.

B. This account shall be maintained so as to allow ready identification of the loss amortized applicable to each class and series of long-term debt reacquired. (See § 1767.15(q).)

429 *Amortization of Premium on Debt—Credit*

A. This account shall include the amortization of unamortized net premium on outstanding long-term debt. Amounts credited to this account shall be charged concurrently to Account 225, Unamortized Premium on Long-Term Debt.

B. This account shall be so kept or supported as to show the premium on each class and series of long-term debt.

429.1 *Amortization of Gain on Reacquired Debt—Credit*

A. This account shall include the amortization of the gains realized from reacquisition of debt. Amounts credited to this account shall be charged concurrently to Account 257, Unamortized Gain on Reacquired Debt.

B. This account shall be maintained so as to allow ready identification of the amortized gains applicable to each class and series of long-term debt reacquired. (See § 1767.15 (q).)

430 *Interest on Debt to Associated Companies*

A. This account shall include the interest accrued on amounts included in Account 223, Advances from Associated Companies, and on all other obligations to associated companies.

B. The records supporting the entries to this account shall be so kept as to show to whom the interest is to be paid, the period covered by the accrual, the rate of interest, and the principal amount of the advances or other obligations on which the interest is accrued.

431 *Other Interest Expense*

This account shall include all interest charges not provided for elsewhere.

Items

1. Interest on notes payable on demand or maturing one year or less from date and on open accounts, except notes and accounts with associated companies.
2. Interest on customers' deposits.
3. Interest on claims and judgments, tax assessments, and assessments for public improvements past due.
4. Income and other taxes levied upon bondholders of the utility and assumed by it.

432 *Allowance for Borrowed Funds Used During Construction—Credit*

This account shall include concurrent credits for allowance for borrowed funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in § 1767.16 (c)(17).

Extraordinary Items

434 *Extraordinary Income*

This account shall be credited with nontypical, noncustomary, infrequently recurring losses which would significantly distort the current year's income computed before extraordinary items, if reported other than as extraordinary items. Income tax relating to the amounts recorded in this account shall be recorded in Account 409.3, Income Taxes, Extraordinary Items. (See § 1767.15 (g).)

435 *Extraordinary Deductions*

This account shall be debited with nontypical, noncustomary, infrequently recurring losses which would significantly distort the current year's income computed before extraordinary items, if reported other than as extraordinary items. Income tax relating to the amounts recorded in this account shall be recorded in Account 409.3, Income Taxes, Extraordinary Items. (See § 1767.15 (f).)

435.1 *Cumulative Effect on Prior Years of a Change in Accounting Principle*

This account shall include the cumulative effect on margins of prior periods as a result of a change in accounting principle from one that is no longer generally accepted to one that is generally accepted.

Retained Earnings Accounts

433 [Reserved]
436 [Reserved]
437 [Reserved]
438 [Reserved]
439 [Reserved]

Operating Revenue Accounts

Sales of Electricity

440 *Residential Sales*

A. This account shall include the net billing for electricity supplied for residential or domestic purposes.

Note: When electricity supplied through a single meter is used for both residential and commercial purposes, the total revenue shall

be included in this account, or Account 442, Commercial and Industrial Sales, according to the rate schedule that is applied. If the same rate schedules apply to residential and commercial and industrial service, classification shall be made according to principal use.

B. Account 440 shall be subaccounted as follows:

440.1 Residential Sales—Excluding Seasonal
440.2 Residential Sales—Seasonal

440.1 *Residential Sales—Excluding Seasonal*

A. This account shall include the net billing for electricity supplied for residential and domestic purposes.

B. This account shall also include net billings for single phase service to schools, churches, lodges, and other public buildings.

C. Records shall be maintained so that the quantity of electricity sold and the revenue received under each rate schedule shall be readily available.

Note: Net billings for multiphase service to schools, churches, lodges, and other public buildings shall be included in the appropriate subaccount of Account 442, Commercial and Industrial Sales.

440.2 *Residential Sales—Seasonal*

This account shall include the net billings for electricity supplied for residential and domestic purposes to seasonal consumers.

441 *Irrigation Sales*

This account shall include the net billings for electricity supplied for irrigation pumping. It need not be used unless such service is provided under a special irrigation rate.

442 *Commercial and Industrial Sales*

A. This account shall include the net billing for electricity supplied to customers for commercial and industrial purposes.

Note A: If the utility classifies large commercial and industrial customers and related revenues on a lesser basis than 1000 kilowatts of demand, or segregates industrial customers and related revenues according to a recognized definition of an industrial customer, such classifications are acceptable in lieu of those otherwise required by the text of this account on the basis of 1000 kilowatts of demand.

Note B: When electricity supplied through a single meter is used for both commercial and residential purposes, the total revenue shall be included in this account, or Account 440, Residential Sales, according to the rate schedule that is applied. If the same rate schedules apply to residential and commercial and industrial service, classification shall be made according to principal use.

B. Account 442 shall be subaccounted as follows:

442.1 Commercial and Industrial Sales—1000 kVA or Less
442.1 Commercial and Industrial Sales—Over 1000 kVA

442.1 *Commerical and Industrial Sales—1000 kVA or Less*

A. This account shall include the net billing for electricity supplied to consumers for commerical and industrial purposes requiring transformer capacity of 1000 kVA or less.

B. Records shall be maintained so that the quantity of electricity sold and the revenue received under each rate schedule shall be readily available.

Note: When electricity supplied through a single meter is used for both commercial and residential purposes, the total revenue shall be included in this account or in Account 440, Residential Sales, based upon primary use.

442.2 *Commercial and Industrial Sales—Over 1000 kVA*

A. This account shall include the net billing for electricity supplied to consumers for commercial and industrial purposes requiring transformer capacity in excess of 1000 kVA.

B. Records shall be maintained so that the quantity of electricity sold and the revenue received under each rate schedule shall be readily available.

444 *Public Street and Highway Lighting*

A. This account shall include the net billing for electricity supplied and services rendered for the purposes of lighting streets, highways, parks, and other public places or for traffic or signal system service, for municipalities or other divisions or agencies of state or Federal governments.

B. Records shall be maintained so that the quantity of electricity sold and the revenue received from each customer shall be readily available. In addition, the records shall be maintained so as to show the revenues from (a) contracts which include both electricity and services, and (b) contracts which include sales of electricity only.

445 *Other Sales to Public Authorities*

A. This account shall include the net billing for electricity supplied to municipalities or divisions or agencies of Federal or state governments, under special contracts or agreements or service classifications applicable only to public authorities, except such revenues as are includible in Account 444 and Account 447.

B. Records shall be maintained so as to show the quantity of electricity sold and the revenues received from each customer.

446 *Sales to Railroads and Railways*

A. This account shall include the net billing for electricity supplied to railroads and interurban and street railways, for general railroad use, including the propulsion of cars or locomotives, where such electricity is supplied under separate and distinct rate schedules.

B. Records shall be maintained so that the quantity of electricity sold and the revenue received from each customer shall be readily available.

Note: Revenues from incidental use of electricity furnished under a contract for propulsion of cars or locomotives shall be included herein.

447 *Sales for Resale*

A. This account shall include the net billing for electricity supplied to other electric utilities or to public authorities for resale purposes.

Note: Revenues from electricity supplied to other public utilities for use by them and not for distribution, shall be included in Account 442, Commercial and Industrial Sales, unless supplied under the same contracts as and not readily separable from revenues includible in this account.

B. Account 447 shall be subaccounted as follows:

447.1 Sales for Resale—REA Borrowers
447.2 Sales for Resale—Other

447.1 *Sales for Resale—REA Borrowers*

A. This account shall include the net billing for electricity supplied to REA borrowers for resale.

B. Records shall be maintained so as to show the quantity of electricity sold and the revenue received from each customer.

Note: Revenues from electricity supplied to other public utilities for use by them and not for distribution, shall be included in Account 442, Commercial and Industrial Sales, unless supplied under the same contract as and not readily separable from revenues includible in this account.

447.2 *Sales for Resale—Other*

A. This account shall include the net billing for electricity supplied for resale to utilities not financed by REA.

B. Records shall be maintained so as to show the quantity of electricity sold and the revenue received from each customer.

Note: Revenues from electricity supplied to other public utilities for use by them and not for distribution, shall be included in Account 442, Commercial and Industrial Sales, unless supplied under the same contract as and not readily separable from revenues includible in this account.

448 *Interdepartmental Sales*

A. This account shall include amounts charged by the electric department at

tariff or other specified rates for electricity supplied by it to other utility departments.

B. Records shall be maintained so that the quantity of electricity supplied each other department and the charges therefor shall be readily available.

449.1 *Provision for Rate Refunds*

A. This account shall be charged with provisions for the estimated pretax effects on net income of the portions of amounts being collected subject to refund which are estimated to be required to be refunded. Such provisions shall be credited to Account 229, Accumulated Provision for Rate Refunds.

B. This account shall also be charged with amounts refunded when such amounts had not been previously accrued.

C. Income tax effects relating to the amounts recorded in this account shall be recorded in Account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, as appropriate.

Other Operating Revenues

450 *Forfeited Discounts*

This account shall include the amount of discounts forfeited or additional charges imposed because of the failure of customers to pay their electric bills on or before a specified date.

451 *Miscellaneous Service Revenues*

This account shall include revenues for all miscellaneous services and charges billed to customers which are not specifically provided for in other accounts.

Items

1. Fees for changing, connecting, or disconnecting service.

2. Profit on maintenance of appliances, wiring, piping, or other installations on customers' premises.

3. Net credit or debit (cost less net salvage and less payment from customers) on closing of work orders for plant installed for temporary service of less than one year. (See Account 185, Temporary Facilities.)

4. Recovery of expenses in connection with current diversion cases (billing for the electricity consumed shall be included in the appropriate electric revenue account).

453 *Sales of Water and Water Power*

A. This account shall include revenues derived from the sale of water for irrigation, domestic, industrial, or other uses or for the development by others of water power or for headwater benefits; also, revenues derived from furnishing water power for mechanical purposes when the investment in the property used in supplying such water or water power is carried as electric plant in service.

B. The records for this account shall be kept in such manner as to permit an analysis of the rates charged and the purposes for which the water was used.

454 *Rent from Electric Property*

A. This account shall include rents received for the use by others of land, buildings, and other property devoted to electric operations by the utility.

B. When property owned by the utility is operated jointly with others under a definite arrangement for apportioning the actual expenses among the parties to the arrangement, any amount received by the utility for interest or return or in reimbursement to taxes or depreciation on the property shall be credited to this account.

Note: Do not include in this account rents from property constituting an operating unit or system. (See Account 412, Revenues from Electric Plant Leased to Others.)

455 *Interdepartmental Rents*

This account shall include rents credited to the electric department on account of rental charges made against other departments (gas, water, etc.) of the utility. In the case of property operated under a definite arrangement to allocate the costs among the departments using the property, any reimbursement to the electric department for interest or return and depreciation and taxes shall be credited to this account.

456 *Other Electric Revenues*

This account shall include revenues derived from electric operations not includible in any of the foregoing accounts. It shall also include, in a separate subaccount, revenues received from operation of fish and wildlife and recreation facilities whether operated by the company or by contract concessionaires, such as revenues from leases or rentals of land for cottages, homes, or campsites.

Items

1. Commission on sale or distribution of electricity of others when sold under rates filed by such others.

2. Compensation for minor or incidental services provided for others such as customer billing, and engineering.

3. Profit or loss on the sale of material and supplies not ordinarily purchased for resale and not handled through merchandising and jobbing accounts.

4. Sale of steam, but not including sales made by a steamheating department or transfers of steam under joint facility operations.

5. Revenues from transmission of electricity of others over transmission facilities of the utility.

6. Include in a separate subaccount, revenues in payment for rights and/or benefits received from others which are realized through research, development, and demonstration ventures. In the event the amounts received are so large as to distort revenues for the year in which received (5 percent of net income before application of the benefit), the amounts shall be credited to Account 253, Other Deferred Credits, and amortized by credits to this account over a period not to exceed 5 years.

Operation and Maintenance Expense Accounts

Power Production Expenses

Steam Power Generation

Operation

500 *Operation Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of steam power generating stations. Direct supervision of specific activities, such as fuel handling, boiler-room operations, and generator operations shall be charged to the appropriate account. (See § 1767.17(a).)

501 *Fuel*

A. This account shall include the cost of fuel used in the production of steam for the generation of electricity, including expenses in unloading fuel from the shipping media and handling thereof up to the point where the fuel enters the first boiler plant bunker, hopper, bucket, tank, or holder of the boiler-house structure. Records shall be maintained to show the quantity, B.t.u. content and cost of each type of fuel used.

B. The cost of fuel shall be charged initially to Account 151, Fuel Stock, and cleared to this account on the basis of the fuel used. Fuel handling expenses may be charged to this account as incurred or charged initially to Account 152, Fuel Stock Expenses Undistributed. In the latter event, they shall be cleared to this account on the basis of the fuel used. Respective amounts of fuel stock and fuel stock expenses shall be readily available.

Items

Labor:

1. Supervising, purchasing, and handling of fuel.

2. All routine fuel analyses.

3. Unloading from shipping facility and placing in storage.
4. Moving of fuel in storage and transferring fuel from one station to another.
5. Handling from storage or shipping facility to first bunker, hopper, bucket, tank, or holder of boiler-house structure.
6. Operation of mechanical equipment, such as locomotives, trucks, cars, boats, barges, and cranes.

Materials and Expenses:

1. Operating, maintenance, and depreciation expenses and ad valorem taxes on utility-owned transportation equipment used to transport fuel from the point of acquisition to the unloading point.
2. Lease or rental costs of transportation equipment used to transport fuel from the point of acquisition to the unloading point
3. Cost of fuel including freight, switching, demurrage, and other transportation charges.
4. Excise taxes, insurance, purchasing commissions, and similar items.
5. Stores expenses to extent applicable to fuel.
6. Transportation and other expenses in moving fuel in storage.
7. Tools, lubricants, and other supplies.
8. Operating supplies for mechanical equipment.
9. Residual disposal expenses less any proceeds from sale of residuals.

Note: Abnormal fuel handling expenses occasioned by emergency conditions shall be charged to expense as incurred.

502 *Steam Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in production of steam for electric generation. This includes all expenses of handling and preparing fuel beginning at the point where the fuel enters the first boiler plant bunker, hopper, tank, or holder of the boiler-house structure.

Items

Labor:

1. Supervising steam production.
2. Operating fuel conveying, storage, weighing, and processing equipment within boiler plant.
3. Operating boiler and boiler auxiliary equipment.
4. Operating boiler feed water purification and treatment equipment.
5. Operating ash-collecting and disposal equipment located inside the plant.
6. Operating boiler plant electrical equipment.
7. Keeping boiler plant log and records and preparing reports on boiler plant operations.
8. Testing boiler water.
9. Testing, checking, and adjusting meters, gauges, and other instruments and equipment in boiler plant.
10. Cleaning boiler plant equipment when not incidental to maintenance work.
11. Repacking glands and replacing gauge glasses where the work involved is of a minor nature and is performed by regular operating crews. Where the work is of a major character, such as that performed on high-pressure boilers, the item should be considered as maintenance.

Materials and Expenses:

1. Chemicals and boiler inspection fees.
2. Lubricants.
3. Boiler feed water purchased and pumping supplies.

503 *Steam from Other Sources*

This account shall include the cost of steam purchased or transferred from another department of the utility or from others under a joint facility operating arrangement for use in prime movers devoted to the production of electricity.

Note: The records shall be so kept as to show separately for each company from which steam is purchased, the point of delivery, the quantity, the price, and the total charge. When steam is transferred from another department or from others under a joint operating arrangement, the utility shall be prepared to show full details of the cost of producing such steam, the basis of the charge to electric generation, and the extent and manner of use by each department or party involved.

504 *Steam Transferred—Credit*

A. This account shall include credits for expenses of producing steam which are charged to others or to other utility departments under a joint operating arrangement. Include also credits for steam expenses chargeable to other electric accounts outside of the steam generation group. Full details of the basis of determination of the cost of steam transferred shall be maintained.

B. If the charges to others or to other departments of the utility include an amount for depreciation, taxes, and return on the joint steam facilities, such portion of the charge shall be credited, in the case of others, to Account 454, Rent from Electric Property, and in the case of other departments of the utility, to Account 455, Interdepartmental Rents.

505 *Electric Expenses*

This account shall include the cost of labor and materials used, and expenses incurred in operating prime movers, generators, and their auxiliary apparatus, switch gear, and other electric equipment to the points where electricity leaves for conversion for transmission or distribution.

Items

Labor:

1. Supervising electric production.
2. Operating turbines, engines, generators, and exciters.
3. Operating condensers, circulating water systems, and other auxiliary apparatus.
4. Operating generator cooling system.
5. Operating lubrication and oil control system, including oil purification.
6. Operating switchboards, switch gear and electric control, and protective equipment.
7. Keeping electric plant log and records and preparing reports on electric plant operations.
8. Testing, checking, and adjusting meters, gauges, and other instruments, relays, controls, and other equipment in the electric plant.
9. Cleaning electric plant equipment when not incidental to maintenance work.
10. Repacking glands and replacing gauge glasses.

Materials and Expenses:

1. Lubricants and control system oils.
2. Generator cooling gases.
3. Circulating water purification supplies.
4. Cooling water purchased.
5. Motor and generator brushes.

506 *Miscellaneous Steam Power Expenses*

This account shall include the cost of labor and materials used and expenses incurred which are not specifically provided for or not readily assignable to other steam generation operation expense accounts.

Items

Labor:

1. General clerical and stenographic work.
2. Guarding and patrolling plant and yard.
3. Building service.
4. Care of grounds including snow removal, and grass cutting.
5. Miscellaneous labor.

Materials and Expenses:

1. General operating supplies, such as tools, gaskets, packing waste, gauge glasses, hose, indicating lamps, record and report forms.
2. First-aid supplies and safety equipment.
3. Employees' service facilities expenses.
4. Building service supplies.
5. Communication service.

6. Miscellaneous office supplies and expenses, printing, and stationery.
7. Transportation expenses.
8. Meals, traveling, and incidental expenses.
9. Research, development, and demonstration expenses.

507 *Rents*

This account shall include all rents of property of others used, occupied or operated in connection with steam power generation. (See § 1767.17(c).)

Maintenance

510 *Maintenance Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of maintenance of steam generation facilities. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See § 1767.17(a).)

511 *Maintenance of Structures*

This account shall include the cost of labor and materials used and expenses incurred in the maintenance of steam structures, the book cost of which is includible in Account 311, Structures and Improvements. (See § 1767.17(b).)

512 *Maintenance of Boiler Plant*

A. This account shall include the cost of labor and materials used and expenses incurred in the maintenance of steam plant, the book cost of which is includible in Account 312, Boiler Plant Equipment. (See § 1767.17(b).)

B. For the purpose of making charges hereto and to Account 513, Maintenance of Electric Plant, the point at which steam plant is distinguished from electric plant is defined as follows:

1. Inlet flange of throttle valve on prime mover.
2. Flange of all steam extraction lines on prime mover.
3. Hotwell pump outlet on condensate lines.
4. Inlet flange of all turbine-room auxiliaries.
5. Connection to line side of motor starter for all boiler-plant equipment.

513 *Maintenance of Electric Plant*

This account shall include the cost of labor and materials used and expenses incurred in the maintenance of electric plant, the book of which is includible in Account 313, Engines and Engine-Driven Generators; Account 314, Turbogenerator Units; and Account 315, Accessory Electric Equipment. (See § 1767.17(b) and paragraph B of Account 512.)

514 *Maintenance of Miscellaneous Steam Plant*

This account shall include the cost of labor and materials used and expenses incurred in maintenance of miscellaneous steam generation plant, the book cost of which is includible in Account 316, Miscellaneous Power Plant Equipment. (See § 1767.17 (b).)

Nuclear Power Generation

Operation

517 *Operation Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of nuclear power generating stations. Direct supervision of specific activities, such as fuel handling, reactor operations, and generator operations shall be charged to the appropriate account. (See § 1767.17(a).)

518 *Nuclear Fuel Expense*

A. This account shall be debited and Account 120.5, Accumulated Provision for Amortization of Nuclear Fuel Assemblies, credited for the amortization of the net cost of nuclear fuel assemblies used in the production of energy. The net cost of nuclear fuel assemblies subject to amortization shall be the cost of nuclear fuel assemblies plus or less the expected net salvage of uranium, plutonium, and other byproducts and unburned fuel. The utility shall adopt the necessary procedures to assure that charges to this account are distributed according to the thermal energy produced in such periods.

B. This account shall also include the costs involved when fuel is leased.

C. This account shall also include the cost of other fuels, used for ancillary steam facilities, including superheat.

D. This account shall be debited or credited as appropriate for significant changes in the amounts estimated as the net salvage value of uranium, plutonium, and other byproducts contained in Account 157, Nuclear Materials Held for Sale, and the amount realized upon the final disposition of the materials. Significant declines in the estimated realizable value of items carried in Account 157 may be recognized at the time of market price declines by charging this account and crediting Account 157. When the declining change occurs while the fuel is recorded in Account 120.3, Nuclear Fuel Assemblies in Reactor, the effect shall be amortized over the remaining life of the fuel.

519 *Coolants and Water*

This account shall include the cost of labor and materials used and expenses incurred for heat transfer materials and water used for steam and cooling purposes.

Items

Labor:
1. Operation of water supply facilities.
2. Handling of coolants and heat transfer materials.

Materials and Expenses:
1. Chemicals.
2. Additions to or refining of, fluids used in reactor systems.
3. Lubricants.
4. Pumping supplies and expenses.
5. Miscellaneous supplies and expenses.
6. Purchased Water.

Note: Do not include in this account water for general station use or the initial charge for coolants, heat transfer, or moderator fluids, chemicals, or other supplies capitalized.

520 *Steam Expenses*

This account shall include the cost of labor and materials used and expenses incurred in production of steam through nuclear processes, and similar expenses for operation of any auxiliary superheat facilities.

Items

Labor:
1. Supervising steam production.
2. Fuel handling including removal, insertion, disassembly, and preparation for cooling operations and shipment.
3. Testing instruments and gauges.
4. Health, safety, monitoring, and decontamination activities.
5. Waste disposal.
6. Operating steam boilers and auxiliary steam, superheat facilities.

Materials and Expenses:
1. Chemical supplies.
2. Charts, and logs.
3. Health, safety, monitoring, and decontamination supplies.
4. Boiler inspection fees.
5. Lubricants.

521 *Steam from Other Sources*

This account shall include the cost of steam purchased or transferred from another department of the utility or from others under a joint facility operating arrangement for use in prime movers devoted to the production of electricity.

Note: The records shall be so kept as to show separately for each company from which steam is purchased, the point of delivery, the quantity, the price, and the total charge. When steam is transferred from another operating department, the utility shall be prepared to show full details of the cost of producing such steam, the basis of the charges to electric generation, and the extent and manner of use by each department involved.

522 *Steam Transferred—Credit*

A. This account shall include credits for expenses of producing steam which are charged to others or to other utility

departments under a joint operating arrangement. Include also credits for steam expenses chargeable to other electric accounts outside of the steam generation group. Full details of the basis of determination of the cost of steam transferred shall be maintained.

B. If the charges to others or to other departments of the utility include an amount for depreciation, taxes, and return on the joint steam facilities, such portion of the charge shall be credited in the case of others, to Account 454, Rent from Electric Property, and in the case of other departments of the utility, to Account 455, Interdepartmental Rents.

523 *Electric Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in operating turbogenerators, steam turbines and their auxiliary apparatus, switch gear, and other electric equipment to the points where electricity leaves for conversion for transmission or distribution.

Items

Labor:

1. Supervising electric production.
2. Operating turbines, engines, generators, and exciters.
3. Operating condensers, circulating water systems, and other auxiliary apparatus.
4. Operating generator cooling system.
5. Operating lubrication and oil control system, including oil purification.
6. Operating switchboards, switch gear, and electric control and protective equipment.
7. Keeping plant log and records and preparing reports on electric plant operations.
8. Testing, checking and adjusting meters, gauges, and other instruments, relays, controls, and other equipment in the electric plant.
9. Cleaning electric plant equipment when not incidental to maintenance.
10. Repacking glands and replacing gauge glasses.

Materials and Expenses:

1. Lubricants and control system oils.
2. Generator cooling gases.
3. Log sheets and charts.
4. Motor and generator brushes.

524 *Miscellaneous Nuclear Power Expenses*

This account shall include the cost of labor, materials used, and expenses incurred which are not specifically provided for or are not readily assignable to other nuclear generation operation accounts.

Items

Labor:

1. General clerical and stenographic work.
2. Plant security.
3. Building service.
4. Care of grounds, including snow removal, and grass cutting.
5. Miscellaneous labor.

Materials and Expenses:

1. General operating supplies, such as tools, gaskets, hose, indicating lamps, records and reports forms.
2. First-aid supplies and safety equipment.
3. Employees' service facilities expenses.
4. Building service supplies.
5. Communication service.
6. Miscellaneous office supplies and expenses, printing and stationery.
7. Transportation expenses.
8. Meals, traveling, and incidental expenses.
9. Research, development, and demonstration expenses.

525 *Rents*

This account shall include all rents of property of others used, occupied, or operated in connection with nuclear generation. (See § 1767.17 (c).)

Maintenance

528 *Maintenance Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of maintenance of nuclear generation facilities. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See § 1767.17 (a).)

529 *Maintenance of Structures*

This account shall include the cost of labor, materials used, and expenses incurred in the maintenance of structures, the book cost of which is includible in Account 321, Structures and Improvements. (See § 1767.17 (b).)

530 *Maintenance of Reactor Plant Equipment*

This account shall include the cost of labor, materials used, and expenses incurred in the maintenance of reactor plant, the book cost of which is includible in Account 322, Reactor Plant Equipment. (See § 1767.17(b).)

531 *Maintenance of Electric Plant*

This account shall include the cost of labor, materials used, and expenses incurred in the maintenance of electric plant, the book cost of which is includible in Account 323, Turbogenerator Units, and Account 324, Accessory Electric Equipment. (See § 1767.17(b).)

532 *Maintenance of Miscellaneous Nuclear Plant*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of miscellaneous nuclear generating plant, the book cost of which is includible in Account 325, Miscellaneous Power Plant Equipment. (See § 1767.17(b).)

Hydraulic Power Generation

Operation

535 *Operation Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of hydraulic power generating stations. Direct supervision of specific activities, such as hydraulic operation, and generator operation shall be charged to the appropriate account. (See § 1767.17(a).)

536 *Water for Power*

This account shall include the cost of water used for hydraulic power generation.

Items

1. Cost of water purchased from others, including water tolls paid reservoir companies.
2. Periodic payments for licenses or permits from any governmental agency for water rights, or payments based on the use of the water.
3. Periodic payments for riparian rights.
4. Periodic payments for headwater benefits or for detriments to others.
5. Cloud seeding.

537 *Hydraulic Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in operating hydraulic works including reservoirs, dams, and waterways, and in activities directly relating to the hydroelectric development outside the generating station. It shall also include the cost of labor, materials used, and other expenses incurred in connection with the operation of (1) fish and wildlife, and (2) recreation facilities. Separate subaccounts shall be maintained for each of the above.

Items

Labor:

1. Supervising hydraulic operation.
2. Removing debris and ice from trash racks, reservoirs, and waterways.
3. Patrolling reservoirs and waterways.
4. Operating intakes, spillways, sluiceways, and outlet works.
5. Operating bubbler, heater, or other deicing systems.
6. Ice and log jam work.

7. Operating navigation facilities.
8. Operations relating to conservation of game, fish, and forests.
9. Insect control activities.

Materials and Expenses:

1. Insect control materials.
2. Lubricants, packing, and other supplies used in the operation of hydraulic equipment.
3. Transportation expense.

538 *Electric Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in operating prime movers, generators, and their auxiliary apparatus, switchgear, and other electric equipment, to the point where electricity leaves for conversion for transmission or distribution.

Items

Labor:

1. Supervising electric production.
2. Operating prime movers, generators, and auxiliary equipment.
3. Operating generator cooling system.
4. Operating lubrication and oil control systems, including oil purification.
5. Operating switchboards, switchgear, and electric control and protection equipment.
6. Keeping plant log and records and preparing reports on plant operations.
7. Testing, checking and adjusting meters, gauges, and other instruments, relays, controls, and other equipment in the plant.
8. Cleaning plant equipment when not incidental to maintenance work.
9. Repacking glands.

Materials and Expenses:

1. Lubricants and control system oils.
2. Motor and generator brushes.

539 *Miscellaneous Hydraulic Power Generation Expenses*

This account shall include the cost of labor, materials used, and expenses incurred which are not specifically provided for or are not readily assignable to other hydraulic generation operation expense accounts.

Items

Labor:

1. General clerical and stenographic work.
2. Guarding and patrolling plant and yard.
3. Building service.
4. Care of grounds including snow removal, and grass cutting.
5. Snow removal from roads and bridges.
6. Miscellaneous labor.

Materials and Expenses:

1. General operating supplies, such as tools, gaskets, packing, waste, hose, indicating lamps, record and report forms.
2. First-aid supplies and safety equipment.
3. Employees' service facilities expenses.
4. Building service supplies.
5. Communication service.
6. Office supplies, printing and stationery.
7. Transportation expenses.
8. Fuel.
9. Meals, traveling, and incidental expenses.
10. Research, development, and demonstration expenses.

540 *Rents*

This account shall include all rents of property of others used, occupied, or operated in connection with hydraulic power generation, including amounts payable to the United States for the occupancy of public lands and reservations for reservoirs, dams, flumes, forebays, penstocks, and power houses but not including transmission right-of-way. (See § 1767.17 (c).)

Maintenance

5451 *Maintenance Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the maintenance of hydraulic power generating stations. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See § 1767.17 (a).)

542 *Maintenance of Structures*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of hydraulic structures, the book cost of which is includible in Account 331, Structures and Improvements. (See § 1767.17 (b).) However, the cost of labor, materials used, and expenses incurred in the maintenance of fish and wildlife and recreation facilities, the book cost of which is includible in Account 331, Structures and Improvements, shall be charged to Account 545, Maintenance of Miscellaneous Hydraulic Plant.

543 *Maintenance of Reservoirs, Dams, and Waterways*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant includible in Account 332, Reservoirs, Dams, and Waterways. (See § 1767.17 (b).) However, the cost of labor, materials used, and expenses incurred in the maintenance of fish and wildlife and recreation facilities, the book cost of which is includible in Account 332, Reservoirs, Dams, and Waterways, shall be charged to Account 545, Maintenance of Miscellaneous Hydraulic Plant.

544 *Maintenance of Electric Plant*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant includible in Account 333, Water Wheels, Turbines and Generators, and Account 334, Accessory Electric Equipment. (See § 1767.17 (b).)

545 *Maintenance of Miscellaneous Hydraulic Plant*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant, the book cost of which is includible in Account 335, Miscellaneous Power Plant Equipment, and Account 336, Roads Railroads and Bridges. (See § 1767.17 (b).) It shall also include the cost of labor, materials used, and other expenses incurred in the maintenance of (1) fish and wildlife, and (2) recreation facilities. Separate subaccounts shall be maintained for each of the above.

Other Power Generation

Operation

546 *Operation Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of other power generating stations. Direct supervision of specific activities, such as fuel handling and engine and generator operation shall be charged to the appropriate account. (See § 1767.17 (a).)

547 *Fuel*

This account shall include the cost delivered at the station (See Account 151, Fuel Stock) of all fuel, such as gas, oil, kerosene, and gasoline used in other power generation.

548 *Generation Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in operating prime movers, generators, and electric equipment in other power generating stations, to the point where electricity leaves for conversion for transmission or distribution.

Items

Labor:

1. Supervising other power generation operation.
2. Operating prime movers, generators, and auxiliary apparatus and switching and other electric equipment.
3. Keeping plant log and records and preparing reports on plant operations.
4. Testing, checking, cleaning, oiling, and adjusting equipment.

Materials and Expenses:

1. Dynamo, motor, and generator brushes.
2. Lubricants and control system oils.
3. Water for cooling engines and generators.

549 *Miscellaneous Other Power Generation Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in the operation of other power generating stations which are not specifically provided for or are not readily assignable to other generation expense accounts.

Items

Labor:

1. General clerical and stenographic work.
2. Guarding and patrolling plant and yard.
3. Building service.
4. Care of grounds, including snow removal, and grass cutting.
5. Miscellaneous labor.

Materials and Expenses:

1. Building service supplies
2. First-aid supplies and safety equipment.
3. Communication service.
4. Employee's service facilities expenses.
5. Office supplies, printing and stationery.
6. Transportation expense.
7. Meals, traveling, and incidental expenses.
8. Fuel for heating.
9. Water for fire protection or general use.
10. Miscellaneous supplies, such as hand tools, drills, saw blades, and files.
11. Research, development, and demonstration expenses.

550 *Rents*

This account shall include all rents of property of other used, occupied, or operated in connection with other power generation. (See § 1767.17 (c).)

Maintenance

551 *Maintenance Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the maintenance of other power generating stations. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See § 1767.17 (a).)

552 *Maintenance of Structures*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of facilities used and expenses incurred in maintenance of facilities used in other power generation, the book cost of which is includible in Account 341, Structures and Improvements, and Account 342, Fuel Holders, Producers and Accessories. (See § 1767.17 (b).)

553 *Maintenance of Generating and Electric Equipment*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant, the book cost of which is includible in Account 343, Prime Movers; Account 344, Generators; and Account 345, Accessory Electric Equipment. (See § 1767.17 (b).)

554 *Maintenance of Miscellaneous Other Power Generation Plant*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of other power generation plant, the book cost of which is includible in Account 346, Miscellaneous Power Plant Equipment. (See § 1767.17 (b).)

Other Power Supply Expenses

555 *Purchased Power*

A. This account shall include the cost at point of receipt by the utility of electricity purchased for resale. It shall also include, net settlements for exchange of electricity or power, such as economy energy, off-peak energy for on-peak energy, and spinning reserve capacity. In addition, the account shall include the net settlements for transactions under pooling or interconnection agreements wherein there is a balancing of debits and credits for energy, or capacity. Distinct purchases and sales shall not be recorded as exchanges and net amounts only recorded merely because debit and credit amounts are combined in the voucher settlement.

B. the records supporting this account shall show, by months, the demands and demand charges, kilowatt-hours and prices thereof under each purchase contract and the charges and credits under each exchange or power pooling contract.

556 *System Control and Load Dispatching*

This account shall include the cost of labor and expenses incurred in load dispatching activities for system control. Utilities having an interconnected electric system or operating under a central authority which controls the production and dispatching of electricity may apportion these costs to this account and Account 561, Load Dispatching, and Account 581, Load Dispatching.

Items

Labor:

1. Allocating loads to plants and interconnections with others.
2. Directing switching.
3. Arranging and controlling clearances for construction, maintenance, test, and emergency purposes.
4. Controlling system voltages.
5. Recording loadings, and water conditions.
6. Preparing operating reports and data for billing and budget purposes.
7. Obtaining reports on the weather and special events.

Expenses:

1. Communication service provided for system control purposes.
2. System record and report forms.
3. Meals, traveling, and incidental expenses.
4. Obtaining weather and special events reports.

557 *Other Expenses*

A. This account shall be charged with any production expenses including expenses incurred directly in connection with the purchase of electricity, which are not specifically provided for in other production expense accounts. Charges to this account shall be supported so that a description of each type of charge with be readily available.

B. Recoveries from insurance companies, under use and occupancy provisions of policies, of amounts in reimbursement of excessive or added productions costs for which the insurance company is liable under the terms of the policy shall be credited to this account.

Transmission Expenses

Operation

560 *Operation Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of the transmission system as a whole. Direct supervision of specific activities, such as station operation and line operation shall be charged to the appropriate account. (See § 1767.17 (a).)

561 *Load Dispatching*

This account shall include the cost of labor, materials used, and expenses incurred in load dispatching operations pertaining to the transmission of electricity.

Items

Labor:

1. Direct switching.

2. Arranging and controlling clearances for construction, maintenance, test, and emergency purposes.
3. Controlling system voltages.
4. Obtaining reports on the weather and special events.
5. Preparing operating reports and data for billing and budget purposes.

Expenses:

1. Communication service provided for system control purposes.
2. System record and report forms.
3. Meals, traveling, and incidental expenses.
4. Obtaining weather and special events reports.

562 *Station Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in operating transmission substations and switching stations. If transmission station equipment is located in or adjacent to a generating station, the expenses applicable to transmission station operations shall nevertheless be charged to this account.

Items

Labor:

1. Supervising station operation.
2. Adjusting station equipment where such adjustment primarily affects performance, such as regulating the flow of cooling water, adjusting current in fields of a machine or changing voltage of regulators, changing station transformer taps.
3. Inspecting, testing, and calibrating station equipment for the purpose of checking its performance.
4. Keeping station log and records and preparing records on station operation.
5. Operating switching and other station equipment.
6. Standing watch, guarding, and patrolling station and station yard.
7. Sweeping, mopping, and tidying station.
8. Care of grounds, including snow removal, and grass cutting.

Materials and Expenses:

1. Building service expenses.
2. Operating supplies, such as lubricants, commutator brushes, water, and rubber goods.
3. Station meter and instrument supplies, such as ink and charts.
4. Station record and report forms.
5. Tool expense.
6. Transportation expenses.
7. Meals, traveling, and incidental expenses.

563 *Overhead Line Expenses*

564 *Underground Line Expenses*

A. These accounts shall include the cost of labor, materials used, and expenses incurred in the operation of transmission lines.

B. If the expenses are not substantial for both overhead and underground lines, these accounts may be combined.

Items

Labor:

1. Supervising line operation.
2. Inspecting and testing lightning arresters, circuit breakers, switches, and grounds.
3. Load tests of circuits.
4. Routine line patrolling.
5. Routine voltage surveys made to determine the condition or efficiency of transmission system.
6. Transferring loads, switching and reconnecting circuits and equipment for operating purposes. (Switching for construction or maintenance purposes is not includible in this account.)
7. Routine inspection and cleaning of manholes, conduit, network, and transformer vaults.
8. Electrolysis surveys.
9. Inspecting and adjusting line-testing equipment, such as voltmeters, ammeters, and wattmeters.
10. Regulation and addition of oil or gas in high-voltage cable systems.

Materials and Expenses:

1. Transportation expenses.
2. Meals, traveling, and incidental expenses.
3. Tool expenses.
4. Operating supplies, such as instrument charts, and rubber goods.

565 *Transmission of Electricity by Others*

This account shall include amounts payable to others for the transmission of the utility's electricity over transmission facilities owned by others.

566 *Miscellaneous Transmission Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in transmission map and record work, transmission office expenses, and other transmission expenses not provided for elsewhere.

Items

Labor:

1. General records of physical characteristics of lines and stations, such as capacities.
2. Ground resistance records.
3. Janitor work at transmission office buildings, including care of grounds, snow removal, and grass cutting.
4. Joint pole maps and records.
5. Line load and voltage records.
6. Preparing maps and prints.
7. General clerical and stenographic work.
8. Miscellaneous labor.

Materials and Expenses:

1. Communication service.
2. Building service supplies.
3. Map and record supplies.
4. Transmission office supplies and expenses, printing and stationery.
5. First-aid supplies.
6. Research, development, and demonstration expenses.

567 *Rents*

This account shall include rents of property of others used, occupied, or operated in connection with the transmission system, including payments to the United States and others for use of public or private lands and reservations for transmission line rights-of-way. (See § 1767.17 (c).)

Maintenance

568 *Maintenance Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of maintenance of the transmission system. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See § 1767.17 (a).)

569 *Maintenance of Structures*

This account shall include the cost of labor, materials used, and expenses incurred in the maintenance of structures, the book cost of which is includible in Account 352, Structures and Improvements. (See § 1767.17 (b).)

570 *Maintenance of Station Equipment*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of station equipment, the book cost of which is includible in Account 353, Station Equipment. (See § 1767.17 (b).)

571 *Maintenance of Overhead Lines*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of transmission plant, the book cost of which is includible in Account 354, Towers and Fixtures; 355, Poles and Fixtures; 356, Overhead Conductors and Devices; and 359, Roads and Trails. (See § 1767.17 (b).)

Items

1. Work of the following character on poles, towers, and fixtures:

a. Installing or removing additional clamps or strain insulators on guys in place.

b. Moving line or guy pole in relocation of the same pole or section of line.

c. Painting poles, towers, crossarms, or pole extensions.

d. Readjusting and changing position of guys or braces.
e. Realigning and straightening poles, crossarms braces, and other pole fixtures.
f. Reconditioning reclaimed pole fixtures.
g. Relocating crossarms, racks, brackets, and other fixtures on poles.
h. Repairing or realigning pins, racks, or brackets.
i. Repairing pole supported platform.
j. Repairs by others to jointly owned poles.
k. Shaving, cutting rot, or testing poles or crossarms in use or salvaged for reuse.
l. Stubbing poles already in service.
m. Supporting fixtures and conductors and transferring them to new poles during pole replacements.
n. Maintenance of pole signs, stencils, and tags.
2. Work of the following character on overhead conductors and devices:
a. Overhauling and repairing line cutouts, line switches, and line breakers.
b. Cleaning insulators and bushings.
c. Refusing cutouts.
d. Repairing line oil circuit breakers and associated relays and control wiring.
e. Repairing grounds.
f. Resagging, retyping, or rearranging position or spacing of conductors.
g. Standing by phones, going to calls, cutting faulty lines clear, or similar activities at times of emergencies.
h. Sampling, testing, changing, purifying, and replenishing insulating oil.
i. Repairing line testing equipment.
j. Transferring loads, switching and reconnecting circuits and equipment for maintenance purposes.
k. Trimming trees and clearing brush.
l. Chemical treatment of right of way areas when occurring subsequent to construction of line.
3. Work of the following character on roads and trails:
a. Repairing roadways and bridges.
b. Trimming trees and brush to maintain previous roadway clearance.
c. Snow removal from roads and trails.
d. Maintenance work on publicly owned roads and trails when done by utility at its expense.

572 *Maintenance of Underground Lines*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of transmission plant, the book cost of which is includible in Accounts 357, Underground Conduit, and Account 358, Underground Conductors and Devices. (See § 1767.17 (b).)

Items

1. Work of the following character on underground conduit:
a. Cleaning ducts, manholes, and sewer connections.
b. Minor alterations of handholes, manholes, or vaults.
c. Refastening, repairing, or moving racks, ladders, hangers in manholes, or vaults.
d. Plugging and shelving or replugging ducts.
e. Repairs to sewers and drains, walls and floors, rings and covers.
2. Work of the following character on underground conductors and devices:
a. Repairing oil circuit breakers, switches, cutouts, and control wiring.
b. Repairing grounds.
c. Retraining and reconnecting cables in manholes, including transfer of cables from one duct to another.
d. Repairing conductors and splices.
e. Repairing or moving junction boxes and potheads.
f. Refireproofing of cables and repairing supports.
g. Repairing electrolysis preventive devices for cables.
h. Repairing cable bonding systems.
i. Sampling, testing, changing, purifying, and replenishing insulating oil.
j. Transferring loads, switching and reconnecting circuits, and equipment for maintenance purposes.
k. Repairing line testing equipment.
l. Repairs to oil or gas equipment in high-voltage cable system and replacement of oil or gas.

573 *Maintenance of Miscellaneous Transmission Plant*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of owned or leased plant which is assignable to transmission operations and is not provided for elsewhere. (See § 1767.17 (b).)

Distribution Expenses

Operation

580 *Operation Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of the distribution system. Direct supervision of specific activities, such as station operation, line operation, and meter department operation shall be charged to the appropriate account. (See § 1767.17 (a).)

581 *Load Dispatching*

This account (the keeping of which is optional with the utility) shall include the cost of labor, materials used, and expenses incurred in load dispatching operations pertaining to the distribution of electricity.

Items

Labor:
1. Direct switching.
2. Arranging and controlling clearances for construction, maintenance, test, and emergency purposes.
3. Controlling system voltages.
4. Preparing operating reports.
5. Obtaining reports on the weather and special events.

Expenses:
1. Communication service provided for system control purposes.
2. System record and report forms.
3. Meals, traveling, and incidental expenses.

582 *Station Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in the operation of distribution substations.

Items

Labor:
1. Supervising station operation.
2. Adjusting station equipment where such adjustment primarily affects performance, such as regulating the flow of cooling water, adjusting current in fields of a machine, changing voltage of regulators, or changing station transformer taps.
3. Keeping station log and records and preparing reports in station operation.
4. Inspecting, testing, and calibrating station equipment for the purpose of checking its performance.
5. Operating switching and other station equipment.
6. Standing watch, guarding, and patrolling station and station yard.
7. Sweeping, mopping, and tidying station.
8. Care of grounds, including snow removal, and grass cutting.

Materials and Expenses:
1. Building service expenses.
2. Operating supplies, such as lubricants, commutator brushes, water, and rubber goods.
3. Station meter and instrument supplies, such as ink and charts.
4. Station record and report forms.
5. Tool expense.
6. Transportation expense.
7. Meals, traveling, and incidental expenses.

Note: If the utility owns storage battery equipment used for supplying electricity to customers in periods of emergency, the cost of operating labor and of supplies, such as acid, gloves, hydrometers, thermometers,

soda, automatic cell fillers, and acid proof shoes shall be included in this account. If significant in amount, a separate subdivision shall be maintained for such expenses.

583 *Overhead Line Expenses*

584 *Underground Line Expenses*

These accounts shall include, respectively, the cost of labor materials used, and expenses incurred in the operation of overhead and underground distribution lines.

Items

Labor:

1. Supervising line operation.
2. Changing line transformer taps.
3. Inspecting and testing lighting arresters, line circuit breakers, switches, and grounds.
4. Inspecting and testing line transformers for the purpose of determining load, temperature, or operation performance.
5. Patrolling lines.
6. Load tests and voltage surveys of feeders, circuits, and line transformers.
7. Removing line transformers and voltage regulators with or without replacement.
8. Installing line transformers or voltage regulators with or without change in capacity provided that the cost of first installation of these items is included in Account 368, Line Transformers.
9. Voltage surveys, either routine or upon request of customers, including voltage tests at customer's main switch.
10. Transferring loads, switching and reconnecting circuits and equipment for operation purposes.
11. Electrolysis surveys.
12. Inspecting and adjusting line testing equipment.

Materials and Expenses:

1. Tool expense.
2. Transportation expense.
3. Meals, traveling, and incidental expenses.
4. Operating supplies, such as instrument charts, and rubber goods.

585 *Street Lighting and Signal System Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in: (1) The operation of street lighting and signal system plant which is owned or leased by the utility; and (2) the operation and maintenance of such plant owned by customers where such work is done regularly as a part of the street lighting and signal system service.

Items

Labor:

1. Supervising street lighting and signal systems operation.
2. Replacing lamps and incidental cleaning of glassware and fixtures in connection therewith.
3. Routine patrolling for lamp outages, extraneous nuisances, or encroachments.
4. Testing lines and equipment including voltage and current measurement.
5. Winding and inspection of time switch and other controls.

Materials and Expenses:

1. Street lamp renewals.
2. Transportation and tool expense.
3. Meals, traveling, and incidental expenses.

586 *Meter Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in the operation of customer meters and associated equipment.

Items

Labor:

1. Supervising meter operation.
2. Clerical work on meter history and associated equipment record cards, test cards, and reports.
3. Disconnecting and reconnecting, removing and reinstalling, sealing and unsealing meters and other metering equipment in connection with initiating or terminating services including the cost of obtaining meter readings, if incidental to such operation.
4. Consolidating meter installations due to elimination of separate meters for different rates of service.
5. Changing or relocating meters, instrument transformers, time switches, and other metering equipment.
6. Resetting time controls, checking operation of demand meters and other metering equipment, when done as an independent operation.
7. Inspecting and adjusting meter testing equipment.
8. Inspecting and testing meters, instrument transformers, time switches, and other metering equipment on premises or in shops excluding inspecting and testing incidental to maintenance.

Materials and Expenses:

1. Meter seals and miscellaneous meter supplies.
2. Transportation expenses.
3. Meals, traveling, and incidental expenses.
4. Tool expenses.

Note. The cost of the first setting and testing of a meter is chargeable to utility plant, Account 370, Meters.

587 *Customer Installations Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in work on customer installations in inspecting premises and in rendering services to customers of the nature of those indicated by the list of items hereunder.

Items

Labor:

1. Supervising customer installations work.
2. Inspecting premises, including the check of wiring for code compliance.
3. Investigating, locating, and clearing grounds on customers' wiring.
4. Investigating service complaints, including load tests of motors and lighting and power circuits on customers' premises; field investigations of complaints on bills or of voltage.
5. Installing, removing, renewing, and changing lamps and fuses.
6. Radio, television, and similar interference work including erection of new aerials on customers' premises and patrolling of lines, testing of lightning arresters, inspection of pole hardward, and examination on or off premises of customers' appliances, wiring, or equipment to locate cause of interference.
7. Installing, connecting, reinstalling, or removing leased property on customers' premises.
8. Testing, adjusting, and repairing customers' fixtures and appliances in the shop or on premises.
9. Cost of changing customers' equipment due to changes in service characteristics.
10. Investigation of current diversion including setting and removal of check meters and securing special readings thereon; special calls by employees in connection with discovery and settlement of current diversion; changes in customer wiring; and any other labor cost identifiable as caused by current diversion.

Materials and Expenses:

1. Lamp and fuse renewals.
2. Materials used in servicing customers' fixtures, appliances, and equipment.
3. Power, light, heat, telephone, and other expenses of the appliance repair department.
4. Tool expense.
5. Transportation expense, including pickup and delivery charges.
6. Meals, traveling, and incidental expenses.
7. Rewards paid for discovery of current diversion.

Note A: Amounts billed customers for any work, the cost of which is charged to this account, shall be credited to this account. Any excess over costs resulting therefrom, shall be transferred to Account 451, Miscellaneous Service Revenues.

Note B: Do not include in this account expenses incurred in connection with merchandising, jobbing, and contract work.

588 *Miscellaneous Distribution Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in distribution system operation not provided for elsewhere.

Items

Labor:

1. General records of physical characteristics of lines and substations, such as capacities.
2. Ground resistance records.
3. Joint pole maps and records.
4. Distribution system voltage and load records.
5. Preparing maps and prints.
6. Service interruption and trouble records.
7. General clerical and stenographic work except that chargeable to Account 586, Meter Expenses.

Expenses:

1. Operating records covering poles, transformers, manholes, cables, and other distribution facilities. Exclude meter records chargeable to Account 586, Meter Expenses, and station records chargeable to Account 582, Station Expenses, and stores records chargeable to Account 163, Stores Expense Undistributed.
2. Janitor work at distribution office buildings including snow removal and grass cutting.
3. Communication service.
4. Building service expenses.
5. Miscellaneous office supplies and expenses, printing and stationery, maps and records, and first-aid supplies.
6. Research, development, and demonstration expenses.

589 *Rents*

This account shall include rents of property of others used, occupied, or operated in connection with the distribution system, including payments to the United States and others for the use and occupancy of public lands and reservations for distribution line rights of way. (See § 1767.17(c).)

Maintenance

590 *Maintenance Supervision and Engineering*

This account shall include the cost of labor and expenses incurred in the general supervision and direction of maintenance of the distribution system. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See § 1767.17(a).)

591 *Maintenance of Structures*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of structures, the book cost of which is includible in Account 361, Structures and Improvements. (See § 1767.17(b).)

592 *Maintenance of Station Equipment*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant, the book cost of which is includible in Account 362, Station Equipment, and Account 363, Storage Battery Equipment. (See § 1767.17(b).)

593 *Maintenance of Overhead Lines*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of overhead distribution line facilities, the book cost of which is includible in Account 364, Poles, Towers and Fixtures; Account 365, Overhead Conductors and Devices; and Account 369, Services. (See § 1767.17(b).)

Items

1. Work of the following character on poles, towers, and fixtures:
   a. Installing additional clamps or removing clamps or strain insulators on guys in place.
   b. Moving line or guy pole in relocation of pole or section of line.
   c. Painting poles, towers, crossarms, or pole extensions.
   d. Readjusting and changing position of guys or braces.
   e. Realigning and straightening poles, crossarms, braces, pins, racks, brackets, and other pole fixtures.
   f. Reconditioning reclaimed pole fixtures.
   g. Relocating crossarms, racks, brackets, and other fixtures on poles.
   h. Repairing pole supported platform.
   i. Repairs by others to jointly owned poles.
   j. Shaving, cutting rot, or treating poles or crossarms in use or salvaged for reuse.
   k. Stubbing poles already in service.
   l. Supporting conductors, transformers, and other fixtures and transferring them to new poles during pole replacements.
   m. Maintaining pole signs, stencils, and tags.
2. Work of the following character on overhead conductors and devices:
   a. Overhauling and repairing line cutouts, line switches, line breakers, and capacitor installations.
   b. Cleaning insulators and bushings.
   c. Refusing line cutouts.
   d. Repairing line oil circuit breakers and associated relays and control wiring.
   e. Repairing grounds.
   f. Resagging, retying, or rearranging position or spacing of conductors.
   g. Standing by phones, going to calls, cutting faulty lines clear, or similar activities at times of emergency.
   h. Sampling, testing, changing, purifying, and replenishing insulating oil.
   i. Transferring loads, switching, and reconnecting circuits and equipment for maintenance purposes.
   j. Repairing line testing equipment.
   k. Trimming trees and cleaning brush.
   l. Chemical treatment of right-of-way area when occurring subsequent to construction of line.
3. Work of the following character on overhead services:
   a. Moving position of service either on pole or on customers' premises.
   b. Pulling slack in service wire.
   c. Retying service wire.
   d. Refastening or tightening service bracket.

594 *Maintenance of Underground Lines*

This account shall include the cost of labor, materials used, and expenses incurred in the maintenance of underground distribution line facilities, the book cost of which is includible in Account 366, Underground Conduit; Account 367, Underground Conductors and Devices; and Account 369, Services. (See § 1767.17 (b).)

Items

1. Work of the following character on underground conduit:
   a. Cleaning ducts, manholes, and sewer connections.
   b. Moving or changing position of conduit or pipe.
   c. Minor alterations of handholes, manholes, or vaults.
   d. Refastening, repairing, or moving racks, ladders, or hangers in manholes or vaults.
   e. Plugging and shelving ducts.
   f. Repairs to sewers, drains, walls, and floors, rings, and covers.
2. Work of the following character on underground conductors and devices:
   a. Repairing circuit breakers, switches, cutouts, network protectors, and associated relays and control wiring.
   b. Repairing grounds.
   c. Retraining and reconnecting cables in manholes including transfer of cables from one duct to another.
   d. Repairing conductors and splices.
   e. Repairing or moving junction boxes and potheads.
   f. Refireproofing cables and repairing supports.
   g. Repairing electrolysis preventive devices for cables.
   h. Repairing cable bonding systems.

i. Sampling, testing, changing, purifying, and replenishing insulating oil.

j. Transferring loads, switching and reconnecting circuits and equipment for maintenance purposes.

k. Repairing line testing equipment.

l. Repairing oil or gas equipment in high voltage cable systems and replacement of oil or gas.

3. Work of the following character on underground services:

a. Cleaning ducts.

b. Repairing any underground service plant.

595 *Maintenance of Line Transformers*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of distribution line transformers, the book cost of which is includible in Account 368, Line Transformers. (See § 1767.17 (b).)

596 *Maintenance of Street Lighting and Signal Systems*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant, the book cost of which is includible in Account 373, Street Lighting and Signal Systems. (See § 1767.17 (b).)

597 *Maintenance of Meters*

This account shall include the cost of labor, materials used, and expenses incurred in the maintenance of meters and meter testing equipment, the book cost of which is includible in Account 370, Meters, and Account 395, Laboratory Equipment, respectively. (See § 1767.17(b).)

598 *Maintenance of Miscellaneous Distribution Plant*

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant, the book cost of which is includible in Account 371, Installations on Customers' Premises, and Account 372, Leased Property on Customers' Premises, and any other plant the maintenance of which is assignable to the distribution function and is not provided for elsewhere. (See § 1767.17 (b).)

Items

1. Work of similar nature to that listed in other distribution maintenance accounts.

2. Maintenance of office furniture and equipment used by distribution system department.

Customer Accounts Expenses

Operation

901 *Supervision*

This account shall include the cost of labor and expenses incurred in the general direction and supervision of customer accounting and collecting activities. Direct supervision of a specific activity shall be charged to Account 902, Meter Reading Expenses, or Account 903, Customer Records and Collection Expenses, as appropriate. (See 1767.17 (a).)

902 *Meter Reading Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in reading customer meters, and determining consumption when performed by employees engaged in reading meters.

Items

Labor:

1. Addressing forms for obtaining meter readings by mail.

2. Changing and collecting meter charts used for billing purposes.

3. Inspecting time clocks and checking seals when performed by meter readers and the work represents a minor activity incidental to regular meter reading routine.

4. Reading meters, including demand meters, and obtaining load information for billing purposes. Exclude and charge to Account 586, Meter Expenses, or to Account 903, Customer Records and Collection Expenses, as applicable, the cost of obtaining meter readings, first, and final, if incidental to the operation of removing or resetting, sealing or locking, and disconnecting or reconnecting meters.

5. Computing consumption from meter reader's book or from reports by mail when done by employees engaged in reading meters.

6. Collecting from prepayment meters when incidental to meter reading.

7. Maintaining record of customers' keys.

8. Computing estimated or average consumption when performed by employees engaged in reading meters.

Materials and Expenses:

1. Badges, lamps, and uniforms.

2. Demand charts, meter books and binders and forms for recording readings, but not the cost of preparation.

3. Postage and supplies used in obtaining meter readings by mail.

4. Transportation, meals, and incidental expenses.

903 *Customer Records and Collection Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in work on customer applications, contracts, orders, credit investigations, billing and accounting, collections and complaints.

Items

Labor:

1. Receiving, preparing, recording, and handling routine orders for service, disconnections, transfers or meter tests initiated by the customer, excluding the cost of carrying out such orders, which is chargeable to the account appropriate for the work called for by such orders.

2. Investigations of customers' credit and keeping of records pertaining thereto, including records of uncollectible accounts written off.

3. Receiving, refunding, or applying customer deposits and maintaining customer deposit, line extension, and other miscellaneous records.

4. Checking consumption shown by meter readers' reports where incidental to preparation of billing date.

5. Preparing address plates and addressing bills and delinquent notices.

6. Preparing billing data.

7. Operating billing and bookkeeping machines.

8. Verifying billing records with contracts or rate schedules.

9. Preparing bills for delivery and mailing or delivering bills.

10. Collecting revenues, including collection from prepayment meters, unless incidental to meter-reading operations.

11. Balancing collections, preparing collections for deposit, and preparing cash reports.

12. Posting collections and other credits or charges to customer accounts and extending unpaid balances.

13. Balancing customer accounts and controls.

14. Preparing, mailing, or delivering delinquent notices and preparing reports of delinquent accounts.

15. Final meter reading of delinquent accounts when done by collectors incidental to regular activities.

16. Disconnecting and reconnecting service because of nonpayment bills.

17. Receiving, recording, and handling of inquiries, complaints, and requests for investigations from customers, including preparation of necessary orders, but excluding the cost of carrying out such orders, which is chargeable to the account appropriate for the work called for by such orders.

18. Statistical and tabulating work on customer accounts and revenues, but not including special analyses for sales department, rate department, or other general purposes, unless incidental to regular customer accounting routines.

19. Preparing and periodically rewriting meter reading sheets.

20. Determining consumption and computing estimated or average consumption when performed by employees other than those engaged in reading meters.

Materials and Expenses:

1. Address plates and supplies.
2. Cash overages and shortages.
3. Commissions or fees to others for collecting.
4. Payments to credit organizations for investigations and reports.
5. Postage.
6. Transportation expenses, including transportation of customer bills and meter books under centralized billing procedures.
7. Transportation, meals, and incidental expenses.
8. Bank charges, exchange, and other fees for cashing and depositing customers' checks.
9. Forms for recording orders for services, or removals.
10. Rent of mechanical equipment.

Note: The cost of work on meter history and meter location records is chargeable to Account 586, Meter Expenses.

904 *Uncollectible Accounts*

This amount shall be charged with amounts sufficient to provide for losses from uncollectible utility revenues. Concurrent credits shall be made to Account 144, Accumulated Provision for Uncollectible Accounts—Credit. Losses from uncollectible accounts shall be charged to Account 144.

905 *Miscellaneous Customer Accounts Expenses*

This account shall include the cost of labor, materials used, and expenses incurred not provided for in other accounts.

Items

Labor:

1. General clerical and stenographic work.
2. Miscellaneous labor.

Materials and Expenses:

1. Communication service.
2. Miscellaneous office supplies and expenses and stationery and printing other than those specifically provided for in Account 902 and Account 903.

Customer Service and Informational Expenses

Operation

907 *Supervision*

This account shall include the cost of labor and expenses incurred in the general direction and supervision of customer service activities, the object of which is to encourage safe, efficient, and economical use of the utility's service. Direct supervision of a specific activity within customer service and informational expense classification shall be charged to the account wherein the costs of such activity are included. (See § 1767.17 (a).)

908 *Customer Assistance Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in providing instructions or assistance to customers, the object of which is to encourage safe, efficient, and economical use of the utility's service.

Items

Labor:

1. Direct supervision of department.
2. Processing customer inquiries relating to the proper use of electric equipment, the replacement of such equipment, and information related to such equipment.
3. Advice directed to customers as to how they may achieve the most efficient and safest use of electric equipment.
4. Demonstrations, exhibits, lectures, and other programs designed to instruct customers in the safe, economical, or efficient use of electric service, and/or oriented toward conservation of energy.
5. Engineering and technical advice to customers, the object of which is to promote safe, efficient, and economical use of the utility's service.

Materials and Expenses:

1. Supplies and expenses pertaining to demonstrations, exhibits, lectures, and other programs.
2. Loss in value on equipment and appliances used for customer assistance programs.
3. Office supplies and expenses.
4. Transportation, meals, and incidental expenses.

Note: Do not include in this account expenses that are provided for elsewhere, such as Accounts 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work; 587, Customer Installations Expenses; and 912, Demonstrating and Selling Expenses.

909 *Informational and Instructional Advertising Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in activities which primarily convey information as to what the utility urges or suggests customers should do in utilizing electric service to protect health and safety, to encourage environmental protection, to utilize their electric equipment safely and economically, or to conserve electric energy.

Items

Labor:

1. Direct supervision of information activities.
2. Preparing informational materials for newspapers, periodicals, and billboards and preparing and conducting informational motion pictures, radio and television programs.
3. Preparing informational booklets and bulletins used in direct mailings.
4. Preparing informational window and other displays.
5. Employing agencies, selecting media, and conducting negotiations in connection with the placement and subject matter of information programs.

Materials and Expenses:

1. Use of newspapers, periodicals, billboards, and radio for informational purposes.
2. Postage on direct mailings to customers exclusive of postage related to billings.
3. Printing of informational booklets, dodgers, and bulletins.
4. Supplies and expenses in preparing informational materials by the utility.
5. Office supplies and expenses.

Note A: Exclude from this account and charge to Account 930.2, Miscellaneous General Expenses, the cost of publication of stockholder reports, dividend notices, bond redemption notices, financial statements, and other notices of a general corporate character. Also exclude all expenses of a promotional, institutional, goodwill, or political nature, which are includible in such accounts as 913, Advertising Expenses; 930.1, General Advertising Expenses; and 426.4, Expenditures for Certain Civic, Political and Related Activities.

Note B: Entries relating to informational advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies of the advertising message shall be readily available.

910 *Miscellaneous Customer Service and Informational Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in connection with customer service and informational activities which are not includible in other customer information expense accounts.

Items

Labor:

1. General clerical and stenographic work not assigned to specific customer service and informational programs.
2. Miscellaneous labor.

Materials and Expenses:

1. Communication service.
2. Printing, postage, and office supplies expenses.

Sales Expenses

Operation

911 *Supervision*

This account shall include the cost of labor and expenses incurred in the general direction and supervision of sales activities, except merchandising. Direct supervision of a specific activity, such as demonstrating, selling, or advertising shall be charged to the

account wherein the costs of such activity are included. (See § 1767.17 (a).)

912 *Demonstrating and Selling Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in promotional, demonstrating, and selling activities, except by merchandising, the object of which is to promote or retain the use of utility services by present and prospective customers.

Items

Labor:

1. Demonstrating uses of utility services.
2. Conducting cooking schools, preparing recipes, and related home service activities.
3. Exhibitions, displays, lectures, and other programs designed to promote use of utility services.
4. Experimental and development work in connection with new and improved appliances and equipment, prior to general public acceptance.
5. Solicitation of new customers or of additional business from old customers, including commissions paid employees.
6. Engineering and technical advice to present or prospective customers in connection with promoting or retaining the use of utility services.
7. Special customer canvasses when their primary purpose is the retention of business or the promotion of new business.

Materials and Expenses:

1. Supplies and expenses pertaining to demonstration, experimental, and development activities.
2. Booth and temporary space rental.
3. Loss in value on equipment and appliances used for demonstration purposes.
4. Transportation, meals, and incidental expenses.

913 *Advertising Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in advertising designed to promote or retain the use of utility service, except advertising the sale of merchandise by the utility.

Items

Labor:

1. Direct supervision of department.
2. Preparing advertising material for newspapers, periodicals, and billboards, and preparing and conducting motion pictures, radio, and television programs.
3. Preparing booklets and bulletins used in direct mail advertising.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of sales advertising.

Materials and Expenses:

1. Advertising in newspapers, periodicals, billboards, and radio for sales promotion purposes, but not including institutional or goodwill advertising includible in Account 930.1, General Advertising Expenses.
2. Materials and services given as prizes or otherwise in connection with civic lighting contests, canning, or cooking contests, and bazaars in order to publicize and promote the use of utility services.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct mail advertising.
6. Premiums distributed generally, such as recipe books when not offered as inducement to purchase appliances.
7. Printing booklets, dodgers, and bulletins.
8. Supplies and expenses in preparing advertising material.
9. Office supplies and expenses.

Note A: The cost of advertisements which set forth the value or advantages of utility service without reference to specific appliances, or, if reference is made to appliances, invites the reader to purchase appliances from his dealer or refer to appliances not carried for sale by the utility, shall be considered sales promotion advertising and charged to this account. However, advertisements which are limited to specific makes of appliances sold by the utility and price and terms, thereof, without referring to the value or advantages of utility service, shall be considered as merchandise advertising and the cost shall be charged to Costs and Expenses of Merchandising, Jobbing and Contract Work, Account 416.

Note B: Advertisements which substantially mention or refer to the value or advantages of utility service, together with specific reference to makes of appliance sold by the utility and the price, and terms, thereof, and designed for the joint purpose of increasing the use of utility service and the sales of appliances, shall be considered as a combination advertisement and the costs shall be distributed between this account and Account 416 on the basis of space, time, or other proportional factors.

Note C: Exclude from this account and charge to Account 930.2, Miscellaneous General Expenses, the cost of publication of stockholder reports, dividend notices, bond redemption notices, financial statements, and other notices of a general corporate character. Also exclude all institutional or goodwill advertising. (See Account 930.1, General Advertising Expenses.)

916 *Miscellaneous Sales Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in connection with sales activities, except merchandising, which are not includible in other sales expense accounts.

Items

Labor:

1. General clerical and stenographic work not assigned to specific functions.
2. Special analysis of customer accounts and other statistical work for sales purposes not a part of the regular customer accounting and billing routine.
3. Miscellaneous labor.

Materials and Expenses:

1. Communication service.
2. Printing, postage, office supplies, and expenses applicable to sales activities, except those chargeable to Account 913, Advertising Expenses.

Administrative and General

Operation

920 *Administrative and General Salaries*

A. This account shall include the compensation (salaries, bonuses, and other consideration for services, but not including directors' fees) of officers, executives, and other employees of the utility properly chargeable to utility operations and not chargeable directly to a particular operating function.

B. This account may be subdivided in accordance with a classification appropriate to the departmental or other functional organization of the utility.

921 *Office Supplies and Expenses*

A. This account shall include office supplies and expenses incurred in connection with the general administration of the utility's operations which are assignable to specific administrative or general departments and are not specifically provided for in other accounts. This includes the expenses of the various administrative and general departments, the salaries and wages of which are includible in Account 920.

B. This account may be subdivided in accordance with a classification appropriate to the departmental or other functional organization of the utility.

Note: Office expenses which are clearly applicable to any category of operating expenses other than the administrative and general category shall be included in the appropriate account in such category. Further, general expenses which apply to the utility as a whole rather than to a particular administrative function, shall be included in Account 930.2, Miscellaneous General Expenses.

Items

1. Automobile service, including charges through clearing account.

2. Bank messenger and service charges.
3. Books, periodicals, bulletins, and subscriptions to newspapers, newsletters, and tax services.
4. Building service expenses for customer accounts, sales, and administrative and general purposes.
5. Communication service expenses.
6. Cost of individual items of office equipment used by general departments which are of small value or short life.
7. Membership fees and dues in trade, technical, and professional associations paid by a utility for employees. (Company memberships are includible in Account 930.2.)
8. Office supplies and expenses.
9. Payment of court costs, witness fees, and other expenses of legal department.
10. Postage, printing, and stationery.
11. Meals, traveling, and incidental expenses.

922 *Administrative Expenses Transferred—Credit*

This account shall be credited with administrative expenses recorded in Account 920 and Account 921 which are transferred to construction costs or to nonutility accounts. (See § 1767.16(d).)

923 *Outside Services Employed*

A. This account shall include the fees and expenses of professional consultants and others for general services which are not applicable to a particular operating function or other accounts. It shall include also the pay and expenses of persons engaged for a special or temporary administrative or general purpose in circumstances where the person so engaged is not considered as an employee of the utility.

B. This account shall be so maintained as to permit ready summarization according to the nature of service and the person furnishing the same.

Items

1. Fees, pay, and expenses of accountants and auditors, actuaries, appraisers, attorneys, engineering consultants, management consultants, negotiators, public relations counsel, and tax consultants.
2. Supervision fees and expenses paid under contracts for general management services.

Note: Do not include inspection and brokerage fees and commissions chargeable to other accounts or fees and expenses in connection with security issues which are includible in the expenses of issuing securities.

924 *Property Insurance*

A. This account shall include the cost of insurance or reserve accruals to protect the utility against losses and damages to owned or leased property used in its utility operations. It shall also include the cost of labor and related supplies and expenses incurred in property insurance activities.

B. Recoveries from insurance companies or others for property damages shall be credited to the account charged with the cost of the damage. If the damaged property has been retired, the credit shall be to the appropriate account for accumulated provision for depreciation.

C. Records shall be kept so as to show the amount of coverage for each class of insurance carried, the property covered, and the applicable premiums. Any dividends distributed by mutual insurance companies shall be credited to the accounts to which the insurance premiums were charged.

Items

1. Premiums payable to insurance companies for fire, storm, burglary, boiler explosion, lightning, fidelity, riot, and similar insurance.
2. Amounts credited to Account 228.1, Accumulated Provision for Property Insurance, for similar protection.
3. Special costs incurred in procuring insurance.
4. Insurance inspection service.
5. Insurance counsel, brokerage fees, and expenses.

Note A: The cost of insurance or reserve accruals capitalized, shall be charged to construction either directly or by transfer to construction work orders from this account

Note B: The cost of insurance or reserve accruals for the following classes of property shall be charged as indicated.

1. Materials, supplies, and stores equipment to Account 163, Stores Expense Undistributed, or appropriate materials account.
2. Transportation and other general equipment to appropriate clearing accounts that may be maintained.
3. Electric plant leased to others to Account 413, Expenses, of Electric Plant Leased to Others.
4. Nonutility property to the appropriate nonutility income account.
5. Merchandise and jobbing property to Account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work.

Note C: The cost of labor and related supplies and expenses of administrative and general employees who are only incidentally engaged in property insurance work may be included in Account 920 and Account 921, as appropriate.

925 *Injuries and Damages*

A. This account shall include the cost of insurance or reserve accruals to protect the utility against injuries and damages claims of employees or others, losses of such character not covered by insurance, and expenses incurred in settlement of injuries and damages claims. It shall also include the cost of labor, related supplies, and expenses incurred in injuries and damages activities.

B. Reimburements from insurance companies or others for expenses charged hereto on account of injuries, damages, and insurance dividends or refunds shall be credited to this account.

Items

1. Premiums payable to insurance companies for protection against claims from injuries and damages by employees or others, such as public liability, property damages, casualty, employee liability, etc., and amounts credited to Account 228.2, Accumulated Provision for Injuries and Damage, for similar protection.
2. Losses not covered by insurance or reserve accruals on account of injuries or deaths to employees or others and damages to the property of others.
3. Fees and expenses of claim investigators.
4. Payment of awards to claimants for court costs and attorneys' services.
5. Medical and hospital service and expenses for employees as the result of occupational injuries or resulting from claims of others.
6. Compensation payments under workmen's compensation laws.
7. Compensation paid while incapacitated as the result of occupational injuries. (See Note A.)
8. Cost of safety, accident prevention, and similar educational activities.

Note A: Payments to or in behalf of employees for accident or death benefits, hospital expenses, medical expenses, or for salaries while incapacitated for service or on leave of absence beyond periods normally allowed, when not the result of occupational injuries, shall be charged to Account 926, Employee Pensions and Benefits. (See also Note B of Account 926.)

Note B: The cost of injuries and damages or reserve accruals capitalized shall be charged to construction directly or by transfer to construction work orders from this account.

Note C: Exclude herefrom the time and expenses of employees (except those engaged in injuries and damages activities) spent in attendance at safety and accident prevention educational meetings, if occurring during the regular work period.

Note D: The cost of labor and related supplies and expenses of administrative and general employees who are only incidentally engaged in injuries and damages activities, may be included in Account 920 and Account 921, as appropriate.

926 *Employee Pensions and Benefits*

A. This account shall include pensions paid to or on behalf of retired employees or accruals to provide for pensions or payments for the purchase of annuities for this purpose, when the utility has definitely, by contract, commmitted itself to a pension plan under which the pension funds are irrevocably devoted to pension purposes and payments for employee accident, sickness, hospital, and death benefits, or insurance therefor. Include, also, expenses incurred in medical, educational, or recreational activities for the benefit of employees and administrative expenses in connection with employee pensions and benefits.

B. The utility shall maintain a complete record of accruals or payments for pensions and be prepared to furnish full information to REA of the plan under which it has created or proposes to create a pension fund and copy of the declaration of trust or resolution under which the pension plan is established.

C. There shall be credited to this account the portion of pensions and benefits expenses which is applicable to nonutility operations or which is charged to construction unless such amounts are distributed directly to the accounts involved and are not included herein in the first instance.

D. Records in support of this account shall be so kept that the total pensions expense, the total benefits expense, the administrative expenses included herein, and the amounts of pensions and benefits expenses transferred to construction or other accounts will be readily available.

Items

1. Payment of pensions under a nonaccrual or nonfunded basis.

2. Accruals for or payments to pension funds or to insurance companies for pension purposes.

3. Group and life insurance premiums (credit dividends received).

4. Payments for medical and hospital services and expenses of employees when not the result of occupational injuries.

5. Payments for accident, sickness, hospital, and death benefits or insurance.

6. Payments to employees incapacitated for service or on leave of absence beyond periods normally allowed when not the result of occupational injuries or in excess of statutory awards.

7. Expenses in connection with educational and recreational activities for the benefit of employees.

Note A: The cost of labor and related supplies and expenses of administrative and general employees who are only incidentally engaged in employee pension and benefit activities may be included in Account 920 and Account 921, as appropriate.

Note B: Salaries paid to employees during periods of nonoccupational sickness may be charged to the appropriate labor account rather than to employee benefits.

927 *Franchise Requirements*

A. This account shall include payments to municipal or other governmental authorities and the cost of materials, supplies, and services furnished such authorities without reimbursement in compliance with franchise, ordinance, or similar requirements; provided, however, that the utility may charge to this account at regular tariff rates, instead of cost, utility service furnished without charge under provisions of franchises.

B. When no direct outlay is involved, concurrent credit for such charges shall be made to Account 929, Duplicate Charges—Credit.

C. The account shall be maintained so as to readily reflect the amounts of cash outlays, utility service supplied without charge, and other items furnished without charge.

Note A: Franchise taxes shall not be charged to this account, but to Account 408.1, Taxes Other Than Income Taxes, Utility Operating Income.

Note B: Any amount paid as initial consideration for a franchise running for more than one year shall be charged to Account 302, Franchises and Consents.

928 *Regulatory Commission Expenses*

A. This account shall include all expenses (except pay of regular employees only incidentally engaged in such work) properly includible in utility operating expenses, incurred by the utility in connection with formal cases before regulatory commissions or other regulatory bodies or cases in which such a body is a party, including payments made to a regulatory commission for fees assessed against the utility for pay and expenses of such commission, its officers, agents, and employees, and also including payments made to the United States for the administration of the Federal Power Act.

B. Amounts of regulatory commission expenses which, by approval or direction of REA, are to be spread over future periods shall be charged to Account 186, Miscellaneous Deferred Debits, and amortized by charges to this account.

C. The utility shall be prepared to show the cost of each formal case.

Items

1. Salaries, fees, retainers, and expenses of counsel, solicitors, attorneys, accountants, engineers, clerks, attendants, witnesses, and others engaged in the prosecution of or defense against petitions or complaints presented to regulatory bodies or in the valuation of property owned or used by the utility in connection with such cases.

2. Office supplies and expenses, payments to public service or other regulatory commissions, stationery and printing, traveling expenses, and other expenses incurred directly in connection with formal cases before regulatory commissions.

Note A: Exclude from this account and include in other appropriate operating expense accounts, expenses incurred in the improvement of service, additional inspection, or rendering reports which are made necessary by the rules and regulations, or orders, of regulatory bodies.

Note B: Do not include in this account amounts includible in Account 302, Franchises and Consents; Account 181, Unamortized Debt Expense; or Account 214, Capitol Stock Expenses.

929 *Duplicate Charges—Credit*

This account shall include concurrent credits for charges which may be made to operating expenses or to other accounts for the use of utility service from its own supply. Include, also, offsetting credits for any other charges made to operating expenses for which there is no direct money outlay.

930.1 *General Advertising Expenses*

This account shall include the cost of labor, materials used, and expenses incurred in advertising and related activities, the cost of which by their content and purpose are not provided for elsewhere.

Items

Labor:

1. Supervision.

2. Preparing advertising material for newspapers, periodicals, and billboards and preparing or conducting motion pictures, radio, and television programs.

3. Preparing booklets and bulletins used in direct mail advertising.

4. Preparing window and other displays.

5. Clerical and stenographic work.

6. Investigating and employing advertising agencies, selecting media, and conducting negotiations in connection with the placement and subject matter of advertising.

Materials and Expenses:

1. Advertising in newspapers, periodicals, billboards, and radios.
2. Advertising matter such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Postage and direct mail advertising.
5. Printing of booklets, dodgers, and bulletins.
6. Supplies and expenses in preparing advertising materials.
7. Office supplies and expenses.

Note A: Properly includible in this account is the cost of advertising activities on a local or national basis of a goodwill or institutional nature, which is primarily designed to improve the image of the utility or the industry, including advertisements which inform the public concerning matters affecting the company's operations, such as, the cost of providing service, the company's efforts to improve the quality of service, and the company's efforts to improve and protect the environment. Entries relating to advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies of the advertising message shall be readily available.

Note B: Exclude from this account and include in Account 426.4, Expenditures for Certain Civic, Political and Related Activities, expenses for advertising activities, which are designed to solicit public support or the support of public officials in matters of a political nature.

930.2 *Miscellaneous General Expenses*

This account shall include the cost of labor and expenses incurred in connection with the general management of the utility not provided for elsewhere.

Items

Labor:

1. Miscellaneous labor not elsewhere provided for.

Expenses:

1. Industry association dues for company memberships.
2. Contributions for conventions and meetings of the industry.
3. Research, development, and demonstration expenses not charged to other operation and maintenance expense accounts on a functional basis.
4. Communication service not chargeable to other accounts.
5. Trustee, registrar, and transfer agent fees and expenses.
6. Stockholders meeting expenses.
7. Dividend and other financial notices.
8. Printing and mailing dividend checks.
9. Directors' fees and expenses.
10. Publishing and distributing annual reports to stockholders.
11. Public notices of financial, operating, and other data required by regulatory statutes, not including, however, notices required in connection with security issues or acquisitions of property.

931 *Rents*

This account shall include rents properly includible in utility operating expenses for the property of others used, occupied, or operated in connection with the customer accounts, customer service and informational, sales, general, and administrative functions of the utility. (See § 1767.17(c).)

Maintenance

935 *Maintenance of General Plant*

A. This account shall include the cost assignable to customer accounts, sales, administrative, and general functions of labor, materials used, and expenses incurred in the maintenance of property, the book cost of which is includible in Account 390, Structures and Improvements; Account 391, Office Furniture and Equipment; Account 397, Communication Equipment; and Account 398, Miscellaneous Equipment. (See § 1767.17(b).)

B. Maintenance expenses on office furniture and equipment used elsewhere than in general, commercial, and sales offices shall be charged to the following accounts:

1. Steam Power Generation, Account 514
2. Nuclear Power Generation, Account 532
3. Hydraulic Power Generation, Account 545
4. Other Power Generation, Account 554
5. Transmission, Account 573
6. Distribution, Account 598
7. Merchandise and Jobbing, Account 416
8. Garages, Shops, etc., Appropriate clearing account, if used.

Note: Maintenance of plant included in other general equipment accounts shall be included herein unless charged to clearing accounts or to the particular functional maintenance expense account indicated by the use of the equipment.

§§ 1767.19–1767.20 [Reserved]

§ 1767.21 Accounting Methods and Procedures Required of All REA Borrowers

All REA borrowers shall maintain and keep their books of accounts and all other books and records which support the entries in such books of accounts in accordance with the accounting principles prescribed herein.

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101 *Work Order Procedures*

When a minor item of property is removed from service and not replaced, a retirement work order is not required except in the case of a conductor. The cost of the minor item shall remain in the appropriate plant account until the retirement unit, of which it is a part, is retired. However, as conductor is recorded in feet and is not part of any specific retirement unit, conductor shall be retired even though the amount taken down and not replaced is less than a retirement unit (two spans).

When minor items of plant are removed and not replaced, material salvaged shall be recorded on a material salvage ticket. Items of material recorded on this ticket shall be charged to the materials and supplies acount and credited in the miscellaneous columns of the Materials Register to the Accumulated Provision for Depreciation. In this example, it is assumed that the cost of removal is nil. If, however, costs are incurred during the removal of minor items of plant, these costs shall reduce the credit to the Accumulated Provision for Depreciation.

When a staking sheet supporting a single work order reflects a combination of new construction and replacements, or system improvements, the predominant cost shall be the governing factor in determining the amount of cost REA will finance. To illustrate, assume that a service is to be run to a new home near the end of an existing line. On inspection, the pole from which the service is to be run is found to be in very poor physical condition and must be replaced. In addition, a single span of wire and a service are presently connected to this pole which serve no purpose. The home originally served has been demolished and the existing span, pole, and service were retired. In other words, what started out to be simply the installation of a new service now includes the retirement of a span of wire, a pole, and a service; the replacement of a pole; and the running of a new service. Assuming the replacement of the pole is the costliest part of this project, the construction and retirement activity shall be classified as an ordinary replacement even though the work includes new construction and retirements without replacement.

102 *Line Conversion*

If it is necessary to move a conductor from one location to another on a pole assembly during the conversion of a line from one phase to another phase, the cost of moving the conductor is capitalizable as a system improvement.

103 *Sacrificial Anodes and the Replacement of a Neutral*

Many utilities conduct studies to determine whether sacrificial anodes are needed to protect underground cable against corrosion. The following procedures shall be followed to account for sacrificial anodes and the replacement of a neutral:

1. If the study results in the installation of sacrificial anodes, the cost of the study shall be capitalized to Account 367, Underground Conductors and Devices. If the study does not result in the installation of anodes, the cost shall be charged to Account 594, Maintenance of Underground Lines.

2. Costs incurred in the first installation are capitalizable even though anodes are considered minor items of property. However, only the first costs of installation shall be capitalized. All subsequent replacements of anodes shall be expensed.

3. Sacrificial anodes do not constitute a record unit; therefore, the cost of anodes shall be added to the cost of the underground cable unit.

4. Because a neutral is part of an underground cable record unit, and is not, in and of itself, a record unit, the cost to replace a corroded neutral shall be charged to Account 594, Maintenance of Underground Lines.

104 *Terminal Facilities*

Borrowers are sometimes required to construct terminal facilities in the transmission line of another utility in order to receive power from their power supplier. The document executed between the borrower and the utility is normally referred to as a "License Agreement." The license agreement may stipulate that certain items of the terminal facilities are to be transferred to, and become the property of, the other utility upon completion of the construction. The accounting for this type of transaction shall be as follows:

1. All construction costs incurred shall be charged to a work order. Upon completion of the construction and accumulation of all costs, the cost of the facilities that become the property of another utilty shall be transferred from construction work-in-progress to Account 186, Miscellaneous Deferred Debits. The cost of the plant for which the borrower retains title shall be charged to the appropriate plant accounts.

2. The cost of the facilities recorded in Account 186, Miscellaneous Deferred Debits, shall be amortized to Account 557, Other Expenses, over the estimated useful service life of the plant. If the related contract or contracts for this power supply are terminated, the unamortized balance shall be expensed, in the current period, in Account 557.

105 *Pole Top Disconnect Switch*

The installation of pole top service disconnect switches, where title is retained by the utility, shall be capitalized in Account 371, Installations on Customers' Premises. If a switch cabinet is purchased with a current transformer included as an integral part of the cabinet, the entire cost of the switch shall be charged to Account 371. If the current transformer is installed outside of the switch cabinet, the transformer, meter, and meter base, together with the first installation costs, shall be capitalized, upon purchase, in Account 370, Meters.

Payments received from the customer toward construction costs shall be credited to Account 371, Installations on Customers' Premises. Such payments, together with any amount not financed by REA, shall be entered in column 9 of the REA Form 219, Inventory of Work Orders. The associated maintenance costs shall be charged to Account 587, Customer Installations Expenses, or to

Account 597, Maintenance of Meters, as appropriate.

When pole top disconnect switches are installed and title is held by the customer, the cost of the material shall be charged to Account 456, Other Electric Revenues and the receipts from the sale of line material shall be credited to Account 456. The portion of the receipts for resale material as well as that for installation shall be credited to Account 415, Revenues from Merchandising, Jobbing, and Contract Work. The cost of resale material sold and the cost of installation shall be charged to Account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work.

Future maintenance costs incurred by the cooperative that are not billed to the customer shall be charged to Account 587, Customer Installations Expenses.

106 *Steel Pole Reinforcers*

The cost associated with the purchase and installation of steel pole reinforcers shall be charged to Account 593, Maintenance of Overhead Lines.

107 *Mobile Substations*

Mobile substations shall be accounted for in a manner similar to that for a spare and are, therefore, included as part of transmission or distribution station equipment, depending upon the use of the mobile substation. The mobile substation, together with the trailer on which it is permanently mounted, shall be capitalized upon purchase. A general purpose truck or tractor used to relocate a mobile substation and trailer shall be classified as transportation equipment.

The composite depreciation rate used for transmission plant or distribution plant, as appropriate, shall be applied to the mobile substation.

108 *Security Lights*

Where a pole supports both a secondary wire and a security light, the cost of the pole shall be charged to Account 364, Poles, Towers, and Fixtures, even though the plant investment in security lights is recorded in Account 371, Installations on Customers' Premises.

109 *Joint Use*

There are many cases in which an electric utility and a communications utility enter into an agreement that provides for joint use of poles. Under the terms of these agreements, either utility may occupy the poles of the other upon payment of a stipulated annual rental. If such joint occupancy necessitates the use of a higher than standard pole, the new pole shall be provided at the expense of the utility having the need for the higher pole.

When an electric utility replaces, at its own expense, a standard pole belonging to the communications utility with a higher pole, the cost of the higher pole, less net salvage (if any) of the pole replaced, shall be charged to the account in which the pole rental is included.

Contributions made to an electric utility by a communications utility for the costs incurred in stubbing joint use electric poles shall be credited to Account 593, Maintenance of Overhead Lines. The cost of pole stubbing on electric plant distribution facilities shall be charged to Account 593.

An investment in outside plant that is held in joint ownership shall be recorded in the appropriate plant accounts at its cost to the utility. For continuing property record purposes, jointly owned property units shall be priced at their cost to the utility and shall be appropriately segregated in the CPRs to indicate joint ownership.

110 *First Clearing and Grading of Land and Rights of Way*

Utility accounting practice requires the costs associated with the first clearing and grading of land and rights of way and any resulting damage thereto, to be included in the accounts for structures and improvements or equipment to which such costs relate. Since the first clearing, as well as clearing which is "directly occasioned by the building of a structure," is done, not for the purpose of enhancing the value of the land or the rights of way, but for the purpose of constructing plant, these costs are more directly related to the construction of plant than to the purchase of land or rights of way. The accounts shall be charged as follows:

1. For overhead transmission pole lines, Account 356, Overhead Conductors and Devices;

2. For overhead distribution lines, Account 365, Overhead Conductors and Devices; and

3. For underground distribution lines, Account 366, Underground Conduit, for a conduit installation; or Account 367, Underground Conductors and Devices, for a direct burial installation.

111 *Engineering Contracts for System Planning*

Engineering costs for long-range system plans shall be charged to Account 183, Preliminary Survey and Investigation Charges, as incurred. The cost of engineering services incurred in preparing a long-range system plan represents a legitimate component of the total cost of construction of all system improvements detailed in the plan. The amount of engineering costs to be associated with any specific system improvement is the annual costs incurred up to the time of the allocation (not previously allocated), plus that portion of the initial cost which relates to the particular construction in question. If any major system improvement included in the engineering plan is not constructed, or if the study is superceded by another complete study, the cost of that portion of the original study not resulting in construction shall be charged to Account 182.2, Unrecovered Plant and Regulatory Study Costs, if the costs are to be recovered through future rates. Costs recorded in Account 182.2 shall be amortized to Account 407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs, as the costs are recovered through the rates. Any costs included in Account 182.2 that are disallowed for rate-making purposes shall be charged to Account 426.5, Other Deductions.

The allocation of engineering services to the various construction projects requires the exercise of judgment. In some cases, system improvements are continuous over a period of months or years, thus permitting the engineering cost to be spread monthly as overhead in relation to the direct costs incurred in construction. (If a substantial amount of retirement work is performed in connection with system improvements, a proportionate share of the engineering cost shall be allocated on the basis of direct retirement labor.) If the system improvements detailed in the plan are not performed in a continuous manner, the engineering cost shall be allocated on the basis of the estimated costs of the various larger system improvement projects which result from the long-range plan.

If construction is performed by contract, the engineering cost applicable thereto shall be transferred from Account 183 to Account 107, Construction Work-in-Progress—Electric, and thereby spread to the appropriate plant accounts on the basis of contract costs.

In the case of system improvement construction performed on the basis of work orders, engineering costs shall be transferred to Account 107, Construction Work-in-Progress—Electric, and included in total work order costs as either overhead or special services. If engineering services are not readily identifiable with individual work orders, they shall be capitalized as overhead. If engineering costs for each work order are readily separable from the engineering costs for all other work orders, they shall be capitalized as special services.

In summarizing system improvement work orders on the REA Form 219, Inventory of Work Orders, the amount of engineering costs previously approved for advance on the long range plan, if any, shall be deducted to determine the balance of loan funds subject to advance by REA.

112 *Determination of Availability of Service*

Costs relating to the determination of availability of service, rates, and similar items for individual applicants shall be charged to Account 912, Demonstrating and Selling Expenses. If it is expected that construction will result, the costs incurred to provide service, including staking, shall be charged to Account 107, Construction Work-in-Progress—Electric. If construction does not result, Account 107 shall be credited and Account 426.5, Other Deductions, shall be charged.

113 *Temporary Facilities (Services)*

Plant installed for temporary use, a period of less than 1 year, shall be recorded in Account 185, Temporary Facilities, net of any payments received from customers. Upon retirement, this net cost plus cost of removal, less any salvage value, shall be cleared to Account 451, Miscellaneous Service Revenues.

When a temporary service is installed at the site of a building under construction, the location of the permanent service entrance and the load and its characteristics are usually known. The temporary service is of the proper capacity and is so located or has sufficient slack, that it can be relocated to serve the new building as a permanent service. Under these conditions, the service shall be charged to Account 369, Services, when first installed. The cost of moving and attaching the service to the permanent service entrance shall be charged to Account 593, Maintenance of Overhead Lines or Account 594, Maintenance of Underground Lines, as appropriate.

114 *Construction Work-in-Progress Damaged or Destroyed by Storm*

When installed plant, not yet completed or completed but not yet placed in service, has been damaged or destroyed by storm, the cost of the repair and restoration shall be added to the cost of construction and capitalized if the plant was constructed under force account or work order construction, and the utility paid for the cost of the repairs. If the plant was constructed under contract, the contractor is required to deliver the plant in new condition. Therefore, any repairs required prior to the completion of construction and acceptance by the utility, are ordinarily borne by the contractor.

115 *Liquidated Damages*

Liquidated damages are amounts paid by or assessed against contractors for the completion of construction after an agreed upon date. Liquidated damages shall be credited to Account 107, Construction Work-in-Progress—Electric. Since these damages accrue during the construction period, they become one of the components of construction cost. Even though a portion of these damages may compensate the utility for costs which are not "identifiable," no portion of the damages shall be credited to revenue or expense.

When a contractor has been paid in full from loan funds or from funds to be reimbursed by loan funds without a deduction for liquidated damages, the amount of liquidated damages received shall be deposited in the Construction Fund. This amount shall be reflected by a decrease in column 5, "Total Expenditures to Date," of the REA Form 595, Financial Requirement and Expenditure Statement, and as an increase in column 6, "Cash Balance." If liquidated damages are obtained by withholding an equivalent amount from the contractor's payment, the net result will be the same.

116 *Nonrefundable Payments for Construction*

Nonrefundable payments (contributions) from customers and developers for underground construction shall first be credited to Account 107.2, Construction Work-in-Progress—Force Account. When the constructed plant is unitized and distributed to the individual plant accounts, the contributions shall be credited to those plant accounts which gave rise to the contribution.

When a customer or developer furnishes a trench or other service in connection with buried plant, the cooperative shall debit Account 107.2 with the actual or estimated cost of the service performed, and account for the credit as set forth above.

117 *Refunds of Overpayments for Materials and Equipment*

Refunds of overpayments for materials and equipment previously purchased are occasionally received as the result of legal action brought against electrical suppliers for price fixing in violation of antitrust laws. Such refunds shall be accounted for as follows:

1. The refund shall first be applied to any litigation costs that were incurred.

2. Refunds for special equipment items shall be accounted for, in detail, on the Summary of Special Equipment Costs and credited against the appropriate plant accounts.

3. Other materials or equipment items that were installed through work orders or a materials furnished contract shall be adjusted on an amended work order. The amended work order shall include full details of the refund.

4. Continuing property records shall be adjusted to reflect the above transactions.

5. Amounts approved for advance on the REA Form 595, Financial Requirement and Expenditure Statement, and on the loan budget records, shall be adjusted. For special equipment items, the adjustment shall be requested in a letter to REA. For materials installed by work order or contract, the adjustments shall be made through credits shown on the REA Form 219, Inventory of Work Orders.

6. Refunds for material currently in stock shall be credited to Account 154, Plant Materials and Operating Supplies.

7. If the material was used in maintenance activities or operations, the refund shall be credited to the appropriate maintenance or operations expense account.

8. Refunds for materials or equipment financed from loan funds shall be deposited in the Construction Fund—Trustee Account or remitted to REA as a special payment on a note. Other refunds shall be deposited in the general funds.

118 *Load Control Equipment*

The primary purpose of a Load Management System is to optimize load dispatch and to reduce or minimize system peaks in order to reduce purchases of power or to delay or eliminate the need for construction of new plant. A Load Management System may be used on integrated systems, or on generation, transmission, or distribution systems separately. The telemetry equipment used for data acquisition and interpretation may be included at various points on a system, such as generation, transmission, or distribution substation, switchyards or on consumers' premises.

