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NATIONAL MEDIATION BOARD**TIME AND DATE:** 2:00 P.M., Wednesday, May 1, 1985.**PLACE:** Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, D.C.**STATUS:** Open.**MATTERS TO BE CONSIDERED:**

1. Ratification of the Board actions taken by notation voting during the month of April, 1985.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523-5920.

Date of notice: April 18, 1985.

Mr. Rowland K. Quinn, Jr.,
Executive Secretary, National Mediation Board.

[FR Doc. 85-9983 Filed 4-22-85; 1:47pm]

BILLING CODE 7550-01-M

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NUCLEAR REGULATORY COMMISSION**DATE:** Weeks of April 22, 29, May 6, and 13, 1985.**PLACE:** Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.**STATUS:** Open and Closed.**MATTERS TO BE CONSIDERED:****Week of April 22***Tuesday, April 23*

9:30 a.m.

Discussion of Pending Investigations
(Closed—Ex. 5 & 7)

11:00 a.m.

Discussion of Diablo Canyon-2 Contested
Issues (Closed—EX. 10) (tentative)

2:30 p.m.

Discussion/Possible Vote on Diablo
Canyon-2 Low Power License (Public
Meeting)

Thursday, April 25

2:00 p.m.

Affirmation/Discussion and Vote (Public
Meeting)
a. Indian Point Order (Tentative)
(Postponed from April 18)

Week of April 29—Tentative*Wednesday, May 1*

10:00 a.m.

Discussion of Low Level Waste Issues
(Public Meeting)

2:00 p.m.

Periodic Briefing on NTOLs (Open/Portion
may be Closed—Ex. 5 & 7)

4:00 p.m.

Affirmation Meeting (Public Meeting) (if
needed)

Thursday, May 2

10:00 a.m.

Discussion of Modified Rule on Material
False Statements (Public Meeting)

Week of May 6—Tentative*Wednesday, May 8*

10:30 a.m.

Briefing by AIF on State of the Industry
(Public Meeting)

Thursday, May 9

10:00 a.m.

Briefing on Brookhaven Report on
Independent Safety Organization (Public
Meeting)

2:00 p.m.

Executive Branch Briefing (Closed—Ex. 1)

3:30 p.m.

Affirmation Meeting (Public Meeting) (if
needed)

Friday, May 10

2:00 p.m.

Periodic Meeting with Advisory Committee
on Reactor Safeguards (Public Meeting)

Week of May 13*Wednesday, May 15*

10:00 a.m.

Briefing on Final Rule on Backfitting (Public
Meeting)

Thursday, May 16

10:00 a.m.

Mid-Year Budget and Program Review
(Public Meeting)

ADDITIONAL INFORMATION: Affirmation of "UCS v. NRC [Emergency Preparedness Exercises May Not be Excluded by Rule from OL Hearings]" (Public Meeting) was held on April 18.

**TO VERIFY THE STATUS OF MEETINGS
CALL (RECORDING):** (202) 634-1498.

CONTACT PERSON FOR MORE

INFORMATION: Julia Corrado (202) 634-1410.

Julia Corrado,

Office of the Secretary.

April 19, 1985.

[FR Doc. 85-9902 Filed 4-19-85; 4:44 pm]

BILLING CODE 7590-01-M

federal register

Wednesday
April 24, 1985

Part II

Department of the Interior

**Office of Surface Mining Reclamation and
Enforcement**

**30 CFR Parts 779, 780, 783, 784, 816 and
817**

**Surface Coal Mining and Reclamation
Operations; Permanent Regulatory
Program; Preparation and Certification of
Cross Sections, Maps and Plans by Land
Surveyors; Certification of the Design of
Impoundments; Final Rule**

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 779, 780, 783, 784, 816 and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Preparation and Certification of Cross Sections, Maps and Plans by Land Surveyors; Certification of the Design of Impoundments

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) is amending its rules governing: (1) Preparation and certification of cross sections, maps and plans required in permit applications for surface and underground coal mining; (2) preparation and certification of general and detailed design plans for sedimentation ponds, water impoundments, and coal processing waste banks, dams and embankments; and (3) certification of the design of impoundments.