An effective load control program should be coordinated with the G&T and requires full participation of all member distribution systems. The G&T monitors the power load of the total member distribution system to predict the time of the system's peak load. An optimal load control strategy is developed by the G&T and is passed on from the G&T computer system to the load control computer systems of the member distribution cooperatives.

The equipment at the member distribution system level is the type actually being used by an integrated power system to operate a load control program. The equipment used may vary from one integrated power system to another. The selection of equipment used is determined by the information needs of the integrated power system, and the methods selected to operate the load control system.

Some equipment performs only SCADA-type functions. This equipment is included with the equipment that performs only load control functions because SCADA-type equipment is an integral part of a load control program. An effective load control strategy requires current information on loads so that member distribution systems can determine the actual loads to be shed and the duration of the load control.

The function and location of the load control equipment are the primary factors in determining the account in which the equipment shall be recorded. The following example depicts a common load control system and the associated accounting. Equipment type may vary, thereby necessitating the use of accounts not prescribed below. In all instances, however, the function and location of the equipment shall dictate the appropriate account classification.

G&T Borrower

1. *Coordinating System Equipment.*

Coordinating System Equipment is the data acquisition, processing and control hardware and software used to coordinate the load control efforts of the member distribution system. Generally, this equipment is dedicated to load control use and is not shared with other electric utility activities.

The purpose of the G&T load control computer system is to reduce or minimize the peak power requirements of the entire member distribution system. This involves load dispatching to control transmission circuits and breakers. The computer system for load control shall, therefore, be recorded in Account 353, Station Equipment, with the associated operating expenses recorded in Account 561, Load Dispatching, and maintenance expenses recorded in Account 570, Maintenance of Station Equipment.

2. *Coordinating System Communications Link.*

The G&T load control computer system is usually linked to the load control computer system for each member distribution system by a radio or telephone link that is dedicated to that purpose and is not shared with other communication activities. Under such circumstances, communications equipment shall be classified in Account 353, Station Equipment. If the communications equipment is shared with general use or voice communications equipment, however, the equipment shall be classified in Account 397, Communication Equipment.

3. *Depreciation.*

Load control equipment shall be recorded in separate subaccounts of the primary plant accounts detailed above and shall be depreciated based upon the owner's estimate of the equipment's useful service life.

Distribution Borrower

1. *Member System Equipment.*

Member system equipment is the data acquisition, processing and control hardware and software used as a subset to the overall load control efforts by the integrated power system.

The member system computer for each distribution member system accepts the control strategy from the G&T coordinating system and develops the tables that determine the control loads that are to be shed and the duration of the load control. The member system computer for each distribution system monitors the usage at each of its delivery points. This usage data is then transmitted to the G&T coordinating system for use in developing load projects and evaluating control strategies for the integrated power system. The member system computer is generally dedicated to load control use and is not shared with other electric utility operations.

The member computer system shall be recorded in Account 362, Station Equipment. The associated operating expenses shall be recorded in Account 581, Load Dispatching, and maintenance expenses shall be recorded in Account 592, Maintenance of Station Equipment.

2. *Substation Remote Controllers.*

Substation Remote Controllers are located at the distribution substation. They accept control signals from the member system computer and couple the signal to the portion of the distribution system to which it is connected. Substation Remote Controllers also serve as a receiver of inbound signals from transponders located in the distribution system. They also send data back to the member system computer.

Substation Remote Controllers shall be recorded in Account 362, Station Equipment. The associated operating expenses shall be recorded in Account 582, Station Expenses, and maintenance expenses shall be recorded in Account 592, Maintenance of Station Equipment.

3. *Substation Injection Units.*

Substation Injection Units are used only in power line based systems and are located in distribution substations. A major function of the Substation Injection Unit is to receive load control signals from the member system computer and inject them into the power line based system to be transmitted to the Load Control Receivers. Substation Injection Units can also perform control and SCADA functions similar to those performed by Substation Remote Controllers.

Substation Injection Units shall be recorded in Account 362, Station Equipment. The associated operating expenses shall be recorded in Account 582, Station Expenses, and maintenance expenses shall be recorded in Account 592, Maintenance of Station Equipment.

4. *Remote Terminal Units.*

Remote Terminal Units perform electric utility SCADA functions in a distribution substation or delivery point. These functions include monitoring equipment for abnormal operating conditions, monitoring analog quantities such as conductor voltage or substation load, and controlling of certain equipment within the substation.

Remote Control Units shall be recorded in Account 362, Station Equipment. The associated operating expenses shall be recorded in Account 582, Station Expenses, and maintenance expenses shall be recorded in Account 592, Maintenance of Station Equipment.

5. *Line Device Transponder.*

A Line Device Transponder directly controls a piece of distribution apparatus, such as a voltage regulator or a power factor correction capacitor, located on a distribution feeder and not accessible to a Remote Terminal Unit. The Line Device Transponder actuates the control functions and reports back to the member system computer upon completion of the requested action. This transponder is located at the site of the distribution apparatus being controlled.

Line Device Transponders shall be recorded in Account 368, Line Transformers. The associated operating expense shall be recorded in Account 583, Overhead Line Expenses, or Account 584, Underground Line Expenses, as appropriate, and maintenance expenses shall be recorded in Account 595, Maintenance of Line Transformers.

6. *Communications Verification Transponders.*

Communication Verification Transponders are used to respond to inquiries from Substation Remote Controllers. In power line based systems, these transponders are used to verify the performance of the

communications system. They are also used during adverse system operations to isolate sections of the distribution system that are experiencing an outage.

Communication Verification Transponders shall be recorded in Account 362, Station Equipment. The associated operating expenses shall be recorded in Account 582, Station Expenses, and maintenance expenses shall be recorded in Account 592, Maintenance of Station Equipment.

7. *Load Control Receivers*

The Load Control Receiver is located at the site of the consumer's load. These receivers directly control the electric supply to an end-use appliance, such as an electric water heater, central air conditioning compressor, or irrigation pump. The amount of time that an appliance will be turned off by the load control receiver is preset. When the member system computer determines that load shedding is necessary, it sends a signal to the communication link which then sends signals directly to the Load Control Receivers. In a power line based system, the signal from the communications link is sent by radio or telephone line to the Substation Injection Units, which then signals the Load Control Receivers to shut down the appliances for the present time. In nonpower line based systems, the signal from the communications link is sent by radio directly to the Load Control Receivers.

Load Control Receivers are located on the consumer's side of the meter. When the member distribution system retains title to the Load Control Receivers and assumes full responsibility for maintenance and replacement of the equipment, it shall be classified in Account 371, Installations on Customer's Premises. Load Control Receivers that are donated or given to consumers shall be charged to Account 908, Customer Assistance Expenses.

Operating and maintenance expenses applicable to Load Control Receivers recorded in Account 371 shall be charged to Account 587, Customer Installations Expenses, and Account 598, Maintenance of Miscellaneous Distribution Plant, respectively. Expenses applicable to Load Control Receivers donated or given to consumers shall be recorded in Account 908, Customer Assistance Expenses.

8. *Communication Links*

The communication link in the member distribution systems between the Member System Computer, the Substation Remote Controllers or Substation Injection Units, Remote Terminal Units, Line Device Transponders, Communication Verification Transponders, and Load Control Receivers is usually accomplished by radio, telephone line, or power line based system. The communication links are normally dedicated to the SCADA and load control functions being served. Under such circumstances, communications equipment shall be recorded in Account 362, Station Equipment. If, however, the communication equipment used is shared with general use or voice communications equipment, the equipment shall be charged to Account 397, Communication Equipment.

9. *Depreciation.*

Load control equipment shall be recorded in separate subaccounts of the primary plant accounts detailed above and shall be depreciated based upon the manufacturer's estimate of the equipment's useful service life.

119 *Special Equipment*

Special Equipment items are classified as such because they are continually being moved from one location to another due to load changes and maintenance practices. The Uniform System of Accounts provides accounting that differs from that used for other types of materials. The cost, new, of special equipment items shall be capitalized at the time of purchase; it shall not be charged to Account 154 as is the case with other materials. The first installation cost, as well as all incidental costs necessary to prepare the equipment for use, shall be capitalized with the material upon purchase. All subsequent costs of removing, resetting, changing, renewing oil, and repairing constitute operations and maintenance expenses. The capitalized cost of special equipment items, including the first installation, shall be removed from the electric plant accounts only when the items are abandoned or retired from the system.

Meters, line-type transformers, oil circuit reclosers, sectionalizers, current and potential transformers, meter sockets, and other metering equipment listed in Account 370, Meters, as well as pole-type and underground voltage regulators in Account 368, Line Transformers, are considered to be special equipment items. Transformers, voltage regulators, metering equipment, and current and potential transformers for substations are not.

Special equipment items which are classified as nonusable shall be segregated in the warehouse and retired from service. The Summary of Special Equipment Costs shall be retitled Summary of Special Equipment Costs Retired and used for this purpose. A journal entry reflecting this information shall be prepared and posted to the books. Since loan funds for special equipment, including first installation costs, are approved for advance by REA upon receipt of the borrower's written estimate of funds required, and not on the basis of an Inventory of Work Orders, it is improper to take a credit for any salvage involved in the retirement of special equipment on the Inventory of Work Orders.

120 *Meter Sockets and Meters*

When a utility furnishes meter sockets, ownership by the utility of the meter socket or base, as well as the meter itself, is established by virtue of them being furnished without cost to the consumer by the cooperative. While no agreement as to ownership between the cooperative and the property owner exists, cooperative ownership is implied by long standing practice and tradition in the electric utility industry.

121 *Minimum-Maximum Voltmeters*

A minimum-maximum voltmeter is used to record the minimum and maximum voltages at a specific line location over a period of time. It is normally installed on a pole in connection with a 1½ kVA transformer, a meter base and connecting wires, and other small items of materials. Meter bases are ordinarily set for these voltmeters throughout the system, and a lesser number of voltmeters are rotated among them periodically to obtain voltage readings. An average system may have one voltmeter to two installations, with a maximum of 20 or 25 voltmeters for the whole system.

Minimum-maximum voltmeters shall be recorded, through work orders, in Account 370, Meters, when installed. The cost of the transformers shall remain in Account 368, Line Transformers, with the cost of the meter bases remaining in Account 370, Meters. The miscellaneous material used in installing the transformer and the meter base shall be charged to Account 370, Meters.

Maintenance expense shall be charged to either Account 595, Maintenance of Line Transformers, or Account 597, Maintenance of Meters, as appropriate. Costs associated with reading the voltmeters shall be charged to Account 583, Overhead Line Expenses, and the cost of relocating or changing the complete installation or any part thereof, other than retirement of the meter base, shall be charged to Account 583, Overhead Line Expenses, or Account 586, Meter Expenses.

122 *Retrofitting Demand Meters*

Demand meters perform two functions. They measure the amount of electricity used over a period of time in

kilowatt-hours (kWh), which is recorded on a mechanical register, and they indicate the maximum kilowatts (kw) required at any one time by means of a pointer.

Electronic or solid state demand meters are more expensive than mechanical demand meters; however, they have a direct readout which can read kilowatt demand to two decimal places. The use of a direct readout may result in a revenue enhancement as pointer readings tend to register lower than actual.

Many borrowers have begun the process of retrofitting (replacing the pointer reading with a direct readout) their demand meters. The cost of such a replacement is normally expensed because it is a minor item of property; however, since the use of a direct readout results in a substantial betterment, these replacement costs shall be capitalized.

123 *Transformer Conversions*

The conversion of an overhead transformer to an underground transformer constitutes a betterment and shall, therefore, be capitalized.

124 *Transclosures*

Transclosures are enclosures or cabinets in which line transformers are mounted. The cost of transclosures that are purchased separately from the transformer shall be charged to Account 154, Plant Materials and Operating Supplies, when received, and capitalized, upon installation, to Account 368, Line Transformers, as a separate unit of property. If the case and the transformer are inseparable, the unit is considered a transformer and shall be capitalized upon purchase.

125 *Retirement Units*

Services

A retirement unit shall consist of a complete service rather than the individual wires comprising that service. If each separate wire of a service were treated as a retirement unit, the retirement unit would represent a comparatively small cost. Such a small unit of property would substantially increase the number of retirement work orders. The complete service shall, therefore, be considered a retirement unit.

Minor Items

When minor items of property are added separately from complete retirement units, the costs of these items shall be included in work orders, and by unitizing all costs of completed construction for a month, these minor items shall be spread to the retirement units of which they normally form a part. For example, to convert a two-phase line to a three-phase line requires the addition of a conductor, an insulator and a pole-top pin. A pole-top pin is typically capitalized as a component of the cost of the pole to which it is attached. Assuming this is the only work order for the month, the cost of this pin shall be charged to the conductor, so that its cost is included in the total cost of the project. In actual practice, however, this does not happen as it is normal to have a number of work orders for a given month, which include the setting of poles. In allocating the cost of all construction projects for the month, part of the cost of pole-top pins shall be allocated to poles even though the work orders on which they were capitalized did not include poles.

The retirement and replacement of isolated single retirement units cannot be charged to maintenance; a retirement and construction work order shall be used.

126 *Establishment of Continuing Property Records*

The costs of installing a system of continuing property records shall be charged to Account 930.2, Miscellaneous General Expenses, and may include:

1. Labor and expenses incurred in developing an inventory of property;

2. Labor and material costs incurred in connection with developing pole records including map preparation and pole cards; and

3. Labor and material costs (ledger sheets, etc.) incurred in connection with the installation of the record system.

127 *Continuing Property Records for Buildings*

When establishing continuing property records for a building where there is no detailed breakdown of contract costs, it is necessary to estimate the cost of the each component part. It should be noted that the establishment of continuing property records is not required for buildings; however, if CPRs are not maintained, all repairs including the replacement of major component parts shall be expensed in the period incurred.

128 *Sale of Property*

All proceeds deposited in the Construction Fund Account from the sale of property, regardless of materiality, shall be reflected on the REA Form 595, Financial Requirement and Expenditure Statement. Proceeds from the sale of property shall be reported on the Form 595, by budget purpose, as a reduction in total expenditures to date, column 5; and an increase in the cash balance, column 6.

Proceeds from the sale of property shall not be used to maintain an "Employee Fund." A utility may, pursuant to board policy, use general funds for employee welfare equivalent in amount to proceeds received from the sale of scrap property. If general funds, in an amount equivalent to proceeds received from the sale of scrap property, are used for employee welfare, Account 926, Employee Pensions and Benefits, shall be charged.

129 *Gain or Loss on the Sale of an Office Building*

A gain on the sale of an office building shall be recorded in Account 421.1, Gain on the Disposition of Property, with a loss recorded in Account 421.2, Loss on the Disposition of Property. If the gain or loss will materially distort current year's net margins, such gain or loss is reportable as an extraordinary item in Account 434, Extraordinary Income, or Account 435, Extraordinary Deductions.

130 *Salvage and Obsolete Material*

The value of material salvaged from the retirement of units of property reduces the loss of the retirement and shall be so applied. The value assigned to salvage shall be credited to Account 108.8, Retirement Work-in-Progress, which results in reducing net charges to the provision for depreciation when the work order is completed and cleared.

If salvage is sold, any difference between the realized value and the estimated value of the salvaged material shall be charged or credited to the appropriate provision for depreciation.

Salvage resulting from maintenance where no retirement units are involved shall be debited to the materials and supplies account, and credited to the appropriate maintenance account.

Occasionally, a utility will have a loss due to obsolescence of materials on hand. If the loss is due to obsolescence of new material, the loss shall be charged to Account 426.5, Other Deductions. If the loss is due to obsolescence of used material, the loss shall be charged to the appropriate subaccount of Account 108, Accumulated Provision for Depreciation.

131 *Plant Acquisition Adjustments*

Plant acquisition adjustments shall be amortized to the operating expense accounts. These adjustments are recorded in Account 114, Electric Plant Acquisition Adjustments, and amortized to Account 406, Amortization of Electric Plant Acquisition Adjustments, or Account 425, Miscellaneous Amortization, as required by the regulatory commission having jurisdiction. Accounts 406 and 425 shall be closed to operating margins.

132 *General Plant*

When the unit method of depreciation is used for general plant items, gains and losses on sales, trades or disposals of equipment shall be recorded as such. If the composite method of depreciation is used, gains or losses on the disposal of general plant items shall be recorded in the appropriate depreciation reserve account.

A truck which is used only for transporting power operated equipment mounted thereon shall be charged, together with the installed equipment, to Account 396, Power Operated Equipment. If the same type of truck is used for transporting materials and supplies, tools and work equipment, personnel, or other items, the cost of the truck shall be charged to Account 392, Transportation Equipment.

Depreciation and other expenses relating to power operated equipment shall be accumulated in a subaccount of Account 184, Clearing Accounts, and distributed monthly on an equitable basis to the accounts properly chargeable.

Depreciation expense on vehicles and other work equipment, furniture and office equipment, and other such plant used in the construction of utility plant, is a proper component of construction cost. To avoid a duplicate advance of funds, however, the amount of depreciation on such items that has previously been financed from loan funds shall be deducted from Inventories of Work Orders submitted to REA. This amount shall be specifically identified, and shown either monthly or annually as a single item in column 9 on the REA Form 219, Inventory of Work Orders.

133 *Plant Abandonments and Disallowances of Plant Costs*

In December 1986, the FASB issued Statement of Financial Accounting Standards No. 90, (Statement No. 90), Regulated Enterprises—Accounting for Abandonments and Disallowances of Plant Costs. This section provides an overview of the requirements outlined in Statement No. 90 together with the specific accounts that shall be used to record a plant abandonment or a disallowance of plant costs.

Plant Abandonments

When an abandonment becomes probable, the cost of the abandoned asset shall be removed from Construction Work-in-Progress or Plant-in-Service, as applicable. Before making this transfer, however, a determination must be made as to whether recovery of the allowed cost is likely to be provided with a full return on the investment during the period from the time the abandonment becomes probable, to the time when recovery is completed, or with a partial or no return on the investment. This determination shall be made based upon the facts and circumstances on the specific abandonment, and past practices and current policies of regulatory jurisdiction.

If a full return on the investment is likely to be provided, any disallowance of all or part of the cost of abandoned plant that is both probable and reasonably estimated shall be recognized as a loss in the current year with the carrying basis of the asset reduced by an equal amount. The remaining cost of abandoned plant shall be recorded as a separate new asset.

If partial or no return on the investment is likely to be provided, any disallowance of abandoned plant costs that is both probable and reasonably estimated shall be recognized as a loss. The present value of the future revenues expected to be provided to recover the allowable cost of the abandoned plant and return on the investment, if any, shall be reported as a separate new asset. The discount rate used to compute the present value shall be the borrower's incremental borrowing rate, which is the rate that the borrower would have to pay to borrow an equivalent amount for a period equal to the expected recovery period. In determining the value of expected future revenues, the borrower shall consider the probable time period before the recovery is expected to begin and the probable time period over which recovery is expected to be provided.

The amount of the new asset shall be adjusted from time to time, as necessary, if new information indicates that the estimates used to record the new asset have changed. The carrying value of the new asset, however, shall not be adjusted for changes in the incremental borrowing rate. The amount of any adjustments shall be recorded as a gain or loss.

During the period between the date on which a new asset is recognized and the date on which recovery begins, the carrying amount shall be increased by accruing a carrying charge. The rate used to accrue the carrying charge shall be:

1. If a full return on the investment is likely, a rate equal to the allowed overall cost of capital in the jurisdiction in which recovery is expected to be provided shall be used.

2. If partial or no return is likely, the asset shall be amortized in a manner that will produce a constant return on the unamortized investment in the new asset equal to the rate at which the expected revenues were discounted.

Due to the nonprofit environment in which electric cooperatives operate, full recovery of interest expense on plant related long-term debt equates to full recovery of the rate of return for an investor-owned utility. Therefore, if a cooperative is permitted full recovery of the interest expense incurred on the long-term debt borrowed to finance construction of an abandoned plant, no discounting of the asset is required nor is accrual of the carrying charge permitted.

If, at the time the provisions of FASB No. 90 are first applied, the borrower elects to restate the financial statements, the financial statements for all periods presented shall be restated and the financial statements shall disclose the nature of the restatement and its effect on margins before extraordinary items, net margins, and patronage capital at the beginning of the earliest period presented. If the borrower elects not to restate the financial statements, the effect of applying FASB No. 90 shall be reported as a change in accounting principle and the financial statement shall disclose the nature of the change and the effect of applying Statement No. 90 on margins before extraordinary items and net margins.

The specific accounts that shall be used to record transactions involving plant abandonments are as follows:

1. In the year of the abandonment, the unrecoverable portion of the cost of abandoned plant included in construction work-in-progress shall be recongized as a loss by a charge to Account 426.5, Other Deductions, and a credit to Account 107, Construction Work-in-Progress.

2. The balance of the cost remaining in the construction work-in-progress account shall be credited to Account 107 and charged to Account 182.2, Unrecovered Plant and Regulatory Study Costs.

3. The difference between the charge to Account 182.2 and the present value of expected future revenues for recovery of the new asset, shall be recorded as a credit to Account 182.2 and a debit to Account 426.5. The credit to Account 182.2 shall be segregated from the amount charged to Account 182.2 by the use of a separate subaccount. Statement No. 90 does not require this segregation; however, it is necessary under the Uniform System of Accounts (USoA) to provide for the appropriate segregation of operating and nonoperating income.

4. During the waiting period for recovery of the new asset to begin,

carrying charges shall be accrued by a debit to Account 182.2 with a concurrent credit to Account 421, Miscellaneous Nonoperating Income. Debits to Account 182.2 shall be treated as reductions to the credit subaccount of Account 182.2.

5. The borrower shall amortize the amount debited to Account 182.2 by charges to operating income, consistent with the way the amortized amounts are recovered through rates. These charges to income shall be recorded in Account 407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs.

6. As the recoverable amount recorded in Account 182.2 is recovered through rates, the borrower shall accrue income by charges to Account 182.2 and credits to Account 421, Miscellaneous Nonoperating Income. Accruals shall be computed by applying the same rate used to derive the present value of the asset established in Account 182.2, to the unamortized balance in that account. Accrued amounts charged to Account 182.2 shall be treated as reductions to the credit subaccount within Account 182.2.

Prior to implementing the accounting prescribed above, the borrower shall submit the details of each plant abandonment to REA for approval.

Disallowances of Costs of Recently Completed Plant

When it becomes probable that a portion of the cost of recently completed plant will be disallowed for rate making purposes and a reasonable estimate of the amount of the disallowance can be made, the estimated amount of the probable disallowance shall be deducted from the reported cost of the plant and recognized as a loss. If a portion of the costs is explicitly, but indirectly disallowed, the equivalent amount of the cost shall be deducted from the reported cost of the plant and recognized as a loss.

The specific accounts that shall be used to record transactions involving the disallowance of plant costs are as follows:

1. Estimated disallowed plant costs which the borrower records as a credit to Account 101, Electric Plant-in-Service, shall be charged to Account 426.5, Other Deductions.

2. If the loss qualifies as an extraordinary item under the criteria set forth in General Instruction No. 7 of the USoA, the borrower shall record the loss in Account 435, Extraordinary Deductions. To be considered extraordinary, an item shall be more than five percent of income computed before extraordinary items. If a borrower believes that a loss of less than five percent should be treated as an extraordinary item; the borrower shall, with commission approval, record the loss in Account 435 and report the loss as an extraordinary item. If the borrower is not subject to state commission jurisdiction, REA approval is required.

134 *Utility Plant Phase-in Plans*

In August 1987, the FASB issued Statement of Financial Accounting Standards No. 92 (Statement No. 92), Regulated Enterprises—Accounting for Phase-in Plans. This section provides an overview of the requirements outlined in Statement No. 92.

The term phase-in plan is used to refer to any method of recognition of allowable costs in rates that meets all of the following criteria:

1. The method was adopted by the regulator in connection with a major, newly completed plant of the regulated enterprise or one of its suppliers or a major plant scheduled for completion in the near future.

2. The method defers the rates intended to recover allowable costs beyond the period in which those allowable costs would be charged to expense under generally accepted accounting principles applicable to enterprises in general.

3. The method defers the rates intended to recover allowable costs beyond the period in which those rates would have been ordered under the rate-making methods routinely used prior to 1982 by that regulator for similar allowable costs of that regulated enterprise.

If a phase-in plan is ordered by a regulator in connection with a plant on which no substantial physical construction had been performed before January 1, 1988, none of the allowable costs that are deferred for future recovery by the regulator under the plan for rate-making purposes, shall be capitalized for general-purpose financial reporting purposes (financial reporting).

If a phase-in plan is ordered by a regulator in connection with a plant completed before January 1, 1988, or a plant on which substantial physical construction had been performed before January 1, 1988, the criteria specified below shall be applied to that plan. If the phase-in plan meets all of those criteria, all allowable costs that are deferred for future recovery by the regulator under the plan shall be capitalized for financial reporting purposes as a separate asset (a deferred charge). If any one of those criteria is not met, none of the allowable costs that are deferred for future recovery by the regulator under the plan shall be capitalized for financial reporting. The criteria for determining whether capitalization is appropriate are:

1. The allowable costs in question are deferred pursuant to a formal plan that has been agreed to by the regulator;

2. The plan specifies the timing of recovery of all allowable costs that will be deferred under the plan;

3. All allowable costs deferred under the plan are scheduled for recovery within 10 years of the date when the deferral began; and

4. The percentage increase in rates scheduled under the plan for each future year is no greater than the percentage increase in rates scheduled under the plan for each immediately preceding year. That is, the scheduled percentage increase in year two is no greater than the percentage increase granted in year one, the scheduled percentage increase in year three is no greater than the percentage increase in year two, etc.

By definition, a phase-in plan approved prior to 1982 that contains provisions contrary to those detailed above is not subject to the provisions of Statement No. 92. This exemption, however, only relates to a specific utility and a specific regulator. For example, a utility cannot use a phase-in plan approved by its regulator for a different utility as justification for its phase-in plan exceeding the 10-year limit imposed by Statement No. 92.

A phase-in plan is a method of rate making intended to moderate a sudden increase in rates while providing the regulated enterprise with recovery of its investment and a return on that investment during the recovery period. A disallowance is a rate-making action that prevents the regulated enterprise from recovering either some amount of its investment or some amount of return on its investment. Statement No. 90 specifies the accounting for disallowances of plant costs (see item 133 of this regulation). If a method of rate making that meets the criteria for a phase-in plan includes an indirect disallowance of plant costs, that disallowance shall be accounted for in accordance with Statement No. 90.

Cumulative amounts capitalized under phase-in plans shall be reported as a separate asset in the balance sheet. The net amount capitalized in each period or the net amount of previously capitalized allowable costs recovered during each period shall be reported as a separate item of other income or expense in the income statement. Allowable costs capitalized shall not be reported as reductions of other expenses.

The terms of any phase-in plan in effect during the year or ordered for

future years shall be disclosed in the financial statements. Statement No. 92 does not permit capitalization for financial reporting of allowable costs deferred for future recovery by the regulator pursuant to a phase-in plan that does not meet the criteria or a phase-in plan related to plant on which substantial physical construction was not completed before January 1, 1988. Nevertheless, the financial statements shall include disclosures of the net amount deferred at the balance sheet date for rate-making purposes, and the net change in deferrals for rate-making purposes during the year for those plans.

If the provisions of Statement No. 92 are applied retroactively, the financial statements of all periods presented shall be restated. In addition, the restated financial statements shall, in the year that Statement No. 92 is first applied, disclose the nature of any restatement and its effect on margins before extraordinary items, net margins, and on patronage capital at the beginning of the earliest period presented. If the financial statements for prior years are not restated, the effects of applying Statement No. 92 to existing phase-in plans shall be reported as a change in accounting principle and the financial statements shall disclose the effect of adopting Statement No. 92 on margins before extraordinary items and net margins.

The application of Statement No. 92 to an existing phase-in plan shall be delayed if both of the following conditions are met:

1. The enterprise has filed a rate application to have the plan amended to meet the criteria of Statement No. 92 or intends to do so as soon as practicable; and

2. It is reasonably possible that the regulator will change the terms of the phase-in plan so that it will meet the criteria of Statement No. 92.

If the above conditions are met, the provisions of Statement No. 92 shall be applied to the existing phase-in plan on the earlier of the date when one of the conditions ceases to be met or the date when the final rate order is received, amending or refusing to amend the phase-in plan. However, if the enterprise delays filing its application for the amendment or the regulator does not process the application in the normal period of time, the application of Statement No. 92 shall not be further delayed.

In applying the criteria of Statement No. 92 to a plan that was in existence prior to the first fiscal year beginning after December 15, 1987, and that was revised to meet that criteria, the 10-year criterion and the requirement concerning the percentage increase shall be measured from the date of the amendment rather than from the date of the first scheduled deferrals under the original plan. All phase-in plans must receive REA approval prior to implementation.

135 *Accounting for Removal or Relocation of Electric Facilities Resulting From the Action of Others*

Under arrangements with another party, a borrower agrees, or is obliged, to remove, relocate, rearrange, or otherwise make changes in utility property, other than for the purpose of rendering utility service to the other party, for which the utility is reimbursed for all or a portion of the costs incurred.

Plant Accounting

The relocation of the line shall be accounted for as follows:

a. If all of the assemblies in the line are retired or completely removed and later reinstalled or if the line is constructed in a new location before the old line is removed, construction and retirement work orders shall be prepared except for the costs relating to special equipment items (transformers, oil circuit reclosers, etc.) which shall be charged to operations expense.

b. If a line is moved in its entirety to a new location except for isolated retirement units (such as at the end of the line) or poles not suitable for resetting, the cost of moving the portion of line that is moved intact shall be charged to maintenance expense while the cost related to the change in isolated retirement units or the replacement of poles not suitable for resetting shall be accounted for through use of construction and retirement work orders.

c. If a line is moved intact without any change in assemblies, the cost shall be charged to maintenance expense.

Reimbursement

If the borrower receives reimbursement for the costs related to the relocation of the line, the reimbursement shall be accounted for by crediting operation and maintenance expenses to the extent of actual expenses occasioned by the plant changes and crediting the remainder to the accumulated provision for depreciation, unless contractual terms definitely characterize residual or specific amounts as applicable to the cost of replacement. In the latter event, appropriate credits shall be entered in the plant accounts.

Reimbursement received from a telephone company for adding a pole or replacing a present pole with a taller pole under joint use contracts falls within this latter category. In this instance, appropriate credits are charged against the plant accounts.

Financing

The total reimbursement, less any portion for operations and maintenance costs, shall be entered in the "Contributions in Aid of Construction" section at the bottom of the Construction Work Order. When the Inventory of Work Orders (REA Form 219) is prepared, enter only enough of the contribution in column 9 to reduce to zero the amount in column 10, "Loan Funds Subject to Advance by REA." This entry is made although none of the reimbursement received is recorded in the accounting records as a contribution in aid of construction.

201 *Supplemental Financing*

Many borrowers secure additional financing from sources other than REA. CFC was established to provide a source of supplemental financing. Although the accounting provided in this section refers to CFC, it is applicable to other sources of supplemental financing as well.

1. *Membership Fees*

When a membership fee is paid to CFC, the payment shall be recorded as a debit to Account 123.23, Other Investments in Associated Organizations.

2. *Subscriptions*

The subscription agreement to purchase Capital Term Certificates (CTCs) is a binding obligation to pay an initial subscription in equal annual payments over the first three years and an additional annual subscription payable in the fourth through fifteenth years.

The annual subscriptions to CFC for the fourth through fifteenth years is 2.0 percent of total operating revenues after deducting the cost of power. Using the best data available, each borrower shall estimate the amount of CTCs that are required to be purchased. Estimates are not expected to be precise and adjustments shall be made when future projections indicate a change is needed. When the agreement to purchase CTCs is made, an entry shall be recorded debiting Account 123.21, Subscriptions to Capital Term Certificates—Supplemental Financing, and crediting Account 224.11, Other Long-Term Debit-Subscriptions. When the CTCs are actually purchased, the following entries shall be recorded:

Dr. 224.11, Other Long-Term Debt—Subscriptions. Cr. 131.1, Cash—General

Dr 123.22, Investments in Capital Term Certificates—Supplemental Financing. Cr. 123.21, Subscriptions to Capital Term Certificates—Supplemental Financing.

3. *Interest Receipts*

Interest accrues monthly to the holder of CTCs at a rate in accordance with the terms of the CFC Invitation to Subscribe. The accrual of interest and the receipt of interest proceeds shall be recorded as follows:

Dr. 171, Interest and Dividends Receivable. Cr. 419, Interest and Dividend Income. To the record the monthly accrual of interest.

Dr. 131.1, Cash—General. Cr. 171, Interest and Dividends Receivable. To record the receipt of interest proceeds from the investment in CTCs.

Note: Any amounts received in excess of the previous accruals shall be credited to Account 419.

Interest penalties may be charged by CFC for late payments on any subscription from the date that the payment was due to the date that the payment was actually received. Such charges shall be expensed to Account 431, Other Interest Expense.

4. *Notes*

If a note is due more than one year after the date of the note, the appropriate subaccount of Account 224, Other Long-Term Debt, shall be credited. If the note is due less than one year from the date of the note, Account 231, Notes Payable, shall be credited.

When a loan from CFC has been consummated and a note is executed, Account 224.13, Supplemental Financing Notes Executed—Debit, shall be debited; and Account 224.12, Other Long-Term Debt—Supplemental Financing, credited. When a loan from another source has been consummated, Account 224.15, Notes Executed—Other—Debit, shall be debited; and Account 224.14, Other Long-Term Debt—Miscellaneous, credited.

5. *Loan Proceeds*

Cash proceeds from unsecured short-term loans shall be deposited into the General Fund Account. Cash proceeds from all secured loans shall be deposited into the Construction Fund Trustee Account.

From two to seven percent, depending upon the class of borrower and its debt-equity ratio, of each CFC loan is applied to the purchase of Capital Term Certificates. At the time of a borrower's first requisition under the CFC loan, the following entry shall be recorded:

Dr. 131.21, Cash—Construction Fund—Trustee

Dr. 123.22, Investments in Capital Term Certificates—Supplemental Financing. Cr. 224.13, Supplemental Financing Notes Executed—Debit.

6. *Capital Credits*

As a result of borrowing from CFC or other lenders organized on a cooperative basis, a borrower may receive capital credit allocations. These allocations are usually based upon the borrower's participation in the lending program with participation measured by the amount of interest expense and conversion costs incurred.

To account for patronage capital allocations from cooperative lenders, the following journal entries shall be recorded:

Dr. 123.1, Patronage Capital from Associated Cooperatives. CR 424, Other Capital Credits and Patronage Capital Allocations. To record the allocation of capital credits from a cooperative lender.

Note: If any portion of the interest expense was capitalized as a component of construction cost, a similar portion of the capital credit allocation shall be credited to construction rather than to Account 424. The portion credited to construction shall be determined by applying the percentage of interest expense charged to construction for that particular lender to the interest expense incurred for that lender.

Dr. 131.1, Cash—General Cr. 123.1, Patronage Capital from Associated Cooperatives. To record the cash receipt of patronage capital credits from cooperative lenders.

301 *Forfeited Customers' Deposits*

Customers may be required to make deposits to guarantee payment of amounts billed for electric service. When a customer discontinues service, the customer's deposit shall first be applied to unpaid energy bills, with the balance remitted by check to the customer. If the check is returned, it shall be voided and the original entry that was made when the check was issued shall be reversed.

Unclaimed balances of customer deposits shall remain in Account 235, Customer Deposits, until the legal liability of the cooperative to make such a refund has elapsed. When there is no further legal liability to refund the deposit and if it does not escheat to the state, it shall be transferred to Account 144, Accumulated Provision for Uncollectible Customer Account—Credit, retaining full information of all particulars.

401 *Computer Software Costs*

Computer software consists of programs and routines (sets of computer instructions) which direct the operation of the computer. Software may refer to generalized routines useful in computer operations or to programs for specific applications such as payroll.

The distinction between generalized software and application software is important. Generalized software provides operating support for individual applications. This would include programs for such tasks as making printouts of machine-readable records, sorting records, organizing and maintaining files, translating programs written in a symbolic language into a machine-language instructions, and scheduling jobs through the computer. These programs are generally furnished by the manufacturer.

Application software consists of a set of instructions for performing a particular data processing task. Application programs are generally written by the user installation, but are frequently obtained as prewritten packages from software vendors. Application software includes programs such as payroll, billing, general ledger, as well as engineering or managerial applications.

Costs incurred with the purchase and/or development of computer software shall be accounted for as follows:

1. Capitalize in a subaccount of Account 391, Office Furniture and Equipment, all costs for generalized software. Depreciate the cost over the service life (or remaining life) of the main hardware (i.e., containing central processor). If the purchase invoice does not break out or assign a cost to the "generalized software," it is appropriate to include the full amount in hardware costs. Defer in Account 186, Miscellaneous Deferred Debits, the cost of all applications software determined to have a service life of over one year. Amortize this cost over the estimated useful life of the program. This amortization period shall not exceed five (5) years. We realize, however, that there may be circumstances that justify a useful life longer than 5 years. When this is the case and it is management's intent to utilize these programs over an extended period, written justification shall be submitted to REA for approval.

2. Expense, in the period incurred, all costs associated with the maintenance, updating, and conversion of files or revision of all software, and all costs for software with a useful life of less than 1 year. Also, expense the unamortized cost of all software determined, during the year, to be no longer used by or useful to the cooperative.

In determining the total cost of purchased or internally developed software, the following items shall be included:

a. Costs incurred for feasibility studies if they result in the purchase or development of software;

b. All costs related to the actual purchase or development of the

software. These costs must be specifically identifiable with the software and properly supported by time cards, invoices, or other documents; and

c. All costs incurred in "testing and debugging" the software.

Computer software costs are properly chargeable to Account 107, Construction Work-in-Progress, provided that the following criteria are met:

1. The computer program is specifically dedicated to performing a construction related activity, and

2. The cost of the software is itemized separate and apart from other hardware and software costs.

The cost of software programs meeting the above requirements and having an estimated useful service life in excess of 1 year shall be recorded in Account 186, Miscellaneous Deferred Debits, and amortized to Account 107, Construction Work-in-Progress, over the estimated service life of the program not to exceed 5 years.

All costs related to training personnel in the use of software shall be expensed as incurred.

The accounting in this section is not intended to apply to immaterial amounts. When it is deemed that the costs of the recordkeeping necessary to amortize these costs outweigh the benefits to the patrons, software costs shall be expensed in the year incurred.

For computer costs relating to load control equipment, refer to Item 118 of this section.

402 *Legal Expenses*

Utilities may incur legal expenses which pertain to construction activities, loan activities, or general services. The proper accounting treatment for legal expenses is as follows:

1. Legal fees incurred in connection with a construction project, including the court costs directly related thereto, which can be identified and supported as such, shall be capitalized in Account 107, Construction Work-in-Progress, as a cost of construction.

2. Legal fees specifically identified and properly supported as resulting from activities designed to obtain long-term debt, shall be deferred in Account 181, Unamortized Debt Expense.

3. Legal fees for all other services and fees which cannot be properly identified will require expensing to either Account 417.1, Expenses of Nonutility Operations, or Account 923, Outside Services Employed, as appropriate.

To properly support the capitalization or deferral of legal fees, the attorney shall provide an itemization of services performed and the corresponding costs. Only those costs specifically identified by the attorney as being related to construction or loan activities shall be capitalized or deferred as described above.

403 *Leases*

Lease transactions shall be accounted for as either a capital lease or an operating lease depending upon whether or not the lease meets the criteria for classification as a capital lease. The definitions for capital and operating leases and the criteria used to determine which method shall be used are as follows:

Definitions

1. *Capital Lease:* A lease that transfers substantially all of the benefits and risks inherent in the ownership of the property to the lessee, who accounts for the lease as an acquisition of an asset and the incurrence of a liability.

2. *Operating Lease:* An operating lease is a simple rental agreement which does not meet the criteria for a capital lease. Under the terms of an operating lease, the lessee records the rental payments due over the term of the lease as rent expense.

Criteria

A lease agreement shall be classified as a capital lease if one or more of the following criteria is met:

1. Ownership of the property is transferred to the lessee by the end of the lease term;

2. The lease contains a bargain purchase option;

3. The lease term is equal to 75 percent or more of the estimated useful life of the leased property; or

4. The present value of the lease payments at the inception of the lease equals or exceeds 90 percent of the fair market value of the leased property.

A lease agreement qualifying as a capital lease shall be recorded in either Account 101.1, Property Under Capital Leases; Account 120.6, Nuclear Fuel Under Capital Leases; or Account 121, Nonutility Property, as appropriate, at the present value (at the beginning of the lease term) of the minimum lease payments. If, however, this amount exceeds the fair value of the leased property at the inception of the lease, the asset shall be recorded at its fair market value. An offsetting credit shall be recorded in Account 227, Obligations Under Capital Leases—Noncurrent, with the current portion recorded in Account 243, Obligations Under Capital Leases—Current. Assets recorded in Account 101.1 shall be classified separately according to the detailed accounts (301–399) provided for electric plant in service.

Monthly payments made under the lease obligation shall be charged to rent expense, fuel expense, or construction work-in-progress as they become payable. Similarly, the leased asset and the associated obligation shall be reduced by the current amount due.

The following journal entries shall be used by the lessee to record capital lease transactions:

Dr. 101.1, Property Under Capital Leases
  Cr. 243, Obligations Under Capital Leases—Current
  CR. 227, Obligations Under Capital Leases—Noncurrent
To record the capital lease agreement.
Dr. 550, Rents
  Cr. 232, Accounts Payable
Dr. 243, Obligations Under Capital Leases—Current
  Cr. 101.1, Property Under Capital Leases
To record the monthly rental payment due.
Dr. 232, Accounts Payable
  Cr. 131.1, Cash—General
To record the monthly lease payment.

Operating leases which are simple rental agreements do not require the recording of an asset or a liability. The entries that are required to record an operating lease by the lessee are as follows:

Dr. 550, Rents
  Cr. 232, Accounts Payable
To record the monthly rental payment due.
Dr. 232, Accounts Payable.
  Cr. 131.1, Cash—General
To record the monthly lease payment.

501 *Patronage Capital Assignments*

Accounting for patronage capital and margins may vary depending upon the individual cooperative's bylaws. The comments contained in this section relate to the application of the standard bylaw provisions.

The entries required, at year's end, to record patronage capital transactions where there is no major merchandising program are as follows:

Dr. 219.1, Operating Margins
Dr. 219.2, Nonoperating margins
  Cr. 201.2, Patronage Capital Assignable
To record the amount of patronage capital assignable.
Dr. 201.2, Patronage Capital Assignable
  Cr. 201.1, Patronage Capital Credits
To record the allocation of patronage capital to the patrons' accounts.

The procedure for determining the amount of patronage capital assignable to the individual patron on a total dollar basis is as follows:

1. Determine the total amount to be assigned for the year (Account 201.2).

2. Determine patronage from electric service, the total of consumers' billings (Accounts 440–447).

3. Determine the percentage factor to be used in calculating patronage capital

to be credited to each consumer account. Divide "1" by "2".

4. Determine the amount of capital to be credited to each consumer. Multiply the individual consumer's billings for the year by the percentage factor obtained in "3" above.

The procedure for determining the amount of patronage capital assignable to the individual patron on a dollar basis, less the cost of power, is as follows:

1. Determine the total amount to be assigned for the year.

2. Determine the total amount of revenue received from each classification of customers.

3. Determine the total cost of power for each classification of customers (For example, use cost per kWh sold).

4. For each classification of customers subtract the amount obtained in "3" from the amount obtained in "2," to obtain the total amount received, less cost of power, by classification of customers.

5. Add the amounts obtained in "4" to obtain the total amount of revenue, less cost of power.

6. Divide the total amount received, less cost of power for each classification of customers (amounts obtained in "4"), by the total amount received, less cost of power for all customers (amount obtained in "5") to obtain the prorata percentage for each classification of customers.

7. Multiply the total amount to be allocated (amount obtained in "1") by the prorata percentage for each classification of customers (obtained in "6") to obtain the amount to be assigned each classification of customers.

8. Divide the amount to be assigned each classification of customers (amount obtained in "7") by the total amount received from the classification of customers (amount obtained in "2") to obtain the percentage factor for each classification of customers.

9. Determine the total amount received from each individual customer.

10. Multiply the total amount received from each individual customer (amount obtained in "9") by the percentage factor for his classification (amount obtained in "8") to obtain the amount of capital to be assigned each individual customer.

After calculating the patronage capital to be credited to each customer, there is usually a small balance remaining. This small balance shall remain in Account 201.2, Patronage Capital Assignable, and shall be added to the amount to be assigned in the following year.

Proper records shall be maintained to support all capital credit transactions. As a minimum, these records shall show, for each patron, the amount of capital credited for each year as well as the amount and date retired for each year.

The process of transferring capital credits from the Patronage Capital Assignable accounts to the Patrons' Capital Credits Assigned accounts or to the Patrons' Capital Credits accounts and the making of entries to individual patron's records constitutes an assignment of capital credits. This holds true for recordkeeping purposes as well as from a legal point of view. This assignment shall be followed by formal notification to patrons within a reasonable period of time.

In the event that a distribution cooperative incurs a net loss, that loss shall not be allocated to its members (patrons). The loss shall be accumulated and offset by future nonoperating margins.

502 *Patronage Capital Retirements*

As the board of directors has the responsibility for determining whether the financial condition of the cooperative will permit retirement of capital credits and whether the proposed retirement complies with mortgage and bylaw provisions, the authorization for the retirement shall be set forth in the board minutes. The entries to record the general retirement of capital credits shall be as follows:

Dr. 201.1, Patronage Capital Credits
  Cr. 238.1, Patronage Capital Payable
To record the board of directors' authorization to make payments of capital credits.

Dr. 238.1, Patronage Capital Payable
  Cr. 131.1, Cash—General.
To record actual cash payments of capital credits.

Note: To provide better control over the payment of patronage capital credits, a special checking account should be established in an amount equal to the authorized general retirement. Special prenumbered checks shall be used for each general retirement of patronage capital.

To strengthen internal control and to facilitate the settlement of estates, the board should adopt a policy specifying exactly how payments of capital credits shall be made to the estates of deceased patrons. Payments made to estates shall be recorded as follows:

Dr. 201.1, Patronage Capital Credits
  Cr. 131.1, Cash—General
To record the payment of capital credits when an estate is settled by refunding 100 cents on the dollar.

Dr. 201.1, Patronage Capital Credits
  Cr. 131.1, Cash—General
  Cr. 217, Retired Capital Credits—Gain
To record the payment of capital credits when an estate is settled for less than the full amount of capital credited to the deceased customer's account.

Dr. 217, Retired Capital Credits—Gain
  Cr. 201.2, Patronage Capital Assignable
To record the reallocation to current patrons of the amount of the discount, if provided for in the bylaws.

If a capital credit check is returned due to an inability to locate the patron, it shall be held pending a recheck of available records to ascertain the correct address of the patron. If it is determined that the patron cannot be located, the check shall be cancelled and the amount of the check debited to Account 131.1, Cash—General, and credited to Account 217, Retired Capital Credits—Gain. If the State, however, has unclaimed property laws to which the amount is subject, the amount shall be credited to Account 253, Other Deferred Credits, until final disposition has been made. A notation shall be made in the records of the former patron to facilitate payment if his or her whereabouts is subsequently determined.

If the records show that a number of former patrons have moved and left no forwarding address, it is not necessary to prepare a capital credit retirement check for these patrons when a general retirement of capital credits is made. When setting funds aside to make a general retirement, however, appropriate amounts shall be included to cover payments due these patrons. The cooperative shall then make a reasonable effort to locate these patrons through publication of their names in the newsletter or local newspaper. If the patrons are not located, the amounts set aside and the credits to their accounts shall be handled in a manner similar to those for whom payment checks are returned.

Under the standard bylaw provisions recommended by REA, it is not proper to use capital credits that were assigned to former patrons to liquidate their delinquent bills. When the standard bylaws are in effect and collection efforts have failed, the balance of an uncollectible bill, after application of customers deposits and membership fees, shall be charged against the accumulated provision for uncollectible accounts. If the patron has capital credits assigned to him or her, these remain untouched except for a notation to indicate the amount of the unpaid bill. When a general retirement of capital credits is made at some future date, amounts which would otherwise be due the patron may be applied to satisfy the unpaid bill with the balance refunded to him or her.

503 *Operating and Nonoperating Margins*

Occasionally questions arise concerning the accounting for the balances in Accounts 218, Capital Gains and Losses; 219.3, Other Margins; 219.4, Other Margins and Equities—Prior Periods; 434, Extraordinary Income; and 435, Extraordinary Deductions. The balance in these accounts shall be accounted for as follows:

1. The balance in Account 219.4, Other Margins and Equities—Prior Periods, shall be transferred, at year's end, to Account 219.1 or 219.2, as appropriate. Accounts 219.1 and 219.2 are then closed to Account 201.2, Patronage Capital Assignable, unless otherwise provided for in the bylaws.

2. The balances in Account 434, Extraordinary Income, and Account 435, Extraordinary Deductions, shall be cleared to Account 219.2 at year's end.

3. The balances in Account 219.3, Other Margins, and Account 218, Capital Gains and Losses, shall remain in these accounts unless they are allocated to patrons or used to absorb future losses as provided for in the bylaws of the cooperative.

When a cooperative is engaged in a major merchandising activity, all costs properly chargeable to the merchandising activity shall be allocated as such to offset the associated revenue. Nonoperating margins generated from this source shall be prorated annually on a patronage basis and credited to those patrons' accounts from whom such amounts were obtained. Merchandising activities of this nature may require a bylaw provision allowing for the allocation of margins generated by a major merchandising activity separate from other operating or nonoperating margins.

If, at the time of the adoption of the bylaw provisions for the allocation of nonoperating margins, there are prior years' losses resulting in debit balances in Accounts 218, Capital Gains and Losses; 219.1, Operating Margins; 219.2, Nonoperating Margins; or 219.3, Other Margins; the credit balances in Accounts 218, 219.2, or 219.3 resulting from prior years' operations shall be transferred, to the extent necessary, to offset such deficits. If the board determines that amounts shall be allocated to prior years' patrons, the credit balances remaining in these accounts shall be transferred to Account 201.2, Patronage Capital Assignable.

If there are current year's losses resulting in debit balances in either Account 219.1 or 219.2, credit balances in Accounts 219.2, 219.3, and 218 shall be transferred, to the extent necessary, to offset such deficits. Remaining credit balances allocable to patrons shall be transferred to Account 201.2.

504 *Patronage Capital from G&T Cooperatives*

When a cooperative receives capital credits from a G&T cooperative, the transaction shall be recorded as a debit to Account 123.1, Patronage Capital from Associated Cooperatives, and a credit to Account 423, Generation and Transmission Cooperative Capital Credits. This entry shall be made prior to the closing of the cooperative's books even though, in most cases, the notice of the G&T allocation is not received until after the close of the year to which it relates. If precise information cannot be obtained from the G&T within a reasonable time, capital credits shall be recorded on an estimated basis. The difference between the estimated amount and the actual shall be recognized in the following year unless the difference is material.

A distribution cooperative shall not recognize its proportionate share of losses incurred by the G&T. G&T losses shall be accumulated and offset as provided for in the bylaws. Unlike distribution cooperatives, a G&T has the option to offset accumulated losses with future operating and/or nonoperating margins.

505 *Patronage Capital Furnished by Other Cooperative Service Organizations*

Utilities may obtain long-term and short-term loans, telephone or data processing services, or may purchase oil, gasoline, materials, insurance, and various items from cooperative or mutual enterprises. These enterprises often make patronage refunds or provide evidence that an amount equal to such a refund has been credited to the utility as an investment of capital. The refund may be in the form of cash in the year following the purchase or it may be deducted from the next invoice. The notice of patronage credited to the borrower's account may indicate that such capital may be retired at some future date upon certain conditions having been met. The following provides for the accounting journal entries for these types of transactions:

1. Insurance policy refunds from mutual companies, in cash or as credits against subsequent purchases, shall be credited to the appropriate expense account. If sufficient information is not available to credit the refunds to the appropriate expense accounts, they shall be credited to Account 165, Prepayments, and reduce premiums for the current year.

2. Patronage capital allocations from cooperatives, other than mutual insurance companies, shall be credited, in the year that the allocation notice is received, to Account 424, Other Capital Credits and Patronage Allocations, or to construction work-in-progress, as appropriate. The allocation of patronage capital credits between Account 424 and construction work-in-progress shall be made on an equitable basis. For example, patronage capital allocations received from a cooperative money lender are allocated between Account 424 and construction work-in-progress based upon the ratio of interest charged to construction for that particular lender to total interest expense incurred for that lender. Patronage capital allocations received from a material supplier are allocated based upon the ratio of materials charged to construction to total materials purchased.

3. The face amount of patronage capital certificates received by the cooperative from the purchase of goods or services from cooperative money lenders (CFC), oil dealers, material suppliers, pole treating plants, communications services, and others shall be charged to either Account 123.1, Patronage Capital from Associated Cooperatives, or Account 124, Other Investments, as appropriate. Account 123.1 shall include investments in only those cooperatives, or enterprises, that are directly related to the electric utility industry and controlled by the electric cooperatives. These include statewide cooperatives, power cooperatives, and NRECA. Other investments in oil cooperatives and insurance companies shall be charged to Account 124.

506 *Forfeited Membership Fees*

The bylaws of each cooperative prescribe certain rules and regulations concerning membership in the cooperative. Among these are provisions for forfeiture of membership fees. Some bylaws provide for application of membership fees against any unpaid accounts at the time of termination of service. Any remaining balance may be refunded to the member. Balances that cannot be refunded to the member due to an inability to locate the member or due to bylaw restriction, shall be credited to Account 208, Donated Capital, provided they do not escheat to the state. If disposition of the fees cannot be determined immediately, the amount involved shall be transferred to Account 253, Other Deferred Credits, until the determination is made.

601 *Employee Benefits*

The costs of employees' fringe benefits (hospitalization, retirement, holiday, sick and vacation pay, etc.)

shall be accumulated in an appropriate clearing account and allocated monthly on the basis of payroll. Vacation costs shall be accrued monthly by appropriate credits to an accrual account. These monthly accruals shall be allocated on the basis of direct payroll costs to construction and retirement with the expense portion being charged to Account 926, Employee Pensions and Benefits.

Sick leave costs are not normally accrued unless the employee is entitled to be paid for accumulated sick leave at the termination of employment. Salary payments to an employee who is actually sick shall be charged to the same account or accounts to which his or her salary is normally charged.

602 *Compensated Absences*

Statement of Financial Accounting Standards No. 43 requires employers to accrue a liability as an employee earns the right to be paid for future absences. Four criteria were established for this accrual:

1. The employer's obligation for payment for future absences is attributable to employees' services already performed.

2. The obligation relates to employee rights which vest or accumulate. Vested rights are considered those for which the employer is obligated to make payment even if the employee terminates. Rights which accumulate are those earned, but unused rights to compensated absences which may be carried forward to one or more periods subsequent to the period in which they are earned.

3. Payment of the compensation is probable.

4. The amount can be reasonably estimated.

A company's liability shall be estimated based upon payments it expects to make as a result of employees' work already performed. If a reasonable estimate cannot be made, the company shall disclose that fact in the financial statements.

Statement No. 43 does not apply to severance or termination pay, postretirement benefits, deferred compensation, stock or stock options, group insurance, or other long-term fringe benefits.

The entries required to account for the accrual of compensated absences are as follows:

Dr. 435.1, Cumulative Effect on Prior Years of a Change in Accounting Principle
  Cr. 242.3, Accrued Employees' Vacation and Holidays
To record the liability for benefits earned in prior years.
Dr. 107, Construction Work in Progress
Dr. 108.8, Retirement Work in Progress
Dr. 926, Employee Pensions and Benefits
  Cr. 242.3, Accrued Employees Vacation and Holidays
To record the liability for benefits earned in the current period.

603 *Employee Retirement and Group Insurance*

Some borrowers have group insurance or retirement plans or both for their employees. As a general rule the cost of these programs is borne partially by the cooperative and partially by its employees. The cooperative may pay the full cost in advance and recover the employee's share through payroll deductions. The accounting for these transactions is as follows:

1. The cooperative's advanced payment of premiums on insurance and retirement agreements shall be charged to Account 165, Prepayments, for the employers portion, and Account 143, Other Accounts Receivable, for the employee's portion.

2. The cost of the employer's portion of a retirement and group insurance program shall be charged as follows:

a. If the participating employees work entirely on operations and maintenance, the debit shall be to Account 926, Employees Pensions and Benefits.

b. If the employees' time is charged to construction or retirement activities, the charge shall be prorated between construction, retirement, and Account 926, Employee Pensions and Benefits, in the ratio in which the employees' wages have been distributed.

604 *Deferred Compensation*

Many utilities participate in the NRECA Deferred Compensation Program. Based upon the provisions of the program, the following accounting entries shall be made:

Dr. 186.XX, Miscellaneous Deferred Debits—Deferred Compensation
  Cr. 131.1, Cash—General
To record the annual deposit to NRECA's Deferred Compensation Fund.
Dr. 128, Other Special Funds—Deferred Compensation
  Cr. 128.XX, Special Funds Reserve—Deferred Compensation
To increase the deferred compensation reserve by the amount of the annual deposit to NRECA's Deferred Compensation Fund.
Dr. Construction Work-in-Progress, Retirement Work-in-Progress or Account 926, Employee Pensions and Benefits, as appropriate.
  Cr. 186.XX, Miscellaneous Deferred Debits—Deferred Compensation
To Record monthly accrual of deferred compensation.

Note: If an employee joins the deferred compensation program during the year, use entry #1 to record the additional deposit to the NRECA Deferred Compensation Fund and increase the monthly accrual in entry #2 to reflect this deposit.

NRECA provides an annual statement showing activity in the employee's accounts, units owned and value of units at statement date. Therefore, individual employee records do not have to be maintained.

However, an entry shall be made to show the aggregate change in fund value during the year. This entry can be made by summarizing changes on the individual Statement of Accounts sent by NRECA for distribution to participating employees, as shown:

Value of Units Held in Each Fund −Total Deposits through December 31, 19xx=Change in Fund Value
Dr. 128, Other Special Funds—Deferred Compensation
  Cr., 128.XX, Special Funds Reserve—Deferred Compensation
To record an increase in fund value as of December 31, 19xx.
or
Dr. 128.XX, Special Funds Reserve—Deferred Compensation
  Cr. 128, Other Special Funds—Deferred Compensation
To record a decrease in fund value as of December 31, 19xx.

Payments made to participating employees because of retirement or separation for other reasons shall be recorded using the following entries:

Dr. 131.1, Cash—General
  Cr. 128, Other Special Funds—Deferred Compensation
To record the receipt of funds from NRECA.
or
Dr. 128.XX, Special Funds Reserve—Deferred Compensation
  Cr. 131.1, Cash—General
To record payment to employee for deferred compensation.

If the borrower has elected to bear the market risk of the funds which guarantee that the amount of money an employee receives will not be less than the amount of salary deferred, the following entry shall be recorded if total payment(s) from NRECA are less than the amount of salary deferred:

Dr. 926, Employee Pensions and Benefits
  Cr. 131.1, Cash—General
To record payment to employee for deferred compensation. Payment was made because amount returned did not equal salary deferred.

The amounts included in Account 128, Other Special Funds, are offset by the amounts in Account 128.XX, Special Funds Reserve. The balance sheet presentation shall not, therefore, include the amount held for the NRECA Deferred Compensation Program. Appropriate disclosure of the terms of the program shall be made in the notes to the financial statements.

605 *Life Insurance Premium on Life of a Borrower Employee*

Some borrowers insure the life of the manager and/or key employees with the borrower being named as the beneficiary. Such arrangements shall be accounted for as follows:

1. Charge Account 426.2, Life Insurance, for the net amount of the premium paid each year on the insurance policy.

2. At the anniversary date of the policy each year, charge Account 124, Other Investments, and credit Account 426.2, Life Insurance, with the amount of the annual increase in the cash surrender value of the policy; provided such increase is less than the net premium paid for that year. If the annual increase in the surrender value exceeds the net premium paid for the same year, only that portion of the surrender value increase equal to the net premium paid shall be credited to Account 426.2. The remainder is to be credited to Account 419, Interest and Dividend Income.

3. Upon retirement of the insured employee and surrender of the insurance policy, charge Account 131.1, Cash—General, and credit Account 124, Other Investments, for the amount received from the insurance company. If it is decided to grant to the retiring insured employee all, or any portion, of the cash received upon surrender of the policy, Account 926, Employee Pensions and Benefits, shall be charged and Account 131.1 credited for the amount paid to the retiring employee.

4. If the insured employee dies within his term of service, charge Account 131.1, Cash—General, for the face amount of the policy paid by the insurance company. Credit Account 124, Other Investments, for the cash surrender value previously charged thereto, and credit the remainder to account 421, Miscellaneous Nonoperating Income.

606 *Pension Costs*

With the issuance of Statement of Financial Accounting Standards No. 87, Employers' Accounting for Pension (Statement No. 87), there have been significant changes in the accounting and reporting requirements relating to pension costs. This section will highlight the accounting and reporting requirements for the major types of pension plans. It should be noted, however, that the definitions and accounting procedures outlined in this section relate to financial accounting and they may differ from those used for tax accounting.

Defined Benefit Pension Plans

A defined benefit pension plan is a plan that defines an amount of pension benefit to be provided, usually as a function of one or more factors such as age, years of service, or compensation. In a defined benefit plan, the employer promises to provide, in addition to current wages, retirement income payments in future years after the employee retires or terminates service. Generally, the amount of benefit to be paid depends upon a number of future events that are incorporated into the plan's benefit formula, after including how long the employee and any survivors live, how many years of service the employee renders, and the employee's compensation in the year immediately before retirement or termination.

Under a defined benefit plan, the determination of pension costs, assets, liabilities, and the disclosures in the financial statements require many calculations and assumptions to be made. This section provides a general overview of the accounting and reporting requirements associated with a defined benefit pension plan. Consult Statement No. 87 for guidance in making the necessary calculations and assumptions.

The accounting and reporting requirements related to a defined benefit pension plan are as follows:

1. The following components shall be included in the periodic recognition of net pension cost by an employer sponsoring a defined benefit pension plan:

a. The service cost component recognized in a period shall be determined as the actuarial present value of benefits attributed by the pension plan formula to employee service during that period. The measurement of the service cost component requires use of an attribution method and assumptions.

b. The interest cost component recognized in a period shall be determined as the increase in the projected benefit obligation due to the passage of time. Measuring the projected benefit obligation as a present value requires accrual of an interest cost at rates equal to the assumed discount rates.

c. For a funded plan, the actual return on plan assets, if any, shall be determined based upon the fair value of plan assets at the beginning and the end of the period, adjusted for contributions and benefit payments.

d. Plan amendments (including initiation of a plan) often include provisions that grant increased benefits based upon services rendered in prior period. Because plan amendments are granted with the expectation that the employer will realize economic benefits in future period, Statement No. 87 does not require the cost of providing such retroactive benefits (prior service cost) to be included in net periodic pension cost entirely in the year of the amendment but provides for recognition during the future service periods of those employees active at the date of the amendment who are expected to receive benefits under the plan.

The cost of retroactive benefits (including benefits that are granted to retirees) is the increase in the projected benefit obligation at the date of the amendment. Except as noted below, prior service cost shall be amortized by assigning an equal amount to each future period of service of each employee active at the date of the amendments who is expected to receive benefits under the plan. If all or almost all of the plan's participants are inactive, the cost of retroactive plan amendments affecting benefits of inactive participants shall be amortized based upon the remaining life expectancy of those participants rather than the remaining service period.

To reduce the complexity and detail of the computations required consistent use of an alternative amortization approach that more rapidly reduces the unrecognized cost of retroactive amendments is acceptable. For example, a straight-line amortization of the cost over the average remaining service period of employees expected to receive benefits under the plan is acceptable. The alternative method used shall be disclosed.

In some situations, a history of regular plan amendments and other evidence may indicate that the period during which the employee expects to realize economic benefits from an amendment granting retroactive benefits is shorter than the entire remaining service period of the active employees. Identification of such situations requires an assessment of the individual circumstances and the substance of the particular plan situation. In those circumstances, the amortization of prior service cost shall be accelerated to reflect the more rapid expiration of the employer's economic benefits and to recognize the cost in the periods benefited.

A plan amendment can reduce rather than increase the projected benefit obligation. Such a reduction shall be used to reduce an existing unrecognized prior service cost, and the excess, if any, shall be amortized on the same basis as the cost of benefit increases.

e. Gains and losses are changes in the amount of either the projected benefit obligation or plan assets resulting from experience different from that assumed and changes in assumptions. Gains and losses include amounts that have been realized. Because gains and losses may reflect refinements in estimates as well as real changes in economic values and because some gains in one period may be offset by losses in another or vice versa, the recognition of gains and losses as components of net pension cost of the period in which they arise, is not required.

The expected return on plan assets shall be determined based upon the expected long-term rate of return on plan assets and the market-related value of plan assets. The market-related value of plan assets shall be either fair value or a calculated value that recognizes changes in fair value in a systematic and rational manner over not more than 5 years. Different ways of calculating market-related value may be used for different classes of assets but the manner of determining market-related value shall be applied consistently from year to year for each asset class.

Asset gains and losses are the differences between the actual return on assets during a period and the expected return on assets for that period. Assets gains and losses include both changes reflected in the market-related value of assets and changes not yet reflected in the market-related value (that is, the difference between the fair value of assets and the market-related value). Asset gains and losses not yet reflected in market-related values are not required to be amortized.

As a minimum, amortization of an unrecognized gain or loss (excluding asset gains and losses not yet reflected in market-related value) shall be included as a component of net pension cost for a year if, as of the beginning of the year, that unrecognized net gain or loss exceeds 10 percent of the greater of the projected benefit obligation or the market-related value of plan assets. If amortization is required, the minimum amortization shall be that excess divided by the average remaining service period of active employees expected to receive benefits under the plan. If all or almost all of a plan's participants are inactive, the average remaining life expectancy of the inactive participants shall be used instead of average remaining service life.

Any systematic method of amortization of gains and losses may be used in lieu of the minimum specified in the previous paragraph provided that the minimum is used in any period in which the minimum is greater (reduces the net balance by more), the method is applied consistently, the method is applied similarly to both gains and losses, and the method is disclosed.

The gain or loss component of net periodic pension cost shall consist of the difference between the actual return on plan assets and the expected return on plan assets and amortization of the unrecognized net gain or loss from previous periods.

2. A liability (unfunded accrued pension cost) shall be recognized if net periodic pension cost recognized pursuant to Statement No. 87 exceeds amounts the employer has contributed to the plan. An asset (prepaid pension cost) shall be recognized if net periodic pension cost is less than amounts the employer has contributed to the plan.

If the accumulated benefit obligation exceeds the fair value of plan assets, the employer shall recognize a liability (including unfunded accrued pension cost) that is at least equal to the unfunded accumulated benefit obligation. Recognition of an additional minimum liability is required if an unfunded accumulated benefit obligation exists and an asset has been recognized as a prepaid pension cost, the liability already recognized as unfunded accrued pension cost is less than the unfunded accumulated benefit obligation, or no accrued or prepaid pension cost has been recognized.

If an additional minimum liability is recognized, an equal amount shall be recognized as an intangible asset, provided that the asset does not exceed the amount of unrecognized prior service cost. If an additional liability required to be recognized exceeds unrecognized prior service cost, the excess (which represents a net loss not yet recognized as a net periodic pension cost) shall be reported as a separate component (reduction) of equity.

When a new determination of the amount of additional liability is made to prepare a balance sheet, the related intangible asset and separate component of equity shall be eliminated or adjusted, as necessary.

3. An employer sponsoring a defined benefit pension plan shall disclose the following information:

a. A description of the plan including employee groups covered, type of benefit formula, funding policy, types of assets held and significant nonbenefit liabilities, if any, and the nature and effect of significant matters affecting comparability of information for all periods presented.

b. The amount of net periodic pension cost for the period showing separately the service cost component, the interest cost component, the actual return on assets for the period, and the net total of other components.

c. A schedule reconciling the funded status of the plan with amounts reported in the employer's balance sheet, showing separately, the fair value of plan assets, the projected benefit obligation identifying the accumulated benefit obligation and the vested benefit obligation, the amount of unrecognized prior service cost, the amount of unrecognized net gain or loss including asset gains and losses not yet reflected in market-related value), the amount of any remaining unrecognized net obligation or net asset existing at the date of initial application of Statement No. 87, the amount of any additional liability recognized, and the amount of net pension asset or liability recognized in the balance sheet (which is the net result of combining the previous six items).

d. The weighted-average assumed discount rate and rate of compensation increase (if applicable) used to measure the projected benefit obligation and the weighted-average expected long-term rate of return on plan assets.

e. If applicable, the amount and type of securities of the employer and related parties included in plan assets, and the approximate amount of annual benefits of employees and retirees covered by annuity contracts issued by the employer and related parties. Also, if applicable, the alternative amortization periods used.

f. An employer that sponsors two or more separate defined benefit pension plans shall determine net periodic pension cost, liabilities, and assets by separately applying the provisions of Statement No. 87 to each plan. In particular, unless an employer clearly has a right to use the assets of one plan to pay benefits of another, a liability required to be recognized for one plan shall not be reduced or eliminated because another plan has assets in excess of its accumulated benefit obligation or because the employer has prepaid pension cost related to another plan.

The required disclosures may be aggregated for all of an employer's single-employer defined benefit plans, or plans may be disaggregated into groups so as to provide the most useful information. Plans with assets in excess of the accumulated benefit obligation, however, shall not be aggregated with plans that have accumulated benefit obligations that exceed plan assets.

Annuity Contracts

An annuity contract is a contract in which an insurance company

unconditionally undertakes a legal obligation to provide specified benefits to specific individuals in return for a fixed consideration or premium. An annuity contract is irrevocable and involves the transfer of significant risk from the employer to the insurance company. Some annuity contracts (participating annuity contracts) provide that the purchaser (either the plan or the employer) may participate in the experience of the insurance company. Under these contracts, the insurance company ordinarily pays dividends to the purchaser. If the substance of a participating contract is such that the employer remains subject to all or most of the risks and rewards associated with the benefit obligation covered and the assets transferred to the insurance company, that contract is not an annuity contract for purposes of Statement No. 87.

To the extent that benefits currently earned are covered by annuity contracts, the cost of these benefits shall be the cost of purchasing the contracts, except as noted below. That is, if all benefits attributed by the plan's benefits formula to service in the current period are covered by nonparticipating annuity contracts, the cost of the contracts determines the service cost component of net pension cost for that period.

Benefits provided by the pension benefit formula beyond benefits provided by annuity contracts (for example, benefits related to future compensation levels) shall be accounted for according to the provisions applicable to plans not involving insurance contracts.

Benefits covered by annuity contracts shall be excluded from the projected benefit obligation and the accumulated benefit obligation. Except as noted below, annuity contracts shall be excluded from the projected benefit obligation and the accumulated benefit obligation. Except as noted below, annuity contracts shall be excluded from plan assets.

Some annuity contracts provide that the purchaser (either the plan or the employer) may participate in the experience of the insurance company. Under these contracts, the insurance company ordinarily pays dividends to the purchaser, the effect of which is to reduce the cost of the plan. The purchase price of a participating annuity contract ordinarily is higher than the price of an equivalent contract without participation rights. The cost of the participation right shall be recognized, at the date of purchase, as an asset. In subsequent periods, the participation right shall be measured at its fair value if the contract is such that the fair value is reasonably estimable. Otherwise, the participation right shall be measured at its amortized cost (not in excess of its net realizable value), and the cost shall be amortized systematically over the expected dividend period under the contract.

Other Contracts with Insurance Companies

Insurance contracts that are, in substance, equivalent to the purchase of annuities shall be accounted for as such. Other contracts with insurance companies shall be accounted for as investments and measured at fair value. For some contracts, the best available evidence of fair value may be contract value. If a contract has a determinable cash surrender value or conversion value, that is presumed to be its fair value.

Defined Contribution Plans

A defined contribution pension plan is a plan that provides pension benefits in return for services rendered, provides an individual account for each participant, and has terms that specify how contributions to the individual's accounts are to be determined rather than the amount of pension benefits the individual is to receive. Under a defined contribution plan, the pension benefits a participant will receive depend only upon the amount contributed to the participant's account, the returns earned on investments of those contributions, and forfeitures of other participants' benefits that may be allocated to the participant's account.

To the extent that a plan's defined contributions to an individual's account are to be made for periods in which that individual renders services, the net pension cost for a period shall be the contribution called for in that period. If a plan calls for contributions for periods after an individual retires or terminates, the estimated cost shall be accrued during the employee's service period.

An employer that sponsors one or more defined contribution plans shall disclose the following separately from its defined benefit plan disclosures:

1. A description of the plan(s) including employee groups covered, the basis for determining contributions, and the nature and effect of significant matters affecting comparability of information for all periods presented.

2. The amount of cost recognized during the period.

A pension plan having characteristics of both a defined benefit plan and a defined contribution plan requires careful analysis. If the substance of the plan is to provide a defined benefit, as may be the case with some "target benefit" plans, the accounting and disclosure requirements shall be determined in accordance with the provisions applicable to a defined benefit plan.

Multiemployer Plans

A multiemployer plan is a pension plan to which two or more unrelated employers contribute, usually pursuant to one or more collective-bargaining agreements. A characteristic of multiemployer plans is that assets contributed by one participating employer may be used to provide benefits to employees of other participating employers since assets contributed by an employer are not segregated in a separate account or restricted to provide benefits only to employees of that employer.

An employer participating in a multiemployer plan shall recognize as net pension cost, the required contribution for the period and shall recognize as a liability, any contributions due and unpaid. The required contribution includes both current costs and prior service costs. If an employer elects to fund prior service cost in full at the inception of the plan, the total payment becomes the employer's required contribution, and accordingly, its pension cost for the period.

The following provisions are applicable to REA borrowers participating in a multiemployer pension plan:

1. An electric utility participating in a multiemployer plan may defer current period pension expenses if the provisions of Statement of Financial Accounting Standards No. 71 (Statement No. 71), Accounting for the Effects of Certain Types of Regulation, are applied.

Under the provisions of Statement No. 71, pension costs may be deferred provided such costs are recovered through future rates.

2. An electric utility instituting an amendment to the NRECA Retirement and Security plan enters into a contractual agreement to pay the costs incurred (prior service pension costs) for the amendment. In such cases, the agreement is noncancellable and payable regardless of continued participation in the plan.

Since the utility is unconditionally committed to making these payments and such payments are not contingent upon the utility's continued participation in the plan, the recognition of that liability is appropriate. The costs associated with this liability shall be

expensed, in their entirety, when the liability is recognized.

The accounting journal entries required to record the transactions associated with a multiemployer pension plan are as follows:

Sample 1—Current Pension Expense

The journal entry required to record the normal costs associated with the NRECA Retirement and Security Program is as follows:

(1)
Dr. 926, Employee Pensions and Benefits
Dr. 107, Construction Work-in-Progress
Dr. 108.8, Retirement Work-in-Progress
Cr. 131.1, Cash—General
To record the payment of pension costs to NRECA.

Note: This entry shall not be recorded during the moratorium.

Sample 2—Prior Service Pension Expense

The journal entries required to record the prior service costs associated with the NRECA Retirement and Security Program are as follows:

A. If the REA borrower elects to pay the prior service pension costs in full, and there is no deferral of costs under the provision of Statement No. 71, the following entry shall be recorded:

(1)
Dr. 926, Employee Pensions and Benefits
Dr. 107, Construction Work-in-Progress
Dr. 108.8, Retirement Work-in-Progress
Cr. 131.1, Cash—General
To record the payment of prior service pension costs to NRECA.

Note: During the moratorium, Account 232, Accounts Payable, shall be credited. The following entry shall be recorded after the moratorium is lifted and payment is made to NRECA.

(2)
Dr. 232, Accounts Payable
Cr. 131.1, Cash—General
To record payment of prior service pension costs to NRECA.

B. If the REA borrower elects to finance prior service pension costs over a period of years and there is no deferral of costs under the provisions of Statement No. 71, the following entries shall be recorded:

Dr. 926, Employee Pensions and Benefits
Dr. 107, Construction Work-in-Progress
Dr. 108.8, Retirement Work-in-Progress
Cr. 224, Other Long-Term Debt
To record the liability to NRECA for prior service pension costs.

(2)
Dr. 224.2, Other Long-Term Debt
Dr. 427, Interest on Long-Term Debt
Cr. 131.1, Cash—General
To record the annual payment to NRECA for prior service pension costs.

C. If the REA borrower elects to finance prior service pension costs over a period of years and such costs are being deferred and amortized in accordance with the provisions of Statement No. 71, the following entries shall be recorded:

(1)
Dr. 186, Miscellaneous Deferred Debits
Cr. 224.2, Other Long-Term Debt
To record the liability to NRECA for prior service pension costs.

(2)
Dr. 926, Employee Pension and Benefits
Dr. 107, Construction Work-in-Progress
Dr. 108.8, Retirement Work-in-Progress
Cr. 186, Miscellaneous Deferred Debits
To record the amortization of deferred prior service pension costs.

(3)
Dr. 224.2, Other Long-Term Debt
Dr. 427, Interest on Long-term Debt
Cr. 131.1, Cash—General
To record the annual payment to NRECA for prior service pension costs.

D. If the REA borrower elects to pay the prior service pension costs in full and such costs are being deferred and amortized in accordance with the provisions of Statement No. 71, the following entries shall be recorded:

(1)
Dr. 186, Miscellaneous Deferred Debits
Cr. 131.1, Cash—General
To record the payment to NRECA for prior service pension costs.

(2)
Dr. 926, Employee Pensions and Benefits
Dr. 107, Construction Work-in-Progress
Dr. 108.8, Retirement Work-in-Progress
Cr. 186, Miscellaneous Deferred Debits
To record the amortization of deferred prior service pension costs.

Note. During the moratorium, Account 232, Accounts Payable, shall be credited in Journal Entry No. 1. The following entry shall be recorded after the moratorium is lifted and payment is made to NRECA:

(3)
Dr. 232, Accounts Payable
Cr. 131.1, Cash—General
To record the payment to NRECA for prior service pension costs.

It should be noted that although the above entries relate specifically to the NRECA Retirement and Security Program, they are applicable to all multiemployer pension plans.

An employer that participates in one or more multiemployer plans shall disclose the following separately from disclosures for a single-employer plan:

1. A description of the multiemployer plan(s) including the employee groups covered, the type of benefits provided (defined benefit or defined contribution), and the nature and effect of significant matters affecting comparability of information for all periods presented.

2. The amount of cost recognized during the period.

Multiple-Employer Plans

A multiple-employer plan is, in substance, aggregations of single-employer plans combined to pool their assets for investment purposes to reduce the cost of plan administration. Under a multiple-employer plan, assets are segregated and specifically identified to an employer. In addition, such plans may have features that allow participating employers to have different benefit formulas. Such plans shall be considered single-employer plans for financial accounting purposes and each employer's accounting shall be based upon its respective interest in the plan.

607 *Unproductive Time*

Lost time relating to construction, operations and maintenance shall be allocated on the basis of direct payroll costs to the appropriate construction, operations or maintenance accounts in the month incurred. Lost time is defined as time on duty during which productive work is not performed due to inclement weather conditions, material shortages, machine repairs, or other reasons.

If lost time attributable to construction has a material effect on the construction accounts in any one month, these costs shall be deferred and distributed over a reasonable period of time by means of a predetermined percentage based upon direct labor.

608 *Training Costs, Attendance at Meetings, etc.*

Utilities engage in many types of training programs. Seminars are conducted for directors, managers, office managers, attorneys, engineers, and others. Bookkeepers and office managers attend accountants' meetings. Safety engineers attend safety schools and subsequently conduct regular safety meetings at the cooperative. Costs incurred for the various types of training activities shall be accounted for as follows:

1. Managers' and directors expenses to attend the NRECA national and state conventions shall be charged to Account 930.2, Miscellaneous General Expenses.

2. Management or engineering seminar fees, salary time attending such seminars, and the related per diem and expenses shall be charged to Account 926, Employee Pensions and Benefits, if the meeting is primarily for the benefit of the employee. If the meeting is primarily for the benefit of the employer, the functional expense accounts shall be charged for fees and expenses. Salaries paid to employees shall be charged to the appropriate labor expense accounts rather than to Account 926. Fees and expenses for directors' attendance shall be charged to Account 930.2, Miscellaneous General Expense.

3. When the office manager, bookkeeper, or work order clerk attends a state or regional accounting meeting, their salary time shall be charged to the account to which the employees' time is ordinarily charged.

4. Employees' salary time spent attending regular safety meetings

conducted by the cooperative shall be charged to the account to which the employees' time is ordinarily charged.

5. A safety engineer's salary time spent attending a statewide safety school shall be charged to Account 925, Injuries and Damages.

6. The salary time spent by a manager or line foreman conducting weekly safety meetings shall be charged to the appropriate functional expense accounts including Account 590, Maintenance, Supervision and Engineering, and Account 920, Administrative and General Services.

609 *Maintenance and Operations*

"Operations" is the general term used to describe activities involved in the delivery of electric service, by means of a distribution system, to the end user. It pertains to the use of the utility's electric plant facilities and does not include activities intended to prevent or remedy an impending or actual breakdown of those facilities. These activities are classified as maintenance.

"Maintenance" is the general term used to describe the activities involved in the upkeep and repair, but not the enlargement or improvement, of property owned or leased and operated by the company. It does not include the replacement of retirement units.

610 *Financial Forecast*

Costs incurred and salaries paid to perform a 10-year financial forecast shall be charged to Account 920, Administrative and General Salaries. Related office supplies and expenses shall be charged to Account 921, Office Supplies and Expenses. When a forecast is performed by an outside consultant, the cost shall be charged to Account 923, Outside Services Employed.

611 *Advertising Expense*

The cost of advertising and the cost of informing the public about the electric cooperative's activities shall be charged to Account 930.2, Miscellaneous General Expenses.

Most of a cooperative's advertising is instructional in nature and relates the cooperative's history and current activities. This type of advertising activity should not be confused with that directed towards the enactment of a specific law or laws directed toward obtaining a specific decision from a regulatory body. Political advertising of the type defined above shall be charged to Account 426.4, Expenditures for Certain Civic, Political, and Related Activities.

612 *Special Power Cost Study*

A special power cost study is defined as a study to determine whether sufficient power will be available in the future. If additional power or power sources are needed, the study determines whether generation or purchase will supply the lesser cost. The study also indicates when additional power will be needed. As costs are incurred, they shall be charged to a subaccount of Account 186, Miscellaneous Deferred Debits. Upon completion of the study, the costs shall be charged to Account 557, Other Expenses, or amortized to Account 557 over a period of time not to exceed 5 years.

613 *Mapping Costs*

The purpose of posting completed work orders to system maps is to improve the operation of the system. These costs shall, therefore, be charged to Account 588, Miscellaneous Distribution Expenses. However, the cost of system mapping in the planning stage of construction is an acceptable overhead cost of the resulting construction.

614 *Member Relations Costs*

Many electric cooperatives hire employees whose duties concern a mixture of power use and member relations activities. The salaries for these employees shall be charged to Account 930.2, Miscellaneous General Expenses, except as provided below:

1. Account 912, Demonstrating and Selling Expenses, shall be charged with all labor, material, advertising, and other expenses incurred in promotional, demonstrating, and selling activities; the objective of which is to promote or retain the use of utility services by present or prospective customers.

2. Account 930.1, General Advertising Expenses, shall be charged with labor, material, and other expenses incurred in advertising and related activities, the cost of which by their content and purpose, are not provided for elsewhere.

3. Account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work, shall be charged with all costs specifically related to merchandising activities when the utility is engaged in a major merchandising program.

4. Account 426.4, Expenditures for Certain Civic, Political, and Related Activities, shall be charged with expenditures for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new referenda, legislation or ordinances or repeal or modification of existing referenda, legislation or ordinances); or approval, modification, or revocation of franchises; or for the purpose of influencing the decisions of public officials. Account 426.4 shall not include expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the borrower's existing or proposed operations.

615 *Statewide Fees*

Additional fees collected by a statewide association from its members for construction of a statewide building shall be charged to Account 930.2, Miscellaneous General Expenses. Any amounts that are to be repaid by the state association shall be charged to Account 143, Other Accounts Receivable, or Account 123.23, Other Investments in Associated Organizations, depending upon the terms of the repayment.

616 *Power Supply/Distribution Cooperative Borrowing*

When a power supply cooperative borrows money from a distribution cooperative as the result of a long-term loan agreement, the money shall be recorded on the books of the power supply cooperative as general funds unless restricted to a specific purpose. If restricted, the funds shall be recorded in Account 128, Other Special Funds. The resulting liability shall be recorded in Account 224, Other Long-Term Debt.

The transaction shall be charged to Account 123.23, Other Investments in Associated Organizations, on the books of the distribution cooperative.

617 *Rate Discount Allowed by the Power Cooperative to Distribution Cooperatives Owning Connecting Transmission Lines*

A distribution cooperative purchases power from a power cooperative. The distribution cooperative owns and operates the transmission line between the power cooperative's facilities and the distribution facilities. Because of this, power is sold at the standard rate at which the power cooperative sells to other distribution cooperatives who do not own their transmission lines, less a discount. The discount or reduction in rate is based upon the distribution cooperative's expense in operating and maintaining its transmission facilities. The contract between the power cooperative and the distribution cooperative must specifically state that the member shall receive a reduced rate or discount from the seller's rate to other member cooperatives.

Under this type of arrangement, the distribution cooperative shall record the cost of purchased power by charging the net amount to Account 555, Purchased Power.

618 *Theft Losses not Covered by Insurance*

Utilities may suffer losses as a result of thefts of cash, materials and supplies, equipment, or electric plant-in-service that is not covered by insurance. The charges for nominal uninsured losses shall be recorded in the following accounts:

1. Cash—Account 924, Property Insurance, shall be charged.

2. Plant materials and operating supplies—Account 163, Stores Expense Undistributed, shall be charged.

3. Equipment—Account 163, Stores Expense Undistributed, shall be charged for stores equipment; Account 184, Transportation Expense—Clearing, for transportation and garage equipment; and Account 924, Property Insurance, for all other equipment.

4. Electric Plant-in-Service—A retirement work order shall be prepared for electric plant constituting a unit of property. The loss due to retirement shall be charged to Account 108.6, Accumulated Provision for Depreciation of Distribution Plant. If the plant does not constitute a retirement unit, the loss shall be charged to the appropriate maintenance expense account.

619 *Self Billing*

To maintain the books of accounts on an accrual basis, bills for customers who self bill and have not sent in a reading or remittance, shall be estimated. A journal entry shall be made to record the estimated revenue and kWh sold by debiting accounts receivable and crediting the appropriate revenue accounts. The estimated bill shall be posted to the customer's account and identified by an appropriate symbol indicating that it is an estimate. Reconciliation with the general ledger control is made in the usual manner.

620 *Purchase Rebates*

Some vendors from which electric cooperatives purchase plant materials and supplies and merchandise for resale are making purchase rebates based upon the quantity or dollar volume of purchases. These "quantity discounts" may be in the form of cash or credit memoranda, in the form of prepaid package travel arrangements, or a combination of such methods. The rebate shall be accounted for as a reduction in the cost of the material or appliances upon which it was based.

In some instances, the rebate may be for material or appliances that are no longer in stock or cannot be indentified. If the rebate is based upon the purchase of plant materials and operating supplies that are normally charged to Account 154, Plant Materials and Operating Supplies, a credit shall be made to Account 163, Stores Expense Undistributed. If the rebate is based upon appliances and equipment held for merchandising or contract work, the credit shall be spread over the items in Account 155, Merchandise. To avoid materially distorting the cost of the remaining appliances, if a portion of the items upon which the rebate was based are no longer in stock, a portion of the credit shall be prorated to Account 416, Cost and Expenses of Merchandising, Jobbing, and Contract Work, on the basis of the number of items sold to the quantity remaining in stock.

If the rebate is in the form of a travel package or travel arrangements, the value of the rebate shall be estimated and recorded as a reduction of the cost of the material or appliances upon which it was based in a manner similar to that of the cash rebates discussed above. The beneficiary of the travel or travel allowance shall be designated by or in accordance with policy established by the board of directors. The contra charge to the reduction in cost shall be to an appropriate account depending upon the relationship of the recipient to the cooperative. For employees, this shall be Account 926, Employee Pensions and Benefits; for directors or patrons, Account 930.2, Miscellaneous General Expenses.

621 *Integrity Fund*

The CFC Integrity Fund was established to assist borrowers in their attempts to stop takeover bids by investor-owned utilities. A borrower makes a contribution to the Integrity Fund in the form of cash or patronage capital refunds. CFC retains the contribution for a 5-year period during which time the borrower earns interest on the balance in its account. Each year, the borrower receives a statement indicating (both for the total fund and the individual borrower's share) the amount contributed, interest earned, disbursements made, and the ending balance. The disbursements from the fund are allocated to each contributing borrower's account based upon their individual account balances. At the end of the 5-year period, the balance in the account, if any, is refunded to the contributing borrower.

Since the contributing borrower will receive a refund only if its funds are not totally disbursed, the contribution shall be charged to expense in Account 426.1, Donations. If any part of the contribution is returned at the end of the 5-year period, the refund shall be credited to Account 421, Miscellaneous Nonoperating Income.

622 *In-Substance Defeasance*

An in-substance defeasance has been defined as the process whereby a debtor irrovocably places cash or other assets in a trust to be used solely for the purpose of satisfying scheduled payments of both principal and interest related to a specific debt obligation. Under the structural arrangements of an in-substance defeasance, the probability that the debtor will be required to make additional future debt payments is remote. In these specific circumstances, debt has been determined to be extinguished even though the debtor has not been legally released from his obligations under the debt instrument.

The trust established in a defeasance transaction is restricted as to the nature of the assets held. The trust must be funded with monetary assets that are essentially risk free as to the amount, timing, and collection of interest and principal. For debt denominated in United States dollars, "risk free" assets are limited to:

1. Direct obligations of the United States government;

2. Obligations guaranteed by the United States government; and

3. Securities that are backed by United States government obligations as collateral under an arrangement by which the interest and principal payments on the collateral, flow immediately through to the holder of the security.

The monetary assets of the trust must provide cash flows sufficient to coincide with the scheduled interest and principal payments on the defeased debt. If the trust is expected to pay the costs associated with the defeasance, such as trustee fees, these costs must be considered in determining the amount of funds required by the trust.

The principles of in-substance defeasance apply only to debt with specific maturities and fixed payment schedules and, as such, do not apply to debt with variable terms in which advance determination of debt service requirements is not possible.

Generally accepted accounting principles (GAAP) address the extinguishment of debt in Accounting Principles Board Opinion No. 26, and statement of Financial Accounting Standard No. 76, Extinguishment of Debt. In accordance with these two statements, debt which has been defeased remains recorded in the regulated books of account as do the assets placed in the irrevocable trust. They are not, however, recognized as an asset and liability for financial reporting purposes. The transaction, including the total amount of debt outstanding and the total amount of debt that is considered

extinguished at the end of the period, must be disclosed in the footnotes to the financial statements as long as the debt remains outstanding.

Debt is frequently extinguished in various ways before its scheduled maturity. Debt may be extinguished by the use of the borrower's general funds, or by the reacquisition of another debt issue at a different interest rate or varying terms. As the assets are expected to be revenue productive during those years, both the assets and the revenue they generate may be utilized to meet maturing debt payments. Therefore, assets initially placed in the trust are substantially less than the outstanding principal balance of debt. The difference represents an "economic" gain to the borrower in the year of the defeasance.

The USoA, in General Instruction 17, Long-Term Debt, prescribes the accounting for an early extinguishment of debt. If the debt is extinguished (defeased) with the borrower's own general funds, the USoA requires the gain to be deferred in Account 257, Unamortized Gain on Reacquired Debt, and amortized to Account 429.1, Amortization of Gain on Reacquired Debt-Credit, over the remaining life of the old debt issue. If the old debt is extinguished and new debt is acquired to finance the extinguishment, the USoA requires the gain to be amortized over either the remaining life of the original issue, or the remaining life of the new issue.

623 *Management Incentive (MINT) Plan*

The Management Incentive (MINT) Plan was developed by NRECA to provide additional retirement benefits for senior management employees. In addition to the retirement benefits offered, the plan also includes an optional disability benefit feature.

Originally, the MINT program was offered by the NRECA's Service Center for ELCO Programs, Inc., (NRECA Service Center). Effective December 31, 1989, the MINT program was transferred from the NRECA Service Center to a grantor trust whereby each participating cooperative will be a grantor of the trust and, therefore, will own its prorata share of the trust.

Upon notification from NRECA informing each cooperative of its proportionate share of the trust, the cooperative will adjust its asset (Account 128, Other Special Funds) and record the liability (Account 228.3, Accumulated Provision for Pensions and Benefits). Any difference shall be recorded as an adjustment to pension expense.

Once a cooperative has enrolled into the plan, the following entries shall be recorded:

Dr. 128, Other Special Funds
Dr. 926, Employee Pensions and Benefits
  Cr. 131.1, Cash—General Funds
To record annual payment to the MINT trust. The expenses are calculated as the difference between the cash outlay and the present value of the payment returned at a specified future date.
Dr. 926, Employee Pensions and Benefits
  Cr. 131.1, Cash—General Funds
To record payment for nonrefundable disability benefits.
Dr. 131.1, Cash—General Funds
  Cr. 128, Other Special Funds
  Cr. 242, Miscellaneous Current and Accrued Liabilities
To record funds received from the Trust for the payment of death benefits and refunds to the cooperative.
Dr. 242, Miscellaneous Current and Accrued Liabilities
  Cr. 131.1, Cash—General Funds
To record payment of death benefits to the beneficiary.
Dr. 131.1, Cash—General Funds
  Cr. 128, Other Special Funds
  Cr. 242, Miscellaneous Current and Accrued Liabilities
To record funds received from the Trust for retired employees and refunds to the cooperative.
Dr. 242, Miscellaneous Current and Accrued Liabilities
  Cr. 131.1, Cash—General Funds.
To record payment to retired employees.

Once a year, within not more than 3 months of the participating cooperative's "as of" audit date, the participating cooperative should receive sufficient information from the Trust to allow the cooperative to make the necessary pension disclosures as required by Statement of Financial Accounting Standards No. 87, Employers' Accounting for Pensions. Among the information received should be the amounts relating to the cooperative's share of the Trust's assets and liabilities. When this information is received, the cooperative shall adjust the asset and liability accounts accordingly and any difference shall be recorded as a debit or credit, as appropriate, to pension expense. The pension expense account, however, shall not be reduced below zero. Any credits in excess of the amount of pension expense recorded for the year shall be recorded as a credit to Account 421, Miscellaneous Nonoperating Income.

624 *Satellite or Cable Television Service*

Many electric borrowers have become involved in either providing satellite or cable television services or obtaining satellite or cable television services for their own use. This section outlines the accounting to be followed when recording transactions involving satellite or cable television services.

1. *Separate Subsidiary*

If a borrower provides satellite or cable television services through a separate subsidiary, the investment in the subsidiary shall be recorded in Account 123.11, Investment in Subsidiary Companies. The net income or loss of the subsidiary shall be debited or credited to Account 123.11, as appropriate, with an offsetting entry to Account 418.1, Equity in Earnings of Subsidiary Companies.

2. *Segment of Current Operations*

If a borrower provides satellite or cable television services as part of its normal operations, the investment in satellite or cable television equipment shall be recorded in Account 121, Nonutility Property. All income associated with these services shall be recorded in Account 417, Revenues from Nonutility Operations, and the associated expenses shall be charged to Account 417.1, Expenses of Nonutility Operations.

3. *Sale and Installation of Satellite or Cable Television Equipment*

If a borrower sells or installs satellite or cable television equipment, the equipment purchased for resale shall be recorded in Account 156, Other Materials and Supplies, until sold. The revenues generated from such sales or installations shall be recorded in Account 415, Revenues from Merchandising, Jobbing, and Contract Work, and the associated expenses shall be charged to Account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work.

4. *Equipment Purchased for Own Use*

If a borrower purchases satellite or cable television equipment for its own use, the investment in the equipment shall be recorded in Account 397, Communication Equipment.

625 *Pollution Control Bonds*

The construction and installation of pollution control facilities are often financed by issuing tax exempt municipal securities. The funds generated from the sale of these securities are deposited into an account that is controlled by a designated trustee. The funds under the control of the trustee are usually invested, earning interest, until they are needed.

Interest expense accrued on the pollution control bonds during the construction period shall be capitalized in Account 107, Construction Work-in-Progress. After construction is complete, all subsequent accruals of interest

expense shall be charged to Account 427, Interest on Long-Term Debt.

Interest income earned during the construction period shall be recorded as a debit to Account 171, Interest and Dividends Receivable, and a credit to Account 107, Construction Work-in-Progress. Upon notification of receipt of the interest in the trustee account, Account 221.XX, Long-Term Debt—Pollution Control Bonds, shall be debited and Account 171, Interest and Dividends Receivable shall be credited. Upon completion of construction, Account 419, Interest and Dividend Income, shall be credited for the amount of interest income earned during the period.

The entries required to account for the transactions associated with the issuance of pollution control bonds are as follows:

Dr. 221.XX, Long-Term Debt—Pollution Control Bonds—Trustee
  Cr. Account 221.X1, Long-Term Debt—Pollution Control Bonds
To record the sale of pollution control bonds.
Dr. 107, Construction Work-in-Progress
  Cr. 232, Accounts Payable
To record costs incurred in construction of pollution control facilities.
Dr. 131.1, Cash—General Funds
  Cr. 221.XX, Long-Term Debt—Pollution Control Bonds—Trustee
To record the transfer of funds from the trustee.
Dr. 107, Construction Work-in-Progress
  Cr. 221.XX, Long-Term Debt—Pollution Control Bonds—Trustee
To record interest expense on pollution control bonds.
Dr. 171, Interest and Dividends Receiveable
  Cr. 107, Construction Work-in-Progress
To record earnings from investments made by the trustee.
Dr. 221.XX, Long-Term Debt—Pollution Control Bonds—Trustee
  Cr. 171, Interest and Dividends Receivable
To record receipt of interest income by the trustee account.
Dr. XXX, Various Plant Accounts
  Cr. 107, Construction Work-in-Progress
To close completed construction to the primary plant accounts.

626 *Prepayment of Debt*

Many REA borrowers have decided to redeem (prepay) their issues of long-term debt. As a result of this redemption, the borrower may incur a gain (discount) or a loss (penalty) on the early extinguishment of debt. The accounting for this gain or loss is highlighted in this section.

If debt is redeemed without refunding (paid with general funds), the gain or loss incurred shall be recorded in Account 189, Unamortized Loss on Reacquired Debt, or Account 257, Unamortized Gain on Reacquired Debt, as appropriate. The borrower shall amortize the recorded deferral on a monthly basis over the remaining life of the old debt issue. Amounts so amortized shall be charged to Account 428.1, Amortization of Loss on Reacquired Debt, or credited to Account 429.1, Amortization of Gain on Reaquired Debt—Credit as appropriate.

If the debt is redeemed with refunds (refinanced), the gain or loss incurred shall be recorded in Account 189 or Account 257, as appropriate. The borrower may elect to account for the deferrals as follows:

1. Write them off immediately when the amounts are insignificant;

2. Amortize them by equal montly amounts over the remaining life of the old debt issue; or

3. Amortize them by equal monthly amounts over the life of the new debt issue.

Once an election has been made, it shall be applied on a consistent basis. Regardless of the option selected, the amortization shall be charged to either Account 428.1 or 429.1, as appropriate.

Where a regulatory authority having jurisdiction over the borrower specifically disallows the rate principle of amortizing gains or losses on the redemption of long-term debt without refunding, and does not apply the gain or loss to interest charges in computing the borrower's rates, the alternative method may be used to account for gains or losses relating to the redemption of long-term debt with or without refunding. The alternative method requires that gains or losses be recorded in Account 421, Miscellaneous Nonoperating Income, or Account 426.5, Other Deductions, as incurred. When the alternative method is used, the borrower shall include a footnote to the financial statements stating the reason for using this method and its treatment for rate making purposes.

627 *Rural Economic Development Loan and Grant Program*

On December 21, 1987, section 313. Cushion of Credits Payments Program, was added to the Rural Electrification Act. Section 313 establishes a Rural Economic Development Subaccount and authorizes the Administrator of the Rural Electrification Administration to provide zero interest loans or grants to RE Act borrowers for the purpose of promoting rural economic development and job creation projects.

On February 15, 1989, REA published its final rule, 7 CFR part 1709, subpart B, Rural Economic Development Loan and Grant Program. This rule outlines the policies and procedures relating to the zero interest loan and grant program.

The accounting journal entries required to record the transactions associated with a Rural Economic Development Loan are as follows:

(1)
Dr. 224.17, REA Notes Executed—Economic Development—Debit
  Cr. 224.16, Long-Term Debt—REA Economic Development Notes Executed
To record the contractual obligation to REA for the Economic Development Notes.

(2)
Dr. 131.12, Cash—General—Economic Development Funds
  Cr. 224.17, REA Notes Executed—Economic Development—Debit
To record the receipt of the economic development loan funds.

(3)
Dr. 123, Investment in Associated Organizations
  or
Dr. 124, Other Investments
  Cr. 131.12, Cash—General
To record the disbursement of economic development loan funds to the project.

(4)
Dr. 131.1, Cash—General Funds
  Cr. 421, Miscellaneous Nonoperating Income
To record payment received from the project for loan servicing charges.

(5)
Dr. 131.12, Cash—General—Economic Development Funds
  Cr. 123, Investment in Associated Organizations
    or
  Cr. 124, Other Investments
To record receipt of the repayment, by the project, of economic development loan funds.

(6)
Dr. 224.16, Long-Term Debt—REA Economic Development Notes Executed
  Cr. 131.12, Cash—General—Economic Development Funds
To record the repayment, to REA, of the economic development loan funds.

§§ 1767.22–1767.25 [Reserved]

Subpart C—Depreciation Rates and Procedures

§§ 1767.26–1767.45 [Reserved]

Subpart D—Preservation of Records

§§ 1767.46–1767.65 [Reserved]

Dated: August 21, 1990

George Pratt,

Acting Administrator.

[FR Doc. 90–20624 Filed 9–6–90; 8:45 am]

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Part III

Department of Transportation

Research and Special Programs Administration

49 CFR Part 107 et al.

Requirements for Cargo Tanks; Revisions, Response to Petitions for Reconsideration; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 176, 177, 178 and 180

[Docket Nos. HM-183, 183A; Amdt. Nos. 107-20, 171-100, 172-115, 173-212, 176-27, 177-71, 178-89, 180-2]

RIN 2137-AA42

Requirements for Cargo Tanks; Revisions, Response to Petitions for Reconsideration

AGENCY: Research and Special Programs Administration (DOT).

ACTION: Final rule, delay of effective date, response to petitions for reconsideration and revisions.

SUMMARY: This amendment makes additional revisions to a final rule published in the **Federal Register** under Docket Nos. HM-183, 183A (54 FR 24982, June 12, 1989). The final rule amended requirements in the Hazardous Materials Regulations (HMR) pertaining to the manufacture, qualification, maintenance, and use of cargo tank motor vehicles. The amendments contained in this document are primarily in reponse to petitions for reconsideration received to the final rule. The effective date is delayed from September 1, 1990, to December 31, 1990, to allow sufficient time for distribution of this amendment to persons affected by the final rule.

The intended effect of the final rules published under HM-183/183A is to improve safety in the transportation of bulk quantities of hazardous materials in cargo tank motor vehicles.

DATES: *Effective:* Effective August 31, 1990. The effective date for the final rule published under Docket HM-183/183A on June 12, 1989 (54 FR 24982), the amendments published on May 22, 1990 (55 FR 21035), and those adopted herein, are effective on December 31, 1990. *Compliance:* However, compliance with the regulations is authorized from October 1, 1990.

FOR FURTHER INFORMATION CONTACT:

Charles Hochman, (202) 366-4545, or Hattie Mitchell (202) 366-4488, Office of Hazardous Materials Transportation, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001; or,

Richard Singer (202) 366-2994, Office of Motor Carriers, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

On June 12, 1989, the Research and Special Programs Administration (RSPA) published a final rule (Docket HM-183/183A; 54 FR 24982) establishing new standards pertaining to the manufacture, qualification, maintenance, and use of cargo tank motor vehicles. Because of the complexity and impact of issues addressed in the final rule, RSPA extended the period for receiving petitions for reconsideration from the usual 30 days to 150 days to allow persons affected by the final rule sufficient time to review the rules and submit their petitions (September 15, 1989, 54 FR 38233). Similarly, RSPA found it necessary to extend to the effective date of the final rule to allow RSPA and the Federal Highway Administration's Office of Motor Carriers (FHWA) time to evaluate the merits of the petitions received (September 15, 1989, 54 FR 38233; December 6, 1989, 54 FR 50382).

RSPA received over 1,000 petitions for reconsideration in response to the final rule. These petitions were from trade associations, shippers, motor carriers, state government agencies, and manufacturers of cargo tanks, cargo tank parts and equipment. All petitions have been given full consideration by RSPA and FHWA. FHWA has participated in the development of the Notice of Proposed Rulemaking (NPRM) (September 17, 1985, 50 FR 37766; December 5, 1985, 50 FR 49866), the final rule and the amendments issued under Docket HM-183/183A. In the interest of brevity, "we" is used hereinafter to refer to "RSPA and FHWA".

Because of delay in resolving certain issues raised in the petitions, on May 22, 1990, RSPA published an amendment to HM-183/183A (55 FR 21035) which further extended the effective date of the final rule to September 1, 1990. In the May 22 amendment, we specified the compliance dates for various inspections, tests and certain other provisions contained in the final rule, and responded to certain issues raised by petitioners. This amendment contains a review of those compliance dates and discussions, and contains additional revisions to HM-183/183A. Among the more significant changes included in this amendment are revisions—

1. To allow work experience as an alternative to educational experience for certain persons currently performing the prescribed functions of a Registered Inspector or a Design Certifying Engineer;

2. To expand the types of hazardous material authorized for retention in external unprotected piping during transportation (wet lines);

3. To clarify the requirements on pressure relief systems and outlets on new and existing cargo tank motor vehicles;

4. To exclude low pressure cargo tanks from additional portions of the ASME Code;

5. To clarify parameters used in structural integrity calculations for cargo tank motor vehicles;

6. To relax and clarify certain provisions relating to continuing qualification, inspection, and testing of cargo tank motor vehicles.

Several petitions raised issues which were not a part of this rulemaking proceeding. These petitions are discussed in this amendment, and may be made the subject of a separate rulemaking action. Except as adopted herein, all petitions for reconsideration received by RSPA concerning matters covered by the final rule published on June 12, 1989, are hereby denied. Any subsequent submission concerning issues relating to this rulemaking must be filed as petitions for rulemaking in conformance with 49 CFR 106.31.

I. Qualifications of Registered Inspectors and Design Certifying Engineers

To ensure that DOT specification cargo tanks are designed, constructed and maintained in accordance with the applicable specification, the June 12 final rule requires each person who certifies cargo tank motor vehicle design, construction, repair, and testing to meet certain minimum qualifications. These qualification standards are based on the particular function to be performed. Among the most critical functions are those performed by the Design Certifying Engineer and the Registered Inspector. The use of a Design Certifying Engineer is required for certification of each cargo tank motor vehicle design type and the design of a stretched cargo tank motor vehicle. As defined in § 171.8 of the final rule, a "Design Certifying Engineer":

> means a person registered with the Department in accordance with Part 107, Subpart F of this chapter who is an Authorized Inspector and has the knowledge and ability to determine if a cargo tank design meets the applicable DOT specification, or a person other than an Authorized Inspector who has this ability, at least one year of work experience in structural or mechanical design and an engineering degree (such as a professional engineer registered by the appropriate

authority of a State of the United States or a Province of Canada).

Several petitioners took exception to this definition. The National Propane Gas Association (NPGA) and other petitioners argued that (1) not all professional engineers have an engineering degree, (2) both professional engineers and graduate engineers include fields and disciplines of study that are only marginally related to cargo tank motor vehicle design, (3) some Authorized Inspectors are not qualified to make the kinds of judgments required of Design Certifying Engineers, and some are not graduate engineers, and (4) many persons currently performing these functions have no degree and are proficient in cargo tank stress analysis, design, and construction and should be allowed to continue performing these functions. The Truck Trailer Manufacturers Association (TTMA) stated that up to one-quarter of the present cargo tank motor vehicle manufacturers' Chief Engineers would not qualify under the definition as a Design Certifying Engineer. Petitioners requested that RSPA amend the definition to require that a Design Certifying Engineer be a registered professional engineer, a graduate engineer with one year of experience in structural or mechanical design, or a person with five years of relevant work experience and who, in any case, has performed stress analysis for cargo tanks and has the knowledge and ability to determine if a cargo tank design meets the applicable DOT specification. One petitioner pointed out that, in the preamble of the final rule, RSPA stated that a Design Certifying Engineer "must have knowledge and skills in areas such as stress analysis, welding, metallurgy, and recognized good design and quality control practices" but RSPA did not adopt these qualifications into the regulations.

We agree with these petitioners that an Authorized Inspector must have the knowledge and ability to perform stress analysis if that person is to be a Design Certifying Engineer. We agree that work experience in cargo tank motor vehicle design is essential and that there are persons performing these functions who are qualified to do so but do not hold an engineering degree. However, as we stated in the final rule, we believe that a combination of work experience in cargo tank motor vehicle design and education is necessary to ensure that the individual performing the functions of a Design Certifying Engineer has the appropriate knowledge and skills. Therefore, as revised in this amendment, "Design Certifying Engineer" means a person registered with DOT" who has the knowledge and ability to perform stress analysis of pressure vessels and otherwise determine if a cargo tank motor vehicle design and construction meets the applicable DOT specification, and has an engineering degree and one year of work experience in structural or mechanical design." However, at § 107.502, we are permitting persons who do not meet the minimum educational requirements but who have at least three years of work experience in performing design certifying functions before September 1, 1991, to register as a "Design Certifying Engineer" with DOT. Such registration statements must be submitted to DOT before December 31, 1991.

The use of a Registered Inspector is required for certification of specification cargo tank motor vehicle construction, assembly or repair. As defined in § 171.8 of the final rule, a "Registered Inspector":

> means a person registered with the Department in accordance with Part 107, Subpart F of this chapter who is an Authorized Inspector who has the knowledge and ability to determine if a cargo tank conforms with the applicable DOT specification, or a person other than an Authorized Inspector who has this ability and, at a minimum, the following work experience, in cargo tank construction or repair, and education: one year of work experience and an engineering degree, two years of work experience and an associate degree in engineering or three years of work experience and a high school diploma.

Several petitioners also took exception to this definition. NPGA pointed out an inconsistency in that the definition requires a lower level of education and work experience for an Authorized Inspector functioning as a Registered Inspector than is required for a person other than an Authorized Inspector, and recommended that the same level of skills be required in both cases. The National Tank Truck Carriers, Inc. (NTTC) stated "work experience and employee-demonstrated competence" should be the only qualifying criteria for those persons performing testing, inspection, repair and maintenance tasks. Both NTTC and TTMA suggested that an adequate qualification for a Registered Inspector would be five years of relevant work experience with no requirement for a high school diploma. Both petitioners stated that many persons are unable to provide a copy of their high school diplomas. NTTC also requested that, should RSPA deny their request to discontinue the requirement for a high school diploma, a General Equivalency Diploma (GED) be accepted as equivalent to a high school diploma. Finally, several petitioners requested that we accept "inspection" as qualifying work experience for a "Registered Inspector." The petitioners stated that many persons perform no "cargo tank construction or repair" but are otherwise highly qualified to perform the "inspector" functions in § 180.407.

We agree with petitioners that an Authorized Inspector functioning as a Registered Inspector should have the same level of skills as other persons who perform those functions. Unfortunately, this concept was not appropriately conveyed in the regulations adopted in the final rule; this amendment corrects that problem.

With respect to the educational qualifications of a Registered Inspector, we believe that these persons must meet the minimum education qualifications. However, we recognize that many qualified persons who have performed the prescribed functions for many years may not meet these minimum requirements. Therefore, in the final rule, we are allowing persons who do not meet the minimum educational requirements but who have at least three years of work experience in performing the Registered Inspector's functions before September 1, 1991, to register as a "Registered Inspector" with DOT. Such registration statements must be submitted to DOT before December 31, 1991. In addition, we have revised the definition of a "Registered Inspector" to include work experience in cargo tank inspection and to recognize a GED as being equivalent to a high school diploma.

II. Retention of hazardous materials in piping and hoses (wet lines)

RSPA received over 900 petitions from representatives of the propane gas industry who objected to the provisions contained in § 173.33(e) of the final rule. Section 173.33(e) grants a limited exception from the requirement for bottom damage protection devices on cargo tanks transporting fuel metered for road fuel tax purposes. Most petitioners understood § 173.33(e) as prohibiting the retention of all other hazardous materials lading in product piping during transportation.

In the May 22 amendment (55 FR 21036), in responding to petitioners from the propane gas industry, RSPA stated:

> It was intended, in both the proposed rule and the final rule, that this provision apply only to DOT specification cargo tanks used to transport liquid hazardous materials. The current requirements, at 49 CFR 178.337-9 and 178.337-10, require that piping be

protected from accidental damage in all cases and RSPA has no data indicating additional controls are needed. RSPA has informed the National Propane Gas Association of this position in a letter dated March 7, 1990.

Also, the wet line provision in § 173.33(e) does not apply to the transportation of hazardous materials having relatively low hazards which are authorized to be transported in nonspecification cargo tanks, even if a DOT specification cargo tank may be used. For example, § 173.33(e) does not apply to cargo tanks used to transport materials under §§ 173.118a (combustible liquids) and 173.131 (road asphalt, or tar, liquid).

Many petitioners, including the American Petroleum Institute (API), asked that RSPA broaden the exception granted to "fuels metered for road fuel tax purposes" to include other materials. These petitioners stated that many materials are metered for other than tax purposes, and the use of a tax as a criteria for providing exceptions is inappropriate, with no safety basis. Petitioners also pointed out that many other petroleum products are not taxed, and are considered "less hazardous" than gasoline. Finally, petitioners stated that a large percentage of cargo tank motor vehicles, currently transporting materials which are permitted, under the exception, to be retained in the piping, exceed the specified maximum piping volume limitation. These petitioners urged RSPA to grandfather existing cargo tanks transporting gasoline in "wet lines" which exceed the 50 gallon volume limit.

The comments expressed by petitioners asking that the exception in § 173.33(e) be broadened raised new information which was not brought to our attention during the comment period for the NPRM, or during any of the subsequent hearings or public meetings. We now realize that the retention of hazardous materials product in piping during transportation is more prevalent than was indicated earlier during development of the final rule. These petitions are under consideration and will be addressed further in the subsequent document. However, RSPA anticipates certain revisions will be made to the final rule.

RSPA received numerous other objections to § 173.33(e) from representatives of various other industries. Representatives from the crude oil gathering and oil field servicing industry urged RSPA to provide an exception from the prohibition against retention of product in piping for their equipment. They contended that this equipment is operated for the most part in remote locations which are equipped with loading/unloading equipment which could be converted to accommodate top loading. These petitioners also requested that the exception permit a piping diameter of up to 6½ inches. which is the standard for the industry.

We now recognize the substantial burden that a prohibition of wet lines in all services would place on the petroleum industry. It is apparent additional time is needed by the industry to implement design and operational changes before a prohibition against unprotected "wet lines" can be adopted. We believe that any hazardous material product retained in unprotected piping and hoses presents a potential safety hazard during transportation. However, we recognize the inherent difficulties in removing all product from the lines and in maintaining an accurate metering system. The problem of maintaining an accurate metering system lies mainly with the petroleum (flammable liquid) industry. For other hazardous materials, transportation in external unprotected piping is less common and thus the prohibition of such transportation will have a much lower cost impact. Therefore, § 173.33(e) is revised to require accident damage protection devices for piping that may retain poisons, skin corrosives, organic peroxides, or oxidizer liquids during transportation. However, we strongly encourage the petroleum industry to consider the risk it accepts in operating cargo tank motor vehicles over the highway with hazardous materials retained in the piping and that the hazardous materials industry consider and recommend possible alternatives to eliminate this risk in the most cost-effective manner.

III. Pressure relief systems and outlets on existing cargo tank motor vehicles

Numerous petitioners expressed their concerns with certain provisions contained in the part 173 commodity provisions as related to transportation of hazardous materials in cargo tank motor vehicles. Petitioners objected to requirements, contained in many commodity sections, that MC specification cargo tank motor vehicles be equipped with a pressure relief system conforming to that of a DOT 406 or DOT 407 cargo tank, as prescribed in § 178.346-10 or § 178.347-10, respectively. The petitioners stated that many existing MC specification cargo tank motor vehicles would have to be retrofitted because of the different requirements for relief valve set pressures, reclosing pressures, maximum allowable tank pressures, etc. For similar reasons, petitioners objected to other requirements in certain commodity sections that, except for MC 330 and MC 331 cargo tanks, all MC specification cargo tanks with bottom outlets must have the outlets equipped with internal self-closing stop valves meeting the requirements in § 178.345-11. It was not our intention to require existing cargo tanks to be retrofitted with pressure relief devices and outlets meeting the requirements of the new cargo tank motor vehicle specfications. We have clarified the requirements for pressure relief systems in § 173.33(d), which permit the use of a non-reclosing pressure relief device under certain conditions. We also have revised § 173.33(d)(3) to clarify that cargo tank motor vehicles may have pressure relief devices and outlets conforming to the original specification to which the cargo tank motor vehicle was manufactured or be modified to the listed corresponding specification.

IV. Application of the ASME Code to low pressure cargo tank motor vehicles

TTM submitted a list of paragraphs in the ASME Code which they believe should not apply to DOT 406, 407, and 412 cargo tank motor vehicles that are constructed but not certified in accordance with the ASME Code. These paragraphs are as follows: UG-11 (miscellaneous pressure parts), UG-22(g) (impact reactions, UG-23(b) (maximum allowable stress), UG-32(e) (torispherical heads), UG-35 (other types of closures), UG-44 (flanges and pipe fittings), UG-76 (cutting of plates and other stock), UG-79 (forming shell sections and heads), UG-82 (lugs and fitting attachments, UG-83 (tolerance for formed heads), UG-97 (inspection during fabrication), UG-99 (standard hydrostatic test), UG-100 (pneumatic test), UG-116 (required marking), UG-118 (stamping), UG-120 (data reports), UG-125 through UG-136 (pressure relief devices), UW-12 (joined efficiency), and UW-13.1(f) (intermediate head installation).

We have reviewed these paragraphs and agree that certain additional exceptions should be provided for units designed and built to the new DOT specifications but not certified to the ASME Code. We find paragraphs UG-11, UG-22(g), UG-32(e), UG-35, UG-44, UG-76, UG-97 and UW-13.1(f) are not appropriate and have waived compliance with these paragraphs for all DOT 406 cargo tank motor vehicles, and for DOT 407 and 412 cargo tank motor vehicles constructed but not certified in accordance with the ASME Code.

TTMA claimed that paragraph UG-79(a) would require stress relief after forming flanges on carbon or mild steel heads and, therefore, should be excepted in the DOT specifications. We believe the intent of this paragraph is to assure the fabrication process does not unduly impair the physical properties of the materal selected at the thickness employed. In cases where material strength is adversely affected because of the fabrication process, stress relieving

can restore the strength properties to the original levels. If a cargo tank manufacturer can establish that material properties after fabrication are not significantly different from those used in design calculations, the requirements of paragraph UG–79(a) would be satisfied. Therefore, no exception to this paragraph is warranted.

TTMA stated that complying with paragraph UG–79(b) is not practical for cargo tanks with non-circular cross sections. This paragraph requires rolling of shell sections to a preliminary curvature to prevent flat spots along completed joints. An exception to this requirement was included for DOT Specification 406 and 412 cargo tank motor vehicles in the final rule (see §§ 178.346–1 and 178.348–1).

Paragraph UG–23(b) calls for using reduced allowable compressive stress when designing cylindrical shells for a combined longitudinal stress. TTMA claimed the shell thickness of DOT Specification 407 cargo tanks would have to be increased from 0.135 to 0.165 inches, if relief from UG–23(b) is not granted. During the design of a cargo tank motor vehicle, paragraph UG–23(b) must be applied to evaluate compressive stress "at any point" in the cargo tank wall. Any thickness increase resulting from the application of this paragraph is limited to the specific regions of the cargo tank wall where the net longitudinal compressive stress is higher than that given in Appendix 5 of the ASME Code. In typical cargo tanks, any increase in thickness would likely be limited to top and bottom regions near the center section only. Moreover, current cargo tank specifications (see § 178.340–4(a)) stipulate a 5:1 design safety factor for non-ASME Code cargo tank construction, but the final rule provides for a 4:1 safety factor. This 20 percent reduction should offset any thickness and weight penalty due to paragraph UG–23(b). For these reasons, TTMA's request is denied.

TTMA stated that weld joint efficiency factors for DOT 406 and DOT 407 cargo tank motor vehicles should be the same as they presently are for MC 306 and non-ASME Code MC 307 cargo tanks and requested a specific exception to paragraph UW–12. Currently, § 178.340–5 requires a minimum joint efficiency of 85 percent. One of the principal objectives of this rulemaking project was to require all manufacturers of cargo tank motor vehicles to be ASME Code shops and to follow approved quality control procedures. The ASME Code prescribes weld joint efficiency factors based on weld geometry and the degree of weld inspection and provides the level of manufacturing quality control we sought.

While the present method for determining weld joint efficiency (§ 178.340–5(d)) has not resulted in weld failures, we believe that it is not appropriate and that the reduction in required design safety factor from 5:1 to 4:1 produces a greater concern about weld performance. Additionally, TTMA has provided us no data to show that paragraph UW–12 would have any negative impact on the design of DOT specification cargo tank motor vehicles. For these reasons, TTMA's request is denied.

We do not believe that specific exception must be provided for the remaining paragraphs of the ASME Code requested by TTMA for non-code stamped cargo tank motor vehicles. These paragraphs refer either to good engineering practices or general loading and testing requirements, which are specifically prescribed for the DOT cargo tank motor vehicles.

Paragraphs UG–82 and UG–83 contain practices intended to reduce fabrication-related flaws such as alignment and fit, and weld discontinuities. Such conditions can be sources of initiation and propagation of cracks. We believe satisfying these requirements not only is essential but also will help reduce inspection costs. We also believe that the workmanship practices followed by most cargo tank manufacturers will satisfy the requirements of these paragraphs. For these reasons, we have granted no exception to this paragraph.

Because DOT specifications supercede ASME Code requirements in the areas of pressure testing, pressure relief devices, marking, certification, data reports, and nameplates, it is not necessary to grant an exception to paragraphs UG–99, UG–100, UG–116, UG–118, UG–120, and UG–125 through UG–136. The requirements for these areas are found in §§ 178.345–10, 178.345–13, 178.345–14 and the applicable individual specifications.

V. Structural Integrity

We received numerous petitions on the structural integrity requirements prescribed in the final rule for MC 331, MC 338, and DOT 400 series cargo tank motor vehicles. These petitions for reconsideration of various aspects of the requirements indicate considerable confusion in interpreting the structural integrity analysis specified in §§ 178.337–3, 178.338–3 and 178.345–3.

In paragraph (a) in these sections, the statement "stresses due to internal pressure and vertical loadings must be considered in all cases" appears to have caused confusion about the overall stress analysis requirement. Some petitioners wanted to know if ASME design calculations must consider, in addition to internal pressure, all loadings, including dynamic loadings, as opposed to considering structural and lading weight. A petitioner contended that the requirement in this section for determining structural integrity for MC 331 cargo tank is "in reality a trial and error process of finding a shell thickness and diameter combination". The same petitioner suggested that we provide "sample calculations for basic types of MC 331 cargo tanks to bring the cargo tank design to a common and generally accepted basis" for clarification.

We agree the structural integrity analysis requirements, as written in the final rule, may be ambiguous. In addition, we believe the design acceptance and loading requirements need clarification. We do not agree with the petitioner's suggestion that we provide sample calculations because such sample calculations may not cover all aspects of various types of cargo tank designs used to transport hazardous materials. To alleviate confusion and any ambiguity, we have reorganized and revised §§ 178.337–3, 178.338–3, and 178.345–3. In response to various petitioners' arguments about the applicability and severity of various requirements in the final rule, we have adopted certain changes which are discussed later in the section-by-section review in this preamble.

In §§ 178.337–3, 178.338–3, and 178.345–3 of this amendment, paragraph (a)(1) prescribes the overall requirements for the structural integrity calculations and the maximum allowable stresses. Paragraph (a)(2) provides for determining the maximum allowable stresses based on tested properties of materials used, with the restriction that the measured tensile strength used in design shall not exceed 120 percent of the minimum values specified in the ASME Code or the ASTM standard to which the material is manufactured. We have accepted TTMA's request that finite element analysis be permitted for DOT 400 series cargo tanks. We have applied the same provision to the MC 331 and MC 338 cargo tank specifications. Paragraph (a)(3) provides for alternate analytical or test methods to establish stresses at any point in the cargo tank wall provided such methods are accurate and verifiable.

Paragraph (b) specifies the requirements for the basic ASME design calculation to determine the overall geometry and shell and head

thicknesses of the cargo tank. Paragraphs (c) and (d) prescribe various dynamic loadings, and a pressure surge due to sudden deceleration that must be considered in the structural integrity analysis. It must be noted that the dynamic loading conditions for MC 331 and MC 338 cargo tanks have not been changed from those in the final rule. We have not specifically identified the most severe combination of various static and dynamic loadings, as suggested by some petitioners, because the scope of the final rule was limited to correcting the effective stress formula found in the current regulations. Furthermore, the petitioners did not substantiate their suggested combinations of dynamic loading either by providing data, or by means of an industry accepted standard. Based on the petitions received, various changes have been made to the dynamic loading requirements for DOT 406, 407, and 412 cargo tank motor vehicles. These changes are briefly discussed in detail in the section-by-section review later in this preamble.

A petitioner argued that, in paragraph (d), the longitudinal design stress should be the "lesser of the yield strength or 75 percent of the ultimate tensile strength of the materials used," there can be a significant thickness increase in the shell and heads of a cargo tank. This argument is valid particularly for cargo tanks constructed of stainless steels. Therefore, we have relaxed the maximum allowable stress requirement for MC 331, MC 338 and DOT 400 series cargo tank motor vehicles cosntructed of stainless steels.

We have accepted TTMA's suggestion that the "g" loadings specifed in § 178.345–3(d) of the final rule should be reduced for cargo tanks designed with baffles. The suggested reduction of 0.25 "g" for each baffle assembly up to a maximum of 1.0 "g" is reasonable and, therefore, is adopted in § 178.345–3(d).

Paragraph (e) in these sections of this amendment prescribes minimum thickness requirements for cargo tank shell and heads. We have reorganized these requirements and made certain editorial changes.

The structural integrity sections are reorganized and revised in this amendment. Details of these changes are discussed in the section-by-section review of this preamble.

Review by Section

Sections 107.501–107.503

Several revisions have been made to the registration requirements based on the merits of petitions received. Revisions to § 107.501 clarify that the registration requirements apply to persons who assemble a cargo tank to a motor vehicle or to a motor vehicle suspension component. A new paragraph (b) alerts persons engaged in continuing qualification and maintenance of cargo tank motor vehicles that they must be familiar with the requirements set forth in part 180, subpart E.

Section 107.502 is rearranged for clarity. A definition of "assembly" is added in § 107.502(a)(1). In addition, in new paragraph (f), we are allowing persons who have at least three years of experience in performing the functions of a Registered Inspector or Design Certifying Engineer but who do not meet the minimum education requirements to register with DOT. Such registration statements must be submitted to DOT before December 31, 1991. See earlier discussion in this preamble under the heading "Qualification of Registered Inspectors and Design Certifying Engineers." A petitioner requested that § 107.502(d) be revised to stipulate that the Department will send registrants, within 30 days, a letter confirming receipt of the registration application and assigning a registration number. The petitioner cited RSPA's delay in processing registration statements as the reason for the change. RSPA delayed processing the registration statements, pending the disposition of several petitions requesting revisions to the registration requirements. The issues raised in the petitions have been resolved and all registration statements are being processed in a timely manner. We have not adopted the petitioner's suggestion because we believe it is unnecessary.

RSPA has received numerous registration statements that do not contain all the information required by § 107.503. Many of these registration statements do not list the specific functions to be performed as required by paragraph (a)(4), do not contain all required information for each facility for which a registration number is requested, or do not contain an acceptable certification as required by paragraph (a)(3). Section 107.503(a)(3) is revised to reference the limited exception in § 107.502(f) relating to Registered Inspectors and Design Certifying Engineers, and to provide an example of an acceptable certification statement. Applicants are reminded that the certification must be signed by the person who has oversight for ensuring compliance with the applicable requirements.

In paragraph (a)(4), "equipment manufacture" is added to the specific functions for which registration is required. Section 178.320(a)(2) of the final rule requires equipment manufacturers to register under subpart F, part 107. The definition of "manufacture" in § 178.320 is revised in this amendment to clarify which cargo tank equipment manufacturers must register with RSPA.

The May 22 amendment specified a compliance date of December 31, 1991, for repairers to submit a copy of their National Board Certificate of Authorization to RSPA. This same date applies to manufacturers of MC-series cargo tanks which are non-ASME. Paragraphs (b) and (c) are revised to reflect these dates.

A sentence is added in § 107.504(c) to advise that any person registered under § 107.502(f) who is in good standing is eligible for renewal. We have also emphasized that the provisions in subpart F, part 107, cover a registration, not an approval, program. The issuance of a registration number is not an endorsement by the Department of the qualifications of any person to perform the specified functions. Therefore, persons may not represent their operation as being "DOT-approved," as stated in new § 107.504(f) of this amendment. However, we have no objection to persons representing their operation as being "registered" with DOT.

Section 171.8

The definition of "cargo tank" is revised to recognize that these packagings are intended "primarily" for the carriage of liquids or gases, but may be used for carriage of solids. It also clarifies that appurtenances, reinforcements, fittings and closures are included as elements of a cargo tank.

The definitions of "Design Certifying Engineer" and "Registered Inspector" are revised as discussed earlier in this preamble under the heading "Qualifications of Registered Inspectors and Design Certifying Engineers."

Section 172.101

The entry for "Ammonium nitrate solution," is corrected to remove a reference to § 173.154(a)(18). Paragraph (a)(18) was removed under the final rule. Based on a petition for rule change (P–1089), this entry is also revised to reflect that ammonium nitrate solutions with 35% less water do not meet the definition of an oxidizer.

Section 172.203

Paragraph (h)(1)(i) is corrected to reference "§ 173.315(a), Note 14" instead of "§ 173.315(a), Note 15."

Section 173.22

Two petitioners requested that the provisions in paragraph (a)(2), relating to a shipper's responsibility for determining whether a cargo tank is an authorized packaging for a particular hazardous material, be removed from this section and be placed in part 177. One petitioner stated that a person offering a hazardous material for transportation in a cargo tank motor vehicle supplied by a motor carrier is not in a position to validate that the material would not have an adverse effect on the integrity of the cargo tank, or the cargo tank motor vehicle meets the applicable requirements with respect to its design, maintenance and repair. As an example, the petitioner stated a shipper would be unable to validate that a cargo tank presented for transportation of a corrosive material meets the corrosion protection requirements in § 178.345–2(c). The petitioner stated that, in many cases, a shipper provides the carrier with a Material Safety Data Sheet (MSDS) which can be used by the carrier to determine if the particular cargo tank motor vehicle is authorized for that material.

We disagree with these petitioners. We believe that both the shipper and the carrier have certain knowledge concerning the hazardous material and the cargo tank motor vehicle, and that each has responsibility for determining whether a hazardous material is suitable for carriage in the cargo tank motor vehicle. However, paragraph (a)(2) is revised to limit its application to the special commodity requirements in Part 173 and not to the continuing qualification requirements contained in part 180.

Section 173.33

In responding to the provisions in paragraph (a)(2), a petitioner stated:

> It is our belief that RSPA misconstrued the CMA [Chemical Manufacturers Association] comment on the proposed rulemaking. Our interpretation of that comment is that a shipper, when confronted with a compartmented cargo tank tendered at its facility which already contains in one of the compartments a material loaded by another shipper, is often not in a position to know the identity, much less the properties, of the materials loaded by the other shipper. Hence, there is no basis for the second shipper to make a determination as to the compatibility of the material to be loaded with the materials already loaded. We believe that CMA's comment intended to point out that the carrier should be responsible for making the determination as to compatibility in these circumstances. The shipper's responsibility is to ensure that incompatible materials are not loaded in the same cargo tank when all compartments are loaded at the same shipper's facility. This, we believe, was the intent in CMA's comment. We agree with this interpretation and believe that 173.33(a)(2) should be amended to reflect this distinction.

After reviewing the preamble discussion of the final rule, it is apparent we were in error in stating that we agreed collectively with the "commenters." However, the fact remains that, in a case where a motor carrier receives hazardous materials from different shippers, we believe the responsibility for ensuring an unsafe condition is not generated should be a shared responsibility and not the exclusive responsibility of the shipper or the carrier.

As suggested by a petitioner, paragraph (a)(3) is reviewed to clarify that the inspection and retest requirements in part 180 apply only to specification cargo tanks. Also for consistency with § 177.824, we have added a provision stating that the prohibition on offering a cargo tank motor vehicle for transportation after expiration of the retest date does not apply if the cargo tank was filled prior to the retest or inspection due date.

Several petitioners pointed out that paragraph (b)(3) could prohibit the practice of allowing atmospheric air pressure to replace flammable liquid vapors evacuated from cargo tanks during loading and unloading. We agree with the petitioners and have revised the paragraph accordingly.

Paragraph (c)(1), containing requirements linking the maximum lading pressure of liquid hazardous materials to the cargo tank maximum allowable working pressure (MAWP), is revised to clarify that these requirements apply only to materials requiring the use of a specification cargo tank. They do not apply to hazardous materials that are authorized to be transported in a nonspecification cargo tank, even if a DOT specification cargo tank is used.

A petitioner requested that the wording in paragraph (c)(1)(vi) be revised for consistency with § 173.33(b)(4). The petitioner stated that paragraph (c)(1)(vi) limits the loading/unloading pressure to not exceed the MAWP, but paragraph (b)(4) allows the pressure in the tank during loading/unloading up to 130 percent of the MAWP for certain cargo tanks. We disagree wtih the petitioner. Paragraph (c)(1)(vi) relates to pressure within a cargo tank during normal loading or unloading. In contrast, paragraph (b)(4) relates to the maximum surge pressure that may be applied to a tank as the result of an overfill or overpressurization during a loading or unloading accident. There is no inconsistency between these requirements, but we have revised the wording of paragraph (b)(4) to clarify its relation to an accident condition.

Two petitioners stated that, in paragraph (c)(2), the reference to § 178.345–1(k) voids the exception granted in paragraph (c)(1)(iii) for gasoline, and that the requirements in § 173.33(c)(1) are adequate for determining the proper MAWP. We agree with the petitioners and have revised paragraph (c)(2). This reference was also removed from paragraph (c)(3). For this same reason, we also revised paragraph (c)(2) to reference the applicable provision in "paragraph (c)(1)," instead of "paragraph (c)," and revised paragraph (c)(3) to remove another reference to "§ 178.345–1(k)".

With regard to paragraphs (c)(2) and (c)(4), NTTC and the Hazardous Waste Association of California (HWAOC) expressed a concern that their members may incur liabilities as a result of changing the manufacturer's "design" or "test pressure" marked on a cargo tank. Both petitioners stated that we may be forcing a carrier to make a representation to the public for which no technical or design basis may exist. As a result, the carrier may be misleading the public by "certifying" that these cargo tanks meet design criteria which may not be the original criteria by which the cargo tanks were designed. NTTC also claimed that its members do not have sufficient tank trailer design or construction experience to mark or remark trailers.

It is our position that these cargo tanks were required to be tested to at least 3 psig as a condition of the specification under which they were constructed. Cargo tanks marked with a design or test pressure of "none," "0," or "zero" have been tested to at least 3 psig. Although we normally would not allow an owner of a cargo tank to mark a specification plate, we are allowing it in this case. If these cargo tanks are not remarked, they are prohibited by § 173.33(c) from being used for transportation of hazardous materials. Therefore, the requirement that an owner mark these cargo tank motor vehicles is retained in paragraph (c)(3). However, we have revised the provision in paragraph (c)(2) to allow these cargo tanks to be marked with a MAWP or design pressure of 3 psig.

A minor editorial change is made to paragraph (c)(5).

Paragraph (d)(1) is revised, as suggested by a petitioner, to clarify that an existing cargo tank fitted with non-reclosing devices, may continue to be

used in hazardous materials service for which the cargo tank was authorized with those devices.

Paragraphs (d)(1) and (d)(2) are revised to clarify that the pressure relief systems on MC 330, MC 331 and MC 338 cargo tank motor vehicles are not required to conform with the requirements in these paragraphs. Paragraph (d)(3) is revised to clarify that existing cargo tank motor vehicles may have pressure relief devices and outlets conforming to the original specification under which they were constructed or may be modified to conform to a corresponding specification listed in the table in paragraph (d)(3).

Paragraph (e), as revised, requires accident damage protection devices for piping that may retain poisons, skin corrosive, organic peroxide, or oxidizer liquids during transportation. See earlier discussion in this preamble under the heading "Retention of hazardous materials in piping and hoses (wet lines)."

Sections 173.119–173.374

It was not our intention to require retrofit of pressure relief device systems and bottom outlets on all existing cargo tanks. Therefore, various commodity sections are revised to clarify the pressure relief system and outlet requirements on existing cargo tanks. See earlier preamble discussion under the heading "Pressure relief systems and outlets on existing cargo tank motor vehicles".

A petitioner stated that requiring bottom outlets equipped with self-closing stop-valves capable of functioning in the event of a fire or hose rupture (§ 178.345–11(a)) is inappropriate for cargo tanks limited to corrosive liquid service and that an exception to that effect should be included in Part 178. We agree with the petitioner and have revised § 178.345–11.

We wish to alert cargo tank owners and users that certan cargo tanks currently authorized for materials meeting the definition of a material which is toxic by inhalation may no longer be authorized for those materials if a final rule is adopted under Docket HM–181, consistent with the proposals published on May 5, 1987, and November 6, 1987 (52 FR 16482, 52 FR 42773).

Section 173.131

NTTC and TTMA requested that we permit the use of hat shaped or open channel stiffening rings on carbon steel tanks used to transport road asphalt or tar. The petitioners stated that this has been the practice for many years and there have been no problems with corrosion under the hat shaped or open channel rings. The elevated temperatures at which cargo tank motor vehicles in this service operate prevent the accumulation of moisture which can cause corrosion under hat shaped or open channel stiffening rings, We agree with the petitioners and have revised paragraph (a)(2) to provide an exception to the requirements contained in § 178.345–7(d)(5).

TTMA also stated, in part:

> The design stress limits at elevated temperatures as specified in the ASME Code are not applicable to aluminum cargo tanks which transport road asphalt or tar because the ASME design stress limits for aluminum assume continuous operation at the maximum rated temperature for many years. Asphalt tanks are only occasionally operated at their maximum temperature and then only for a few hours.
>
> Application of the ASME design stress limits would reduce the design stress limit for an aluminum tank from 5500 psi to 3000 psi which would result in a severe cost and weight increase.

TTMA further suggested that the following two sentences be added to § 173.131(a)(2):

> Also, the design stress limits at elevated temperatures per the ASME Code are not applicable. The design stress limits shall not exceed 25 percent of the stress limit provided by the Aluminum Association for 0 temper.

We agree with the petitioners that hat shaped or open channel stiffening rings should be allowed on cargo tank motor vehicles used to transport road asphalt or tar. Paragraph (a)(2) is revised to provide an exception to the requirements contained in § 178.345–7(d)(5).

We agree with TTMA that the tensile properties of aluminum contained in the ASME Code differ from those listed in the Aluminum Association Inc. publication entitled "Aluminum Standards and Data". Because aluminum cargo tank motor vehicles used to transport asphalt operate at the maximum design temperature for only a limited period of time, it is reasonable to use the tensile properties listed in the Aluminum Association Inc. at the maximum design temperature of the cargo tank. Therefore, revised paragraph (a)(2) also allows the use of the tensile properties found in this publication.

Section 173.154

Paragraph (a)(4)(i)(C) is corrected by removing the words "transportation by vessel." The requirements covering the carriage of cargo tanks by vessel are contained in paragraph (a)(4)(iv). Additionally, based on a petition for rulechange (P–1089), paragraphs (a)(4) and (a)(17) are revised to reflect that ammonium nitrate solutions with 35% or less water do not meet the definition of an oxidizer.

Section 173.206

Two petitioners pointed out that the provision, in § 173.206(c)(3)(v), requiring pressure relief devices to meet the requirements in § 178.337–9 for metallic sodium, is unnecessary since the material is required to be shipped in a solid state. One petitioner also stated that since sodium is shipped under a nitrogen pad, the pressure relief devices should be sized for the padding gas at its charge pressure. We agree with the petitioners and have revised § 173.206(c)(3)(v) accordingly. The revised wording is consistent with that currently found in 49 CFR 173.206(c)(3).

Section 173.252

Paragraph (a)(4)(ii) is amended by removing the word "cladding" because it may be used to satisfy the minimum thickness requirements.

Section 173.266

The current regulations require, for cargo tanks used in hydrogen peroxide service, that the tank metal identification plate be marked "DOT MC 310–H_2O_2," "DOT MC 312–AL–H_2O_2," or "DOT MC 312–SS–H_2O_2," as appropriate, and that the cargo tank be marked "FOR HYDROGEN PEROXIDE ONLY". The final rule provided for the tank specification plate to be marked with a general statement indicating the tank is in hydrogen peroxide service and for the cargo tank to be marked "FOR HYDROGEN PEROXIDE SERVICE ONLY." Two petitioners questioned the need to revised the currently prescribed marking and requested that the current markings be retained. We agree and have revised paragraph (f)(2)(v) accordingly.

Section 173.272

An editorial correction is made in paragraphs (d), (e), (f), and (g) to include a reference to paragraph (i)(30).

Section 173.276

Authorization for use of the MC 330 and MC 331 cargo tanks was inadvertently omitted in the introductory text to paragraph (a)(6). This amendment corrects this oversight.

Section 173.292

In response to a petition, the description "hexamethylene diamine, is corrected to read "hexamethylenediamine" in the section heading and the introductory text in paragraph (a) for consistency with the

proper shipping name shown in the § 172.101 Table.

Sections 173.315 and 173.318

Sections 173.315(i)(1)(ii) and 173.318(b)(2)(i)(C) and (b)(2)(ii) require that the flow capacity and rating of pressure relief devices be verified and certified by the manufacturer of the device. CGA requested that these devices be rated, tested, and marked in accordance with CGA Pamphlet S–1.2. We have reviewed CGA Pamphlet S–1.2 and have found those provisions to be consistent with those of the final rule. Therefore, these paragraphs are revised as requested by CGA.

Section 173.346

Authorization for use of the MC 330 and MC 331 cargo tanks was inadvertently omitted in the introductory text to paragraph (a)(12). This amendment corrects this oversight.

Section 177.824

This section is revised to clarify that a motor carrier may not operate a specification cargo tank motor vehicle containing a hazardous material unless the cargo tank conforms to be retest and inspection requirements in Part 180.

Section 178.320

Definitions of "cargo tank," "cargo tank motor vehicle," and "cargo tank wall" are added in paragraph (a). The definitions of "cargo tank" and "cargo tank motor vehicle" are the same definitions adopted in § 171.8, and appear in this section as a convenience to users. A definition of "cargo tank wall" was added because the term is used in § 107.503 and in various sections in parts 178 and 180. Because of these additional definitions, paragraph (a) is reorganized for clarity.

A petitioner asked that the definition of "design type" be revised so that minor variations in piping which do not affect the lading retention capabilities of the cargo tank are not considered changes in the "design type." We agree with the petitioner that recertification of the cargo tank motor vehicle by a Design Certifying Engineer should not be required if such variations are made to piping, and have revised the definition of "design type" accordingly.

Another petitioner objected to the limitation of a "design type" to a specific diameter and length, stating that tanks with a larger diameter or shorter length are "stronger tanks." The petitioner also recommended that the definition of "design type" refer to a radius or radii instead of a diameter, to account for non-circular cargo tanks. We do not agree with the petitioner that tanks with a larger diameter or shorter length will always be stronger tanks. We cannot foresee all possible changes to a cargo tank motor vehicle, and how each of these changes will affect the structural integrity of the modified cargo tank motor vehicle. The Design Certifying Engineer must be used to ensure the structural integrity of each different cargo tank motor vehicle design. However, we have modified the definition of "design type" to specify that the cargo tank is made to the same "cross section dimensions" instead of diameter, to account for non-circular cargo tanks.

A number of petitioners asked for clarification regarding which cargo tank equipment manufacturers must register with DOT. The definition of "manufacturer" is revised to clarify that the term applies to persons who manufacture cargo tank equipment which forms part of the cargo tank wall. Therefore, persons who manufacture equipment such as hoses, pumps, placard holders, etc. which have no lading retention capability during transit are not required to register under part 107, subpart F.

A petitioner suggested that paragraph (b)(2) be revised so that the Design Certifying Engineer would furnish a certificate to the assembler and ultimate end user in addition to the manufacturer. The petitioner also suggested that paragraph (b)(3) be revised to require the final assembler and ultimate end user to retain the design certificate. We believe it is unnecessary to revise paragraphs (b)(2) and (b)(3) as suggested. The cargo tank specifications contain certification provisions requiring each manufacturer in a multi-stage manufacture to transfer certificates and drawings to each subsequent manufacturer. Those certification provisions require the manufacturer to supply a certificate to the end user. The issue of whether drawings and calculations must be supplied to the end user is addressed in this amendment in the discussion of § 178.345–15. However, paragraphs (b)(2) and (b)(3) are revised to clarify the requirements for the inclusion of sketches, drawings, and calculations with the certificate. These changes were believed necessary because in many cases, the Design Certifying Engineer is not supplying sketches, drawings, and calculations, but rather is reviewing those supplied by the cargo tank manufacturer.

Sections 178.337–3 and 178.338–3

As discussed earlier in this preamble under the heading "Structural Integrity", we have reorganized these sections for clarity. In the following discussion the paragraph numbers used in the amendment are identical for both §§ 178.337–3 and 178.338–3.

Paragraphs (a), (a)(1), and (a)(2) in the final rule are reorganized into four paragraphs. In §§ 178.337–3(a)(1) and 178.338–3(a)(1) of this amendment, the maximum allowable stresses are the same as those specified in the final rule. We disagree with petitioners who suggested that the maximum allowable stress be 25 percent of the ultimate tensile strength rather than "the lesser of the maximum design stress value specified in the ASME code or 25 percent of the minimum specified tensile strength". We believe the ASME calculations are such that a margin of safety is provided by the maximum allowable stresses specified. If the petitioner's suggestion is adopted, the design stress can be close to yield strength for some pressure vessel steels if those steels have a significant difference between yield and ultimate tensile strengths. However, we have provided a relaxed requirement in paragraph (a)(2), to permit the properties of an authorized material to be established by testing.

To remove any confusion as to the stress analysis required for different loading conditions, we have clarified, in paragraph (a)(3), specific loading requirements that must be considered "separately". We recognize in some cases a more detailed analysis may be necessary to accurately establish the maximum effective stresses. Therefore, we are authorizing the use of other analytical and test methods, provided such methods are accurate and verifiable. We believe this relaxation will help the designer when the ASME calculation procedures are not directly applicable or when additional information is necessary. Several petitioners requested clarification on whether corrosion allowance material is included in the design thickness. We have clarified in paragraph (a)(4) that corrosion allowance material may not be included in design stress calculations.

The requirements in paragraph (b) pertain to the ASME design calculations that must be performed to establish the basic structural integrity of a cargo tank. These requirements are essentially the same as prescribed in paragraph (a)(2) of the final rule.

The intent of paragraph (c) in the final rule is to determine the maximum effective stress (i.e., maximum principal stress) at any point in the cargo tank resulting from various dynamic loadings, or from a combination of loadings. The

effective stress calculation determines additional thickness requirements, if any, at points where the effective stresses are high or at areas prone to fatigue or environmental degradation. A petitioner suggested that the "+/−" sign in the effective stress equation should be only "+". This equation is used to calculate the maximum normal stresses in a material when subjected to any system of loading. The "+" and the "−" signs are used separately to determine the magnitude of the two principal stresses. The requirement for using the effective stress equation is necessary because the designer must calculate both the effective stresses and design for the worst case. The petitioner's suggestion, therefore, is not accepted. A petitioner suggested that the loadings at the fifth wheel for MC 338 cargo tanks be changed for consistency with those specified for MC 331 cargo tanks, because both are expected to be subjected to the same loadings. We disagree with the petitioner. The MC 338 cargo tank design, construction and service requirements are different from those of MC 331 cargo tanks. MC 338 cargo tanks can be single walled or vacuum insulated and can be high pressure or cryogenic cargo tanks. Section 178.338–13 (b) and (c) in the current regulations prescribe different loading conditions for each of these cargo tanks. We believe such a difference in loading requirements is necessary. Therefore, except for correction of a provision in paragraph (c), in which the loading requirements in § 178.338–13 (b) and (c) for calculation of shear stresses for MC 338 cargo tanks are referenced, we have not revised the requirements in the final rule. This correction makes the loading requirements for shear stresses consistent with the loading requirements for calculation of tensile and compressive stresses.

Paragraph (d) is reorganized for clarity and to relax provisions concerning the maximum allowable stress for cargo tanks constructed of stainless steel. For a cargo tank constructed of stainless steel, the calculated longitudinal stress resulting from a 2 "g" decelerative force and the MAWP, shall not be greater than 75 percent of the ultimate tensile strength, rather than the "lesser of the yield strength or 75 percent of the ultimate tensile strength."

The minimum metal thickness requirements for shell and heads for MC 331 and MC 338 specification cargo tanks are found in paragraph (e). These requirements have not been changed from those prescribed in the final rule. Except for editorial changes and minor reorganization, paragraph (g) of the amendment pertaining to the design, construction and installation of any appurtenance to the shell and heads of a cargo tank contains the same requirements that were prescribed in §§ 178.337–3(f) and 178.338–3(e) of the final rule.

Section 178.337–9

A petitioner requested that paragraph (b)(6) be revised to allow all piping, valves, hose, and fittings to be tested for leaks at 80 percent of the design pressure instead of at 100 percent of the design pressure. The petitioner stated the 100 percent test pressure would require removal of the pressure relief valves before testing; whereas, testing at 80 percent would allow these valves to remain in place. Another petitioner requested that a hydrostatic test using a suitable test fluid be recognized as an alternative to a pneumatic test using gas or air pressure. This petitioner stated that water and diesel fuel are two commonly used test fluids for the quinquennial requalification for continued service.

We agree that leakage testing at 80 percent of design pressure can be as effective as testing at 100 percent of design pressure and that conducting the test with hydrostatic pressure should be allowed. We have revised paragraph (b)(6) accordingly.

Section 178.337–18

Paragraph (a) is revised to clarify the respective functions of the Design Certifying Engineer and the Registered Inspector.

Section 178.338–3

Refer to preamble discussion to § 178.337–3.

Section 178.338–17

CGA requested that we revise paragraph (b) to allow the installation of anodized aluminum parts on cargo tanks used to transport oxygen, cryogenic liquid, for consistency with § 173.318. We agree and have revised the paragraph accordingly.

Section 178.338–19

Paragraphs (a) and (b) are revised to clarify the respective functions of the Design Certifying Engineer and the Registered Inspector. These revisions were inadvertently omitted from the final rule.

Section 178.345–1

Petitioners requested revisions to several definitions appearing in this section. In the definition of "flange," several petitioners requested that the following sentence be removed: "For size and shape, see ANSI B16.5." The petitioners stated that the size and shape of a flange should not be constrained by ANSI B16.5. We agree and have revised this definition.

The definition of "internal self-closing stop-valve" is revised to permit location of the valve seat inside the tank, as requested by petitioners.

A petitioner pointed out that a "nozzle" can be a pipe or a tubular section and that the ASME Code does not require a nozzle to be attached to a flange, as represented in the definition. We have revised the definition as suggested by the petitioner.

The definition of "outlet" is revised to exclude a threaded opening securely closed during transportation with a threaded cap, as suggested by a petitioner.

A petitioner stated that a "pipe coupling" has internal, and not external, threads as stated in the definition. We have amended the definition by removing the wording "or external".

In the final rule, "shell" was defined as "the circumferential portion of a tank defined by the basic design radius excluding the closing heads. The definition is revised based on the merit of a petition stating that an oval tank may have too or more radii.

Petitioners' requests to revise the definitions of "constructed in accordance with the ASME Code," "maximum allowable working pressure," "rear bumper," and "sacrificial device" either lack merit or are unnecessary. Therefore, these definitions have not been changed.

Section 178.345–2

Paragraph (a) of the final rule requires a manufacturer to ensure that the materials used to construct the cargo tank wall, bulkheads and baffles are compatible with the lading intended for transportation in the cargo tank. TTMA stated a manufacturer would not always know the intended lading. We agree with TTMA and have revised the requirement. Any design requirements which depend upon the special characteristics of a hazardous material lading are specified in the commodity sections in part 173.

TTMA stated that ASTM 676 steel listed in paragraph (a)(1) should be ASTM 656. In addition, both TTMA and NTTC requested that ASTM A 569 (carbon steel), 570 (carbon steel with properties), 572 (HSLA plate) and 607 (HSLA sheet) steels be authorized for cargo tanks "constructed in accordance with the ASME Code." We agree that

ASTM 569, 570 and 572 steels should be authorized. However, we believe the ultimate to yield strength for ASTM A 607 is too low. Therefore, we have not accepted these steels. The reference to ASTM A 676 steel in the final rule is corrected to read ASTM A 656.

In relation to paragraph (b), NTTC asked if a minimum thickness is required at locations of high stress. Stress at any point on a cargo tank must be calculated as specified in § 178.345–3. We have made an editorial correction to reference "§ 178.345–3" instead of "§ 178.345–3(a), (b), (c), or (d)."

TTMA stated that corrosion and abrasion protection should be covered in Parts 172 and 173 rather than § 178.345–2(c). We intended paragraph (c) to be used only as a guide to manufacturers; therefore, it is revised. We recognize that a cargo tank need only meet the minimum thickness requirement to be in full compliance with the applicable specification. However, if the cargo tank is thinned by corrosion or abrasion below the required minimum thickness, it will no longer be suitable for its intended service. Therefore, this paragraph is retained as written.

Section 178.345–3 (Structural Integrity)

Petitions received addressing this section reflected considerable confusion regarding the structural integrity analysis, and the applicability and exceptions of various design requirements in the ASME Code. Therefore, as in the case of the MC 331 and MC 338 cargo tank specifications, these requirements are reorganized and revised.

Paragraphs (a), (a)(1), and (a)(2) in the final rule are reorganized into four paragraphs in this amendment. Revised paragraph (a)(1) prescribes the general requirements and acceptance criteria. This paragraph requires that the maximum calculated design stress value may not exceed the lesser of the maximum allowable stress value prescribed in Section VIII of the ASME Code, or 25 percent of the tensile strength of the material used. For clarity, the wording "lesser of" is added, as suggested by a petitioner.

In paragraph (a)(2), we have provided for the use of tested properties of the materials so that the Design Certifying Engineer has flexibility to use materials efficiently. We have clarified in paragraph (a)(3) specific loading requirements that must be considered separately to remove confusion regarding the stress analysis. As discussed earlier in this preamble under the heading "Structural Integrity," we are permitting the use of other analytical and test methods provided such methods are accurate and verifiable, as suggested by TTMA. We have clarified, in paragraph (a)(4), that corrosion allowable material may not be included in design calculations, as suggested by several petitioners.

The effective stress calculation requirements prescribed in paragraph (b) of the final rule are revised and appear as paragraph (c) in this amendment. The ASME design calculations prescribed in paragraph (a)(2) of the final rule, have been moved to paragraph (b) in this amendment.

TTMA pointed out that the various dynamic loadings prescribed in paragraph (b) of the final rule must be based on reaction forces rather than the static weight of the fully loaded cargo tank motor vehicle. We generally agree with TTMA, and have incorporated appropriate changes in paragraph (c) of this amendment. Paragraph (c) of this amendment provides a method for determining the maximum effective stress at any point in the cargo tank wall resulting from various dynamic loadings and combinations thereof. These calculations determine thickness requirements if the effective stresses are high at any point, or an area of the cargo tank is prone to fatigue or environmental degradation. However, we do not agree that the horizontal accelerative force to be applied at the pivot (fifth wheel) or the turn table must be 0.75 times the vertical reaction caused by fully loaded cargo tank motor vehicle. TTMA provided no data to support their position and, therefore, the requirement has not been changed. As discussed earlier in this preamble under the heading "Structural Integrity," TTMA's suggestion to revise the "g" loadings for cargo tanks with one or more baffle assemblies is adopted. We have authorized a reduction in the "g" loadings up to a maximum of 1 "g" at a rate of 0.25 "g" per baffle assembly, in paragraph (d).

Provisions contained in paragraph (d) of the final rule concerning calculation of effective stress for a cargo tank supported by a vehicle frame or other form of structural support are revised and moved to paragraph (f) of this amendment. In the revised provisions, we have clarified that, when considering the loading in paragraph (c), the stress analysis may include the contribution of the frame or the integral structural support.

Section 178.345–7 (Circumferential Refinforcements)

Several petitioners pointed out various editorial errors appearing in this section. We have corrected these errors and have made several editorial clarifications. We have removed the first sentence in paragraph (d)(5) to clarify that hat shaped or open channel rings which can be visually inspected are authorized on cargo tank motor vehicles constructed of carbon steel.

Section 178.345–8 (Accident Damage Protection)

Several petitioners objected to the wording in paragraph (a). TTMA stated that requiring a Design Certifying Engineer state that the "cargo tank is designed to minimize loss of lading in an accident taking into account of potential puncture, abrasion, etc. is an impossible liability to assume." We agree the requirement as written is open-ended and have revised it to better state our intention.

A petitioner stated that the loads specified for the design of rollover protection devices are artifically high and that the bending stresses in the tank wall can be as high as three times the maximum allowable stress value. An analysis submitted as part of the petition was based on a somewhat simplified model and consequently appears to result in more severe local stresses. It is clear that concentrated loads must be distributed broadly over the cargo tank wall. This distribution of loads can be accomplished by doubler pads, circumferential rings and other means without undue penalty in weight or fabrication complexity.

Several petitioners stated that the impact load specified in paragraph (d) for rear-end protection devices was excessive and subject to misinterpretation. Some petitioners objected to use of the inboard surface of the device as a dimensional reference point. The impact load is roughly equivalent to backing into a loading dock at five miles per hour. Many DOT specification cargo tank motor vehicles currently have rear structural features capable of withstanding such an impact. We consider this to be a reasonable requirement and have included it in this amendment. The need to refer to a safety factor has been eliminated by specifying design stress level in terms of one-half the ultimate strength of the material. We concur with the views expressed by petitioners concerning the "inboard surface of the device" and that the general wording in the final rule allows more than one interpretation. We have revised paragraphs (d)(1) and (d)(3) for clarity.

Section 178.345–9

Petitioners requested reconsideration of the requirement that only "automatic

means of closure" be used to protect tanks from overpressurization. TTMA stated that a pump equipped with an automatic bypass or pressure relief system designed to prevent pressurization of the cargo tank above its MAWP may be just as effective as "closure" of the line between the pump and the cargo tank. We agree and have revised the requirement to allow other means which are equally effective, such as pressure relief devices and overpressure bypass systems.

In paragraph (b) of the final rule, we required that the designed bursting pressure of a hose coupling be to 120% of the bursting pressure of the hose. Many petitioners objected to the over-designed couplings that would be required on a low pressure cargo tank if the hose used had a large bursting pressure. We agree and have changed the design constraint for the coupling to be a function of the tank MAWP rather than the hose bursting pressure. This requirement has been moved to new paragraph (c) in this amendment.

Several petitioners, including TTMA, noted paragraph (c) of the final rule does not allow slip joints in the design of these cargo tanks. The petitioners argued that slip joints should not be allowed in lines that would retain lading during transportation due to possible leakage of hazardous materials. However, slip joints should be allowed in lines which do not retain lading. We agree with the petitioners and have added the phrase "in lading retention piping." These provisions appear in paragraph (d).

For consistency in the use of nomenclature, in paragraph (h), the term "product retention system" is revised to read "lading retention system."

Section 178.345–10

Numerous petitioners addressed the final rule provisions for pressure relief systems on DOT 400 series cargo tank motor vehicles. These provisions are intended to cover all vacuum and pressure relief functions normally associated with use in cargo tanks and, in addition, to prevent loss of lading through the pressure relief system in the event of vehicle overturn or accident. This requirement for lading retention is to be accomplished in a two-step plan. As set forth in the final rule, these steps were:

1. Within 1.5 years of the effective date, pressure relief valves must reclose after experiencing pressure surges typically encountered in upsets, and leakage must be less than one gallon, and

2. Within 4.5 years of the effective date, pressure relief systems must withstand such pressure surges without leakage regardless of vehicle orientation.

In both stages, the characteristic dynamic pressure surge was defined as being "50 psig applied for at least 300 milliseconds." TTMA Recommended Practice, RP No. 81—"Performance of Spring-Loaded Pressure Relief Valves on MC 306, MC 307, and MC 312 Tanks" was cited as a testing procedure for demonstrating the ability to withstand the characteristic surge. This document describes an Australian test utilizing a drop test device.

Several petitioners suggested revisions in the characterization of the dynamic pressure surge and stated that it would be applied to individual specification units, e.g., only to DOT 406 systems. Generally, their recommendations were based upon studies of overturn events conducted on MC 306 units, or on simulators, reported in 1980 by Dynamic Science and the Highway Safety Research Institute, and upon experience with test equipment similar to the Australian drop-testing devices. All petitioners suggested shortening the 300 millisecond period of surge duration, and generally reducing the magnitude of the pressure surge. We developed the following revision based on data generated by the overturn research cited above and which has been proven to be obtainable with existing drop test equipment:

> Each pressure relief system must be designed to prevent loss of liquid lading due to pressure surges caused by overturn or other accident. This requirement is satisfied by a pressure relief system designed to withstand with no loss of lading a dynamic pressure surge reaching 30 psig above the designed set pressure of the relief system and sustained above the set pressure for at least 60 milliseconds.

The two-step plan for introducing these requirements is retained. Because valve manufacturers presented persuasive evidence that 18 months was insufficient time for development and initial production of a reseating valve, this period has been changed to 2 years. An additional period of 3 years is allowed for the development and production of a valve that meets the "no leakage in any orientation" requirement.

Several petitioners strongly objected to references to TTMA RP 81 on the basis that the wording seemed to imply that only TTMA's method of proof testing would be acceptable. As revised in paragraph (b)(3)(i)(A), the procedures in TTMA RP 81 may be used as one acceptable approach for satisfying the requirement.

A number of petitions were received to the effect that no manufacturer could supply relief valves capable of withstanding the pressure surges described in the final rule. While the final rule characterization of pressure surges was somewhat higher and much longer than surges to be expected typically in overturn accidents, at least one manufacturer can supply valves which satisfy the requirements contained in the final rule.

Several petitioners recommended that non-reclosing frangible devices be allowed on cargo tanks used in certain hazardous materials services, notably on vacuum-loaded cargo tank motor vehicles used in hazardous waste services. We disagree because frangible devices installed singly (i.e., not in series with a reclosing pressure relief valve) may not retain lading in the event of vehicle overturn. Other petitioners stated that the requirement in paragraph (c) that pressure relief devices be located in the center of the cargo tank should not be applied to vacuum-loaded cargo tank motor vehicles which are designed to slope rearward to facilitate unloading. We agree with these petitioners and have revised paragraph (c) accordingly.

Several petitioners pointed out that the controls on relief valve functions, in paragraph (d), are excessive and redundant. We agree and have revised paragraph (d) to eliminate unnecessary controls on performance, and to express opening and closing points as percentages of the MAWP.

In response to several petitions, we have revised paragraph (e) to clarify that the venting capacity of pressure relief system limit the tank internal pressure to not more than the cargo tank test pressure.

Questions raised by petitioners on the pressure relief system requirement found at § 180.405(h) have suggested the need for clarification of our intent. For this reason, and also in order to reflect the changes effected in § 178.345–10, we have revised § 180.405(h).

Section 178.345–11

Paragraph (a) of the final rule requires that all loading/unloading outlets be located as near as possible to the cargo tank wall, and that the remotely activated means of closure for the self-closing system "be more than 10 feet away from the stop-valve." TTMA and several other petitioners strongly objected to requiring external self-closing stop valves on loading/unloading outlets of vacuum-loaded cargo tanks. They argued that many hazardous wastes carried in these cargo tanks contain suspended solids or debris which make it impossible to ensure that

a self-closing stop valve will achieve a leak-tight seal when actuated.

It is our position that loading/unloading outlets must be equipped with internal self-closing stop valves or with external stop-valves which are part of a self-closing system. When an external stop-valve is used, the self-closing system need not be the only means by which the outlets may be closed. During normal operation, the stop-valve can be manually operated but, in the event of an emergency, it must be possible to remotely close the outlet. We agree with the petitioners that, where debris or solids are present, the actuation of a self-closing system may not result in a perfect closure, but lading loss in an emergency will be significantly reduced. We have reorganized this section and adopted use of the term "self-closing system" to further clarify our intention.

A petitioner requested that the requirement for a self-closing system on loading/unloading outlets apply to bottom outlets because no risk of lading exists with top outlets. We believe that, in the case of pressurized unloading of top outlets, there is a significant risk of lading loss in an emergency. Therefore, this paragraph applies to both top and bottom loading/unloading outlets.

Several petitioners expressed concern over use of the phrase "as close as possible to the cargo tank shell" to describe the required location of external stop valves. They requested the word "possible" be replaced with the phrase "practicable, taking into account accident damage protection, durability, lading characteristics and maintenance". API stated that the final rule may be requiring the placement of the valves in a position which is ultimately unsafe. On vacuum loaded cargo tanks, the stop valve is positioned to avoid debris packing in the bonnet, which could cause premature valve failure. Such valves are protected by accident damage devices and/or by the vehicle frame. API stated that they believe self-closing stop valves can be installed in a safe and practical position without being "as close as possible to the cargo tank shell." TTMA suggested we simply use the term "practicable" in place of "possible". We believe the use of the term "praticable" will allow the external self-valves to be placed in safer and more practical positions while maintaining our intent to minimize the distance between the cargo tank wall and the stop-valves. Therefore, we have adopted TTMA's suggested change.

With regard to the provision that the remotely activated means of closure for the self-closing system "be more than 10 feet away from the stop-valve," several petitioners requested that provisions be made for shorter tanks where this minimum distance cannot be achieved. We agree with their position and have provided that the remote activating system can be placed on the end of the tank farthest away from the loading/unloading connection. Several petitioners requested that the remote means of closure be located on the front, driver side of the cargo tank. They stated that this already is common practice in the industry and would provide for uniformity, which may enhance safety in emergency situations. We will not require this location but have no objections to this industry practice.

Paragraph (a)(1) of the final rule required that, in case of fire, "each stop valve" must be activated for closure by thermal means. TTMA suggested that this should apply only to "self-closing" stop valves. It was our intention that this paragraph apply only to self-closing systems. We have added a new paragraph (a)(4)(i) in this amendment to better reflect our intent.

Paragraph (b) of the final rule requires each tank outlet which is not a loading/unloading outlet to be equipped with a stop valve or other leak tight closure, and any extension beyond this closure to be fitted with another stop valve. We did not intend to limit the closure on the extension to a "stop valve" and, therefore, have revised the wording to "stop valve or other leak tight closure", as suggested by TTMA.

Section 178.345–12 (Gauging Devices)

Several petitioners stated that the requirement pertaining to the accuracy of gauging devices that indicate the maximum liquid level was confusing. They suggested that since the intent of the gauge is to prevent overfilling, there is no need for accuracy of the gauging device throughout its range. Two petitioners argued that, because of the diversity of hazardous materials products handled, selection of a gauge for vacuum loaded cargo tanks with an accuracy within 0.5 percent is difficult, but some mechanical gauges are accurate enough to prevent overfilling. The petitioners requested that vacuum-loaded hazardous waste tanks be excepted from this section. We have revised the provisions to reflect our intention that the gauging device need not have the stated accuracy throughout the filling range, but it must be capable of indicating maximum fill level within 0.5 percent of the fill capacity, either by volume or liquid level. Any device, including mechanical gauges meeting this requirement, may be used. Also, we wish to point out that § 178.345–12 applies to all cargo tanks, including vacuum loaded hazardous waste cargo tanks. Therefore, the petitioners' request to exclude waste tanks is denied.

Section 178.345–13 (Pressure and Leakage Tests)

TTMA requested that, in paragraph (b)(2), we limit the pneumatic testing pressure to 6 psig, because pneumatic testing at higher pressures is "not safe".

We agree with the petitioner that pneumatic testing has an inherently higher risk than hydrostatic testing because of the stored energy. However, we do not agree that a psi limit should be established for the test pressure. We believe that if the prescribed test procedure is followed, and adequate safeguards are established, pneumatic testing can be safely performed. When a pneumatic test is performed, the tester should fully consider the potential risks, and take steps to ensure safety to personnel and facilities. Paragraph (b)(2) is revised to emphasize the need for adequate safeguards. Two petitioners questioned the need for applying the leakage test to the entire tank surface, as prescribed in paragraph (b)(2) of the final rule. They suggested that the leak testing by soap solution or other methods be limited to "each joint and crevice". Upon further consideration, we agree with the petitioners and have limited the leakage test to joints.

We intended to permit the use of "air" or an "inert" gas for pressure and leakage tests. Therefore, in paragraph (b)(2), the wording "other similar gases" is revised to read "an inert gas".

Section 178.345–14 (Marking)

TTMA stated that there is no need to braze or weld around the marking plates and requested that the words "around the plate perimeter" be removed. We disagree with TTMA. These plates are required to be "permanently" affixed to the tank or integral supporting structure. This permanency is best achieved by brazing or welding around the entire perimeter of the plate.

TTMA also requested a number of revisions to the required markings on these plates. Most of these suggested changes were to condense the prescribed wording and abbreviations, for example, "water cap." would be "wc" and "Min. thick.-head" would be "Min.H." We believe the wording and abbreviations should not be condensed to a point where a person is unable to readily decipher the information. Therefore, only certain markings are revised.

Section 178.345–15 (Certification)

In the NPRM, design drawings were required as part of the certification provided to the purchaser, but in response to comments this requirement was deleted in the final rule. The final rule required only that the "final manufacturer shall furnish the owner with all certificates, excluding sketches and drawings." A petitioner stated that, unless design drawings are furnished to the owner, a subsequent purchaser of the unit would have no access to significant design information in the event that the original manufacturer has gone out of business. We believe the petitioner raises a valid point, but we believe this matter can be resolved by contractual arrangements between the manufacturer and the purchaser rather than through a requirement in the regulations. We strongly recommend that purchasers obtain documentation, such as sketches, drawings and specifications on dimensions and features, piping, and pressure relief system sufficient to define the configuration of the cargo tank motor vehicle. In the event of subsequent structural modifications, such data can be of essential value to a Design Certifying Engineer in evaluating whether the cargo tank meets the applicable specification.

Section 178.346–1 (General Requirements)

TTMA requested that we establish a MAWP of 3.3 psig for all DOT Specification 406 cargo tanks. TTMA claims that this would accommodate a static head of gasoline of 85 inches, which is typical for tanks carrying gasoline. We have not made this change to § 178.345–1(b) because DOT Specification 406 cargo tanks are authorized for many commodities other than gasoline and may have a static head of less than 85 inches. However, we would have no objection to the industry standardizing the design of all gasoline cargo tanks. As requested by several petitioners, paragraphs (d)(3) and (d)(8) are revised for clarity. See the earlier preamble discussion of "Application of the ASME Code to low pressure cargo tank motor vehicles" for our response to TTMA's request for exemption from additional paragraphs of the ASME Code.

Section 178.346–2

Several editorial changes are made.

Section 178.346–10 (Pressure Relief)

In response to several petitions, we have corrected the reference in § 178.346–10(b)(2) to read § 173.33(c)(1)(iii). Additionally, paragraphs (c) and (d) are revised for consistency with § 178.345–10 (see the preamble discussion to § 178.345–10).

Section 178.346–13

Two petitioners noted that the leakage test prescribed by paragraph (a), and by § 180.407(h), cannot be performed on a cargo tank equipped with a one psig normal vent unless the normal vent is removed or rendered inoperative. They suggested that a sentence be added to the leakage test procedure to allow venting devices set to discharge at less than the leakage test pressure to be removed or rendered inoperative during the test. We agree with the petitioners' suggestion, and have added the provisions to paragraph (c) of this section and to § 180.407(h).

Section 178.347–1 (General Requirements)

As requested by several petitioners, paragraphs (d)(3) and (d)(8) are revised for clarity. See the earlier preamble discussion on "Application of the ASME Code to low pressure cargo tank motor vehicles" for our response to TTMA's request for exemption from additional paragraphs of the ASME Code.

Section 178.347–2 (Material and Thickness of Material)

Several petitioners pointed out that the titles of Tables I & II should give material thicknesses "after forming." We agree with the petitioners and have changed the table titles.

Section 178.347–10 (Pressure Relief)

Several petitioners requested that paragraph (b)(1) be revised to state that vacuum relief devices are not required on cargo tanks designed to withstand full vacuum. We agree with the petitioners and have included such a provision in § 178.347–10(b)(1). Paragraph (d) is revised for consistency with § 178.345–10 (see the preamble discussion to § 178.345–10).

Section 178.348–1 (General Requirements)

In response to TTMA's petition, paragraph (d) is revised to require a cargo tank motor vehicle with a MAWP greater than 15 psig to have a circular cross-section, and paragraphs (e)(1) and (e)(2) are revised to clarify that only cargo tank motor vehicles with a MAWP greater than 15 psig must be "constructed and certified in conformance with the ASME Code". As requested by several petitioners, paragraphs (e)(2)(iii) and (e)(2)(viii) are revised for clarity. See the earlier preamble discussion on "Application of the ASME Code to low pressure cargo tank motor vehicles" for our response to TTMA's request for an exception from additional paragraphs of the ASME Code.

Section 178.348–2 (Material and Thickness of Material)

Several petitioners pointed out that the titles of Tables I and II should give material thicknesses "after forming." We agree with the petitioners and have changed the table titles.

Section 178.348–10 (Pressure Relief)

Several petitioners requested that paragraph (b)(1) be revised to state that vacuum relief devices are not required on cargo tanks designed to withstand full vacuum. We agree with the petitioners and have included such a provision in § 178.348–10(b)(1). TTMA requested that paragraph (d)(3) be clarified to indicate that the minimum total venting capacity required is determined from § 178.270–11(d)(3) and that the approximations provided in that section can be used in place of specific values for each commodity. We agree with TTMA that the use of the approximations provided in § 178.270–11(d)(3) will provide a venting capacity in excess of that required for a corrosive material and have revised paragraph (d)(3) as requested.

Section 180.403

A new definition for "Corrosive to the tank/valve," as used in § 180.407, is added. For explanation, refer to the preamble discussion to § 180.407 under the headings "External visual inspections." Also, the definitions for "Modification" and "Repair" are revised for consistency with other changes made in this amendment.

Section 180.405

Paragraph (f) is revised for consistency with changes made to § 178.345–11. Refer to the preamble discussion to § 178.345–11.

TTMA stated it appears, from paragraph (f), —1) that only a Design Certifying Engineer would be capable of determining compliance with "equally adequate accident damage protection" for the stop-valve, 2) that an unreinforced portion of a shell exceeding 60 inches had a construction which "produces a structural integrity of at least equal to that prescribed in § 178.345–3", and 3) that a cargo tank projection from the shell or head is "as strong as the tank shell or head and is located within appropriate accident damage protection device." We agree that the person performing certain

certifications would need design experience. However, we do not agree with TTMA that, for determining whether a cargo tank authorized under exemption qualifies for remarking as a specification cargo tank, a Design Certifying Engineer should be authorized to the exclusion of a Registered Inspector. The designs of these cargo tanks have already been approved by DOT. Therefore, in paragraph (f), we have allowed either (1) a Design Certifying Engineer or a Registered Inspector and (2) an owner of a cargo tank under exemption to determine if the tank qualifies for remarking as a specification cargo tank.

For changes to paragraph (h), refer to the preamble discussion to § 178.345–10.

In regard to paragraph (k), API pointed out that a design pressure of 3.0 psig would allow more cargo tanks now in service to remain operable in a fully loaded condition. We agree and have provided in this paragraph and in § 173.33(c)(2) for these cargo tanks to be marked with a design pressure or MAWP of 3.0 psig instead of 2.65.

Section 180.407 (Requirements for Test and Inspection of Cargo Tanks)

In response to petitioners, the title to this section, and various references in paragraphs (a), (b), and (c) are revised to clarify that the test and inspection requirements of this section apply only to specification cargo tanks. Paragraphs (a)(4) and (a)(5) are redesignated as paragraphs (a)(5) and (a)(6), respectively. Based on some petitioners' confusion over what to do with defects discovered during tests and inspections, a new § 180.407(a)(4) is added containing a reference to § 180.411, which describes acceptable results of tests and inspections. Paragraph (b)(3) is revised to require a cargo tank which has been out of hazardous materials transportation service for a period of one year or more to be hydrostatically or pneumatically tested in accordance with § 180.407(g) prior to further use. A hydrostatic pressure test is currently required prior to further use of a cargo tank which has been out of hazardous materials transportation service for one year or more. As written in the final rule, it could be construed that a cargo tank which has been out of hazardous materials transportation service for a year or more would not have to be pressure tested for 5 years.

In response to petitions, the May 22, 1990 amendment specified compliance dates for various provisions contained in the final rule. A table contained in the May 22 amendment, which sets forth the time intervals for performing periodic tests and inspections, and the dates by which the first tests and inspections must be completed, is revised and incorporated into § 180.407(c) of this amendment.

External Visual Inpsection

For clarification, NPGA suggested that the second sentence of § 180.407(d) be revised to read "Where visual inspection is precluded by both internal coating and external insulation *and where* the cargo tank is not equipped with a manhole * * *" (change underlined). We believe that NPGA's suggested wording implies that if a cargo tank is not equipped with a manhole or inspection opening, a pressure test is performed in place of the external visual inspection. It was not our intent in the final rule to require a pressure test in place of an external visual inspection, except where it is not possible to do either an external or an internal visual inspection. Therefore, NPGA's suggested wording is not incorporated into paragraph (d). However, we have revised the paragraph to clarify that where insulation precludes external visual inspection, and the cargo tank is not equipped with a manhole or inspection opening, the tank must be hydrostatically or pneumatically pressure tested. Other petitioners asked that the first sentence of paragraph (d) be revised to require that, where insulation precludes external inspection of the tank shell and heads, the insulation system or jacket be inspected in accordance with § 180.407(d)(2). We believe it is beyond the scope of this rulemaking to require the inspection of insulation or jacketing material. No such inspection requirements were proposed in the NPRM or adopted in the final rule. Such a requirement may be considered in a separate rulemaking action.

NTTC asked that § 180.407(d)(2)(iii) be revised by adding the following: "any manhole cover or gasket leakage discovered during this inspection must be eliminated." We believe the addition of such wording is unnecessary, because the repair of sources of leakage is addressed by § 180.411(d). NTTC also asked that paragraph (d)(2)(v) be revised to state "fusible linkage must be in working order and loose bolts and nuts must be tightened." NTTC argued that the existing wording, which states that mising bolts and nuts must be replaced, does not take into account situations where bolt holes are intentionally left empty by the cargo tank manufacturer. These empty bolt holes could give a false appearance of "missing" bolts and nuts. We believe that in cases where bolts and nuts are actually missing, they must be replaced. If a cargo tank motor vehicle design incorporates certain bolt holes which sometimes are not used, for instance, on upper coupler assemblies, then no bolts are considered missing. Therefore, no change has been made to paragraph (d)(2)(v). The revision suggested by NTTC specifying that the fusible linkage be in working order also is not adopted. We believe it is difficult to determine whether a fusible device is in working order without functioning of the device, and it is unreasonable to expect functioning of the fusible element during an inspection. Remote closure devices must be operated in accordance with paragraph (d)(2)(iv). For clarity, paragraph (d)(2)(v) is revised to refer to "fusible links or elements," because all fusible devices may not be "links."

NTTC recommended that § 180.407(d)(2)(vi) be revised to require only those markings prescribed by § 180.415 to be checked for legibility. We believe all required markings prescribed by parts 178 and 180 must be checked for legibility. However, this paragraph is revised to clarify that the markings to be checked do not extend to those prescribed by parts 172 and 173. A reference to 49 CFR part 396 is added to paragraph (d)(2)(vii), as suggested by NTTC.

NTTC asked for clarification of § 180.407(d)(2)(viii), regarding which components must be removed from the cargo tank for inspection and which components may be inspected in place. Paragraph (d)(2)(vii) does not require removal of any components for inspection. The only requirement for removal of a component at the time of the external visual inspection appears in paragraph (d)(3), when certain pressure relief valves must be removed from the cargo tank for inspection and testing.

Petitioners pointed out that the term "upper coupler (fifth wheel)" appears in paragraph (d)(2)(viii), while the term "upper skid plate" is used in paragraph (e)(3). NPGA recommended that the term "upper skid plate" be used throughout, because it is widely used in the liquefied petroleum gas industry. We agree with NPGA regarding the need to be consistent in the use of the term "upper skid plate" or "upper coupler (fifth wheel)". A number of other petitioners asked if these terms were synonymous, and if they refer to the "king pin plate". We believe the terms "upper coupler" and "fifth wheel" are most widely used and, therefore, have used the term "upper coupler (fifth wheel)" in paragraphs (d)(2)(viii) and (e)(3) of this amendment. Also, the term "upper coupler (fifth wheel)" is used in the cargo tank motor vehicle

specifications in part 178. Further, NPGA suggested a revision to paragraph (d)(2)(viii) to clarify that the upper skid plate assembly need not be dismantled at the time of the external inspection. We agree with the suggested wording. As discussed under the heading "Internal visual inspection" of this section, paragraphs (e)(2)(ix) and (g)(1)(iii) contain requirements for dismantling the upper coupler assembly for inspection of areas covered by the assembly.

A petitioner suggested that the requirement for removal of pressure relief valves from cargo tanks for inspection be moved from the external visual inspection to the internal visual inspection. The intent of paragraph (d)(3) is to require removal of all reclosing pressure relief valves from cargo tanks transporting lading corrosive to the valve on an annual basis. This intent would not be satisfied if this provision was moved to the internal visual inspection requirements. Therefore, the change suggested by the petitioner has not been made. Paragraph (d)(3) is revised to clarify the performance requirements of the reclosing pressure relief valves.

A number of petitioners urged RSPA to remove the undefined terminology "corrosive to the tank" and "corrosive to the valve" and instead refer to materials "classed as corrosive." It was our intent to refer not to materials which are classified as corrosive materials, but to any material which is corrosive to the tank or valve material. Some materials are classified as corrosive materials, but they are not corrosive to the material of construction of the cargo tank or valve. An example is a material which is corrosive only to skin. Cargo tanks carrying these materials would not be subject to the additional inspection and testing requirements. On the other hand, there are some materials which are not classed as corrosive materials, but which have a subsidiary corrosive hazard which makes them corrosive to the tank or valve. An example is a flammable liquid which is also corrosive. The additional test and inspection requirements would apply to these materials. For clarity, a definition of "lading corrosive to the tank/valve" is added in § 180.403. This new definition includes materials which meet the criteria in § 173.240(a)(2) for corrosion to the material of construction, and any other materials which, experience, has shown to be corrosive to the material of construction of the tank or valve. If the tank or valve is likely to corrode due to the lading, more frequent inspections are warranted. The references to lading "corrosive to the tank" and "corrosive to the valve" have not been changed in this amendment.

TTMA requested a revision of paragraph (d)(4) to clarify that only corroded or abraded areas of the cargo tank shell and head must be thickness tested in accordance with § 180.407(i), because there are no minimum thickness standards for appurtenances or attachments. The paragraph is revised to clarify that corroded or abraded areas "of the cargo tank wall" must be thickness tested.

Internal Visual Inspection

A petitioner suggested a five-year "phase-in" period for the internal inspection of cargo tanks in corrosive service for consistency with the five-year period authorized for completing the pressure retest. We do not agree that a five-year phase-in period should be allowed for the internal visual inspection for cargo tanks in corrosive service. The internal visual inspection for these cargo tanks is an annual inspection. NPGA suggested that a new paragraph (e)(2) be added to state that "the requirements for internal visual inspection for MC 330 and MC 331 cargo tanks shall coincide with the next required quinquennial requalification for required service." We do not intend to specify when each visual inspection is performed, as long as the internal visual inspection of each tank is performed prior to September 1, 1995.

Section 180.407(e)(2)(ii) requires lined cargo tanks to have the lining material inspected for defects. NTTC stated that this language should be eliminated from paragraph (e)(2)(ii), because lining inspections are addressed in paragraph (f). We agree that the lining inspection is adequately addressed by paragraph (f), and have deleted the first sentence of paragraph (e)(2)(ii). However, the requirement that tank liners be inspected as specified in § 180.407(f) is retained for clarity. Paragraph (e)(5), which refers to degraded or defective areas of the tank liner, is redesignated as paragraph (f)(3) for proper placement with other lining inspection requirements.

Several petitioners addressed the requirement in paragraph (e)(3) that tank head and shell areas covered by the upper skid plate be inspected for corroded and abraded areas. As was discussed earlier, the term "upper skid plate" is revised to read "upper coupler (fifth wheel)" in this amendment. The petitioners asked whether this paragraph would require removal of the upper coupler assembly for the inspection. It was our intent to require removal of the upper coupler assembly for this inspection, as suggested by comments to the NPRM. This requirement was placed in the internal visual inspection requirements rather than the external visual inspection requirements, because we do not believe it is necessary to require such an inspection on an annual basis. NTTC pointed out that for cargo tanks transporting materials which are corrosive to the tank, the upper coupler assembly would have to be removed once each year. NTTC suggested that this procedure be moved to the pressure testing requirements in paragraph (g), which would be required every 5 years, and that for cargo tanks in corrosive service, the removal of the upper coupler assembly for inspection be at a two year interval. We agree with NTTC, therefore, the requirement to remove the upper coupler assembly for cargo tanks carrying lading that is corrosive to the tank has been moved to paragraph (d)(2)(ix) as part of the external visual inspection. Paragraph (d)(2)(ix) clarifies that the upper skid plate must be removed and states that this part of the inspection is required only once each 2 years. For cargo tanks used to transport hazardous materials which are not corrosive to the tank, the requirement to remove the upper coupler assembly for inspection of tank head and shell areas covered by the assembly has been moved to paragraph (g)(1)(iii), and appears as part of the pressure retest. In paragraphs (d)(2)(ix) and (g)(1)(iii), the phrase "tank head and shell areas" is changed to "areas", because there may be cargo tank elements covered by the upper coupler assembly which are not head or shell areas.

A petitioner suggested that we add a clarification that only corroded or abraded areas of the tank shell and head must be thickness tested. We agree with the petitioner and have clarified in paragraph (e)(3) of this amendment that corroded or abraded areas "of the cargo tank wall" must be thickness tested.

Lining Inspection

A petitioner suggested that we revise paragraph (f)(1)(i) by changing the word "frequency" to "voltage." We do not agree with this suggested change. The wording adopted in the final rule is consistent with Technical Bulletin 13 of the Rubber Manufacturers' Association, which addresses the inspection of protective linings.

A petitioner asked that paragraph (f)(2) be revised to state that test equipment and procedures could be obtained from lining installers or distributors as well as lining manufacturers. The petitioner indicated

that when cross-linked polyethylene liners are used, it is difficult to get test procedures from either the polyethylene resin manufacturer or the lining installers, each claiming they are not the lining "manufacturer." We do not believe it is necessary that lining installers and distributors be referenced in this paragraph. It is our opinion that where cross-linked polyethylene resins are used as lining material, the person installing the polyethylene in the cargo tank is considered to be the lining manufacturer.

New paragraph (f)(3) contains requirements, formerly in paragraph (e)(5), regarding what to do with degraded or defective areas of the tank liner.

As suggested by NTTC, a new paragraph (f)(4) is added to require that an inspector record the results of the lining inspection in accordance with § 180.417(b).

Pressure Retest

Paragraph (g)(1)(iv) states that an owner of five or more cargo tank motor vehicles used to transport liquid hazardous materials must pressure test at least 20% of the cargo tank motor vehicles in his ownership each year. API requested that this paragraph reference § 173.33 so a shipper will know that a carrier is complying with the phase-in requirement. We do not believe it is necessary to relate the requirements in § 180.407(g)(1)(iv) to § 173.33, because it is not necessary for a shipper to know if the carrier is complying with the requirement to test 20% of his cargo tank motor vehicles each year. Section 173.22(a)(2), as revised in this amendment, does not require a shipper to determine whether a cargo tank motor vehicle meets the continuing qualification requirements of part 180.

TTMA suggested that paragraph (a)(1)(viii) be revised to limit the pressure used for the pneumatic test to 6 psig. TTMA recommended the same revision for the pressure testing of new tanks in § 178.345–13. As was discussed in the preamble to § 178.345–13, we do not believe it is necessary to limit the pneumatic test pressure to 6 psig, but have revised paragraph (g)(1)(viii) for consistency with § 178.345–13.

A petitioner requested clarification about when the wet fluorescent magnetic particle inspection of MC 330 and MC 331 cargo tanks is to be performed in accordance with paragraph (g)(3). The wet fluorescent magnetic particle inspection, when required, is performed immediately prior to and in conjunction with the required pressure test and, therefore, should be performed when the cargo tank is due for the pressure test. The wet fluorescent magnetic particle inspection need not be performed prior to the effective date of the final rule.

Section (g)(5)(ii) of the final rule contained an exception from pressure testing for certain uninsulated lined or clad cargo tanks. The same exception appeared as Note 2 to the table in § 180.407(c). A petitioner suggested that, because cladding material is integral with the base metal, paragraph (g)(5)(ii) be revised to subject clad cargo tanks to the same test requirements as tanks that are not clad. We agree with the petitioner and have revised paragraph (g)(5)(ii) to except only certain uninsulated lined cargo tanks from the pressure testing requirements. Additionally, Note 2 to the table in § 180.407(c) is similarly revised.

Section 180.407(g)(6) contains the acceptance criteria for cargo tanks subjected to the pressure test. TTMA and NTTC pointed out that paragraph (g)(6), as written would place a cargo tank out of service if the heating system failed the pressure test, even if the cargo tank otherwise passes the pressure test. They noted that the failure of the heating system alone would not adversely impact the lading retention capability or integrity of the cargo tank. TTMA suggested that paragraph (g)(6) be revised to allow a cargo tank which fails the heating system pressure test in § 180.407(g)(4) to be returned to service as an unheated cargo tank, under certain conditions. We agree that failure of a heating system to retain pressure under test does not necessarily render the cargo tank unsuitable for transportation of all hazardous materials. Such a cargo tank could safely be used under certain conditions for hazardous materials lading which does not require heating of the cargo tank. However, we believe an unsafe condition could occur if hazardous material lading leaks into the heading system and reacts with other incompatible residue. Therefore, paragraph (g)(6) is revised to authorize the use of such a cargo tank as an unheated cargo tank, if certain conditions are met.