This final rule implements a November 4, 1983, amendment to the Surface Mining Control and Reclamation Act of 1977, and authorizes qualified, registered, professional, land surveyors to prepare and certify the cross sections, maps and plans required in an application for a surface coal mining and reclamation permit in any State which authorizes land surveyors to prepare and certify such documents. In addition, it increases the qualifications a land surveyor must have to prepare and certify detailed design plans for small structures. It also eliminates an inconsistency in the previous rules regarding the authority of land surveyors to certify the design of small impoundments.

EFFECTIVE DATE: May 24, 1985.

FOR FURTHER INFORMATION CONTACT: Stanford J. Zeccolo, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: 202-343-5955 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Final Rule and Responses to Public Comments on Proposed Rule
- III. Procedural Matters

I. Background

A. Amendment to Section 507(b)(14) of the Act

As originally enacted, section 507(b)(14) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1257(b)(14), required that certain cross sections, maps and plans in an application for a surface coal mining reclamation permit be

prepared by or under the direction of and certified by a qualified registered professional engineer, or professional geologist with assistance from experts in related fields such as land surveying and landscape architecture . . .

This requirement was implemented in the previous OSM rules at 30 CFR 779.25, 780.14, 780.25, 783.25, 784.16 and 784.23.

Prior to the Act, land surveyors in a number of States had been authorized by State law to prepare and certify the cross sections, maps and plans required in an application for a surface coal mining and reclamation permit. Under the Act, however, only an engineer or geologist could certify these documents.

To resolve this conflict with State law, the U.S. Congress on November 4, 1983, amended the Act to authorize land surveyors to prepare and certify cross sections, maps and plans (Sec. 115, Pub. L. 98-146, 97 Stat. 938 (1983)). The amendment provides that

[n]otwithstanding section 507(b)(14) of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87), cross-sections, maps or plans of land to be affected by an application for a surface mining and reclamation permit shall be prepared by or under the direction of a qualified registered professional engineer or geologist, or qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans.

On October 2, 1984 (49 FR 38958), OSM proposed a rule to implement this statutory amendment, and give qualified, registered, professional, land surveyors authority to prepare and certify cross sections, maps and plans in any State which authorizes land surveyors to prepare and certify such documents. This final rule is based on that proposal.

B. Inconsistent Rules

The previous permanent program rules contained inconsistent provisions concerning the authority of land surveyors to certify the design of small impoundments. The rules at 30 CFR 816.49(a)(2) and 817.49(a)(2), which were adopted in 1983 (48 FR 43994), did not authorize land surveyors to certify the design of any impoundments. However,

the rules at 30 CFR 780.25(a)(3) and 784.16(a)(3), which were adopted in March 1979 (44 FR 15357), authorized registered land surveyors to prepare and certify detailed design plans for small impoundments not meeting the size or other criteria of 30 CFR 77.216(a). (The rule at 30 CFR 77.216(a) specifies Mine Safety and Health Administration criteria concerning the elevation, storage volume, and hazard potential of an impounding structure.)

The rule proposed by OSM on October 2, 1984, resolved this inconsistency by revising §§ 816.49(a)(2) and 817.49(a)(2) to require certification of the design of impoundments in accordance with 30 CFR 780.25(a) and 784.16(a), respectively. These cross-references to §§ 780.25(a) and 784.16(a) were intended to preserve the authority for certifying small impoundments that already had been given to land surveyors in 1979 by the referenced sections. In addition, OSM proposed to increase the qualifications required of a land surveyor in §§ 780.25(a)(3) and 784.16(a)(3) by inserting the words "qualified" and "professional" before the term "land surveyor," to correspond with the qualifications required of an engineer in the same circumstances.

C. Public Comment Period

A thirty day public comment period was announced in the proposed rule, to close on November 1, 1984. Because the affected provisions of 30 CFR Chapter VII are referenced by Federal programs, on October 29, 1984 (49 FR 43479), the comment period was extended to December 3, 1984, to provide the 60 days public notice required by 30 CFR 736.12 for revision of a Federal program. Also in accordance with 30 CFR 736.12, public notice of the proposed rule was published in newspapers in the ten Federal program states of Tennessee, North Carolina, Georgia, Massachusetts, Rhode Island, Idaho, Oregon, Washington, South Dakota and Mississippi.