Leakage Test

NPGA argued that the leakage test requirements, in paragraph (h), should not apply to cargo tanks transporting compressed gases, because these cargo tanks, including their piping systems, are effectively leak tested each time they are used. Conversely, another petitioner argued that the leakage test requirements should apply only to cargo tanks transporting compressed gases. Both petitioners argued that a requirement to leak test at 80% of the MAWP would penalize a shipper who offers a liquid material in an MC 330 or MC 331 cargo tank a lower integrity is authorized.

We believe all cargo tanks should be leak tested annually to assess their continued integrity. Paragraph (h) was revised in the final rule to clarify that the leakage test may be evaluated with hazardous material in the cargo tank for MC 330 and MC 331 cargo tanks. However, in their petition, NPGA stated it is impractical to reach the required 80% of the MAWP with a compressed gas lading in the cargo tank. We believe for a cargo tank with a higher MAWP, leaks can be detected at less than 80% of the MAWP. Therefore, paragraph (h)(1) is revised to permit a cargo tank with an MAWP of not less than 100 psig which is in dedicated service or services to be leakage tested at its normal operating pressure. When these cargo tanks are transporting compressed gases, leaks can be detected at the normal operating pressure of the cargo tank. The cargo tank must be leak-tight at the pressure at which it is operated. However, a cargo tank may not be operated at a pressure higher than the pressure to which it has successfully passed a leakage tested within the previous year. As discussed in the preamble to § 178.346–13, paragraph (h) is revised to allow venting devices which are set to discharge at less than the leakage test pressure to be removed or rendered inoperative during the test.

Paragraph (h)(1) requires that each cargo tank be leak tested at 80% of its MAWP. An equipment manufacturer recommended that the required leakage test pressure be reduced to 50% of its MAWP, because the vents they currently produce for MC 307 cargo tanks experience slight leakage at 50–60% of the MAWP when equipped with a teflon valve seat. However, the manufacturer also indicated that valve seats are available which enable the vent to withstand the required pressures. We have not receive any other information to suggest that pressure relief devices cannot pass the required leakage test. Therefore, the leakage test pressure requirements have not been changed, other than as indicated for high pressure cargo tanks.

NPGA suggested paragraph (h)(3) be revised to clarify that if a cargo tank fails to retain leakage test pressure, it may be returned to service if defects are corrected and test pressure requirements are met. As discussed earlier with regard to the results of visual inspections, the acceptable results of tests and inspections all

appear in § 180.411. Paragraph (d) of that section states that all sources of leakage must be properly repaired prior to returning a cargo tank to hazardous materials service. For clarity, a reference to § 180.411(d) is added to § 180.407(h)(3).

Thickness Testing

The shell and head thickness of all unlined cargo tanks used for the transportation of materials corrosive to the tank must be measured every two years. A petitioner recommended that the thickness testing requirement, in paragraph (i), be phased in over a 5-year period. We have not authorized a 5-year phase in period, since this test must be performed on a 2-year, not a 5-year, basis. The first thickness test must be completed on affected cargo tanks by September 1, 1992. Another petitioner objected to paragraph (i)(2), which states that the measuring device used must be capable of accurately measuring thickness to 0.002 of an inch, stating that the paragraph should be revised to require use of a device "having an accuracy of +/− 0.002 inch." It was our intent to require that the device used for measuring thickness be capable of measuring to the third decimal place, with an accuracy of +/− 0.002 of an inch. Revised paragraph (i)(2) clarifies this point.

TTMA and NTTC recommended that paragraph (i)(4) be revised to clarify that only areas of the cargo tank shell and heads need to be thickness tested. We agree and have revised this paragraph accordingly.

NTTC objected to paragraph (i)(5), which requires a cargo tank which no longer meets the prescribed minimum thickness to be removed from hazardous materials service. NTTC argued that a cargo tank can be safely used to haul less dense products, i.e. downgraded from 16 pounds per gallon product to 12 pounds per gallon product service. NTTC suggested a revision to the paragraph to allow continued use of a thinned cargo tank that has the specification plate re-marked to indicate its new service limits. We agree that a cargo tank which has thinned from its manufactured thickness may be suitable for carrying a lading with a density less than the maximum lading density marked on the cargo tank nameplate. However, we believe that a Design Certifying Engineer must certify that the cargo tank meets the structural integrity requirements for the lower density lading, and the cargo tank nameplate must be changed to reflect the new service limitations (maximum density of lading). A cargo tank which no longer meets the absolute minimum thickness requirement for the specification under which it was manufactured may not be returned to hazardous materials service. A new paragraph (i)(5) specifying the conditions under which these cargo tanks may be used is added. Revised paragraph (i)(6), which appeared in the final rule as paragraph (i)(5), provides that a cargo tank must be taken out of hazardous materials service if it no longer meets the minimum thickness prescribed by the applicable specification.

Section 180.409

Several petitioners stated that the tests and inspections described § 180.407(c) would have to be done by Registered Inspectors if performed in a manufacturing or repair facility, but could be done by persons who do not qualify as Registered Inspectors if performed by an employee of a carrier or cargo tank owner. It was evident from petitions that some people held the mistaken notion that *all* tests and inspections found at § 180.407(c) were covered by this section. Several raised objections to the "paperwork" called for by paragraph (b). Others objected to the provision for training "in accordance with the requirements of the ASME Code." One person pointed out that thickness test requirement should be moved to § 180.407(i). Our intent was to require that all periodic tests and inspections be performed only at registered facilities by persons certified to be qualified by virtue of being trained and experienced in use of the required inspection and test equipment. Under the NPRM, these persons were to be Authorized Inspectors. However, in response to comments, this requirement was relaxed in the final rule to allow properly trained, experienced employees to do pressure testing only for carriers and cargo tank owners if their facilities were registered to conduct these tests. The person who is identified as the responsible official in the registration application must certify that anyone performing such pressure testing is properly qualified.

This entire section has been rewritten to clarify our intentions. The requirements for training in accordance with the ASME Code and for submitting information on the tester are deleted.

Section 180.413 (Repair, Modification, Stretching, and Rebarrelling)

The Petroleum Marketeers Association of America (PMAA) petitioned RSPA to reconsider § 180.413 which requires that any repair, modification, stretching, or rebarrelling of a cargo tank be performed by a holder of an ASME "U" stamp or a National Board "R" stamp. PMAA stated the cost for obtaining certification may be from $35,000 to $50,000. As stated in the preamble to the final rule, current § 178.340–2(a) prescribes that cargo tanks are to be "designed and constructed in accordance with the best known and available practices." The ASME Code is a nationally recognized industry standard for the design and construction of pressure vessels, and ASME quality control procedures and qualified welders are among the best known and available. We believe the cost of obtaining an ASME "U" stamp certification or a National Board "R" stamp certification will be minimal for those facilities which are currently utilizing the best known and available practices, and which have established quality control procedures. Further, we believe this certification is necesary to ensure that organizations performing repairs and modifications to cargo tanks have qualified personnel and adequate quality control programs to effect proper repairs and modifications to cargo tanks used to transport hazardous materials.

PMAA also urged RSPA to expand paragraph (a) to permit organizations other than the ASME and the National Board to participate in the certification of repair shops. PMAA requested that RSPA "be receptive" to the formation of other certifying agencies. We are not aware of any other existing agencies or organizations which are qualified to certify cargo tank repair facilities, nor have any other organizations expressed an interest in certifying these facilities. The ASME and the National Board both have established procedures for the inspection and certification of facilities engaged in the construction and repair or pressure vessels. These organizations also are independent, disinterested parties. We believe it is important for a "third party" (e.g. not the person performing a repair, or the owner of the cargo tank) to evaluate and certify a facility as being capable of performing repairs and any modifications, stretching, and/or rebarrelling. Therefore, the requirement that repairs, modifications, stretching, and rebarrelling be performed in a facility which is certified for use of the ASME "U" stamp or National Board "R" stamp has not been changed. However, it should be noted that the procedures in 49 CFR 106.31 provide for interested persons to petition for rulemaking. If petitioned, RSPA will consider authorizing other third party organizations to certify cargo tank repair facilities if the third party organization can show that it is capable

of adequately evaluating and certifying these facilities.

PMAA expressed a concern that many repair facilities may not be able to obtain certification by the ASME or National Board before repairs must be performed in certified shops. PMAA urged a one-year delay to give repair facilities adequate time to obtain certification. The May 22 amendment established a compliance date of December 31, 1991, for repair facilities to obtain ASME or National Board certification.

In addition to requiring certification of each facility performing a repair or modification by the ASME or National Board, the final rule requires that each repair be certified by a Registered Inspector. PMAA characterized these requirements as redundant. We agree with another petitioner who stated that requiring a repair shop to hold a "U" stamp or "R" stamp does not guarantee that repairs are carried out in accordance with the quality assurance procedures required by the ASME or the National Board. We also believe that an inspection of each repair by a qualified person is necessary to ensure compliance with applicable specification requirements. The minimum qualifications for Registered Inspectors in this amendment will allow more employees who are currently working at repair facilities to qualify as Registered Inspectors. The requirement for inspection of each repair by a Registered Inspector is retained in this amendment.

A petitioner noted that paragraph (a) does not reference the MC 302 and MC 310 cargo tanks, and asked that they be added to this paragraph. We did not intend to exclude the MC 302 and MC 310 cargo tanks from this provision, and have corrected this omission.

A petitioner, addressing paragraph (b)(1)(vi)(A), suggested that when a wet fluorescent magnetic particle inspection is performed after a repair, the test should only be required on the area of the cargo tank affected by the repair, because the entire cargo tank was already tested to detect the defect. We agree that the wet fluorescent magnetic particle inspection need only be repeated on the area of the cargo tank which was affected by the repair, and have revised paragraph (b)(1)(vi)(A) accordingly.

A petitioner asked that a sentence be added to paragraph (b)(3) to require any repair or modification of a cargo tank which is not ASME Code "U" stamped be performed in accordance with the National Board Inspection Code, with the exception of those provisions of the ASME Code specifically exempted in the specifications for DOT 406, 407, and 412 cargo tanks. We do not believe it is necessary or appropriate to apply the National Board Inspection Code to the repair of cargo tanks which are not ASME Code "U" stamped.

Paragraph (b)(6) requires owners to retain all records of repairs and modifications. RSPA received a request that motor carriers who are not the owner also should retain copies of these records. Retention of these records by motor carriers was not a part of the NPRM or the final rule. However, we recognize that there may be situations where these record should be retained by the motor carrier, and have added a new sentence at the end of paragraph (b)(5).

Several petitioners requested clarification of paragraph (c). Specifically, they asked what testing must be performed after the repair or replacement for components, such as piping, valves, hoses, or fittings. These petitioners pointed out that, if a hydrostatic pressure test is required, the paragraph would essentially prohibit any work on these components while the cargo tank is loaded with hazardous material lading. It was not our intent in paragraph (c) to prohibit the maintenance or replacement of external valves, vents, or dust covers on loaded cargo tanks, as long as no welding is performed on the cargo tank. NTTC and the Hazardous Waste Association of California (HWAOC) suggested that paragraph (c) be revised to state only that piping, valves or fittings "must be properly installed in accordance with the applicable specification." We believe that the proper repair or replacement of any piping, valve, or fitting must be confirmed by testing. However, we do not believe there is a need to perform a hydrostatic pressure test in all cases. If any welding is perform on the cargo tank wall, which is defined as a "repair," pressure testing is required. For these reasons, paragraph (c) is revised to require only that piping, valves, and fittings be leak-tested after a repair or replacement which does not involve welding on the cargo tank wall. As suggested by NTTC and HWAOC, the first sentence in revised paragraph (c) states that these components "must be properly installed in accordance with the applicable specification." Also, as requested by API, revised paragraph (c) clarifies that the hose testing requirements apply only to hoses permanently attached to the cargo tank.

NTTC and HWAOC understood paragraph (d) to require all components of a cargo tank be brought up to the most current specification if the cargo tank is stretched or rebarrelled and requested clarification. Similarly, some petitioners stated that, under paragraph (d)(3), the Registered Inspector should certify only that portion of the cargo tank that was stretched or rebarrelled, not the entire cargo tank. We did not intend to require, when a cargo tank is stretched or rebarrelled, that the entire cargo tank be brought into compliance with the most current specification. We realize that it may be impossible to convert an existing cargo tank into a new specification cargo tank. An example, presented by NPGA in comments to the NPRM and in their petition to reconsider the final rule, is an MC 330 cargo tank which may not be converted into an MC 331 cargo tank because of the MC 331 specification restrictions on the location of longitudinal seams.

In this amendment, only the stretched or rebarrelled portion of the cargo tank, as well as equipment directly affected by the stretched or rebarrelled portion, must be in accordance with the most current specification. However, we believe that when a cargo tank motor vehicle is stretched or rebarrelled, a Design Certifying Engineer must verify that the entire cargo tank meets the structural integrity requirements of the most current specification. Inspection of the stretched or rebarrelled cargo tank motor vehicle by a Registered Inspector, on the other hand, need only be of the stretched or rebarrelled portion of the cargo tank motor vehicle. The provisions in paragraphs (d)(1) and (d)(3) are revised to clarify what portions of the cargo tank must be brought into compliance with current specifications when stretching or rebarrelling, and to what degree the Design Certifying Engineer must certify the stretched or rebarrelled cargo tank motor vehicle to current specifications.

TTMA requested that paragraph (d) be revised to authorize any "design type change," as long as the requirements of this paragraph are met. We disagree with TTMA's request. We believe that the definitions of "modification", "repair", "stretching", and "rebarrelling" adequately address the types of changes which are likely to be made to cargo tank motor vehicles, and § 180.413 specifically covers such changes. Paragraph (d) applies to operations defined as "stretching" and "rebarrelling," while § 178.320 requires each "design type" to be certified by a Design Certifying Engineer. Therefore, we believe it is unnecessary to revise § 180.413(d) to include any "design type change."

NPGA objected to a requirement in paragraph (d)(2)(v) to change the

existing specification plate after stretching or rebarrelling. NPGA questioned whether the original ASME nameplate or the specification plate could be removed or change without invalidating the original certification of the tank or vehicle construction. NPGA recommended that a supplemental plate, noting the appropriate changes made to the cargo tank, be attached near the original plate. The final rule did not require or suggest that the ASME nameplate be altered or removed from the cargo tank. Changing the existing specification plate would not invalidate the original certification of the tank, because the rebarrelled or stretched cargo tank's design must be certified by a Design Certifying Engineer, and the stretching or rebarrelling must be inspected and certified by a Registered Inspector. However, we believe the attachment of a supplemental plate, noting appropriate changes that have been made, would accomplish the intended purpose of the revised or replaced specification plate. Therefore, paragraph (d)(2)(v) is revised to permit the attachment of a supplemental specification plate as an alternative to changing or removing the existing specification plate.

Section 180.415 (Test and Inspection Markings)

NTTC and HWAOC inquired whether test and inspection markings may be placed anywhere on the front head on a cargo tank, regardless of the location of the specification plate. This section is revised to clarify that these markings must be on the cargo tank shell near the specification plate, or anywhere on the front head. They also requested guidance with respect to the applicability of the marking requirements in the case of cargo tank motor vehicles composed of more than one cargo tank, particularly if one cargo tank is repaired and tested and the others are not. This section is revised to clarify test and inspection markings for cargo tank motor vehicles composed of more than one cargo tank.

Section 180.417 (Reporting and Record Retention Requirements)

NTTC and HWAOC inquired whether a current requirement for a written report following the wet florescent magnetic particle inspection was eliminated under the final rule. Paragraph (c) of the final rule contains the same requirement. The reporting requirement was broadened to include cargo tanks used in liquefied petroleum gas, or any other service that may cause stress corrosion cracking. However, a requirement in § 177.824(f), that carriers file with the Office of Motor Carrier Field Operations a written listing of all MC 330 and MC 331 cargo tanks in service, was eliminated in the final rule.

A petitioner requested that the first sentence of paragraph (a) be revised to apply the reporting and record retention requirements only to owners of specification cargo tanks. We agree and have revised the requirement accordingly.

NPGA requested that consideration be given to allowing the certification required by paragraph (a)(3)(ii) to be performed by a Registered Inspector in place of an Authorized Inspector. We believe that, in this case, compliance with the ASME Code requirements will be assured by obtaining a copy of the manufacturer's data report, or the information on the cargo tank's ASME Code plate. We have revised this paragraph to permit the certification to be performed by a Registered Inspector.

Both NTTC and HWAOC recommended that the DOT registration number of the facility or the person performing the test be added to the written test or inspection report required by paragraph (b), to provide a more complete compliance record. They also recommended that the DOT registration number of the inspector be added to the report. We agree that this additional information will assure a more complete compliance record. Therefore, the phrase "and DOT registration number of the facility or the person performing the test" is added at the end of paragraph (b)(1)(vi), and paragraph (b)(1)(viii) is revised to require the inspector's DOT registration number to appear on the report as well as the inspector's signature.

A petitioner requested that alternatives to the actual signature of an inspector be authorized in paragraph (b)(1)(viii), to facilitate computerized recordkeeping. We believe a handwritten signature is necessary on test and inspection reports to ensure that an individual has taken responsibility for ensuring the test or inspection was performed in accordance with applicable requirements. For that reason, and to ensure signatures are not preprinted on reports, the petitioner's request is denied.

Administrative Notices

A. Executive Order 12291

This final rule has been reviewed under the criteria specified in section 1(b) of Executive Order 12291 and is determined not to be a major rule. However, it is a significant rule under the regulatory procedures of the Department of Transportation (44 FR 11034). This rule does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). This final rule does not impose additional requirements and has the net result of reducing costs imposed under the final rule published in the **Federal Register** on June 12, 1989, without reducing safety (54 FR 24982). The original regulatory evaluation of the Final rule was not modified because the changes made under this rule will result in a minimal economic impact on industry.

B. Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

C. Regulatory Flexibility Act

Based on limited information concerning the size and nature of entities likely to be affected by this rule, I certify this rule will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis is available for review in the docket.

D. Paperwork Reduction Act

This amendment imposes no changes to the information collection and recordkeeping requirements contained in the June 12, 1989 final rule, which was approved by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35 and assigned control number 2137-0014 (approved through 6-30-92).

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, title 49, chapter I, subchapters B and C of the Code of Federal Regulations, is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. App. 1421(c); 49 U.S.C. App. 1802, 1806, 1808–1811; 49 CFR 1.45 and 1.53, and Pub. L. 89–670 (49 U.S.C. App. 1653(d), 1655).

2. Section 107.501, as added at 54 FR 25003, on June 12, 1989, is revised to read as follows:

Subpart F—Registration of cargo tank and cargo tank motor vehicle manufacturers and repairers and cargo tank motor vehicle assemblers

§ 107.501 Scope.

(a) This subpart establishes a registration procedure for persons who are engaged in the manufacture, assembly, inspection and testing, certification, or repair of a cargo tank or a cargo tank motor vehicle manufactured in accordance with a DOT specification under subchapter C of this chapter or under terms of an exemption issued under this part.

(b) Persons engaged in continuing qualification and maintenance of cargo tanks and cargo tank motor vehicles must be familiar with the requirements set forth in part 180, subpart E, of this chapter.

3. In § 107.502, as added at 54 FR 25003, on June 12, 1989, paragraph (e) is removed, paragraphs (a) through (d) are redesignated as paragraphs (b) through (e) respectively, and new paragraphs (a) and (f) are added to read as follows:

§ 107.502 General registration requirements.

(a) *Definitions:* For purposes of this subpart—

(1) *Assembly* means the assembly of one or more tanks or cargo tanks to a motor vehicle or to a motor vehicle suspension component and involves no welding on the cargo tank wall.

(2) The terms *Authorized Inspector, Cargo tank, Cargo tank motor vehicle, Design Certifying Engineer, Registered Inspector,* and *Person* are defined in § 171.8 of this chapter.

(3) The terms *cargo tank wall* and *manufacturer* are defined in § 178.320(a), and *repair* is defined in § 180.403 of this chapter.

* * * * *

(f) Persons who do not meet the minimum educational requirements for Registered Inspector or Design Certifying Engineer may register to perform the applicable duties of the respective function, if the person—

(1) Has at least three years of work experience in performing the duties of the respective function no later than September 1, 1991; and

(2) Submits a registration statement before December 31, 1991.

4. In § 107.503, as added at 54 FR 25003, on June 12, 1989, paragraphs (a) introductory text, (a)(3), (a)(4), (a)(6), (b) and (c) are revised to read as follows:

§ 107.503 Registration statement.

(a) Each registration statement must be in English and contain the following information:

* * * * *

(3) A statement signed by the person responsible for compliance with the applicable requirements of this chapter, certifying knowledge of those requirements and that each employee who is a Registered Inspector or Design Certifying Engineer meets the minimum qualification requirements set forth in § 171.8 of this chapter for "Registered Inspector" or "Design Certifying Engineer", except as provided by § 107.502(f) of this part. The following language may be used.

I certify that all Registered Inspectors and Design Certifying Engineers used in performance of the prescribed functions meet the minimum qualification requirements set forth in 49 CFR 171.8, that I am the person responsible for ensuring compliance with the applicable requirements of this chapter, and that I have knowledge of the requirements applicable to the functions to be performed.

(4) A description of the specific functions to be performed on cargo tanks or cargo tank motor vehicles, e.g.:

(i) Manufacture,

(ii) Assembly,

(iii) Inspection and testing (specify type, e.g., external or internal visual inspection, lining inspection, hydrostatic pressure test, leakage test, thickness test),

(iv) Certification,

(v) Repair, or

(vi) Equipment manufacture;

* * * * *

(6) A statement indicating whether the registrant employs Registered Inspectors or Design Certifying Engineers to conduct certification, inspection or testing functions addressed by this subpart. If the registrant engages a person who is not an employee of the registrant to perform these functions, provide the name, address and registration number of that person; and

* * * * *

(b) In addition to the information required under paragraph (a) of this section, each person who manufactures or assembles a cargo tank or cargo tank motor vehicle must submit a copy of the manufacturer's current ASME Certificate of Authorization for the use of the ASME "U" stamp.

(1) Any person who manufactures MC 306, MC 307 or MC 312 cargo tanks must submit a copy of the ASME Certificate of Authorization to RSPA before December 31, 1991.

(2) This requirement does not apply to an assembler who performs no welding on a cargo tank wall.

(c) In addition to the information required under paragraph (a) of this section, each person who repairs a cargo tank or cargo tank motor vehicle must submit a copy of the repair facility's current National Board Certificate of Authorization for the use of the "R" stamp or ASME Certificate of Authorization for the use of the ASME "U" stamp. Any person who repairs MC-series cargo tanks which are not certified to the ASME Code must submit a copy of the National Board or ASME Certification of Authorization to RSPA before December 31, 1991.

5. In § 107.504, as added at 54 FR 25003, on June 12, 1989, paragraph (a) is revised, a sentence is added at the end of paragraph (c), and a new paragraph (f) is added, to read as follows:

§ 107.504 Period of registration, updates, and record retention.

(a) Registration will be for a maximum of three years from the date of the original registration.

* * * * *

(c) * * * Any person initially registered under the provisions of § 107.502(f) and who is in good standing is eligible for renewal.

* * * * *

(f) The issuance of a registration number under this subpart is not an approval or endorsement by the Department of the qualifications of any person to perform the specified functions.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

6. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. App. 1802, 1803, 1804, 1805, 1808; 49 CFR part 1.

7. In § 171.8, as amended at 54 FR 25004, on June 12, 1989, the definitions for "Cargo tank," "Design Certifying Engineer," and "Registered Inspector" are revised, to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Cargo tank means a bulk packaging which:

(1) Is a tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings, and closures (for "tank", see 49 CFR 178.345–1(c), 178.337–1, or 178.338–1, as applicable);

(2) Is permanently attached to or forms a part of a motor vehicle, or is not permanently attached to a motor vehicle but which, by reason of its size, construction or attachment to a motor vehicle is loaded or unloaded without being removed from the motor vehicle; and

(3) Is not fabricated under a specification for cylinders, portable tanks, tank cars, or multi-unit tank car tanks.

* * * * *

Design Certifying Engineer means a person registered with the Department in accordance with part 107, subpart F of this chapter who has the knowledge and ability to perform stress analysis of pressure vessels and otherwise determine if a cargo tank design and construction meets the applicable DOT specification and has an engineering degree and one year of work experience in structural or mechanical design. (See § 107.502(f)). Persons registered as professional engineers by appropriate authority of a State of the United States, or a Province of Canada, who have the requisite experience may be registered under this program.

* * * * *

Registered Inspector means a person registered with the Department in accordance with part 107, subpart F of this chapter who has the knowledge and ability to determine if a cargo tank conforms with the applicable DOT specification and has, at a minimum, any of the following combinations of education (see § 107.502(f)) and work experience in cargo tank design, construction, inspection, or repair:

(1) An engineering degree and one year of work experience,

(2) An associate degree in engineering and two years of work experience, or

(3) A high school diploma (or General Equivalency Diploma) and three years of work experience.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES, HAZARDOUS MATERIALS COMMUNICATIONS REQUIREMENTS AND EMERGENCY RESPONSE INFORMATION REQUIREMENTS

8. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, 1805, 1808; 49 CFR part 1.

§ 172.101 [Amended]

9. In § 172.101 Hazardous Materials Table, column (2), the entry for "Ammonium nitrate, solution" is revised to read as follows: "Ammonium nitrate, solution (*containing 35% or less water). See 173.154(a)(4) and 173.154(a)(17)*".

§ 172.203 [Amended]

9a. Section 172.203(h)(1)(i), as amended at 54 FR 25004, on June 12, 1989, is further amended by removing the reference "§ 173.315(a), Note 15" and inserting, in its place, the reference "§ 173.315(a), Note 14".

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

10. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR part 1, unless otherwise noted.

11. In § 173.22, as amended at 54 FR 25004, on June 12, 1989, paragraph (a)(2) introduction text is revised to read as follows:

§ 173.22 Shipper's responsibility.

(a) * * *

(2) The person shall determine that the packaging or container is an authorized packaging, including part 173 requirements, and that it has been manufactured, assembled, and marked in accordance with:

* * * * *

12. In § 173.33, as revised at 54 FR 25005, on June 12, 1989, and amended at 55 FR 21037, on May 22, 1990, the first sentence of paragraph (d)(3) and paragraphs (a)(3), (b)(3), (b)(4), (c)(1) introductory text, (c)(1)(vi), (c)(2)–(c)(5), (d)(1), (d)(2) and (e) are revised to read as follows:

§ 173.33 Hazardous materials in cargo tank motor vehicles.

(a) * * *

(3) A specification cargo tank motor vehicle, for which the prescribed periodic retest or reinspection under subpart E of part 180 of this subchapter is past due, may not be filled and offered for transportation until the retest or inspection has been successfully completed. This requirement does not apply to any cargo tank filled prior to the retest or inspection due date.

(b) * * *

(3) Air pressure in excess of ambient atmospheric pressure may not be used to load or unload any lading which may create an air-enriched mixture within the flammability range of the lading in the vapor space of the tank.

(4) To prevent cargo tank rupture in a loading or unloading accident, the loading or unloading rate used must be less than or equal to that indicated on the cargo tank specification plate, except as specified in § 173.318(b)(6). If no loading or unloading rate is marked on the specification plate, the loading or unloading rate and pressure used must be limited such that the pressure in the tank may not exceed 130% of the MAWP.

(c) * * *

(1) Prior to loading and offering a cargo tank motor vehicle for transportation with material that requires the use of a specification cargo tank, the person must confirm that the cargo tank motor vehicle conforms to the specification required for the lading and that the MAWP of the cargo tank is greater than or equal to the largest pressure obtained under the following conditions:

* * * * *

(vi) The maximum pressure in the tank during loading or unloading.

* * * * *

(2) Any Specification MC 300, MC 301, MC 302, MC 303, MC 305, MC 306 or MC 312, cargo tank motor vehicle with no marked design pressure or marked with a design pressure of 3 psig or less may

be used for an authorized lading where the pressure derived from § 173.33(c)(1) is less than or equal to 3 psig. After December 31, 1990, a cargo tank may not be loaded and offered for transportation unless marked or remarked with an MAWP or design pressure in accordance with 49 CFR 180.405(k).

(3) Any Specification MC 310 or MC 311 cargo tank motor vehicle may be used for an authorized lading where the pressure derived from § 173.33(c)(1) is less than or equal to the MAWP or MWP, respectively, as marked on the specification plate.

(4) Any cargo tank manufactured prior to December 31, 1990, marked with a design pressure rather than an MAWP may be used for an authorized lading where the largest pressure derived from § 173.33(c)(1) is less than or equal to the design pressure marked on the cargo tank.

(5) Any material that meets the definition of a Poison B material must be loaded in a cargo tank motor vehicle having a MAWP of 25 psig or greater.

(d) * * *

(1) Non-reclosing pressure relief devices are not authorized in any cargo tank except when in series with a reclosing pressure relief device. However, a cargo tank constructed before December 31, 1990 which is fitted with non-reclosing pressure relief devices may continue to be used in any hazardous material service for which it is authorized. The requirements in this paragraph do not apply to MC 330, MC 331 and MC 338 cargo tanks.

(2) Each cargo tank motor vehicle used to transport a liquid hazardous material in its gaseous state must have a pressure relief system that provides the venting capacity prescribed in § 178.345–10(e) of this subchapter. The requirements in this paragraph do not apply to MC 330, MC 331 and MC 338 cargo tanks.

(3) A cargo tank motor vehicle made to a specification listed in column 1 may have pressure relief devices or outlets conforming to the applicable specification to which the tank was constructed, or the pressure relief devices or outlets may be modified to meet the applicable requirement for the specification listed in column 2 without changing the markings on the tank specification plate. * * *

* * * * *

(3) *Retention of hazardous materials in product piping during transportation.* DOT specification cargo tanks used for the transportation of any material that is a Poison B liquid, oxidizer liquid, liquid organic peroxide or corrosive liquid (corrosive to skin only) may not be transported with hazardous materials lading retained in the piping, unless the cargo tank motor vehicle is equipped with bottom damage protection devices meeting the requirements of § 178.337–10 or § 178.345–8(b) of this subchapter; or the accident damage protection requirements of the specification under which it was manufactured. This requirement does not apply to a residue which remains after the piping is drained. A sacrificial device (see § 178.345–1 of this subchapter) may not be used to satisfy the accident damage protection requirements of this paragraph.

13. In § 173.119, as amended at 54 FR 25006, on June 12, 1989, paragraphs (a)(17)(i) and (ii), (e)(3)(ii) and (iii), and (m)(10)(iv) and (v) are revised to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

(a) * * *

(17) * * *

(i) Except as provided by § 173.33(d), each cargo tank is equipped with a pressure relief system meeting the requirements in § 178.346–10 or § 178.347–10 of this subchapter. However, pressure relief devices on Specification MC 310, MC 311 or MC 312 cargo tanks must meet the requirements for a Specification MC 307 cargo tank. Pressure relief devices on Specification MC 330 and MC 331 cargo tanks must meet the requirements in § 178.337–9 of this subchapter.

(ii) Bottom outlets on Specification DOT 406, DOT 407, or DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means and by a closure activated at a temperature not over 250° F., and Specification MC 330 and MC 331 cargo tanks are equipped with internal self-closing stop-valves meeting the requirements in § 178.337–11 of this subchapter.

* * * * *

(e) * * *

(3) * * *

(ii) Except as provided by § 173.33(d), each cargo tank is equipped with a pressure relief system meeting the requirements in § 178.347–10 of this subchapter. However, pressure relief devices on Specification MC 310, MC 311 or MC 312 cargo tanks must meet the requirements for a Specification MC 307 cargo tank. Pressure relief devices on Specification MC 330 and MC 331 cargo tanks must meet the requirements in § 178.337–9 of this subchapter.

(iii) Bottom outlets on Specification DOT 407, DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 304, MC 307, MC 310, MC 311, MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means and by a closure activated at a temperature not over 250° F.; and Specification MC 330 and MC 331 are equipped with internal self-closing stop-valves meeting the requirements in § 178.337–11 of this subchapter.

* * * * *

(m) * * *

(10) * * *

(iv) Except as provided by § 173.33(d), each cargo tank is equipped with a pressure relief system meeting the requirements in § 178.347–10 of this subchapter. However, Pressure relief devices on Specification MC 310, MC 311 or MC 312 Cargo tanks must meet the requirements for a Specification MC 307 cargo tank. However, Pressure relief devices on Specification MC 330 and MC 331 cargo tanks must meet the requirements in § 178.337–9 of this subchapter.

(v) Bottom outlets on Specification DOT 407, and DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 304, MC 307, MC 310, MC 311 or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means and by a closure activated at a temperature not over 250° F.; and Specification MC 330 and MC 331 are equipped with internal self-closing stop-valves meeting the requirements of § 178.337–11 of this subchapter.

* * * * *

14. In § 173.131, as amended at 54 FR 254007, on June 12, 1989, paragraph (a)(2) is revised to read as follows:

§ 173.131 Road asphalt, or tar, liquid.

(a) * * *

(2) A nonspecification cargo tank motor vehicle that is at least equivalent in design and construction to a Specification MC 306 or DOT 406 (§§ 178.345, 178.346 of this subchapter) cargo tank motor vehicle, except the cargo tank motor vehicle need not conform to requirements in §§ 178.345–7(d)(5), 178.345–8 (c) and (d), 178.345–14, 178.345–15, 178.346–5, 178.346–10, and

178.346–11 of this subchapter (or the certification, manhole, venting, and emergency flow control requirements of the MC 306 cargo tank specification). Also, the design stress limits at elevated temperatures of the ASME Code are not applicable. The design stress limits may not exceed 25 percent of the stress limit provided by the Aluminum Association Inc. in a publication entitled "Aluminum Standards and Data" for 0 temper at the maximum design temperature of the cargo tank motor vehicle.

15. In § 173.135, as amended at 54 FR 25007, on June 12, 1989, paragraphs (a)(9)(iii), (iv) and (v) are revised to read as follows:

§ 173.135 Diethyl dichlorosilane, dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane.

(a) * * *

(9) * * *

(iii) The cargo tank, except Specification MC 330 or MC 331 cargo tank, meets the corrosion protection requirements in § 178.345–2(c) of this subchapter.

(iv) Except as provided by § 173.33(d), the cargo tank is equipped with a pressure relief system meeting the requirements in § 178.347–10 of this subchapter. However, pressure relief devices on Specification MC 330 and MC 331 cargo tanks must meet the requirements in § 178.337–9 of this subchapter.

(v) Bottom outlets on Specification DOT 407 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 304, MC 307 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means or in the case of fire by a thermally activated closure activated at a temperature not over 250° F., and Specification MC 330 or and MC 331 are equipped with internal self-closing stop-valves meeting the requirements of § 178.337–11 of this subchapter.

* * * * *

16. In § 173.136, as amended at 54 FR 25007, on June 12, 1989, paragraph (a)(8) is revised to read as follows:

§ 173.136 Methyl dichlorosilane and trichlorosilane.

(a) * * *

(8) Specification MC 330 or MC 331 (§ 178.337 of this subchapter) cargo tank motor vehicle. Bottom outlets must be equipped with internal self-closing stop-valves meeting the requirements in § 178.337–11 of this subchapter.

* * * * *

17. In § 173.141, as amended at 54 FR 25007, on June 12, 1989, paragraph (a)(8) is revised to read as follows:

§ 173.141 Amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan mixtures.

(a) * * *

(8) Specification MC 330 or MC 331 (§ 178.337 of this subchapter) cargo tank motor vehicle. Bottom outlets must be equipped with internal self-closing stop-valves meeting the requirements in § 178.337–11 of this subchapter.

* * * * *

18. In § 173.145, as amended at 54 FR 25007, paragraph (a)(7)(ii) is revised to read as follows:

§ 173.145 Dimethylhydrazine, unsymmetrical, and methylhydrazine.

(a) * * *

(7) * * *

(ii) Except as provided by § 173.33(d), each cargo tank is equipped with steel pressure relief valves meeting the requirements in § 173.33(d) or § 178.347–10 of this subchapter. However, pressure relief devices on MC 311 or MC 312 cargo tanks must meet the requirements for a Specification MC 307 cargo tank. Pressure relief devices on Specification MC 330 and MC 331 cargo tanks must meet the requirements in § 178.337–9 of this subchapter.

* * * * *

19. In § 173.154, the third sentence in paragraph (a)(17) is revised to read: "Authorized only for ammonium nitrate with 35 percent or less water in solution at a maximum temperature of 240° F."; and as amended at 54 FR 25007, on June 12, 1989, paragraphs (a)(4)(iii)–(a)(4)(vi) are redesignated as paragraphs (a)(4)(ii)–(a)(4)(v) respectively; and paragraphs (a)(4)(i) (B) and (C), newly designated paragraphs (a)(4)(ii), and (a)(4)(v) are revised to read as follows:

§ 173.154 Flammable solids, organic peroxide solids and oxidizers not specifically provided for.

(a) * * *

(4) * * *

(i) * * *

(B) Potassium nitrite solutions, except that MC 306 cargo tanks are not authorized; or

(C) Ammonium nitrate with 35 percent or less water in solution at a maximum temperature of 240° F., except that transportation in uninsulated tanks and in MC 303, MC 306, MC 310 and DOT 406 cargo tank motor vehicles is not authorized.

(ii) Bottom outlets on Specification DOT 407 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 304, MC 307 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means or in the case of fire by a thermally activated closure activated at a temperature not over 250° F., and Specification MC 330 or and MC 331 are equipped with internal self-closing stop-valves meeting the requirements of § 178.337–11 of this subchapter.

* * * * *

(v) Each cargo tank is equipped with pressure relief devices meeting the requirements in § 173.33(d) or § 178.347–10 of this subchapter.

* * * * *

20. In § 173.190, as revised at 54 FR 25008, on June 12, 1989, paragraph (b)(4)(iv) is revised to read as follows:

§ 173.190 Phosphorus, white or yellow.

* * * * *

(b) * * *

(4) * * *

(iv) Each cargo tank is equipped with pressure relief devices meeting the requirements in § 173.33(d) or § 178.347–10 of this subchapter.

* * * * *

21. In § 173.206, as amended at 54 25008, on June 12, 1989, paragraph (c)(3)(v) is revised to read as follows:

§ 173.206 Sodium or potassium, metallic; sodium amide; sodium potassium alloys; sodium aluminum hydride; lithium metal; lithium silicon, lithium ferro silicon; lithium hydride; lithium borohydride; lithium aluminum hydride; lithium acetylide-ethylene diamine complex; aluminum hydride; cesium metal; rubidium metal; zirconium hydride; powdered.

* * * * *

(c) * * *

(v) The cargo tank is equipped with spring-loaded pressure relief valves having a start-to-discharge pressure not exceeding 150 psig which at a minimum are sized for the padding gas at its charge pressure.

* * * * *

22. In § 173.224, as amended at 54 FR 25008, on June 12, 1989, paragraphs (a)(4)(iii) and (iv) are redesignated as paragraphs (a)(4)(ii) and (a)(4)(iii) respectively, and newly designated paragraph (a)(4)(iii) is revised to read as follows:

§ 173.224 Cumene hydroperoxide, dicumyl peroxide, diisopropylbenzene hydroperoxide, paramenthane hydroperoxide, pinane hydroperoxide, and tertiary butylisopropyl benzene hydroperoxide.

(a) * * *

(4) * * *

(iii) The pressure relief system on the cargo tank meets the requirements in § 173.33(d) or § 178.347–10 of this subchapter.

* * * * *

23. In § 173.245, as revised at 54 FR 25008, on June 12, 1989, paragraphs (a)(29)(iii) and (iv) are revised to read as follows:

§ 173.245 Corrosive liquids not specifically provided for.

(a) * * *

(29) * * *

(iii) The cargo tank meets the corrosion protection requirements in § 178.345–2(c) of this subchapter.

(iv) Bottom outlets on Specification DOT 407 or DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 303, MC 306, MC 307, MC 310, MC 311, MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

24. In § 173.247, as amended at 54 FR 25008, on June 12, 1989, paragraph (a)(12)(ii) is revised to read as follows:

§ 173.247 Acetyl bromide; acetyl chloride; acetyl iodide; antimony pentachloride; benzoyl chloride; boron trifluoride acetic acid complex; chromyl chloride; dichloroacetyl chloride; diphenylmethyl bromide solutions; pyrosulfuryl chloride; silicon chloride; sulfur chloride (mono and di); sulfuryl chloride; thionyl chloride; tin tetrachloride (anhydrous); titanium tetrachloride; trimethyl acetyl chloride.

(a) * * *

(12) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

25. In § 173.247a, as amended at 54 FR 25008, on June 12, 1989, paragraph (a)(3)(iii) is revised to read as follows:

§ 173.247a Vanadium tetrachloride and vanadium oxytrichloride.

(a) * * *

(3) * * *

(iii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

26. In § 173.248, as amended at 54 FR 25008, on June 12, 1989, paragraph (a)(6)(ii) is revised to read as follows:

§ 173.248 Spent sulfuric acid, or spent mixed acid.

(a) * * *

(6) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

27. In § 173.249, as amended at 54 FR 25009, on June 12, 1989, paragraph (a)(6)(iv) is revised to read as follows:

§ 173.249 Alkaline corrosive liquids, n.o.s.; alkaline liquids, n.o.s.; alkaline corrosive battery fluid; potassium fluoride solution; potassium hydrogen fluoride solution; sodium aluminate, liquid; sodium hydroxide solution; potassium hydroxide solution.

(a) * * *

(6) * * *

(iv) Bottom outlets on Specification DOT 407 or DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 303, MC 304, MC 306, MC 307, MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

28. In § 173.249a, as amended at 54 FR 25009, on June 12, 1989, paragraph (d)(6)(iv) is revised to read as follows:

§ 173.249a Cleaning compound, liquid; coal tar dye, liquid; dye intermediate, liquid; mining reagent, liquid; and textile treating compound or mixture, liquid.

* * * * *

(d) * * *

(6) * * *

(iv) Bottom outlets on Specification DOT 407 or DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 303, MC 304, MC 306, MC 307, MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

29. In § 173.250a, as amended at 54 FR 25009, on June 12, 1989, paragraph (a)(2)(ii) is revised to read as follows:

§ 173.250a Benzene phosphorus dichloride and benzene phosphorus thiodichloride.

(a) * * *

(2) * * *

(ii) Bottom outlets on Specification DOT 407 or DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 304, MC 307, MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

30. In § 173.252, as amended at 54 FR 25009, on June 12, 1989, paragraph (a)(4)(ii) is amended by removing "cladding," and paragraphs (a)(4)(iv) and (v) are revised to read as follows:

§ 173.252 Bromine.

(a) * * *

(4) * * *

(iv) The cargo tank meets the corrosion protection guidelines in § 178.345–2(c) of this subchapter.

(v) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

31. In § 173.253, as amended at 54 FR 25009, on June 12, 1989, paragraph (a)(6)(iii) is revised to read as follows:

§ 173.253 Chloroacetyl chloride.

(a) * * *

(6) * * *

(iii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

32. In § 173.254, as amended at 54 FR 25009, on June 12, 1989, paragraph (a)(5)(ii) is revised to read as follows:

§ 173.254 Chlorosulfonic acid and mixtures of chlorosulfonic acid-sulfur trioxide.

(a) * * *

(5) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

33. In § 173.257, as amended at 54 FR 25009, on June 12, 1989, paragraph (a)(4)(ii) is revised to read as follows:

§ 173.257 Electrolyte (acid) and alkaline corrosive battery fluid.

(a) * * *

(4) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

34. In § 173.262, amended at 54 FR 25010, on June 12, 1989, paragraph (a)(11)(ii) is revised to read as follows:

§ 173.262 Hydrobromic acid.

(a) * * *

(11) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

35. In § 173.263, as amended at 54 FR 25010, on June 12, 1989, paragraph (a)(10)(ii) is revised to read as follows:

§ 173.263 Hydrochloric (muriatic) acid; hydrochloric (muriatic) acid mixtures; hydrochloric (muriatic) acid solution, inhibited; sodium chlorite solution (not exceeding 42 percent sodium chlorite); and cleaning compounds, liquids, containing hydrochloric (muriatic) acid.

(a) * * *

(10) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

36. In § 173.264, as amended at 54 FR 25010, on June 12, 1989, paragraphs (a)(14)(ii) and (b)(3) are revised to read as follows:

§ 173.264 Hydrofluoric acid; White acid.

(a) * * *

(14) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

(b) * * *

(3) Specification MC 310, MC 311, MC 312 or DOT 412 (§§ 178.345, 178.348 of this subchapter) cargo tank motor vehicle. Bottom outlets on: Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

37. In § 173.265, as amended at 54 FR 25010, on June 12, 1989, paragraph (b)(4)(ii) is revised to read as follows:

§ 173.265 Fluorosilicic acid (hydrofluorosilicic acid) (hydrofluoosilicic acid).

(b) * * *

(4) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

38. In § 173.266, as amended at 54 FR 25010, on June 12, 1989, paragraph (f)(2)(iv) immediately following paragraph (f)(2)(v) is redesignated as paragraph (f)(2)(vi), and paragraph (f)(2)(v) is revised to read as follows:

§ 173.266 Hydrogen peroxide solution in water.

* * * * *

(f) * * *

(2) * * *

(v) The cargo tank metal specification plate must be marked "DOT MC 310–H_2O_2", "DOT MC 312–AL–H_2O_2", "DOT MC 312–SS–H_2O_2", or as appropriate. In addition to the required markings prescribed in § 172.328 of this subchapter, each such cargo tank is marked in letters at least 1 inch high "FOR HYDROGEN PEROXIDE ONLY".

* * * * *

39. In § 173.271, as amended at 54 FR 25010, on June 12, 1989, paragraph (a)(8)(iv) is revised to read as follows:

§ 173.271 Methyl phosphonic dichloride, phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

(a) * * *

(8) * * *

(iv) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

40. In § 173.272, as amended at 54 FR 25011, on June 12, 1989, paragraphs (d), (e), (f), (g), (h), and (i)(21)(iv) are revised to read as follows:

§ 173.272 Sulfuric acid.

* * * * *

(d) *Concentrations of greater than 51 percent to not over 65.25 percent.* Authorized packagings for sulfuric acid at concentrations of 51 percent to not over 65.25 percent are prescribed in paragraphs (i)(1)–(i)(16), (i)(21), and (i)(27)–(i)(30) of this section.

(e) *Concentrations of greater than 65.25 percent to not over 77.5 percent.* Authorized packagings for sulfuric acid at concentrations of 65.25 percent to not over 77.5 percent are prescribed in paragraphs (i)(1)–(i)(16), (i)(20)–(i)(22), and (i)(29)–(i)(30) of this section.

(f) *Concentrations of greater than 77.5 percent to not over 95 percent.* Authorized packagings for sulfuric acid concentrations of 77.5 percent to not over 95 percent are prescribed in paragraphs (i)(1)–(i)(22), and (i)(29)–(i)(30) of this section.

(g) *Concentrations of greater than 95 percent to not over 100.5 percent.* Authorized packagings for sulfuric acid concentrations of greater than 95 percent to not over 100.5 percent are prescribed in paragraphs (i)(1)–(i)(4), (i)(6), (i)(9), (i)(14)–(i)(22), and (i)(29)–(i)(30) of this section.

(h) *Concentrations of over 100.5 percent.* Authorized packagings for sulfuric acid concentrations of over 100.5 percent are prescribed in

paragraphs (i)(1)–(i)(4), (i)(17), and (i)(19)–(i)(23) of this section.

(i) * * *

(21) * * *

(iv) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

41. In § 173.273, as amended at 54 FR 25011, on June 12, 1989, paragraphs (a)(5) and (b)(2) are revised to read as follows:

§ 173.273 Sulfur trioxide.

(a) * * *

(5) Specification MC 310, MC 311, MC 312 or DOT 412 (§§ 178.345, 178.348 of this subchapter) cargo tank motor vehicle, subject to the following conditions:

(i) The cargo tank is equipped with a pressure relief system meeting the requirements in § 173.33(d) or § 178.345–10 of this subchapter and consisting of a spring-loaded pressure relief valve, or a combination spring-loaded pressure relief valve and a frangible (rupture disk) installed in series with the relief valve. When the pressure relief system consists of a spring-loaded pressure relief valve and a frangible (rupture disk) installed in series with the pressure relief valve, the spring-loaded pressure relief value must be set-to-discharge at a pressure not exceeding 125 percent of the design pressure.

(ii) The tank is not equipped with interior heating coils.

(iii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

(b) * * *

(2) Specification MC 311, MC 312 or DOT 412 (§§ 178.345, 178.348 of this subchapter) cargo tank motor vehicle, subject to the following conditions:

(i) The cargo tank is insulated.

(ii) The tank is not equipped with interior heating coils.

(iii) The cargo tank is equipped with a pressure relief system meeting the requirements in § 173.33(d) or § 178.345–10 of this subchapter and consisting of a spring-loaded pressure relief valve, or a combination spring-loaded pressure relief valve and a frangible (rupture) disk installed in series with the relief valve. When the pressure relief system consists of a spring-loaded pressure relief valve and a frangible (rupture) disk installed in series with the pressure relief valve, the spring-loaded pressure relief value must be set-to-discharge at a pressure not exceeding 125 percent of the design pressure.

* * * * *

42. In § 173.274, as amended at 54 FR 25011, on June 12, 1989, paragraph (a)(4) is revised to read as follows:

§ 173.274 Fluosulfonic acid.

(a) * * *

(4) Specification MC 310, MC 311, MC 312 or DOT 412 (§§ 178.345, 178.348 of this subchapter) cargo tank motor vehicle. Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

43. In § 173.276, as amended at 54 FR 25011, on June 12, 1989, paragraphs (a)(6) introductory text and (a)(6)(iii) are revised to read as follows:

§ 173.276 Anhydrous hydrazine and hydrazine solution.

(a) * * *

(6) Specification MC 310, MC 311, MC 312, DOT 412, MC 330 or MC 331 (§§ 178.345, 178.348, 178.337 of this subchapter) cargo tank motor vehicle, subject to the following conditions:

* * * * *

(iii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means; and MC 330 and MC 331 cargo tanks are equipped with internal self-closing stop-valves meeting the requirements in § 178.337–11 of this subchapter.

* * * * *

44. In § 173.277, as amended at 54 FR 25011, on June 12, 1989, paragraph (a)(9)(ii) is revised to read as follows:

§ 173.277 Hypochlorite solutions.

(a) * * *

(9) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

45. In § 173.280, as amended at 54 FR 25012, on June 12, 1989, paragraph (a)(8)(ii) is revised to read as follows:

§ 173.280 Trichlorosilanes.

(a) * * *

(8) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

46. In § 173.292, as amended at 54 FR 25012, on June 12, 1989, the section heading and paragraph (a)(2)(iv) are revised to read as follows:

§ 173.292 Hexamethylenediamine solution.

(a) * * *

(2) * * *

(iv) Bottom outlets on Specification DOT 406, DOT 407, DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

47. In § 173.294, as amended at 54 FR 25012, on June 12, 1989, paragraph (a)(3)(ii) is correctly revised to read as follows:

§ 173.294 Monochloroacetic acid, liquid or solution.

(a) * * *

(3) * * *

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

48. In § 173.295, as amended at 54 FR 25012, on June 12, 1989, paragraph (a)(9)(iii) is revised to read as follows:

§ 173.295 Benzyl chloride.

(a) * * *

(9) * * *

(iii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with

stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

49. In § 173.297, as amended at 54 FR 25012, on June 12, 1989, there was an error in the designation used in the regulatory text. The regulatory text was correctly placed in paragraph (a)(1) instead of paragraph (a)(4) of the October 1, 1989, edition of the CFR.

§ 173.297 Titanium sulfate solution containing not more than 45 percent sulfuric acid.

(a) * * *

(1) * * *

(ii) Bottom outlets on Specifications DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

* * * * *

50. In § 173.315, paragraph (a) is amended by removing the introductory text of paragraph (a)(1); and paragraphs (i)(1)(ii), as revised at 54 FR 25012, on June 12, 1989, is revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tanks.

* * * * *

(i) * * *

(1) * * *

(ii) The flow capacity rating, testing and marking must be in accordance with Sections 5, 6 and 7 of CGA Pamphlet S–1.2.

* * * * *

51. In § 173.318, as amended at 54 FR 25013, on June 12, 1989, paragraphs (b)(2)(i)(C) and the last sentence in paragraph (b)(2)(ii) are revised to read as follows:

§ 173.318 Cryogenic liquids in cargo tanks.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(C) The flow capacity and rating must be verified and marked by the manufacturer of the device in accordance with CGA Pamphlet S–1.2.

(ii) * * * The flow capacity and rating must be verified and marked by the manufacturer of the device in accordance with CGA Pamphlet S–1.2.

* * * * *

52. In § 173.346, as amended at 54 FR 25013, on June 12, 1989, paragraph (a)(12) is revised to read as follows:

§ 173.346 Poison B liquids not specifically provided for.

(a) * * *

(12) Specification MC 304, MC 307, MC 310, MC 311, MC 312, DOT 407, DOT 412, MC 330 or MC 331 (§§ 178.345, 178.347, 178.348, 178.337 of this subchapter) cargo tank motor vehicle subject to the following conditions:

(i) The design pressure of the cargo tank is at least 25 psig.

(ii) Bottom outlets on Specification DOT 406 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 304, MC 307, MC 310, MC 311 or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means or in the case of fire by a thermally activated closure activated at a temperature not over 250° F., and Specification MC 330 and MC 331 must be equipped with internal self-closing stop-valves meeting the requirements of § 178.337–11 of this subchapter.

(iii) Each tank is equipped with a pressure relief system meeting the requirements in § 173.33(d) or § 178.347–10 of this subchapter. However, pressure relief devices on MC 330 or MC 331 cargo tanks must meet the requirements in § 178.337–9 of this subchapter.

* * * * *

53. In § 173.353, as amended at 54 FR 25013, on June 12, 1989, paragraph (e)(3) is revised to read as follows:

§ 173.353 Methyl bromide and methyl bromide mixtures.

* * * * *

(e) * * *

(3) Bottom outlets on the cargo tank are equipped with internal self-closing stop-valves meeting the requirements in § 178.337–11 of this subchapter.

§ 173.354 [Amended]

54. In § 173.354(a)(5), as revised at 54 FR 25013, on June 12, 1989, the word "vehicle" is revised to read "vehicles."

55. In § 173.358, as amended at 54 FR 25014, on June 12, 1989, paragraph (a)(14)(vi) and (vii) are revised to read as follows:

§ 173.358 Hexaethyl tetraphosphate, methyl parathion, organic phosphate compound, organic phosphorus compound, parathion, tetraethyl dithio pyrophosphate, and tetraethyl pyrophosphate, liquid.

(a) * * *

(14) * * *

(vi) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 310, MC 311 or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means or in the case of fire by a thermally activated closure activated at a temperature not over 250° F., and Specification MC 330 and MC 331 are equipped with internal self-closing stop-valves meeting the requirements of § 178.337–11 of this subchapter.

(vii) Each tank is equipped with a pressure relief system meeting the requirements in § 173.33(d) or § 178.347–10 of this subchapter, except that pressure relief devices on MC 330 or MC 331 cargo tanks must meet the requirements in § 178.337–9 of this subchapter.

* * * * *

56. In § 173.359, as amended at 54 FR 25014, on June 12, 1989, paragraph (a)(16)(v) and (vi) are revised to read as follows:

§ 173.359 Hexaethyl tetraphosphate mixtures; methyl parathion mixtures; organic phosphorus compound mixtures, organic phosphate compound mixtures; parathion mixtures, tetraethyl dithio pyrophosphate mixtures; and tetraethyl pyrophosphate mixtures, liquid (includes solutions, emulsions, or emulsifiable liquids).

(a) * * *

(16) * * *

(v) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 310, MC 311 or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed wthin 30 seconds of actuation by manual or mechanical means or in the case of fire by a thermally activated closure activated at a temperature not over 250° F., and Specification MC 330 and MC 331 are equipped with internal self-closing stop-valves meeting the requirements of § 178.337–11 of this subchapter.

(vi) Each tank is equipped with a pressure relief system meeting the requirements in § 173.33(d) or § 178.345–10 of this subchapter, except that pressure relief devices on MC 330 or MC 331 cargo tanks must meet the requirements in the § 178.337–9 of this subchapter.

* * * * *

57. In § 173.369, as amended at 54 FR 25014, on June 12, 1989, paragraph (a)(14)(iii) is revised to read as follows:

§ 173.369 Carbolic acid (phenol), not liquid.

(a) * * *

(14) * * *

(iii) Bottom outlets on Specification DOT 407 or DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 304, MC 307, MC 310, MC 311 or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means or in the case of fire by a thermally activated closure activated at a temperature not over 250° F., and Specification MC 330 and MC 331 are equipped with internal self-closing stop-valves meeting the requirements of § 178.337–11 of this subchapter.

* * * * *

58. In § 173.373, as amended at 54 FR 25014, on June 12, 1989, paragraphs (a)(6)(i) and (iv) are revised to read as follows:

§ 173.373 Ortho-nitroaniline and paranitroaniline.

(a) * * *

(6) * * *

(i) The tanks are authorized only for ortho-nitroaniline which must be loaded in a liquefied state at a temperature not over 180° F.

* * * * *

(iv) Bottom outlets on Specification DOT 407 or DOT 412 cargo tanks are equipped with stop-valves meeting the requirement of § 178.345–11 of this subchapter; Specification MC 304, MC 307, MC 310, MC 311 or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means or in the case of fire by a thermally activated closure activated at a temperature not over 250° F., and Specification MC 330 and MC 331 are equipped with internal self-closing stop-valves meeting the requirements of § 178.337–11 of this subchapter.

* * * * *

59. In § 173.374, as amended at 54 FR 25014, on June 12, 1989, paragraph (a)(4)(v) is revised to read as follows:

§ 173.374 Nitrochlorobenzene, meta or para.

(a) * * *

(4) * * *

(v) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345–11 of this subchapter; Specification MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means or in the case of fire by a thermally activited closure activated at a temperature not over 250° F., and Specification MC 330 and MC 331 are equipped with internal self-closing stop-valves meeting the requirements of § 178.337–11 of this subchapter.

* * * * *

PART 176—CARRIAGE BY VESSEL

60. The authority citation for Part 176 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53, app. A to part 1.

61. The text of paragaph (b) of § 176.76, as amended at 54 FR 25014, on June 12, 1989, contained an error in the amendatory language, the text as it appears in the October 1, 1989, edition of the CFR is accurate.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

62. The authority citation for Part 177 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 49 CFR Part 1.

63. Section 177.824 is revised to read as follows:

§ 177.824 Retesting and inspection of cargo tanks.

Except as otherwise provided in this subchapter, no motor carrier may operate a specification cargo tank motor vehicle containing a hazardous material unless the cargo tank motor vehicle conforms to the retest and inspection requirements set forth in Subpart E of Part 180 of this subchapter. This paragraph does not apply to any cargo tank filled prior to the retest or inspection due date.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

64. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, 1805, 1806, 1808; 49 part 1.

65. Section 178.320, as added at 54 FR 25015, on June 12, 1989, is revised to read as follows:

§ 178.320 General requirements applicable to all DOT specification cargo tank motor vehicles.

(a) *Definitions.* For the purposes of this subpart,

Cargo tank, as defined in § 171.8 of this subchapter, means a bulk packaging which:

(1) Is a tank intended primarily for the carriage of liquids or gases (including appurtenances, reinforcements, fittings, and closures) (For definition of "tank", see § 178.345–1(c), § 178.337–1, or § 178.338–1, as applicable);

(2) Is permanently attached to or forms a part of a motor vehicle but which, by reason of its size, construction or attachment to a motor vehicle is loaded or unloaded without being removed from the motor vehicle; and

(3) Is not fabricated under a specification for cylinders, portable tanks, tank cars, or multi-unit tank car tanks.

Cargo tank motor vehicle, as defined in § 171.8 of this subchapter, means a motor vehicle with one or more cargo tanks permanently attached to or forming an integral part of the motor vehicle.

Cargo tank wall means those parts of the cargo tank which make up the primary lading retention structure including shell, bulkheads, and fittings which, when closed during transportation of lading, yields the minimum volume of the cargo tank assembly.

Design type means one or more cargo tanks which are made—

(1) To the same specification;

(2) By the same manufacturer;

(3) To the same engineering drawings and calculations, except for minor variations in piping which do not affect the lading retention capability of the cargo tank;

(4) Of the same materials of construction;

(5) To the same cross-sectional dimensions;

(6) To a length varying by no more than five percent;

(7) With the volume varying by no more than five percent (due to a change in length only); and

(8) For the purposes of § 178.338 only, with the same insulation system.

Manufacturer means any person engaged in the manufacture or assembly of a DOT specification cargo tank, cargo tank motor vehicle, or cargo tank equipment which forms part of the cargo tank wall. A manufacturer shall register with the Department in accordance with subpart F of part 107 in subchapter B of this chapter.

(b) *Design certification.* (1) Each cargo tank design type shall be certified in conformance with the specification requirements by a Design Certifying Engineer registered in accordance with subpart F of part 107.

(2) The Design Certifying Engineer shall furnish to the manufacturer a certificate to indicate compliance with the specification requirements. The certificate must include the sketches, drawings, and calculations used for certification. Each certificate, including

sketches, drawings, and calculations, shall be signed by the Design Certifying Engineer.

(3) The manufacturer shall retain the design certificate at his principal place of business for as long as he manufactures DOT specification cargo tanks.

(c) *Exceptions to the ASME Code.* Unless otherwise specified, when exceptions are provided in this subpart from compliance with certain paragraphs of the ASME Code, compliance with those paragraphs is not prohibited.

§ 178.337-1 [Amended].

66. In § 178.337-1, as amended at 54 FR 25015, on June 12, 1989, the last sentence in paragraph (e)(2) is amended by removing the word "self-extinguishing".

67. Section 178.337-3 is revised to read as follows:

§ 178.337-3 Structural integrity.

(a) General requirements and acceptance criteria. (1) Except as provided in paragraph (d) of this section, the maximum calculated design stress at any point in the cargo tank may not exceed the maximum allowable stress value prescribed in Section VIII of the ASME Code, or 25 percent of the tensile strength of the material used.

(2) The relevant physical properties of the materials used in each cargo tank may be established either by a certified test report from the material manufacturer or by testing in conformance with a recognized national standard. In either case, the ultimate tensile strength of the material used in the design may not exceed 120 percent of the ultimate tensile strength specified in either the ASME Code or the ASTM standard to which the material is manufactured.

(3) The maximum design stress at any point in the cargo tank must be calculated separately for the loading conditions described in paragraphs (b), (c), and (d) of this section. Alternate test or analytical methods, or a combination thereof, may be used in place of the procedures described in paragraphs (b), (c), and (d) of this section, if the methods are accurate and verifiable.

(4) Corrosion allowance material may not be included to satisfy any of the design calculation requirements of this section.

(b) The static design and construction of each cargo tank must be in accordance with section VIII of the ASME Code. The cargo tank design must include calculation of stresses generated by design pressure, the weight of lading, the weight of structure supported by the tank wall, and the effect of temperature gradients resulting from lading and ambient temperature extremes. When dissimilar materials are used, their thermal coefficients must be used in calculation of thermal stresses. Stress concentrations in tension, bending and torsion which occur at pads, cradles, or other supports must be considered in accordance with appendix G of the ASME Code.

(c) Stresses resulting from static and dynamic loadings, or a combination thereof, are not uniform throughout the cargo tank motor vehicle. The following is a simplified procedure for calculating the effective stress in the cargo tank resulting from static and dynamic loadings. The effective stress (the maximum principal stress at any point) must be determined by the following formula:

$$S=0.5\,(S_y+S_x)\pm(0.25(S_y-S_x)^2+S_s^2)^{0.5}$$

Where:

S = effective stress, in psi, at any given point under the most severe combination of static and dynamic loadings that can occur at the same time.

S_y = circumferential stress generated by internal and external pressure when applicable, in psi.

S_x = the net longitudinal stress, in psi, generated by the following loading conditions:

(1) The longitudinal tensile stress generated by internal pressure;

(2) The tensile or compressive stress generated by the axial load resulting from a decelerative force equal to twice the static weight of the fully loaded vehicle applied independently to each suspension assembly at the road surface;

(3) The tensile or compressive stress generated by the bending moment resulting from a decelerative force equal to twice the static weight of the fully loaded vehicle applied independently to each suspension assembly at the road surface;

(4) The tensile or compressive stress generated by the axial load resulting from an accelerative force equal to the static weight of the fully loaded vehicle applied to the horizontal pivot of the fifth wheel supporting the vehicle;

(5) The tensile or compressive stress generated by the bending moment resulting from an accelerative force equal to the static weight of the fully loaded vehicle applied to the horizontal pivot of the fifth wheel supporting the vehicle; and

(6) The tensile or compressive stress generated by a bending moment produced by a vertical force equal to three times the static weight of the fully loaded vehicle.

S_s = The following shear stresses, in psi, that apply:

(1) The shear stress generated by a vertical force equal to three times the static weight of the tank and contents;

(2) The lateral shear stress generated by a lateral accelerative force which will produce an overturn but not less than 0.75 times the static weight of the fully loaded vehicle, applied at the road surface; and

(3) The torsional shear stress generated by a lateral accelerative force which will produce an overturn but not less than 0.75 times the static weight of the fully loaded vehicle, applied at the road surface.

(d) In order to account for stresses due to impact in an accident, the design calculations for the cargo tank shell and heads must include the load resulting from the design pressure in combination with the dynamic pressure resulting from a longitudinal deceleration of "2g". For this loading condition the stress value used may not exceed the lesser of the yield strength or 75 percent of the ultimate tensile strength of the material of construction. For cargo tanks constructed of stainless steel the maximum design stress may not exceed 75 percent of the ultimate tensile strength of the type steel used.

(e) The minimum metal thickness for the shell and heads must be 0.187 inch for steel and 0.270 inch for aluminum, except for chlorine and sulfur dioxide tanks. For a cargo tank used in chlorine or sulfur dioxide service, the cargo tank must be made of steel. A corrosion allowance of 20 percent or 0.10 inch, whichever is less, must be added to the thickness otherwise required for sulfur dioxide and chlorine tank material. In chlorine tanks the wall thickness must be at least five-eighths inch, including corrosion allowance.

(f) Where a tank support is attached to any part of the tank wall, the stresses imposed on the tank wall must meet the requirements in paragraph (a) of this section.

(g) The design, construction, and installation of an appurtenance to the cargo tank must be such that, in the event of its damage or failure, the lading retention integrity of the tank will not be adversely affected.

(1) A lightweight attachment, such as a conduit clip, brakeline clip or placard holder, must be constructed of a material of lesser strength than the cargo tank wall material and may not be more than 72 percent of the thickness of the material to which it is attached. The attachment may be secured directly to the cargo tank wall if the device is designed and installed in such a manner that, if damaged, it will not affect the lading retention integrity of the tank. The lightweight attachment must be secured to the cargo tank wall by continuous weld or in such a manner as to preclude formation of pockets, which may become sites for incipient corrosion. Attachments meeting the requirements of this paragraph are not

authorized for cargo tanks constructed under part UHT of the ASME Code.

(2) Except as prescribed in § 178.337-3(g)(1), the welding of any appurtenance of the cargo tank wall must be made by attachment of a mounting pad, so that there will be no adverse effect upon the lading retention integrity of the cargo tank if any force is applied to the appurtenance, from any direction. The thickness of the mounting pad may not be less than that of the shell or head to which it is attached, and not more than 1.5 times the shell or head thickness. However, a pad with a minimum thickness of 0.250 inch may be used when the shell or head thickness is over 0.250 inch. If weep holes or tell-tale holes are used, the pad must be drilled or punched at its lowest point before it is welded. Each pad must:

(i) Extend at least 2 inches in each direction from any point of attachment of an appurtenance;

(ii) Have rounded corners, or otherwise be shaped in a manner to minimize stress concentrations on the shell or head; and

(iii) Be attached by a continuous weld around the pad, except for a small gap at the lowest point for draining, using filler material conforming to the recommendations of the manufacturer of the head or shell material.

67a. In § 178.337-9, as amended at 54 FR 25017, on June 12, 1989, paragraph (b)(6) is revised to read as follows:

§ 178.337-9 Pressure relief devices, piping, valves, hoses, and fittings.

* * * * *

(b) * * *

(6) All *piping, valves, and fittings* on a cargo tank must be proven free from leaks. This requirement is met when such piping, valves, and fittings have been tested after installation at not less than 80 percent of the design pressure marked on the cargo tank. This requirement is applicable to hoses used in the cargo tank, except that hoses may be tested before or after installation on the tank.

* * * * *

68. In § 178.337-11, as revised at 54 FR 25017, on June 12, 1989, the second sentence in paragraph (a)(1)(v) is amended by removing the word "hose" and adding, in its place, the word "hoses", and paragraph (c)(1) is amended by removing the words "self closing" and adding, in their place, the word "self-closing".

69. In § 178.337-18, as amended at 54 FR 25018, on June 12, 1989, paragraph (a) is revised to read as follows:

§ 178.337-18 Certification.

(a) At or before the time of delivery, the cargo tank manufacturer must supply and the owner must obtain, a tank manufacturer's data report as required by the ASME Code, and a certificate stating that the completed cargo tank motor vehicle conforms in all respects to Specification MC 331 and the ASME Code. The registration numbers of the manufacturer, the Design Certifying Engineer, and the Registered Inspector, as appropriate, must appear on the certificates (see subpart F, part 107 in subchapter B of this chapter).

(1) For each design type, the certificate must be signed by a responsible official of the manufacturer and a Design Certifying Engineer; and

(2) For each cargo tank motor vehicle, the certificate must be signed by a responsible official of the manufacturer and a Registered Inspector.

(3) The certificate must state whether or not it includes certification that all valves, piping, and protective devices comply with the requirements of the specification. If it does not so certify, the installer of any such valve, piping, or device shall supply and the owner shall obtain a certificate asserting complete compliance with these specifications for such devices. The certificate, or certificates, will include sufficient sketches, drawings, and other information to indicate the location, make, model, and size of each valve and the arrangement of all piping associated with the tank.

(4) The certificate must contain a statement indicating whether or not the cargo tank was postweld heat treated for anhydrous ammonia as specified in § 178.337-1(f).

* * * * *

70. Section 178.338-3 is revised to read and follows:

§ 178.338-3 Structural integrity.

(a) *General requirements and acceptance criteria.* (1) Except as permitted in paragraph (d) of this section, the maximum calculated design stress at any point in the tank may not exceed the lesser of the maximum allowable stress value prescribed in section VIII of the ASME Code, or 25 percent of the tensile strength of the material used.

(2) The relevant physical properties of the materials used in each tank may be established either by a certified test report from the material manufacturer or by testing in conformance with a recognized national standard. In either case, the ultimate tensile strength of the material used in the design may not exceed 120 percent of the minimum ultimate tensile strength specified in either the ASME Code or the ASTM standard to which the material is manufactured.

(3) The maximum design stress at any point in the tank must be calculated separately for the loading conditions described in paragraphs (b), (c), and (d) of this section. Alternate test or analytical methods, or a combination thereof, may be used in lieu of the procedures described in paragraphs (b), (c), and (d) of this section, if the methods are accurate and verifiable.

(4) Corrosion allowance material may not be included to satisfy any of the design calculation requirements of this section.

(b) The static design and construction of each tank must be in accordance with section VIII of the ASME Code. The tank design must include calculation of stresses due to design pressure, the weight of lading, the weight of structures supported by the tank wall, and the effect of temperature gradients resulting from lading and ambient temperature extremes. When dissimilar materials are used, their thermal coefficients must be used in calculation of the thermal stresses. Stress concentrations in tension, bending and torsion which occur at pads, cradles, or other supports must be considered in accordance with Appendix G of the ASME Code.

(c) Stresses resulting from static and dynamic loadings, or a combination thereof, are not uniform throughout the cargo tank motor vehicle. The following is a simplified procedure for calculating the effective stress in the tank resulting from static and dynamic loadings. The effective stress (the maximum principal stress at any point) must be determined by the following formula:

$$S = 0.5\,(S_y + S_x) \pm (0.25(S_y - S_x)^2 + S_s^2)^{0.5}$$

Where:

S = effective stress, in psi, at any given point under the most severe combination of static and dynamic loadings that can occur at the same time.

S_y = circumferential stress generated by internal and external pressure when applicable, in psi.

S_x = the net longitudinal stress, in psi, generated by the following loading conditions:

(1) The longitudinal tensile stress generated by internal pressure;

(2) The tensile or compressive stress generated by the axial load resulting from a decelerative force applied independently to each suspension assembly at the road surface using applicable static loadings specified in § 178.338-13 (b) and (c);

(3) The tensile or compressive stress generated by the bending moment resulting from a decelerative force applied independently to each suspension assembly

at the road surface using applicable static loadings specified in § 178.338–13 (b) and (c);

(4) The tensile or compressive stress generated by the axial load resulting from an accelerative force applied to the horizontal pivot of the fifth wheel supporting the vehicle using applicable static loadings specified in § 178.338–13 (b) and (c);

(5) The tensile or compressive stress generated by the bending moment resulting from an accelerative force applied to the horizontal pivot of the fifth wheel supporting the vehicle using applicable static loadings specified in § 178.338–13 (b) and (c); and

(6) The tensile or compressive stress generated by a bending moment produced by a vertical force using applicable static loadings specified in § 178.338–13 (b) and (c).

S_s = The following shear stresses, in psi, that apply: The vectorial sum of the applicable shear stresses in the plane under consideration, including direct shear generated by the static vertical loading; direct lateral and torsional shear generated by a lateral accelerative force applied at the road surface, using applicable static loads specified in § 178.338–13(b) and (c).

(d) In order to account for stresses due to impact in an accident, the design calculations for the tank shell and heads must include the load resulting from the design pressure in combination with the dynamic pressure resulting from a longitudinal deceleration of "2g". For this loading condition the stress value used may not exceed the lesser of the yield strength or 75 percent of the ultimate tensile strength of the material of construction. For a cargo tank constructed of stainless steel, the maximum design stress may not exceed 75 percent of the ultimate tensile strength of the type steel used.

(e) The minimum thickness of the shell or heads of the tank must be 0.187 inch for steel and 0.270 inch for aluminum. However, the minimum thickness for steel may be 0.110 inches provided the cargo tank is:

(1) Vacuum insulated, or

(2) Double walled with a load bearing jacket designed to carry a proportionate amount of structural loads prescribed in this section.

(f) Where a tank support is attached to any part of the tank wall, the stresses imposed on the tank wall must meet the requirements in paragraph (a) of this section.

(g) The design, construction, and installation of an appurtenance to the cargo tank or jacket must be such that, in the event of its damage or failure, the lading retention integrity of the tank will not be adversely affected.

(1) A lightweight attachment, such as a conduit clip, brakeline clip or placard holder, must be constructed of a material of lesser strength than the cargo tank wall or jacket material and may not be more than 72 percent of the thickness of the material to which it is attached. The attachment may be secured directly to the cargo tank wall or jacket if the device is designed and installed in such a manner that, if damaged, it will not affect the lading retention integrity of the tank. The lightweight attachment must be secured to the cargo tank wall or jacket by continuous weld or in such a manner as to preclude formation of pockets, which may become sites for incipient corrosion. Attachments conforming with this paragraph are not authorized for cargo tanks constructed under part UHT of the ASME Code.

(2) Except as prescribed in § 178.338-3(g)(1), the welding of any appurtenance to the cargo tank wall or jacket must be made by attachment of a mounting pad, so that there will be no adverse affect upon the lading retention integrity of the tank if any force is applied to the appurtenance, from any direction. The thickness of the mounting pad may not be less than that of the shell or head to which it is attached, and not more than 1.5 times the shell or head thickness. However, a pad with a minimum thickness of 0.187 inch may be used when the shell or head thickness is over 0.187 inch. If weep holes or tell tale holes are used, the pad must be drilled or punched at its lowest point before it is welded. Each pad must—

(i) Extend at least 2 inches in each direction from any point of attachment of an appurtenance;

(ii) Be attached by a continuous weld around the pad except for a small gap at the lowest point for draining.

71. In § 178.338-17, as revised at 54 FR 25020, on June 12, 1989, paragraph (b) is revised to read as follows:

§ 178.338-17 Pumps and compressors.

* * * * *

(b) A valve or fitting made of aluminum with internal rubbing or abrading aluminum parts that may come in contact with oxygen, cryogenic liquid, may not be installed on any cargo tank used to transport oxygen, cryogenic liquid, unless the parts are anodized in accordance with ASTM Standard B 580.

72. In § 178.338-19, paragraph (a) and the first sentence of paragraph (b) are revised to read as follows:

§ 178.338-19 Certification.

(a) At or before the time of delivery, the manufacturer of a cargo tank motor vehicle shall furnish to the owner of the completed vehicle the following:

(1) The tank manufacturer's data report as required by the ASME Code, and a certificate bearing the manufacturer's vehicle serial number stating that the completed cargo tank motor vehicle conforms to all applicable requirements of Specification MC 338, including the ASME Code in effect on the date (month, year) of certification. The registration numbers of the manufacturer, the Design Certifying Engineer, and the Registered Inspector, as appropriate, must appear on the certificates (See subpart F, part 107 in subchapter B of this chapter).

(i) For each design type, the certificate must be signed by a responsible official of the manufacturer and a Design Certifying Engineer; and

(ii) For each cargo tank motor vehicle, the certificate must be signed by a responsible official of the manufacturer and a Design Certifying Engineer;

(2) A photograph, pencil rub, or other facsimile of the plates required by paragraphs (a) and (b) of § 178.338-18.

(b) In the case of a cargo tank vehicle manufactured in two or more stages, each manufacturer who performs a manufacturing operation on the incomplete vehicle or portion thereof shall furnish to the succeeding manufacturer, at or before the time of delivery, a certificate covering the particular operation performed by that manufacturer, and any certificates received from previous manufacturers, Registered Inspectors, and Design Certifying Engineers.

* * * * *

73. In § 178.345.1, as added at 54 FR 25020, on June 12, 1989, definitions for "Flange," "Internal self-closing stop-valve," "Nozzle," "Outlet," "Pipe coupling," and "Shell" in paragraph (c) are revised, and paragraphs (h), and (i)(2) (k) are revised to read as follows:

§ 178.345-1 General requirements.

* * * * *

(c) * * *

Flange means the structural ring for guiding or attachment of a pipe or fitting with another flange (companion flange), pipe, fitting or other attachment.

* * * * *

Internal self-closing stop-valve means a self-closing stop-valve designed so that the self-stored energy source is located inside the tank or tank sump, or within the welded flange, and the valve seat is located within the tank or within one inch of the external face of the welded flange or sump of the tank.

* * * * *

Nozzle means the subassembly consisting of a pipe or tubular section with or without a welded or forged flange on one end.

Outlet means any opening in the shell or head of a tank, (including the means

for attaching a closure), except that the following are not outlets: A threaded opening securely closed during transportation with a threaded plug or a threaded cap, a flanged opening securely closed during transportation with a bolted or welded blank flange, a manhole, or gauging devices, thermometer wells, and safety relief devices.

* * * * *

Pipe coupling means a fitting with internal threads on both ends.

* * * * *

Shell means the circumferential portion of a tank defined by the basic design radius or radii excluding the closing heads.

* * * * *

(h) Any additional requirements prescribed in part 173 of this subchapter that pertain to the transportation of a specific lading are incorporated into these specifications.

(i) * * *

(2) The strength of the connecting structure joining multiple cargo tanks in a cargo tank motor vehicle must meet the structural design requirements in § 178.345-3. Any void within the connecting structure must be vented to the atmosphere by a drain of at least 1 inch inside diameter which must be kept open at all times. The connecting structure must have inspection openings of sufficient size and number to permit proper visual internal inspection of the connecting structure and cargo tank surfaces. Each drainage and inspection opening must be accessible.

* * * * *

74. In § 178.345-2, as added at 54 FR 25021, on June 12, 1989, paragraphs (a) introductory text, (a)(1), (b) and (c), introductory text are revised to read as follows:

§ 178.345-2 Material and material thickness.

(a) All material for shell, heads, bulkheads, and baffles must conform to Section II, Parts A and B, of the ASME Code except as follows:

(1)The following steels are also authorized for cargo tanks "constructed in accordance with the ASME Code".

ASTM A 569
ASTM A 570
ASTM A 572
ASTM A 656
ASTM A 715

* * * * *

(b) *Minimum thickness.* The minimum thickness for the shell and heads must be such that the maximum stress levels specified in § 178.345-3 of this subpart are not exceeded. In no case may the shell or head thickness be less than that specified in the applicable specification.

(c) *Corrosion or abrasion protection.* When required by 49 CFR part 173 for a particular lading, a cargo tank or a part thereof, subject to thinning by corrosion or mechanical abrasion due to the lading, must be protected by providing the tank or part of the tank with a suitable increase in thickness of material, a lining or some other suitable method of protection.

* * * * *

75. Section 178.345-3, as added at 54 FR 25021, on June 12, 1989, is revised to read as follows:

§ 178.345-3 Structural integrity.

(a) *General requirements and acceptance criteria.* (1) Except as provided in paragraph (d) of this section, the maximum calculated design stress at any point in the tank wall may not exceed the lesser of the maximum allowable stress value prescribed in section VIII of the ASME Code, or 25 percent of the tensile strength of the material used.

(2) The relevant physical properties of the materials used in each cargo tank may be established either by a certified test report from the material manufacturer or by testing in conformance with a recognized national standard. In either case, the ultimate tensile strength of the material used in the design may not exceed 120 percent of the minimum ultimate tensile strength specified in either the ASME Code or the ASTM standard to which the material is manufactured.

(3) The maximum design stress at any point in the cargo tank must be calculated spearately for the loading conditions described in paragraphs (b), (c), and (d) of this section. Alternate test or analytical methods, or a combination thereof, may be used in place of the procedures described in paragraphs (b), (c), and (d) of this section, if the methods are accurate and verifiable.

(4) Corrosion allowance material may not be included to satisfy any of the design calculation requirements of this section.

(b) The static design and construction of each cargo tank must be in accordance with section VIII of the ASME Code. The tank design must include calculation of stresses generated by the MAWP, the weight of lading, the weight of structures supported by the tank wall, and the effect of temperature gradients resulting from lading and ambient temperatures extremes. When dissimilar materials are used, their thermal coefficients must be used in the calculation of thermal stresses. Stress concentrations in tension, bending and torsion which occur at pads, cradles, or other supports must be considered in accordance with Appendix G of the ASME Code.

(c) Stresses resulting from static or dynamic loadings, or a combination thereof, are not uniform throughout the cargo tank motor vehicle. The following is a simplified procedure for calculating the effective stress in the tank shell and heads resulting from static and dynamic loadings. The effective stress (the maximum principal stress at any point) must be determined by the following formula:

$$S=0.5(S_y+S_x)\pm(0.25(S_y-S_x)^2+S_s^2)^{0.5}$$

Where:

S = effective stress, at any given point under the most severe combination of static and dynamic loadings that can occur at the same time, in psi.

S_y = circumferential stress generated by internal and external pressure, when applicable, in psi.

S_x = the net longitudinal stress, in psi, generated by the following loading conditions:

(1) The longitudinal stresses resulting from the MAWP and from the lowest pressure at which the cargo tank may operate, in combination with the bending stress generated by the weight of the lading, the weight of the cargo tank and other structures and equipment supported by the cargo tank wall;

(2) The tensile or comprehensive stress generated by the axial load resulting from a longitudinal decelerative force equal to 0.75 times the vertical reaction at each suspension assembly, applied at the road surface. The vertical reaction must be calculated based on the static weight of the fully loaded cargo tank motor vehicle;

(3) The tensile or comprehensive stress generated by the bending moment resulting from a longitudinal decelerative force equal to 0.75 times the vertical reaction at each suspension assembly, applied at the road surface. The vertical reaction must be calculated based on the static weight of the fully loaded cargo tank motor vehicle;

(4) The tensile or compressive stress generated by the axial load resulting from a longitudinal accelerative force equal to 0.7 times the static weight of the fully loaded cargo tank, applied at the horizontal pivot of the upper coupler (fifth wheel) or turntable supporting the cargo tank motor vehicle;

(5) The tensile or compressive stress generated by the bending moment resulting from a longitudinal accelerative force equal to 0.75 times the static weight of the fully loaded cargo tank applied to the horizontal pivot of the upper coupler (fifth wheel) or turntable supporting the cargo tank motor vehicle; and

(6) The tensile or compressive stress generated by the bending moment resulting from a veritically up accelerative force equal to 0.7 times the vertical reaction, applied at each suspension assembly. The vertical reaction must be calculated based on the static weight of the lading, the weight of the

cargo tank and other structures and equipment supported by the cargo tank wall.

S_s=The following shear stresses, in psi, that apply:

(1) The vertical shear stress generated by a vertical force equal to 1.7 times the vertical reaction, applied at each suspension assembly. The vertical reaction must be calculated based on the static weight of the lading, the weight of the cargo tank and other structures and equipment supported by the cargo tank wall;

(2) The lateral shear stress generated by a lateral accelerative force equal to 0.4 times the vertical reaction, applied laterally at the road surface. The vertical reaction must be calculated based on the static weight of the fully loaded cargo tank motor vehicle; and

(3) The torsional shear stress generated by a lateral accelerative force equal to 0.4 times the vertical reaction, applied laterally at the road surface. The vertical reaction must be calculated based on the static weight of the fully loaded cargo tank motor vehicle.

(d) In order to account for stresses due to impact in an accident, the design calculations for the tank shell and heads must include the load resulting from the design pressure in combination with the dynamic pressure resulting from a longitudinal deceleration of "2g". For this loading condition the stress value used may not exceed the lesser of the yield strength or 75 percent of the ultimate tensile strength of the material of construction. For a cargo tank constructed of stainless steel, the maximum design stress may not exceed 75 percent of the ultimate tensile strength of the type steel used. For cargo tanks with internal baffles, the decelerative force may be reduced by "0.25g" for each baffle assembly, but in no case may the total reduction in decelerative force exceed "1g".

(e) In no case may the minimum thickness of the cargo tank wall be less than that prescribed in § 178.346–2, 178.347–2, or § 178.348–2, as applicable.

(f) For a cargo tank mounted on a frame or built with integral structural supports, the calculation of effective stresses for the loading conditions in paragraph (c) of this section may include the structural contribution of the frame or the integral structural supports.

(g) The design, construction, and installation of an appurtenance to the cargo tank must conform to the following requirements.

(1) Structural members, the suspension subframe, accident protection and external rings must be used as sites for attachment of appurtenances and other accessories to the cargo tank, when practicable.

(2) A lightweight attachment, such as a conduit clip, brakeline clip, skirting structure, lamp mounting bracket or placard holder, must be constructed of a material of lesser strength than the cargo tank wall materials and may not be more than 72 percent of the thickness of the material to which it is attached. The lightweight attachment may be secured directly to the cargo tank wall if the device is designed and installed in such a manner that, if damaged, it will not affect the lading retention integrity of the tank. A lightweight attachment must be secured to the tank shell or head by continuous weld or in such a manner as to preclude formation of pockets, which may become sites for incipient corrosion.

(3) Except as prescribed in paragraphs (g)(1) and (g)(2) of this section, the welding of any appurtenance to the cargo tank wall must be made by attachment of a mounting pad, so that there will be no adverse effect upon the lading retention integrity of the cargo tank if any force less than that prescribed in § 178.345–8(b)(1) of this subchapter is applied from any direction. The thickness of the mounting pad may not be less than that of the shell or head to which it is attached, and not more than 1.5 times the shell or head thickness. However, a pad with a minimum thickness of 0.187 inch may be used when the shell or head thickness is over 0.187 inch. If weep holes or tell-tale holes are used, the pad must be drilled or punched at its lowest point before it is welded. Each pad must—

(i) Extend at least 2 inches in each direction from any point of attachment of an appurtenance;

(ii) Have rounded corners, or otherwise be shaped in a manner to minimize stress concentrations on the shell or head; and

(iii) Be attached by a continuous weld around the pad except for a small gap at the lowest point for draining.

76. Section 178.345–7, as added at 54 FR 25023, on June 12, 1989, is revised to read as follows:

§ 178.345–7 Circumferential reinforcements.

(a) A tank with a shell thickness of less than ⅜ inch must be circumferentially reinforced with bulkheads, baffles, ring stiffeners, or any combination thereof, in addition to the tank heads.

(1) Circumferential reinforcement must be located so that the thickness and tensile strength of the shell material in combination with the frame and reinforcement produces structural integrity at least equal to that prescribed in § 178.345–3 and in such a manner that the maximum unreinforced portion of the shell does not exceed 60 inches. For cargo tanks designed to be loaded by vacuum, spacing of circumferential reinforcement may exceed 60 inches provided the maximum unreinforced portion of the shell conforms with the requirements of Section VIII, Division 1 of the ASME Code.

(2) Where discontinuity in the alignment of longitudinal shell sheets exceeds the greater of 10 degrees or eight inches, circumferential reinforcement must be located within one inch of the shell joint, unless otherwise reinforced with structural members are capable of maintaining shell stress levels authorized in § 178.345–3.

(b) Except for doubler plates and knuckle pads, no reinforcement may cover any circumferential joint.

(c) When a baffle or baffle attachment ring is used as a circumferential reinforcement member, it must produce structural integrity at least equal to that prescribed in § 178.345–3 and must be circumferentially welded to the tank shell. The welded portion may not be less than 50 percent of the total circumference of the tank and the length of any unwelded space on the joint may not exceed 40 times the shell thickness.

(d) When a ring stiffener is used as a circumferential reinforcement member, whether internal or external, it must be continuous around the circumference of the cargo tank shell and must be in accordance with the following:

(1) The section modulus about the neutral axis of the ring section parallel to the shell must be at least equal to that derived from the applicable formula:

$I/C=0.00027WL$, for MS, HSLA and SS; or
$I/C=0.000467WL$, for aluminum alloys;

[1] Where:

I/C=Section modulus in inches 3
W=Tank width, or diameter, inches
L=Spacing of ring stiffener, inches; i.e., the maximum longitudinal distance from the midpoint of the unsupported shell on one side of the ring stiffener to the midpoint of the unsupported shell on the opposite side of the ring stiffener.

(2) If a ring stiffener is welded to the tank shell, a portion of the shell may be considered as part of the ring section for purposes of computing the ring section modulus. This portion of the shell may be used provided at least 50 percent of the total circumference of the tank is welded and the length of any unwelded space on the joint does not exceed 40 times the shell thickness. The maximum portion of the shell to be used in these calculations is as follows:

Number of circumferential ring stiffener-to-shell welds	W [1]	Shell section
1		20t
2	Less than 20t.	20t+W
2	20t or more	40t

[1] where:
t=Shell thickness, inches;
W=Length of unwelded joint between parallel circumferential ring stiffener-to-shell welds.

(3) When used to meet the vacuum requirements of this section, ring stiffeners must be as prescribed in the ASME Code.

(4) If configuration of internal or external ring stiffener encloses an air space, this air space must be arranged for venting and be equipped with drainage facilities which must be kept operative at all times.

(5) Hat shaped or open channel ring stiffeners which prevent visual inspection of the tank shell are prohibited on cargo tank motor vehicles constructed of carbon steel.

77. In § 178.345–8, as added at 54 FR 25023, on June 12, 1989, the second sentence of paragraph (a)(3) is amended by removing the word "may" and adding, in its place, the word "must"; paragraphs (a) introductory text, (a)(1) introductory text, (a)(5), (b) introductory text, (c) introductory text, (d) introductory text, (d)(1), (d)(2)(i) and (d)(3) are revised to read as follows:

§ 178.345–8 Accident damage protection.

(a) *General.* Each cargo tank motor vehicle must be designed and constructed in accordance with the requirements of this section and the applicable individual specification to minimize the potential for the loss of lading due to an accident.

(1) Any dome, sump, or washout cover plate projecting from the cargo tank wall that retains lading in any tank orientation, must be as strong and tough as the cargo tank wall and have a thickness at least equal to that specified by the appropriate cargo tank specification. Any such projection located in the lower ⅕ of the tank circumference (or cross section perimeter for non-circular tanks) that extends more than half its diameter at the point of attachment to the tank or more than 4 inches from the cargo tank wall, or located in the upper ⅘ of the tank circumference (or cross section perimeter for non-circular tanks) that extends more than ¼ its diameter or more than 2 inches from the point of attachment to the tank must have accident damage protection that are:

* * * * *

(5) *Minimum road clearance.* The minimum allowable road clearance of any cargo tank motor vehicle component or protection device located between any two adjacent axles on a vehicle or vehicle combination must be at least one-half inch for each foot separating such axles, and in no case less than 12 inches.

(b) *Bottom damage protection.* Each outlet, projection or piping located in the lower ⅕ of the tank circumference (or cross section perimeter for non-circular tanks) that could be damaged in an accident thereby resulting in the loss of lading must be protected by a bottom damage protection device, except as provided by paragraph (a)(1) of this section and § 173.33(e) of this subchapter.

* * * * *

(c) *Rollover Damage Protection.* Each closure for openings, including but not limited to manhole, filling or inspection openings, and each valve, fitting, pressure relief device, vapor recovery stop valve or other lading retaining fitting located in the upper ⅘ of a cargo tank circumference (or cross section perimeter for non-circular tanks) must be protected by being enclosed inside the body of the tank, by being enclosed inside a rollover damage protection device, or by being 125 percent as strong as the otherwise required damage protection device.

* * * * *

(d) *Rear-end protection.* Each cargo tank motor vehicle must be provided with a rear-end protection device to protect the tank and piping in the event of a rear-end collision and reduce the likelihood of damage which could result in the loss of lading. The rear-end tank protection device must conform to the following requirements (Nothing in this paragraph shall be construed to relieve a manufacturer of responsibility for complying with the requirements of § 393.86 of this title):

(1) The rear-end tank protection device must be designed so that it can deflect at least 6 inches horizontally forward with no contact between any part of the cargo tank motor vehicle which contains lading during transit and with any part of the rear-end protection device, or with a vertical plane passing through the outboard surface of the protection device.

(2) * * *

(i) The bottom surface of the rear-end protection device must be at least 4 inches below the lower surface of any part at the rear of the cargo tank motor vehicle which contains lading during transit and not more than 60 inches from the ground when the vehicle is empty.

* * * * *

(3) The structure of the rear-end protection device and its attachment to the vehicle must be designed to satisfy the conditions specified in paragraph (d)(1) of this section when subjected to an impact of the cargo tank motor vehicle at rated payload, at a deceleration of 2 "g". The design stress level may be no more than one-half the ultimate strength of the materials used. Such impact must be considered uniformally and applied horizontally (parellel to the ground) from any direction at an angle not to exceed 30 degrees to the longitudinal axis of the vehicle.

78. In § 178.345–9, as added at 54 FR 25025, on June 12, 1989, paragraphs (c)–(g) are redesignated as paragraphs (d)–(h) respectively, a new paragraphs (c) is added, and paragraphs (a), (b), and newly designated paragraphs (d) and (h) are revised to read as follows:

§ 178.345–9 Pumps, piping, hoses and connections.

(a) Each loading or unloading pump mounted on a cargo tank motor vehicle that may pressurize the cargo tank must be provided with an automatic means to prevent internal pressure from exceeding the MAWP of the tank and tank-mounted equipment.

(b) Each hose, piping, stop-valve, lading retention fitting and closure must be designed for a bursting pressure of the greater of 100 psig or four times the MAWP.

(c) Each hose coupling must be designed for a bursting pressure of the greater of 120 psig or 4.8 times the MAWP of the cargo tank, and must be designed so that there will be no leakage when connected.

(d) Suitable provision must be made to allow for and prevent damage due to expansion, contraction, jarring, and vibration. Slip joints may not be used for this purpose in the lading retention system.

* * * * *

(h) Use of a nonmetallic pipe, valve or connection that is not as strong and heat resistant as the tank material is authorized only if such attachment is located outboard of the lading retention system.

79. In § 178.345–10, as added at 54 FR 25025, on June 12, 1989, the table heading in paragraph (e) introductory text is amended by removing the designation "Table 1." and adding, in its place, "Table I"; paragraphs (a), (b)(2), (b)(3), (b)(4), (c), (d), (e)

introductory text, (g)(1), and (h)(3) are revised to read as follows:

§ 178.345–10 Pressure relief.

(a) Each cargo tank must be equipped to relieve pressure and vacuum conditions in conformance with this section and the applicable individual specification. The pressure and vacuum relief system must be designed to operate and have sufficient capacity to prevent tank rupture or collapse due to over-pressurization or vacuum resulting from loading, unloading, or from heating and cooling of lading.

(b) * * *

(2) When provided by § 173.33(c)(1)(iii) of this subchapter, cargo tanks may be equipped with a normal vent. Such vents must be set to open at not less than 1 psig and must be designed to prevent loss of lading through the device in case of vehicle overturn.

(3) Each pressure relief system must be designed to prevent loss of liquid lading due to pressure surges caused by overturn or other accident. This requirement is satisfied by a pressure relief system designed to withstand with no loss of lading a dynamic pressure surge reaching 30 psig above the designed set pressure of the relief system and sustained above the set pressure for at least 60 milliseconds. Set pressure is a function of MAWP as set forth in paragraph (d) of this section.

(i) After August 31, 1992, each pressure actuated relief valve which is unseated by a dynamic pressure surge described in paragraph (a)(3) of this section must reseat to a leak-tight condition.

(A) This capability must be demonstrated by tests which subject pressure actuated relief valves to a dynamic pressure surge reaching 30 psig above the designed set pressure of the valve and sustained above the set pressure for at least 60 milliseconds. One approach to such a test procedure is outlined in TTMA RP No. 81—"Performance of Spring-Loaded Pressure Relief Valves on MC 306, MC 307, and MC 312 Tanks."

(B) The total volume of liquid released during the test may not exceed one gallon.

(ii) After August 31, 1995, each pressure relief system must be able to withstand the dynamic pressure surge described in paragraph (a)(3) of this section with no loss of lading. This requirement must be met regardless of vehicle orientation.

(4) Each reclosing pressure relief valve must be constructed and installed in such a manner as to prevent unauthorized adjustment of the relief valve setting.

* * * * *

(c) *Location of relief devices.* Each pressure relief device must communicate with the vapor space above the lading as near as practicable to the center of the vapor space. For example, on a tank designed to operate in a level attitude, the device should be positioned at the horizontal and transverse center of the tank; on tanks sloped to the rear, the device should be located in the forward half of the tank. The discharge from any device must be unrestricted. Protective devices which deflect the flow of vapor are permissible provided the required vent capacity is maintained.

(d) *Settings of pressure relief system.* The set pressure of the pressure relief system is the pressure at which it starts to open, allowing discharge.

(1) *Primary pressure relief system.* The set pressure of each primary relief valve must be no less than 120 percent of the MAWP, and no more than 132 percent of the MAWP. The valve must reclose at not less than 108 percent of the MAWP and remain closed at lower pressures.

(2) *Secondary pressure relief system.* The set pressure of each pressure relief valve used as a secondary relief device must be not less than 120 percent of the MAWP.

(e) *Venting capacity of pressure relief systems.* The pressure relief system (primary and secondary, including piping) must have sufficient venting capacity to limit the tank internal pressure to not more than the tank test pressure. The total venting capacity, rated at not more than the tank test pressure, must be at least that specified in Table I, except as provided in § 178.348–10(d).

* * * * *

(g) * * *

(1) At least 3 devices of each specific model must be tested for flow capacity at a pressure not greater than the test pressure of the cargo tank. For a device model to be certified, the capacities of the devices tested must fall within a range of plus or minus 5 percent of the average for the devices tested.

* * * * *

(h) * * *

(3) Set pressure, in psig; and

* * * * *

80. Section 178.345–11, as added at 54 FR 25026, on June 12, 1989, is revised to read as follows:

§ 178.345–11 Tank outlets.

(a) Each tank outlet that may contain lading in any tank attitude must be equipped with a stop-value or other leak-tight closure in accordance with this section. Tank outlets, closures and associated piping must be protected in accordance with § 178.345–8.

(b) A self-closing system must be provided to close loading/unloading outlets within 30 seconds of actuation. The self-closing system must consist of an internal self-closing stop-valve (with remote linkage and actuators) or external stop-valve (with energy source, remote linkage and actuator). In addition, the self-closing system must be designed according to the following:

(1) If the actuating system is damaged or sheared-off in an accident during transportation, each loading/unloading outlet must remain securely closed and capable of retaining lading.

(2) Any loading/unloading connection extending beyond an internal self-closing stop-valve or the innermost external stop-valve which is part of a self-closing system must be fitted with another stop-valve or other leak-tight closure at the end of such connection.

(3) It must be fitted with a remotely actuated means of closure located more than 10 feet from the loading/unloading connection where vehicle length allows, or on the end of the cargo tank farthest away from the loading/unloading connection. If a cable linkage is used, it must be corrosion resistant and effective in all types of environment and weather. In addition:

(i) When required by part 173 for materials that are flammable, pyrophoric, oxidizing or Poison B liquids, the remote means of closure must be activated by manual, mechanical, or thermal means. A thermally activated system must engage at a temperature not over 250° F. The means by which the system is thermally activated for closure must be located as close as practicable to the loading/unloading connection.

(ii) Cargo tanks intended exclusively for lading other than those specified in paragraph (b)(4)(i) of this section do not require thermally activated self-closing systems and may be activated by manual or mechanical means only.

81. Section 178.345–12 as added at 54 FR 25026, on June 12, 1989, is revised to read as follows:

§ 178.345–12 Gauging devices.

Each cargo tank, except a tank intended to be filled by weight, must be equipped with a gauging device that indicates the maximum permitted liquid level to within 0.5 percent of the nominal capacity as measured by volume or liquid level. Gauge glasses are not permitted.

82. In § 178.345–13, as added at 54 FR 25026, on June 12, 1989, paragraph (b)(2) is revised to read as follows:

§ 178.345–13 Pressure and leakage tests.

* * * * *

(b) * * *

(2) *Pneumatic method.* A pneumatic test may be used in place of the hydrostatic test. However, pneumatic pressure testing may involve higher risk than hydrostatic testing. Therefore, suitable safeguards must be provided to protect personnel and facilities should failure occur during the test. The tank must be pressurized with air or an inert gas. Test pressure must be reached gradually by increasing the pressure to one half of test pressure. Thereafter, the pressure must be increased in steps of approximately one tenth of the test pressure until test pressure is reached. Test pressure must be held for at least 5 minutes. The pressure must then be reduced to the inspection pressure which must be maintained while the entire cargo tank surface is inspected for leakage and other sign of defects. The inspection method must consist of coating all joints and fittings with a solution of soap and water or other equally sensitive method.

* * * * *

83. In § 178.345–14 as added at 54 FR 25027, on June 12, 1989, paragraph (e)(1) is amended by removing the entry "Fusible type _____" under the heading "Pressure relief devices", and paragraphs (b) introductory text, (b)(3), (b)(7)–(b)(15), (c)(1), (c)(2), (c)(8), and (d) are revised to read as follows:

§ 178.345–14 Marking.

* * * * *

(b) *Nameplate.* Each cargo tank must have a corrosion resistant nameplate permanently attached to it. The following information, in addition to any applicable information required by the ASME Code, must be marked on the tank nameplate (parenthetical abbreviations may be used):

* * * * *

(3) Tank (MAWP) in psig.

* * * * *

(7) Maximum design density of lading (Max. lading density), in pounds per gallon.

(8) Material specification number—shell (Shell matl, yyy***), where "yyy" is replaced by the alloy designation and "***" by the alloy type.

(9) Material specification number—heads (Head matl, yyy***), where "yyy" is replaced by the alloy designation and "***" by the alloy type.

Note.—When the shell and heads materials are the same thickness, they may be combined. (Shell&head matl, yyy***).

(10) Weld material (Weld matl.).

(11) Minimum thickness—shell (Min. shell-thick), in inches. When minimum shell thicknesses is not the same for different areas, show (top __, side __, bottom __, in inches).

(12) Minimum thickness—heads (Min. heads thick.), in inches.

(13) Manufactured thickness—shell (Mfd. shell thick.), top __, side __, bottom __, in inches. (Required when additional thickness is provided for corrosion allowance.)

(14) Manufactured thickness—heads (Mfd. heads thick.), in inches. (Required when additional thickness is provided for corrosion allowance.)

(15) Exposed surface area, in square feet

(c) * * *

(1) Cargo tank motor vehicle manufacturer (CTMV mfr.).

(2) Cargo tank motor vehicle certification date (CTMV cert. date), if different from the cargo tank certification date.

* * * * *

(8) Lining material (Lining), if applicable.

* * * * *

(d) *Multi-cargo tank cargo tank motor vehicle.* For a cargo tank motor vehicle having one cargo tank or having all its cargo tanks not separated by any void, the information required by paragraphs (b) and (c) of this section may be combined on one specification plate. When separated by a void, each cargo tank must have an individual nameplate as required in paragraph (b) of this section, unless all of the cargo tanks are identical. The cargo tank motor vehicle may have a combined nameplate and specification plate. When only one plate is used, the plate must be visible and not covered by insulation and the required information must be listed on the plate from front to rear in the order of the corresponding cargo tank location.

* * * * *

84. Section 178.345–15, as added at 54 FR 25028, on June 12, 1989, is revised to read as follows:

§ 178.345–15 Certification.

(a) At or before the time of delivery, the manufacturer of a cargo tank motor vehicle must provide certification documents to the owner of the cargo tank motor vehicle. The registration numbers of the manufacturer, the Design Certifying Engineer, and the Registered Inspector, as appropriate, must appear on the certificates (see subpart F, part 107 in subchapter B of this chapter).

(b) The manufacturer of a cargo tank motor vehicle made to any of these specifications must provide:

(1) For each design type, a certificate signed by a responsible official of the manufacturer and a Design Certifying Engineer certifying that the cargo tank motor vehicle design meets the applicable specification; and

(2) For each cargo tank motor vehicle, a certificate signed by a responsible official of the manufacturer and a Registered Inspector certifying that the cargo tank motor vehicle is constructed, tested and completed in conformance with the applicable specification.

(c) The manufacturer of a variable specification cargo tank motor vehicle must provide:

(1) For each design type, a certificate signed by a responsible official of the manufacturer and a Design Certifying Engineer certifying that the cargo tank motor vehicle design meets the applicable specifications; and

(2) For each variable specification cargo tank motor vehicle, a certificate signed by a responsible official of the manufacturer and a Registered Inspector certifying that the cargo tank motor vehicle is constructed, tested and completed in conformance with the applicable specifications. The certificate must include all the information required and marked on the variable specification plate.

(d) In the case of a cargo tank motor vehicle manufactured in two or more stages, each manufacturer who performs a manufacturing operation on the incomplete vehicle or portion thereof shall provide to the succeeding manufacturer, at or before the time of delivery, a certificate covering the particular operation performed by that manufacturer, including any certificates received from previous manufacturers, Registered Inspectors, and Design Certifying Engineers. Each certificate must indicate the portion of the complete cargo tank motor vehicle represented thereby, such as basic tank fabrication, insulation, jacket, lining, or piping. The final manufacturer shall provide all applicable certificates to the owner.

85. In § 178.346, as added at 54 FR 25028, on June 12, 1989, paragraphs (d)(3) and (d)(8) are revised to read as follows:

§ 178.346 Specification DOT 406; cargo tank motor vehicle.

§ 178.346–1 General requirements.

* * * * *

(d) * * *

(3) The knuckle radius of flanged heads must be at least three times the material thickness, and in no case less than 0.5 inch. Stuffed (inserted) heads may be attached to the shell by a fillet

weld. The knuckle radius and dish radius versus diameter limitations of UG–32 do not apply. Shell sections of cargo tanks designed with a non-circular cross section need not be given a preliminary curvature, as prescribed in UG–79(b).

* * * * *

(8) The following paragraphs in Parts UG and UW of the ASME Code, Section VIII, Division I do not apply: UG–11, UG–12, UG–22(g), UG–32(e), UG–34, UG–35, UG–44, UG–76, UG–77, UG–80, UG–81, UG–96, UG–97, and UW–13.1(f).

86. In § 178.346–2, as added at 54 FR 25028, on June 12, 1989, paragraph (a) Table I is amended by removing the column heading "Over 14 to 22" and adding, in its place, "Over 14 to 23", and by removing the column heading "23 and over" and adding, in its place, "Over 23"; and by revising Table I heading to read as follows:

§ 178.346–2 Material and thickness of material.

(a) * * *

TABLE I.—MINIMUM THICKNESS OF HEADS (OR BULKHEADS AND BAFFLES WHEN USED AS TANK REINFORCEMENT) USING MILD STEEL (MS), HIGH STRENGTH LOW ALLOY STEEL (HSLA), AUSTENITIC STAINLESS STEEL (SS) OR ALUMINUM (AL)—EXPRESSED IN DECIMALS OF AN INCH AFTER FORMING

* * * * *

87. In § 178.346–10, as added at 54 FR 25029, on June 12, 1989, paragraphs (b)(2), (c) and (d) are revised to read as follows:

§ 178.346–10 Pressure relief.

* * * * *

(b) * * *

(2) When intended for use only for lading meeting the requirements of § 173.33(c)(1)(iii) of this subchapter, the cargo tank may be equipped with a normal vent. Such vents must be set to open at not less than 1 psig and must be designed to prevent loss of lading through the device in case of vehicle upset.

(c) *Pressure settings of relief valves.*

(1) Notwithstanding the requirements in § 178.345–10, the set pressure of each primary relief valve must be not less than 125 percent of the MAWP or 3.3 psig, whichever is greater, and not more than 138 percent of the MAWP. The valve must close at no less than the MAWP and remain closed at lower pressures.

(2) Each vacuum relief device must be set to open at no more than 6 ounces vacuum.

(d) *Venting capacities.* (1) In addition to the requirements in § 178.345–10(e), the primary pressure relief valve must have a venting capacity of at least 6,000 SCFH of free air, rated at not greater than the tank test pressure.

(2) Each vacuum relief system must have sufficient capacity to limit the vacuum to 1 psig.

(3) If pressure loading or unloading devices are provided, the relief system must have adequate vapor and liquid capacity to limit the tank pressure to the cargo tank test pressure at maximum loading or unloading rate. The maximum loading and unloading rates must be included on the metal specification plate.

88. In § 178.346–13, as added at 54 FR 25029, on June 12, 1989, paragraph (c) is revised to read as follows:

§ 178.346–13 Pressure and leakage tests.

* * * * *

(c) *Leakage test.* (1) Any venting device set to discharge at less than the leakage test pressure must be removed or rendered inoperative during the leak test.

(2) Where applicable, the Environmental Protection Agency's "Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure—Vacuum Test," as set forth in 40 CFR part 60, appendix A, is an acceptable alternate leakage test.

89. In § 178.347, as added at 54 FR 25029, on June 12, 1989, paragraphs (d) introductory text, (d)(3) and (d)(8) are revised to read as follows:

§ 178.347 Specification DOT 407; cargo tank motor vehicle.

* * * * *

(d) Each cargo tank built to this specification with MAWP of 35 psig or less must be "constructed in accordance with the ASME Code" except as modified herein:

* * * * *

(3) The knuckle radius of flanged heads must be at least three times the material thickness, and in no case less than 0.5 inch. Stuffed (inserted) heads may be attached to the shell by a fillet weld. The knuckle radius and dish radius versus diameter limitations of UG–32 do not apply for cargo tank motor vehicles with a MAWP of 35 psig or less.

* * * * *

(8) The following paragraphs in Parts UG and UW of the ASME Code, Section VIII, Division I do not apply: UG–11, UG–12, UG–22(g), UG–32(e), UG–34, UG–35, UG–44, UG–76, UG–77, UG–80, UG–81, UG–96, UG–97, and UW–13.1(f).

90. In § 178.347–2, as added at 54 FR 25030, on June 12, 1989, paragraph (a) Table I and II headings are revised to read as follows:

§ 178.347–2 Material and thickness of material.

(a) * * *

TABLE I.—MINIMUM THICKNESS OF HEADS (OR BULKHEADS AND BAFFLES WHEN USED AS TANK REINFORCEMENT) USING MILD STEEL (MS). HIGH STRENGTH LOW ALLOY STEEL (HSLA), AUSTENITIC STAINLESS STEEL (SS) OR ALUMINUM (AL)—EXPRESSED IN DECIMALS OF AN INCH AFTER FORMING

* * * * *

TABLE II.—MINIMUM THICKNESS OF SHELL USING MILD STEEL (MS). HIGH STRENGTH LOW ALLOY STEEL (HSLA), AUSTENITIC STAINLESS STEEL (SS) OR ALUMINUM (AL)—EXPRESSED IN DECIMALS OF AN INCH AFTER FORMING

* * * * *

91. In § 178.347–10, as added at 54 FR 25030, on June 12, 1989, paragraph (a) is amended by revising the reference "§ 178.340–10" to read "§ 178.345–10", and paragraphs (b) and (d) are revised to read as follows:

§ 178.347–10 Pressure relief.

* * * * *

(b) *Type and Construction.* Vacuum relief devices are not required for cargo tanks designed to be loaded by vacuum or built to withstand full vacuum.

* * * * *

(d) *Venting capacities.* (1) The vacuum relief system must limit the vacuum to less than 80 percent of the design vacuum capability of the cargo tank.

(2) If pressure loading or unloading devices are provided, the relief system must have adequate vapor and liquid capacity to limit the tank pressure to the cargo tank test pressure at maximum loading or unloading rate. The maximum loading or unloading rate must be included on the metal specification plate.

* * * * *

92. In § 178.348–1, as added at 54 FR 25031, on June 12, 1989, paragraphs (d),

(e)(1), (e)(2) introductory text, (e)(2)(iii) and (viii) are revised to read as follows:

§ 178.348-1 General requirements.

* * * * *

(d) Each cargo tank having a MAWP greater than 15 psig must be of circular cross-section.

(e) * * *

(1) MAWP greater than 15 psig must be "constructed and certified in conformance with the ASME Code"; or

(2) MAWP of 15 psig or less must be "constructed in accordance with the ASME Code," except as modified herein:

* * * * *

(iii) The knuckle radius of flanged heads must be at least three times the material thickness, and in no case less than 0.5 inch. Stuffed (inserted) heads may be attached to the shell by a fillet weld. The knuckle radius and dish radius versus diameter limitations of UG-32 do not apply for cargo tank motor vehicles with a MAWP of 15 psig or less. Shell sections of cargo tanks designed with a non-circular cross section need not be given a preliminary curvature, as prescribed in UG-79(b).

* * * * *

(viii) The following paragraphs in Parts UG and UW of the ASME Code, Section VIII, Division 1 do not apply: UG-11, UG-12, UG-22(g), UG-32(e), UG-34, UG-35, UG-44, UG-76, UG-77, UG-80, UG-81, UG-96, UG-97, and UW-13.1(f).

93. In § 178.348-2, as added at 54 FR 25031, on June 12, 1989, paragraph (a), in Table I, under the column "Volume capacity (gallons per inch)", the third entry is revised to read: "Thickness (inch), aluminum"; under the column "10 or less", the entry "Over 16 to 26 lbs" is revised to read "Over 16 lbs"; the Note following Table II is removed, and Table I and II headings are revised to read as follows:

§ 178.348-2 Material and thickness of material.

* * * * *

TABLE I.—MINIMUM THICKNESS OF HEADS (OR BULKHEADS AND BAFFLES WHEN USED AS TANK REINFORCEMENT) USING MILD STEEL (MS), HIGH STRENGTH LOW ALLOY STEEL (HSLA), AUSTENITIC STAINLESS STEEL (SS) OR ALUMINUM (AL)—EXPRESSED IN DECIMALS OF AN INCH AFTER FORMING

* * * * *

TABLE II.—MINIMUM THICKNESS OF SHELL USING MILD STEEL (MS), HIGH STRENGTH LO ALLOY STEEL (HSLA) OR AUSTENITIC STAINLESS STEEL (SS) OR ALUMINUM (AL)—EXPRESSED IN DECIMALS OF AN INCH AFTER FORMING

* * * * *

94. Section 178.348-9, as added at 54 FR 25032, or June 12, 1989, is revised to read as follows:

§ 178.348-9 Pumps, piping, hoses and connections.

Each pump and all piping, hoses and connections on each cargo tank motor vehicle must conform to § 178.345-9, except that the use of nonmetallic pipes, valves, or connections are authorized on DOT 412 cargo tanks.

95. In § 178.348-10, as added at 54 FR 25032, on June 12, 1989, paragraph (a) is amended by revising the reference "§ 178.340-10" to read "§ 178.345-10"; and paragraphs (b) and (d)(3) are revised to read as follows:

§ 178.348-10 Pressure relief.

* * * * *

(b) *Type and construction.* Vacuum relief devices are not required for cargo tanks designed to be loaded by vacuum or built to withstand full vacuum.

* * * * *

(d) * * *

(3) Cargo tanks used in dedicated service for materials classed as corrosive material, with no secondary hazard, may have a total venting capacity which is less than required by § 178.345-10(e). The minimum total venting capacity for these cargo tanks must be determined in accordance with the formula contained in § 178.270-11(d)(3). Use of the approximate values given for the formula in § 178.270-11(d)(3) is acceptable as this will provide a great vent capacity requirement.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

96. The authority citation for part 180 is revised to read as follows:

Authority: 49 U.S.C. App. 1803; 49 CFR part 1.

§ 180.401 [Amended]

97. Section 180.401, as added at 54 FR 25033, on June 12, 1989, is amended by adding "107," immediately preceding "171".

98. In § 180.403, as added at 25033, on June 12, 1989, a definition for "Corrosive to the tank/valve" is added alphabetically and definitions for "Modification," "Owner," and "Repair" are revised to read as follows:

§ 180.403 Definitions.

* * * * *

Corrosive to the tank/valve means a lading meets the criteria for corrosivity specified in § 173.240 of this subchapter, for the material of construction of the tank or valve; or the lading has been shown through experience to be corrosive to the tank or valve.

* * * * *

Modification means any change to the original design and construction of a cargo tank or a cargo tank motor vehicle which affects its structural integrity or lading retention capability. Excluded from this category are the following:

(1) A change to motor vehicle equipment such as lights, truck or tractor power train components, steering and brake systems, and suspension parts, and changes to appurtenances, such as fender attachments, lighting brackets, ladder brackets; and

(2) Replacement of components such as valves, vents, and fittings with a component of a similar design and of the same size.

Owner means the person who owns a cargo tank motor vehicle used for the transportation of hazardous materials, or that person's authorized agent.

* * * * *

Repair means any welding on a cargo tank wall done to return a cargo tank or a cargo tank motor vehicle to its original design and construction specification, or to a condition prescribed for a later equivalent specification in effect at the time of the repair. Excluded from this category are the following:

(1) A change to motor vehicle equipment such as lights, truck or tractor power train components, steering and brake systems, and suspension parts, and changes to appurtenances, such as fender attachments, lighting brackets, ladder brackets; and

(2) Replacement of components such as valves, vents, and fittings with a component of a similar design and of the same size.

(3) Replacement of an appurtenance by welding to a mounting pad.

* * * * *

99. In § 180.405, as added at 54 FR 25033, on June 12, 1989, paragraph (c)(2)(iii) is amended by removing the words "MC 304 or cargo" and adding, in their place, the words "MC 304 cargo"; the last sentence in paragraph (e), and paragraphs (b), (f) introductory text, (f)(1)(ii) introductory text, (f)(2), (f)(4),

(g)(1), (g)(2), (h), and (k) introductory text are revised to read as follows:

§ 180.405 Qualification of cargo tanks.

* * * * *

(b) *Cargo tank specifications.* To qualify as an authorized packaging, each cargo tank must conform to this subpart, the applicable requirements specified in part 173 of this subchapter for the specific lading and, *where a DOT specification cargo tank is required,* an applicable specification in effect on the date the initial construction began: MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, MC 312, MC 330, MC 331, MC 338, DOT 406, DOT 407, or DOT 412 (§ 178.337, § 178.338, § 178.345, § 178.346, § 178.347, § 178.348 of this subchapter). However, construction of MC 306, MC 307, or MC 312 cargo tanks meeting the requirements of the applicable specification in effect on December 30, 1990, is authorized until August 31, 1993.

* * * * *

(e) * * * During the period the cargo tank is in service, the owner of a cargo tank that is remarked in this manner must retain at the owner's principal place of business a copy of the last exemption in effect.

(f) *MC 306, MC 307, MC 312 cargo tanks.* Either a Registered Inspector or a Design Certifying Engineer and the owner of a MC 306, MC 307 or MC 312 cargo tank motor vehicle constructed in accordance with and used under an exemption issued before December 31, 1990, that authorizes a condition specified in this paragraph shall examine the cargo tank motor vehicle and its design to determine if it meets the requirements of the applicable MC 306, MC 307 or MC 312 specification in effect at the time of manufacture, except as specified herein.

* * * * *

(1) * * *

(ii) An outlet equipped with a self-closing system which includes an external stop-valve must have the stop valve and associated piping protected within the vehicle's rear-end tank protection device, vehicle frame or an equally adequate accident damage protection device (See § 178.345–8 of this subchapter.) The self-closing system (See § 178.345–11 of this subchapter) must be equipped with a remotely actuated means of closure as follows:

* * * * *

(2) A vacuum-loaded cargo tank constructed after August 1, 1981, or the date specified in the applicable exemption, in conformance with paragraph (f)(1) of this section, except that an outlet is equipped with an external valve which is not part of a self-closing system:

(i) Must be equipped with a self-closing system prior to September 1, 1993.

(ii) May be remarked and certified in accordance with paragraphs (f)(5) and (6) of this section after the cargo tank motor vehicle has been equipped with the self-closing system.

* * * * *

(4) A vacuum-loaded cargo tank constructed prior to August 1, 1981, in conformance with paragraph (f)(1) of this section, except for paragraph (f)(1)(i) of this section, and an outlet is equipped with an external valve which is not part of a self-closing system:

(i) Must be equipped with a self-closing system prior to September 1, 1993.

(ii) May be remarked and certified in accordance with paragraphs (f)(5) and (6) of this section after the cargo tank motor vehicle has been equipped with the self-closing system.

* * * * *

(g) * * *

(1) On or before August 31, 1995, each owner of a cargo tank manufactured prior to December 31, 1990, authorized for the transportation of a hazardous material, must have the cargo tank equipped with manhole assemblies conforming with 49 CFR 178.345–5 except for the marking requirements in 49 CFR 178.345–5(e) and the hydrostatic testing requirement in 178.345–5(b) of this subchapter. Manhole assemblies installed on an MC 300, MC 301, MC 302, MC 303, MC 305, MC 306, MC 310, MC 311 or MC 312 cargo tank prior to December 31, 1990, which are marked or certified in writing as conforming to TTMA RP No. 61 may be considered to be in compliance with this paragraph. Any manhole assembly installed on a cargo tank after December 30, 1990 must meet the requirements in 49 CFR 178.345–5.

(2) The owner of an MC 300, MC 301, MC 302, MC 303, MC 305, MC 306, MC 310, MC 311, or MC 312 cargo tank manufactured prior to December 31, 1990, which is equipped with a manhole assembly or assemblies manufactured prior to December 31, 1990, which are not certified in conformance with TTMA RP No. 61 may have them certified in accordance with the Recommended Practice by the manufacturer of the manhole closure. Those manhole closures which the manufacturer cannot indentify and certify, or for which the manufacturer cannot be identified, may be tested and certified in accordance with TTMA TB No. 107. These certifications must be performed on or before August 31, 1995.

* * * * *

(h) *Pressure Relief System.* Properly functioning reclosing pressure relief valves and frangible or fusible vents need not be replaced. However, replacement is authorized on DOT MC-specification cargo tanks as provided in paragraph (c)(2) of this section. Reclosing pressure relief valves which are replaced for any reason must meet the following requirements:

(1) After August 31, 1992, replacements for any reclosing pressure relief valve must be capable of reseating to a leak-tight condition after a pressure surge, and the volume of lading released may not exceed one gallon. Specific performance requirements for these pressure relief valves are set forth in § 178.345–10(b)(3)(i) of this subchapter. This requirement applies to DOT 406, DOT 407 and DOT 412 cargo tank motor vehicles and to all DOT MC-specification cargo tanks except MC 330, MC 331 and MC 338; and

(2) After August 31, 1995, any reclosing pressure relief valve installed on any DOT 406, DOT 407 or DOT 412 cargo tank motor vehicle, either on new units or as replacements, must withstand pressure surges with no loss of lading regardless of vehicle orientation. Specific performance requirements for these pressure relief valves are set forth in § 178.345–10(b)(3)(ii) of this subchapter.

* * * * *

(k) *DOT specification cargo tank with no marked design pressure or a marked design pressure of less than 3 psig.* The owner of an MC 300, MC 301, MC 302, MC 303, MC 305, MC 306 or MC 312 cargo tank, which has a pressure relief system set at 3 psig, may mark or remark the cargo tank with an MAWP or design pressure of not greater than 3 psig.

* * * * *

100. In § 180.407, as added at 25035, on June 12, 1989, the section heading is revised, paragraphs (a)(4) and (a)(5) are redesignated as paragraphs (a)(5) and (a)(6) respectively, paragraph (e)(3) is removed and paragraphs (e)(4) through (e)(6) are redesignated as paragraphs (e)(3) through (e)(5) respectively, paragraphs (g)(1)(iii)–(viii) are redesignated as paragraphs (g)(1)(iv)–(ix) respectively; new paragraphs (a)(4), (d)(2)(ix), (f)(3), (f)(4) and (g)(1)(iii) are added; and paragraphs (b) introductory text, (b)(3), (c), (d)(1), (d)(2)(v)–(viii), (d)(3), (d)(4), (e)(2)(ii), (e)(3), (f)(1)(ii), (g)(5)(ii), (g)(6), (h)(1), (h)(3), (i) and

newly designated paragraphs (e)(3), and (g)(1)(ix) are revised, to read as follows:

§ 180.407 Requirements for test and inspection of specification cargo tanks.

(a) * * *

(4) Each cargo tank must be evaluated in accordance with the acceptable results of tests and inspections prescribed in § 180.411.

* * * * *

(b) *Conditions requiring test and inspection of cargo tanks.* Without regard to any other test or inspection requirements, a specification cargo tank must be tested and inspected in accordance with this section prior to further use if:

* * * * *

(3) The cargo tank has been out of hazardous materials transportation service for a period of one year or more. Each cargo tank that has been out of hazardous materials transportation service for a period of one year or more must be pressure tested in accordance with § 180.407(g) prior to further use.

(c) *Periodic test and inspection.* Each specification cargo tank must be tested and inspected as specified in the following table by an inspector meeting the qualifications in § 180.409.

COMPLIANCE DATES—INSPECTIONS AND RETESTS UNDER § 180.407(C)

Test or inspection (cargo tank specification, configuration, and service)	Date by which first test must be completed (see note 1)	Interval period after first test
External Visual Inspection:		
All cargo tanks designed to be loaded by vacuum with full opening rear heads	September 1, 1991	6 months.
All other cargo tanks	September 1, 1991	1 year.
Internal Visual Inspection:		
All insulated cargo tanks, except MC 330, MC 331, MC 338	September 1, 1991	1 year.
All cargo tanks transporting lading corrosive to the tank	September 1, 1991	1 year.
All other cargo tanks, except MC 338	September 1, 1995	5 years.
Lining Inspection:		
All lined cargo tanks transporting lading corrosive to the tank	September 1, 1991	1 year.
Leakage Test:		
All cargo tanks except MC 338	September 1, 1991	1 year.
Pressure Retest:		
(Hydrostatic or pneumatic) (See Notes 2 and 3)		
All cargo tanks which are insulated with no manhole or insulated and lined, except MC 338.	September 1, 1991	1 year.
All cargo tanks designed to be loaded by vacuum with full opening rear heads	September 1, 1992	2 years.
MC 330 and MC 331 cargo tanks in chlorine service	September 1, 1992	2 years.
All other cargo tanks	September 1, 1995	5 years.
Thickness Test:		
All unlined cargo tanks in corrosive service, except MC 338	September 1, 1992	2 years.

Note 1: If a cargo tank is subject to an applicable inspection or test requirement under the regulations in effect on December 30, 1990, and the due date (as specified by a requirement in effect on December 30, 1990) for completing the required inspection or test occurs before the compliance date listed in Table I, the earlier date applies.

Note 2: Pressure testing is not required for MC 330 and MC 331 cargo tanks in dedicated sodium metal service.

Note 3: Pressure testing is not required for uninsulated lined cargo tanks, with a design pressure or MAWP 15 psig or less, which receive an external visual inspection and lining inspection at least once each year.

(d) * * *

(1) Where insulation precludes external visual inspection, the cargo tank must be given a visual internal inspection in accordance with § 180.407(e). The tank must be hydrostatically or pneumatically tested in accordance with § 180.407(c) and (g) where:

(i) Visual inspection is precluded by both internal coating and external insulation, or

(ii) Visual inspection is precluded by external insulation, and the cargo tank is not equipped with a manhole or inspection opening.

(2) * * *

(v) Missing bolts, nuts and fusible links or elements must be replaced, and loose bolts and nuts must be tightened;

(vi) All markings on the cargo tank required by parts 178 and 180 must be legible;

(vii) The cargo tank motor vehicle must conform to parts 393 and 396 of this title (the Federal Motor Carrier Safety Regulations) and, where appropriate, part 571 of this title (the Federal Motor Vehicle Safety Standards);

(viii) All major appurtenances and structural attachments on the cargo tank including, but not limited to, suspension system attachments, connecting structures, and those elements of the upper coupler (fifth wheel) assembly that can be inspected without dismantling the upper coupler (fifth wheel) assembly must be inspected for any corrosion or damage which might prevent safe operation.

(ix) For cargo tanks transporting lading corrosive to the tank, areas covered by the upper coupler (fifth wheel) assembly must be inspected at least once in each two year period for corroded and abraded areas, dents, distortions, defects in welds, and any other condition that might render the tank unsafe for transportation service. The upper coupler (fifth wheel) assembly must be removed from the cargo tank for this inspection.

(3) All reclosing pressure relief valves must be externally inspected for any corrosion or damage which might prevent safe operation. All reclosing pressure relief valves on cargo tanks carrying lading corrosive to the valve must be removed from the cargo tank for inspection and testing. Each reclosing pressure relief valve required to be removed and tested must open at the required set pressure and reseat to a leak-tight condition at 90 percent of the set-to-discharge pressure or the pressure prescribed for the applicable cargo tank specification.

(4) Corroded or abraded areas of the cargo wall must be thickness tested in accordance with the procedures set forth in paragraphs (i)(2), (i)(3), (i)(5) and (i)(6) of this section.

* * * * *

(e) * * *

(2) * * *

(ii) Tank liners must be inspected as specified § 180.407(f).

(3) Corroded or abraded areas of the cargo tank wall must be thickness tested

in accordance with paragraphs (i)(2), (i)(3), (i)(5) and (i)(6) of this section.

* * * * *

(f) * * *

(1) * * *

(ii) The probe must be passed over the surface of the calibration block in a constant uninterrupted manner until the leak is found. The leak is detected when a white or light blue spark forms. (A leak-free lining causes a dark blue or purple spark.) The voltage must be adjusted to the lowest setting that will produce a minimum 0.5 inch spark, measured from the top of the lining to the probe. To assure that the setting on the probe has not changed, the spark tester must be calibrated periodically using the test calibration block and using the same power source, probe and cable length.

* * * * *

(3) Degraded or defective areas of the tank liner must be removed and tank wall below the defect must be inspected. Corroded areas of the tank wall must be thickness tested in accordance with § 180.407(i).

(4) The inspector must record the results of the lining inspection as specified in § 180.417(b).

(g) * * *

(1) * * *

(iii) Except for cargo tanks carrying lading corrosive to the tank, areas covered by the upper coupler (fifth wheel) assembly must be inspected for corroded and abraded areas, dents, distortions, defects in welds, and any other condition that might render the tank unsafe for transportation service. The upper coupler (fifth wheel) assembly must be removed from the cargo tank for this inspection.

* * * * *

(ix) *Pneumatic test method.* Pneumatic testing may involve higher risk than hydrostatic testing. Therefore, suitable safeguards must be provided to protect personnel and facilities should failure occur during the test. The tank must be pressurized with air or an insert gas. The pneumatic test pressure in the tank must be reached by gradually increasing the pressure to one-half of the test pressure. Thereafter, the pressure must be increased in steps of approximately one-tenth of the test pressure until the required test pressure has been reached. The test pressure must be held for at least 5 minutes. The pressure must then be reduced to the MAWP, which must be maintained during the time the entire tank surface is inspected. During the inspection, a suitable method must be used for detecting the existence of leaks. This method must consist either of coating the entire surface of all joints under pressure with a solution of soap and water, or using other equally sensitive methods.

* * * * *

(5) * * *

(ii) Pressure testing is not required for uninsulated lined cargo tanks, with a design pressure or MAWP of 15 psig or less, which receive an external visual inspection and a lining inspection at least once each year.

(6) *Acceptance criteria.* A cargo tank that leaks, fails to retain test pressure or pneumatic inspection pressure, shows distortion, excessive permanent expansion, or other evidence of weakness that might render the cargo tank unsafe for transportation service, may not be returned to service, except as follows: A cargo tank with a heating system which does not hold pressure may remain in service as an unheated cargo tank if:

(i) The heating system remains in place and is structurally sound and no lading may leak into the heating system, and

(ii) The specification plate heating system information is changed to indicate that the cargo tank has no working heating system.

* * * * *

(h) * * *

(1) Each cargo tank must be leak tested in accordance with § 180.407(c). The cargo tank, with all valves and accessories in place and operative, must be tested at not less than 80 percent of the tank design pressure or MAWP, whichever is marked on the certification or specification plate. Any venting device set to discharge at less than the leakage test pressure must be removed or rendered inoperative during the test. The pressure must be maintained for at least 5 minutes. The leakage test must include product piping. MC 330 and MC 331 cargo tanks may be leak tested with the hazardous materials contained in the tank during the test. Suitable safeguards shall be provided to protect employees and other persons should a failure occur. A cargo tank with an MAWP not less than 100 psig, which is in dedicated service or services, may be leakage tested at its normal operating pressure. No cargo tank may be operated at a pressure which is greater than the pressure to which it has been leakage tested within the previous year.

* * * * *

(3) A cargo tank that fails to retain leakage test pressure may not be returned to service as a specification cargo tank, except under conditions specified in § 180.411(d).

* * * * *

(i) *Thickness testing.* (1) The shell and head thickness of all unlined cargo tanks used for the transportation of materials corrosive to the tank must be measured at least once every 2 years, except that cargo tanks measuring less than the sum of the minimum prescribed thickness, plus one-fifth of the original corrosion allowance, must be tested annually.

(2) Measurements must be made using a device capable of accurately measuring thickness to within +/− 0.002 of an inch.

(3) Any person performing thickness testing must be trained in the proper use of the thickness testing device used in accordance with the manufacturer's instruction.

(4) Thickness testing must be performed in the following areas of the cargo tank wall, as a minimum:

(i) Areas of the tank shell and heads and shell and head area around any piping that retains lading;

(ii) Areas of high shell stress such as the bottom center of the tank;

(iii) Areas near openings;

(iv) Areas around weld joints;

(v) Areas around shell reinforcements;

(vi) Areas around appurtenance attachments;

(vii) Areas near upper coupler (fifth wheel) assembly attachments;

(viii) Areas near suspension system attachments and connecting structures; and

(ix) Known thin areas in the tank shell and nominal liquid level lines.

(5) An owner of a cargo tank that no longer conforms with the minimum thickness prescribed for the maximum lading density marked on the specification plate may use the cargo tank to carry lading of lower density under the following conditions:

(i) A Design Certifying Engineer must certify that the cargo tank design and thickness is appropriate for the lower density lading, by issuance of a new manufacturer's certificate, and

(ii) The tank's nameplate must be changed to reflect the new service limits (maximum density of lading).

(6) an owner of a cargo tank that no longer conforms with the minimum thickness prescribed for the specification may not return the cargo tank to hazardous materials service. The tank's specification plate must be removed, obliterated or covered in a secure manner.

(7) The inspector must record the results of the thickness test as specified in § 180.417(b).

101. Section 180.409, as added at 54 FR 25038, on June 12, 1989, is revised to read as follows:

§ 180.409 Minimum qualifications for inspectors and testers.

(a) Any person performing or witnessing the inspections and tests specified in § 180.407(c) must—

(1) Be registered with the Department in accordance with part 107, subpart F of this chapter, and

(2) Be familiar with DOT specification cargo tanks and must be trained and experienced in use of the inspection and testing equipment needed.

(b) A motor carrier or cargo tank owner may use an employee who is not a Registered Inspector to perform the pressure testing required by § 180.407(c), if—

(1) the employee is familiar with the cargo tank and is trained and experienced in the use of the inspection and testing equipment used;

(2) the employer submits certification that such employee meets the qualification requirements to the Director, Office of Hazardous Materials Transportation, Attn: (DHM-32), Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590; and

(3) the employer retains a copy of the tester's qualifications with the documents required by § 180.417(b).

105. In § 180.413, as added at 54 FR 20538, on June 12, 1989, paragraph (a) introductory text, the last sentence in paragraph (b)(1)(vi)(A), and paragraphs (b)(5), (c), (d)(1) introductory text, (d)(1)(iii) and (v), and (d)(3) are revised to read as follows:

§ 180.413 Repair, modification, stretching, or rebarrelling of a cargo tank.

(a) For purposes of this section only, "stretching" is not considered a "modification", and "rebarrelling" is not considered a "repair." Any repair, modification, stretching, or rebarrelling of a cargo tank must be performed in conformance with the requirements of this section. Except for work performed on a MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, or MC 312 before January 1, 1992, the repair, modification, stretching, or rebarrelling must be performed by:

* * * * *

(b) * * *

(1) * * *

(vi) * * *

(A) * * * When any repair is made of defects revealed by the wet fluorescent magnetic particle inspection, including those by grinding, the affected area of the cargo tank must again be examined by the wet fluorescent magnetic particle method after hydrostatic testing to assure that all defects have been removed.

* * * * *

(5) Each owner of a cargo tank must retain at its principal place of business all records of repairs or modifications made to each tank during the time the tank is in service and for one year thereafter. Copies of these records may be retained by a motor carrier, who is not the owner, at its principal place of business during the period the tanks is in the carrier's service.

(c) *Maintenance or replacement of piping, valves, hoses or fittings.* In the event of repair, maintenance or replacement, any piping, valve, or fitting must be properly installed in accordance with the provisions of the applicable specification before the cargo tank is returned to hazardous materials service. After maintenance or replacement which does not involve welding on the cargo tank wall, piping, valves and fittings must be leak tested. After repair or replacement of piping, valves or fittings which involves welding on the cargo tank wall, the cargo tank, including the repaired or replaced piping, valve, or fitting must be hydrostatically pressure tested in accordance with the applicable specification. Hoses permanently attached to the cargo tank must be tested either before or after installation.

(d) * * *

(1) All new material and equipment, and equipment affected by the stretching or rebarrelling conform with requirements of the specification in effect at the time of such work. Stretching or rebarrelling must be performed such that the cargo tank, as stretched or rebarrelled, meets the structural integrity requirements (§ 178.337-3, § 178.338-8, or § 178.345-3, as applicable) of the specification in effect at the time of such work, as follows:

* * * * *

(iii) Assure compliance with all applicable Federal Motor Carrier Safety Regulations for any newly installed safety equipment;

* * * * *

(v) Change the existing specification plate to reflect the cargo tank as modified, attach a supplemental specification plate noting appropriate changes that have been made to the cargo tank, or remove the existing specification plate and attach a new specification plate to the cargo tank;

* * * * *

(3) The design of the rebarrelled or stretched cargo tank must be certified by a Design Certifying Engineer registered in accordance with subpart F of part 107. The Design Certifying Engineer must certify that the rebarrelled or stretched cargo tank meets the structural integrity requirements of the applicable specification. The person performing the stretching or rebarrelling and a Registered Inspector must certify that the cargo tank is in accordance with this section and the applicable specification by issuing a supplemental manufacturer's certificate. The registration number of the Registered Inspector must be entered on the certificate.

103. Section 180.415, as added at 54 FR 25039, on June 12, 1989, is revised to read as follows:

§ 189.415 Test and inspection markings.

Each cargo tank successfully completing the test and inspection requirements contained in § 180.407 must be marked as specified in this section. Each cargo tank must be durably and legibly marked, in English, with the test date (month and year) followed by the type of test or inspection. The marking must be in letters and numbers at least 1¼ inches high, on the tank shell near the specification plate, or anywhere on the front head. For a cargo tank motor vehicle composed of multiple cargo tanks constructed to the same specification, which are tested and inspected at the same time, one set of test and inspection markings may be used to satisfy the requirements of this section. For a cargo tank motor vehicle composed of multiple cargo tanks constructed to different specifications, which are tested and inspected at different intervals, the test and inspection markings must appear in the order of the cargo tank's corresponding location, from front to rear. The type of test or inspection may be abbreviated as follows: V for external visual inspection and test; I for internal visual inspection: P for pressure retest: L for lining test, K for leakage test; and T for thickness test. For example, the marking "10-85 P, V, L" would indicate that in October 1985 the cargo tank received and pass the prescribed pressure retest, external visual inspection and test, and the lining inspection.

104. In § 180.417, as added at 54 FR 25039, on June 12, 1989, the first sentence in paragraph (a)(1) is amended by adding the word "specification" immediately preceding the words "cargo tank" each place it appears; the second sentence in paragraph (a)(3)(ii) is amended by removing the words "Authorized Inspector" and adding, in its place, the words "Registered

Inspector"; and paragraphs (b)(1)(vi) and (b)(1)(viii) are revised to read as follows:

§ 180.417 Reporting and record retention requirements.

* * * * *

(b) * * *

(1) * * *

(vi) Name and address of person performing the test, the DOT registration number of the facility or the person performing the test;

* * * * *

(viii) DOT registration number of the inspector, and dated signature of inspector and owner.

* * * * *

Issued in Washington, DC on August 29, 1990 under authority delegated in 49 CFR part 106.

Douglas Ham,

Deputy Administrator, Research and Special Programs Administration.

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Friday
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Part IV

Department of Housing and Urban Development

Office of Assistant Secretary for Policy Development and Research

24 CFR Part 100

Fair Housing Accessibility Guidelines; Preliminary Regulatory Impact Analysis

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

24 CFR Part 100

[Docket No. N-90-2011; FR 2665-N-05]

Fair Housing Accessibility Guidelines—Preliminary Regulatory Impact Analysis

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Preliminary Regulatory Impact Analysis.

SUMMARY: This document requests public comment on a Preliminary Regulatory Impact Analysis that the Department of Housing and Urban Development has prepared in conjunction with its proposed Fair Housing Accessibility Guidelines.

DATES: *Comment due date:* October 9, 1990.

ADDRESSES: Interested persons are invited to submit comments on the Preliminary Regulatory Impact Analysis to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Comments should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708-4337. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk (202) 708-2084.

FOR FURTHER INFORMATION CONTACT: Duane T. McGough, Office of Policy Development and Research, room 8208, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500, telephone (202) 708-1060. Hearing- or speech-impaired individuals may call the Office of Policy Development & Research's TDD number (202) 708-0770. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On June 15, 1990, HUD published a notice in the **Federal Register** (55 FR 24370) seeking public comment on proposed Fair Housing Accessibility Guidelines. The proposed guidelines, presented in the form of three design options, were issued to provide builders and developers with technical guidance on how to comply with the specific accessibility requirements of the Fair Housing Amendments Act of 1988 (the Act). The design options on which HUD requested public comment are:

(1) Option one—guidelines developed by HUD;

(2) Option two—guidelines developed by the National Association of Home Builders and the National Coordinating Council on Spinal Cord Injuries; and

(3) Option three—an adaptable accommodation approach that would identify design features that could be adapted on a case-by-case basis, as needed.

In the June 15, 1990 notice, HUD advised that it was preparing a preliminary regulatory impact analysis on the economic impact of implementation of accessibility guidelines, in accordance with Executive Order 12291. Under this order, a regulatory agency must determine whether a new regulation is a "major" rule and, if so, must conduct a regulatory impact analysis. A major rule is defined as one that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individuals, 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.

Today's notice publishes for public comment HUD's Preliminary Regulatory Impact Analysis on the economic impact of the Guidelines, as implemented by each of the three design options currently under consideration.

Dated: August 30, 1990.

John C. Weicher,

Assistant Secretary for Policy Development and Research.

August 17, 1990.

Regulatory Impact Analysis of Proposed HUD Guidelines for Accessibility Standards for Multifamily Housing Under Fair Housing Amendments Act of 1988

I. Introduction

The Fair Housing Amendments Act of 1988 (Fair Housing Act or Act) expanded coverage of title VIII of the Civil Rights Act of 1968 to prohibit discriminatory housing practices based on handicap and familial status. As amended, section 804(f)(3)(c) provides that unlawful discrimination includes a failure to design and construct covered multifamily dwellings available for first occupancy on or after March 13, 1991 in accordance with certain accessibility requirements. The Act makes it unlawful to fail to design and construct these multifamily dwellings so that (1) public use and common use portions of the dwellings are readily accessible to and usable by persons with handicaps; (2) all doors within such dwellings which are designed to allow passage into and within the premises are sufficiently wide to allow passage by persons in wheelchairs; and (3) all premises within such dwellings contain specified features of adaptive design.

HUD implemented the Act by a final rule published January 23, 1989. In the rule, HUD stated that it would provide more specific guidance on meeting the requirements in a notice of proposed guidelines subject to public comment. The rule also stated that any unit complying with the ANSI standard (American National Standard for Building and Facilities Providing Accessibility and Usability for Physically Handicapped People) would exceed what is required by the Fair Housing Act. The rule also specified certain aspects of the ANSI standard which were not required. The rule further stated that dwellings with a final building permit issued before January 13, 1990 would not be subject to the standards.

On August 2, 1989, HUD published an advance notice of intention to develop and publish fair housing accessibility guidelines, to solicit early public comment on the content of the guidelines, and to outline HUD's procedure for the development of the guidelines. On May 21, 1990, the Office of Management and Budget (OMB) approved HUD's plan for publication of proposed accessibility guidelines developed by HUD, provided that HUD include in the preamble, two alternative design approaches to the HUD guidelines. On June 15, 1990, HUD published proposed guidelines, presented in the form of three

alternative design options. The design options are: (1) Option one—guidelines developed by HUD (HUD guidelines); (2) Option two—guidelines developed by the National Association of Home Builders and the National Coordinating Council on Spinal Cord Injuries (NAHB/NCCSCI); and (3) Option three—an adaptable accommodation approach that would identify those features that could be adapted on a case-by-case basis, as needed (adaptable accommodation approach). The proposed guidelines are intended to provide builders, developers, and others with technical guidance only and are not mandatory.

In the June 15, 1990 publication, the Department recognized that projects now being designed, in advance of publication of guidelines may not become available for occupancy until after March 13, 1991. Accordingly, the Department advised that efforts to comply with the HUD guidelines (Option one), in the design of projects which would be completed before issuance of the final guidelines, would be considered as evidence of compliance with the Act in connection with the Department's investigation of any complaints. The Department restated its position on compliance with the Act's accessibility requirements prior to publication of final guidelines by notice in the **Federal Register** published on August 1, 1990.

This Regulatory Impact Analysis (RIA) provides HUD's assessment of the economic impact of the Fair Housing Act as implemented by each of the three design options: The HUD guidelines; the NAHB/NCCSCI guidelines; and the adaptable accommodation approach.

II. Cost Estimates

C1. Description of the Process to Obtain Unit and Site Costs

In order to obtain cost estimates for the HUD guidelines, as well as cost estimates for the two alternative guidelines, HUD competitively awarded four purchase-order contracts. Two contracts provided redesigns of five prototype apartments to conform to the HUD guidelines and to the NAHB/NCCSCI guidelines, so that there were 20 apartment redesigns produced (5×2×2). The prototype apartment designs were provided by the NAHB, and one architectural firm, Womack-Humphreys (Womack), was selected from a list provided by NAHB. The other firm, CHK Architects and Planners, Inc. (CHK), was selected from firms known to HUD. The guidance given to the architects was to make every effort to stay within the existing dimensions of the apartment.[1] Another contract, to Tevy Schlafman and Associates (Schlafman), landscape architects and planners, provided estimates of work required to adapt three site plans submitted by NAHB to both the HUD and NAHB/NCCSCI guidelines for site accessibility. The fourth contract, to provide cost estimates for the 20 apartment redesigns, the five prototype designs, and the six site plan specifications, was awarded to Forella Associates (Forella). Only the features which were changed in the redesigns were costed. Cost estimates for the third option were obtained from this cost estimating contract and an earlier cost estimating contract with Forella Associates. The NAHB prototype apartment designs are attached as appendix A.

C2. Description of Unit Costs

1. This section summarizes the basic design changes made to each apartment by each of the two architectural firms (Womack and CHK) to conform to the HUD and NAHB/NCCSCI guidelines. The costs for the design changes are compared below. The Forella cost sheets for the redesigns are attached as appendix B to this RIA.

Design 1

This is a two bedroom (one bedroom is a bedroom/den), one bath apartment with a separate dining room and a deck.

The CHK redesign for the HUD guidelines provided concealed grab bar blocking in the bathroom. It also eliminated the banjo extension of the vanity top, keeping the same vanity cabinet; the vanity top was reduced by 3⅓ square feet. It substituted five wider (2'–10") interior doors and a bi-fold door for six smaller doors of various widths. A six-foot sliding glass door replaced the original five-foot door. The door changes provided for a nominal 32 inches of access space. It increased the deck railing height and installed a raised floor assembly on the deck to change the 4 inch drop at the door to ¾ inch. Encroachments (increasing some areas at the expense of others) were minor, except for 3.3 square feet (2%) from the bedroom entrance to the bathroom. The cost increase over the prototype design was $321.50.

The CHK redesign for the NAHB/NCCSCI guidelines rearranged fixtures in the bathroom, reduced the size of the vanity top by 3 square feet and increased the size of the vanity cabinet by 6". It reversed the water controls at the tub. Four additional wider interior doors (2'–8", narrower than the HUD requirements) were provided to replace three smaller doors and a bi-fold door. It did not make modifications to the deck or change the sliding glass door. Encroachments were minor. The increase in cost over the prototype design was $101.65.

The Womack redesign for the HUD guidelines increased shelf and pole lengths in the walk-in closet as part of the reconfiguration to improve access. It provided concealed grab bar blocking and reduced the size of the vanity top by 3 square feet and the cabinet by 6". Since the vanity was not eliminated, the small reduction in cost due to the smaller vanity is included in the cost calculations. Interior doors were increased to 2'–10", and a six-foot sliding glass door to the deck was substituted for the five-foot door. The deck railing height was increased and a raised deck assembly was specified. Although the Womack redesign reversed the water controls at the tub, this was ignored in the cost estimates because, although an improvement, it is not required by the HUD guidelines. Unit size was increased by 3 square feet to allow for the required 1'–6" clearance on the latch side of the entry door. An angled bathroom door encroached upon the bedroom by 3 square feet (less than 2% of the bedroom), but did not affect the bedroom circulation or layout. The cost increase over the prototype was $481.64.

The Womack redesign for the NAHB/NCCSCI guidelines also increased shelf and pole lengths in the walk-in closet, and provided grab bar blocking in the bathroom, but did not change the vanity top or cabinet. It increased three interior door widths to 2'–8". Water controls were reversed in the tub. No modifications were made to the deck. Unit size was increased by 3 square feet to allow for the 1'–6" clearance on the latch side of the entry door. The increased closet and bath encroached on the bedroom by 8 square feet (less than 5% of the original bedroom space). The cost increase over the prototype was $325.84.

[1] The Womack redesigns specified raised deck railing heights and raised deck assemblies for all five apartments for the NAHB/NCCSCI guidelines; since these were not required by the guidelines they were emitted from the cost estimates. In three apartments, the Womack redesigns also increased the size of the sliding glass doors to decks from 5 feet to 6 feet for the NAHB/NCCSCI guidelines; since the guidelines do not require this, the cost estimates retained the cost of the original 5 foot doors.

Design 2

This is a one bedroom, one bath apartment with a separate dining room and a deck.

The CHK redesign for the HUD guidelines increased shelf and pole lengths in the walk-in closet. It provided grab bar blocking in the bathroom and decreased the vanity top by .87 square feet and the vanity cabinet by 6" to provide grab bar space. All three interior doors were increased in width to 2'–10". The door to the bathroom now swings out to accommodate the wider door. The redesign raised deck railing height and provided a raised deck assembly. There were no encroachments in this design. The increase in cost over the prototype was $378.74.

The CHK redesign for the NAHB/NCCSCI guidelines maintained original shelf and pole lengths in the walk-in closet, provided grab bar blocking in the bathroom and also decreased the vanity top and cabinet for grab bar space in an amount equal to the HUD redesign. It reversed the water controls at the tub. It left the deck alone, and increased the width of two of the three interior doors in the apartment from 2' and 2'–4" to 2'–8". There were no encroachments in this redesign. The cost increase was $267.29.

The Womack redesign for the HUD guidelines decreased shelf and pole length in the walk-in closet by one foot in order to improve access, provided grab bar blocking in the bathroom, left the vanity top and cabinet untouched, increased five interior door widths to 2'–10", raised the deck railing height and provided a raised deck assembly. The increased bedroom closet encroached on the bedroom by 3 square feet (about 2%). The increase in cost was $419.74.

The Womack redesign for the NAHB/NCCSCI guidelines decreased shelf and pole length in the walk-in closet by one-third of a foot. It provided concealed grab bar blocking in the bathroom and also left the vanity untouched, and reversed the water controls at the tub. It increased two 2' wide interior doors and one 2'–6" interior door to 2'–8", while leaving a 2'–6" door and a 2'–8" door unchanged. Dining space was reduced slightly to allow for 1'–6" clearance at the entry door, and a wing wall was removed for more clear area. The increased closet and bathroom encroached on the living/dining room by 8 square feet (about 3%). The increase in cost was $310.82.

Design 3

This is another one bedroom, one bath apartment with a deck having two entrances from the dining area and from the bedroom. The dining area is not a separate room, but is part of an L-shaped, living-dining room.

The CHK redesign for the HUD guidelines reconfigured the walk-in closet for access, which resulted in an extra foot of shelf and pole. Concealed grab bar blocking was provided in the bathroom, and the banjo extension of the vanity top was removed and the base cabinet was eliminated. Since the removal of the base cabinet is a reduction in quality, no credit is being taken for this cost saving. One 2' wide and three 2'–8" doors were replaced by four 2'–10" doors. Two 5' sliding glass doors to the deck were replaced by two 3' wide entrance doors and two 2'–3" sidelights. The deck railing height was increased and a raised deck assembly was added. There was a minor encroachment of the bath on the utility room, without affecting access to equipment. The redesigned unit cost was decreased from the prototype cost by $175.32, primarily because the two sliding glass doors were replaced by less expensive entry doors with sidelights.[2]

The CHK redesign for the NAHB/NCCSCI guidelines did not reconfigure the walk-in closet so shelf and pole length were unchanged. Concealed grab bar blocking was provided in the bathroom. The banjo extension of the vanity top also was eliminated, and the cost estimator added $100 to the cost to make the base cabinet a removable one. The 2' wide door was replaced by a 2'–8" door. The water controls were reversed at the tub. There were no encroachments in this redesign. The increase in cost was $373.55.

The Womack redesign for the HUD guidelines provided concealed grab bar blocking in the bathroom and reduced the size of the vanity top from 8 square feet to 5 square feet, and the base cabinet from 3⅓ feet wide to 2½ feet wide. Three 2' wide interior doors and two 2'–6" interior doors were replaced by five 2'–10" doors.

The two 5' sliding glass doors to the deck were replaced with two 6' sliding glass doors. The deck railing was increased in height, and a raised deck assembly was specified. The increased bathroom encroached on the laundry room by 2½ square feet but did not impair access to the equipment. The increased bathroom and closet also encroached on the dressing area by 8½ square feet (about 19% of the dressing area). The increase in cost was $692.30.

The Womack redesign for the NAHB/NCCSCI guidelines provided concealed grab bar blocking in the bathroom but did not change the vanity. The water controls at the tub were reversed. The three 2' wide interior doors were replaced by three 2'–8" interior doors, and one of the two 2'–6" doors was replaced by a 2'–10" door. The Womack redesign had replaced the two 5' sliding glass doors with two 6' sliding glass doors, but since this quality improvement was not required by the NAHB/NCCSCI guidelines, the cost estimates retain the 5' doors. The encroachments on the laundry room and the dressing area were identical to those in the HUD redesign. The increase in cost was $311.60.

Design 4

This is a two bedroom, two bath apartment with a fairly long (23'–8") combination living-dining room and a deck.

The CHK redesign for the HUD guidelines provided concealed grab bar blocking. It eliminated the banjo extension of two of the three vanities (the third was a rectangular vanity in a dressing area) for a total reduction of 4.1 square feet, and increased the combined width of the two base cabinets by 6". Three 2' wide interior doors and four 2'–6" wide doors were replaced by seven 2'–10" wide doors. The single door to the first bathroom and the two doors to the second bathroom now open outward. The deck railing height was increased and a raised deck assembly was provided. Although there were several walls moved small amounts (from 2 to 4") in this redesign, the effect on final room dimensions was negligible. The increase in cost was $278.32.

The CHK redesign for the NAHB/NCCSCI guidelines provide concealed grab bar blocking, but eliminated the banjo extension of only one of the vanities, reducing top space by 3.7 square feet. The cabinets were increased in width by 9", and $100 has been added to the cost for a removable base cabinet. The water controls at the tub were reversed, the seven narrower doors were replaced by seven 2'–8" wide interior doors. One of the three bathroom doors now opens outward. Minor realignments of the walk-in closet and bath resulted in a 4" (2 square feet) encroachment on the laundry room without affecting access to appliances. The cost increase amounted to $454.98.

The Womack redesign for the HUD guidelines reconfigured the walk-in

[2] This architect felt that there was not enough room to replace a 5' sliding glass door with a 6' sliding glass door and so changed to a glass entry door with side lights which fit into the original space. The other architect, in his redesign discussed below, replaced the 5' sliding glass door with 6' sliding glass doors by reducing the size of the storage space on the deck to accommodate the wider door.

closet and reduced shelf and pole length by 2'–6". Grab bar blocking was provided in both bathrooms, and two banjo extensions on vanities were eliminated, reducing vanity top area from over 15 square feet to 8½ square feet. Cabinet length was reduced by only 9". Five 2' interior doors, two 2'–6" doors, and two 2'–8" doors were replaced by nine 2'–10" doors. The deck railing height was increased and a raised deck assembly was added. The bathroom encroached on the first bedroom by 10 square feet (less than 7%). There were other minor encroachments in the unit. The redesign resulted in one bathroom door swinging outward. An alternate redesign was provided to accommodate an inward swinging door. This also would require enlarging the unit and the entire building, at an unacceptable cost. This alternative redesign was not used because a significantly less costly alternative was feasible. The cost increase was $143.21.

The Womack redesign for the NAHB/NCCSCI guidelines also reduced shelf and pole length by 2'–6". Grab bar blocking was provided in both bathrooms, and vanity top area was increased by almost one square foot but cabinet length was reduced by 6". The water controls were reversed at the tub. All five 2' interior doors and one 2'–6" interior door were increased in width, and the other three were unchanged, resulting in one 2'–6", five 2'–8", and three 2'–10" doors in the final redesign. The increased bathroom encroached on the bedroom by 10 square feet (less than 7%). The cost increase was $316.25.

Design 5

This is a three bedroom, two bath apartment; one of the bathrooms has a separate sink and vanity in a dressing area. There are two decks accessible from two of the bedrooms. One of the decks is also accessible from the living room.

The CHK redesign for the HUD guidelines provides concealed grab bar blocking on both baths, a reduction in vanity top area of 3⅔ square feet, and a reduction in vanity cabinet length of 8". Two 2' interior doors, two 2'–4" doors, and three 2'–6" doors were replaced by seven 2'–10" doors. Two 5' sliding glass doors to the two decks were replaced by two 6' sliders. The height of the two deck railings was increased, and raised deck assemblies were provided for both decks. Increases in bathroom #1 and other ajustments decreased the dressing area 2 square feet (about 10%) and decreased bedroom #1 by 6.3 square feet (less than 4%). In the process, living room space was also decreased 8.5 square feet (about 3%). The second bath encroached on the kitchen by 2.8 square feet (6%). The increase in cost from these changes was $721.07.

The CHK redesign for the NAHB/NCCSCI guidelines provided concealed grab bar blocking in both baths, a reduction in vanity top area of 4.1 square feet, and a reduction in vanity cabinet length of 11". Water controls were reversed for one bath tub. The seven original interior doors listed in the preceding paragraph were replaced by seven 2'–8" doors. Adjustment of bathroom #1 and the walk-in closet encroached on bedroom #1 by 7.3 square feet (about 4%). The cost increase was $229.88.

The Womack redesign for the HUD guidelines reduced shelf and pole length in a walk-in closet and an entry closet by 4'. It provided concealed grab bar blocking in both bathrooms, reduced vanity top area by about 1½ square feet. and reduced vanity cabinet length by 2". Six 2' interior doors, two 2'–6" doors and one 2'–8" door were replaced by eight 2'–10" doors; a double door composed of two 2' doors having an opening of 44" was replaced with a 2'–10" door with an opening of 32". Two 6' sliding glass doors replaced two 5' sliders to the two decks. The height of the railings on the two decks was raised, and raised deck assemblies were specified. Increased bathroom #2 encroached on bedroom #2 by 12.5 square feet (less than 7%). Increased closets encroached on the dining room by 4 square feet (2%). An alternative design to avoid an outward opening bathroom door was provided here as well, but not used for the reasons stated above under Design 4. The increase in cost was $625.38.

The Womack redesign for the NAHB/NCCSCI guidelines also reduced shelf and pole length by 4'. It provided concealed grab bar blocking in both bathrooms, but did not change vanity top area or cabinet length. Water controls on one tub were reversed. The interior doors were replaced by one 2'–6" door, four 2'–8" doors, and three 2'–10" doors. The double door with a pair of 2' doors was replaced by a 2'–8" door with a 30" opening. The entry area was decreaed by 4.5 square feet with no effect on circulation. The increased bathroom #1 encroached on the kitchen by 5 square feet (about 5%). An alternative design to avoid an outward opening bathroom door was provided, but not used. The increase in cost was $198.77.

2. *Summary of Unit Costs.* The following table summarizes the cost changes resulting from the various redesigns of the five apartment units.

CHANGES IN UNIT COSTS

[In dollars]

Design	CHK			Womack		
	HUD	NAHB	Difference	HUD	NAHB	Difference
1	321.50	101.65	219.85	481.64	325.84	155.80
2	378.74	267.29	111.45	419.74	310.82	108.92
3	−175.32	373.55	−548.87	692.30	311.60	380.70
4	278.32	454.98	−176.66	143.21	316.25	−173.04
5	721.07	229.88	491.19	625.38	198.77	426.61
Average	304.86	285.47	19.39	472.45	292.66	179.79

The average cost of the HUD guidelines over the two sets of redesigns was $388.66; the average cost of the NAHB/NCCSCI guidelines over the two sets was $289.07. The difference in cost between the two sets is about $100, approximately the cost of providing an accessible balcony. For three of the units (Designs 1, 3 and 5), a significant amount of the increased cost is for wider sliding glass doors (approximately $212 per door.) For purposes of these estimates, a high-quality sliding glass door was specified. If a "builders standards" door were specified the 6' door would result in a net savings of approximately $30 wherever used in the HUD unit design because the door space would replace more expensive exterior wall construction.

C3. Option Three—The "Adaptable Accommodation" Approach

This approach identifies those features which could be adapted on an as-needed basis throughout the life of the apartment, and assumes none would be provided in the original construction. The features which could be included in this option, and the current estimate of their cost to the occupant, are as follows:

Sunken living room ramp: $325
Balcony deck drop-in to provide level surface: $100 to $200
Platform lift to loft space: $4,000 to $8,000, plus 10% for installation
Front controls on kitchen range: no cost, readily available, and probably would be original equipment.

C4. Description of Site Costs

Three sites were analyzed and redesigned to meet the proposed accessibility standards of HUD and of NAHB/NCCSCI. The site plans were provided by NAHB, and vary from a mostly level site to a very hilly site; all sites are in the Washington, DC area. The results of the redesigns and the corresponding cost estimates are discussed below. The Schlafman site analysis and the Forella cost estimates for the three sites are attached as appendices C and D.

Site 1: Potomac Gable

This site has 392 apartment units in 14 residential buildings, and has a pool and bathhouse, and a tennis court. There are 31 building entrances serving 120 ground floor units. Terrain analysis indicated that 27%, or 33 units, should be made accessible according to both the HUD and the NAHB/NCCSCI guidelines (Options 1 and 2, respectively, in the June 15 guidelines).

In the site redesign, 9 entrances serving 35 units were accessible as drawn in the original site plan, HUD guidelines require another 3 entrances serving 12 more units to be modified and made accessible with ramps and minor regrading, at a cost of $4,908.33. Under the HUD guidelines, 47 ground floor units are accessible and 73 are not accessible. Under the NAHB/NCCSCI guidelines, 10 entrances with 39 ground floor units are accessible and 81 are not.

Under both sets of guidelines, modifications would have to be made to the pool and bathhouse to provide accessibility, at a cost of $13,610.88 for both the HUD and NAHB/NCCSCI guidelines. No modifications are needed to the tennis court.

Under the HUD guidelines, the average cost of all site modifications over all units in Potomac Gable is $47.24. The average cost per accessible unit is $394.03.

Under the NAHB/NCCSCI guidelines, the average cost of site modifications over all units in the development is $34.72. The average cost per accessible unit is $349.00.

Site 2: Center Ridge Land Bay 3

This project of 318 apartment units in 10 residential buildings also has a swimming pool and bathhouse, but no tennis court. There are 27 entrances serving 120 ground floor units. Terrain analysis indicates that a minimum of 87% of the ground floor units, or 104 units, should be accessible under the NAHB/NCCSCI guidelines, and 90%, or 108 units, under the HUD guidelines.

After analysis and redesign, 21 entrances serving 93 units were found to be accessible as originally drawn under both sets of guidelines. Another 6 entrances were made accessible with modifications under the HUD guidelines, at a cost of $3,755.26, adding another 27 accessible units, so that 100% of the ground floor units were accessible.

Under the NAHB/NCCSCI guidelines, 5 more entrances were made accessible with minor modifications, at a cost of $1,202.04, and the remaining entrance was inaccessible. In this case, 116 units were then accessible, and 4 units or 3⅓% were inaccessible.

The swimming pool and bathhouse were accessible as originally drawn.

The average cost of all site modifications under the HUD guidelines over all apartment units in Center Ridge Land Bay 3 was $11.81, and the average cost per accessible unit was $31.29.

The average cost for site modifications under the NAHB/NCCSCI guidelines was $3.78, and the average cost per accessible unit was $10.36.

Site 3: Center Ridge Land Bay 5

This development of 396 units has 17 buildings with 41 entrances serving 123 ground floor units. There is also a swimming pool and bathhouse and a tennis court. The terrain analysis sets 44%, or 54 ground floor units, as the minimum to be accessible under both sets of guidelines.

After analysis and redesign, 13 entrances serving 39 units were found to be accessible as drawn under the HUD and NAHB/NCCSCI guidelines. Another 8 entrances were modified to be accessible under the HUD guidelines, at a cost of $9,010.84; this added 24 accessible ground floor apartments for a total of 63.

Under the NAHB/NCCSCI guidelines, 5 entrances were modified to be accessible, at a cost of $3,706.29; this added 15 ground floor apartments for a total of 54 accessible apartments under these guidelines. The remaining 20 entrances and 60 apartments were not accessible under the HUD guidelines, while 23 entrances and 69 apartments were not accessible under the NAHB/NCCSCI guidelines.

Under both sets of guidelines, the swimming pool and bathhouse were made accessible by lowering the area 2' through 1,800 cubic yards of earth cut and constructing a 50' ramp, at a cost of $13,022.10.

Under both sets of guidelines, the tennis court was made accessible with 400 cubic yards of earth fill and 150 square feet of retaining wall, at a cost of $3,944.97.

Steps near two buildings were replaced by ramps, handrails and wheel stops to provide access between buildings, the pool area and vehicular routes under both sets of guidelines. The cost was $4,852.68.

The average cost of all site changes over all apartment units in Center Ridge Land Bay 5 was $77.86 under the HUD guidelines; the average cost per accessible unit was $489.37.

Under the NAHB/NCCSCI guidelines, the average cost of all site changes over all units was $64.46; the average cost per accessible unit was $472.70.

The Three Sites Combined

The three apartment developments analyzed here contain a total of 1,106 units. The total cost of all site changes on the three sites was $53,105.06 under the HUD guidelines, and $40,338.96 under the NAHB/NCCSCI guidelines. The average cost per unit of all site changes on the three sites was $48.02 under the HUD guidelines, and $36.47 under the NAHB/NCCSCI guidelines.

Under the HUD guidelines, 230 ground floor apartments were accessible on the three sites; the average cost per accessible unit of all site changes was $230.89.

Under the NAHB/NCCSCI guidelines, 209 ground floor apartments were accessible on the three sites; the average cost per accessible unit of all site changes was $193.01.

C5. Overall Costs of the Guidelines from the Internal Cost Estimates

In aggregating the estimates of increased construction costs, the following assumptions are used:

1. There will be 300,000 units constructed each year in buildings with four or more units.

2. Based on data from the Survey of Market Absorption of New Apartments (SOMA), 20 percent, or 60,000 units, will be in 2,100 elevator buildings. All these

units are considered to be covered and must meet the guidelines.

3. The remaining 80 percent of all units, or 240,000 units, are in garden developments which require site modifications to provide access to ground floor units and to swimming pools, tennis courts, etc. The cost per unit from the preceding section is $48 for HUD and $36 for NAHB/NCCSCI.

4. Of the 240,000 units, 40 percent, or 96,000, are gound floor apartments based on data from the Survey of Construction, and the remaining 60 percent, or 144,000, are second and third floor walkups excluded from coverage. Of the 96,000 ground floor units, 12,000 are on slopes exceeding 10 percent, based on an analysis of the topography of metropolitan areas, and are also excluded.

5. Units which must have interiors and exteriors (decks, balconies or patios) modified for accessibility include the 60,000 units in elevator buildings and the remaining 84,000 ground floor units on slopes of 10% or less. The cost per unit for these 144,000 units is $389 for HUD and $289 for NAHB/NCCSCI.

6. The 2,100 elevator buildings have public spaces which must be modified to meet the guidelines. The cost of providing accessibility to public spaces in buildings was estimated to be $9,375 per building by Barrier Free Environments, Inc. of Raleigh N.C.

7. The cost of a typical apartment was estimated to be $65,000 based on a factor of 110 times the median monthly rent of $591 of a new unfurnished, unsubsidized apartment completed in the United States in 1989 (data from SOMA.)

Increased construction costs to meet the HUD guidelines are as follows:

Site Modifications for 240,000 units × $48	11,520,000
Interior Adjustments to 144,000 units × $389	56,016,000
Public Areas in 2,100 buildings × $9,375	19,687,500
Total Annual Cost for Covered Units	$87,223,500
Average Cost per covered unit: $606	
Percent Increase in cost on a $65,000 unit: 0.9 percent	

Increased construction costs to meet the NAHB/NCCSCI guidelines are as follows:

Site Modifications for 240,000 units × $36	8,640,000
Interior Adjustments to 144,000 units × $289	41,616,000
Public Areas in 2,100 buildings × $9,375	19,687,500
Total Annual Cost for Covered Units	$69,943,500
Average Cost per covered unit: $488	
Percent Increase in cost on a $65,000 unit: 0.7 percent	

D. Overall Economic Impact

Under the HUD guidelines, the impact on the economy from increased construction costs would be $87.2 million per year. This compares with $69.9 million under the NAHB/NCCSCI guidelines. Both of these estimates are based on interior adaptations within the original external dimensions of the units. For the five prototypes provided by NAHB, both architectural firms were able to make the necessary adjustments within the original external dimensions.

Neither of these two estimates contain the costs of adapting covered units with sunken living rooms or lofts. The per units costs for sunken living rooms would be $325; for lofts it could run as high as $8,800. HUD has no data on the proportion of newly constructed units which contain these features. The third alternative envisions these units being adapted on an as-needed basis. The HUD estimates assume that all covered units with balconies are adjusted to meet the guidelines. As-needed adaptation of balconies would reduce the HUD estimates by the costs of the raised decks assembly and the raised handrail. Furthermore, the as-needed adapation would not raise the handrails to a safe height.

Neither estimate includes the impact on the economy from any change in the marketability of newly constructed units from adaptation to the guidelines. It is possible that the rent that owners could charge in the market would be different before and after adaptation. For example, the wider closets would enhance marketability while the smaller bedrooms would diminish marketability. Adaptation under both the HUD and NAHB/NCCSCI guidelines would result in both positive and negative, even the fairly negligible changes in marketability. On net, the changes would probably be negative because otherwise the owners would have made them in the absence of the guidelines. Hedonic estimation is the only technique which could conceptually provide reliable estimates of this effect. However, the Department is unaware of any existing hedonic estimation which provides sufficiently detailed specification of rental units to price the effects of the minor changes resulting from the guidelines, and it is doubtful that useful hedonic equations with the necessary level of detail would be feasible.

III. Estimated Number of People Needing Accessibility

There are at least two ways of obtaining an estimate of the number of people needing accessibility features in residences and public spaces.[3] One is the subjective method of asking people whether they have a disability or handicap which restricts their mobility. Another is the objective method of determining whether they actually use a mobility aid, i.e., a wheelchair, a walker, or crutches, to enable them to get about. Data from both methods are reviewed here.

LaPlante and Grant cite a 1985 survey in the United States by the International Center for the Disabled. They state (pp. 3–4), "In the ICD survey, persons were considered as having disability if they had a limitation in activity due to a health problem or impairment or if they considered themselves, or were considered by others, as having a disability or handicap. The ICD survey is a sample of one-thousand persons ages 16 and over with disabilities. From this survey, it is estimated that about 15 million persons ages 16 and over have mobility limitations. Of that number, half (7.4 million persons) consider transportation barriers and 40 percent (6 million persons) consider inaccessible buildings or buildings with inaccessible facilities as important causes of mobility restrictions."

The 1980 National Health Interview Survey produced statistics on the number and rate per 1,000 population of persons using special health aids, including wheelchairs, walkers and crutches. From the 1977 survey to the 1980 survey, the rate per 1,000 for wheelchair use rose from 3.0 to 3.3; for

[3] In their April 1988 report for the Architectural and Transportation Barriers Compliance Board, Drs. Mitchell P. LaPlante and Leslie A. Grant of the Institute for Health and Aging, University of California, San Francisco, make a distinction between persons who need, and persons who benefit, from accessibility features. In the report, entitled "Persons Who Need or Benefit from Accessibility Features in the Built Environment," they state (p. 7), "Elevators are beneficial to all people. However, for people who use a wheelchair or walker, an elevator becomes a necessity. Stable walking surfaces, well-lighted circulation paths, a handrail to hold onto for balance along a steep grade, parking spaces located close to the building entrance, or clear signs and markers are examples of access features that are beneficial to all people regardless of their functional abilities. Nevertheless, most of these building features provide greater benefit to some persons than others. Without them accessibility would not be possible, or at least seriously compromised."

walkers, the rate rose from 3.2 in 1977 to 4.0 in 1980 and for crutches, the rate declined from 2.9 in 1977 to 2.7 in 1980. The survey results also show that the rates for these three health aids rise sharply with age. To reflect the rapidly growing elderly population, the 1980 age-related rates are applied to the Bureau of the Census projections to 1990 of the U.S. population by age category.

ESTIMATED NUMBERS OF PERSONS USING SELECTED MOBILITY AIDS

Age	1990 population (000)	1980 wheelchair rate	1990 wheelchair number	1980 walker rate	1990 walker number	1980 crutch rate	1990 crutch number
18	64,038	.5	32	.2	13	.9	58
19–44	107,961	1.2	130	.3	32	1.5	162
45–64	46,851	4.3	201	3.7	173	5.5	258
65+	31,560	16.1	508	27.8	877	6.3	199
Total	250,410		871		1,095		677

The total here is 2,643,000 persons. However, there may be some overlaps between users of these various devices. LaPlante and Grant report from a 1979–80 National Health Interview Survey Home Care Supplement, a total of 753,000 persons using wheelchairs and 1,341,000 persons who use a wheelchair and/or a walker (unduplicated total). Applying the proportion of wheelchair users to the total to the 1990 figure of 871,000 wheelchair users results in a total of 1,551,000 individuals who use a wheelchair and/or a walker. Adding in crutch users could bring the total to close to 2 million persons.

The estimated number of people needing accessibility features could be as low as 2–2.5 million persons if the objective measures of users of mobility aids is employed, or as high as 6 million persons if the subjective measure of self-identified mobility-impaired people is employed. Additionally, visitors with disabilities would benefit from being able to visit friends and relatives who occupy accessible apartments. Another benefit relates to the inconvenience of having to move if an occupant, for example, falls and breaks a hip; if the unit is already accessible, the person would not have to move. These are the persons who need accessibility features. A greater number could benefit from greater accessibility, such as mothers with strollers, or persons moving furniture or other large objects in, out or within apartments.

IV. Summary

The Regulatory Impact Analysis has done the follwoing:

It has arrived at an estimation of the cost of Option one, the HUD guidelines, of $606 per accessible unit, an increase of 0.9 percent on a $65,000 apartment, and a total cost per year of $87.2 million.

It has estimated the cost of Option two, the NAHB/NCCSCI guidelines at $488 per accessible unit, an increase of 0.7 percent, and a total cost per year of $69.9 million.

The costs are somewhat higher under the HUD guidelines than under the NAHB/NCCSCI guidelines because the former require accessibility of all bathrooms rather than just one, and require deck assemblies and raised railing heights. This is partially offset by the requirement in the NAHB/NCCSCI guidelines for the controls to be reversed in the bathtub in the one accessible bathroom, and by a removable base cabinet in two apartments.

Option three, the adaptable accommodation approach, has varying costs to the tenant, depending on which features of the apartment must be modified. In the items cited, the cost per apartment to the tenant could range from $100 to over $9,300 if there is a loft, a balcony and a sunken living room.

This RIA also has estimated the number of people who could benefit from accessibility provisions. The number ranges from 2 million to 6 million persons who need accessibility, depending on method of measurement, plus an indeterminate number of other people who could find benefits from greater accessibility.