OSM received public comments on the proposed rule from a total of fourteen individuals and organizations. Public reaction to the proposed rule overall was favorable by a margin of approximately two-to-one. No request was received for a public hearing or meeting, and none was held.

II. Final Rule and Responses to Public Comments on Proposed Rule

A. Technical Revisions

Throughout this final rule, minor technical revisions are made in spelling, punctuation and grammar. These

revisions improve the clarity of the rule, but have no effect on its substantive requirements. Because of their limited effect, these technical revisions are not discussed in specific detail.

B. Section-by-Section Analysis

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

Section 779.25 Cross sections, maps and plans—Renumbering of Paragraphs. In § 779.25, the previous numbering of the paragraphs was incorrect. The introductory language related to paragraphs (a) through (k), but not to paragraph (l). Therefore, this rule amends § 779.25 by redesignating the introductory language as paragraph (a), redesignating paragraphs (a) through (k) as paragraphs (a)(1) through (a)(11), redesignating paragraphs (k)(1) through (k)(3) as paragraph (a)(11)(i) through (a)(11)(iii) and redesignating paragraph (1), the last paragraph, as paragraph (b).

Increased Authority of Land Surveyors. This rule revises new § 779.25(b) to authorize qualified, registered, professional, land surveyors to prepare and certify the cross sections, maps and plans required in a permit application pursuant to this section. In any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, this rule authorizes qualified, registered, professional, land surveyors to prepare and certify these documents.

In any such State, this rule gives qualified, registered, professional, land surveyors the same authority to prepare and certify cross sections, maps and plans as they are given by State law. Although the preamble to the proposed rule stated that the rule would give land surveyors the same authority as previously had been granted to engineers and geologists, this is true only to the extent such authority is given to land surveyors by State law.

The State of West Virginia, in its comments on the proposed rule, stated that it has authorized licensed land surveyors to design and certify cross sections, maps and plans since 1971, with entirely satisfactory results. Another commenter pointed out that the State of Pennsylvania currently authorizes land surveyors to prepare and certify cross sections, maps and plans.

One commenter thought the proposed rule gave equal status to engineers, geologists, and landscape architects, and thus tended to degrade professional land surveyors. Another thought it discriminated against professional land

surveyors, and that it considered an engineer, geologist or landscape architect to be more competent than a land surveyor.

OSM does not intend this rule to reflect adversely on the status of any of these professions to do the work for which they are authorized by State and Federal law. This rule does not affect the authority previously granted to professional geologists. Nor does it authorize landscape architects to prepare independently or to certify cross sections, maps and plans, but limits them to assisting engineers, geologists or land surveyors as authorized by the previous rule.

Another commenter thought OSM had construed the amendment to section 507(b)(14) of the Act too broadly in proposing to authorize land surveyors to prepare and certify all of the cross sections, maps and plans covered by that section of the Act, thereby posing a threat to the public health and safety, as well as to the safety of underground miners. This commenter thought that while the wording of the amendment to the Act ostensibly went further than merely allowing land surveyors to certify maps and plans of surface features, topography and land boundaries, the intent of the Congress was more limited than a literal reading of the amendment would indicate.

This commenter wanted OSM further to limit the rule to authorize land surveyors to engage in only those activities "properly within that professional field," rather than "merely recanting the statutory amendment and leaving the individual states without guidance in the area." Notwithstanding this commenter's concerns, however, there is nothing in either the amendment to the Act or its legislative history, and the commenter cited nothing, to support additional restrictions on land surveyors who meet the requirements of § 779.25(b).

Moreover, although this commenter alluded to activities properly within the field of surveying, such activities may vary among the States. This rule authorizes surveyors only to perform those functions in a particular State for which they have authority under State law. For these reasons, OSM has declined to impose any further restrictions on properly authorized land surveyors.

One commenter noted that in many of the areas affected by this rule the hourly rate of a land surveyor is approximately fifty percent of that of an engineer, which may result in substantial savings to operators, and particularly small operators, who employ surveyors. Such savings, the commenter believed, may

lead to lower coal prices and stimulate competition in the market.

Although operators may derive economic benefits from this rule, such benefits would not justify the rule if adequate environmental protection were not also assured. Because only qualified professionals are authorized to certify cross sections, maps and plans, this rule will not decrease the environmental protection provided by the Act.