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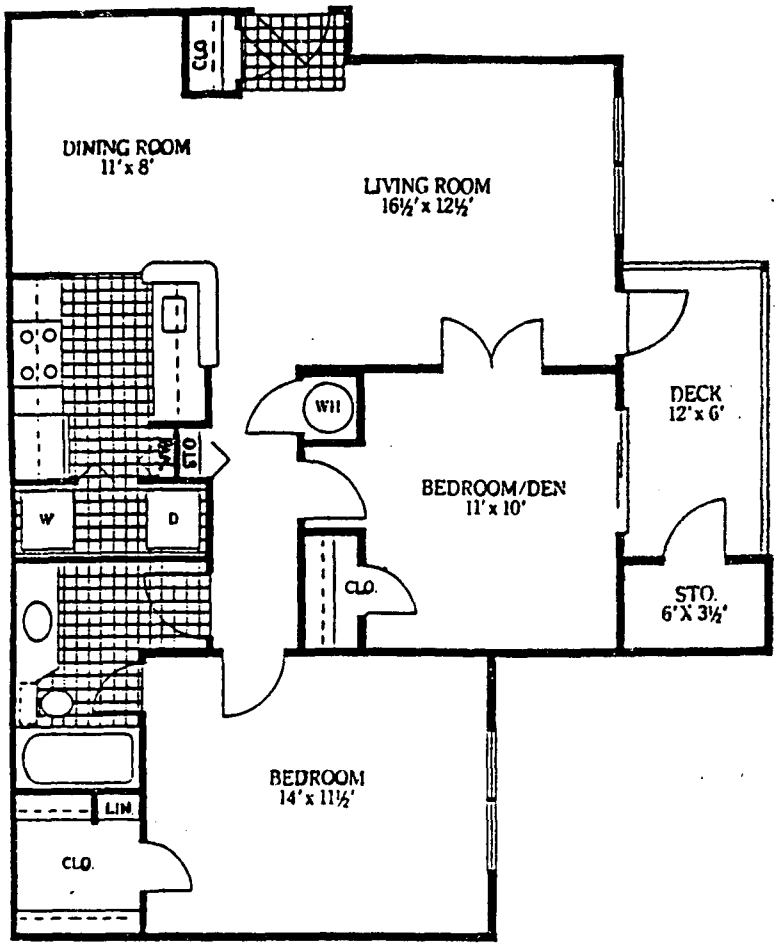
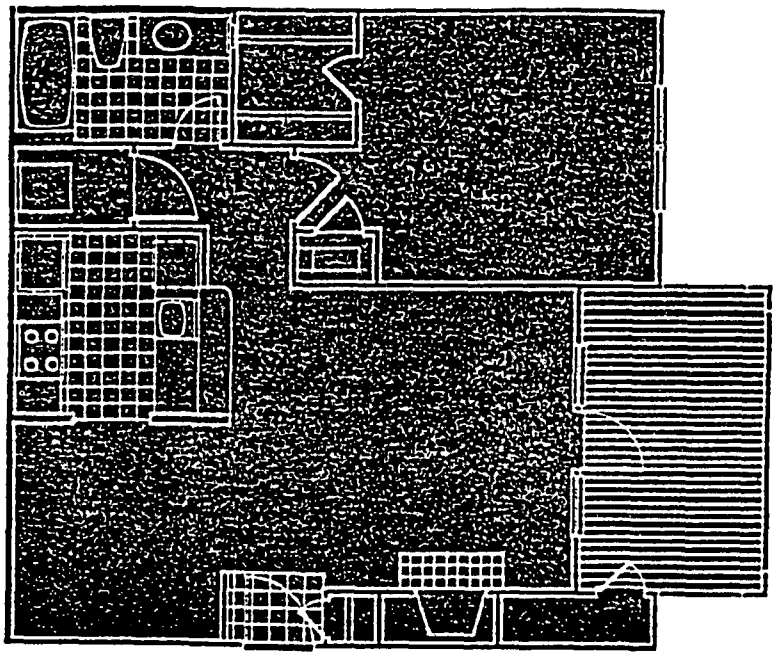


NAHB Prototype Apartment Design 1



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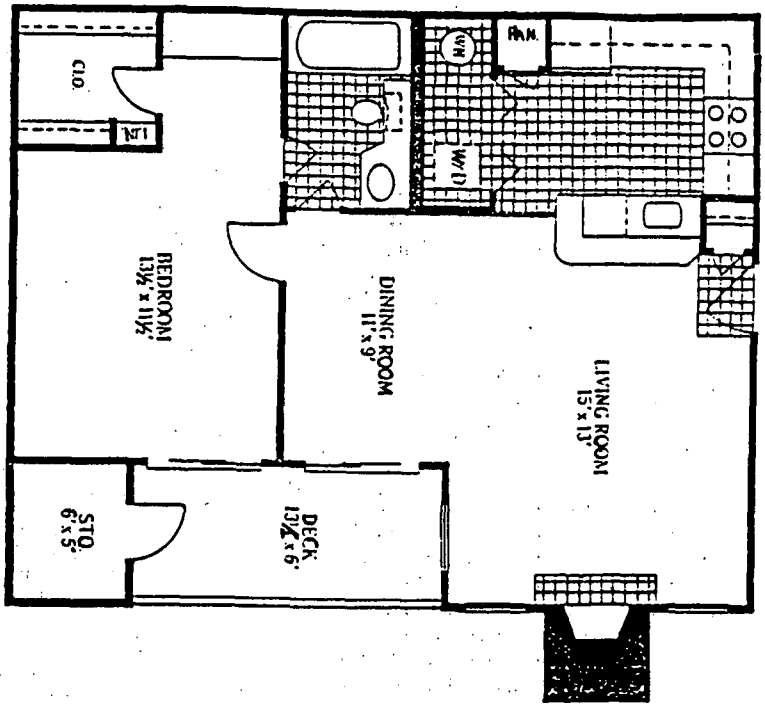

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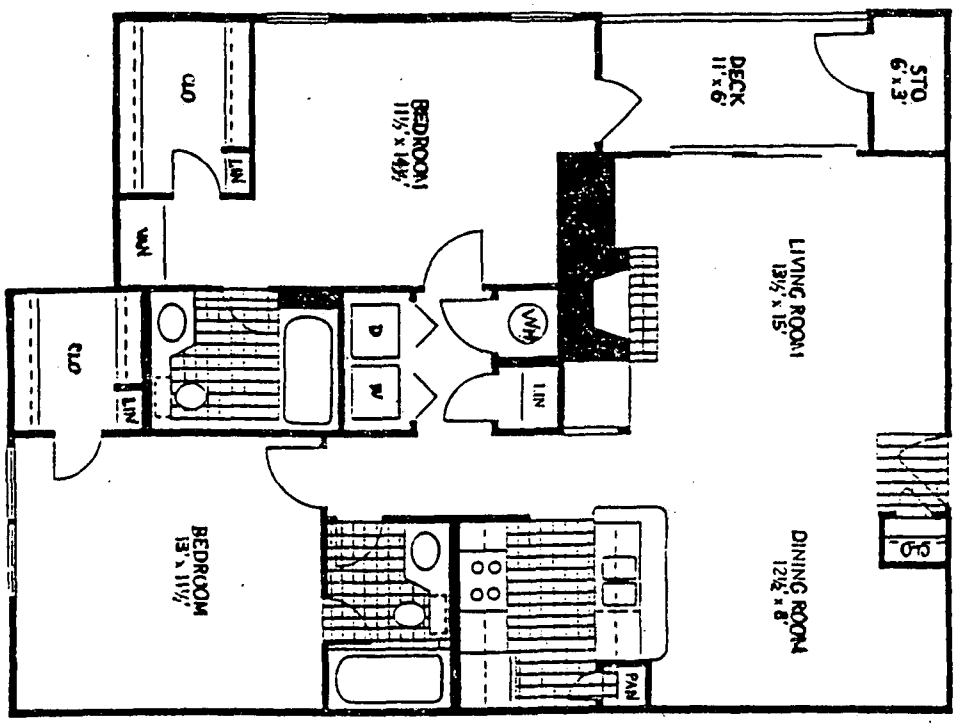
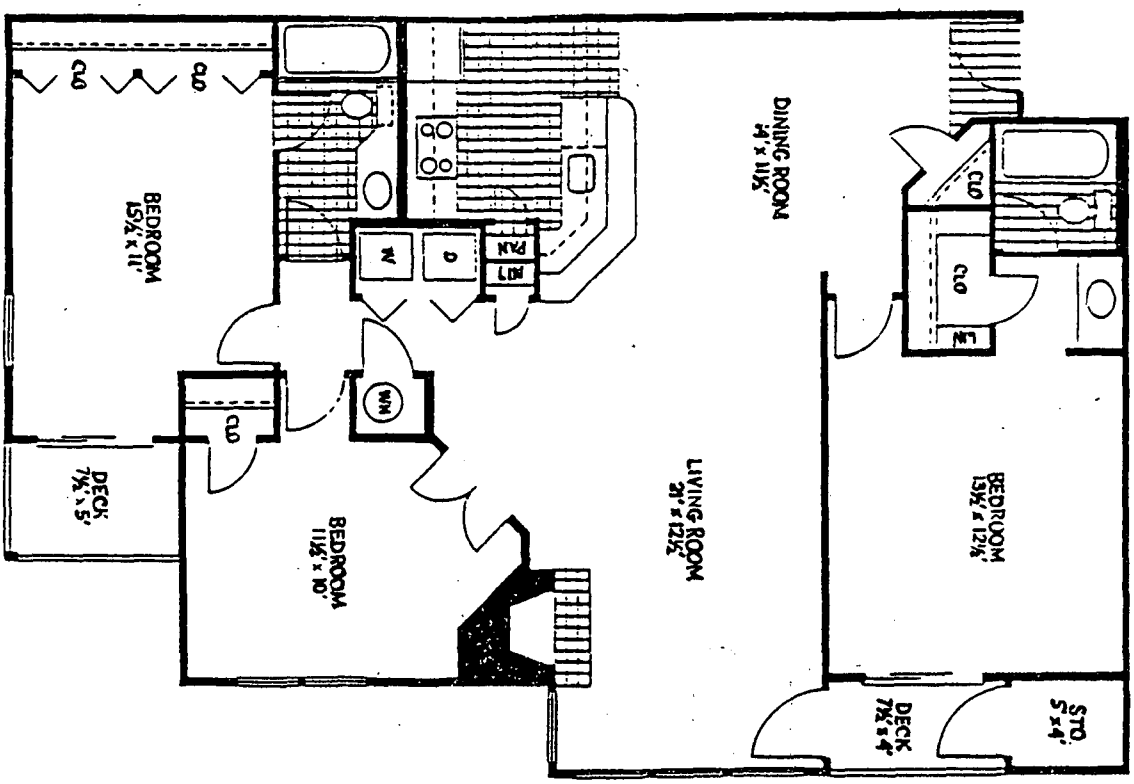


NAHB Prototype Apartment Design 4



NAHB Prototype Apartment Design 5

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

	DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
DESIGN 1	DESIGN 1										
DESIGN 1											
DESIGN 1	Concealed grab bar blocking	0.00	10.64	10.64	LF	0.00	2.00	2.00	0.00	21.28	21.28
DESIGN 1	Increase balcony railing ht	0.00	12.00	0.00	LF	0.00	4.00	0.00	0.00	48.00	0.00
DESIGN 1	Raised deck assem at balc	0.00	72.00	0.00	SF	0.00	2.26	0.00	0.00	162.72	0.00
DESIGN 1	Vanity top	9.50	6.13	7.00	SF	12.50	12.50	12.50	118.75	76.56	87.50
DESIGN 1	Vanity cabinet	3.50	3.50	4.00	LF	55.00	55.00	55.00	192.50	192.50	220.00
DESIGN 1	2/0 pre-h wd dr/fr/trim+HW	3.00	0.00	1.00	Ea	127.08	127.08	127.08	381.25	0.00	127.08
DESIGN 1	2/4 pre-h wd dr/fr/trim+HW	1.00	0.00	0.00	Ea	129.09	129.09	129.09	129.09	0.00	0.00
DESIGN 1	2/6 pre-h wd dr/fr/trim+HW	1.00	0.00	1.00	Ea	131.29	131.29	131.29	131.29	0.00	131.29
DESIGN 1	2/8 pre-h wd dr/fr/trim+HW	1.00	0.00	5.00	Ea	131.74	131.74	131.74	131.74	0.00	658.70
DESIGN 1	2/10pre-h wd dr/fr/trim+HW	0.00	5.00	0.00	Ea	135.39	135.39	135.39	0.00	676.93	0.00
DESIGN 1	5/0x6/8 Sliding glass drs	1.00	0.00	1.00	Ea	732.86	0.00	732.86	732.86	0.00	732.86
DESIGN 1	6/0x6/8 Sliding glass drs	0.00	1.00	0.00	Ea	0.00	944.41	0.00	0.00	944.41	0.00
DESIGN 1	2/0 Bi-fold door assembly	1.00	1.00	0.00	Ea	156.95	156.95	156.95	156.95	156.95	0.00
DESIGN 1	2/6 Bi-fold door assembly	1.00	0.00	0.00	Ea	162.96	162.96	162.96	162.96	0.00	0.00
DESIGN 1	3/0 Bi-fold door assembly	0.00	1.00	0.00	Ea	165.64	165.64	165.64	0.00	165.64	0.00
DESIGN 1	# doors in change zone	9.00	8.00	8.00	Ea						
DESIGN 1	GWB partitions incl pnt	112.50	105.00	112.50	SF	2.50	2.50	2.50	281.25	262.50	281.25
DESIGN 1	Floor finish adjustments	Note 1	Note 1	Note 1							
DESIGN 1	Rev water controls at tub	0.00	0.00	1.00	Ea	0.00	0.00	250.00	0.00	0.00	250.00
DESIGN 1											
DESIGN 1	Subtotal								2,418.64	2,707.49	2,509.96
DESIGN 1	G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								273.31	305.95	283.63
DESIGN 1	Total, in current dollars								2,691.94	3,013.44	2,793.59
DESIGN 1	Difference from prototype									321.50	101.64

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
DESIGN 1W DESIGN 1W										
DESIGN 1W										
DESIGN 1W Shelf & pole	3.33	5.00	5.00	LF	5.39	5.39	5.39	17.95	26.95	26.95
DESIGN 1W Concealed grab bar blocking	0.00	12.00	12.00	LF	0.00	2.00	2.00	0.00	24.00	24.00
DESIGN 1W Increase balcony railing ht	0.00	20.00	0.00	LF	0.00	4.00	0.00	0.00	80.00	0.00
DESIGN 1W Raised deck assem at balc	0.00	76.02	0.00	SF	0.00	2.26	0.00	0.00	171.81	0.00
DESIGN 1W Vanity top	10.35	7.32	10.35	SF	12.50	12.50	12.50	129.41	91.50	129.41
DESIGN 1W Vanity cabinet	4.50	4.00	4.50	LF	55.00	55.00	55.00	247.50	220.00	247.50
DESIGN 1W 2/0 pre-h wd dr/fr/trim+HW	2.00	0.00	0.00	Ea	127.08	127.08	127.08	254.17	0.00	0.00
DESIGN 1W 2/6 pre-h wd dr/fr/trim+HW	1.00	0.00	0.00	Ea	131.29	131.29	131.29	131.29	0.00	0.00
DESIGN 1W 2/8 pre-h wd dr/fr/trim+HW	4.00	0.00	7.00	Ea	131.74	0.00	131.74	526.96	0.00	922.17
DESIGN 1W 2/10pre-h wd dr/fr/trim+HW	0.00	7.00	0.00	Ea	0.00	135.39	0.00	0.00	947.70	0.00
DESIGN 1W 2/8 wd ent dr/fr/trim+HW	2.00	0.00	2.00	Ea	264.94	0.00	264.94	529.89	0.00	529.89
DESIGN 1W 2/10wd ent dr/fr/trim+HW	0.00	2.00	0.00	Ea	0.00	266.94	0.00	0.00	533.89	0.00
DESIGN 1W # doors in change zone	9.00	9.00	9.00	Ea						
DESIGN 1W 5/0x6/8 Sliding glass drs	1.00	0.00	1.00	Ea	732.86	0.00	732.86	732.86	0.00	732.86
DESIGN 1W 6/0x6/8 Sliding glass drs	0.00	1.00	0.00	Ea	0.00	944.41	0.00	0.00	944.41	0.00
DESIGN 1W GWB partitions incl pnt	97.50	82.50	97.50	SF	2.50	2.50	2.50	243.75	206.25	243.75
DESIGN 1W Floor finish adjustments	Note 1	Note 1	Note 1							
DESIGN 1W Rev water controls at tub	0.00	0.00	1.00	Ea	0.00	0.00	250.00	0.00	0.00	250.00
DESIGN 1W										
DESIGN 1W Subtotal								2,813.76	3,246.50	3,106.53
DESIGN 1W G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								317.96	366.86	351.04
DESIGN 1W Total, in current dollars								3,131.72	3,613.36	3,457.56
DESIGN 1W Difference from prototype									481.64	325.84

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

	DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
DESIGN 2	DESIGN 2										
DESIGN 2											
DESIGN 2	Shelf & pole	10.00	12.00	10.00	LF	5.39	5.39	5.39	53.90	64.68	53.90
DESIGN 2	Concealed grab bar blocking	0.00	10.64	10.64	LF	0.00	2.00	2.00	0.00	21.28	21.28
DESIGN 2	Increase balcony railing ht	0.00	24.00	0.00	LF	0.00	4.00	0.00	0.00	96.00	0.00
DESIGN 2	Raised deck assem at balc	0.00	102.64	0.00	SF	0.00	2.26	0.00	0.00	231.97	0.00
DESIGN 2	Vanity top	7.00	6.13	6.13	SF	12.50	12.50	12.50	87.50	76.56	76.56
DESIGN 2	Vanity cabinet	4.00	3.50	3.50	LF	55.00	55.00	55.00	220.00	192.50	192.50
DESIGN 2	2/0 pre-h wd dr/fr/trim+HW	1.00	0.00	0.00	Ea	127.08	127.08	127.08	127.08	0.00	0.00
DESIGN 2	2/4 pre-h wd dr/fr/trim+HW	1.00	0.00	0.00	Ea	129.09	129.09	129.09	129.09	0.00	0.00
DESIGN 2	2/6 pre-h wd dr/fr/trim+HW	1.00	0.00	1.00	Ea	131.29	131.29	131.29	131.29	0.00	131.29
DESIGN 2	2/8 pre-h wd dr/fr/trim+HW	0.00	0.00	2.00	Ea	131.74	131.74	131.74	0.00	0.00	263.48
DESIGN 2	2/10pre-h wd dr/fr/trim+HW	0.00	3.00	0.00	Ea	135.39	135.39	135.39	0.00	406.16	0.00
DESIGN 2	# doors in change zone	3.00	3.00	3.00	Ea						
DESIGN 2	Floor finish adjustments	Note 1	Note 1	Note 1							
DESIGN 2	Rev water controls at tub	0.00	0.00	1.00	Ea	0.00	0.00	250.00	0.00	0.00	250.00
DESIGN 2											
DESIGN 2	Subtotal								748.86	1,089.15	989.01
DESIGN 2	G.C.'s general requirements, O.H., profit, bonds & insurance				11.3%				84.62	123.07	111.76
DESIGN 2	Total, in current dollars								833.48	1,212.22	1,100.77
DESIGN 2	Difference from prototype									378.74	267.29

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
DESIGN 2W DESIGN 2W										
DESIGN 2W										
DESIGN 2W Shelf & pole	5.33	4.33	5.00	LF	5.39	5.39	5.39	28.73	23.34	26.95
DESIGN 2W Concealed grab bar blocking	0.00	10.64	10.64	LF	0.00	2.00	2.00	0.00	21.28	21.28
DESIGN 2W Increase balcony railing ht	0.00	23.17	0.00	LF	0.00	4.00	0.00	0.00	92.66	0.00
DESIGN 2W Raised deck assem at balc	0.00	106.25	0.00	SF	0.00	2.26	0.00	0.00	240.13	0.00
DESIGN 2W Vanity top	0.00	0.00	0.00	SF	12.50	12.50	12.50	0.00	0.00	0.00
DESIGN 2W Vanity cabinet	0.00	0.00	0.00	LF	55.00	55.00	55.00	0.00	0.00	0.00
DESIGN 2W 2/0 pre-h wd dr/fr/trim+HW	2.00	0.00	0.00	Ea	127.08	0.00	0.00	254.17	0.00	0.00
DESIGN 2W 2/6 pre-h wd dr/fr/trim+HW	2.00	0.00	1.00	Ea	131.29	0.00	131.29	262.59	0.00	131.29
DESIGN 2W 2/8 pre-h wd dr/fr/trim+HW	1.00	0.00	4.00	Ea	131.74	0.00	131.74	131.74	0.00	526.96
DESIGN 2W 2/10pre-h wd dr/fr/trim+HW	0.00	5.00	0.00	Ea	0.00	135.39	0.00	0.00	676.93	0.00
DESIGN 2W # doors in change zone	5.00	5.00	5.00	Ea						
DESIGN 2W Floor finish adjustments	Note 1	Note 1	Note 1							
DESIGN 2W Rev water controls at tub	0.00	0.00	1.00	Ea	0.00	0.00	250.00	0.00	0.00	250.00
DESIGN 2W										
DESIGN 2W Subtotal								677.22	1,054.34	956.48
DESIGN 2W G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								76.53	119.14	108.08
DESIGN 2W Total, in current dollars								753.74	1,173.48	1,064.56
DESIGN 2W Difference from prototype									419.74	310.82

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

	DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
DESIGN 3	DESIGN 3										
DESIGN 3											
DESIGN 3	Shelf & pole	10.00	11.00	10.00	LF	5.39	5.39	5.39	53.90	59.29	53.90
DESIGN 3	Concealed grab bar blocking	0.00	10.64	10.64	LF	0.00	2.00	2.00	0.00	21.28	21.28
DESIGN 3	Increase balcony railing ht	0.00	13.50	0.00	LF	0.00	4.00	0.00	0.00	54.00	0.00
DESIGN 3	Raised deck assem at balc	0.00	81.00	0.00	SF	0.00	2.26	0.00	0.00	183.06	0.00
DESIGN 3	Vanity top	7.60	0.00	4.38	SF	12.50	0.00	12.50	95.00	0.00	54.69
DESIGN 3	Vanity cabinet	2.50	0.00	2.50	LF	55.00	0.00	55.00	137.50	0.00	137.50
DESIGN 3	Removable base cab premium	0.00	0.00	1.00	LS	0.00	0.00	100.00	0.00	0.00	100.00
DESIGN 3	2/0 pre-h wd dr/fr/trim+HW	1.00	0.00	0.00	Ea	127.08	0.00	0.00	127.08	0.00	0.00
DESIGN 3	2/8 pre-h wd dr/fr/trim+HW	3.00	0.00	4.00	Ea	131.74	131.74	131.74	395.22	0.00	526.96
DESIGN 3	2/10pre-h wd dr/fr/trim+HW	0.00	4.00	0.00	Ea	0.00	135.39	0.00	0.00	541.55	0.00
DESIGN 3	2/10wd ent dr/fr/trim+HW	0.00	2.00	0.00	Ea	0.00	266.94	0.00	0.00	533.89	0.00
DESIGN 3	# doors in change zone	4.00	6.00	4.00	Ea						
DESIGN 3	5/0x6/8 Sl gl drs	2.00	0.00	2.00	Ea	732.86	0.00	732.86	1,465.72	0.00	1,465.72
DESIGN 3	2/3x6/8 Sidelights	0.00	2.00	0.00	Ea	0.00	300.15	0.00	0.00	600.30	0.00
DESIGN 3	Floor finish adjustments	Note 1	Note 1	Note 1							
DESIGN 3	Rev water controls at tub	0.00	0.00	1.00	Ea	0.00	0.00	250.00	0.00	0.00	250.00
DESIGN 3											
DESIGN 3	Subtotal								2,274.42	1,993.36	2,610.04
DESIGN 3	G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								257.01	225.25	294.93
DESIGN 3	Total, in current dollars								2,531.43	2,218.61	2,904.98
DESIGN 3	Difference from prototype									(312.82)	373.55

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
DESIGN 3W DESIGN 3W										
DESIGN 3W										
DESIGN 3W Shelf & pole	10.00	10.00	10.00	LF	5.39	5.39	5.39	53.90	53.90	53.90
DESIGN 3W Concealed grab bar blocking	0.00	10.64	10.64	LF	0.00	2.00	2.00	0.00	21.28	21.28
DESIGN 3W Increase balcony railing ht	0.00	13.50	0.00	LF	0.00	4.00	0.00	0.00	54.00	0.00
DESIGN 3W Raised deck assem at balc	0.00	81.00	0.00	SF	0.00	2.26	0.00	0.00	183.06	0.00
DESIGN 3W Vanity top	8.00	5.00	8.00	SF	12.50	12.50	12.50	100.00	62.50	100.00
DESIGN 3W Vanity cabinet	3.33	2.50	3.33	LF	55.00	55.00	55.00	183.15	137.50	183.15
DESIGN 3W 2/0 pre-h wd dr/fr/trim+HW	3.00	0.00	0.00	Ea	127.08	127.08	127.08	381.25	0.00	0.00
DESIGN 3W 2/6 pre-h wd dr/fr/trim+HW	2.00	0.00	1.00	Ea	131.29	0.00	131.29	262.59	0.00	131.29
DESIGN 3W 2/8 pre-h wd dr/fr/trim+HW	0.00	0.00	3.00	Ea	0.00	0.00	131.74	0.00	0.00	395.22
DESIGN 3W 2/10pre-h wd dr/fr/trim+HW	0.00	5.00	1.00	Ea	0.00	135.39	135.39	0.00	676.93	135.39
DESIGN 3W # doors in change zone	5.00	5.00	5.00	Ea						
DESIGN 3W 5/0x6/8 Sliding glass drs	2.00	0.00	2.00	Ea	732.86	0.00	732.86	1,465.72	0.00	1,465.72
DESIGN 3W 6/0x6/8 Sliding glass drs	0.00	2.00	0.00	Ea	0.00	944.41	0.00	0.00	1,888.82	0.00
DESIGN 3W GWB partitions incl pnt	101.25	97.50	97.50	SF	2.50	2.50	2.50	253.13	243.75	243.75
DESIGN 3W Floor finish adjustments	Note 1	Note 1	Note 1							
DESIGN 3W Rev water controls at tub	0.00	0.00	1.00	Ea	0.00	0.00	250.00	0.00	0.00	250.00
DESIGN 3W										
DESIGN 3W Subtotal								2,699.73	3,321.74	2,979.70
DESIGN 3W G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								305.07	375.36	336.71
DESIGN 3W Total, in current dollars								3,004.80	3,697.10	3,316.40
DESIGN 3W Difference from prototype									692.30	311.60

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

	DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
DESIGN 4	DESIGN 4										
DESIGN 4											
DESIGN 4	Concealed grab bar blocking	0.00	23.94	23.94	LF	0.00	2.00	2.00	0.00	47.88	47.88
DESIGN 4	Increase balcony railing ht	0.00	11.00	0.00	LF	0.00	4.00	0.00	0.00	44.00	0.00
DESIGN 4	Raised deck assem at balc	0.00	62.37	0.00	SF	0.00	2.26	0.00	0.00	140.96	0.00
DESIGN 4	Vanity top	13.75	9.63	10.06	SF	12.50	12.50	12.50	171.88	120.31	125.78
DESIGN 4	Vanity cabinet	5.00	5.50	5.75	LF	55.00	55.00	55.00	275.00	302.50	316.25
DESIGN 4	Removable base cab premium	0.00	0.00	1.00	LS	0.00	0.00	100.00	0.00	0.00	100.00
DESIGN 4	2/0 pre-h wd dr/fr/trim+HW	3.00	0.00	0.00	Ea	127.08	0.00	0.00	381.25	0.00	0.00
DESIGN 4	2/6 pre-h wd dr/fr/trim+HW	4.00	0.00	0.00	Ea	131.29	0.00	0.00	525.17	0.00	0.00
DESIGN 4	2/8 pre-h wd dr/fr/trim+HW	0.00	0.00	7.00	Ea	0.00	0.00	131.74	0.00	0.00	922.17
DESIGN 4	2/10pre-h wd dr/fr/trim+HW	0.00	7.00	0.00	Ea	0.00	135.39	0.00	0.00	947.70	0.00
DESIGN 4	# doors in change zone	7.00	7.00	7.00	Ea						
DESIGN 4	Floor finish adjustments	Note 1	Note 1	Note 1							
DESIGN 4	Rev water controls at tub	0.00	0.00	1.00	Ea	0.00	0.00	250.00	0.00	0.00	250.00
DESIGN 4											
DESIGN 4	Subtotal								1,353.29	1,603.35	1,762.09
DESIGN 4	G C.'s general requirements, O.H., profit, bonds & insurance 11.3%								152.92	181.18	199.12
DESIGN 4	Total, in current dollars								1,506.22	1,784.53	1,961.20
DESIGN 4	Difference from prototype									278.32	454.98

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
DESIGN 4W DESIGN 4W										
DESIGN 4W										
DESIGN 4W Shelf & pole	12.50	10.00	10.00	LF	5.39	5.39	5.39	67.38	53.90	53.90
DESIGN 4W Concealed grab bar blocking	0.00	23.94	23.94	LF	0.00	2.00	2.00	0.00	47.88	47.88
DESIGN 4W Increase balcony railing ht	0.00	11.00	0.00	LF	0.00	4.00	0.00	0.00	44.00	0.00
DESIGN 4W Raised deck assem at balc	0.00	62.70	0.00	SF	0.00	2.26	0.00	0.00	141.70	0.00
DESIGN 4W Vanity top	15.10	8.52	16.50	SF	12.50	12.50	12.50	188.75	106.50	206.25
DESIGN 4W Vanity cabinet	5.75	5.00	5.25	LF	55.00	55.00	55.00	316.25	275.00	288.75
DESIGN 4W 2/0 pre-h wd dr/fr/trim+HW	5.00	0.00	0.00	Ea	127.08	127.08	127.08	635.41	0.00	0.00
DESIGN 4W 2/6 pre-h wd dr/fr/trim+HW	2.00	0.00	1.00	Ea	131.29	0.00	131.29	262.59	0.00	131.29
DESIGN 4W 2/8 pre-h wd dr/fr/trim+HW	2.00	0.00	5.00	Ea	131.74	0.00	131.74	263.48	0.00	658.70
DESIGN 4W 2/10pre-h wd dr/fr/trim+HW	0.00	9.00	3.00	Ea	0.00	135.39	135.39	0.00	1,218.48	406.16
DESIGN 4W # doors in change zone	9.00	9.00	9.00	Ea						
DESIGN 4W GWB partitions incl pnt	9.98	0.00	0.00	SF	2.50	0.00	0.00	24.94	0.00	0.00
DESIGN 4W Floor finish adjustments	Note 1	Note 1	Note 1							
DESIGN 4W Rev water controls at tub	0.00	0.00	1.00	Ea	0.00	0.00	250.00	0.00	0.00	250.00
DESIGN 4W										
DESIGN 4W Subtotal								1,758.79	1,887.46	2,042.93
DESIGN 4W G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								198.74	213.28	230.85
DESIGN 4W Total, in current dollars								1,957.53	2,100.74	2,273.78
DESIGN 4W Difference from prototype									143.21	316.25

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

	DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
DESIGN 5	DESIGN 5										
DESIGN 5											
DESIGN 5	Concealed grab bar blocking	0.00	21.28	21.28	LF	0.00	2.00	2.00	0.00	42.56	42.56
DESIGN 5	Increase balcony railing ht	0.00	20.00	0.00	LF	0.00	4.00	0.00	0.00	80.00	0.00
DESIGN 5	Raised deck assem at balc	0.00	63.48	0.00	SF	0.00	2.26	0.00	0.00	143.47	0.00
DESIGN 5	Vanity top	14.75	11.08	10.64	SF	12.50	12.50	12.50	184.38	138.47	133.00
DESIGN 5	Vanity cabinet	7.00	6.33	6.08	LF	55.00	55.00	55.00	385.00	348.15	334.40
DESIGN 5	2/0 pre-h wd dr/fr/trim+HW	2.00	0.00	0.00	Ea	127.08	0.00	0.00	254.17	0.00	0.00
DESIGN 5	2/4 pre-h wd dr/fr/trim+HW	2.00	0.00	0.00	Ea	129.09	129.09	129.09	258.17	0.00	0.00
DESIGN 5	2/6 pre-h wd dr/fr/trim+HW	3.00	0.00	0.00	Ea	131.29	0.00	0.00	393.88	0.00	0.00
DESIGN 5	2/8 pre-h wd dr/fr/trim+HW	0.00	0.00	7.00	Ea	0.00	0.00	131.74	0.00	0.00	922.17
DESIGN 5	2/10pre-h wd dr/fr/trim+HW	0.00	7.00	0.00	Ea	0.00	135.39	0.00	0.00	947.70	0.00
DESIGN 5	# doors in change zone	7.00	7.00	7.00	Ea						
DESIGN 5	5/0x6/8 Sliding glass drs	2.00	0.00	2.00	Ea	732.86	0.00	732.86	1,465.72	0.00	1,465.72
DESIGN 5	6/0x6/8 Sliding glass drs	0.00	2.00	0.00	Ea	0.00	944.41	0.00	0.00	1,888.82	0.00
DESIGN 5	Floor finish adjustments	Note 1	Note 1	Note 1							
DESIGN 5	Rev water controls at tub	0.00	0.00	1.00	Ea	0.00	0.00	250.00	0.00	0.00	250.00
DESIGN 5											
DESIGN 5	Subtotal								2,941.31	3,589.18	3,147.85
DESIGN 5	G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								332.37	405.58	355.71
DESIGN 5	Total, in current dollars								3,273.68	3,994.75	3,503.56
DESIGN 5	Difference from prototype									721.07	229.88

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

	DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
DESIGN 5W	DESIGN 5W										
DESIGN 5W											
DESIGN 5W	Shelf & pole	16.00	12.00	12.00	LF	5.39	5.39	5.39	86.24	64.68	64.68
DESIGN 5W	Concealed grab bar blocking	0.00	21.28	21.28	LF	0.00	2.00	2.00	0.00	42.56	42.56
DESIGN 5W	Increase balcony railing ht	0.00	20.00	0.00	LF	0.00	4.00	0.00	0.00	80.00	0.00
DESIGN 5W	Raised deck assem at balc	0.00	62.00	0.00	SF	0.00	2.26	0.00	0.00	140.12	0.00
DESIGN 5W	Vanity top	14.54	13.00	14.54	SF	12.50	12.50	12.50	181.75	162.50	181.75
DESIGN 5W	Vanity cabinet	6.67	6.50	6.67	LF	55.00	55.00	55.00	366.85	357.50	366.85
DESIGN 5W	2/0 pre-h wd dr/fr/trim+HW	6.00	0.00	0.00	Ea	127.08	0.00	0.00	762.50	0.00	0.00
DESIGN 5W	2/6 pre-h wd dr/fr/trim+HW	2.00	0.00	1.00	Ea	131.29	0.00	131.29	262.59	0.00	131.29
DESIGN 5W	2/8 pre-h wd dr/fr/trim+HW	1.00	0.00	4.00	Ea	131.74	0.00	131.74	131.74	0.00	526.96
DESIGN 5W	2/10pre-h wd dr/fr/trim+HW	0.00	8.00	3.00	Ea	0.00	135.39	135.39	0.00	1,083.09	406.16
DESIGN 5W	# doors in change zone	9.00	8.00	8.00	Ea						
DESIGN 5W	5/0x6/8 Sliding glass drs	2.00	0.00	2.00	Ea	732.86	0.00	732.86	1,465.72	0.00	1,465.72
DESIGN 5W	6/0x6/8 Sliding glass drs	0.00	2.00	0.00	Ea	0.00	944.41	0.00	0.00	1,888.82	0.00
DESIGN 5W	GWB partitions incl pnt	300.00	300.00	300.00	SF*	2.50	2.50	2.50	750.00	750.00	750.00
DESIGN 5W	Floor finish adjustments	Note 1	Note 1	Note 1							
DESIGN 5W	Rev water controls at tub	0.00	0.00	1.00	Ea	0.00	0.00	250.00	0.00	0.00	250.00
DESIGN 5W											
DESIGN 5W	Subtotal								4,007.38	4,569.27	4,185.97
DESIGN 5W	G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								452.83	516.33	473.01
DESIGN 5W	Total, in current dollars								4,460.21	5,085.60	4,658.98
DESIGN 5W	Difference from prototype									625.38	198.77

*Although configuration varies, quantity of wall is constant

APPENDIX C

POTOMAC GABLE

SITE ANALYSIS

Building #1

Remarks: FF 213.0 is accessible.

Grading: Natural grade is 10%+; final grade is 5%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 209.0 is not accessible; a ramp would make so. It will not be necessary for NAHB to construct a ramp to meets its 27% accessibility requirement.

Grading: Natural grade is 10%+; final grade is 9.6%.

Modifications: Add a 25 lf ramp to allow access at 5%.

Guidelines Met as Drawn: No for HUD, yes for NAHB

Building #2

Remarks: FF 182.5 is not accessible.

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 186.5 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 190.5 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #3

Remarks: FF 181.5 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 179.5 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #4

Remarks: FF 178.5 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 182.5 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 186.5 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #5

Remarks: FF 197.0 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #5 continued

Remarks: FF 193.0 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #6

Remarks: FF 202.0 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 198.0 is not accessible. Regrading and a ramp would make it accessible. The change, however, is not needed by NAHB to meet its 27% accessibility guideline.

Grading: Natural grade is 10%; final grade is 7.2%.

Modifications: Minor regrading and a ramp (24 lf) at 8.3%.

Guidelines Met as Drawn: No for HUD, yes for NAHB

Building #7

Remarks: FF 195.0 is accessible.

Grading: Natural grade is 10%+; final grade is 4%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 191.0 is accessible.

Grading: Natural grade is 10%+; final grade is 4%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #8

Remarks: FF 217.0 is not accessible. Regrading would make this entrance accessible.

Grading: Natural grade is less than 10%; final grade is 10%+

Modifications: Minor regrading would create a walkway of 1%.

Guidelines Met as Drawn: No for HUD and yes for NAHB

Remarks: FF 213.0 is accessible

Grading: Natural grade is less than 10%+; final grade is 1%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #9

Remarks: FF 220.0 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 210.0 is accessible. A walkway is assumed to extend about 75 feet from parking on the north-east side of the building.

Grading: Natural grade is 10%+; final grade is 1.25%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #10

Remarks: FF 222.0 is not accessible.

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #10 continued

Remarks: FF 220.0 is not accessible.

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #11

Remarks: FF 234.0 is accessible.

Grading: Natural grade is 10%+; final grade is 2%.

Guidelines Met as DRawn: Yes for HUD & NAHB

Remarks: FF 238.0 is accessible.

Grading: Natural grade is 10%+; final grade is 4%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #12

Remarks: FF 241.0 is accessible.

Grading: Natural grade is 10%+; final grade is 4%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 239.0 is not accessible

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #12 continued

Remarks: The section adjacent to FF 239 does not show an elevation. Assuming a FF of 239.0 this unit would be accessible

Grading: Natural grade is 10%+; final grade is an assumed 4%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #13

Remarks: FF 234.0 is not accessible.

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 230.0 is not accessible.

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #14

Remarks: FF 235.0 is not accessible.

Grading: Natural and final grade are 10%+.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: FF 231.0 is accessible.

Grading: Natural grade is 10%+; final grade is 2.2%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Pool/Bathhouse

Remarks: Assuming an elevation of approximately 216.5 the pool would not be accessible via the drop-off at the front door.

HUD and NAHB guidelines could be met by lowering the bathhouse 12", and building a circuitious walk from the drop-off sidewalk to the front door. Once inside, a wheelchair lift would be necessary to enable the handicapped to reach the ground floor/pool level. This would involve approx. 725 cy of additional cut, and 42 lf of new paving at 5%.

Guidelines Met as Drawn: No for HUD & NAHB

Tennis Court

Remarks: The court is accessible from the parking area.

Guidelines Met as Drawn: Yes for HUD & NAHB

Comments

This plan has been reviewed by "assuming" the locations of sidewalks and entrance walks. It is assumed, also, that a final plan would note the locations of curb cuts and parking for the handicapped.

This is a very difficult site to work with. Many more entrances could be made accessible by major regrading. From an economic standpoint major regrading is not considered an option.

The slope analysis reveals that this site contains approximately 7 (of 25) acres of terrain at 10% or less. Based upon that figure 33 of the 120 (27%) of the ground floor units (data from the NAHB/NCCSCI book of recommendations) should be accessible.

Not knowing the number of ground floor units per building we have, as with the Center Ridge developments, assumed an "even distribution". With a total of 31 entrances we surmise that 9 or 27% of them will satisfy accessibility guidelines. Our review indicates that NAHB has 10 (32%) accessible entrances. HUD's guidelines make 13 (42%) entrances accessible.

Those entrances to be modified by NAHB and HUD under their respective guidelines are as follows:

NAHB	HUD
None	1/209 6/198 8/217

CENTER RIDGE LAND BAY 3

SITE ANALYSIS FORM

Building #2

Remarks: #14301 is accessible.

Grading; Natural grade is less than 10%; final grade is 2.8%

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: #14303 is accessible.

Grading: Natural grade is less than 10%; final grade is 4.6%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: #14305 is not accessible. A ramp will make it accessible.

Grading: Natural grade is less than 10%; final grade is 5.2%.

Modifications: Create a 4 ft. ramp at a grade of 8%.

Guidelines Met as Drawn: No for HUD & NAHB

Building #3

Remarks: #14307 is accessible.

Grading: Natural grade is less than 10%; final grade is 3.6%

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: #14309 is accessible.

Grading: Natural grade is less than 10%; final grade is 5%

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #4

Remarks: #14313 is accessible with the assumption that the spot elevation of 49.0 is mismarked and should read 52.0.

Grading: Natural grade is less than 10%; final grade is 3%

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: #14317 is accessible.

Grading: Natural grade is less than 10%; final grade is 5%

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #5

Remarks: #14321 is accessible.

Grading: Natural grade is less than 10%; final grade is 4%

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: #14325 is accessible.

Grading: Natural grade is less than 10%; final grade is 2%

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #6

Remarks: #14324 is accessible.

Grading: Natural grade is less than 10%; final grade is 4.8%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #6 continued

Remarks: #14322 is accessible.

Grading: Natural grade is less than 10%; final grade is 3.5%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: #14320 is not accessible. Regrading will make this entrance accessible.

Grading: Natural grade is less than 10%; final grade is 6.3%.

Modifications: Modest regrading would create a walk at 4.7%

Guidelines Met as Drawn: No for HUD & NAHB

Building #7

Remarks: #14316 is accessible.

Grading: Natural grade is less than 10%; final grade is 3.7%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: #14314 is accessible.

Grading: Natural grade is less than 10%; final grade is 3%

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: #14312 is accessible.

Grading: Natural grade is greater than 10%; final grade is 1.2%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #8

Remarks:	#14318 is accessible.
Grading:	Natural grade is less than 10%; final grade is 3%
Guidelines Met as Drawn:	Yes for HUD & NAHB

Remarks:	#14311 is accessible.
Grading:	Natural grade is less than 10%; final grade is 3.2%.
Guidelines Met as Drawn:	Yes for HUD & NAHB

Remarks:	#14309 is accessible.
Grading:	Natural grade is less than 10%; final grade is 3%
Guidelines Met as Drawn:	Yes for HUD & NAHB

Building #9

Remarks:	#14305 is accessible.
Grading:	Natural grade is less than 10%; final grade is 4%
Guidelines Met as Drawn:	Yes for HUD & NAHB

Remarks:	#14303 is accessible.
Grading:	Natural grade is less than 10%; final grade is 3%
Guidelines Met as Drawn:	Yes for HUD & NAHB

Remarks:	#14301 is accessible.
Grading:	Natural grade is less than 10%; final grade is 4%
Guidelines Met as Drawn:	Yes for HUD & NAHB

Building #10

Remarks: #14304 is not accessible. Regrading and a ramp would make it accessible.

Grading: Natural grade is less than 10%; final grade is 9.5%.

Modifications: Minor regrading and an 8 ft ramp at 6.6%.

Guidelines Met as Drawn: No for HUD and NAHB

Remarks: #14302 is not accessible. Regrading will make the entrance accessible.

Grading: Natural grade is less than 10%; final grade is 5.7%.

Modifications: Minor regrading will create a walkway of 5%.

Guidelines Met as Drawn: No for HUD & NAHB

Remarks: #14300 is not accessible because of a section of walk that exceeds 5%. Regrading will make this entrance accessible.

Grading: Natural grade is less than 10%; final grade is 5.4%.

Modifications: Minor regrading will create a walkway of 5%.

Guidelines Met as Drawn: No for HUD & NAHB

Building #11

Remarks: #14304 (Bldg. #11) is not accessible; handrails would make it so. NAHB will not be required to make this change to meet the 87% guideline.

Grading: Natural grade exceeds 10%; final grade is 5.5%.

Modifications: 74 lf of handrail

Guidelines Met as Drawn: No for HUD, yes for NAHB

Building #11 continued

Remarks: #14302 is accessible.

Grading: Natural grade is less than 10%; final grade is 3.2%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Remarks: #14300 is accessible.

Grading: Natural grade is less than 10%; final grade is 4.4%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #1

Pool

Remarks: It appears from the data shown (sidewalk at 72.5, bathhouse at 74.0) that the pool, building, shower & lockers are accessible.

Grading: Natural grade is less than 10% at the bathhouse entrance, more than 10% at the pool. Final grade is 3.3%.

Guidelines Met as Drawn: Yes for HUD & NAHB

Comments

The plan does not show any parking or curb cuts for the handicapped. If the carports are as in Land Bay V attention should be given to the positioning of the center supporting post.

The walks are graded so that the entire site is an "accessible route". That being the case, it should be noted that Item B-4 in the NAHB/NCCSCI and ANSI Section 4.3.4 state when "an accessible route has less than 60 in (1525 mm) clear width, then passing spaces at least 60 in by 60 in (1525 mm by 1525 mm) shall be located at reasonable intervals not to exceed 200 ft (61 m). An intersection of two corridors or walks shall also be considered a passing space."

"Modest" and "minor" regrading are meant to signify that no grading cost should be involved.

Based upon a slope analysis of the natural terrain (prior to grading), 87% of the site has slopes of 10% or less. Consequently, 104 of the 120 ground floor units (data from the recommendation booklet by NAHB/NCSSCI), 87% of the units, should be made accessible.

Since we do not have architectural plans we are unaware of the number of ground floor units per building. We have, therefore, assumed an "even distribution" of ground floor units per building. By noting that the buildings have a total of 27 entrances we have also assumed that 87% of those entrances should be accessible.

Our analysis indicates that NAHB guidelines will make 21 (78%) of the entrances accessible. Under their guidelines, however, NAHB will have to modify five entrances. These modifications will give them 96% or 26 accessible entrances (87% required). HUD's guidelines will require 100% accessibility; modification to six "not accessible" entrances will be necessary.

Those entrances to be modified by NAHB and HUD under their respective guidelines are as follows:

NAHB	HUD
2/14305	2/14305
6/14320	6/14320
10/14300	10/14300
10/14302	10/14302
10/14304	10/14304
	11/14304

CENTER RIDGE LAND BAY V

SITE ANALYSIS FORM

Building #2

Remarks: Entrances A & B are not accessible.

Grading: Natural and final grade are 10%+

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #3

Remarks: Entrances A & B are accessible, C is not.

Grading: Natural grade exceeds 10% for Entrances A-C. Final grade is approximately 4% for Entrance A & B, and greater than 10% for Entrance C.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #4

Remarks: Entrances A & B are not accessible, C is. Although wide enough for a wheelchair, the carport posts may make maneuverability difficult.

Grading: Natural grade is greater than 10% for all entrances. Final grade is 10%+ for Entrances A & B, and about 2% for Entrance C.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #5

Remarks: Entrances B & C are accessible. The addition of a ramp at Entrance A would make that entrance accessible.

Grading: Natural grade is 10%+ for the building. Final grade is approximately 6.8% for Entrance A and about 1% for Entrances B & C.

Modifications: An 18 lf ramp would make Entrance A accessible at 8.33%; this modification will not be necessary by NAHB to meet the 44% guideline.

Building #5 continued

Guidelines Met as Drawn: Yes for NAHB; yes at Entrances B & C for HUD, no for HUD at Entrance A.

Building #6

Remarks: Entrances A & B are accessible, C is not. Regrading, installation of entrance walk, & handrails will make C accessible.

Grading: Natural grade is less than 10%. The final grades are less than 1% for Entrance A, about 4% for Entrance B and 10%+ for Entrance C.

Modifications: 6.5 cy cut, 30 lf (120 sf) walk & 60 lf handrail

Guidelines Met as Drawn: Yes for HUD & NAHB at Entrances A & B, no for HUD at Entrance C, yes for NAHB

Building #7

Remarks: Building is not accessible (2 entrances).

Grading: Natural and final grades are 10%+

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #8

Remarks: Entrances A and B are not accessible. Entrance B may be made accessible via the addition of a ramp. This modification by NAHB will not be necessary, however, to meet its 44% guideline.

Grading: Natural grade is 10%+. Final grade for Entrance A is 10%+ and 6.1% for Entrance B.

Modifications: Construct a 14 lf ramp at Entrance B.

Guidelines Met as Drawn: Yes for NAHB at A & B; yes for HUD at A, no at B.

Building #9

Remarks: Not accessible (2 entrances)

Grading: Natural and final grading are 10%+

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #10

Remarks:	Entrances A & B are not accessible. A ramp will make Entrance B accessible and meet NAHB's 44% guideline.
Grading:	Natural grade is 10%+; final grade for Entrance A is 10%+, for Entrance B, 8.9%.
Modifications:	A 7 lf ramp will provide access at approximately 8.3%.
Guidelines Met as Drawn:	Yes for HUD & NAHB at A; no for HUD & NAHB at B.

Building #11

Remarks:	Entrances A & B (rear) are not accessible; C & B (front) are. Entrance B (rear), with regrading, and the addition of a ramp can be made accessible and be used by NAHB to meet the 44% guideline.
Grading:	Natural grade is 10%+. Final grades are 10%+ for Entrance A, approximately 1% for Entrances B (front) & C, and 5.9% for Entrance B (rear).
Modifications:	Minor regrading & 6 lf ramp at 8.33% at B (rear)
Guidelines Met as Drawn:	Yes for HUD & NAHB for A, B, (front) & C, and no for B (rear).

Building #12

Remarks:	This building (2 entrances) does not appear to be accessible. From our interpretation, however, Entrance B can be made accessible by elimination of the steps. A FFL of 252.08 and a sidewalk elevation of 252.0 are shown. This entrance has been counted as being accessible with regrading.
Grading:	Natural grade of Entrance A is 10%+; Entrance B is less than 10%. The final grade for Entrance A is 10%+; Entrance B is approximately 1%.
Modifications:	Delete steps; minor regrading for drainage.
Guidelines Met as Drawn:	Yes for HUD & NAHB at A, no at B

Building #13

Remarks: Entrance A is accessible, B is not.

Grading: Natural grade is 10%+. Final grade is 10%+ for Entrance B and 3% for Entrance A.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #14

Remarks: Entrance A is accessible, Entrance B is not. Entrance B can be made accessible by regrading. This change will permit NAHB to meet its 44% accessibility guideline.

Grading: Natural grade is 10%+. Final grade is 2% for Unit A and 5.5% for Unit B.

Modifications: Minor regrading.

Guidelines Met as Drawn: Yes for HUD & NAHB at A, no at B.

Building #15

Remarks: Not accessible (2 entrances).

Grading: Natural and final grades are 10%+

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #16

Remarks: Entrances A and B are not accessible. The addition of handrails at Entrance B would make that entrance accessible and enable it to be counted by NAHB toward its 44% accessibility guideline.

Grading: Natural grade is 10%+. Final grades are 10%+ for Unit A and 6.2% for Unit B.

Modifications: Add 24 lf of handrail.

Guidelines Met as Drawn: Yes for HUD & NAHB for Entrance A and no for B.

Building #17

Remarks: Entrances A and B are not accessible.

Grading: Natural and final grades are 10%+.

Guidelines Met as Drawn: Yes for HUD and NAHB.

Building #18

Remarks: Entrance A is not accessible, Entrances B & C are.

Grading: Natural grade is 10%+. Final grades are 10%+ for Unit A, and approximately 1% for Units B and C.

Guidelines Met as Drawn: Yes for HUD & NAHB

Building #1

Pool/Bathhouse

Remarks: The pool is not accessible via the "front door". It appears, however, that access can be provided by lowering the bathhouse/pool area approximately 2'-0" and constructing ramps.

Grading: Natural and final grades are 10%+.

Modifications: Cut approximately 1800 cy and add 50 lf of ramp

Guidelines Met as Drawn: No for HUD and NAHB

Tennis Court

Remarks: The court is not accessible. Regrading, however, can make it accessible. Grading "end to end" is not desirable.

Grading: Natural and final grades are 10%+.

Modifications: Regrade and change walk alignment. Delete steps, (5 steps/ 4 ft. wide), 25 lf of retaining wall (4 ft + 2 ft footing), and approximately 400 cy of fill.

Guidelines Met as Drawn: No for HUD & NAHB

Route Accessibility

Walks

Remarks: Segments of the walk, adjacent to the roadway, near Buildings 2 and 3 exceed 6%.

Guidelines Met as Drawn: Yes for HUD & NAHB.

Steps

Remarks: The steps off to the left corner of Building 7 could be eliminated via a ramp. This would create an accessible route between Buildings 3-6, the pool area, and Buildings 2 & 7.

Modifications: Remove steps, install 25 lf ramp (8%), wheel stop (6 lf), and continue existing handrail (15 lf).

Guidelines Met as Drawn: Yes for HUD and NAHB.

Steps

Remarks: The steps off to the left corner of Building 10 could be eliminated via an 18 lf ramp, 8.33%, (assuming an elevation of 66.5 at the top of the stairs).

As shown, a rather circuitous route or vehicular access would be necessary from Buildings 12, 13 & 14 to 2, 7, 8, 9, 10 and the pool.

Modifications: Remove steps, install ramp (18 lf), and wheel stop (6 lf).

Guidelines Met as Drawn: Yes for HUD and NAHB.

Comments

We have experienced a great deal of difficulty in reading the prints provided. As a consequence a number of assumptions have been made. All, we believe, have been noted above.

The slope analysis shows that approximately 44% of the site has 10% or less slope. With a total of 123 ground floor units (from the NAHB/NCCSCI book of recommendations), 54 (44%) would be the minimum number of accessible units required. Since we do not have architectural plans, we have assumed an "even distribution" of ground floor units per building.

Our review indicates that the plans, as drawn, show that 13 (32%) of the 41 building entrances are accessible. NAHB will have to modify a minimum of five entrances (18) to meet the 44% accessibility guideline.

HUD's Guidelines will require it to modify eight additional entrances. Adding 8 to the previously noted 13 will give HUD 51% entrance accessibility or 6% (3 entrances) more than NAHB.

Those entrances to be modified by NAHB and HUD under their respective guidelines are as follows:

NAHB	HUD
10B	5A
11B (rear)	6C
12B	8B
14B	10B
16B	11B (rear)
	12B
	14B
	16B

"Natural grade" refers to original site conditions. "Final grade" refers to the grade after the siting of all facilities.

Care should be taken when installing the center supporting post for the carports to ensure that space will permit handicapped parking. Additional handicapped parking and curb cuts should be noted on the plan.

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
POT GABLE POTOMAC GABLE SITEWORK										
POT GABLE Building 1										
POT GABLE Add ramp & handrails b.s.	0.00	25.00	0.00	LF	0.00	90.00	0.00	0.00	2,250.00	0.00
POT GABLE Subtotal								0.00	2,250.00	0.00
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	254.25	0.00
POT GABLE Total, in current dollars								0.00	2,504.25	0.00
POT GABLE Difference from prototype									2,504.25	0.00
POT GABLE Building 2										
POT GABLE Add ramp		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Building 3										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Building 4										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Building 5										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Building 6										
POT GABLE Add ramp & handrails b.s.	0.00	24.00	0.00	LF	0.00	90.00	0.00	0.00	2,160.00	0.00
POT GABLE Subtotal								0.00	2,160.00	0.00
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	244.08	0.00
POT GABLE Total, in current dollars								0.00	2,404.08	0.00
POT GABLE Difference from prototype									2,404.08	0.00
POT GABLE Building 7										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
POT GABLE Building 8										
POT GABLE Guidelines met		No	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Building 9										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Building 10										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Building 11										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										

FORELLA ASSOCIATES 900 S. WASHINGTON ST. SUITE G-6 FALLS CHURCH, VA. 22046 AUG 12, 1990R P15

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
POT GABLE Building 12										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Building 13										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Building 14										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Pool										
POT GABLE										

FORELLA ASSOCIATES 900 S. WASHINGTON ST. SUITE G-6 FALLS CHURCH, VA. 22046 AUG 12, 1990R P16

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
POT GABLE HUD & NAHB revisions:										
POT GABLE Additional cut	0.00	725.00	725.00	CY	0.00	4.00	4.00	0.00	2,900.00	2,900.00
POT GABLE Paving	0.00	168.00	168.00	SF	0.00	3.00	3.00	0.00	504.00	504.00
POT GABLE Wheelchair lift	0.00	1.00	1.00	Ea	0.00	8,825.00	8,825.00	0.00	8,825.00	8,825.00
POT GABLE										
POT GABLE Subtotal								0.00	12,229.00	12,229.00
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	1,381.88	1,381.88
POT GABLE Total, in current dollars								0.00	13,610.88	13,610.88
POT GABLE Difference from prototype									13,610.88	13,610.88
POT GABLE Tennis court										
POT GABLE Guidelines met		Yes	Yes							
POT GABLE Subtotal										
POT GABLE G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
POT GABLE Total, in current dollars										
POT GABLE Difference from prototype										
POT GABLE Total additional sitework costs HUD/NAHB respectively									18,519.21	13,610.88
Cost per unit (392 units)									47.24	34.72

FORELLA ASSOCIATES 900 S. WASHINGTON ST. SUITE G-6 FALLS CHURCH, VA. 22046 AUG 12, 1990R P17

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGE3 CENTER RIDGE LAND BAY 3										
CENRIDGE3 Building 1	Bathhouse/Pool									
CENRIDGE3 Building 2										
CENRIDGE3 Add ramp & handrails b.s.	0.00	4.00	4.00	LF	0.00	90.00	90.00	0.00	360.00	360.00
CENRIDGE3 Subtotal								0.00	360.00	360.00
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	40.68	40.68
CENRIDGE3 Total, in current dollars								0.00	400.68	400.68
CENRIDGE3 Difference from prototype									400.68	400.68
CENRIDGE3 Building 3										
CENRIDGE3 Add ramp & handrails b.s.		Yes	Yes							
CENRIDGE3 Subtotal										
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE3 Total, in current dollars										
CENRIDGE3 Difference from prototype										
CENRIDGE3 Building 4										
CENRIDGE3 Guidelines met		Yes	Yes							
CENRIDGE3 Subtotal										
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE3 Total, in current dollars										
CENRIDGE3 Difference from prototype										

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGE3 Building 5										
CENRIDGE3 Guidelines met		Yes	Yes							
CENRIDGE3 Subtotal										
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE3 Total, in current dollars										
CENRIDGE3 Difference from prototype										
CENRIDGE3 Building 6										
CENRIDGE3 Guidelines met		Yes	Yes							
CENRIDGE3 Subtotal										
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE3 Total, in current dollars										
CENRIDGE3 Difference from prototype										
CENRIDGE3 Building 7										
CENRIDGE3 Guidelines met		Yes	Yes							
CENRIDGE3 Subtotal										
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE3 Total, in current dollars										
CENRIDGE3 Difference from prototype										
CENRIDGE3 Building 8										
CENRIDGE3 Guidelines met		Yes	Yes							
CENRIDGE3 Subtotal										
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE3 Total, in current dollars										

FORELLA ASSOCIATES 900 S. WASHINGTON ST. SUITE G-6 FALLS CHURCH, VA. 22046 AUG 12, 1990R P19

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGE3 Difference from prototype										
CENRIDGE3 Building 9										
CENRIDGE3 Guidelines met		Yes	Yes							
CENRIDGE3 Subtotal										
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE3 Total, in current dollars										
CENRIDGE3 Difference from prototype										
CENRIDGE3 Building 10										
CENRIDGE3 Earthwork		Min regr	Min regr							
CENRIDGE3 Add ramp & handrails b.s.	0.00	8.00	8.00	LF	0.00	90.00	90.00	0.00	720.00	720.00
CENRIDGE3 Subtotal								0.00	720.00	720.00
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	81.36	81.36
CENRIDGE3 Total, in current dollars								0.00	801.36	801.36
CENRIDGE3 Difference from prototype									801.36	801.36
CENRIDGE3 Building 11										
CENRIDGE3 Earthwork		Min regr	Min regr							
CENRIDGE3 Sidewalk & handrail b.s.		37.00		LF		62.00		0.00	2,294.00	0.00
CENRIDGE3 Subtotal								0.00	2,294.00	0.00
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	259.22	0.00
CENRIDGE3 Total, in current dollars								0.00	2,553.22	0.00
CENRIDGE3 Difference from prototype									2,553.22	0.00

FORELLA ASSOCIATES 900 S. WASHINGTON ST. SUITE G-6 FALLS CHURCH, VA. 22046 AUG 12, 1990R P20

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGE3 Pool										
CENRIDGE3 Guidelines met		Yes	Yes							
CENRIDGE3 Subtotal										
CENRIDGE3 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE3 Total, in current dollars										
CENRIDGE3 Difference from prototype										
CENRIDGE3 Total additional sitework costs HUD/NAHB respectively									3,755.26	1,202.04
Cost per unit (318 units)									11.81	3.78

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGE5 CENTER RIDGE LAND BAY 5										
CENRIDGE5 Building 1	Bathhouse/Pool									
CENRIDGE5 Building 2										
CENRIDGE5 Guidelines met		Yes	Yes							
CENRIDGE5 Subtotal										
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE5 Total, in current dollars										
CENRIDGE5 Difference from prototype										
CENRIDGE5 Building 3										
CENRIDGE5 Guidelines met		Yes	Yes							
CENRIDGE5 Subtotal										
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE5 Total, in current dollars										
CENRIDGE5 Difference from prototype										
CENRIDGE5 Building 4										
CENRIDGE5 Guidelines met		Yes	Yes							
CENRIDGE5 Subtotal										
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE5 Total, in current dollars										
CENRIDGE5 Difference from prototype										

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGE5 Building 5										
CENRIDGE5 Ramp & handrails		18.00	0.00	LF		90.00		0.00	1,620.00	0.00
CENRIDGE5 Subtotal								0.00	1,620.00	0.00
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	183.06	0.00
CENRIDGE5 Total, in current dollars								0.00	1,803.06	0.00
CENRIDGE5 Difference from prototype									1,803.06	0.00
CENRIDGE5 Building 6										
CENRIDGE5 Earthwork		6.50	0.00	CY		4.00		0.00	26.00	0.00
CENRIDGE5 Sidewalk & handrails b.s.		30.00	0.00	LF		62.00		0.00	1,860.00	0.00
CENRIDGE5 Subtotal								0.00	1,886.00	0.00
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	213.12	0.00
CENRIDGE5 Total, in current dollars								0.00	2,099.12	0.00
CENRIDGE5 Difference from prototype									2,099.12	0.00
CENRIDGE5 Building 7										
CENRIDGE5 Guidelines met		Yes	Yes							
CENRIDGE5 Subtotal										
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE5 Total, in current dollars										
CENRIDGE5 Difference from prototype										
CENRIDGE5 Building 8										
CENRIDGE5 Ramp & handrails b.s.		14.00	0.00	LF		90.00		0.00	1,260.00	0.00
CENRIDGE5 Subtotal								0.00	1,260.00	0.00
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	142.38	0.00

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGE5 Total, in current dollars								0.00	1,402.38	0.00
CENRIDGE5 Difference from prototype									1,402.38	0.00
CENRIDGE5 Building 9										
CENRIDGE5 Guidelines met		Yes	Yes							
CENRIDGE5 Subtotal										
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE5 Total, in current dollars										
CENRIDGE5 Difference from prototype										
CENRIDGE5 Building 10										
CENRIDGE5 Ramp & handrails b.s.		7.00	7.00	LF		90.00	90.00	0.00	630.00	630.00
CENRIDGE5 Subtotal								0.00	630.00	630.00
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	71.19	71.19
CENRIDGE5 Total, in current dollars								0.00	701.19	701.19
CENRIDGE5 Difference from prototype									701.19	701.19
CENRIDGE5 Building 11										
CENRIDGE5 Ramp & handrails b.s.		6.00	6.00	LF		90.00	90.00	0.00	540.00	540.00
CENRIDGE5 Subtotal								0.00	540.00	540.00
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	61.02	61.02
CENRIDGE5 Total, in current dollars								0.00	601.02	601.02
CENRIDGE5 Difference from prototype									601.02	601.02

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGES Building 12										
CENRIDGES Guidelines met		No	No							
CENRIDGES Delete steps, minor regrading										
CENRIDGES Subtotal										
CENRIDGES G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGES Total, in current dollars										
CENRIDGES Difference from prototype										
CENRIDGES Building 13										
CENRIDGES Guidelines met		Yes	Yes							
CENRIDGES Subtotal										
CENRIDGES G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGES Total, in current dollars										
CENRIDGES Difference from prototype										
CENRIDGES Building 14										
CENRIDGES Guidelines met		Minor regradg	Minor regradg							
CENRIDGES Subtotal										
CENRIDGES G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGES Total, in current dollars										
CENRIDGES Difference from prototype										
CENRIDGES Building 15										
CENRIDGES Guidelines met		Yes	Yes							
CENRIDGES Subtotal										
CENRIDGES G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGES Total, in current dollars										

FORELLA ASSOCIATES 900 S. WASHINGTON ST. SUITE G-6 FALLS CHURCH, VA. 22046 AUG 12, 1990R P25

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGE5 Difference from prototype										
CENRIDGE5 Building 16										
CENRIDGE5 Ramp & handrails b.s.		24.00	24.00	LF		90.00	90.00	0.00	2,160.00	2,160.00
CENRIDGE5 Subtotal								0.00	2,160.00	2,160.00
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	244.08	244.08
CENRIDGE5 Total, in current dollars								0.00	2,404.08	2,404.08
CENRIDGE5 Difference from prototype									2,404.08	2,404.08
CENRIDGE5 Building 17										
CENRIDGE5 Guidelines met		Yes	Yes							
CENRIDGE5 Subtotal										
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE5 Total, in current dollars										
CENRIDGE5 Difference from prototype										
CENRIDGE5 Building 18										
CENRIDGE5 Guidelines met		Yes	Yes							
CENRIDGE5 Subtotal										
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%										
CENRIDGE5 Total, in current dollars										
CENRIDGE5 Difference from prototype										
CENRIDGE5 Pool										

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGE5 Earth cut		1,800.00	1,800.00	CY		4.00	4.00	0.00	7,200.00	7,200.00
CENRIDGE5 Ramp & handrail b.s.		50.00	50.00	LF		90.00	90.00	0.00	4,500.00	4,500.00
CENRIDGE5 Subtotal								0.00	11,700.00	11,700.00
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	1,322.10	1,322.10
CENRIDGE5 Total, in current dollars								0.00	13,022.10	13,022.10
CENRIDGE5 Difference from prototype									13,022.10	13,022.10
CENRIDGE5 Tennis Court										
CENRIDGE5 Earth fill		400.00	400.00	CY		4.00	4.00	0.00	1,600.00	1,600.00
CENRIDGE5 Retaining wall		150.00	150.00	SF		12.96	12.96	0.00	1,944.44	1,944.44
CENRIDGE5 Subtotal								0.00	3,544.44	3,544.44
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	400.52	400.52
CENRIDGE5 Total, in current dollars								0.00	3,944.97	3,944.97
CENRIDGE5 Difference from prototype									3,944.97	3,944.97
CENRIDGE5 Steps, left corner Bldg 7										
CENRIDGE5 Ramp & handrail		25.00	25.00	LF		90.00	90.00	0.00	2,250.00	2,250.00
CENRIDGE5 Wheel stop		1.00	1.00	Ea		20.00	20.00	0.00	20.00	20.00
CENRIDGE5 Handrail		15.00	15.00	LF		30.00	30.00	0.00	450.00	450.00
CENRIDGE5 Subtotal								0.00	2,720.00	2,720.00
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	307.36	307.36
CENRIDGE5 Total, in current dollars								0.00	3,027.36	3,027.36
CENRIDGE5 Difference from prototype									3,027.36	3,027.36
CENRIDGE5 Steps, left corner Bldg 10										
CENRIDGE5 Ramp & handrail		18.00	18.00	LF		90.00	90.00	0.00	1,620.00	1,620.00
CENRIDGE5 Wheel stop		1.00	1.00	Ea		20.00	20.00	0.00	20.00	20.00

FORELLA ASSOCIATES 900 S. WASHINGTON ST. SUITE G-6 FALLS CHURCH, VA. 22046 AUG 12, 1990R P27

HANDICAPPED ACCESSIBILITY CONSTRUCTION COST IMPACT STUDY

DESCRIPTION	QUANTITY PROTO	QUANTITY HUD	QUANTITY NAHB	U/M	UNIT PROTO	UNIT HUD	UNIT NAHB	EXTEN PROTO	EXTEN HUD	EXTEN NAHB
CENRIDGE5 Subtotal								0.00	1,640.00	1,640.00
CENRIDGE5 G.C.'s general requirements, O.H., profit, bonds & insurance 11.3%								0.00	185.32	185.32
CENRIDGE5 Total, in current dollars								0.00	1,825.32	1,825.32
CENRIDGE5 Difference from prototype									1,825.32	1,825.32
CENRIDGE5 Total additional sitework costs HUD/NAHB respectively									30,830.59	25,526.04
Cost per unit									Unknown	Unknown

Additional notes & clarifications

1. Some of the design differences are so inconsequential, we show the difference to be zero.

2. We have not included any soft costs in our computations.

3. All computations are based on concept drawings only. No working drawings or specifications have been considered in our analysis.

4. For our purposes here, we have assumed that butt vs. offset hinges constitutes a financial wash.

FORELLA ASSOCIATES 900 S. WASHINGTON ST. SUITE G-6 FALLS CHURCH, VA. 22046 AUG 12, 1990R P28

[FR Doc. 90-20967 Filed 9-6-90; 8:45 am]
BILLING CODE 4210-01-C

Federal Register

Friday
September 7, 1990

Part V

Department of Education

Mid-Career Teacher Training Program; Notice Inviting Applications for New Awards for FY 1991

DEPARTMENT OF EDUCATION

[CFDA No. 84.232A]

Mid-Career Teacher Training Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1991

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: To encourage institutions of higher education with schools or departments of education to establish and maintain programs that will provide teacher training to individuals who are moving to a career in education from another occupation.

Deadline for Transmittal of Applications: 11/30/90.

Deadline for Intergovernmental Review: 1/30/91.

Available Funds: $987,000.

The administration has requested $987,000 for this program for FY 1991. However, the actual level of funding is contingent upon final congressional action.

The initial grant of up to $100,000 will be awarded for use during the two years following selection. Recipients demonstrating successful performance under the initial grant may receive a renewal grant for up to $50,000 for each of two additional years.

Estimated Range of Awards: $80,000–$100,000.

Estimated average size of awards: $98,700.

Estimated number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: 48 months.

Applicable Regulations: The following regulations apply to the Mid-Career Teacher Training Program:

The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 79 (Intergovernmental Review of Department of Education Programs and Activities), Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), Part 82 (New Restrictions On Lobbying), Part 85 (Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)), and Part 86 (Drug-Free Schools and Campuses).

Description of Program: The Mid-Career Teacher Training Program is authorized by Title V, Part A of the Higher Education Act of 1965 (HEA), as amended (20 U.S.C. 1103–1103d).

Eligible Parties: An institution of higher education, as defined by section 1201(a) of the HEA, with a school or department of education is eligible to apply for a grant under this program.

Contents of Application: An application must demonstrate that—

(a) The applicant will establish and maintain a program of mid-career teacher retraining designed to prepare individuals for teacher certification requirements who already have a baccalaureate or advanced degree and job experience in education-related fields of study, including: pre-school and early childhood education, military education or training, business education or training, or other education experience in fields where there are shortages of teachers or other educational needs to be met.

(b) The applicant has designed a project that includes at least the following elements:

(1) A screening mechanism to assure that individuals who are admitted to the program possess the current subject matter knowledge and the characteristics that would make them likely to succeed as classroom teachers;

(2) A clear set of program goals and expectations which are communicated to participants; and

(3) A curriculum that, when successfully completed, will provide participants with the skills and credentials needed to teach in specific subject areas;

(c) The program has been developed with the cooperation and assistance of the local business community;

(d) The program will be operated under a cooperative agreement between the institution and one or more State or local educational agencies; and

(e) The program will be designed and operated with the active participation of qualified teachers, including early childhood education specialists, where appropriate, and will include an in-service training component and follow-up assistance.

Invitational Priorities: The Secretary is particularly interested in applications that:

(a) Propose projects that accommodate the practical needs of individuals making a mid-career change, avoiding unnecessarily burdensome financial or academic requirements while maintaining quality of preparation for teacher certification requirements;

(b) Propose innovative ways to achieve academic preparations, such as—

(1) Taking into consideration standards, procedures and training programs successfully used by private schools to ensure preparedness of new teachers;

(2) Working with States to develop ways for individuals with uncertified teaching experience gained in the military, in private schools, at the college or university level, or through other experience, to substantially fulfill certification requirements, especially through State programs for alternate certification.

However, under 34 CFR 75.105(c)(1) an application that addresses one or more of these invitational priorities does not receive competitive or absolute preference over other applications.

Selection Procedures: Applications will be reviewed by a panel of experts in teacher training designated by the Secretary. The Secretary, provided that sufficient applications of adequate quality are received, will select at least one applicant from each of the 10 regions served by the Department of Education and, to the extent of available funds, assure that programs offered reflect all significant areas of national need in which shortages exist.

The ten regions are as follows:

Region I Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

Region II New York, New Jersey, Puerto Rico, Virgin Islands.

Region III Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Region IV Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Region V Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Region VI Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region VII Iowa, Kansas, Missouri, Nebraska.

Region VIII Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Region IX Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territory of the Pacific.

Region X Alaska, Idaho, Oregon, Washington.

Selection Criteria: (a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria*—(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purpose of the authorizing statute for the Mid-Career Teacher Training Program, title V, part A of the Higher Education Act of 1965 (HEA), as amended (20 U.S.C. 1103–1103d), including consideration of—

(i) The objectives of the project, and

(ii) How the objectives of the project further the purposes of the authorizing statute.

(2) *Extent of need for the project.* (20 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (10 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraph (b)(4)(i)(A) and (B) will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i)(A) and (B), the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (10 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

Intergovernmental Review of Federal Programs: This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the Federal Register on September 15, 1989, pages 38342–38343.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA #84.232A, U.S. Department of Education, Room 4161, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THIS ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATION TO THE ABOVE ADDRESS.*

Instructions for Transmittal of Applications: (a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.232A) Washington, DC 20202–4725,

or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.232A), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708-9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms: The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4-88)) and instructions.

PART II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

PART III: Application Narrative.

Additional Materials: Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug Free Workplace Requirements (ED 80-0013).

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form GCS-009, Rev. 12/88) and instructions.

(**Note:** ED Form GCS-009 is intended for the use of grantees and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL-A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

For Further Information Contact: Joseph Vaughan, U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue, NW., Washington, DC 20208-5643; Phone: (202) 357-6167, as of October 26, 1990: (202) 219-2187.

Program Authority: 20 U.S.C. 1103-1103d.

Dated: August 31, 1990.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

BILLING CODE 4000-01-M

APPENDIX

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☒ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name	Organizational Unit.
Address *(give city, county, state, and zip code)*	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*

_____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 a 2 3 2

TITLE Mid-Career Teacher Training Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a Applicant	b Project

15. ESTIMATED FUNDING:

a Federal	$	.00
b Applicant	$	.00
c State	$	.00
d Local	$	.00
e Other	$	.00
f Program Income	$	.00
g TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS 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

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION 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 AWARDED

a Typed Name of Authorized Representative	b Title	c Telephone number
d Signature of Authorized Representative		e Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (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 (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

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 (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

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 under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(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 cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and 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 funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or 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.

Line 23 – Provide any other explanations or comments deemed necessary.

Application Narrative: Before preparing the Application Narrative, an applicant should read carefully the description of the program, the information regarding priorities, and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project.

2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package. In addressing criterion 6, *Evaluation Plan,* applicants are strongly encouraged to show how the evaluation plan relates to the goals and objectives of the project, and to describe expected outcomes as well as the outcome data that will be collected. The Secretary is particularly interested in outcome data that include comparisons between qualifications of project participants and those of participants in other teacher preparation programs, including assessment of knowledge of the field of study in which they will be prepared to teach, scores on standardized teaching exams, and other likely indicators of preparedness to teach.

3. Include any other pertinent information that might assist the Secretary in reviewing the application.

4. Include as attachments letters of understanding, endorsement and agreement to cooperate from the local business community and one or more State or local educational agenices, assuring that elements (c), (d) and (e) under *Description of Program:* Contents of Application are appropriately addressed.

Please limit the Application Narrative to no more than 30 double-spaced typed pages (on one side only), excluding suport letters, vitae and other supplemental material.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

Estimated Public Reporting Burden: Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1850–0647, Washington DC 20503.

(Information collection approved under OMB control number 1850–0647. Expiration date: March 31, 1991)

BILLING CODE 4000-01-M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted–

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OM
0346-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known:* Congressional District, *if known:*	Congressional District, *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:* _____
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI):*

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*	13. Type of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply):* ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7 Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9 For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

[FR Doc. 90-21026 Filed 9-6-90; 8:45 am]
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Standard Form – LLL-A

federal register

Friday
September 7, 1990

Part VI

Department of Energy

10 CFR Part 961
RIN-1901-AA18
Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 961

RIN-1901-AA18

Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: On April 18, 1983, the Department of Energy (DOE) published a rule, pursuant to the Nuclear Waste Policy Act of 1982, which established the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste. The Standard Contract established, among other things, the fees and terms of payment required of the owners or generators of spent nuclear fuel and/or high-level radioactive waste for receiving disposal services. This rule was amended on September 18, 1987, in conformance with a December 6, 1985, ruling of the United States Court of Appeals for the District of Columbia that the ongoing 1.0 mill per kilowatt hour fee in the Standard Contract should be based on net rather than gross generation of electricity. On March 17, 1989, the United States Court of Appeals for the District of Columbia ruled that by use of the phrase ". . . electricity generated . . . and sold . . ." in the Nuclear Waste Policy Act of 1982, Congress intended to include in the fee basis only that electricity which is both generated and actually sold. In response to this ruling, DOE is publishing for comment conforming amendments to Articles I.13, and VIII.A.1, B.1, and Appendix G of the Standard Contract.

DATES: Written comments must be received on or before 4:30 p.m. October 9, 1990.

ADDRESS: Comments should be addressed to: Alan B. Brownstein, Office of Civilian Radioactive Waste Management, Department of Energy, 1000 Independence Avenue SW., Room GF-277, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Alan B. Brownstein, Office of Civilian Radioactive Waste Management, Department of Energy, 1000 Independence Avenue SW., Room GF-277, Washington, DC 20585, (202) 586-4973

Carol M. Rueter, Office of Procurement Operations, Department of Energy, 1000 Independence Avenue SW., Room 1J-027, Washington, DC 20585, (202) 586-8262

Robert Mussler, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6A-113, Washington, DC 20585, (202) 586-6947.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
A. Point of Sale
B. Assumptions and Approach
C. Calculation Methodology
D. Sample Calculations
E. Supporting Documentation
F. Credit for Past Overpayments
G. Interim Guidance
III. Proposed Rule
IV. Comment Procedures
A. Written Comments
B. Public Hearing
V. Procedural Requirements
A. Executive Order No. 12291
B. Executive Order No. 12612
C. Regulatory Flexibility Act
D. National Environmental Policy Act
E. Paperwork Reduction Act

I. Background

The Nuclear Waste Policy Act of 1982, 42 U.S.C. 10101 *et seq.* as amended (hereinafter referred to as either NWPA or "the Act"), provides a comprehensive framework for disposing of commercial spent nuclear fuel (SNF) and high-level radioactive waste (HLW) of domestic origin. Section 302 of the Act, 42 U.S.C. 10222, required the DOE and each owner or generator of SNF and/or HLW (hereinafter also referred to as "contract holder," "purchaser" or "plant owner") to execute, by June 30, 1983, a contract under which DOE will accept and dispose of such waste in return for the payment of fees based on the generation and sale of electricity. The fee is currently 1 mill per kilowatt hour (1M/kWh).

On April 18, 1983 (48 FR 16590), the DOE published its final rule which established the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (Standard Contract, 48 FR 16590, codified at 10 CFR part 961). Article I.13 defined "kilowatt hours generated" as being the reactors' gross electricity generation, and Articles VIII.A.1 and B.1 used this definition as a basis for calculating the 1M/kWh fee. By its decision on December 6, 1985, the U.S. Court of Appeals for the District of Columbia held that the definition of "kilowatt hours generated" must be based on "net" generation of electricity, not "gross" generation (*Wisconsin Electric Power Co. et. al.* v. *Hodel*, 778 F.2d 1 (D.C. Cir. 1985)).

Subsequent to this ruling, on September 18, 1987, the DOE published an amended final rule (52 FR 35356) which defined "kilowatt hours generated" as "net kilowatt hours generated" (also referred to as "net electricity generated"). This term was further defined as the gross electrical output produced by a civilian nuclear power reactor, as measured at the output terminals of the turbine generator, minus the normal onsite nuclear station service loads during the time electricity is being generated. The owners of nuclear power reactors were then to pay fees to the Nuclear Waste Fund (NWF) based on "net electricity generated" rather than on "gross" electricity generation. This resulted in about a 5 percent reduction in fees collected for the NWF.

On March 17, 1989, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the Department's definition of the term "net electricity generated" does not conform to the "generated and sold" provision specified in Section 302(a)(2) of the Act (*Consolidated Edison Company of New York, Inc. et al.* v. *United States Department of Energy*, 870 F.2d 694 (D.C. Cir. 1989)). The court held that in order to meet the definition of electricity "generated and sold," the DOE is required to ". . . implement some reasonable and fair method . . ." to account for losses in the transmission and distribution of electricity in addition to deductions for normal onsite nuclear service station loads, as well as to account for other electricity not sold.

At the request of the Edison Electric Institute/Utility Nuclear Waste and Transportation Program (EEI/UWASTE), and the U.S. Council for Energy Awareness (USCEA), EEI/UWASTE and USCEA representatives met with Departmental staff on April 6, June 14, and July 27, 1989, to discuss the views of these organizations on the implementation of the court ruling. Together, EEI/UWASTE and USCEA represent more than 90 percent of the holders of the Standard Contract. In addition, at the request of Consolidated Edison Company, a meeting was held on June 29, 1989, which afforded that company's representatives an opportunity to express their views on implementing the court ruling. On September 20, 1989, EEI/UWASTE and USCEA provided to the Department, in writing, their summary views on their preferred methodological approach. The Department also acknowledges receipt of unsolicited letters from Southern Company Services and Houston Lighting and Power Company offering their views on implementing the court ruling. Copies of the communications from the above groups are available for review at the DOE Reading Room, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585.

The Department appreciates the cooperative spirit demonstrated by these organizations in attempting to

implement a more complex fee methodology. During these meetings, the paramount objective of all parties was effectively implementing the court decision while preserving the equity and verifiability of the fee and minimizing the administrative and reporting burden on both the Department and the utilities.

II. Discussion

A. Point of Sale

The threshold issue involved in implementing the court ruling concerns the appropriate interpretation of the phrase ": . . and sold . . ." in Section 302(a)(2) of the Act. Specifically, the issue is to define, for fee calculation purposes, the point (between the generation of electricity and its delivery to the retail customer) at which the nuclear electricity is sold. For the majority of contract holders which are sole owners of a reactor and sell all their electricity directly to the retail customer, there is no question as to the point of sale, i.e., the sale to the retail customer. However, other organizational, contractual, legal, and operational considerations exist in today's electricity markets which add considerable complexity to this issue, especially when dealing with electricity sold to wholesalers for resale.

Neither the Standard Contract, the Act and its legislative history, nor previous court decisions have addressed whether the term "and sold" should be interpreted to refer to the electricity sold at the point of first sale, after the electricity leaves the busbar (which may be either to a reseller or the ultimate consumer), or whether it refers only to the electricity sold to the ultimate consumer. The Department examined whether its obligation in implementing the court decision on electricity "generated and sold" extends to sales to the ultimate consumer when other utilities, on a purchase-resale basis, intervene between the point of electricity generation and the ultimate consumer.

The Department recognizes that although sales for resale represent less than 15 percent of total sales by utilities with nuclear reactors, some utilities sell all or most of their nuclear-generated electricity to non-contract holders at the busbar or at some other intermediate point prior to ultimate sale to the consumer. While most energy losses are negligible for sales at the busbar, some sales for resale occur at subsequent connection points after experiencing additional energy losses. Another level of complexity is introduced by the fact that sales for resale, while predominantly made without regard to the generation source, are sometimes from a designated nuclear unit. In either case, the electricity initially sold for resale is subsequently resold to ultimate consumers and additional energy losses occur prior to the final sale.

To interpret the term "and sold" to refer to first sales (whether or not the electricity is resold) would mean that the marketing arrangement of a particular utility would influence the amount of electricity subject to the fee. Such a result would not provide an equitable basis for the collection of the fee and might even result in utilities seeking to alter their marketing arrangements. The Department believes that construing "and sold" to mean "sold to the ultimate consumer" is a reasonable and preferable interpretation of the statute. Given this interpretation, the Department must then address the practical consideration of how to obtain necessary loss data (including data from non-contract holders), while minimizing the administrative burden of data collection for owners/generators and fee verification by the Department. The Department proposes to define energy losses on net electricity sold for resale in a way that enables owners to adjust for these losses in a reasonable manner using an adjustment factor that represents a national average of all net electricity generated but not sold to an ultimate consumer.

B. Assumptions and Approach

Since it is impossible because of the interconnected distribution system to determine precisely the nuclear electricity that has been generated and sold on a plant-specific basis, the Department has made several simplifying assumptions. These assumptions are required to support the Department's decision to develop a reasonable calculation methodology which: (1) can be applied uniformly by each contract holder and (2) relies exclusively on existing data historically supplied to the Federal Government. The Department believes this will ease what could otherwise be a more burdensome and costly process of collecting, documenting, and maintaining itemized energy losses specifically associated with each nuclear plant, as well as controlling the Department's cost of fee verification. While the proposed approach reflects tradeoffs in precision and may not fully accommodate all unique circumstances that exist in the industry, the Department believes that the benefit of a reduced administrative burden for both utilities and the Department far outweighs the benefits of more exact results from more complicated approaches and that the approach is consistent with the U.S. Court of Appeals ruling that the Department is obligated to implement some reasonable and fair method of uniform accounting for transmission and distribution losses and other electricity which was not sold.

The Department intends to use existing data supplied to the Federal Government. These data are reported by each owner on either the "Annual Report of Major Electric Utilities, Licensees and Others," Federal Energy Regulatory Commission (FERC) Form No. 1, or the "Annual Electric Utility Report," Energy Information Administration (EIA) Form EIA-861. These owner-level data are to be used for all computations required to adjust net electricity generated as currently reported to the Department on the "Standard Remittance Advice for Payment of Fees," Form NWPA-830G, Annex A.

In order to determine the estimated amount of electricity generated and sold from a specific nuclear powerplant, it is necessary to calculate each plant owner's share of electricity sold based on: (1) electricity sold to ultimate consumers and (2) electricity sold for resale. In turn, these two components must then be adjusted to account for the amount of electricity lost or otherwise not sold.

In determining these two components, the Department proposes that each of the plant owners use individual utility-level data rather than plant-specific data. The Department believes that a utility's division of total sales between sales to ultimate consumers and sales for resale is sufficiently representative of how a specific utility's nuclear plant net generation is actually split. The variations in industry practices on sales for resale were considered when making this simplifying assumption of using utility-level data. For example, the predominant industry practice is for a utility to make short-term commitments, generally without specifying the energy source, which vary over time both by quantity and by purchaser. However, there also exist long-term contracts which specify a percentage of a nuclear powerplant's net generation to be sold for resale. While this simplifying assumption affects the calculations of individual utilities with each of these different practices, the Department believes the utility-level approach is reasonable, and that its uniformity and simplicity outweigh any benefits to be derived from creating methods to accommodate relationships that would require plant-specific data.

For the sales to ultimate consumers component, the Department proposes that each owner adjust this component by the amount of electricity not sold, to the total electricity available to be sold, as reported on the FERC Form No. 1 or Form EIA-861 submissions.

For the sales for resale component, the Department proposes that each owner adjust this component using an industry-wide average consistent with the proposed approach for sales to ultimate consumers. The Department believes that this simplification is necessary because of the complexities involving the number of reseller non-contract holders, the short-term and temporal characteristics of most sales for resale transactions, and, for most utilities, the relatively small amount that sales for resale represents of the total sales.

The Department proposes to use a national average sales for resale adjustment factor based upon electricity data collected from more than 3,000 utilities over a 3-year period. As illustrated in Table 1, using a 3-year average results in an adjustment factor of 0.940. This 3-year average term will be evaluated annually, and revised in increments of .005. For example, if the 3-year average is calculated to be 0.9374 or 0.9426, the adjustment factor would be changed to 0.935 or 0.945, respectively. Subsequent adjustments will be made by written notification from the Contracting Officer rather than through rulemaking.

TABLE 1.—NATIONAL SALES FOR RESALE ADJUSTMENT FACTOR

[In Gigawatthours]

	1986	1987	1988	Total
Energy furnished without charge	4	5	6	15
Energy used by the utility's electric department	17	17	17	50
Total energy losses	188	199	209	596
Total electricity not sold	209	221	231	661
Total electricity sold	3,273	3,361	3,510	10,145
Total electricity available for sale	3,482	3,582	3,741	10,805
Sales for resale adjustment factor	.9400	.9383	.9385	.9389

Source: Energy Information Administration, Electric Power Annual, 1988, Table 34 (revised), "Energy Account Balance of Electricity, 1986-1988," adjusted to remove Alaska and Hawaii; the "Annual Electric Utility Report," Form EIA-861, 1986, 1987, 1988; and "Annual Report of Major Electric Utilities, Licensees and Others," FERC Form No. 1, 1986, 1987, and 1988.

Note: Totals may not equal sum of components due to independent rounding.

In summary, the approach that the Department proposes to determine the total electricity generated and sold at each plant will require the reporting utility to:

(1) sum each owner's adjustment for "sales to ultimate consumer" and "sales for resale" (terms defined in the following sections);

(2) multiply this summation by each owner's respective share of the plant, to calculate each owner's weighted energy adjustment factor;

(3) sum the owner's weighted energy adjustment factors to obtain the nuclear powerplant's total energy adjustment factor; and

(4) multiply the total energy adjustment factor by the "net electricity generated" as currently reported on the Annex A form submitted to the Department.

C. Calculation Methodology

The Department proposes that to calculate the amount of electricity generated and sold for a specific nuclear plant, the net electricity generated must be decreased by a factor to account for the amount of nuclear generation lost in transmission and distribution or otherwise not ultimately sold. This calculation is represented by the following formula:

Electricity Generated and Sold = Net Electricity Generated × Total Energy Adjustment Factor

1. Net Electricity Generated

This proposed rule does not alter the basic methodology used to calculate "net electricity generated" as defined in the final rule published on September 18, 1987 (i.e., "the gross electrical output produced by a civilian nuclear power reactor measured at the output terminals of the turbine generator, minus the normal onsite nuclear station service loads during the time electricity is being generated"). The calculation of "net electricity generated" will now be used as an intermediate value in the determination of "electricity generated and sold."

In calculating "net electricity generated" the DOE has determined, however, that all onsite use can be deducted from the gross generation if the onsite use came from a nuclear power reactor and is not double counted in any other energy loss term of the calculation methodology proposed below. This determination would revoke the DOE Contracting Officer's letter, dated February 1, 1988, focusing on the deduction of service loads during startup testing. The calculated "net electricity generated" is to be recorded on a revised "Annex A" of the "Remittance Advice," Form NWPA-830G.

2. Total Energy Adjustment Factor

The Total Energy Adjustment Factor (TEAF) is the sum of all the Weighted Energy Adjustment Factors (WEAF) for each of a plant's owners. The WEAF is derived by multiplying the Owner's Energy Adjustment Factor (OEAF) by the Owner's Share (OS) of the plant (or share of metered sales). The OEAF is calculated by adding an owner's adjustment for "sales to ultimate consumers" to an owner's adjustment for "sales for resale." The TEAF is represented by the following formula:

$$TEAF = \sum_{i=1}^{NO} WEAF_i$$

where:

$WEAF = OEAF \times OS$
$= \{ASC + ASR\}OS$
$= [(FSC \times SCAF) + (FSR \times NAF)]OS$

where:

TEAF = Total Energy Adjustment Factor
NO = Number of Owners
WEAF = Weighted Energy Adjustment Factor for each plant owner
OS = Owner's Share of the plant (station) or share of metered sales
OEAF = Owner's Energy Adjustment Factor
ASC = Adjustment for Sales to ultimate Consumer
ASR = Adjustment for Sales for Resale

FSC=Fraction of Sales to ultimate Consumer
SCAF=Sales to ultimate Consumer Adjustment Factor
FSR=Fraction of Sales for Resale
NAF=National average Adjustment Factor, currently defined as 0.940

In developing these adjustment factors, as detailed below, utilities will use the following information from the FERC Form No. 1 (page 401), or Form EIA–861 (Schedule 2, question 9):

FERC Form No. 1	Category	Form EIA–861
Line:		Line:
19	Total sources of energy	j
21	Sales to ultimate consumers.	k
22	Sales for resale	l
23	Energy furnished w/o charge.	m
25	Energy used by the company.	n
30	Total energy losses	o

(a) Owner's Adjustment for Sales to the ultimate Consumer

The owner's Adjustment for Sales to the ultimate Consumer (ASC) is the product of the owner's Fraction of Sales to ultimate Consumer (FSC) and the owner's Sales to ultimate Consumer Adjustment Factor (SCAF), calculated as follows:

ASC=FSC×SCAF
where:

ASC=Adjustment for Sales to ultimate Consumer

FSC=Fraction of Sales to ultimate Consumer, calculated as either:

FERC Form No. 1		Form EIA–861
line 21	or	line k
line 21+line 22		line k+line l

SCAF=Sales to ultimate Consumer Adjustment Factor, calculated as either:

FERC Form No. 1		Form EIA–861
$1.-\frac{\text{line 23+ line 25+line 30}}{\text{line 19}}$	or	$1.-\frac{\text{line m+line n+ line o}}{\text{line j}}$

(b) Owner's Adjustment for Sales for Resale

The owner's Adjustment for Sales for Resale (ASR) is the product of the owner's Fraction of Sales for Resale (FSR) and the sales for resale National average Adjustment Factor (NAF), calculated as:

ASR=FSR×NAF
where:

ASR=Adjustment for Sales For Resale
FSR=Fraction of Sales For Resale, calculated as either:

FERC Form No. 1		Form EIA–861
line 22	or	line l
line 21+line 22		line k+line l

NAF=National average Adjustment Factor, currently defined as 0.940

(c) Owner's Share of the Plant

The Owner's Share (OS) of the plant is based on either the fraction of plant ownership or the fraction of metered sales. The sum of all owner's shares must equal 1.00. For a nuclear station with more than one reactor and different ownerships for each reactor, a separate Annex A will be required for each reactor.

D. Sample Calculations

Two sample calculations based on the Department's proposed rule for adjusting net electricity generated are detailed below. The first example illustrates a sample case for a single owner, while the second example details the TEAF calculation for a plant with multiple owners.

EXAMPLE 1—SINGLE OWNER

Owner Data	
Owner's share	1.0000
Total sources of energy	26,167,838 MWh.
Sales to ultimate consumer	24,248,986 MWh.
Sales for resale	582,437 MWh.
Energy furnished w/o charge	4,410 MWh.
Energy used by the company	40,045 MWh.
Total energy losses	1,291,960 MWh.

Since the utility owns 100% of the net electricity generated, the Owner's Share (OS) of the plant (station) or share of metered sales is equal to 1.00, and the Total Energy Adjustment Factor (TEAF) is equal to the Weighted Energy Adjustment Factor (WEAF). Using the methodology developed above, the TEAF would be calculated as follows (expressed to four significant digits):

OEAF=ASC+ASR
ASC=FSC×SCAF

$$FSC=\frac{24,248,986}{24,248,986+582,437}=.9765$$

$$SCAF=1.-\frac{4,410+40,045+1,291,960}{26,167,838}=.9489$$

ASC=.9765×.9489=.9266
ASR=FSR×NAF

$$FSR=\frac{582,437}{24,248,986+582,437}=.0235$$

NAF=.940
ASR=.0235×.940=.0221
OEAF=ASC+ASR=.9266+.0221=.9487
WEAF=OEAF×OS=.9487×1.0000=.9487
TEAF=(sum) WEAF=.9487

Table 2 illustrates how the TEAF would be reported on the revised Annex A. The net electricity generated value would then be multiplied by the TEAF resulting in the amount of nuclear electricity generated and sold.

TABLE 2.—EXAMPLE OF REPORTING TEAF ON ANNEX A FOR A SINGLE OWNER

Name(s) of owners	Adjustment for Sales to ultimate Consumer (ASC)		Adjustment for Sales for Resale (ASR)		Owner's Energy Adjustment Factor (OEAF)	Owner's Share (OS)	Weighted Energy Adjustment Factor (WEAF)
	Fraction of Sales to ultimate Consumer (FSC)	Sales to ultimate Consumer Adjustment Factor (SCAF)	Fraction of Sales for Resale (FSR)	National average Adjustment Factor (NAF)			
Owner	(0.9765 ×	0.9489) + (0.0235 ×	0.940) =	0.9487 ×	1.0000 =	0.9487	
	(×	)+ (×	0.940) =	×	=		
	(×	)+ (×	0.940) =	×	=		
	(×	)+ (×	0.940) =	×	=		
Total Energy Adjustment Factor (TEAF=sum of WEAF)							0.9487

Example 2—Multiple Owners

Three utilities, A, B, and C, own 41.2%, 41.0% and 17.8% of a nuclear powerplant, respectively. As in Example 1, the WEAF must be calculated for each of the plant owners before the plant TEAF can be calculated.

Owner A Data	
Owner's Share	.4120
Total Sources of Energy	8,942,417 MWh.
Sales to ultimate Consumer	6,650,363 MWh.
Sales for Resale	1,700,699 MWh.
Energy Furnished w/o Charge	0 MWh.
Energy Used by the Company	22,580 MWh.
Total Energy Losses	568,776 MWh.

$$OEAF = ASC + ASR$$
$$ASC = FSC \times SCAF$$

$$FSC = \frac{6{,}650{,}363}{6{,}650{,}363 + 1{,}700{,}699} = 0.7963$$

$$SCAF = 1. - \frac{0 + 22{,}580 + 568{,}776}{8{,}942{,}417} = .9339$$

$$ASC = .7963 \times .9339 = .7437$$
$$ASR = FSR \times NAF$$

$$FSR = \frac{1{,}700{,}699}{6{,}650{,}363 + 1{,}700{,}699} = .2037$$

$$NAF = .940$$
$$ASR = .2037 \times .940 = .1915$$
$$OEAF = ASC + ASR = .7437 + .1915 = .9352$$
$$WEAF = OEAF \times OS = .9352 \times .4120 = .3853$$

Owner B Data	
Owner's Share	.4100
Total Sources of Energy	9,611,602 MWh.
Sales to ultimate Consumer	6,441,439 MWh.
Sales for Resale	2,617,181 MWh.
Energy Furnished w/o Charge	0 MWh.
Energy Used by the Company	11,111 MWh.
Total Energy Losses	541,871 MWh.

$$OEAF = ASC + ASR$$
$$ASC = FSC \times SCAF$$

$$FSC = \frac{6{,}441{,}439}{6{,}441{,}439 + 2{,}617{,}181} = .7111$$

$$SCAF = 1. - \frac{0 + 11{,}111 + 541{,}871}{9{,}611{,}602} = .9425$$

$$ASC = .7111 \times .9425 = .6702$$
$$ASR = FSR \times NAF$$

$$FSR = \frac{2{,}617{,}181}{6{,}441{,}439 + 2{,}617{,}181} = .2889$$

$$NAF = .940$$
$$ASR = .2889 \times .940 = .2716$$
$$OEAF = ASC + ASR = .6702 + .2716 = .9418$$
$$WEAF = OEAF \times OS = .9418 \times .4100 = .3861$$

Owner C Data	
Owner's Share	.1780
Total Sources of Energy	2,204,391 MWh.
Sales to ultimate Consumer	2,068,231 MWh.
Sales for Resale	22,288 MWh.
Energy Furnished w/o Charge	0 MWh.
Energy Used by the Company	414 MWh.
Total Energy Losses	113,458 MWh.

$$OEAF = ASC + ASR$$
$$ASC = FSC \times SCAF$$

$$FSC = \frac{2{,}068{,}231}{2{,}068{,}231 + 22{,}288} = .9893$$

$$SCAF = 1. - \frac{0 + 414 + 113{,}458}{2{,}204{,}391} = .9483$$

$$ASC = .9893 \times .9483 = .9382$$
$$ASR = FSR \times NAF$$

$$FSR = \frac{22{,}288}{2{,}068{,}231 + 22{,}288} = .0107$$

$$NAF = .940$$
$$ASR = .0107 \times .940 = .0101$$
$$OEAF = ASC + ASR = .9382 + .0101 = .9483$$
$$WEAF = OEAF \times OS = .9483 \times .1780 = .1688$$

In the above example, the TEAF for this station is the sum of each owner's WEAF, calculated as:

Owner	WEAF
A	.3853
B	.3861
C	.1688
TEAF	.9402

Table 3 illustrates how the TEAF would be reported on the revised Annex A. The net electricity generated value would then be multiplied by the TEAF resulting in the amount of nuclear electricity generated and sold.

TABLE 3.—EXAMPLE OF REPORTING TEAF ON ANNEX A FOR MULTIPLE OWNERS

Name(s) of Owners	Adjustment for Sales to ultimate Consumer (ASC)			Adjustment for Sales for Resale (ASR)				Owner's Energy Adjust. Factor (OEAF)		Owner's Share (OS)		Weighted Energy Adjust. Factor (WEAF)
	Fraction of Sales to ultimate Consumer (FSC)		Sales to ultimate Consumer Adjust. Factor (SCAF)		Fraction of Sales for Resale (FSR)		National average Adust. Factor (NAF)					
Owner A	(0.7963	X	0.9339)	+	(0.2037	X	0.940)	=	0.9352	X	0.4120	= 0.3853
Owner B	(0.7111	X	0.9425)	+	(0.2889	X	0.940)	=	0.9418	X	0.4100	= 0.3861
Owner C	(0.9893	X	0.9483)	+	(0.0107	X	0.940)	=	0.9483	X	0.1780	= 0.1688
_____	(_____	X	_____)	+	(_____	X	0.940)	=	_____	X	_____	= _____
_____	(_____	X	_____)	+	(_____	X	0.940)	=	_____	X	_____	= _____
Total Energy Adjustment Factor (TEAF=sum of WEAF)												0.9402

E. Supporting Documentation

All documentation submitted to support the calculations are subject to verification and audit as allowed under Article VIII E.2 of the Standard Contract. The Department intends that a single reporting utility represent all parties to the Standard Contract, and be responsible for completing the entire Appendix G and Annex A. The supporting documentation needed for the fee verification process includes, but is not limited to, having the following records available: station diagrams showing meter locations; a table comparing the net electricity generated reported on: (a) "Annex A of Appendix G," Form NWPA–830G; (b) "Electric Power Monthly," Form EIA–759; (c) the Nuclear Regulatory Commission's (NRC) Operating Data Report; and (d) the NRC's Average Daily Unit Power Level Report (complete with footnotes explaining any inconsistencies); and annual data displaying and comparing the net electricity generated reported on the Annex A with the data reported on the "Annual Report of Major Electric Utilities, Licensees and Others," FERC Form No. 1, and with the data reported on the "Annual Electric Utility Report," Form EIA–861 (complete with footnotes explaining any inconsistencies).

F. Credit for Past Overpayments

Once this ruling becomes final, the Department intends to issue specific procedures to allow utilities to take credits for past overpayments on their subsequent quarterly payments. The Department has determined that the Congressional authorization to pay interest on utility overpayments resulting from the *Wisconsin Electric Power Co. et. al.* v. *Hodel*, 778 F.2d 1 (D.C. Cir. 1985) decision does not apply to the latest court decision. Therefore, the Department is seeking separate statutory authorization from Congress which will allow the payment of interest.

G. Interim Guidance

Until this rule becomes final, utilities are to continue to follow the existing procedures to make their quarterly payments.

III. Proposed Rule

As set forth below, the purpose of this proposed rule is to amend the Standard Contract consistent with the court ruling that the ongoing fee should be based on nuclear electricity generated and sold. Electricity which is generated and intended for sale, as metered at the station busbar, will be adjusted for losses prior to ultimate sale, hereafter referred to as "electricity generated and sold."

Proposed 961.11 (amended) sets forth changes to the contract necessary to implement the payment of the ongoing fee based on electricity generated and sold as follows:

Article I—Definitions—Remove the revised definition of "net kilowatt hours generated" and add a new definition of "electricity (kilowatt hours) generated and sold."

Article VIII.A.1—Fees—Remove the term "net kilowatt hour generated" and add in its place the term "kilowatt hour generated and sold."

Article VIII.B.1—Payment—Remove the term "net electricity generated" and add in its place the term "electricity generated and sold."

Appendix G—Standard Remittance Advice for Payment of Fees—Revise the Annex A to Appendix G form currently used by utilities to reflect payment based on electricity generated and sold. The Annex A form instructions have also been changed to reflect the proposed calculation procedures for identifying net generation for fee calculation purposes, for identifying and calculating the energy adjustment factor and for reporting electricity generated and sold.

IV. Comment Procedures

A. Written Comments

Interested persons are invited to participate in this proposed rulemaking by submitting comments no later than (30 days following publication date) to the address indicated in the "**ADDRESS**" section of this notice and should identify submissions by marking on the outside envelope and on the document the designation: "Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste." Ten copies should be submitted.

All comments received will be available for public inspection in the DOE Reading Room, room 1E–190, James E. Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Any information or data considered confidential by the person furnishing them must be so identified by individual data element and submitted in writing. DOE reserves the right to determine the confidential status of the information or data and to treat the information or data in accordance with its determination. Specific company information will be kept confidential to the maximum extent allowed by law.

B. Public Hearing

DOE believes that the amendments proposed in this Notice present no substantial issues of fact or law and are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, DOE is not scheduling a public hearing as provided by section 501(c) of the Department of Energy

Organization Act (Pub. L. No. 95–91, 42 U.S.C. 7191(c)) and the Administrative Procedure Act (Pub. L. No. 89–554, 5 U.S.C. 553). If a significant number of persons request an opportunity for oral presentation of views, data and arguments, a public hearing could be held after public notice.

V. Procedural Requirements

A. Executive Order No. 12291.

Under Executive Order No. 12291, agencies are required to determine whether proposed rules are major rules as defined in the Order. DOE has reviewed this proposed rule and has determined that it is not a major rule because: it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have any significantly adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises. This notice was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291. OMB has completed its review.

B. Executive Order No. 12612

Under Executive Order No. 12612, agencies are required to ensure adequate consideration and respect for the institutional interests of States and their subdivisions when an agency is formulating or implementing proposed policies that have federalism implications. DOE has reviewed this proposed rule and has determined that the rule is unlikely to have a substantial direct effect on the States, the relationship between the States and Federal Government, or distribution of the power and responsibilities among various levels of government.

C. Regulatory Flexibility Act

In accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, DOE finds that sections 603 and 604 of that Act do not apply to this rule because, if promulgated, it will not have a significant economic impact on a substantial number of small entities. This finding is based on the fact that the parties to the contract, who are owners and generators of spent nuclear fuel or high-level radioactive waste, are not small entities.

D. National Environmental Policy Act

Execution of amendments to the standard contract proposed in this rulemaking will not result in any activities which could cause environmental impacts. Therefore, this rulemaking is not a proposal for a major Federal action significantly affecting the quality of the human environment. Accordingly, preparation of either an environmental assessment or an environmental impact statement is not required.

E. Paperwork Reduction Act

In accordance with section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), this proposed rule has been submitted to OMB. The current Remittance Advice and Annex A were previously approved by OMB under control number 1901–0260. Comments on the information collection requirements of this proposal should be submitted both to the DOE address noted above and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Ronald Minsk.