Rule Authorizes Both Preparation and Certification. As was explained in the preamble to the proposed rule, while a literal reading of the amendment to section 507(b)(14) of the Act might appear to authorize land surveyors only to prepare cross sections, maps and plans, revised § 779.25(b) also authorizes land surveyors to certify these documents. In view of the legislative history of the amendment to the Act, OSM has concluded that the Congress intended the term "prepared by" in the amendment to include authority for certification.

As discussed by Senator Byrd on the floor of the Senate, 129 Cong. Rec. S12411 (daily ed. Sept. 19, 1983) (emphasis added), the purpose of the amendment was to remedy

conflicts with State laws [where the Act] preempts registered land surveyors from a lead role in the preparation and certification of maps, plans, and cross-sections . . .

The Surface Mining Control and Reclamation Act of 1977 authorizes registered professional engineers and geologists to perform design and planning work for mining projects. The act does not permit professional land surveyors to take the lead role in preparing and certifying mine maps and plans.

These and other references in the legislative history to both preparing and certifying strongly infer that the Congress intended to authorize qualified, registered, professional, land surveyors to perform both of these functions as lead professionals. If land surveyors were authorized merely to prepare, but not to certify, cross sections, maps and plans, their status as lead professionals would be seriously impaired, if not entirely negated. Thus, this rule authorizes qualified, registered, professional, land surveyors both to prepare and to certify these documents.

A number of commenters expressed agreement with this interpretation of the amendment to section 507(b)(14) of the Act. One pointed out that the rules in effect prior to the amendment had authorized land surveyors to prepare cross sections, maps and plans under the direction of professional engineers, but not to certify them. If the

amendment and this rule did not authorize land surveyors to certify these documents, there would be no change from their previous status. OSM concurs with this observation, and concludes that in enacting the amendment the Congress intended to authorize land surveyors both to prepare and to certify cross sections, maps and plans.

Qualifications of Professional Geologist. The proposed rule would have added the words "qualified" and "registered" to modify the term "professional geologist" in § 779.25(b), to correspond with the qualifications required of an engineer. A commenter pointed out that some States do not have a registration process for professional geologists, and thus the rule would be inconsistent with current procedures in those States. This commenter noted that in the State of Wyoming, for example, there is no registration process for geologists. To qualify as a "professional geologist" under Wyoming law a person need only have a certain level of education and experience.

This comment is consistent with the text of section 507(b)(14) of the Act, which speaks only in terms of a "professional geologist," without the added qualifications required of a professional engineer. Accordingly, in this final rule the less restrictive language of the Act is retained in § 779.25(b), and the words "qualified" and "registered" have not been added to modify the term "professional geologist." In determining whether a person qualifies as a professional geologist under this provision, OSM will apply whatever standard is used in the State where the proposed surface coal mining operation would take place.

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section 780.14 Operation plan: Cross sections, maps and plans.—Increased Authority of Land Surveyors. Previous § 780.14 required that each surface mining permit application contain specified maps and plans, some of which must be certified. This rule revises § 780.14(c) to authorize qualified, registered, professional, land surveyors to prepare and certify these maps and plans in any State which grants land surveyors such authority. The effect of this revision is the same as discussed previously for § 779.25(b).

References to Exceptions and Pertinent Paragraphs. For increased specificity, the exceptions previously described verbally in § 780.14 (c)(1) and (c)(2) now are referenced by section

number at the beginning of paragraph (c). The referenced provisions, 30 CFR 780.25(a)(2), 780.25(a)(3), 780.35(a), 816.71(b), 816.73(c) and 816.81(c), restrict land surveyors from preparing and certifying cross sections, maps and plans in certain situations. Although referenced § 780.35(a) does not itself contain an independent certification requirement, it does incorporate by reference the requirements of 30 CFR 816.71(b) and 816.73(c). The explicit reference to § 816.73(c) in the final rule inadvertently was omitted from the proposed rule. However, § 816.73(c) was referenced indirectly in the proposed rule through the reference to § 780.35(a).

To correct an omission from the references to paragraph (b) in the previous rule, a reference to paragraph (b)(6) is added to the previous references to paragraphs (b) (4), (5), (10) and (11). As noted in the preamble to the proposed rule, the water diversion, collection, conveyance, treatment, storage and discharge facilities covered by paragraph (b)(6) clearly are within the purview of "any settling or water treatment facility . . . constructed or natural drainways and the location of any discharges to any surface body of water," as recited in section 507(b)(14) of the Act, and thus are within the purview of § 780.14(c).