List of Subjects in 10 CFR Part 961

Government contracts, Nuclear materials, Nuclear powerplants and reactors, Radiation protection, Waste treatment and disposal.

In consideration of the foregoing, it is proposed that part 961, chapter III of title 10, Code of Federal Regulations be amended as set forth below.

Berton J. Roth,

Acting Director, Office of Procurement, Assistance and Program Management.

PART 961—STANDARD CONTRACT FOR DISPOSAL OF SPENT NUCLEAR FUEL AND/OR HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 961 continues to read as follows:

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254) and sec. 302, Pub. L. 97–425, 96 Stat. 2257 (42 U.S.C. 10222).

2. The Standard Contract in § 961.11 is proposed to be amended by revising in Article I, paragraph 13, and Articles VIII.A.1, and B.1, and Appendix G to the Standard Contract, including Annex A to Appendix G as set forth below. Annex B to Appendix G remains unchanged.

§ 961.11 Text of the contract.

* * * * *

Article 1—Definitions

* * * * *

13. The term "electricity (kilowatt hours) generated and sold" means gross electrical output produced by a civilian nuclear power reactor measured at the output terminals of the turbine generator minus the normal onsite nuclear station service loads during the time electricity is being generated, multiplied by the total energy adjustment factor;

where,

a. The term *Total Energy Adjustment Factor (TEAF)* means the sum of individual owners' weighted energy adjustment factors;

b. The term *Weighted Energy Adjustment Factor (WEAF)* means the product of an owner's energy adjustment factor times the owner's share of the plant (station) or share of metered sales;

c. The term *Owner's Energy Adjustment Factor (OEAF)* means the owner's share of plant times the sum of the individual owner's adjustment for sales to ultimate consumer and adjustment for sales for resale;

d. The term *Owner's Share of plant (OS)* means the owner's fraction of metered electricity sales or fraction of plant ownership;

e. The term *Adjustment for Sales to ultimate Consumer (ASC)* means the owner's fraction of sales to the ultimate consumer multiplied by the owner's sales to ultimate consumer adjustment factor;

f. The term *Fraction of Sales to ultimate Consumer (FSC)* means the owner's fractional quantity of electricity sold to the ultimate consumer, relative to the total of electricity sales (sales to ultimate consumers plus the sales for resale).

g. The term *Sales to ultimate Consumer Adjustment Factor (SCAF)* means one minus the quotient of all electricity lost or otherwise not sold for each owner, divided by the total electricity available for sale; electricity lost or otherwise not sold includes:

(a) Energy furnished without charge;

(b) Energy used by the company;

(c) Transmission losses;

(d) Distribution losses; and

(e) Other unaccounted losses as reported to the Federal Government ("Annual Report of Major Electric Utilities, Licensees and Others", Federal Energy Regulatory Commission (FERC) Form No. 1; or the "Annual Electric Utility Report", Energy Information Administration (EIA) Form EIA–861.)

h. The term *Total Electricity Available* means the reporting year total of all of a utility's electricity supply which is available for disposition, expressed in kilowatt hours, and is equal to the sum of the energy sources.

i. The term *Adjustment for Sales for Resale (ASR)* means the owner's fraction of sales for resale multiplied by the National Average Adjustment Factor;

j. The term *Fraction of Sales for Resale (FSR)* means the owner's fractional quantity of electricity sold to other utilities with all of the electricity being subsequently resold, except for energy losses occurring after the original sale;

k. The term *National average Adjustment Factor (NAF)* means identical to the *"Sales to ultimate Consumer Adjustment Factor"* except on a national, rather than owner specific basis and is currently set at .940.

Instructions to Annex A to Appendix C provide the necessary information to calculate the energy adjustment factor.

* * * * *

Article VIII—Fees and Terms of Payment

A. Fees

1. Effective April 7, 1983, Purchaser shall be charged a fee in the amount of 1.0 mill per kilowatt hour (1M/kWh) generated and sold.

* * * * *

B. Payment

1. For electricity generated and sold by the Purchaser's civilian nuclear power reactor(s) on or after April 7, 1983, fees shall be paid quarterly by the Purchaser and must be received by DOE not later than the close of the last business day of the month following the end of each assigned 3-month period. The first payment shall be due on July 31, 1983, for the period April 7, 1983, to June 30, 1983. (Add as applicable: A one-time adjustment period payment shall be due on _____, for the period _____ to _____.) The assigned 3-month period, for purposes of payment and reporting of kilowatt hours generated and sold shall begin _____.

* * * * *

BILLING CODE 6450-01-M

NWPA-830G

U.S. DEPARTMENT OF ENERGY
Germantown, MD 20874

APPENDIX G - STANDARD REMITTANCE ADVICE FOR PAYMENT OF FEES

This information is being collected under mandatory authorities vested in the U.S. Department of Energy under Public Law 97-425. Late filing, failure to file or to otherwise comply with the instructions provided may result in interest penalties as provided by Article VIII.C of the Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste.

For information concerning confidentiality of information see item 6 of the instructions.

1.0 IDENTIFICATION INFORMATION

1.1 Purchaser Information
- (a) Name _____
- (b) Address _____
- (c) City, State, & Zip Code _____

1.2 Contact Person
- (a) Name _____
- (b) Telephone (Include Area Code) _____

1.3 Standard Contract Identification Number: _____

1.4 Period Covered by this Remittance Advice
- (a) From _____ (Month/Day/Year) to _____ (Month/Day/Year)
- (b) Date of This Payment: _____ (Month/Day/Year)

2.0 SPENT NUCLEAR FUEL (SNF) FEE

2.1 Number of Reactors Covered _____

2.2 Total Purchaser Obligation as of April 7, 1983 $ _____

2.3 Date of First Payment:

Month	Day	Year

2.4 10-Year Treasury Note Rate as of the Date of First Payment _____ %

2.5 Unpaid Balance Prior to this Payment $ _____

2.6 Option Chosen _____

2.7 Fee Data
- (a) Principal _____
- (b) Interest _____
- (c) Total Spent Nuclear Fuel Fee Transmitted with this Payment. $ _____

3.0 FEE FOR ELECTRICITY GENERATED AND SOLD (MILLS PER KILOWATTHOUR, M/KWh)

3.1 Number of Reactors Covered: _____

3.2 **Total Electricity Generated and Sold (Megawatthours) (Sum of Line 4.2 from all Annex A's)** _____

3.3 Current Fee Rate _____ (M/KWh)

3.4 **Total Fee for Electricity Generated and Sold (M/KWh) Transmitted with this Payment** $ _____

4.0 UNDERPAYMENT/LATE PAYMENT (As notified by DOE)

Type of Payment (a)	Date of Notification (Month/Day/Year) (b)	DOE Invoice Number (c)	Date of Payment Transmittal (Month/Day/Year) (d)	Interest Paid (e)	Amount Transmitted (f)
4.1 SNF Underpayment					
4.2 Electricity Generation Underpayment					
4.3 TOTAL UNDERPAYMENT					
4.4 SNF Late Payment					
4.5 Electricity Generation Late Payment					
4.6 TOTAL LATE PAYMENT					

5.0 OTHER CREDITS CLAIMED (Attach Explanation)

Enter the Total Amount Claimed for All Credits $ (_____)

6.0 TOTAL REMITTANCE

6.1 Total Spent Nuclear Fuel Fee Transmitted (from 2.7(c)) $ _____

6.2 **Total Fee for Electricity Generated and Sold (from 3.4)** $ _____

6.3 Total Underpayment (from 4.3(f)) $ _____

6.4 Total Late Payment (from 4.6(f)) $ _____

6.5 Total Credits (from 5.0) $ _____

6.6 TOTAL REMITTANCE (Sum of 6.1 through 6.4 less 6.5) $ _____

7.0 CERTIFICATION

I certify that the Total Remittance is true and accurate to the best of my knowledge.

Name Date Signature

TITLE 18 USC 1001 makes it a crime for any person to knowingly and willfully make to any department or agency of the United States any false, fictitious, or fraudulent statements as to any matter within its jurisdiction.

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*GPO: 193-122

BILLING CODE 6450-01-C

Department of Energy,
Germantown, MD 20874.

Appendix G—Standard Remittance Advice for Payment of Fees

General Information

1. Purpose.

Standard Remittance Advice (RA) form is designed to serve as the source document for entities into the Department's accounting records to transmit data from Purchasers concerning payment of their contribution to the Nuclear Waste Fund.

2. Who Shall Submit.

The RA must be submitted by Purchasers who signed the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste. Submit Copy 1, 2, and 3 to DOE, Office of the Controller, Special Accounts and Payroll Division and retain Copy 4.

3. Where to Submit.

Purchasers shall forward completed RA to:

U.S. Department of Energy
Office of the Controller
Special Accounts and Payroll Division (C–216 GTN)
Box 500
Germantown, Md 20874–0500

Request for further information, additional forms, and instructions may be directed in writing to the address above or by telephone to (301) 353–4014.

4. When to Submit.

For electricity generated on or after 4–7–83 fees shall be paid quarterly by the Purchaser and must be received by DOE not later than the close of business on the last business day of the month following the end of each assigned three month period. Payment is by electronic wire transfer only.

5. Sanctions.

The timely submission of RA by a Purchaser is mandatory. Failure to file may result in late penalty fees as provided by Article VIII C of the contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste.

6. Provisions Regarding the Confidentiality of Information.

The information contained in these forms may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets confidential commercial information specified in the Freedom of Information Act of 5 USC 552(b)(4)(FOIA) or (ii) prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element-by-element basis if possible), in a letter accompanying submission of the form why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information in accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should not be released to the public, DOE may assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new written justification need not be submitted each time the NWPA–830G is submitted if:

a. views concerning information items identified as privileged or confidential have not changed and

b. a written justification setting forth respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any committee of Congress, the General Accounting Office, and other Federal agencies authorized by law to receive such information.

Instructions for Completing Standard Remittance Advice for Payment of Fees

Section 1.0 Identification Information

1.1 Name of Purchaser as it appears on the Standard Contract, the mailing address, state and zip code.

1.2 Name and telephone number of person responsible for the completion of this form.

1.3 Standard Contract identification number as assigned by DOE.

1.4 Period covered by this advice and date of this payment. Any period different from the assigned three month period should be explained on a separate attachment.

Section 2.0 Spent Nuclear Fuel (SNF) Fee

2.1 Enter the number of reactors for which the Purchaser had irradiated fuel as of midnight between 6/7 April 1983 (equal to the number of Annex B Forms attached).

2.2 Total amount owed to the Nuclear Waste Fund for spent fuel used to generate electricity prior to April 7, 1983. (See Annex B for calculation).

2.3 Self explanatory.

2.4 Ten year Treasury Note rate on the date the payment is made, to be used if payments are being made using the 40 quarter option, or if lump sum payment is made after June 30, 1985.

2.5 Unpaid balance before this payment is made.

2.6 Enter the payment option (1, 2, or 3) chosen. The selection of payment option must be made within two years of Standard Contract execution.

2.7 Total payment of fee which this advice represents. Show principal, interest, and total.

Section 3.0 Fee for Electricity Generated and Sold (M/KWh)

3.1 Enter the number of reactors the Purchaser is reporting on during this reporting period.

3.2 Enter total electricity generated and sold during the reporting period from all reactors being reported. This is the sum of Station Total figures of line 4.2 from all Annex A forms attached, expressed in megawatthours.

3.3 Current Fee Rate as provided by DOE (initially 1.0 M/KWh which is equal to 1.0 $/MWh).

3.4 Total Fee for Electricity Generated and sold (M/KWh) represented by this advice.

Section 4.0 Underpayment/Late Payment (as notified by DOE)

4.1–4.6 Self explanatory.

Section 5.0 Other Credits Claimed

Represents all items for which a Purchaser may receive credit, as specified in the Standard Contract.

Section 6.0 Total Remittance

6.1–6.6 This section is a summary of the payments made in the previously mentioned categories with this remittance.

Section 7.0 Certification

Enter the name and title of the individual your company has designated to certify the accuracy of the data. Sign the "Certification" block and enter the current date.

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U.S. Department of Energy
Energy Information Administration
Form NWPA-830G

ANNEX A to APPENDIX G

Standard Remittance Advice for Payment of Fees

Section 1. Identification Information: Please first read the Instructions on the back.

1.1 Purchaser Information:
1.11 Name:..... _____
1.12 Address:. _____
1.13 Attention: _____
1.14 City:..... _____
1.15 State:..... _____ 1.16 Zip Code: _____
1.16 Utility ID Number: _ _

1.2 Contact Person:
1.21 Name: _____
1.22 Title: _____
1.23 Phone No.:(____)(____-_____) Ext:_____

1.3 Station Name: _____

1.4 Standard Disposal Contract Identification Number: _____

1.5 Period Covered (MM/DD/YY):
1.51 From:____/____/____ To:____/____/____
1.52 Date of This Submission:____/____/____

Section 2. Net Electricity Generated Calculation

Item	Unit 1	Unit 2	Unit 3	Station Total*
2.1 Unit ID Codes:				
2.2 Gross Thermal Energy Generated (MWh):				
2.3 Gross Electricity Generated (MWh):				
2.4 Nuclear Station Use While At Least One Nuclear Unit Is In Service** (MWh):				
2.5 Nuclear Station Use While All Nuclear Units Are Out Of Service** (MWh):				
2.6 Net Electricity Generated (MWh) (Item 2.3 minus Item 2.4):				

*For a nuclear station with more than one reactor and different ownerships for each reactor, a separate Annex A will be required.
**Utilities unable to meter individual unit use shall report estimated unit use and shall explain in a footnote how the unit data were estimated.

2.7 Footnote (if any):

Section 3. Total Energy Adjustment Factor Calculation

3.1 Weighted Energy Adjustment Factor Calculation	Adj. for Sales to ultimate Consumer (ASC)		Adjustment for Sales for Resale (ASR)				
Name of Nuclear Station Owner(s)	Fraction of Sales to ult. Consumer (FSC)	Sales to ultimate Consumer Adj. Factor (SCAF)	Fraction of Sales for Resale (FSR)	National average Adj. Factor (NAF)	Owner's Energy Adj. Factor (OEAF)	Owner's Share (OS)	Weighted Energy Adj. Factor (WEAF)
1.	(.	X .	)+(.	X .	)= .	X .	= .
2.	(.	X .	)+(.	X .	)= .	X .	= .
3.	(.	X .	)+(.	X .	)= .	X .	= .
4.	(.	X .	)+(.	X .	)= .	X .	= .
5.	(.	X .	)+(.	X .	)= .	X .	= .
6.	(.	X .	)+(.	X .	)= .	X .	= .
7.	(.	X .	)+(.	X .	)= .	X .	= .
8.	(.	X .	)+(.	X .	)= .	X .	= .
9.	(.	X .	)+(.	X .	)= .	X .	= .
10.	(.	X .	)+(.	X .	)= .	X .	= .
11.	(.	X .	)+(.	X .	)= .	X .	= .
12.	(.	X .	)+(.	X .	)= .	X .	= .
3.2 Total Energy Adjustment Factor (TEAF = sum of WEAF)							.

Section 4. Fee Calculation for Electricity Generated and Sold

Item	Station Total
4.1 Total Energy Adjustment Factor (Enter value from 3.2 above):	
4.2 Electricity Generated and Sold (Item in 4.1 times Item in 2.6 - Station Total):	
— Current Fee Rate (1 mill/KWh = $1/MWh):	$1.00/MWh
4.3 Current Fee Due (Dollars) (4.2 times $1.00): Transfer Item 4.3 to line 3.4 of Appendix G	

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U.S. Department of Energy
Energy Information Administration
Form NWPA-830G

Annex A to Appendix G
Standard Remittance Advice for Payment of Fees
Annex A Instructions

0. General Information:

0.1 Purpose: To report the calculation of fees due the Department of Energy's Nuclear Waste Fund.

0.2 Please read all instructions before completing this form.

0.3 Complete a separate Annex A for each nuclear station. For a nuclear station with more than one reactor and different ownerships for each reactor, a separate Annex A will be required for each reactor.

0.4 Submit Annex A Quarterly with Appendix G.

0.5 Where to Submit:

U.S. DOE, Office of the Controller
Special Accounts & Payroll Division
(C-216 GTN), Box 500
Germantown, MD 20874-0500

Section 1. Identification Information: (Self explanatory)

Section 2. Net Electricity Generated Calculation:

2.1 Unit ID Code: Enter the Reactor Unit Identification (ID) Code as assigned by DOE, for each reactor in the station.

2.2 Gross Thermal Energy Generated (MWh): Utility shall report the thermal output of the nuclear steam supply system during the gross hours of the reporting period.

2.3 Gross Electricity Generated (MWh): Utility shall report this amount for each unit in the appropriate column, and the total in the column labeled "Station Total." This amount is measured at the output terminals of the generator during the reporting period.

2.4 Nuclear Station Use While At Least One Nuclear Unit Is In Service (MWh): Utility shall report this amount for each unit in the appropriate column, and the total in the column called "Station Total." The utility is to report consumption of electricity by the nuclear portion of the station during days in which at least one of the station's nuclear units was on-line and producing electricity. A utility unable to meter an individual unit shall report the estimated unit use, and shall explain in item 2.7 how the unit data were estimated. **Note that:**

A. During days in which nuclear station use exceeds nuclear station generation, the utility shall treat all resulting negative values as zero for fee calculation purposes.

B. A utility that has multiple nuclear units at one station:

o when at least 1 nuclear unit is operating and when generation from that unit exceeds the nuclear station's use, the utility may assume that the operating unit is supplying electricity for nuclear station use whether or not the electricity has been metered separately or the units terminate to a common electrical busbar; and

o shall report under Item 2.5 any electricity use by the nuclear portion of the station during the days in which all nuclear units at the station were out of service simultaneously.

C. A utility that has a metered transmission line connecting an off-station nuclear reactor with another nuclear station may treat the off-station plant as part of this station for fee calculation purposes if it is not double counted as part of Section 3.

D. Utility may deduct small quantities of unmetered non-nuclear electricity generation included in "Gross Electricity Generated," provided that it is identified and explained in Item 2.7.

E. A utility may deduct nuclear electricity generation which is not sold and does not pass the busbar, provided they identify and explain the deduction in Item 2.7 and that the deduction is not double counted as part of Section 3.

2.5 Nuclear Station Use While All Nuclear Units Are Out of Service (MWh): Utility shall report this amount for each unit in the appropriate column, and the total in the "Station Total" column. In this row, the utility shall report the consumption of electricity by the nuclear portion of the station during days in which total nuclear unit use exceeds nuclear generation (e.g., a day in which all nuclear units at the station were out of service at once). Note that a utility unable to meter individual unit use will report estimated unit use, and shall explain in Item 2.7 how the unit data were estimated.

2.6 Net Electricity Generated (MWh): The utility shall report this amount for each unit in the appropriate column, and the total in the "Station Total" column. This amount is the result of subtracting Items 2.4 from Items 2.3.

2.7 Footnote (if any): Utilities that are unable to meter individual unit use shall explain here how the unit data were estimated.

Section 3. Total Energy Adjustment Factor Calculation:

The reporting utility shall obtain necessary data from all owners to calculate the Total Energy Adjustment Factor and maintain consistent, accurate, and complete records to support these submissions. The values provided in this section must be accurate to 4 significant digits. If there are more than 12 owners, use a continuation sheet. For a nuclear station with more than one reactor and different ownerships for each reactor, a separate Annex A will be required for each reactor.

3.1 Weighted Energy Adjustment Factor Calculation:

Name of Nuclear Station Owner(s): provide the name(s) in Items 1. thru 12. of 3.1. If more than 12 names, use a continuation sheet.

Adjustment for Sales to ultimate Consumer (ASC): is the product of Fraction of Sales to ultimate Consumer (FSC) and the Sales to ultimate Consumer Adjustment Factor (SCAF).

Fraction of Sales to ultimate Consumer (FSC): is determined by dividing the owner's previous years' annual sales to the ultimate consumer by the sum of the owner's previous years' annual sales to the ultimate consumer plus the owner's previous years' annual sales for resale. These figures can be found on the Federal Energy Regulatory Commission (FERC) Form No. 1 or the Energy Infomation Administration (EIA) Form EIA-861.

Sales to ultimate Consumer Adjustment Factor (SCAF): is equal to one minus the quotient of all electricity lost or otherwise not sold for each owner, divided by the total electricity available for sale by that owner. The total electricity available is the reporting year total of all of an owner's electricity supply which is available for disposition, expressed in kilowatt hours. Electricity lost or otherwise not sold includes: (a) energy furnished without charge; (b) energy used by the company; (c) transmission losses; (d) distribution losses; and (e) other unaccounted losses as reported on the FERC Form No. 1 or Form EIA-861.

Adjustment for Sales for Resale (ASR): is the product of Fraction of Sales for Resale (FSR) and National average Adjustment Factor (NAF).

Fraction of Sales for Resale (FSR): is determined by dividing the owner's previous years' annual sales for resale by the sum of the owner's previous years annual sales to the ultimate consumer plus the owner's previous years' annual sales for resale. These figures can be found on the FERC Form No. 1 or the Form EIA-861.

Owner's Energy Adjustment Factor (OEAF): is the product of ASC and ASR.

Owner's Share (OS): is the fraction of ownership of a nuclear plant or station , or the fraction of metered sales.

Weighted Energy Adjustment Factor (WEAF): is the product of OEAF and OS.

3.2 Total Energy Adjustment Factor (TEAF): is sum of WEAFs.

Section 4. Fee Calculation for Electricity Generated and Sold:

4.1 Total Energy Adjustment Factor: Enter the value from Item 3.2 as appropriate.

4.2 Electricity Generated and Sold: Multiply the value in Item 4.1 by the "Station Total" value in Items 2.6 to calculate this value for the reporting station.

4.3 Current Fee Due (Dollars): Multiply the values in Item 4.2 by one (1) dollar/megawatthour (or 1.0 mill/kwh), which is the current fee. Add this station fee to the current fee due for all other reactors operated by the Purchaser, and then enter the sum on Line 3.4 of the Appendix G, Remittance Advice.

[FR Doc. 90-17384 Filed 9-6-90; 8:45 am]
BILLING CODE 6450-01-C

federal register

Friday,
September 7, 1990

Part VII

Department of Education

34 CFR Part 105

Enforcement of Nondiscrimination on Basis of Handicap in Programs or Activities Conducted by the Department of Education; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 105

Enforcement of Nondiscrimination on Basis of Handicap in Programs or Activities Conducted by the Department of Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: These regulations require that the Department of Education operate all of its programs and activities to ensure nondiscrimination against qualified individuals with handicaps. They set forth standards for what constitutes discrimination on the basis of mental or physical handicap, provide definitions for "individual with handicaps" and "qualified individual with handicaps," establish a complaint mechanism for resolving allegations of discrimination that do not relate to employment, and adopt the procedures established in the Equal Employment Opportunity Commission regulations at 29 CFR part 1613 for processing complaints alleging discrimination on the basis of handicap with respect to employment.

EFFECTIVE DATE: October 9, 1990.

FOR FURTHER INFORMATION CONTACT: Robert Kilpatrick, U.S. Department of Education, Equal Employment Opportunity Office, 400 Maryland Avenue, SW., Washington, DC 20202-4550. Telephone: (202) 401-3560.

Copies of these regulations will be made available on tape for persons with impaired vision who request them. They will be provided by the Equal Employment Opportunity Office, U.S. Department of Education, 400 Maryland Avenue, SW., (room 1167, Federal Office Building No. 6), Washington, DC 20202-4550, (202) 401-3560 (voice) or (202) 401-1126 (TDD).

SUPPLEMENTARY INFORMATION: On April 1, 1988, the Secretary published a notice of proposed rulemaking (NPRM) in the **Federal Register**, 53 FR 10808. The period for receiving public comment expired May 31, 1988.

The purpose of these final regulations is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the Department of Education (hereinafter "the Department"). These regulations do not provide for implementation or enforcement of the Americans with Disabilities Act of 1990, Public law 101-336, 104 Stat. 327.

As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Section 119, Pub. L. 95-602, 92 Stat. 2982), the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810), and the Civil Rights Restoration Act of 1987 (Pub. L. 100-259, 102 Stat. 28), section 504 of the Rehabilitation Act of 1973 states the following:

> No otherwise qualified individual with handicaps in the United States, * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance *or under any program or activity conducted by an Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.*

(29 U.S.C. 794 (1978 amendment italicized).)

The substantive nondiscrimination obligations of the Department, as set forth in these final regulations, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. (See 28 CFR part 41, the section 504 coordination regulation for federally assisted programs.) This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal Government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.*; 124 Cong. Rec. 13,897 (remarks of Rep. Brademas); *id.* at 38,552 (remarks of Rep. Sarasin).

This final rule has been reviewed by the Department of Justice. It is an adaptation of a prototype prepared by the Department of Justice pursuant to Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298) and distributed to Executive agencies. These regulations have also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206).

Analysis of Comments and Responses

In response to the Secretary's invitation in the NPRM, four groups, whose organizational purposes include protecting the civil rights of individuals with handicaps, submitted comments on the proposed regulations. An analysis of the comments follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes are not addressed.

General

One issue was raised that addressed the entire NPRM rather than any specific section of the regulations.

Comment: Two commenters objected to language differences between these regulations and the Department's section 504 regulations for federally assisted programs.

Discussion: The language changes in these final regulations are based on the Supreme Court's decision in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), and subsequent U.S. courts of appeals decisions interpreting *Davis* and section 504. See *Dopico* v. *Goldschmidt*, 687 F.2d 1272 (D.C. Cir. 1981) (APTA); see also *Rhode Island Handicapped Action Committee* v. *Rhode Island Public Transit Authority*, 718 F.2d 490 (1st Cir. 1983).

These language differences are also supported by the decision of the Supreme Court in *Alexander* v. *Choate*, 469 U.S. 287 (1985), in which the Court held that the regulations for federally assisted programs did not require a recipient to modify its durational limitation on Medicaid coverage of inpatient hospital care for handicapped persons. Clarifying its *Davis* decision, the Court explained that section 504 requires only "reasonable" modifications, *id.* at 300, and explicitly noted "(t)he regulations implementing section 504 (for federally assisted programs) are consistent with the view that *reasonable* adjustments in the nature of the benefit offered must at times be made to assure meaningful access." *Id.* at 301 n.21 (emphasis added).

Incorporation of these changes, therefore, makes the regulations implementing section 504 for federally conducted programs consistent with the Federal Government's regulations implementing section 504 for federally assisted programs as they have been interpreted by the Supreme Court. Many of these federally assisted program regulations were issued prior to the interpretations of section 504 by the Supreme Court in *Davis*, by lower courts interpreting *Davis*, and by the Supreme Court in *Alexander*; therefore, their language does not reflect the interpretation of section 504 provided by the Supreme Court and by the various

U.S. courts of appeals. The Secretary interprets the federally assisted program regulations to reflect the judicial rulings described earlier and, therefore, believes that there are no significant differences between the final regulations for federally conducted programs and the Department's interpretation of the section 504 regulations for federally assisted programs.

Change: None.

Section 105.3 Definition of "Auxiliary Aids"

Comment: One commenter suggested that the definition of auxiliary aids should include attendant services that may be needed to aid handicapped persons to travel to and from their place of employment in a Departmental program or activity.

Discussion: This recommendation is not adopted because the services of an attendant for a handicapped person's travel to and from that person's place of employment are personal in nature. These attendant services do not serve an auxiliary purpose for direct participation in programs or activities conducted by the Department, whereas the types of auxiliary aids listed in the definition are necessary for actual participation in those programs.

Change: None.

Section 105.3 Definition of "Qualified Individual With Handicaps"

Comment: One commenter stated that the aspect of the definition pertaining to "fundamental alteration" of a program or activity should be clarified. In this regard, the commenter suggested that the definition should be more specifically delineated to address when modifications to a program must occur.

Discussion: The Secretary believes that the obligation to make appropriate modifications or adjustments to enable individuals with handicaps to participate in a program conducted by the Department is made sufficiently clear in §§ 105.32, 105.33, and 105.40 of these regulations, so that a reference to it in the definition is unnecessary.

Change: None.

Section 105.10 Self-Evaluation

Comment: One commenter suggested that the Department take steps to ensure that input from interested persons, including individuals with handicaps or organizations representing individuals with handicaps, be considered in the self-evaluation process. The commenter also suggested that the self-evaluation include the following: An assurance that the effects of any discriminatory policy will be eliminated; a plan of corrective action for achieving compliance; and specific modification requirements especially for the hearing and visually impaired.

Discussion: The Secretary is committed to expeditiously dismantling the effects of any policy that has a discriminatory impact on handicapped persons, including those with impaired vision or hearing. Therefore, this section requires the Department to provide an opportunity for all interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to submit either oral or written comments during the self-evaluation period. The Secretary will determine whether a written transition plan is necessary based on the results of and the recommendations obtained from the Department's self-evaluation.

Change: None.

Section 105.11 Notice

Comment: One commenter suggested that the regulations should specify that recruitment materials include information apprising handicapped individuals of their rights.

Discussion: The Secretary does not consider this suggested modification to the regulations to be necessary. The recruitment materials inform the public that the Department does not engage in prohibited discrimination.

Change: None.

Section 105.20 General Prohibitions Against Discrimination

Comment: One commenter objected to the omission of a paragraph from the regulations for federally conducted programs that prohibits a recipient from providing significant assistance to an organization that discriminates.

Discussion: Assistance from the Department to an organization would constitute Federal financial assistance. The organization, as a recipient of that assistance, would be covered by the Department's section 504 regulations for federally assisted programs. The Secretary believes the "significant assistance" provision contained in the federally assisted regulations, therefore, would be inappropriate in a regulation applying only to federally conducted programs or activities.

Change: None.

Comment: One commenter suggested that the regulations should extend to the activities of licensees or certified entities, citing *Community Television of Southern California* v. *Gottfried*, 459 U.S. 498 (1983).

Discussion: In *Gottfried*, the Supreme Court held that section 504 as applied to federally assisted programs did not require the Federal Communications Commission to prohibit discrimination on the basis of handicap by licensed broadcasters, but that "the policies underlying the Communications Act" might authorize the Commission to issue a regulation governing that discrimination. The Court did not, however, indicate that section 504 itself could serve as the source of that regulatory authority.

The Supreme Court has held that "the use of the words 'public interest' in a regulatory statute is not a broad license to promote the general public welfare. Rather the words take meaning from the purpose of the regulatory legislation." *National Association for the Advancement of Colored People* v. *Federal Power Commission*, 425 U.S. 602, 669 (1976). Accordingly, the Secretary does not believe section 504, in itself, can extend the Department's regulatory authority to the actions of licensees or certified entities. If an agency has existing regulatory authority that is broad enough to enable it to establish a nondiscrimination requirement for its licensees or certified entities, section 504 may support the exercise of that authority. Because the Department has no such underlying authority, it cannot prohibit discrimination by licensees.

Change: None.

Section 105.32 Program Accessibility: Existing Facilities

Comment: Two commenters suggested that the decision as to whether an action would result in undue burdens should be based on the resources of the Department as a whole.

Discussion: The Secretary believes that the Department's entire budget is an inappropriate basis for making determinations as to undue financial and administrative burdens. Most of the Department's budget is statutorily earmarked for specific purposes and cannot be used for other purposes, including making the Department's programs accessible to individuals with handicaps.

Change: None.

Comment: One of the commenters also recommended listing in the regulations factors to be taken into account in determining undue burdens.

Discussion: The Secretary believes such a listing is impractical because the Secretary will determine, on a case-by-case basis, if adjustments or modifications would fundamentally alter the nature of a Departmental program or activity or would result in undue financial or administrative burden. Moreover, if the Secretary makes such a determination, it will be accompanied

by a written statement setting forth the reasons for the determination.

Change: None.

Section 105.40 Communications

Comment: One commenter recommended that the Department add a provision to the communications section that would require the Department to provide captioning on films and videotapes it produces.

Discussion: The regulations require effective communication, and captioning is one such method. The Secretary reserves the right to utilize the most effective communication method, including captioning, depending on the particular situation.

Change: None.

Comment: One commenter recommended that the Department add a paragraph to § 105.40, Communications, requiring the Department to provide handicapped persons with information about their rights under section 504.

Discussion: Such a paragraph is unnecessary because it would duplicate § 105.11, Notice.

Change: None.

Section 105.41 Compliance Procedures

Comment: One commenter suggested that the Department should be required to refer a complaint to the appropriate agency if it does not have jurisdiction over it.

Discussion: The regulations require the Department to make reasonable efforts to make an appropriate complaint referral. There are circumstances in which the Department might not be able to successfully refer a complaint. For example, the Department might receive a complaint over which no Federal agency would have jurisdiction.

Change: None.

Comment: A commenter also suggested that the regulations should include procedures for handling complaints that are incomplete.

Discussion: The Department believes that it is not necessary to include its internal procedures for handling incomplete complaints in the text of the regulations themselves. To do so would deprive the Department of the flexibility to respond to circumstances not included in the regulations.

Change: None.

Comment: A commenter suggested that the regulations should include a provision for judicial review.

Discussion: It is beyond the Department's jurisdiction to specify the availability or scope of judicial review of agency actions.

Change: None.

Comment: One commenter recommended the addition of provisions whereby the Department would award attorneys fees to complainants and whereby compensation would be awarded to the prevailing parties in administrative proceedings.

Discussion: There is no statutory authorization in title V of the Rehabilitation Act for the Department to award compensation or attorneys fees to prevailing parties in agency administrative proceedings covered by this section.

Change: None.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

List of Subjects in 34 CFR Part 105

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal educational opportunity, Equal employment opportunity, Federal buildings and facilities, Handicapped, Historic places, Historic preservation, National register of historic places, Nondiscrimination, Physically handicapped.

Dated: March 16, 1990.

Lauro F. Cavazos,

Secretary of Education.

The Secretary amends title 34 of the Code of Federal Regulations by adding a new part 105 to read as follows:

PART 105—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE DEPARTMENT OF EDUCATION

Sec.

105.1 Purpose.
105.2 Application.
105.3 Definitions.
105.4–105.9 [Reserved]
105.10 Self-evaluation.
105.11 Notice.
105.12–105.19 [Reserved]
105.20 General prohibitions against discrimination.
105.21–105.29 [Reserved]
105.30 Employment.
105.31 Program accessibility: Discrimination prohibited.
105.32 Program accessibility: Existing facilities.
105.33 Program accessibility: New construction and alterations.
105.34–105.39 [Reserved]
105.40 Communications.
105.41 Compliance procedures.
105.42 Effective date.

Authority: 29 U.S.C. 794, unless otherwise noted.

§ 105.1 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 105.2 Application.

This part applies to all programs or activities conducted by the Department, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

§ 105.3 Definitions.

For purposes of this part, the following definitions apply:

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Department. For example, auxiliary aids useful for persons with impaired vision include readers, materials in braille, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDDs), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the Department's alleged discriminatory action in sufficient detail to inform the Department of the nature and date of the alleged violation of section 504. It must be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties must describe or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Historic preservation programs means programs conducted by the Department that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase—

(1) *Physical or mental impairment* includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism;

(2) *Major life activities* includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities; and

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Department as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward the impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the Department as having such an impairment.

Qualified individual with handicaps means—

(1) With respect to preschool, elementary, or secondary education services provided by the Department, an individual with handicaps who is a member of a class of persons otherwise entitled by statute, regulation, or Department policy to receive education services from the Department;

(2) With respect to any other Department program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the Department can demonstrate would result in a fundamental alteration in its nature;

(3) With respect to any other Department program or activity, an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(4) *Qualified handicapped person* as that term is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § 105.30

Secretary means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617); the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955); the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810); and the Civil Rights Restoration Act of 1987 (Pub. L. 100-259, 102 Stat. 28). As used in this part, section 504 applies only to programs or activities conducted by the Department and not to federally assisted programs.

Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

§§ 105.4-105.9 [Reserved]

§ 105.10 Self-evaluation.

(a) The Department shall, within one year of the effective date of this part, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any of those policies and practices is required, the Department shall proceed to make the necessary modifications.

(b) The Department shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The Department shall, for at least 3 years following completion of the self-evaluation, maintain on file, and make available for public inspection—

(1) A description of areas examined and any problems identified; and

(2) A description of any modifications made.

§ 105.11 Notice.

The Department shall make available, to employees, applicants, participants, beneficiaries, and other interested persons, information regarding the provisions of this part and its applicability to the programs or activities conducted by the Department, and make that information available to them in such manner as the Secretary finds necessary to apprise those persons of the protections against discrimination assured them by section 504 and the regulations in this part.

§§ 105.12-105.19 [Reserved]

§ 105.20 General prohibitions against discrimination.

(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under, any program or activity conducted by the Department.

(b)(1) The Department, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with handicaps with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps than is provided to others unless that action is necessary to provide qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with handicaps the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The Department may not deny a qualified individual with handicaps the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The Department may not, directly or through contractual or other arrangements, use criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(4) The Department may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under, any program or activity conducted by the Department; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(5) The Department, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(6) The Department may not administer a licensing or certification program in a manner that subjects qualified individuals with handicaps to discrimination on the basis of handicap, nor may the Department establish requirements for the program or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the Department are not, themselves, covered by this part.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive Order to individuals with handicaps or the exclusion of a specific class of individuals with handicaps from a program limited by Federal statute or Executive Order to a different class of individuals with handicaps is not prohibited by this part.

(d) The Department shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

§§ 105.21–105.29 [Reserved]

§ 105.30 Employment.

No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the Department. As provided in § 105.41(b), the definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

§ 105.31 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 105.32, no qualified individual with handicaps shall, because the Department's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Department.

§ 105.32 Program accessibility: Existing facilities.

(a) *General.* The Department shall operate each program or activity so that the program or activity, viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not—

(1) Necessarily require the Department to make each of its existing facilities accessible to and usable by individuals with handicaps;

(2) In the case of historic preservation programs, require the Department to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) (i) Require the Department to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.

(ii) The Department has the burden of proving that compliance with § 105.32(a) would result in that alteration or those burdens.

(iii) The decision that compliance would result in that alteration or those burdens must be made by the Secretary after considering all of the Department's resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion.

(iv) If an action would result in that alteration or those burdens, the Department shall take any other action that would not result in the alteration or burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.

(b) *Methods*—(1) *General.* (i) The Department may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignments of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps.

(ii) The Department is not required to make structural changes in existing facilities if other methods are effective in achieving compliance with this section.

(iii) The Department, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing that Act.

(iv) In choosing among available methods for meeting the requirements of this section, the Department shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in the most integrated setting appropriate.

(2) *Historic preservation programs.* In meeting the requirements of § 105.32(a) in historic preservation programs, the

Department shall give priority to methods that provide physical access to individuals with handicaps. In cases were a physical alteration to an historic property is not required because of § 105.32 (a)(2) or (a)(3), alternative methods of achieving program accessibility include—

(i) Using audiovisual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with handicaps into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance.* The Department shall comply with the obligations established under this section within 60 days of the effective date of this part except that if structural changes in facilities are undertaken, the changes shall be made within 3 years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* (1) In the event that structural changes to facilities will be undertaken to achieve program accessibility, the Department shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete those changes.

(2) The Department shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan must be made available for public inspection.

(3) The plan must, at a minimum—

(i) Identify physical obstacles in the Department's facilities that limit the accessibility of its programs or activities to individuals with handicaps;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the official responsible for implementation of the plan.

§ 105.33 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of, the Department must be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 105.34–105.39 [Reserved]

§ 105.40 Communications.

(a) The Department shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public, as follows:

(1) (i) The Department shall furnish appropriate auxiliary aids if necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the Department.

(ii) In determining what type of auxiliary aid is necessary, the Department shall give primary consideration to the request of the individual with handicaps.

(iii) The Department need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) If the Department communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDDs) or equally effective telecommunication systems must be used.

(b) The Department shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The Department shall provide signs at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility must be used at each primary entrance of an accessible facility.

(d) (1) This section does not require the Department to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.

(2) The Department has the burden of proving that compliance with § 105.40 would result in that alteration or those burdens.

(3) The decision that compliance would result in that alteration or those burdens must be made by the Secretary after considering all Department resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion.

(4) If an action required to comply with this section would result in that alteration or those burdens, the Department shall take any other action that would not result in the alteration or burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§ 105.41 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs and activities conducted by the Department.

(b) As provided in § 105.30, the Department shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Deputy Under Secretary for Management is responsible for coordinating implementation of this section. Complaints may be sent to the U.S. Department of Education, Office of Management, Federal Building No. 6, 400 Maryland Avenue SW., Washington, DC 20202.

(d) The Department shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The Department may extend this time period for good cause.

(e) If the Department receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The Department shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157) is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the Department shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the Department of the letter required by § 105.41(g). The Department may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Secretary.

(j) If the Secretary determines that additional information is needed for the complainant, he or she shall notify the complainant of the additional information needed to make his or her determination on the appeal.

(k) The Secretary shall notify the complainant of the results of the appeal.

(l) The time limit in paragraph (g) of this section may be extended by the Secretary.

(m) The Secretary may delegate the authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

§ 105.42 Effective date.

The effective date of this part is October 9, 1990.

[FR Doc. 90-21025 Filed 9-6-90; 8:45 am]

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Federal Register

Friday
September 7, 1990

Part VIII

Department of Energy

Compliance With the National Environmental Policy Act (NEPA); Notice of Amendments to DOE Guidelines

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act (NEPA); Amendments to DOE Guidelines

AGENCY: Department of Energy.

ACTION: Notice of amendments to the Department of Energy's NEPA Guidelines.

SUMMARY: The Department of Energy (DOE) is amending section D of its NEPA Guidelines by adding to its list of categorical exclusions three new categorical exclusions that concern: (1) Certain removal actions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and actions similar in scope under the Resource Conservation and Recovery Act (RCRA) and other authorities; (2) improvements to environmental control systems that reduce the amounts and concentrations of regulated substances in air emissions and water effluents; and (3) site characterization and environmental monitoring under CERCLA and RCRA. A categorical exclusion is a class of DOE actions that normally do not require the preparation of either an environmental impact statement or an environmental assessment. These amendments are necessary to establish categorical exclusions for actions that clearly have no potential for significant impact on the human environment. The intended effect is to facilitate the NEPA review for some environmental restoration and waste management activities.

EFFECTIVE DATE: September 7, 1990.

FOR FURTHER INFORMATION CONTACT:
Carol Borgstrom, Director, Office of NEPA Oversight, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600.
William J. Dennison, Acting Assistant General Counsel for Environment, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6947.

SUPPLEMENTARY INFORMATION:

I. Background

DOE originally published its NEPA Guidelines in the **Federal Register** on March 28, 1980 (45 FR 20694). These Guidelines implemented the procedural provisions of NEPA as required by the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508). These Guidelines were subsequently revised a number of times and were republished in their entirety on December 15, 1987 (52 FR 47662). The Guidelines were further amended by a notice published in the **Federal Register** on March 27, 1989 (54 FR 12474). On April 6, 1990 (55 FR 13064), DOE published a notice requesting comments on additional proposed amendments to section D of its NEPA Guidelines. Today's notice adopts the amendments proposed at that time, with certain changes described below.

II. Comments Received and DOE Responses

Publication of the April 6, 1990 notice began a 30-day period during which public comment was invited. Two comment letters were received.

A. Procedural Comments

One commenter asserted that any categorical exclusions adopted by DOE should be issued as binding regulations rather than as guidelines. This commenter asserted further that because DOE announced in the April 6, 1990 notice (55 FR 13064) its intention to revise its NEPA Guidelines and publish them for public comment as proposed rules, the proposed categorical exclusions should be considered in the context of the overall revision of the Guidelines rather than in this isolated context.

In Secretary of Energy Notice (SEN) 15–90, dated February 5, 1990, the Secretary of Energy directed that the DOE NEPA Guidelines be revised and published for public comment as proposed regulations using the notice and comment procedures of the Administrative Procedure Act. DOE expects to propose such regulations for public comment in the near future. At that time, the three categorical exclusions adopted herein, as well as all other categorical exclusions and other typical classes of actions, will be subject to public comment in the context of the proposed regulations. However, the need for DOE to use these three categorical exclusions in the near term justifies their adoption at this time.

The same commenter suggested that DOE should reconsider the promulgation of the proposed categorical exclusions before certain questions are resolved regarding the integration of NEPA with RCRA and CERCLA activities. The commenter's concern was that the adoption of the proposed exclusions could prejudice the outcome of the integration issue.

It is DOE's policy to integrate the procedural and documentation requirements of CERCLA and NEPA, wherever practical, based on DOE's assumption, in the absence of definitive CEQ guidance to the contrary, that NEPA applies to remedial activities under CERCLA. DOE also intends to establish a similar policy to integrate the procedural and documentation requirements of RCRA and NEPA. DOE believes that the adoption of these categorical exclusions will not prejudice any subsequent resolution of the applicability issue. While DOE's policy of integrating CERCLA and NEPA requirements is subject to change if necessary to be consistent with any subsequent CEQ guidance, the categorical exclusions promulgated today are needed to implement DOE's current policy efficiently.

Finally, the commenter objected to the use of the proposed categorical exclusions on an interim basis pending their final adoption, on the basis that the CEQ regulations require that

> categorical exclusions and other NEPA procedures "shall be adopted only after an opportunity for public review and after review by the Council for conformity with the Act and these regulations." (40 CFR 1507.3(a).)

DOE's application of the proposed amendments on an interim basis was consistent with its previous practice. DOE consulted with CEQ regarding the proposed amendments published on April 6, 1990, in accordance with 40 CFR 1507.3. DOE addressed CEQ's comments and CEQ made no objection to the publication of the April 6, 1990 notice. However, CEQ was not specifically asked for its opinion on whether the categorical exclusions could be used on an interim basis, and CEQ's approval of publication of the categorical exclusions was not an endorsement of such use. Because the categorical exclusions are today being finally adopted, DOE believes that there is no longer an issue requiring resolution.

B. Comments on the Proposed Categorical Exclusions

1. *Removal actions including those under CERCLA and similar actions under RCRA.* Both commenters expressed overall concern about this categorical exclusion and asserted that the actions included have the potential for significant effects on the environment. One commenter cited three factors supporting this concern. First, the commenter said that DOE provided no justification to support its contention that the actions included in this exclusion do not have the potential for significant effects on the human environment. Second, the categorical exclusion was not limited to the actions illustrating the exclusion, and the commenter perceived the reference to "actions similar in scope under RCRA" as vague and imprecise. Third, because removal activities under CERCLA do not

require a Remedial Investigation/ Feasibility Study, the commenter regarded the exclusion of these actions from NEPA documentation as particularly significant when considered together with the breadth of the exclusion, which exceeded the scope of the removal actions described in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (55 FR 8843; March 8, 1990.)

DOE agrees that its intended application of this categorical exclusion, as proposed in the April 6, 1990 Federal Register notice, was too broad. In that notice, DOE stated that it intended to apply this categorical exclusion "regardless of time or cost to implement these actions." In addition, some of the examples of actions proposed to be categorically excluded exceeded the scope of examples of appropriate removal actions set forth in the recently revised CERCLA NCP regulations (55 FR 8843; March 8, 1990).

However, the underlying determination that most actions described in this categorical exclusion do not have the potential for significant effects on the human environment is based on experience with many similar types of activities over the past several years. For example, DOE has considerable experience with excavating contaminated soils from drainage and other areas and capping contaminated soils or sludges, performing both types of actions to reduce contact with, or the migration of, hazardous substances, pollutants, and contaminants. This experience demonstrates that such actions do not have the potential for significant effects on the human environment so long as they are carried out in accordance with appropriate requirements. As a result, this categorical exclusion would apply to excavation and capping actions only when accomplished in accordance with applicable statutory, regulatory, and permit requirements, including the requirements of DOE Orders.

As a result of this comment, DOE intends to limit its application of this categorical exclusion to removal actions under CERCLA (and actions similar in scope under RCRA and other authorities) that meet the statutory limits and exemptions set forth in the NCP regulations. These limits for removal actions (other than those authorized under section 104(b) of CERCLA) are: The actions shall not either (1) cost more than $2 million or (2) take longer than 12 months from the time that activities begin on-site. Exemptions to these cost and time limits can be applied when "(i) there is an immediate risk to public health or welfare or the environment; continued response actions are immediately required to prevent, limit, or mitigate an emergency; and such assistance will not otherwise be provided on a timely basis; or (ii) continued response action is otherwise appropriate and consistent with the remedial action to be taken." (55 FR 8843; March 8, 1990).

The language of this categorical exclusion has been revised to paraphrase more closely the language used in the CERCLA NCP regulations. The phrase "and other authorities" has been inserted to make clear that there are other authorities under which DOE may take similar actions. In addition, two proposed removal actions—the removal of polychlorinated biphenyl items and the removal of asbestos-containing materials—have been deleted from the list of examples of removal actions under CERCLA and established as separate categorical exclusions, so as not to imply inadvertently an overly broad scope for removal actions under CERCLA and because these activities are not always performed as RCRA or CERCLA activities.

DOE does not agree with the comment that an unreasonably broad categorical exclusion is created by the use of a noninclusive list of examples of excluded removal actions. In providing a list of examples that is comprehensive but not all-inclusive, DOE has followed the lead set in the CERCLA NCP regulations, which sets forth a list of appropriate removal actions that is not "exhaustive." (55 FR 8843; March 8, 1990.)

Both commenters expressed concern regarding the scope of the three limitations proposed to apply to this categorical exclusion. These limitations provided that removal actions be categorically excluded only where the actions: "(1) are implemented clearly in accordance with applicable statutory and regulatory requirements and permits, (2) do not involve construction or expansion of waste disposal, recovery, or treatment facilities (including incinerators and facilities for treating surface water and groundwater), and (3) affect only areas previously determined not to be environmentally sensitive areas. Sensitive areas include archeological sites, critical habitats, floodplains, wetlands, and sole source aquifers." In the discussion that follows, these limitations will be referred to as "limitation 1," "limitation 2," and "limitation 3," respectively.

One commenter asserted that limitation 1 did not ensure the absence of deleterious environmental impacts because of gaps in regulations. The other commenter asserted that limitation 1 is unnecessary because removal actions under CERCLA or RCRA must be in compliance with the law.

In response to these comments, limitation 1 has been revised to restrict application of the categorical exclusion to only those actions that "would not threaten a violation of applicable statutory, regulatory, and permit requirements, including requirements of DOE Orders." The revised language conforms more closely to the CEQ regulations at 40 CFR 1508.27(b)(10), which provide guidance on determining the severity of environmental impact.

One commenter asserted that limitation 2 is inadequate because it does not include as a disqualifying factor the construction of waste storage facilities, which is particularly important when removal actions include the storage of what the commenter described as "virtually unlimited quantities of wastes for virtually unlimited periods of time."

DOE has determined not to change limitation 2 in the manner suggested by the commenter. However, in response to the substance of the comment, DOE has deleted the storage of waste pending treatment, recovery or disposal as a separate example within this categorical exclusion. Storage of wastes has been added to another example, and is categorically excluded only if it occurs at "existing facilities permitted for the type of waste resulting from the removal action, where needed to reduce the likelihood of human, animal, or food chain exposure."

Both commenters asserted that limitation 3 as proposed was inadequate. The commenters preferred a more expansive definition of "environmentally sensitive areas" and made a number of suggestions in that regard. DOE has adopted these suggestions, with one exception. DOE has chosen not to include "population centers" in the definition of environmentally sensitive areas, because DOE believes that, considering the three limitations applied to the use of the categorical exclusions, populations centers are not threatened. DOE has limited the definition of environmentally sensitive areas to those areas that legislation and Executive Orders have recognized as deserving of special protection.

One commenter noted that the proposed categorical exclusion failed to explain when and how the

determination of environmental sensitivity would be made. All three of the limitations discussed above, when applicable to a categorical exclusion, function as threshold limitations. Their applicability must be established before any determination is made that a particular action falls within the categorical exclusion, and their consideration must be documented.

One letter commented on most of the examples listed in this proposed categorical exclusion. The following discussion describes each of these comments that has not already been addressed.

Excavation or consolidation of contaminated soils, etc. The commenter asserted that this action should not be categorically excluded because soil or sediment removal can, under certain circumstances, accelerate groundwater contamination and because the action as proposed exceeds the "excavation or consolidation" activity described as appropriate in the CERCLA NCP regulations. DOE has revised the description of this action to limit it to areas "that are not receiving contaminated surface or waste water" and "where surface or groundwater would not collect" to eliminate the possibility of accelerating groundwater contamination. DOE has further limited excluded actions of this type to those that "would reduce the spread of, or direct contact with, the contamination" to be consistent with language used in the CERCLA NCP regulations.

Removal of drums, barrels, tanks, etc. The commenter stated that there would be no objection to this categorical exclusion if it were limited to small-scale removal actions or the threat of a release. As discussed above, DOE will apply the CERCLA statutory limitations, which limit the dollar amount and the duration of categorically excluded removal actions under CERCLA, and exemptions. In response to this comment, DOE has further limited this exclusion to situations in which the action "would reduce the likelihood of spillage, leakage, fire, explosion, or exposure to humans, animals, or the food chain."

Removal of asbestos-containing materials, etc. The commenter stated it would not object to the categorical exclusion of this action provided that language were added to require compliance with state and local requirements, including certification of removal contractors and technicians, and oversight by Federal or authorized state Occupational Safety and Health Administration (OSHA) inspectors. In response to the first point, DOE has revised the description of this action to limit its exclusion to actions carried out in accordance with "appropriate state and local requirements, including certification of removal contractors and technicians." DOE has not adopted the second comment because not all DOE operations are legally subject to OSHA oversight. However, the categorical exclusion has been revised to include, in addition to 29 CFR 1926.58, compliance with "other appropriate OSHA standards in title 29, chapter XVII of the CFR" as a condition of its application. DOE has adopted for its operations the regulations issued pursuant to OSHA and is currently working with Federal OSHA officials to improve DOE's program for oversight and inspection of worker health and safety.

Removal of polychlorinated biphenyl (PCB) items, etc. The commenter suggested that this action be limited to those situations in which there is an imminent threat of fire or offsite release, because the disposal of PCB materials offers a range of alternatives. This categorical exclusion, however, applies only to the removal of the PCB items, and not to their disposal. Disposal of removed PCB items would be subject to further NEPA review unless such disposal fell within the scope of another categorically excluded action, such as the one described in paragraph 1.c.(16) of the amendments being adopted today.

Treatment (including incineration), recovery, or disposal of wastes, etc. The commenter asserted that the categorical exclusion of this action is unnecessary because it appears to include a requirement for NEPA review where such review has already occurred. On the other hand, the commenter would object to the categorical exclusion of this action if it were interpreted to exclude NEPA review of actions that would result in significant changes in the operations of a waste facility. In response to this comment, DOE has deleted the requirement that such actions be carried out at "existing permitted facilities for which, if they are federal facilities, appropriate NEPA review has been completed" and added language to limit excluded actions to those that are carried out at "existing facilities permitted for the type of waste resulting from the removal action, where needed to reduce the likelihood of human, animal, or food chain exposure."

Capping or other containment of contaminated soils or sludges. The commenter objected to the categorical exclusion of this action because such actions could reduce or eliminate the use of long-term remedial alternatives. As a result of this comment, DOE has revised the description of this action to limit its categorical exclusion to situations in which there would be no "effect on future groundwater remediation and where needed to reduce migration" of hazardous substances, pollutants or contaminants into soil, groundwater, surface water, or air.

Closing of man-made surface impoundments. The commenter objected to the categorical exclusion of this action based on the assertion that such actions are not considered appropriate removal actions under the CERCLA NCP regulations and could have substantial impacts. On the basis of this comment, DOE has revised the description of the action to limit its exclusion to situations in which such action is needed to maintain the integrity of the impoundment, to be consistent with language used in the CERCLA NCP regulations.

In-situ stabilization, etc. The commenter objected to the categorical exclusion of this action in the manner proposed, because of the lack of clarity concerning what documentation or considerations would constitute a land-use management plan, and because the characterization of such actions as removal actions might eliminate review under environmental statutes other than NEPA. After considering these comments, DOE has determined to delete this example. DOE may, however, redefine the action and include it in the proposed NEPA regulations that will be published for comment in the near future.

Confinement or perimeter protection, etc. In response to a comment that the extent of such actions should be limited, DOE has limited the categorical exclusion of this action to situations in which the action is "needed to reduce the spread of, or direct contact with, the contamination."

Stabilization of berms, dikes, etc. This action has been revised to adopt the commenter's suggestion that "stabilization" not include any expansion of the affected structures.

Drainage controls. In response to a comment that this action should be narrowed, the description of this action has been revised to conform substantially to a similar removal action in the CERCLA NCP regulations.

Use of chemicals and other materials to neutralize wastes. This action has been limited to the neutralization of pH, as suggested by the commenter.

Installation and operation of gas ventilation systems, etc. The commenter pointed out that the "potentially explosive gases" referred to in this action could include toxic gases or be associated with toxic and/or radioactive

co-contaminants. The commenter indicated, however, that there would be no objection to the categorical exclusion of this action if it were limited to "situations involving methane or petroleum vapors without any toxic or radioactive co-contaminants, and where appropriate filtration or gas treatment was in place." The description of this action has been revised in accordance with this comment.

2. *Improvements to environmental control systems.* One commenter expressed the view that two changes should be made to this categorical exclusion if it were adopted. The commenter suggested that the phrase, "within an existing facility," be changed to "within an existing plant or structure" because the term "facility" could be interpreted to encompass an entire site. DOE agrees with this comment and has revised the phrase to "within an existing building or structure." The commenter also believed that this categorical exclusion should be limited to situations where there is a clear net environmental benefit and where source reduction and waste minimization alternatives have been considered. The commenter was concerned that the categorical exclusion of these improvements would eliminate an opportunity to consider various alternatives and impacts.

In response to this concern, DOE has restricted the scope of this categorical exclusion by applying the three limitations discussed above, which were previously applicable only to the categorical exclusion dealing with removal actions. DOE disagrees that the categorical exclusion of such improvements will eliminate the opportunity to consider alternatives. DOE directives (such as the DOE Orders for the Department's environmental protection program, hazardous and radioactive mixed waste program, and radioactive waste management) require development and implementation of waste minimization programs. In addition, on June 27, 1990, DOE issued a waste reduction policy statement to consolidate these minimization requirements and to initiate a pollution prevention program.

3. *Site characterization and environmental monitoring activities.* One commenter expressed the belief that the terms "site characterization" and "environmental monitoring" should be defined if this categorical exclusion were adopted. In response to this comment and as a result of DOE's own consideration of how best to clarify the scope of this exclusion, it has been revised to list as examples 11 specific activities that could qualify for the categorical exclusion.

III. Other Revisions to the Proposed Amendments

In addition to revisions made in response to comments and other revisions already discussed, DOE has made a number of editorial, stylistic and format revisions. DOE has also made the following substantive changes for clarity and consistency.

As previously indicated, DOE has clarified the three limitations applicable to the first categorical exclusion, and has applied them to the second categorical exclusion as well. The phrase "construction or expansion" in proposed limitation 2 has been revised to read "construction or major expansion." This revision was made because DOE believes that the minor expansion of a waste facility consistent with permit requirements does not have the potential for significant effects on the human environment.

DOE has added two actions to the list of examples of categorically excluded actions. One example—use of chemicals and other materials to retard the spread of a release or to mitigate its effect under certain limited circumstances—is also listed in the CERCLA NCP regulations. DOE believes that the second example—removal of an underground storage tank in certain limited circumstances—is consistent with the intent of the proposed categorical exclusion.

DOE has revised one example of a categorically excluded removal action. The example as proposed, "segregation of reactive wastes," has been revised to read "segregation of wastes that react with one another to result in adverse environmental impacts" for clarification.

The second categorical exclusion, as proposed, involved improvements to environmental permit conditions. DOE has expanded this exclusion to include improvements made to lower emissions or effluents regardless of whether the action is motivated by a permit requirement. This revision does not affect the scope and nature of the types of improvements categorically excluded.

DOE has again consulted with CEQ regarding these amendments to section D of DOE's NEPA Guidelines, in accordance with 40 CFR 1507.3. CEQ has found that these amendments set forth procedures that are in conformance with NEPA and the CEQ regulations. Therefore, DOE adopts these amendments to Section D of its NEPA Guidelines, effective immediately.

Issued in Washington, DC, on August 31, 1990.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

Section D of the DOE NEPA Guidelines is amended by adding the following items at the end of the subsection entitled "Classes of Actions Generally Applicable to All of DOE" under the column entitled "Normally Do Not Require EAs or EISs":

1. The removal actions and other actions described below, if it is determined that such an action would not threaten a violation of applicable statutory, regulatory, or permit requirements, including requirements of DOE Orders; would not require siting and construction or major expansion of waste disposal, recovery, or treatment facilities (including incinerators and facilities for treating wastewater, surface water, or groundwater); and would not adversely affect environmentally sensitive areas as defined in Paragraph 4 below:

a. Removal of asbestos-containing materials from existing buildings in accordance with 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants), Subpart M (National Emission Standards for Asbestos); 40 CFR Part 763 (Asbestos), Subpart G (Asbestos Abatement Projects); 29 CFR Part 1910, Subpart I (Personal Protective Equipment), § 1910.134 (Respiratory Protection); Subpart Z (Toxic and Hazardous Substances), § 1910.1001 (Asbestos, tremolite, anthophyllite and actinolite); 29 CFR Part 1926 (Safety and Health Regulations for Construction), Subpart D (Occupational Health and Environmental Controls), § 1926.58 (Asbestos, tremolite, anthophyllite, and actinolite), and other appropriate OSHA standards in title 29, chapter XVII of the CFR; and appropriate state and local requirements, including certification of removal contractors and technicians.

b. Removal of polychlorinated biphenyl (PCB)-containing items, such as transformers or capacitors, PCB-containing oils flushed from transformers, PCB-flushing solutions, and PCB-containing spill materials from buildings or other aboveground locations in accordance with 40 CFR part 761 (Polychlorinated Biphenyls Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions).

c. Removal actions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (including those taken as final response actions and those taken before remedial action) and actions

similar in scope under the Resource Conservation and Recovery Act (RCRA) and other authorities (including those taken as partial closure actions and those taken before corrective action). These actions could include, but are not limited to, the following types of actions:

(1) Excavation or consolidation of contaminated soils or materials from drainage channels, retention basins, ponds, and spill areas that are not receiving contaminated surface water or wastewater, where surface water or groundwater would not collect, and where such actions would reduce the spread of, or direct contact with, the contamination;

(2) Removal of drums, barrels, tanks, or other bulk containers that contain or may contain substances identified within the definition of hazardous substances under section 101(14) of CERCLA, or pollutants or contaminants as defined by section 101(33) of CERCLA, or hazardous wastes under 40 CFR part 261, where such actions would reduce the likelihood of spillage, leakage, fire, explosion, or exposure to humans, animals, or the food chain;

(3) Removal of an underground storage tank, including its associated piping and underlying containment systems, in compliance with 40 CFR part 280, where such action would reduce the likelihood of spillage, leakage, or the spread of, or direct contact with, contamination;

(4) Repair or replacement of leaking containers;

(5) Capping or other containment of contaminated soils or sludges where the capping or containment would not affect future groundwater remediation and where needed to reduce migration of substances identified within the definition of hazardous substances under section 101(14) of CERCLA, or pollutants or contaminants as defined by section 101(33) of CERCLA, into soil, groundwater, surface water, or air;

(6) Drainage or closing of man-made surface impoundments where needed to maintain the integrity of the structure;

(7) Confinement or perimeter protection using dikes, trenches, ditches, or diversions, where needed to reduce the spread of, or direct contact with, the contamination;

(8) Stabilization, but not expansion, of berms, dikes, impoundments, or caps where needed to maintain the integirty of the structures;

(9) Drainage controls (e.g., run-off or run-on diversion) where needed to reduce offsite migration of substances identified within the definition of hazardous substances under section 101(14) of CERCLA, or pollutants or contaminants as defined by section 101(33) of CERCLA, or to prevent precipitation or run-off from other sources from entering the release area from other areas;

(10) Segregation of wastes that react with one another to result in adverse environmental impacts;

(11) Use of chemicals and other materials to neutralize the pH of wastes;

(12) Use of chemicals and other materials to retard the spread of the release or to mitigate its effects, where the use of such chemicals would reduce the spread of, or direct contact with, the contamination;

(13) Installation and operation of gas ventilation systems in soil to remove methane or petroleum vapors without any toxic or radioactive co-contaminants, and where appropriate filtration or gas treatment is in place;

(14) Installation of fences, warning signs, or other security or site control precautions, where humans or animals have access to the release;

(15) Provision of an alternative water supply that would not create new water sources where necessary immediately to reduce exposure to contaminated household or industrial use water and continuing until such time as local authorities can satisfy the need for a permanent remedy; and

(16) Treatment (including incineration), recovery, storage, or disposal of wastes at existing facilities permitted for the type of waste resulting from the removal action, where needed to reduce the likelihood of human, animal, or food chain exposure.

2. Improvements to environmental control systems (e.g., changes to scrubbers in air quality control systems or ion-exchange devices and other filtration processes in water treatment systems) that reduce the amounts or concentrations of regulated substances in air emissions or water effluents, if (a) the improvements would be conducted within an existing building or structure; (b) any substance captured or produced thereby during subsequent operations of the environmental control systems would be recycled, released, or otherwise disposed of within existing permitted facilities; (c) for any such substance indentified within the definition of hazardous substances under section 101(14) of CERCLA that is collected or produced in increased quantity or was not previously collected or produced, there are applicable statutory or regulatory requirements or permit conditions for its disposal, release, or recycling; and (d) it is determined that such improvement would not threaten a violation of applicable statutory, regulatory, or permit requirements, including requirements of DOE Orders; would not require siting and construction or major expansion of waste disposal, recovery, or treatment facilities (including incinerators and facilities for treating wastewater, surface water, or groundwater); and would not adversely affect environmentally sensitive areas as defined in paragraph 4 below.

3. Site characterization and environmental monitoring, including siting, construction, or operation of characterization and monitoring devices, under CERCLA and RCRA, if the activities would not introduce or cause the inadvertent or uncontrolled movement of hazardous substances as defined in section 101(14) of CERCLA, pollutants or contaminants as defined in section 101(33) of CERCLA, or non-native organisms, and would not adversely affect environmentally sensitive areas as defined in paragraph 4 below. Activities covered include but are not limited to:

a. Geological and engineering surveys and mapping, including the establishment of survey marks;

b. Installation and operation of field instruments, such as stream-gauging stations or flow-measuring devices, telemetry systems, geochemical monitoring tools, geophysical exploration tools, and drilling of slim core holes;

c. Drilling of groundwater or vadose (unsaturated) zone sampling and monitoring wells;

d. Well logging;

e. Aquifer response testing;

f. Installation and operation of water-level recording devices in wells;

g. Installation of ambient air monitoring equipment;

h. Sampling and characterization of water, soil, rock and contaminants;

i. Sampling and characterization of water effluents, air emissions, or solid waste streams;

j. Installation of meteorological towers and associated activities, including assessment of potential wind energy resources; and

k. Sampling of flora or fauna.

4. For purposes of paragraphs 1 through 3 above, areas considered to be environmentally sensitive include:

a. Property (e.g., sites, buildings, structures, objects) of historic, archeological, or architectural significance, as officially designated by Federal, state, or local governments, including those eligible for listing on the National Register of Historic Places;

b. Potential habitat (including critical habitat) of Federally-listed endangered, threatened, proposed, or candidate

species or of state-listed endangered and threatened species;

c. Floodplains and wetlands;

d. Natural areas such as Federally- and state-designated wilderness areas, National Parks, National Natural Landmarks, Wild and Scenic Rivers, coastal zones, state and Federal wildlife refuges, and marine sanctuaries;

e. Prime agricultural lands; and

f. Special sources of water (such as Class I groundwater, sole-source aquifers, wellhead protection areas and other water sources that are vital in a region).

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federal register

Friday
September 7, 1990

Part IX

Federal Emergency Management Agency

Privacy Act of 1974; Revisions and Deletions of Systems of Records; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Revisions and Deletions of Systems of Records

AGENCY: Federal Emergency Management Agency.

ACTION: Revisions to and deletions of systems of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, and Office of Management and Budget Circular No. A-130, the Federal Emergency Management Agency (FEMA) has completed a review of its Privacy Act systems of records to identify minor revisions to several systems of records due to reorganizational changes and editorial changes which have occurred since the notices were last published; deletion of five systems of records; and proposed routine uses for four systems of records.

To the extent available, we have included specific form numbers for documents maintained within each system of records. We have also revised the retention and disposal section within each system of records to accurately reflect the retention and disposal schedules for particular records.

EFFECTIVE DATES: The deletion of the five system notices identified in the first paragraph under the supplementary information section are effective September 7, 1990. The proposed routine uses for the systems of records notices identified under Nos. 8, 10, 24 and 30, in the **SUPPLEMENTARY INFORMATION**, shall become effective October 9, 1990, without further notice, unless comments necessitate otherwise. Comments are invited regarding the proposed revisions for the systems of records identified under Nos. 8, 10, 24 and 30. All other changes to the systems of records notices contain editorial and administrative changes. These notices shall become effective September 7, 1990.

ADDRESSES: Address comments to the Federal Emergency Management Agency, Attn: Docket Clerk, Office of General Counsel, Room 840, 500 C Street, SW., Washington, DC 20472. Comments received will be available for public inspection at the above address from 9 a.m. to 3:30 p.m., Monday through Friday (except for legal holidays).

FOR FURTHER INFORMATION CONTACT: Linda M. Keener, FOIA/Privacy Specialist, at (202) 646-3840.

SUPPLEMENTARY INFORMATION: As a result of an Agencywide review of the current systems of record, it was found that five systems are no longer necessary and are being deleted. These systems are identified as: FEMA/NPP-1, Resources Interruption Monitoring System (previously published on January 5, 1987, 52 FR 339 and October 7, 1981, 46 FR 49748); FEMA/NPP-2, Scientific and Technical Information System (previously published on January 5, 1987, 52 FR 340 and January 2, 1985, 50 FR 174); FEMA/GC-2, FEMA Enforcement (Compliance) (previously published on January 5, 1987, 52 FR 333; May 13, 1985, 50 FR 20007; March 11, 1985, 50 FR 9714; December 13, 1984, 49 FR 48612; October 25, 1983, 48 FR 49376; and October 7, 1981, 46 FR 49742); FEMA/PER-3, Disaster Assistance Personnel Reservists Files (previously published on January 5, 1987, 52 FR 346 and October 7, 1981, 46 FR 49750); and FEMA/REG-2, Temporary Housing Files (previously published on January 5, 1987, 52 FR 348; May 13, 1985, 50 FR 20008; October 25, 1983, 48 FR 49376; and October 7, 1981, 46 FR 49749). The Office of General Counsel determined that the Disaster Assistance Employees meet the definition of federal employees under 5 U.S.C. 2105. Thus, they are covered by the government-wide systems of personnel records which are managed by the Office of Personnel Management.

None of the proposed changes in this notice is considered a substantial alteration of the systems. Rather, they include a more accurate description of the retention schedules; changes in the designation of systems managers and location of records; clarification of language to specific sections of some notices to provide a better understanding of what is to be conveyed by that particular section; the deletion of five system or records notices; the renumbering of some systems of records notices; and the addition or clarification of some routine uses in four system notices.

For the convenience of the reader, we are publishing all systems of records which contain revisions in their entirety. The following is a listing of the systems covered by this notice, including the former and current internal identifying numbers and titles, dates the system notices were previously published in the Federal Register and specific changes made to each system:

1. *FEMA/ADM-1, Office Files* (Previously designated as FEMA/ADM-1, Central Files and published on January 5, 1987, 52 FR 327; May 13, 1985, 50 FR 20007; October 25, 1983, 48 FR 49377; and October 7, 1981, 46 FR 49727). Editorial changes have been made to this system notice.

2. *FEMA/ADM-2, Office Services File System* (Previously published on January 5, 1987, 52 FR 327 and October 7, 1981, 46 FR 49730). Editorial changes have been made to this system notice.

3. *FEMA/ADM-3, Advisory Committee Files* (Previously published on January 5, 1987, 52 FR 328 and October 7, 1981, 46 FR 49729). Editorial changes have been made to this system notice.

4. *FEMA/EX-1, Biographies* (Previously published on January 5, 1987, 52 FR 329 and October 7, 1981, 46 FR 49744). Editorial changes have been made to this system notice.

5. *FEMA/EX-2, President's and Director's Award Nominees* (Previously designated FEMA/NETC-3, President's and Director's Award Nominees and published on January 5, 1987, 52 FR 338 and November 26, 1982, 47 FR 53492). Editorial changes have been made to reflect a transfer of responsibility for this system of records from the former Training and Fire Programs Directorate to the Office of Public and Intergovernmental Affairs, External Affairs Directorate.

6. *FEMA/FIA-1, Federal Crime Insurance Program* (Previously published on January 5, 1987, 52 FR 329; May 13, 1985, 50 FR 20007; February 11, 1985, 50 FR 5684; June 26, 1984, 49 FR 26144; October 25, 1983, 48 FR 49376; and October 7, 1981, 46 FR 49740. Editorial changes have been made to this system notice.

7. *FEMA/FIA-2, National Flood Insurance Application and Related Documents Files* (Previously published on August 9, 1988, 53 FR 29947; July 28, 1988, 53 FR 28437; January 5, 1987, 52 FR 330; May 13, 1985, 50 FR 20007; February 17, 1984, 49 FR 6168; October 25, 1983, 48 FR 49376; and November 26, 1982, 47 FR 53492. Editorial changes have been made to this system notice and mortgage information has been included in the categories of records portion of the notice. This type of data has always been collected except for the date of the mortgage which is being added.

8. *FEMA/GC-1, Claims (litigation)* (Previously published on January 5, 1987, 52 FR 331; May 13, 1985, 50 FR 20007; March 11, 1985, 50 FR 9713; December 13, 1984, 49 FR 48612; October 25, 1983, 48 FR 49376; and October 7, 1981, 46 FR 49741). General routine use No. 1 has been added to this system because all FEMA system of records should be covered by the law enforcement routine use provision. Other editorial changes have been made to this system.

9. *FEMA/GOVT-1, National Defense Executive Reserve System* (Previously published on February 3, 1987, 52 FR

3344). Editorial changes have been made to this system notice.

10. *FEMA/IG, General Investigative Files* (Previously published on October 25, 1983, 48 FR 49376, and October 7, 1981, 46 FR 49473. The routine uses section has been completely revised to conform with the recommendations made by the Council to the Inspector General Task Group. The routine use section has been revised in its entirety. Once the revised routine uses become effective, the prior routine uses will be deleted without further notice unless the revised routine uses necessitate further changes as a result of any comments received during the public comment period. Other editorial changes have been made to this system.

11. *FEMA/NETC–1, Student Application and Registration Records* (Previously published on January 5, 1987, 52 FR 336; May 13, 1985, 50 FR 20007; November 15, 1984, 49 FR 45257; November 26, 1982, 47 FR 53488; October 25, 1983, 48 FR 49376; and March 23, 1983, 48 FR 12133). Editorial changes have been made to this system notice.

12. *FEMA/NETC–2, Emergency Management Training Program Home Study Courses* (Previously published on January 5, 1987, 52 FR 337; March 23, 1983, 48 FR 12133; and November 26, 1982, 47 FR 53490). Editorial changes have been made to this system notice.

13. *FEMA/NETC–3, Records of Alleged Misconduct of Students Attending Training Courses at the National Emergency Training Center* (Previously designated FEMA/NETC–4, Records of Alleged Misconduct of Students Attending Training Courses at the National Emergency Training Center published on January 5, 1987, 52 FR 338 and August 30, 1985, 50 FR 35319). Editorial changes have been made to this system notice.

14. *FEMA/NETC–4, Associate Faculty Tracking System* (Previously designated FEMA/OT–4, Associate Faculty Tracking System published on February 6, 1990, 55 FR 4012). The internal designation of the system number has been changed as well as a deletion of a type of records from the category of records section.

15. *FEMA/NP–1, Emergency Assignment System* (Previously designated as FEMA/OP–1, Emergency Assignment System and published on January 5, 1987, 52 FR 343 and November 26, 1982, 47 FR 53486). Editorial changes have been made to this system notice.

16. *FEMA/NP–2, Key Personnel Central Locator List* (Previously designated as FEMA/OP–2, Key Personnel Central Locator List and published on January 5, 1987, 52 FR 344 and November 26, 1982, 47 FR 53486). Editorial changes have been made to this system notice.

17. *FEMA/OC–1, Travel and Transportation Accounting* (Previously designated as FEMA/OC–2, Travel and Transportation Accounting and published on January 5, 1987, 52 FR 342; May 13, 1985, 50 FR 20007; October 25, 1983, 48 FR 49376; and October 7, 1981, 46 FR 49728). Editorial changes have been made to this system notice.

18. *FEMA/OC–2, Claims Collection Files* (Previously designated as FEMA/OC–3, Claims Collection Files and published on January 5, 1987, 52 FR 343; May 13, 1985, 50 FR 20007; November 26, 1982, 47 FR 53487; October 25, 1983, 48 FR 49376; and March 23, 1983, 48 FR 12133). Editorial changes have been made to this system notice.

19. *FEMA/PER–1, Grievance Records* (Previously published on January 5, 1987, 52 FR 345 and November 26, 1982, 47 FR 53486). Editorial changes have been made to this system notice and the security classification section was changed from unclassified to limited access.

20. *FEMA/PER–2, Equal Employment Opportunity Complaints of Discrimination Files* (Previously published on January 5, 1987, 52 FR 345 and October 7, 1981, 46 FR 49737). Editorial changes have been made to the routine use section of this system to delete reference to parenthetical information which was previously included under routine use (b).

21. *FEMA/PER–3, Payroll and leave accounting* (Previously designated as FEMA/OC–1, Payroll and leave accounting and published on January 5, 1987, 52 FR 341; May 13, 1985, 50 FR 20007; October 25, 1983, 48 FR 49377; and October 7, 1981, 46 FR 49727). Due to a realignment, the payroll and leave accounting responsibilities were transferred from the Office of Comptroller to the Office of Personnel and Equal Opportunity. Also, the Agency has converted from using the Department of the Treasury payroll system to the Department of Agricultural payroll system. Accordingly editorial changes have been made to the system notice as well as the routine use section changed to reflect the Department of Agriculture rather than the Department of the Treasury.

22. *FEMA/REG–1, State and local Civil Preparedness Instructional Program* (Previously published on January 5, 1987, 52 FR 347 and October 7, 1981, 46 FR 49745). Editorial changes have been made to this system notice.

23. *FEMA/REG–2, Disaster Recovery Assistance Files.* On February 6, 1990, FEMA published a new system notice to consolidate the former FEMA/REG–2, Temporary Housing Files and FEMA/REG–3, Disaster Recovery Assistance Files into an existing but expanded system notice entitled, FEMA/REG–2, Disaster Recovery Assistance Files notice. This system became effective on April 9, 1990, 55 FR 4011.

24. *FEMA/SEC–1, Security Support System* (Previously designated as Security Management Information System published on February 3, 1987, 52 FR 349; November 26, 1982, 47 FR 53494; amended on November 21, 1983, 48 FR 52637 and September 10, 1984, 49 FR 35561). Editorial changes have been made to this system notice as well as a proposed new routine use to permit release of the name, social security number, FEMA point of contact, and time and length of visit to General Services Administration guards who are hired under a GSA contract for FEMA to confirm proper identification of individuals requiring access to FEMA Headquarters facility.

25. *FEMA/SLPS–1, Application for Enrollment in Architectural Engineering Professional Development Program* (Previously published on January 5, 1987, 52 FR 351 and November 26, 1982, 47 FR 53495). Editorial changes have been made to this system notice.

26. *FEMA/SLPS–2, Military Reserve Program* (Previously published on January 5, 1987, 52 FR 351 and October 7, 1981, 46 49753). Editorial changes have been made to this system notice.

27. *FEMA/SLPS–3, Radioactive Materials Inventory* (Previously published on January 5, 1987, 52 FR 352 and October 7, 1981, 46 FR 49754). Editorial changes have been made to this system notice.

28. *FEMA/SLPS–4, Maintenance and Calibration* (Previously published on January 5, 1987, 52 FR 353 and October 7, 1981, 46 FR 49755). Editorial changes have been made to this system notice.

29. *FEMA/SLPS–5, Radiation Exposure and Radioactive Materials; Radiation Committee Records* (Previously published on January 5, 1987, 52 FR 353 and October 7, 1981, 46 FR 49755). Editorial changes have been made to this system notice.

30. *FEMA/SLPS–6, Temporary and Permanent Personal and Real Property Acquisitions and Relocation Files* (Previously published on January 5, 1987, 52 FR 354; May 13, 1985, 50 FR 20008; October 18, 1984, 49 FR 40969; October 25, 1983, 48 FR 49378, and April 12, 1983, 48 FR 15710). Editorial changes have been made to this system notice. In addition, a specific routine use is being proposed to permit release of ownership information and legal description of

flooded property being proposed for purchase under Section 1362 program to the Department of Justice to issue preliminary and final title opinions. A notice of this use has been provided to all property applicants in a Privacy Act Statement included on FEMA Form 76-7, Individual Data for Acquisition of Flood-Damaged Structures" since 1981. Although we feel that this use would most likely fall within the purview of routine use No. 2 identified in Appendix A, we believe that for clarity a separate routine use should be established since consultation with the Department of Justice is necessary for all proposed acquisitions.

For the convenience of the reader, the systems of records affected by this notice are being printed in their entirety.

In addition to the systems of records printed in this notice, additional records are maintained by the Federal Emergency Management Agency but are covered by Government-wide system notices. Although we are not printing copies of these notices, the following is a listing of such systems:

EEOC/GOVT-1, Equal Employment Opportunity Complaint Records and Appeal Records (Published on April 30, 1982, 47 FR 18664).

GSA/GOVT-2, Employment under Commercial Activities Contracts (Published on February 10, 1983, 48 FR 6175).

GSA/GOVT-3, Travel Charge Card Program (Published on September 29, 1983, 48 FR 44656).

GSA/GOVT-4, Contracted Government Services Program (Published on May 15, 1985, 50 FR 20294 and revised on July 17, 1985, 50 FR 28988).

MSPB/GOVT-1, Appeal and Case Records (Published on April 27, 1990, 55 FR 17846).

OGE/GOVT-1, Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records (Published on February 22, 1990, 55 FR 6328).

OGE/GOVT-2, Confidential Statements of Employment and Financial Interests (Published on February 22, 1990, 55 FR 6328).

OPM/GOVT-1, General Personnel Records (Published on February 5, 1990, 55 FR 3838).

OPM/GOVT-2, Employee Performance File System Records (Published on February 5, 1990, 55 FR 3842).

OPM/GOVT-3, Records of Adverse Actions and Actions Based on Unacceptable performance (Published on February 5, 1990, 55 FR 3845).

OPM/GOVT-4, (Reserved).

OPM/GOVT-5, Recruiting, Examining and Placement Records. (Published on February 5, 1990, 55 FR 3847).

OPM/GOVT-6, Personnel Research and Test Validation Records (Published on February 5, 1990, 55 FR 3850).

OPM/GOVT-7, Applicant Race, Sex, National Origin, and Disability Status Records (Published on February 5, 1990, 55 FR 3852).

OPM/GOVT-8, (Reserved).

OPM/GOVT-9, Files on Position Classification Appeals, Job Grading Appeals, and Retained Grade or Pay Appeals (Published on February 5, 1990, 55 FR 3854).

OPM/GOVT-10, Employee Medical File System Records (Published on February 5, 1990, 55 FR 3855).

Dated: August 29, 1990.

George W. Watson,

Acting General Counsel, Office of General Counsel, Federal Emergency Management Agency.

FEMA/ADM-1

SYSTEM NAME:

Office Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION

A central file for correspondence through August 31, 1990, is maintained by the Office of Administrative Support, Federal Emergency Management Agency, Washington, DC 20472. After August 31, 1990, the individual program and staff offices at headquarters will maintain their own official records. Files are also maintained by the National Emergency Training Center and all Regional offices. Addresses for the Regional Offices are listed in Appendix AA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, including Congress, from whom an inquiry or request is received and from whom a reply is addressed. Transmittals for publications, etc., are not retained.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence applicable to the internal administration of the Agency; e.g., accounting, correspondence pertinent to the personnel program, budget, procurement, administrative services, etc., congressional correspondence, public affairs activities, correspondence concerning regional activities, equal opportunity, program analysis and evaluation, operations support (communications and computer services, operations center activities), Federal Insurance Administration, U.S. Fire Administration, training and education activities, activities concerning nationwide plans and preparedness for peacetime and wartime emergencies, hazard mitigation, research program relative to Agency missions, Federal disaster assistance program activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 50 U.S.C. App. 2253; E.O. 12127; E.O. 12148; and Reorganization Plan No. 3.

PURPOSE(S):

For the purpose of maintaining a record and background material concerning inquiries made to FEMA and FEMA responses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses may include any of the uses listed in Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Alphabetically by inquirer's name, except that responses to Congressional inquiries are filed separately.

SAFEGUARDS:

Paper records are maintained in locked containers and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered by General Records Schedule 23 and FEMA Schedule N1-311-86-1, 1-G-1. Office administrative files are destroyed when 2 years old or when no longer needed, whichever is sooner. Records containing substantive information relating to the official activities of high level officials are considered permanent and will be offered to the National Archives.

SYSTEM MANAGER(S) AND ADDRESS:

A central files for correspondence through August 31, 1990, is maintained by the Office of Administrative Support, Federal Emergency Management Agency, Washington, DC 20472. After August 31, 1990, the individual program and staff offices at Headquarters may

maintain their own official records. After August 31, 1990, requests for Headquarters and National Emergency Training Center records may be addressed to the FOIA/Privacy Specialist, Federal Emergency Management Agency, Washington, DC 20472. Addresses for the Regional Offices are listed in Appendix AA.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should contact the system manager identified above. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Requests should include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individuals should be able to provide some acceptable identification, that is, driver's license, employing organization's identification card, or other identification card.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

All records in the system consist of FEMA generated records according to a request or inquiry from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/ADM-2

SYSTEM NAME:

Office Services File System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Administrative Support, Federal Emergency Management Agency, Washington, DC 20472; National Emergency Training Center and all Regional offices. Addresses for the Regional Offices are listed in Appendix AA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of FEMA, headquarters and field, including full time permanent, part time, temporary and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

FEMA Form 61-14, Motor Vehicle Usage Records; Standard Form 91, accident report file; memoranda regarding car pools and parking pools; and telephone directories which contain no personal information but serve as a means of locating individuals during business hours. Authority for maintenance of the system: 5 U.S.C. 301; 50 U.S.C. App. 2253; 50 U.S.C. App. 2253; E.O. 12127; E.O. 12148; and Reorganization Plan No. 3.

PURPOSE(S):

For the in-house use of identifying FEMA employees authorized to operate Government vehicles; to record individuals and vehicles involved in accidents involving FEMA-owned or leased vehicles; to maintain a record of FEMA employees authorized official parking spaces; and to maintain telephone directories which contain no personal information but serve as a means of locating individuals during business hours.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses may include any of the uses listed in Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

By last name of employee or organizational element.

SAFEGUARDS:

Paper records are maintained in locked containers and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Telephone directories become obsolete when updated records are prepared. Obsolete records and directories are destroyed. Motor vehicle records are covered by General Records Schedule 10. Motor Vehicle Operating and Maintenance files are destroyed when 3 months old. Motor Vehicle Accidents files are destroyed 6 years after case is closed. Disposition of other correspondence not covered in this section shall be destroyed when 2 years old or in accordance with General Records Schedule 23.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administrative Support, Federal Emergency Management Agency, Washington, DC 20472; all Regional Directors of FEMA, addresses are listed in Appendix AA.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should contact the system manager identified above. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Requests should include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individuals should be able to provide some acceptable identification, that is, driver's license, employing organization's identification card, or other identification card.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above. The letter should state clearly and concisely what information is being contested the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6. Record source categories: All records are FEMA generated records based on data submitted by the employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/ADM-3

SYSTEM NAME:

Federal Advisory and Other Committee Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Administrative Support, Federal Emergency Management Agency, Washington, DC 20472; National Emergency Training Center, Federal Emergency Management Agency, 16825 South Seton Avenue,

Emmitsburg, Maryland 21727; and all Regional offices. Addresses for the Regional Offices are listed in Appendix AA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal government employees on FEMA internal committees and on interagency committees; architects and engineers and other persons who are appointed to the FEMA sponsored Federal advisory committees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Government employees—name, office address and name of employing agency; Nongovernment employees—biographical material including name of employer, title, address, legal voting residence, place and date of birth, marital status, military service, education, registration in professional societies work experience, record of performance, publications authored, membership on other boards or committees, professional awards, and other information which can be used to determine fitness of individual to sit on the committee, such as description of private associations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 92–463, Federal Advisory Committee Act, E.O. 12024, E.O. 12127 of March 31, 1979, E.O. 12148 of July 20, 1979, and Reorganization Plan No. 3 of 1978.

PURPOSE(S):

For the purpose of maintaining a list of members of the various Federal advisory committees, FEMA internal committees, and interagency committees in order to provide them with information on committee functions, meeting dates, agendas, and other purposes for managing the committee activities. To ensure that FEMA participation in private, nongovernmental associations, societies, etc., is limited only to the extent of FEMA interest therein; to assure preparation and submittal of certain input information that is needed for the reports required by laws and issuance cited above; and to provide a tool with which top management can assure that the terms of the regulations regarding the creation and use of committees are being complied with.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses may include any of the uses listed in Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

By name of the committee, society, or association; alphabetically by name of individual Federal advisory committee member.

SAFEGUARDS:

Paper records are maintained in locked containers and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleaned and trained.

RETENTION AND DISPOSAL:

Minutes of Federal advisory committee meetings and committee member files are covered by FEMA Schedule N1–311–86–1, 5–A and are permanent. Administrative files are maintained for 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administrative Support Federal Emergency Management Agency, Washington, DC 20472; all Regional Directors of FEMA, addresses are listed in Appendix AA.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should contact the system manager identified above. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Requests should include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individuals should be able to provide some acceptable identification, that is, driver's license, employing organization's identification card, or other identification card.

RECORD ACCESS PROCEDURE:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above. The letter should state clearly and concisely what information is being contested the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Biographical information submitted by government or nongovernmental individuals nominated for membership on Federal advisory committees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/EX–1

SYSTEM NAME:

Biographies.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of External Affairs, Public Affairs and Intergovernmental Affairs Division, Federal Emergency Management Agency, Washington, DC 20472; National Emergency Training Center, Federal Emergency Management Agency, Emmitsburg, Maryland 21727; and Regional Directors of FEMA, addresses are listed in Appendix AA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Key FEMA Headquarters and Regional staff, State and local Emergency Management Directors/Coordinators, members of the FEMA Advisory Board, and guest lecturers at the National Emergency Training Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Office of Public and Intergovernmental Affairs files contain biographies of key officials from FEMA, including Headquarters and Regional offices, state and local emergency management officials, key State and local emergency management officials and members of the FEMA Advisory Board; (b) Regional files contain biographies of key Regional officials and State and local Emergency Management Directors/Coordinators within regional geographical boundaries. Includes FEMA Form 70–16, Notice of Appointment of Emergency Management Directors/Coordinators; (c) National Emergency Training Center files contain biographies of guest lecturers and other key officials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; E.O. 12148; E.O. 12127, and Reorganization Plan No. 3 of 1978.

PURPOSE(S):

For the purpose of preparing speeches, correspondence and other public releases in connection with emergency management programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In response to requests from the media and any member of the public requesting biographical data on key FEMA officials, names and addresses of the State and local Emergency Management Directors/Coordinators, and through issuance of public releases. The biographies of guest lecturers are used as background in introducing the lecturers to audiences attending the particular event.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

(a) Key FEMA officials and guest lecturers at the National Emergency Training Center are filed alphabetically by name; (b) State and local Emergency Management Directors/Coordinators are filed alphabetically by State.

SAFEGUARDS:

Paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessbile only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered by General Records Schedule 14 and FEMA Schedule N1-311-86-1, 1C-1a. Biographies for FEMA officials, headquarters and regional offices retained in active file until end of calendar year after separation of employee, then retired Federal Records Center for permanent retention. The biographies of State and local Directors/Coordinators are retained in active file until end of the calendar year after termination, then destroyed. The biographies of guest lecturers are retained for purposes of the lecturer and if no longer needed for future lecturers, they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

For the biographies of key FEMA officials—Assistant Associate Director, Public and Intergovernmental Affairs Division, Office of External Affairs, Federal Emergency Management Agency, Washington, DC 20472; For State and local Emergency Management Directors/Coordinators—Regional Director for the specific State, addresses are listed in Appendix AA; For National Emergency Training Center files—Director, Office of Training, Federal Emergency Management Agency, National Emergency Training Center, 16825 Seton Avenue, Emmitsburg, Maryland 21727.

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the appropriate system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

The key officials on whom biographies are maintained and other knowledgeable sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/EX-2

SYSTEM NAME:

President's and Director's Award Nominees.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of External Affairs, Public Affairs and Intergovernmental Affairs Division, Federal Emergency Management Agency, Washington, DC 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals nominated to receive the President's Award for Outstanding Public Safety Service and individuals nominated to receive the Director's Award for Distinguished Public Safety Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of the candidate, his/her position and title, whether the nomination is for the President's or Director's Award, the public agency served, the locale where the candidate performs his/her duties, the name of the nominating official, a summary description of the outstanding contribution, distinguished service or extraordinary valor of the nominee, and the relevant duties relating thereto, and copies of any published factual accounts of the nominee's accomplishments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2214; E.O. 12127; E.O. 12148; and Reorganization Plan No. 3 of 1978.

PURPOSE(S):

For the purpose of selecting individuals who have been nominated to receive the President's Award for Outstanding Public Safety Service and the Director's Award for Distinguished Public Safety Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF AND THE PURPOSES OF SUCH USES:

(a) President's Award Nominees—Information about individuals nominated for the President's Award is provided to selected members of the public safety community, including but not limited to, fire safety and protection organizations, state fire marshals and firefighters, civil defense officers, and law enforcement, corrections or court officers in connection with the evaluation and selection of recipients. Information is also provided to the Department of Justice, and the Executive Office of the President; (b) Director's Award Nominees—Information is provided to selected members of the fire service and civil defense community, including but not limited to, fire safety and protection organizations, state fire marshals, firefighters and civil defense officials in connection with the evaluation and selection of recipients. When it appears that a nominee's accomplishments are in the area of law enforcement, nominations may be sent to the Department of Justice.

Additional routine uses may include Nos. 5 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed by file number and cross-referenced alphabetically by nominee's name.

SAFEGUARDS:

Paper records are retained in a locked container and/or room. All records are maintained in areas that are secured by building security personnel during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Pending approval of the Archivist.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Associate Director, Public and Intergovernmental Affairs Division, Office of External Affairs, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above. Contesting records procedure: Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Heads of Federal government departments and agencies, governors of states or territories, or chief executives of any general governmental unit within any state or territory.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/FIA-1

SYSTEM NAME:

Federal Crime Insurance Program.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Various offices of a servicing agent under contract to the Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual policyholders.

CATEGORIES OF RECORDS IN THE SYSTEM:

FEMA Form 81-11, Residential Crime Insurance Policy; FEMA Form 81-12, Application for Residential Crime Insurance Policy; FEMA Form 81-13, Commercial Crime Insurance Policy; FEMA Form 81-14, Application for Commercial Crime Insurance Policy; FEMA Form 81-41 Worksheet—Building; FEMA Form 81-41a Worksheet—Building (Continuation); FEMA Form 81-40 Worksheet—Contents/Personal Property; FEMA Form 81-46 Crime Insurance Sworn Statement and Proof of Loss; FEMA Form 81-51, Policy Change Request; FEMA Form 81-36, Abstract of Residential Policy Information; FEMA Form 81-37, Abstract of Commercial Policy Information. These records include such information as names of policyholder; addresses of insured premises; type of premises; amounts and types of insurance desired; annual premiums; claims information; record of claim payments; record of premium payments; agent's name and address; other insurance held by policyholder; inspection report or protective devices. This system contains the taxpayer's identification number (which may be the social security number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Urban Property Protection and Reinsurance Act of 1968; 12 U.S.C. 1749bbb, et seq.; E.O. 12127.

PURPOSE(S):

For the purpose of verifying coverage of Federal Crime Insurance, issuing policies, claims adjusting and billing procedures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the servicing company for the contract and insurance adjustment firms retained by the servicing company for billing, verification of coverage, claims adjusting and issuance of policies; to property loss reporting bureaus; to State Insurance Departments and insurance companies investigating fraud or potential fraud in connection with burglary or robbery claims; to State property insurance facilities, private sector property insurers; and insurance agents and brokers for the purpose of providing crime insurance to Federal crime insurance policyholders prior to and following the expiration of the Federal Crime Insurance Program.

Routine uses may include Nos. 1, 2, 3, 5 and 8 of Appendix A.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Tape/disc library and paper files.

RETRIEVABILITY:

By name of the policyholders, taxpayer's identification number (which may be the social security number) of policyholder or policy number.

SAFEGUARDS:

Personnel screenng, hardware and software computer security measures; paper records are maintained in locked containers and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Information is partly current and partly historical. Retention of records shall be for 6 years or until no longer needed. Disposition of records shall be in accordance with the FEMA Records Schedule N1-311-86-1, 2A12 and 2A13.

SYSTEM MANAGER(S) AND ADDRESS:

Federal Insurance Administrator, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should contact the system manager identified above. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Requests should include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing

organization's identification card, or other identification card.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Individual policyholders; police reports (for verification of claims data); servicing companies (for verification of claims data).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/FIA-2

SYSTEM NAME:

National Flood Insurance Application and Related Documents Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Various offices of a servicing agent under contract to the Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472. Copies of some of the files are also provided to the FEMA Regional offices when additional information is requested from their respective offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for individual flood insurance and individuals insured.

CATEGORIES OF RECORDS IN THE SYSTEM:

Flood insurance, policy issuances and administration records and claims adjustment records, including HUD Form 1650 and FEMA Form 81-64, Applications for Participation in the National Flood Insurance Program; FEMA Form 81-16, Flood Insurance Application; FEMA Form 81-18, Flood insurance General Change Endorsements; FEMA Form 81-23, Request for Policy Processing and Renewal Information; FEMA Form 81-17, Flood Insurance Cancellation/ Nullification Request Form; policy questionnaires; FEMA Form 81-67 Flood Insurance Preferred Risk Policy Application; FEMA Form 81-31, National Flood Insurance Program Elevation Certificate; FEMA Form 81-65, National Flood Insurance Program Floodproofing Certificate; FEMA Form 81-25 V Zone Risk Factor Rating Form; FEMA Form 81-40, National Flood Insurance Program Worksheet—Contents; FEMA Form 81-41, National Flood Insurance Program Worksheet—Building; FEMA Form 41a, National Flood Insurance Program Worksheet—Building (Continuation); FEMA Form 81-42, National Flood Insurance Proof of Loss; FEMA Form 81-43, National Flood Insurance Program Notice of Loss; FEMA Form 81-44, Statement as to full cost of repair or replacement under the replacement cost coverage, subject to the terms and conditions of the Standard Flood Insurance Policy; FEMA Form 81-45, Adjuster's Short Form Report; FEMA Form 81-57, National Flood Insurance Program Preliminary Report; FEMA Form 81-58, National Flood Insurance Program Final Report; FEMA Form 81-59, National Flood Insurance Program Narrative Report; and FEMA Form 81-63 National Flood Insurance Program Cause of Loss/ Subrogation Report. This system may also contain information regarding the name of the bank/lender, date of mortgage, address of bank/lender and if available, information on every loan placed on the property during the current owner's tenure. This system contains the taxpayer's identification number (which may be the social security number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, 42 U.S.C. 4001, et seq.; 5 U.S.C. 301, Reorganization Plan No. 3 of 1978, and E.O. 12127.

PURPOSE(S):

For the purpose of carrying out the National Flood Insurance Program and verifying nonduplication of benefits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To property loss reporting bureaus, State insurance departments, and insurance companies investigating fraud or potential fraud in connection with claims, subject to the approval of the Office of Inspector General, FEMA; to insurance agents, brokers, adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program; to Small Business Administration, the American Red Cross, the Farmers Home Administration, State and local government individual and family grant and assistance agencies, including but not limited to the State of Ohio Disaster Services Agency and the Johnstown, Pennsylvania Redevelopment Authority for determining eligibility for benefits and for verification of nonduplication of benefits following a flooding event or disaster; to Write-Your-Own companies as authorized in 44 CFR 62.23 to avoid duplication of benefits following a flooding event or disaster and for carrying out the purposes of the National Flood Insurance Program; to State and local government individual and family grant agencies so as to permit such agencies' to assess the degree of financial burdens toward residents such as States and local government might reasonably expect to assume in the event of a flooding disaster, and to further the flood insurance marketing activities of the National Flood Insurance Program; to State and local government individual and family grant and assistance agencies which furnish to the Federal Insurance Administration the names and addresses of policyholders for purposes consistent with the relocation projects of the Federal Insurance Administration and acquisition projects under the National Flood Insurance Program carried out pursuant to section 1362 of the National Flood Insurance Act of 1968, as amended, and to State and local government agencies who provide the names and addresses of policyholders and a brief general description of their plan for acquiring and relocating their flood prone properties for review by the Federal Insurance Administrator to ensure that their State and/or local government agency is engaged in flood plain management improved real property acquisitions and relocation projects consistent with the National Flood Insurance Program; and, upon the approval by the Federal Insurance Administrator, that the use is in furtherance of the flood plain management and hazard mitigation goals of the Agency; to State and local government agencies and municipalities to review National Flood Insurance Program policy and claim files to assist them in hazard mitigation and flood plain management activities and in monitoring compliance with the flood plain management measures duly adopted by the community; to State governments, federal agencies, and federal financial instrumentalities responsible for the supervision. approval, regulation or insuring of banks, savings and loan associations or similar institutions, all for carrying out the purpose of the National Flood Insurance Program; the property address, flood zone identifier, date of

policy issue, and value of policy, solely for the purpose of geocoding the flood insurance policy addresses, may be released to private companies engaged in or planning to engage in activities to market or assist in marketing the sale of flood insurance policies under the National Flood Insurance Program.

Routine uses may include Nos. 1, 5, 6, and 8 of Appendix A.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic Tape/disc/drum and paper files.

RETRIEVABILITY:

By name of the policyholders and policy number.

SAFEGUARDS:

Personnel screening, hardware and software computer security measures; paper records are maintained in locked containers and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Policy records are kept as long as insurance is desired and premiums paid, and for an appropriate time thereafter and claim records are kept for 6 years and 3 months after final action, unless litigation exists. Disposition of records shall be in accordance with FEMA Records Schedule N1–311–86–1, 2A12 and 2A13.

SYSTEM MANAGER(S) AND ADDRESS:

Federal Insurance Administrator, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should contact the system manager identified above. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Requests should include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individuals should be able to provide some acceptable identification, that is, driver's license, employing organization's identification card, or other identification card.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Individuals who apply for flood insurance under the National Flood Insurance Program and individuals who are insured under the program.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/GC–1

SYSTEM NAME:

Claims (litigation).

SECURITY CLASSIFICATION:

Limited Access. Certain records or information in this system may be provided security safeguards equivalent to the protection of Top Secret classified information.

SYSTEM LOCATION:

Office of General Counsel, Federal Emergency Management Agency, Washington, DC 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual, whether a FEMA employee or non-FEMA employee, who asserts a remedy from FEMA for some alleged injury to said individual or property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain claims, complaints or documents or any of these means by which an individual asserts a remedy from FEMA for some alleged injury to said individual or property; the data and documents submitted in support of the claims; the data and documents obtained in making a decision or determination on such claims, including any appeals and any other relevant materials; including litigation file if such develops.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 31 U.S.C. 240 et seq.; E.O. 12127; E.O. 12148; Reorganization Plan No. 3 of 1978; 28 U.S.C. 2671 et seq.; and any specific authority depending on the nature of the claim.

PURPOSE(S):

For the purpose of processing claims and determining the validity of the claim.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To those former FEMA employees, former servicing company employees, contractors, subcontractors, or any expert whose opinion is sought in connection with the processing, investigation, approval or denial of any claim(s) or in the prosecution or defense of litigation or preparation for litigation before a Court or a proceeding before an adjudicative body before which FEMA is authorized to appear; to other investigative or similar authorities responsible for investigating or making recommendations on complaints or claims, whether or not a part of FEMA or some other agency; to decisionmaking authorities outside of FEMA when required by law, regulation or order; to the Department of Justice, private attorney(s) handling or considering handling a ratified subrogation action or one that may be ratified, and/or a Court or adjudicative body in the event a proceeding before it involves (a) The Federal Emergency Management Agency (FEMA), any component of FEMA, or any employee of FEMA in his or her official capacity; (b) any employee of FEMA in his or her individual capacity where the Department of Justice has agreed to represent such employee; (c) the United States where FEMA determines that the claim, if successful, is likely to affect it, its operations, or any of its components; or (d) an insured or former insured of FEMA or any of the programs which FEMA administers. FEMA may disclose such records as it deems relevant or necessary to the Department of Justice, private attorney(s) handling or considering handling a ratified subrogation action or one that may be ratified, and/or a Court or adjudicative body when it has determined that any of the above-referenced has an interest in the litigation or the proceeding and such records are determined by FEMA to be arguably relevant thereto and such disclosure is compatible with the

purpose for which the records are collected.

Additional routine uses may include Nos. 1, 2, 3, 5, 6 and 8 of Appendix A.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

Filed alphabetically by name within general subject matter files

SAFEGUARDS:

Paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained. To the extent that this system includes records or information which is classified under an existing Executive Order, such records or information would be provide security safeguards equivalent to the protection of Top Secret classified information and access would only be provided on a verified need-to-know basis.

RETENTION AND DISPOSAL:

Files are retained for 10 years after final decision and then destroyed. Disposition of records shall be in accordance with FEMA Records Schedule N1–311–86–1, 1F2.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURE:

When litigation occurs, information from other systems of records may be incorporated into the case file. In certain instances, the incorporated information may be material which the Privacy Act, at 5 U.S.C. 552a(k) (1), (2), and (5), permits an agency to exempt from certain provisions of the Act. To the extent that such exempt material is incorporated into the litigation file, the Director, Federal Emergency Management Agency, has determined that the material as it appears in this system should be exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I) and (f), of the Privacy Act, 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k) (1), (2), and (5). To the extent that this system of records is not subject to exemption, it is subject to notification, access and contesting procedures. A determination as to the applicability of an exemption as to a specific record shall be made at the time a request for notification, access, or contesting is received. Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Claim or similar documents with supporting evidence submitted by claimant; Government employees; members of the public and witnesses and informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

When litigation occurs, information from other systems of records may be incorporated into the case file. In certain instances, the incorporated information may be material which the Privacy Act, at 5 U.S.C. 552a(k) (1), (2), and (5), permits an agency to exempt from certain provisions of the Act. To the extent that such exempt material is incorporated into the litigation file, the Director, Federal Emergency Management Agency, has determined that the material as it appears in this system should be exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I) and (f), of the Privacy Act, 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k) (1), (2), and (5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in 44 CFR 6.87. The Office of General Counsel, pursuant to 5 U.S.C. 552a(d)(5), reserves the right to refuse access to information compiled in reasonable anticipation of a civil action proceeding.

FEMA/GOVT–1

SYSTEM NAME:

National Defense Executive Reserve System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records may be maintained in the personnel office, emergency preparedness unit, or other designated offices located at the local installation of the Department or Agency which currently employs the individual.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and incumbents of NDER assignments.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains FEMA Form 85–3, National Defense Executive Reserve Qualifications Statement, which includes such items as name, date of birth, social security number, and other personnel and administrative records, skills inventory, training data, and other related records necessary to coordinate and administer the NDER program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Defense Production Act of 1950, E.O. 11179 dated September 22, 1964, as amended by E.O. 12148 dated July 20, 1979.

PURPOSE(S):

For the purpose of establishing units of the NDER in Federal departments and agencies in accordance with E.O. 11179, as amended by E.O. 12148. Individuals voluntarily apply for assignments but would not be considered government employees to perform emergency duties unless the President of the United States declared a mobilization. Assignments are made in 3 year increments and may either be redesignated or terminated. Individuals may at any time request voluntary termination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) Names and addresses may be made available to the Association of the National Defense Executive Reserve and the National Defense Executive Reserve Conference Association to facilitate training and relevant information dissemination efforts for reservists in the NDER program; (b) to the appropriate agency whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation or potential

violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or issued pursuant thereto; to a Federal, State, or local agency maintaining civil, criminal, regulatory, licensing or other enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (c) to the National Archives and Records Administration during records management inspections conducted under authority of 44 U.S.C. 2904 and 2906; (d) to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained; (e) to another Federal agency, to a court, or a party in litigation before a court or in administrative proceeding being conducted by a Federal agency, either when the government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena; and (f) to disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Records may be stored in file folders, file cards, on microfiche, and/or automated record systems.

RETRIEVABILITY:

By name, personal data, skills or agency.

SAFEGUARDS:

Records are stored in locked file cabinets or locked rooms. Automated records are protected by restricted access procedures and audit trails. Access to records is strictly limited to those personnel whose official duties require access and who are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Records are covered by General Records Schedule 18 and are retained for 5 years after termination from NDER Program. System manager(s) and address: Associate Director, National Preparedness Directorate, Federal Emergency Management Agency, Washington, DC 20472, will maintain a computerized record of all applications and assignments of NDER reservists for the Federal government as well as the personnel files for all individuals assigned to the Federal Emergency Management Agency. The Departments or Agencies will maintain their own personnel records on those individuals assigned to their respective Department or Agency.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should submit their inquiries to: (a) NDER applicants/assignees to FEMA Headquarters—Federal Emergency Management Agency, Associate Director, National Preparedness Directorate, Washington, DC 20472; (b) NDER applicants/assignees to a FEMA Regional Office—Federal Emergency Management Agency, appropriate Regional Director as identified in Appendix AA to FEMA systems of records notices; (c) NDER applicants/assignees to Federal departments and/or agencies other than FEMA—contact the agency personnel, emergency preparedness unit, or Privacy Act Officer to determine location of records within the department/agency. Individuals should include their full name, date of birth, social security number, current address, and type of assignment/agency they applied with to be an NDER reservists.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

Individuals applying to or assigned to Federal agencies other than FEMA should consult the appropriate department's/agency's Privacy Act Regulations which can be found in that department's/agency's Code of Federal Regulations or Federal Register notice.

RECORD SOURCE CATEGORIES:

The individuals to whom the record pertains. Prior to being designated as an NDER reservist, the applicant must successfully complete a background investigation conducted by the Office of Personnel Management which may include reference checks of prior employers, educational institutions, police departments, neighborhoods, and present and past friends and acquaintances.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/IG-1

SYSTEM NAME:

General Investigative Files.

SECURITY CLASSIFICATION:

Limited Access. Certain records or information in this system may be provided security safeguards equivalent to the protection of Top Secret classified information.

SYSTEM LOCATION:

Office of Inspector General, Federal Emergency Management Agency, Washington, DC 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual suspected of violating any criminal, civil, regulatory, licensing, or other enforcement laws, whether Federal, State, local or foreign; witnesses, employees, grantees, and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative reports and materials pertaining to allegations of fraud, waste, abuse, mismanagement, violations of law or misconduct and irregularities by individuals covered by the system, individuals subpoenaed in connection with investigations and listing of subpoenaed records; the subject records may contain any identifying or other relevant information on subject individuals which might relate to possible violations of criminal, civil, regulatory, licensing, or other enforcement laws, whether Federal, State, local or foreign.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, 5 U.S.C. app. I, sections, 1–12; E.O. 12127; E.O. 12148; Reorganization Plan No. 3 of 1978.

PURPOSE(S):

For the purpose of preventing and detecting fraud abuse, conducting and supervising audits and investigations relating to programs and operations, informing the Head of the establishment about problems and deficiencies relating to programs and administration and suggesting corrective action.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) Referral to Federal, State, territorial, local, foreign, investigative and/or prosecutive authorities. A record from any of FEMA's systems of records, which indicates either by itself or in combination with other information within FEMA's possession, a violation or potential violation of law, whether criminal, civil or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the systems of records may be referred to the appropriate agency, whether Federal, State, territorial, local or foreign, charged with responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued thereto.

(b) Referral to suspension/debarment authorities, internal to the agency. A record from any of FEMA's systems of records may be disclosed, as a routine use, to any Federal agency responsible for considering suspension/debarment actions where such records would be germane to a determination of the propriety/necessity for such an action.

(c) Referral to Federal, State, local and professional licensing boards. A record from any of FEMA's systems of records may be disclosed, as a routine use, to any governmental, or professional, licensing authority when such record reflects on the qualifications, either moral, educational or vocational of an individual seeking to be licensed.

(d) Disclosure to contractor, grantee or other direct recipient of Federal funds to allow such entity to effect corrective action in FEMA's best interest. A record from any of FEMA's systems of records may be disclosed, as a routine use, to any direct recipient of Federal funds where such record reflects serious inadequacies with a recipient's personnel and disclosure of the record is for purposes of permitting a recipient to take corrective action beneficial to the Government.

(e) Disclosure to any source, either private or governmental, to the extent necessary to solicit information relevant to an investigation or audit. A record from any of FEMA's systems of records may be disclosed, as a routine use, to any source, either private or governmental, to the extent necessary to secure from such source information relevant to and sought in furtherance of a legitimate investigation or audit.

(f) Disclosure of domestic, foreign or international governmental agencies considering personnel or other internal actions. Release so that receiving agency may effect necessary action. A record from any of FEMA's systems of records may be disclosed, as a routine use, to a Federal, State, local, foreign or international agency, in connection with such entity's assignment, hiring or retention of an individual, issuance of a security clearance, reporting of an investigation of an individual, letting of a contract or issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to such agency's decision on the matter.

(g) Disclosure to Office of Government Ethics. A record from any FEMA system of records may be disclosed, as a routine use, to the Office of Government Ethics for any purpose consistent with that office's mission, including the compilation of statistical data.

(h) Disclosure to the GSBCA, GAO or any other tribunal hearing a contractor protest. A record from any FEMA system of records may be disclosed, as a routine use, to the United States General Accounting Office and to the General Services Administration Board of Contract Appeals in bid protest cases involving an agency procurement.

(i) Disclosure to Congress in Semiannual report. A record from any FEMA system of records may be disclosed, as a routine use, to Congress through incorporation in the statutorily mandated IG semiannual report.

(j) Disclosure to domestic, foreign or international governmental law enforcement agency in order that releasing agency may obtain relevant to a decision of such releasing agency. A record from any FEMA system of records may be disclosed, as a routine use, to a domestic, foreign or international governmental agency maintaining civil, criminal or other relevant enforcement information, or other pertinent information, in order to obtain information relevant to an agency decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(k) Disclosure to Department of Justice regarding FOIA advice. A record from any FEMA system of records may be disclosed, as a routine use, to the U.S. Department of Justice in order to obtain that department's advice regarding FEMA's disclosure obligations under the Freedom of Information Act.

(l) Disclosure to OMB regarding Privacy Act counsel. A record from any FEMA system of records may be disclosed, as a routine use, to the Office of Management and Budget in order to obtain that office's advice regarding FEMA's obligations under the Privacy Act.

(m) Disclosure to a Member of Congress making a request at the behest of a party protected under the Privacy Act. A record from any FEMA system of records may be disclosed, as a routine use, to a Member of Congress who submits an inquiry on behalf of an individual when the Member of Congress informs the appropriate FEMA official that the individual to whom the record pertains has authorized the Member of Congress to have access. In such cases, the Member of Congress has no greater right to the record than does the individual.

(n) Disclosure to Federal agency pursuant to the receipt of a valid subpoena. A record from any FEMA system of records may be disclosed, as a routine use, to a Federal agency which has the authority to subpoena other Federal agencies records and which has issued a facially valid subpoena for the record.

(o) Disclosure to Treasury and DOJ pursuant to an ex parte court order to obtain taxpayer information from the IRS. A record from any FEMA system of records may be disclosed, as a routine use, to the Department of Treasury and the Department of Justice when FEMA is seeking an ex parte court order to obtain taxpayer information from the IRS.

(p) Disclosure to debt collection contractors for purposes of delinquent debt collection. A record from any FEMA system of records may be disclosed, as a routine use, to debt collection contractors for the purpose of collecting delinquent debts as authorized by the Debt Collection Act of 1982, 31 U.S.C. 3718.

(q) Disclosure to FEMA counsel and the administrative hearing tribunal and counsel to the adverse party in a Program Fraud Civil Remedies Act litigation. A record from any FEMA system of records may be disclosed, as a routine use, to FEMA personnel responsible for bringing Program Civil Remedies Act litigation, to the persons constituting the tribunal hearing such litigation or any appeals therefrom and to counsel for the defendant party in any such litigation.

(r) Disclosure to any court or during the course of any litigation to which FEMA is a party or has an interest. A record may be disclosed in a proceeding before a court or adjudicative body before which FEMA is authorized to appear, or in the course of settlement negotiations with opposing counsel, when FEMA, or any component thereof, or any employee of FEMA in his or her

official capacity; or any employee of FEMA in his or her individual capacity, where FEMA has agreed to represent the employer; or the United States, where FEMA determines that litigation is likely to affect FEMA or any of its components—is a party to litigation or has an interest in such litigation, and FEMA determines that the use of such records is relevant and necessary to the litigation; provided, however, that in each case FEMA determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

(s) Disclosure to FEMA's legal representation, to include the Department of Justice and other outside counsel, where FEMA is a party in litigation or has an interest in litigation. A record may be disclosed to the Department of Justice when FEMA, or any of its components thereof; or any employee of FEMA in his or her official capacity; or any employee of FEMA in his or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or the United States, where FEMA determines that litigation is likely to affect FEMA or any of its components—is a party to litigation or has an interest in such litigation, and FEMA determines that the use of such records by the Department of Justice is relevant and necessary to the litigation; provided, however, that in each case, FEMA determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

(t) Disclosure to State Insurance Departments and Insurance Companies. A record may be disclosed to State Insurance Departments and insurance companies and/or their agents investigating fraud or potential fraud in connection with burglary, robbery or flood claims.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, index cards, and in data processing storage media.

RETRIEVABILITY:

By name, file number, and subpoena number.

SAFEGUARDS:

Paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained. To the extent that this system includes records or information which is classified under an existing Executive Order, such records or information would be provided security safeguards equivalent to the protection of Top Secret classified information and access would only be provided on a verified need-to-know basis.

RETENTION AND DISPOSAL:

Records are covered by General Records Schedule 22. Investigative files containing information or allegations which are of an investigative nature but do not relate to a specific investigation are destroyed when 5 years old. All other investigative case files are placed in inactive file when case is closed. Cut off inactive file at end of fiscal year. Destroy 10 years after cutoff date. Index references to investigative files are destroyed when superseded or obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURE:

During an investigation, information from other systems of records may be incorporated into the case file. In certain instances, the incorporated information may be material which the Privacy Act, at 5 U.S.C. 552a(j)(2), (k)(1), (2), and (5), permits an agency to exempt from certain provisions of the Act. To the extent that such exempt material is incorporated into the investigative file, the Director, Federal Emergency Management Agency, has determined that the material as it appears in this system should be exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I) and (f), of the Privacy Act, 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (2), and (5). To the extent that this system of records is not subject to exemption, it is subject to notification, access and contesting procedures. A determination as to the applicability of an exemption as to a specific record shall be made at the time a request for notification, access, or contesting is received. Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

RECORD ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURES:

Same as notification procedure above. The letter should clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

(1) Federal, State, local or foreign government agencies concerned with the administration of criminal justice and non-law enforcement agencies both public and private; (2) Members of the public; (3) Government employees; (4) Published material; (5) Witnesses and informants. Systems exempted from certain provisions of the act: During an investigation, information from other systems of records may be incorporated into the case file. In certain instances, the incorporated information may be material which the Privacy Act, at 5 U.S.C. 552a(j)(2), (k) (1), (2), and (5), permits an agency to exempt from certain provisions of the Act. To the extent that such exempt material is incorporated into the investigative file, the Director, Federal Emergency Management Agency, has determined that the material as it appears in this system should be exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I) and (f), of the Privacy Act, 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(j)(2), (k) (1), (2), and (5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in 44 CFR 6.87.

FEMA/NETC-1

SYSTEM NAME:

Student Application and Registration Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

National Emergency Training Center, Federal Emergency Management Agency, Emmitsburg, Maryland 21727.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who apply for and complete resident and field emergency management training conducted under the auspices of the National Emergency Training Center. This system includes individuals who apply for and complete

courses for the National Fire Academy and Emergency Management Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include student application form, FEMA Form 75–5 containing name, address, educational level, social security number, ethnic/racial origin, emergency management courses taken and where, emergency management organization and program affiliation, emergency management title, emergency management telephone number and length of emergency management service, employer, business title and business telephone number, individual training records; individual and business file for National Emergency Training Center Catalogs, Information Bulletins, etc.; Career Development directory; Student Expense files, completed Grant-in-aid Forms; State recommendations, attendance and progress reports, student locators, and related academic documents. Authority for maintenance of the system: Pub. L. 93–498, Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2206; 44 U.S.C. 3101; Federal Civil Defense Act of 1950, 50 U.S.C. App. 2253, 2281; 5 U.S.C. 301; Pub. L. 93–288, the Disaster Relief Act of 1974 as amended; E.O. 12127; E.O. 12148; and Reorganization Plan No. 3 of 1978.

PURPOSE(S):

For the purpose of determining eligibility and effectiveness of National Emergency Training Center courses; to maintain necessary student records; to supply students with information of courses, credits and grades (if any), to supply the Registrar with record of student enrollment in National Emergency Training Center courses by geographical location to determine who has or has not been trained, to assess use of course material in the field, and to assess the impact of course material on the community. Disclosure to consumer reporting agencies:

DISCLOSURES PURSUANT TO 5 U.S.C. 552a(b)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF AND THE PURPOSES OF SUCH USES:

To State and local jurisdictions to maintain up-to-date statistics of National Emergency Training Center graduates completing courses within their respective jurisdiction. Information relating to participation of courses in the National Fire Academy may be disclosed to Members of the Board of Visitors for the purpose of evaluating the participants of courses.

Additional routine uses may include Nos. 2, 3, 5 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and computerized records.

RETRIEVABILITY:

Academic records are filed alphabetically by course title; student expense files are filed alphabetically by course and fiscal year.

SAFEGUARDS:

Personnel screening, hardware and software computer security measures. Paper records are retained in a locked container and/or room. All records are maintained in areas that are secured by building security personnel during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered by FEMA Records Schedule N1–311–88–2. Applications and registrations records accepted for admission are held until the end of the fiscal year. Inactive files are destroyed after 40 years. Students not accepted for admission are cut off at the end of the fiscal year and destroyed one year after cut off. Student stipend agreements are destroyed after 6 years and 3 months.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Training, Federal Emergency Management Agency, National Emergency Management Training Center, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Directly from the individual's application and academic records, educational institutions, applicant's employer, and instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/NETC–2

SYSTEM NAME:

Emergency Management Training Program Home Study Courses.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

National Emergency Training Center, Federal Emergency Management Agency, Emmitsburg, Maryland 21727. Answer sheets are provided to FEMA's Home Study Office to establish a printout of name, address, social security number, pass/fail indicator for each course, and date of completion of each course or date of disenrollment. The computer printouts are maintained by each Regional office, addresses are listed in Appendix A and the Emergency Management Institute.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any citizen who desires to further his/her knowledge of emergency management is eligible for these home study courses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include FEMA Form 95–23, student application form; group enrollment forms; group completion forms; computer printouts indicating home study entry, progress, and completion, and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 50 U.S.C. App. 2253, 2281; E.O. 9397.

PURPOSE(S):

For the purpose of improving emergency management practices throughout the United States. The Home Study Program is one of five channels FEMA uses to deploy training to the

general public and to emergency management audiences.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF AND THE PURPOSES OF SUCH USES:

Applications, answer sheets and/or computer printouts are disclosed to the FEMA Home Study Office to enter application data into home study program, to release home study program materials to applicants, and to forward certificates to applicants who successfully complete a course; to FEMA Regional offices and State Emergency Management offices to assess home study progress and completion and to schedule more advanced training for students within their jurisdiction who have completed basic emergency management instruction through home study courses. Additional routine uses may include Nos. 2, 3, 5 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and automated files on hard disks.

RETRIEVABILITY:

By name, address and social security number.

SAFEGUARDS:

Personnel screening, hardware and software computer security measures. Paper records are retained in a locked container and/or room. All records are maintained in areas that are secured by building security personnel during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Home study records at National Emergency Training Center are covered by General Records Schedule 1 and destroyed 5 years after completion of the courses. The computer printouts are destroyed when obsolete, superseded or no longer necessary.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Training, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Application forms completed and submitted by applicants for FEMA Home Studies courses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/NETC-3

SYSTEM NAME:

Records of Alleged Misconduct of Students Attending Training Courses at the National Emergency Training Center.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

National Emergency Training Center, Federal Emergency Management Agency, Emmitsburg, Maryland 21727.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students attending training courses at the National Emergency Training Center who have been charged with alleged misconduct or found guilty of misconduct.

CATEGORIES OF RECORDS IN THE SYSTEM:

File may include statements from the student charged with alleged misconduct and witnesses; Security reports from Security personnel assigned to the National Emergency Training Center; police reports describing the alleged incident; a copy of student application records, FEMA Form 75-5, which contains the name, address, educational level, social security number, pre-requisite courses taken and where, organization and program affiliation, position title and length of service, business and residence telephone numbers, date, course title and location; student stipend reimbursement files; State recommendations; and attendance and progress reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101 50 U.S.C. App. 2253, 2281; E.O. 12127; E.O. 12148; and Reorganization Plan No. 3 of 1978.

PURPOSE(S):

For the purpose of evaluating the alleged misconduct to make an administrative decision as to whether the action warrants dismissal from participation in the training course at the National Emergency Training Center. Upon admission to the National Emergency Training Center, students are apprised that if they are sent home as a result of misconduct, they may not attend future sessions for one (1) fiscal year following the current fiscal year in which the incident occurred.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF AND THE PURPOSES OF SUCH USES:

A letter notifying the student's employer of the student's dismissal for reasons of misconduct is sent by the National Emergency Training Center. Upon written request by the student's employer, information from and/or copies of the statements from the student sent home as a result of misconduct and witnesses, police reports, and security reports from security personnel assigned to the National Emergency Training Center may be made available to the student's employer for the purpose of determining if disciplinary action is appropriate by the student's employing organization.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By name or social security number.

SAFEGUARDS:

Paper records are retained in a locked container and/or room. All records are maintained in areas that are secured by building security personnel during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered by General Records Schedule 18 and are destroyed when 2 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Training, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Directly from the students, witnesses, State and local police departments, and derived from student application and academic records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/NETC-4

SYSTEM NAME:

Associate Faculty Tracking System

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

Records are stored at the Federal Emergency Management Agency, Office of Training, National Emergency Training Center, Emmitsburg, MD 21727.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who provide instruction in the delivery of Office of Training resident and field courses. Categories of records in the system: Individuals name; home and/or business addresses and telephone numbers; taxpayer identification number; title of courses taught; dates and location of courses; professional degrees; area(s) of expertise; cost data; and evaluations of courses and instructors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Civil Defense Act of 1950, as amended, 50 U.S.C. App. 2251 *et seq*; Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. App. 5121 *et seq*; National Security Act of 1947, 50 U.S.C. App. 404; Defense Production Act of 1950, 50 U.S.C. App. 2061 *et seq*; National Flood Insurance Act of 1968, as amended; Flood Disaster Protection Act, as amended, 42 U.S.C. App. 4001 *et seq*; and Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. 7701, *et seq*; Federal Fire Prevention and Control Act of 1974, 15 U.S.C. App. 2201 *et. seq*; 5 U.S.C. 301 and 3108; E.O. 1212 and Reorganization Plan No. 3 of 1978; Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9615 *et seq* (CERCLA), as further amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986, P.L. 99-499; and Emergency Planning and Community Right to Know Act of 1986, as amended, 42 U.S.C. 11001 *et seq* (SARA Title III).

PURPOSE(S):

To provide a capability to track associate faculty data to facilitate the selection of instructors and maintenance of records. The Office of Training staff may access the system to add records for new instructors and/or course offerings, update records for existing instructors, generate on-screen queries and hard copy reports to facilitate the selection of instructors based on factors such as area of expertise or previous evaluations, and obtain cost information in support of budget requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses may include Nos. 1, 2, 3, 5 and 8 of Appendix A.

DISCLOSURES PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Stand-alone personal computers which consist of hard drive with floppy backup and network use consists of hard drive and magnetic storage media as backup as well as hard copy procurement documentation.

RETRIEVABILITY:

Menu-driven system capable of retrieving data based on a variety of sorting features. Generally the records will be retrieved by one of the following: name, taxpayer identification number, area(s) of expertise, course and/or course code.

SAFEGUARDS:

The system is accessible by password into an established network capability or on a designated stand-alone computer with limited access and data transmission via modem. Hard copy records are maintained in areas that are secured by building guards during nonbusiness hours.

RETENTION AND DISPOSAL:

Records are updated and are destroyed when no longer needed in accordance with General Records Schedule 3c. System manager(s) and address: Director, Office of Training, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should contact the system manager identified above. Written request should be clearly marked "Privacy Act Request" on the envelope and letter. Requests should include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individuals should be able to provide some acceptable identification, that is, driver's license, employing organization's identification card, or other identification card.

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

Information submitted directly by the subject individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/NP-1

SYSTEM NAME:

Emergency Assignment System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

National Preparedness Directorate, Federal Emergency Management Agency, Washington, DC 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Emergency assignees to the FEMA Special Facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel data, social security number, personal data, skills inventory, and other related information for the purpose of in-house official use, based upon a need-to-know requirement, to assist officials charged with emergency responsibilities in the assignment and coordination of activities in the Office of Facilities Management.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12148, July 20, 1979.

PURPOSE(S):

To assist officials charged with emergency responsibilities in the assignment and coordination of activities in the Office of Facilities Management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses may include Nos. 1, 2, 3, 5 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Mag-tape, drum, disc and paper.

RETRIEVABILITY:

By name, personal characteristics or skills, badge number, and agency.

SAFEGUARDS:

Personnel screening hardware and software computer security measures; paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Retention of records shall be for duration of assignment. Disposition of records shall be in accordance with the FEMA Records Schedule N1-311-86-1, 5F3.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, National Preparedness Directorate, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

The individuals to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/NP-2

SYSTEM NAME:

Key Personnel Central Locator List.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

National Preparedness Directorate, Federal Emergency Management Agency, Washington, DC 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FEMA key Personnel, Associate Directorate staffs, Emergency Team members and individuals who may be required to respond to natural or technological emergencies (i.e., Federal and military agencies, etc.).

CATEGORIES OF RECORDS IN THE SYSTEM:

System consists of "Cardex" software and contains office and home telephone numbers, paper numbers and secure phone numbers as applicable. Access to the file is limited to protect the home telephone numbers of personnel in the files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12148, July 20, 1979.

PURPOSE(S):

For the purpose of locating selected key FEMA personnel in the event of a national disaster or civil emergency. In the event of a national disaster or civil emergency which requires action by FEMA, the list will be referred to in order to locate selected key officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To enable the Emergency Action Staff to forward calls from key staff to members of their staffs, other key staff members or the Director's staff. To provide telephone alerting during notification stages in response to emergencies or exercises. To make notifications to program officers in response to Presidential declarations as required.

Additional routine uses may include Nos. 5 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are destroyed in accordance with FEMA Records and Schedule N1-311-86-1, 5F3.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, National Preparedness Directorate, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

The individuals to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/OC-1

SYSTEM NAME:

Travel and Transportation Accounting.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Comptroller, Federal Emergency Management Agency, Washington, DC 20472, and all FEMA Regional offices, addresses are listed in Appendix AA. Bi-weekly payroll records are also maintained at classified location and relocation facilities under the FEMA Vital Operating Records Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All FEMA employees, headquarters and field, including full-time permanent, part-time, temporary, consultants, and former employees who perform (temporary duty or permanent change of duty station) travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains FEMA Form 60–2, requests and authorizations for travel; SF–1169, U.S. Government transportation requests; SF–1038, request for advances of funds; payment records of outstanding travel advances; SF–1012F (PAID) travel vouchers; SF–1170, Redemption of Unused tickets and related records of unused tickets; travel history records; collection vouchers for refunds of advances; and correspondence relating to travel claims. This system includes the taxpayer identification number (social security number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701; 30 U.S.C. 52; 31 U.S.C. 65; 31 U.S.C. 71; 41 U.S.C. 3101; 50 U.S.C. App. 2253.

PURPOSE(S):

For the purpose of administering travel requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To finance and administration personnel for the purpose of recording and controlling obligations involving travel, and the storage and shipment of household goods, advances. refunds and expenditures of travel funds; to prevent errors leading to improper payments; to detect and recover overpayments; and to support billings to carriers for travel and transportation furnished.

Additional routine uses may include any of the uses listed in Appendix A.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURES PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Paper records and computerized records.

RETRIEVABILITY:

Travel authorizations are filed alphabetically by transportation requests; records of unused tickets are filed by TR number; records of outstanding advances and travel history records are filed alphabetically by individual; and all advance, refund and payment records are filed by payment date in schedule number sequence.

SAFEGUARDS:

Personnel screening, hardware and software computer security measures; paper records are maintained in locked containers and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records in this system are covered by General Records Schedule 9. Passenger transportation records are destroyed when 3 years old. Passenger reimbursement records are destroyed when 3 years old. Unused ticket forms are destroyed when no longer needed. General travel and transportation records, as well as accountability records, are destroyed 1 year after all entries are cleared.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Federal Emergency Management Agency, Washington, D.C. 20472; all Regional Directors of FEMA, addresses as listed in Appendix AA.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should contact the system manager identified above. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Requests should include full name of the individual, some types of appropriate personal identification, and current address.

For personal visits, the individuals should be able to provide some acceptable identification, that is, driver's license, employing organization's identification card, or other identification card.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

FEMA Form 60–2, Official Travel Authorization; SF–1169, U.S. Government Transportation Request are submitted by authorized officials; SF–1038, Application and Account for Advances of Funds are submitted by employee requiring advances; SF–1012F, (PAID) Travel Vouchers are received from the finance and administration office; SF–1170, Redemption of Unused Tickets are prepared from unused tickets turned in by travelers and the file copy of the related Transportation Request and Travel History Record by individuals are prepared from paid vouchers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/OC-2

SYSTEM NAME:

Debt Collection Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Primary system is located in the Office of the Comptroller, Federal Emergency Management Agency, Washington, DC 20472. Secondary systems may be maintained by the Debt Collection Officers designated for the following offices: Federal Insurance Administration, National Preparedness Directorate, State and Local Programs and Support Directorate, United States Fire Administration, Office of Training/ National Emergency Training Center, and each FEMA Regional office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are indebted to FEMA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Debt Collection Officers' file will contain copies of debt collection letters and Optional Form 1114, bill for collection, and correspondence to and from the debtor relating to the debt. The file will include such information as the name and address of the debtor; taxpayer's identification number (which may be the social security number); amount of debt or delinquent amount; basis of debt; date debt arose; office referring debt to the Debt Collection Officer; record of each collection made; credit report or FEMA Form 22-13, financial statement reflecting the net worth of the debtor; date by which debt must be referred to the Agency Collections Officer for further collection action; citation or basis on which debt was terminated or compromised; and the appropriation number under which the Accounts/Notes Receivable was established.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3701 et seq., Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749).

PURPOSE(S):

Information is used for the purpose of collecting monies owed FEMA arising out of any administrative or program activities or services administered by FEMA. The Debt Collection Offiers' file represents the basis for the debt and amount of debt and actions taken by FEMA to collect the monies owed under the debt. The credit report or financial statement provides an understanding of the individual's financial condition with respect to requests for deferment of payment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When debts are uncollectible, copies of the FEMA Debt Collection Officer's file regarding the debt and actions taken to attempt to collect the monies is forwarded to the U.S. General Accounting Office, Department of Justice, or a United States Attorney for further collection action. FEMA may also provide copies of the debt collection letters. Optional Form 1114, bill for collection, and FEMA correspondence to the debtor to a debt collection agency under contract with FEMA for further collection action.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Records are maintained in file folders, on lists and forms, and in computer processible storage media.

RETRIEVABILITY:

The primary system files are filed by bill for collection number; the secondary systems may be filed by bill for collection number, name, or taxpayer's identification number (which may be the social security number).

SAFEGUARDS:

Personnel screening, hardware, and software computer security measures; paper records are maintained in locked containers and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered by General Records Schedule 6. The file on each debt on which administrative collection action has been completed shall be retained by Debt Collection Officers' respective program office not less than one year after the applicable statute of limitations has run out. The file is then transferred to the National Archives and Records Service for a period of six years and three months after the end of the fiscal year in which the debt was closed out by means of the debt being paid, terminated, compromised, or the statute of limitations had run out.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should contact the system manager identified above. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Requests should include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individuals should be able to provide some acceptable identification that is, driver's license, employing organization's identification card, or other identification card.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Directly from the debtor, the initial loan application, credit report from the commercial credit bureau, administrative or program offices within FEMA, or other Federal, State, or local agencies which are involved in programs or services administered by FEMA.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/PER-1

SYSTEM NAME:

Grievance Records.

SECURITY CLASSIFICATION:

Limited Access.

SYSTEM LOCATION:

Office of Personnel and Equal Opportunity, Federal Emergency Management Agency, Washington, DC 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current *or* former employees who have submitted grievances with FEMA in accordance with part 771 of the Office of Personnel Management regulations (5 CFR part 771), or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by agency employees under part 771 of the Office of Personnel Management regulations. These case files contain all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits. This system includes files and records of administrative grievances and negotiated grievance/arbitration systems that FEMA may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, E.O. 10577, 3 CFR 1954–58 Comp., p. 218, E.O. 10967, 3 CFR 1959–1963 Comp., p. 519.

PURPOSE(S):

For the purpose of processing grievance complaints from agency employees for personal relief in a matter of concern or dissatisfaction which is subject to the control of FEMA management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested; to disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court, in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and analytical studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structed in such a way as to make the data included individually identifiable by inference; to disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties; to disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding; and to provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

Additional routine uses may include Nos. 1, 2, 5 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

By name of the individual.

SAFEGUARDS:

Paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

These records are covered by General Records Schedule 1 and are destroyed 3 years after closing of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel and Equal Opportunity, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURE:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURES:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by (1) the individual on whom the record is maintained; (2) testimony of witnesses; and (3) from related correspondence from organizations or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/PER–2

SYSTEM NAME:

Equal Employment Opportunity Complaints of Discrimination Files.

SECURITY CLASSIFICATION:

Limited Access.

SYSTEM LOCATION:

Office of Personnel and Equal Opportunity, Federal Emergency Management Agency, Washington, DC 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any FEMA employee or applicant for employment, headquarters, regional and field offices, including full-time, permanent, part-time and temporary employees, who file a complaint of discrimination against FEMA. Also, any persons who file or could file a complaint of discrimination with FEMA alleging discrimination by a State or local government in violation of title VI of the Civil Rights Act of 1964 and any other similar legislation involving discrimination by a State or local government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include complaints of discrimination brought against FEMA by employees or applicants because of race, color, religion, sex, age, handicapped, or national origin; records of counselor's reports, records of investigation, records of hearings and disposition of cases involving Equal Employment Opportunity. Files also

include reports, documents, and information in support of or contrary to the complaint or potential complaint, records of hearings and disposition of the cases by the States or the Director, Federal Emergency Mangement Agency or higher authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Laws 92–261 and 93–211 as amended by Public Law 93–516, Equal Employment Opportunity Act of 1972, Executive Orders 11478 and 12067, title VI, Civil Rights Act of 1964 (78 Stat.) (42 U.S.C. 2000d *et seq.*).

PURPOSE(S):

For the purpose of ascertaining whether discrimination has taken place.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) To Title VI Officers and other investigators and reporting officers to ascertain whether discrimination under the Title VI rules and regulations have taken place; (b) to investigators to secure testimony and affidavits of witnesses and other pertinent data involving Equal Employment Opportunity cases; (c) to State officials and investigators to secure testimony of witnesses and other pertinent data involving Title VI, Civil Rights Act cases; (d) to EEOC and other Federal agencies with jurisdiction for hearings and appeals; (e) to higher authorities outside of FEMA for making a decision; and (f) to the U.S. Justice Department or other agencies as appropriate for enforcement action and where necessary in reporting.

Additional routine uses may include Nos. 4, 5, 7 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and some information may be automated.

RETRIEVABILITY:

By name of the individual.

SAFEGUARDS:

Personnel screening hardware and software computer security measures; paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Official discrimination complaint case files are covered by General Records Schedule 1 and are destroyed 4 years after resolution of case. EEO General Files which records pertaining to the Civil Rights Act of 1964 are covered by General Records Schedule 1 and are destroyed when 3 years old, or when superseded or obsolete, whichever is applicable.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel and Equal Opportunity, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURE:

The major part of this system is exempted from this requirement and the access and contesting requirement under 5 U.S.C. 552a(k)(2). To the extent that this system of records is not subject to exemption, it is subject to notification, access and contesting procedures. A determination as to the applicability of an exemption as to a specific record shall be made at the time a request for notification, access, or contesting is received. Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

(a) For the Equal Employment Opportunity files—Information is secured from previous employers, friends and acquaintances of the complainant and the alleged discriminating official, official personal records, educational institutions, etc.; (b) For Civil Rights Act (Title VI) files—Information is secured from complainants and from FEMA officials who conduct Title VI compliance reviews at the State and local level, from citizens who have been denied services or use of facilities, from State and local government records and institutional and organizational records; from State officials who have observed violations or local officials who have reported violations to the State.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Director, Federal Emergency Management Agency, has determined that this system should be exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I) and (f), of the Privacy Act, 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in 44 CFR 6.87.

FEMA/PER–3

SYSTEM NAME:

Payroll and leave accounting.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Personnel and Equal Opportunity, Federal Emergency Management Agency, Washington, DC 20472, and all FEMA Regional offices, addresses are listed in Appendix AA. Office timekeepers at both Headquarters and all Regional offices maintain some duplicative payroll and leave accounting records for input into U.S. Department of Agriculture electronic system to issue paychecks. Bi-weekly payroll records are also maintained at classified location and relocation facilities under the FEMA Vital Operating Records Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All FEMA employees, headquarters and field, including full-time permanent, part-time, temporary, consultants, and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form W–4, Federal and State withholding statement; SF–1192, bond applications; bond listing; SF–50, Notification of Personnel Actions; SF–1199A, Direct Deposit Sign-up form; TSP–1, Thrift Savings Plan Election Form; Form TSP–22, Thrift Savings Plan Loan Payment Allotment Form; TFS Form 7311, Employee Withholding Certificate for City Taxes; SF 2809, Health Benefit Election Form; SF 2810, Notice of Change in Health Benefit Enrollment; SF 1150, Record of Leave Data; and SF 1187 Request for Payroll Deductions for Labor Organization Dues. Official payroll records are maintained in the U.S. Department of Agriculture's National Finance Center, New Orleans PAY/DERS system. This system includes the taxpayer

identification number (social security number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 112(a) of the Budget and Accounting Procedures Act of 1950; 31 U.S.C. 66(a); 5 U.S.C. 5501, et seq., 5525 et seq., and 6301 et seq.

PURPOSE(S):

For the purpose of administering the pay and leave requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (a) by the U.S. Department of Agriculture to issue checks and U.S. Savings bonds; (b) by the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness; (c) by state offices of unemployment compensation in connection with claims by former Agency employees for unemployment compensation; (d) by Federal Employees' Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations; (e) to provide officials of labor organizations recognized under the Civil Service Reform Act with information as to the identity of Agency employees contributing union dues each pay period and the amount of dues withheld from each contributor; (f) to disclose information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; (g) to disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court; (h) to disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding; (i) to disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, Social Security Administration, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

Additional routine uses may include any of the uses listed in Appendix A.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURES PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

The above mentioned forms consist of paper records in file folders; information from these forms are keyed into a computer system and transmitted to the U.S. Department of Agriculture for preparing checks and bonds.

RETRIEVABILITY:

Federal and state withholding statements, bond applications, requests by employees for allotments of pay for credit to savings accounts with financial institutions, and notifications of personnel actions are filed alphabetically by name of individual.

SAFEGUARDS:

Personnel screening, hardware and software computer security measures; paper records are maintained in locked containers and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Individual authorized allotment records are covered by General Records Schedule 2 and are destroyed 3 years after superseded or after transfer or separation of the employee. Bond registration records are covered by General Records Schedule 2 and are destroyed when 2 years old. Notification of personnel actions are covered by General Records Schedule 1 and are destroyed when 2 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel and Equal Opportunity, Federal Emergency Management Agency, Washington, DC 20472; all Regional Directors of FEMA, addresses as listed in Appendix AA.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should contact the system manager identified above. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Requests should include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individuals should be able to provide some acceptable identification, that is, driver's license, employing organization's identification card, or other identification card.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Treasury Form TDF 10-11.G-6, Earnings and Leave Statements; Net Check listings; Form W-4, Federal and State Withholding Statements; SF-1192, Bond Application; SF-1199, Direct Deposit Sign-up form SF-1199A, Direct Deposit Sign-up form; TSP-1, Thrift Savings Plan Election Form; Form TSP-22, Thrift Savings Plan Loan Payment Allotment Form; TFS Form 7311, Employee Withholding Certificate for City Taxes; SF 2809, Health Benefit Election Form; SF 2810, Notice of Change in Health Benefit Enrollment; SF 1150, Record of Leave Data; and SF 1187 Request for Payroll Deductions for Labor Organization Dues are submitted by the individual to the U.S. Department of Agriculture through FEMA payroll offices; and SF-50, Notification of Personnel Action.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/REG-1

SYSTEM NAME:

State and local Civil Preparedness Instructional Program (SLCPIP).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Primary system located at FEMA Regional offices, addresses are listed in Appendix AA. Decentralized system located with State and local agencies contractors in various States who provide input to Regional offices.

Duplicate data is forwarded to State Emergency Management offices by contractor in the States for information purposes only. Addresses of contractors and State Emergency Management offices are available at FEMA Regions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals include local Emergency Management coordinators, teachers, school administrators and local officials who are in need of emergency management training.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of 4 reporting forms only one of which has names. These are forwarded from the contractors at the State level to the Regional offices. The form with names is the SLCPIP Contractor's Roster. This form is used to give name, address, and title of participants for each course or workshop conducted. This is a monthly report to the Regions. The Contracting Officer (Region) forwards to FEMA Director, Office of Training, National Emergency Training Center, gross number of activities and participants. The Regions maintain the roster. The Director, Office of Training, National Emergency Training Center, consolidates all ten Regions reports and prepares a consolidated report to the FEMA Director, when required.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 50 U.S.C. App. 2253, 2281; E. O. 12148; and Reorganization Plan No. 3 of 1978.

PURPOSE(S):

For the purpose of determining which officials are in need or have taken emergency management training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses may include Nos. 2, 3, 5 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By name, address, name of course, date and location.

SAFEGUARDS:

Paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered by FEMA Records Schedule N1–311–86–1, 3A–4a and are destroyed 6 years and 3 months after completion of contract.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors of FEMA, addresses are listed in Appendix AA.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the appropriate system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

The source for information on participants in a course is forwarded by the contractors in the various States as he/she conducts training activities in his/her State.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/REG–2

SYSTEM NAME:

Disaster Recovery Assistance Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Disaster Field Offices, and FEMA regional offices listed in Appendix AA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who apply for disaster recovery assistance following Presidentially declared major disasters or emergencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. Records of registration for assistance (FEMA Form 90–69, Disaster Assistance Registration/Application includes names, addresses, telephone numbers, social security numbers, insurance coverage information, household size and composition, type of damage incurred, income information, programs to which referred for assistance, flood zones, preliminary determinations of eligibility for disaster assistance).

b. Inspection reports (FEMA Form 90–56, Inspection Report) contain identification information, and results of survey of damaged property and goods.

c. Temporary housing assistance eligibility determinations (FEMA Forms 90–11 through 90–13, 90–16, 90–22, 90–24 through 90–28, 90–31, 90–33, 90–41, 90–48, 90–57, 90–68 through 90–70, 90–71, 90–75 through 90–78, 90–82, 90–86, 90–87, 90–94 through 90–97, 90–99, and 90–101). These pertain to approval and disapproval of temporary housing assistance: general correspondence, complaints, appeals, and resolutions, requests for disbursement of payments, inquiries from tenants and landlords, general administrative and fiscal information, payment schedules and forms, termination notices, and information shared with the temporary housing program staff from other agencies to prevent duplication of benefits, leases, contracts, specifications for repair of disaster damaged residences, reasons for eviction or denial of aid, sales information after tenant purchase of housing units, and status of disposition of applications of housing.

d. Eligibility decisions from other agencies (for example, the disaster loan program administered by the Small Business Administration, and decisions of the State-administered Individual and Family Grant program) as they relate to determinations of eligibility for disaster assistance programs.

e. State files containing related, but independently kept, records of persons who request Individual and Family Grants, and administrative files and reports required by FEMA. As to individuals, the same type of information as described above under registration, inspection, and temporary housing assistance records are kept. As to administrative and reporting requirements, FEMA Forms 76–27, 76–28, 76–30, 76–32, 76–34, 76–35, 76–38 are used. State administrative planning formats are also used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

P. L. 93–288, the Disaster Relief Act of 1974 as amended; Reorganization Plan No. 3 of 1978.

PURPOSE(S):

To register applicants needing disaster assistance, to inspect damaged homes, to verify information provided by the applicant, and to make eligibility determinations for that assistance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Other Federal agencies, State governments, and volunteer agencies charged with administering disaster relief programs, both under the Disaster Relief Act as amended and other disaster legislation of charters may have read-only access to information relevant to their particular assistance program to determine eligibility for assistance programs. They will not be able to change FEMA records. To the extent that eligibility for a program depends on eligibility for assistance from another program (section 312 of the Act, which prevents duplication of benefits among disaster organizations), the information must be shared between and among these agencies and organizations.

Additional routine uses may include those identified at Nos. 1, 2, 3, 5, 6, and 8 of Appendix A.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURES PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act, 915 U.S.C. 1681a(f) or the Debt Collection Act of 1982.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer discs, records in file folders.

RETRIEVABILITY:

By name, address, social security number, case file numbers.

SAFEGUARDS:

Hardware and software computer security measures; paper files in locked file cabinets or rooms; buildings are secured during non-business hours by building guards.

RETENTION AND DISPOSAL:

Because of varying record schedules applicable to this system of records, we have broken down the paragraphs under the categories of records section for easy reference. Records covered by paragraphs a through d are covered by FEMA Records Schedule N1–311–86–1, Item 8b(1) and are destroyed 6 years and 3 months after the files are consolidated. Records covered by paragraph e are covered by FEMA Records Schedule N1–311–86–1, Item 7 and are destroyed 3 years after the disaster contract is terminated.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors of FEMA, addresses are listed in Appendix AA.

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the appropriate system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. FEMA Privacy Act regulations are at 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Applicants for disaster recovery assistance; credit rating bureaus, financial institutions, insurance companies and agencies providing disaster relief.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/SEC–1

SYSTEM NAME:

Security Support System.

SECURITY CLASSIFICATION:

Limited Access. Certain records in this system are provided security safeguards equivalent to the protection of Top Secret and/or Special Access Program (SAP) information.

SYSTEM LOCATION:

Office of Security, Federal Emergency Management Agency, Washington, DC 20472; FEMA Regional offices and Field Activities, and other facilities designated and approved by the Systems Manager. Name, Social Security number, FEMA point of contact, and time and length of visit, is also available to General Services Administration guards who are hired under a GSA contract for FEMA to confirm proper identification of individuals requiring access to FEMA Headquarters facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FEMA employees, other Federal agency employees, State employees, and consultant/contract employees and visitors to the FEMA Headquarters Building and Field Activities, and all other individuals requiring access to official FEMA premises.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains security records on FEMA employees, applicants for employment, nominees. Security records include: Statement of personal history, personal data (e.g., name, address, telephone number and social security number) contained on Standard Forms 85, 85A, 86, and 87, security clearance forms; rosters; lists; Standard Form *312*, non-disclosure statements; FEMA Form 12–17, security termination statement, and Optional Forms 62 and 63, forms for record container combinations and other related records. This system also includes copies of background investigations conducted by the Office of Personnel Management (OPM), FEMA, or other government investigative agencies. (The OPM background investigations are not FEMA records but rather are OPM records covered by OPM's system of records entitled, OPM/Central–9, Personnel Investigations Records, and requests for these records must be submitted directly to OPM–FIPC, Boyers, PA 16018. Requests for investigations conducted by other government investigative agencies must be submitted directly to the agency which conducted the investigation. The background investigations conducted by a FEMA contractor are FEMA records and are covered by this system notice. This system also contains records concerning Personnel Security Program for positions associated with computer systems (Chapter 732 of the Federal Personnel Manual). This system also includes FEMA Form 12–36, requests for access to FEMA Special Access Program; FEMA Form 12–35, notification of disapproval for access to FEMA Special Access Program; FEMA Form 12–37, inadvertent disclosure statements; FEMA Form 12–38, non-

disclosure agreements; and FEMA Form 12–30, termination of access to certain classified information.

This system also includes entrant/exit records for access to FEMA premises. For visitors, this system includes name; temporary badge number; host's number, office symbol, and room number. For all others, this system includes name, social security number, specific areas and times of authorized accessibility, escort authority, status and level of security clearance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12127; E.O. 12148; Reorganization Plan No. 3 of 1978; Section 4–2a, Executive Order 10450; Executive Order 12356; and Paragraph 1a, National Security Decision Directive 84, Safeguarding National Security Information.

PURPOSE(S):

For routine administrative, managerial, and security purposes by officials on a need-to-know basis in order to better track, manage and control access to information, buildings and restricted areas under the jurisdiction of FEMA, to determine the status of individuals entering FEMA premises; and to provide data requisite to investigations and security reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

An employee's level of security clearance and type of Special Access Program may be reported to another agency for the purpose of interagency security administration; information may be provided to other federal departments and agencies charged with responsibility in the assignment and coordination of federal emergency response teams; to any Federal, State or local law enforcement agency for law enforcement purposes; to any Federal agency pursuant to statutory intelligence responsibilities. The entrant and exit records may also include employees from other agencies which share building space in FEMA facilities and those records may be released to the individuals' respective employing agency. The Name, Social Security number, FEMA point of contact, and time and length of visit, is also available to General Services Administration guards who are hired under a GSA contract for FEMA to confirm proper identification of individuals requiring access to FEMA Headquarters facility.

Additional routine uses may include Nos.1, 2, 3, 4, 5, and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Mag-tape, disk, paper and index cards.

RETRIEVABILITY:

By name, social security number, organization, security clearance level, type of Special Access Program, and badge number (except for visitors).

SAFEGUARDS:

All employees of the Office of Security have undergone a Special Background Investigation (SBI). All records containing personal information are maintained in secured storage areas contained within restricted areas, access to which is limited to authorized personnel. All records containing personal information on a computerized data base are accessible only through computer media under FEMA jurisdiction and placed in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password protected and under the direct responsibility of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular ad hoc monitoring of computer usage. Certain records in this system are provided security safeguards equivalent to the protection of Top Secret and/or Special Access Program (SAP) information. All records are maintained in areas that are secured by building guards and/or alarm systems during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared, trained and have a verified need-to-know.

RETENTION AND DISPOSAL:

Records are covered by General Records Schedule 18. Requests and authorizations for individuals to have access to classified files are destroyed 2 years after authorization expires. Forms or lists used to record safe combinations, names of individuals knowing combinations, and comparable data used to control access into classified containers are destroyed when superseded by a new form or list, or upon turning in of containers. Lists or rosters showing the current security clearance status of individuals are destroyed when superseded or obsolete. Personnel security case files are destroyed upon notification of death or not later than 5 years after separation or transfer of employee or no later than 5 years after contract relation expires, whichever is applicable. Records relating to alleged security violations are destroyed 2 years after completion of final action or when no longer needed, whichever is sooner; records relating to alleged violations of a sufficient serious nature that are referred for prosecutive determinations are destroyed 5 years after the close of the case. Copies of non-disclosure agreements are destroyed when 50 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Security, Office of Security, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the appropriate system manager in writing. Individuals must furnish their full name, social security number, some type of appropriate personal identification, current mailing address and zip code, and any other available information regarding the type of record involved.

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from the access and contesting requirements under 5 U.S.C. 552a(k)(1) and 5 U.S.C. 552a(k)(5). To the extent that this system of records is not subject to exemption, it is subject to the access and contesting procedures. A determination as to the applicability of an exemption as to a specific record shall be made at the time a request for access or contest is received. Inquiries should be addressed to the appropriate system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Individuals must furnish their full name, social security number, some type of appropriate personal identification, and current address, any other available information regarding the type of record for which access or amendment is being requested.

CONTESTING RECORD PROCEDURE:

Same as access procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Directly from the individual to whom the record pertains. The FEMA

background investigation for access to classified information includes information from an application submitted by or an interview with the individual to whom the record pertains; employers; coworkers; neighbors; friends; acquaintances; physicians; other government agencies; educational institutions; credit references; and police departments. The entrant and exit records come directly from paper log completed by the individuals and/or from the individuals using FEMA issued badges to enter through turnstiles.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Director, Federal Emergency Management Agency, has determined that specific materials in this system should be exempted from subsections (c)(3), and (d) of the Privacy Act, 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(1) and 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in 44 CFR 6.87.

FEMA/SLPS-1

SYSTEM NAME:

Application for Enrollment in Architectural Engineering Professional Development Program.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who apply for FEMA professional development courses: Fallout Shelter Analysis (FSA), Protective Construction (PC), Multiprotection Design (MPD).

CATEGORIES OF RECORDS IN THE SYSTEM:

FEMA Form 75–5, Application for Enrollment of Architects and Engineers Professional Development Program. Includes applicant's name, address, date of birth, education and status of completion in the course.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3104, 50 U.S.C. App. 2253.

PURPOSE(S):

For the purpose of ascertaining qualifications for certification as FSA for issuance of appropriate certificates and development of mailing lists for disseminating new information to them as appropriate.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses may include Nos. 5 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Application forms are kept on microfiche. Some of the data is kept on computer magnetic tape for processing in conjunction with dissemination of new information.

RETRIEVABILITY:

By name of the individual and FSA number.

SAFEGUARDS:

Personnel screening hardware and software computer security measures; paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered by FEMA Schedule N1–311–86–1, destroy when 2 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Applications submitted by applicants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/SLPS-2

SYSTEM NAME:

Military Reserve Program.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472; all FEMA Regional Directors, addresses are listed in Appendix AA; and State and local civil preparedness agencies requesting information.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military reservists who have mobilization designation to FEMA, including FEMA Regional offices, and State and local civil preparedness agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes copies of orders, lists of reservists assigned, and those eligible to be assigned, to the FEMA regions and State and local civil preparedness agencies; other related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 270; 10 U.S.C. 275; 41 U.S.C. 3101; 50 U.S.C. App. 2253; E.O. 12148; and Reorganization Plan No. 3 of 1978.

PURPOSE(S)

For the purpose of preparing statistical reports, rosters, lists of new assignees; review of assignments to provide information for reallocation of vacant spaces; provide basis for general management of the program, including the preparation of efficiency and other reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Applications are processed by the uniformed service's personnel headquarters and if approved, issuances of assignment orders are distributed to interested offices for program recruiting, record and management purposes.

Additional routine uses may include Nos. 5, 7 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer printouts and orders and related papers are filed in paper folders in metal filing cabinets.

RETRIEVABILITY:

At FEMA Headquarters—by region and military service; at FEMA Regional offices—by military service, State, and individual's name.

SAFEGUARDS:

Personnel screening hardware and software computer security measures; paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered by FEMA Records Schedule N1–311–86–1, 4B–22 and are destroyed 1 year after reservist leaves the program. System manager(s) and address: Associate Director, State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472; and all FEMA Regional Directors, addresses are listed in Appendix AA.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Reservist submits completed applications to FEMA Regional or State and local civil preparedness agency when he or she desires to work. Application is endorsed at each level and forwarded through civil preparedness channels to the respective service personnel administrative headquarters for processing, and if approved, issuance of assignment orders. Copies of assignment orders are distributed to interested offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/SLPS–3

SYSTEM NAME:

Radioactive Materials Inventory.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472; National Emergency Training Center, Emmitsburg, Maryland 21727 and all FEMA Regional Directors, addresses are listed in Appendix AA. Copies are also maintained at the appropriate State and local civil preparedness agencies and at State radiological systems maintenance and calibration facilities, and as applicable to another Federal agency or FEMA contractor having radioactive material on loan.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Custodians of FEMA Radioactive Material.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain a listing of all FEMA owned radioactive materials on loan to a State, other Federal agencies, FEMA contractors and others. Categories of information stored in the system include: custodian's name, address, city, county, telephone number, user authorization number and expiration date, date of transfer, FEMA Region, State, storage name, address, city, county, license number, type, expiration date, radioactive material nomenclature, isotope activity, civil preparedness nomenclature, serial numbers, leak test data, ID number of item, voucher number and date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3104; 50 U.S.C. App. 2253; E.O. 12148; and Reorganization Plan No. 3 of 1978.

PURPOSE(S):

For the purpose of controlling and maintaining a record to whom radioactive materials are loaned in order to avoid loss or unauthorized use.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information relating to radioactive material items on loan may be provided to the user which includes State Radiological Systems Maintenance, Maintenance and Calibration Facility, State Civil Preparedness offices, other Federal agencies, FEMA Contractors and others processing loaned material for determining custodian of an item; number of items on loan to a State, other Federal agency, contractors and other users; record of license number authorizing custodian possession of material; inventory of items by radioisotope; using incapulation data and radioisotope decay to determine activity at any given time. For lost or unauthorized sources, the entire file may be searched.

Additional routine uses may include Nos. 1, 5, and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tapes and disks, computer paper printouts.

RETRIEVABILITY:

Computer file is accessible by any of the categories listed in Record-Category above.

SAFEGUARDS:

Personnel screening hardware and software computer security measures; computer printouts are stored in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered by FEMA Records Schedule N1–311–86–1, 4B–11. Files are updated as changes occur. As records are updated, file incorporates records into a historical file so that previous information remains on storage enabling a listing of all previous data in file in various Record-Categories. This permits a listing of leak test history data, listing of all storage locations and date of transfer, listing of all custodians, date of transfer, license numbers under which item was loaned. Based on expiration date of license, lists can be prepared of licenses due for renewal and overdue. Based on leak test data,

lists can be prepared of items scheduled for leak testing and overdue. Items in possession of unauthorized personnel can be traced to last custodian by serial number, ID number or other available nomenclature.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472; and all FEMA Regional Directors, addresses are listed in Appendix AA.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Data to update file is supplied by custodians of loaned material (note: transferee will report name of new custodian), State Civil Preparedness Agency Maintenance and Calibration Facility personnel, FEMA Regional offices, RADEF and Technological Hazards Branch of State and Local Programs and Support Directorate and other FEMA divisions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/SLPS-4

SYSTEM NAME:

Maintenance and Calibration.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472; and all FEMA Regional Directors, addresses are listed in Appendix AA. Copies are also maintained at the appropriate State and local civil preparedness agencies and at State radiological systems maintenance and calibration facilities, and as applicable to another Federal agency.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All State RADEF Officers and Maintenance Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain the shipping and mailing addresses of the State radiological systems maintenance and calibration facilities. It also contains the name and telephone number of the maintenance officer of the maintenance and calibration facility and the State RADEF officer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3104; 50 U.S.C. App. 2253; E.O. 12148; and Reorganization Plan No. 3 of 1978.

PURPOSE(S):

For the purpose of keeping an up-to-date list and addresses of the maintenance officer of the maintenance and calibration facility and the State RADEF officer.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Mailing and shipping labels may be furnished to the Oak Ridge National Laboratory, Oak Ridge, Tennessee, and FEMA Logistical Support Facility, GSA, Ft. Worth, Texas, for use by them and the FEMA Federal Supply Depot to ship and mail supplies to the States for use under the Radiological Systems Maintenance contract. Information may also be furnished to other Federal agencies and to State radiological maintenance facilities upon request in order to furnish supplies, and/or information for use in the radiological systems maintenance contract. Additional routine uses may include Nos. 5, and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and computer tapes and disks.

RETRIEVABILITY:

Filed by region then alphabetically by State name.

SAFEGUARDS:

Personnel screening hardware and software computer security measures; computer printouts are stored in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered by FEMA Records Schedule N1-311-86-14B-23b and are destroyed when information is superseded or obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472; and all FEMA Regional Directors, addresses are listed in Appendix AA.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Information submitted by State RADEF Officer, Maintenance and Calibration Facility Officer, FEMA Regional Staff, and others knowledgeable of change in data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/SLPS-5

SYSTEM NAME:

Radiation Exposure and Radioactive Materials; Radiation Committee Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472; National Emergency Training Center, Emmitsburg, Maryland 21727; and all FEMA Regional Directors, addresses are listed in Appendix AA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Files contain the following types of individuals within FEMA or under FEMA Byproduct Materials License: All authorized users of sources of ionizing radiation; activity radiation safety officers; ionizing radiation dose records officers; custodians of FEMA sources of ionizing radiation; committee members and alternates.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain records produced in the conduct of committee duties and functions which include the control and administration of, the procurement, use, handling, storage and disposal of all sources of ionizing radiation throughout FEMA and other users under FEMA licenses and authorizations, assuring compliance with licenses and authorizations issued to FEMA for ionizing radiation and the regulations applicable to these license holders. Records include committee members, authorized users, activity radiation safety officers, ionizing radiation dose records for individuals who may be exposed to FEMA sources of ionizing radiation, and inspections (surveys) of activities and facilities using FEMA sources of ionizing radiation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 50 U.S.C. App. 2253; 2281; 44 U.S.C. 2073, 2093, 2095, 2111, 2112, 2201, 2232, 2233, 2234, 2273 and E.O. 12148; and Reorganization Plan No. 3 of 1978.

PURPOSE(S):

For the purpose of procuring, using, handling, controlling, and administration of the procurement, use, handling, storage and disposal of all sources of ionizing radiation throughout FEMA and other users under FEMA licenses and authorizations, assuring compliance with licenses and authorizations issued to FEMA for ionizing radiation and the regulations applicable to these license holders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To Radiation control committee in conduct of committee duties and functions including the following: Serving as an advisory board recommending approval and exercising control of the procurement, use, handling, storage, and disposal of sources of ionizing radiation for emergency management purposes; based upon the qualifications submitted, designate for approval all authorized users of sources of ionizing radiation with FEMA or under FEMA licenses or authorizations; recommend for approval activity radiation safety officers for all FEMA installations and other facilities where sources of ionizing radiation are used, handled or stored under FEMA licenses or authorizations; establishes general procedures and guidance governing the use, handling, storage of sources of ionizing radiation, including appropriate health physics or emergency procedures and precautions, establishing formal rules and regulations as necessary, assure that the rules and conditions of the FEMA licenses, authorizations, and regulations are observed in all FEMA activities; maintains records of the procurement, receipt, transfer and disposal of all FEMA sources of ionizing radiation dose records for each FEMA employee and other individual who may have been exposed to ionizing radiation under FEMA licenses or authorizations; providing liaison with other Federal agencies with regard to committee duties and functions; maintain records of applications and amendments to licenses and authorizations for the use of ionizing radiation at FEMA facilities; maintain records of periodic inspections of all FEMA activities involved with sources of ionizing radiation under FEMA licenses and authorizations. Additional routine uses may include Nos. 1, 5, and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and radioactive materials inventory on computer magnetic tape and disks.

RETRIEVABILITY:

Filed by subject and ionizing radiation exposure records subfiled alphabetically by name.

SAFEGUARDS:

Personnel screening hardware and software computer security measures; computer printouts are stored in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are covered under General Records Schedule 16 and FEMA Records Schedule N1-311-86-1, 4B. Radioactive materials files are destroyed when no longer needed for administrative use or to meet legal requirements. Radiation Dose Records are destroyed after 75 years. Records produced in the conduct of committee duties are destroyed when information is superseded or obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472; and all FEMA Regional Directors, addresses are listed in Appendix AA. Notification procedure: Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORD PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Reports prepared and submitted by committee members, activity radiation safety officers and users. Data for ionizing radiation dose records from individuals wearing dosimeters and film bade processors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/SLPS-6

SYSTEM NAME:

Temporary and Permanent Relocation and Personal and Real Property Acquisitions and Relocation Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The information will be gathered by a contractor for submission to the FEMA Regional Office which services the affected properties being acquired or relocated. The contractor will be subject to the Privacy Act requirements during the contractor's custody of the records. A secondary system relating to Superfund acquisitions will be maintained by the State and Local Programs and Support Directorate, Office of Disaster Assistance, Federal Emergency Management Agency, Washington, DC 20472; and a secondary system relating to section 1362 acquisitions under the National Flood Insurance Act will be maintained by the Federal Insurance Administration, Washington, DC 20472. Information on temporary relocation assistance will be collected by FEMA employees and maintained at a site office, at a Regional office, or at Headquarters, Washington, DC, depending upon who administered the program. Categories of individuals covered by the system: Individuals whose real property has been or is being acquired by FEMA and/or have been relocated or are being relocated by FEMA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file may contain the following: (1) For section 1362 acquisitions, the files before Fiscal Year 1985 contain copies of the appraisals, appraisal contracts and reviews and approval documents. After FY 1985, the files do not contain copies of any appraisals or related-appraisal documents; for Superfund acquisition, the files include only the appraisal contracts, and approval documents; (2) Amounts paid for purchase of property including records of negotiations and offers; (2) Title search documentation, including property titles, title company correspondence, closing papers, tax records, and contracts; (3) Loan interest payment information including mortgage payment papers, loan documentation claims, and FEMA approvals; (4) Information for determining benefit amounts for real property acquisition including tax records, mortgage information and divorce decrees; (5) Information concerning replacement housing determinations including tax information, affidavits, and determinations; (6) Relocation claims payment information including documents which verify that funds have been spent, deeds, contracts, building estimates, construction bills, loan papers, leases, cancelled checks, claim forms, and Decent, Safe and Sanitary Inspection Forms; (7) Deeds, contractual sale documents, notations of follow-up actions, appraiser qualifications, rent supplement information, insurance verifications, moving cost information, permanent relocation questionnaires including background information on displaced persons, and information supplied by displaced persons to support claims for real property acquisition and relocation assistance. The temporary relocation assistance file may contain the following: (1) Applicant contact sheets; (2) Application for assistance; (3) Leases and/or reimbursement agreements and corresponding housing inspection reports; (4) Requests for payment with supporting bills, receipts, etc., for relocation expenses and payments records to individuals and businesses; and (5) Move-out records. This system may also include the taxpayer identification number (social security number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Comprehensive Environmental Response Compensation Liability Act (CERCLA) of 1980, as amended by the Superfund Amendments and Reauthorization Act (SARA), Executive Order 12580, Superfund Implementation, Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 et seq.), Section 1362 of the National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), as amended, 42 U.S.C. 4001–4128, Reorganization Plan No. 3 of 1978 and Executive Order 12127.

PURPOSE(S):

Information is used for the purpose of tracking individual properties which qualify for acquisition and/or relocation under the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, and/or Section 1362 of the National Flood Insurance Act of 1968, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be provided to the affected State or a political subdivision thereof for the purpose of determining the State's or subdivision's eligibility for taking title to the acquired property for recreational and open space resources; to the Environmental Protection Agency for the purpose of verifying the proper eligibility and use of Superfund monies to acquire properties found to be uninhabitable for the population and in connection with legal cases brought under the Superfund; to the Small Business Administration for the purpose of determining the individual/business eligibility for loans and nonduplication of funds; and to the U.S. General Accounting Office, Department of Justice, or a United States Attorney for legal representation in duplication of benefits provided to the individual or legal cases brought by or against FEMA, or in the case of Superfund monies, those brought by or against the Environmental Protection Agency. Under Section 1362 acquisitions, ownership information and legal description will be provided to the Department of Justice for the purpose of obtaining official title opinions prior to acquisition. Additional routine uses may include Nos. 1, 5, and 8 of Appendix A.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on lists and forms, and in computer processible-storage media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Personnel screening hardware and software computer security measures; paper records are stored in a locked container and/or room. Records which are maintained at a site office might not be secured by building guards during non-business hours but are retained in a locked container and/or locked room. All other records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Permanent Personal and Real Property Acquisitions and Relocation records are covered by General Record Schedules 3 and 4. The file regarding individuals about whom real property has been acquired by FEMA and who have been relocated shall be retained for a period of 10 years after unconditional sale or release by the Government of conditions, restrictions, mortgages, or other liens. Abstract or certificate of title and other records deemed necessary or convenient for donated property shall be transferred to recipient of the property after release by the Government. Purchase related papers shall be destroyed 6 years and 3 months after final payment. Temporary relocation assistance records are covered by FEMA Records Schedule N1-311-86-1, 4C-8b and are consolidated at the respective regional office at end of Phase II and destroyed 6 years 3 months after consolidation.

SYSTEM MANAGER(S) AND ADDRESS:

For Superfund acquisitions—Associate Director, State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, DC 20472; and all FEMA Regional Directors, addresses are listed in Appendix AA. For section 1362 acquisitions under the National Flood Insurance Act—Federal Insurance Administrator—Federal Insurance Administrator, Federal Emergency Management Agency, Washington, DC 20472; and all FEMA Regional Directors.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal indentification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURE:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Directly from the individual, the appraisal records, title report, or homeowner report.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A

Introduction to Routine Uses: Certain routine uses have been identified as being applicable to many of the FEMA systems of record notices. The specific routine uses applicable to an individual system of record notice will be listed under the "Routine Use" section of the notice itself and will correspond to the numbering of the routine uses published below. These uses are published only once in the interest of simplicity, economy and to avoid redundancy, rather than repeating them in every individual system notice.

1. *Routine Use—Law Enforcement:* A record from any FEMA system of records, which indicates either by itself or in combination with other information within FEMA's possession, a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, may be disclosed, as a routine use, to the appropriate agency whether Federal, State, territorial, local or foreign, or foreign agency or professional organization, charged with the responsibility of enforcing, or implementing, or investigating, or prosecuting such violation or charged with implementing the statute, rule, regulation or order issued pursuant thereto.

2. *Routine Use—Disclosure When Requesting Information:* A record from a FEMA system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, regulatory, licensing or other enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. *Routine Use—Disclosure of Requested Information:* A record from a FEMA system of records may be disclosed to a Federal agency, in response to a written request in connection with the hiring or retention of an employee, the issuance of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. *Routine Use—Grievance, Complaint, Appeal:* A record from a FEMA system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

To the extent that official personnel records in the custody of FEMA are covered within systems of records published by the Office of Personnel Management as governmentwide records, those records will be considered as a part of that governmentwide system. Other official personnel records covered by notices published by FEMA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

5. *Routine Use—Congressional Inquiries:* A record from a FEMA system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

6. *Routine Use—Private Relief Legislation:* The information contained in a FEMA system of records may be disclosed as a routine use to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

7. *Routine Use—Disclosure to the Office of Personnel Management:* A record from a FEMA system of records may be disclosed to the Office of Personnel Management concerning information on pay and leave benefits, retirement deductions, and any other information concerning personnel actions.

8. *Routine Use—Disclosure to National Archives and Records Administration:* A record from a FEMA system of records may be disclosed as a routine use to the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 12906.

9. *Routine Use—Grand Jury:* A record from any system of records may be disclosed, as a routine use, to a grand jury agent pursuant to a Federal or State grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

Appendix AA

Addresses for FEMA Regional Offices:

Region I—Regional Director, FEMA, Room 442, J.W. McCormack Post Office and Courthouse Building, Boston, MA 02109;

Region II—Regional Director, FEMA, 26 Federal Plaza, Room 1338, New York, NY 10278;

Region III—Regional Director, FEMA, Liberty Square Building (Second Floor), 105 South Seventh Street, Philadelphia, PA 19106;

Region IV—Regional Director, FEMA, 1371 Peachtree Street, NE., Suite 700, Atlanta, GA 30309;

Region V—Regional Director, FEMA, 175 West Jackson Blvd., 4th Floor, Chicago, IL 60604-2698;

Region VI—Regional Director, FEMA, Federal Regional Center, 800 North Loop 288, Denton, TX 76201–3698;
Region VII—Regional Director, FEMA, 911 Walnut Street, Room 200, Kansas City, MO 64106;
Region VIII—Regional Director, FEMA, Denver Federal Center, Building 710, Box 25267, Denver, CO 80225–0267;
Region IX—Regional Director, FEMA, Building 105, Presidio of San Francisco, CA 94129;
Region X—Regional Director, FEMA, Federal Regional Center, 130 228th Street, SW., Bothell, WA 98021–9796

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Part X

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 56 and 57

Safety Standards for Berms or Guardrails at Metal and Nonmetal Mines; Final Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

RIN 1219-AA56

Safety Standards for Berms or Guardrails at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule.

SUMMARY: This final rule allows for an alternative to berms or guardrails on infrequently traveled portions of elevated roadways used only by service or maintenance vehicles. MSHA published a final rule for Safety Standards for Loading, Hauling, and Dumping and Machinery and Equipment at Metal and Nonmetal Mines on August 25, 1988 (53 FR 32496) which was scheduled to become effective October 24, 1988. MSHA held public meetings during the first week of October 1988 to address concerns the mining community had regarding the final rule. The Agency, after further analysis and review of public comments received during these meetings, stayed the effective date of a portion of the berms or guardrails standard (53 FR 41600). The stayed provision, §§ 56.9300(d) and 57.9300(d), was revised and published as a proposed rule on August 23, 1989 (54 FR 35152) and is addressed by this final rule.

EFFECTIVE DATE: This final rule is effective on October 26, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, or Yvonne Johnson, Project Officer, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Introduction and Rulemaking Background

The final rule for Safety Standards for Loading, Hauling, and Dumping and Machinery and Equipment at Metal and Nonmetal Mines was published on August 25, 1988 (53 FR 32496) as a revised subpart H—Loading, Hauling and Dumping and a revised subpart M—Machinery and Equipment, of parts 56 and 57 of title 30 of the Code of Federal Regulations. The final rule, which became effective on October 24, 1988, represented an updating, revision and reorganization of the existing standards in these areas.

Sections 56.9300 and 57.9300 of the final rule addressed the use of berms or guardrails on elevated roadways. They contained a new paragraph (d) which allowed an alternative to berms or guardrails for elevated portions of infrequently traveled roadways used only by service or maintenance vehicles. It was the Agency's position that under these limited conditions, berms or guardrails were not necessary if other safety precautions would provide at least the same degree of protection. Paragraph (d) of §§ 56.9300 and 57.9300 included requirements that would assure the safety of miners using these roadways when berms or guardrails were not present.

After reviewing the final rule in preparation for implementation, and analyzing comments received at public meetings held for the purpose of describing the application of the rule, the Agency determined that paragraph (d) of §§ 56.9300 and 57.9300 did not appropriately address MSHA's goals. Therefore, MSHA stayed paragraph (d) of §§ 56.9300 and 57.9300 pending reconsideration of the provision by the Agency. Upon careful review of the issues, the Agency determined that it was necessary to propose new language for paragraph (d). On August 23, 1989 (54 FR 35152) the Agency published a proposed rule dealing with paragraph (d). MSHA received and reviewed comments on the proposed rule from all segments of the mining community.

II. Discussion and Summary of Final Rule

Section 56/57.9300(d) Berms or Guardrails

MSHA retains the introductory language to §§ 56.9300(d) and 57.9300(d) as proposed, which allows a limited exception to the general berms or guardrails requirement for elevated roadways which are infrequently traveled and used only by service or maintenance vehicles. The standard continues to require berms or guardrails on elevated roadways which do not meet all the alternative requirements. Several commenters felt that the standard imposed new and extreme requirements and that the scope of the standard should be limited to addressing the prevention of accidents from haulage vehicles leaving the roadway. The Agency disagrees. The existing standard requires berms on all elevated stretches of all roadways. An elevated roadway by its nature introduces a potential hazard from a vehicle overturning upon leaving the roadway. MSHA feels this safety hazard can exist with any elevated road unless proper safeguards are in place and that the application of berms or alternatives on all elevated roadways is a proper subject of the rulemaking. The final rule does allow an alternative means of protection in limited situations on roadways where haulage vehicles would not travel and where precautions are taken to reduce the risk of a vehicle leaving the roadway accidentally. This is done without reducing the degree of safety afforded by the existing standard by strictly limiting those circumstances where the exception applies and requiring several alternative safety measures to be undertaken.

Other commenters felt the berm alternative standard is too strict, containing numerous requirements when any one would suffice. The Agency believes that the use of only one of the requirements would not be appropriate. To assure adequate safety, it is essential that an operator comply with each of the requirements listed in the alternative. Commenters should note that public highways normally utilize several of the alternative requirements in combination and in many cases utilize more delineators than are required by MSHA rule because of the volume and degree of traffic on public highways.

Some commenters felt that some language in the final rule was vague, and wanted MSHA to be more specific in what the Agency meant by "infrequently traveled" and "elevated roadway." The standard focuses on elevated portions of roadways that are intended for the use of service and maintenance vehicles. The Agency used performance-oriented language to allow flexibility in meeting the variety of mine conditions which can occur. A roadway is elevated if the conditions are such that when a vehicle leaves the roadway it may overturn. It is the intent of MSHA to allow service and maintenance vehicles to travel on unbermed portions of elevated roadways a reasonable amount of time without imposing a requirement that the service roadway be bermed. The frequency of travel on the roadway is important insofar as it emphasizes the Agency's expectation that travel on these service roadways cannot be continuous or a normal everyday occurrence. There may be situations that require maintenance vehicles to travel the roadway several times in one day, but that is not frequent travel unless it becomes a common practice.

Finally, the Agency considered whether to include temporary roadways, such as those used for drilling or prospecting, within the berm alternative exception. MSHA concluded that it would be inappropriate to do so because of the potential safety risk involved. Heavy equipment travels along these

roadways, which in some cases may be open for close to a year.

The Agency retains paragraphs (1), (2), (3), and (5) of paragraph (d) as proposed. Paragraph (d)(4) is modified from the proposal to allow the speed limit to reflect actual safe driving conditions.

Paragraph (d)(1) requires locked gates at entrance points to elevated roadways. Locked gates limit uncontrolled and accidental access to unbermed areas and serve as a reminder to persons using the roadway that the roadway is not bermed. Commenters stated that locked gates can create hazards, especially when drivers must leave vehicles on inclines to open gates. MSHA believes that on balance, the presence of the gates will improve safety at mine properties. There is no requirement that the gates extend to the ground at any particular point. This should minimize the need for snow removal when opening and closing the gates.

Paragraph (d)(2) requires posting of warning signs and is retained as proposed. Warning signs notify intended users of the unbermed roadways and remind them of the existing hazard. The standard requires only the minimum number of signs necessary to warn of the unbermed conditions. In many cases, one warning sign would be sufficient. In instances where more than one access to the roadway is provided, additional signs would be needed. The language used on the sign is left to the discretion of the mine operator. This allows the operator to post whatever warning is appropriate.

MSHA retains the language of paragraph (d)(3) of the proposed rule. The stayed paragraph (d)(3) required reflectors (delineators) to be placed at 25-foot intervals along the perimeter of elevated roadways. After analyzing comments received, the Agency revised this performance-based alternative which was derived primarily from Department of Transportation (DOT) and Bureau of Mines (BOM) analyses. The proposed rule, and now the final rule, requires that delineators be installed along the perimeter of the elevated roadway so that, for both directions of travel, the reflective surfaces of at least three delineators along each elevated shoulder are always visible to the driver and spaced at intervals sufficient to indicate the edges and attitude of the roadway.

Road delineators are light-reflecting devices mounted at the side of the roadway, in series, to indicate the roadway alignment. Delineators serve as a guidance device to aid vehicle operators in identifying elevated roadway edges and changes in direction under all circumstances of impaired visibility, including but not limited to darkness and adverse weather. In its Manual on Uniform Traffic Control Devices, paragraph 3D–3, the DOT states that delineators shall consist of reflector units capable of clearly reflecting light under normal atmospheric conditions from a distance of 1,000 feet when illuminated by the upper beam of standard automobile lights. MSHA would accept such delineators as conforming with the intent of the standard.

In the DOT manual, intended for application to streets and highways, DOT provides a table (Table III–1) for variable spacing of delineators as a function of horizontal curve radius. In order to provide drivers with the necessary level of guidance required to safely negotiate roadways, DOT suggests delineators be placed as close as 20 feet apart on curves having a radius of 50 feet. They also include a recommendation for spacing of delineators on uninterrupted highways. This uninterrupted highway spacing recommendation provides a range of 200 to 528 feet with the understanding that "spacing should be adjusted on approaches and throughout horizontal curves so that several delineators are always visible to the driver." A 528-foot spacing serves the purpose of providing $\frac{1}{10}$ mile distance markers. The guidance role of delineators on unbermed elevated roadways is much more critical than on public highways. On public highways, berms or guardrails are provided in many instances as a physical backup to the guidance provided by the delineators. In addition to physical barriers, public highways typically have center lines and edge lines to assist delineators in providing the driver the necessary guidance. Since unbermed elevated mine roads do not have these and other safety features, MSHA feels the maximum recommended DOT delineator spacing of 528 feet would not provide adequate guidance to drivers. As mentioned, DOT has recognized that, depending on the circumstances of a particular straight roadway, marker spacing should range from 200–528 feet. In addition, the DOT manual indicates that the placement of signs warning of a change in road direction or attitude where speeds are relatively low should allow for an advance distance of about 250 feet. MSHA believes that delineators should be spaced at intervals sufficient to indicate the edges and attitude of the roadway to provide the driver with the necessary guidance to safely travel on the elevated roadway. MSHA also recognizes that closer delineator spacing would be necessary on curved portions of unbermed elevated roadways to provide the driver with the guidance needed to safely negotiate these areas. A minimum of three points are necessary to indicate departure from a straight line to a curve. Therefore, to keep the driver constantly aware of approaching changes in road direction and edge location, it is necessary for the operator to have at least three delineators visible to him along each edge of an elevated roadway at all times. In light of this, the final rule retains the requirement that at least three delineators be visible to the driver at all times on each elevated shoulder of an elevated roadway and spaced at intervals necessary to sufficiently indicate the direction and attitude of the roadway. The driver is thereby provided with feedback to maintain safe control of the vehicle.

Several commenters contended that the public highways should not be used as the basis for the MSHA position and cited differences between public highways and mine roads. MSHA is mindful of the differences and actually developed a less strict standard than it could have because of the reduced speed limits on mine roads when compared to public roads. Commenters questioned the use of delineators on roadways used only during the day, during construction, or on roadways in gently sloping areas or in areas of high snowfall. Since daytime visibility can be poor on occasion, even in the best of climates, delineators are appropriate on roadways used only in the daytime. Construction is not maintenance, and paragraph (d) would not apply during construction activities. Gently sloping areas are, by definition, not elevated. The standard would not require berms or alternative measures for gently sloping areas. For high snowfall areas, the poor road conditions and limited visibility associated with snowfall mandate the use of delineators.

Standards §§ 56.9101 and 57.9101 require that operating speeds be consistent with the conditions of roadways. However, they contain no specific limits on speed. Because of the absence of physical barriers to overtravel, it is desirable to have a specific provision for speed limits associated with the berm alternative provision. Paragraph (d)(4) of the proposed rule set a speed limit of 15 MPH on unbermed roadways. Several commenters stated that there were too many variables for MSHA to require a 15 MPH speed. MSHA agrees and revises the speed limit requirement to be

more performance oriented. Factors such as the width, slope and alignment of the road, the type of equipment using the road, the road material, and any hazardous conditions which may exist are to be considered when setting a maximum speed limit.

Paragraph (d)(5), which assures proper traction on unbermed elevated roadways, has been retained as proposed. The hazards to travel on an unbermed elevated roadway are significantly increased when weather conditions impair traction. These roadways could be used only if corrective action such as tire chains, plowing, or sanding is used to improve traction.

III. Executive Order 12291 and the Regulatory Flexibility Act

This final rule retains the proposed provision which requires that delineators shall be installed along the perimeter of elevated roadways so that the reflective surfaces of at least three delineators are always visible to the driver along each elevated shoulder for both directions of travel. In comparison with the proposed rule, the final rule would involve a minor cost reduction to some mine operators. Accordingly, the Agency has determined that this rule would not result in a major cost increase or have an incremental effect of $100 million or more on the economy. Therefore, a regulatory impact analysis is not required.

IV. Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Agency has also determined that the final rule will not have a significant impact on a substantial number of small entities.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1980.

List of Subjects in 30 CFR Parts 56 and 57

Mine safety and health, Metal and nonmetal mining, Safety standards for berms or guardrails.

Dated: August 21, 1990.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

Title 30, chapter I, subchapter N, parts 56 and 57 of the Code of Federal Regulations is amended as set forth below:

PART 56—SAFETY AND HEALTH STANDARDS—SURFACE METAL AND NONMETAL MINES

1. The authority citation for part 56 is revised to read as follows:

Authority: 30 U.S.C. 811, 957, and 961.

2. In § 56.9300, paragraph (d) is revised to read as follows:

§ 56.9300 Berms or guardrails.

* * * * *

(d) Where elevated roadways are infrequently traveled and used only by service or maintenance vehicles, berms or guardrails are not required when all of the following are met:

(1) Locked gates are installed at the entrance points to the roadway.

(2) Signs are posted warning that the roadway is not bermed.

(3) Delineators are installed along the perimeter of the elevated roadway so that, for both directions of travel, the reflective surfaces of at least three delineators along each elevated shoulder are always visible to the driver and spaced at intervals sufficient to indicate the edges and attitude of the roadway.

(4) A maximum speed limit is posted and observed for the elevated unbermed portions of the roadway. Factors to consider when establishing the maximum speed limit shall include the width, slope and alignment of the road, the type of equipment using the road, the road material, and any hazardous conditions which may exist.

(5) Road surface traction is not impaired by weather conditions, such as sleet and snow, unless corrective measures are taken to improve traction.

* * * * * *

PART 57—SAFETY AND HEALTH STANDARDS—SURFACE METAL AND NONMETAL MINES

3. The authority citation for part 57 is revised to read as follows:

Authority: 30 U.S.C. 811, 957, and 961.

4. In § 57.9300, paragraph (d) is revised to read as follows:

§ 57.9300 Berms or guardrails.

* * * * *

(d) Where elevated roadways are infrequently traveled and used only by service or maintenance vehicles, berms or guardrails are not required when all of the following are met:

(1) Locked gates are installed at the entrance points to the roadway.

(2) Signs are posted warning that the roadway is not bermed.

(3) Delineators are installed along the perimeter of the elevated roadway so that, for both directions of travel, the reflective surfaces of at least three delineators along each elevated shoulder are always visible to the driver and spaced at intervals sufficient to indicate the edges and attitude of the roadway.

(4) A maximum speed limit is posted and observed for the elevated unbermed portions of the roadway. Factors to consider when establishing the maximum speed limit shall include the width, slope and alignment of the road, the type of equipment using the road, the road material, and any hazardous conditions which may exist.

(5) Road surface traction is not impaired by weather conditions, such as sleet and snow, unless corrective measures, such as the use of tire chains, plowing, or sanding, are taken to improve traction.

* * * * * *

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