Section 780.25 Reclamation plan: Impoundments and coal processing waste impounding structures.—Increased Authority of Land Surveyors. Previous § 780.25 required that each application for a surface coal mining and reclamation permit include a general plan for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam or embankment within the proposed permit area. This rule revises § 780.25(a)(1)(i) to authorize qualified, registered, professional, land surveyors to prepare and certify this general plan in any State which authorizes land surveyors to prepare and certify such plans. The effect of this revision is the same as discussed previously for § 779.25(b).

Proposed § 780.25(a)(1)(i) incorrectly specified cross sections and maps as documents which a State must authorize a land surveyor covered by this section to prepare. This reference to cross sections and maps has been deleted from the final rule, which requires only that a State authorize land surveyors to prepare and certify general plans.

Additional Qualifications for Land Surveyors. Previous § 780.25(a)(3)(i) authorized a registered land surveyor to prepare and certify a detailed design plan for a structure that does not meet the size or other criteria of 30 CFR

77.216(a). This rule revises § 780.25(a)(3)(i) to increase the qualifications a land surveyor must have to prepare such plans. To correspond with what is required of an engineer, the words "qualified" and "professional" are added to modify the term "land surveyor." As stated in the preamble to the proposed rule, these increased qualifications are in keeping with the intent of the Congress in the amendment to section 507(b)(14) of the Act.

While the discussion of § 780.25 in the preamble to the proposed rule inadvertently stated only that additional qualifications would be added to the term "professional geologist," but failed to include the term "land surveyor," it is clear from the context of that discussion and from the text of the proposed rule that similar modifications of the term "land surveyor" also was intended. The preamble not only cited § 780.25(a)(3), which concerns land surveyors and not geologists, as subject to the proposed revision, but also the proposed rule itself included the increased qualifications for land surveyors.

While proposed § 780.25(a)(3)(i) conditioned the authority granted to land surveyors on a requirement that a State grant to land surveyors corresponding authority to prepare detailed design plans, it inadvertently omitted a similar condition that a State grant to land surveyors authority to certify these plans. This rule corrects this omission and requires State authorization of land surveyors both to prepare and to certify such plans. This additional condition is in keeping with similar requirements elsewhere in this rule.

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

Section 783.25 Cross sections, maps and plans.—Section 783.25 is revised in the same way and for the same reasons as discussed previously for § 779.25. The editorial note following § 783.25 is revised to reflect the renumbering of previous paragraphs (c), (h) and (i) as new paragraphs (a)(3), (a)(8) and (a)(9), respectively.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section 784.16 Reclamation plan: Ponds, impoundments, banks, dams and embankments.—Except for substituting references to the corresponding rules for underground mining activities in 30 CFR 817.81 and 817.84, § 784.16 is revised in

the same way and for the same reasons as discussed previously for § 780.25.

Section 784.23 Operation plan: Cross sections, maps and plans.—Except for substituting references to the corresponding rules for underground mining activities in 30 CFR 784.16(a)(2), 784.16(a)(3), 784.19, 817.71(b), 817.73(c) and 817.81(c), § 784.23 is revised in the same way and for the same reasons as discussed previously for § 780.14.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

Section 816.49 Impoundments.—Certification of Small Impoundments by Land Surveyors. This rule revises § 816.49(a)(2) to require the certification of impoundment designs in accordance with 30 CFR 780.25(a). Previous § 816.49(a)(2) was inconsistent with § 780.25(a)(3)(i), which authorizes land surveyors to prepare and certify the design of small impoundments that do not meet the size or other criteria of 30 CFR 77.216(a). The revision eliminates this inconsistency and preserves the certification authority previously granted to land surveyors by § 780.25(a)(3)(i), subject however to the increased qualifications for land surveyors added to § 780.25(a)(3)(i) elsewhere in this rule.

The added reference to § 780.25(a) in § 816.49(a)(2) will promote consistent interpretation and enforcement of these two related provisions. As provided in § 780.25(a)(2), only a qualified, registered, professional, engineer is authorized to certify the design of impoundments that meet or exceed the size or other criteria of 30 CFR 77.216(a). For impoundments that do not meet the size or other criteria of § 77.216(a), a qualified, registered, professional, land surveyor is authorized to certify the design in any State where land surveyors are authorized by State law to certify such designs.

One commenter maintained that registered professional engineers should be required to design and certify all impoundments and retention ponds. Another characterized "OSM's proposal to allow land surveyors to design small impoundments [as] dangerous and reckless," citing the collapse on an impoundment in Ages Creek, Kentucky in December 1981 as evidence for this concern. Another commenter cited the Ages Creek structure as the type of impoundment the proposed rule would authorize land surveyors to design and certify, and concluded that land surveyors lack the technical training and experience necessary to do such work.

OSM disagrees with these comments for several reasons. One, this rule does

not increase the authority of land surveyors with respect to small impoundment design, but only with respect to certification. Two, the Ages Creek structures was a coal waste refuse dam, and significant factors other than its design contributed to the failure and resulting damage. Finally, 30 CFR 816.71(b) and 816.81(c) continue to require certification by an engineer for all excess spoil fills and mine waste disposal facilities, respectively, regardless of size.

Furthermore, the Act provides many levels of protection, of which design certification is only one. Section 816.49(a)(2) itself requires that the certifying land surveyor have previous experience in impoundment design and construction. Any design which is certified by a land surveyor must conform to the performance standards of the regulatory program and be submitted to the regulatory authority for review as part of a permit application package. Under 30 CFR 816.46(b)(3) an engineer must certify all siltation structures during construction as conforming to the approved design and to the requirements of Part 816. Under § 816.49(a)(10) impoundments are given frequent inspections. And under § 816.49(a)(11) all small impoundments are examined for structural weakness and hazardous conditions at least annually.

Thus, OSM concludes that qualified, registered, professional, land surveyors properly may be given responsibility for certifying the design of small impoundments.

Post-Construction Certification and Inspection of Impoundments. As was noted in the preamble to the proposed rule, this final rule does not affect 30 CFR 816.46(b)(3), which requires that "[s]iltation structures . . . upon construction, shall be certified by a qualified registered professional engineer to be constructed as designed and as approved in the reclamation plan." It also does not affect 30 CFR 816.49(a)(10), which requires the inspection of impoundments by a qualified, registered, professional engineer or other qualified professional specialist.

A number of commenters disagreed with OSM's interpretation that the November 4, 1983, amendment to the Act did not authorize land surveyors to certify the construction of siltation structures or to inspect impoundments, and thus did not affect the requirements of 30 CFR 816.46(b)(3) and 816.49(a)(10). They believed that the Congress intended the amendment to cover the post-construction certification and inspection of small impoundments, and

found it anomalous that land surveyors were authorized to certify the designs of these structures, but not to do post-construction certification and inspection.

One commenter stated that OSM's interpretation of the amendment to the Act was "an arbitrary determination based solely upon the awkward division of SMCRA and the regulations issued thereunder into application-related sections and performance standard sections." This commenter also maintained that from the standpoint of environmental protection it is safer to allow the person who designs a small impoundment to inspect it during and after construction to determine whether it complies with the original design, than to rely on another person who is unfamiliar with the original design.

Another commenter concluded that certification of such structures during and after construction is only a matter of reading plans, performing measurements, ensuring correct construction procedures and certifying the results, and that these functions are well within the scope of professionalism of a registered professional land surveyor.

A land surveyor licensed in the State of West Virginia noted that during the past eight years he has designed numerous siltation structures, and had directly supervised and then certified their construction. This land surveyor felt that the person who designs and supervises the construction of a structure is the most qualified individual to certify its construction, and that the intent of the amendment to the Act was to reinstate the land surveyor in this capacity.

Several commenters pointed out that in the State of West Virginia licensed land surveyors have had post-construction certification authority for these structures for the past fourteen years. One of these commenters reasoned that by denying land surveyors the authority for post-construction certification and inspection of small impoundments, OSM has, in effect, declared land surveyors incompetent to design such structures. This commenter believed that OSM's interpretation of the amendment to the Act was contrary to all recognized construction policies, and evidence of obvious resistance to recognizing the abilities of land surveyors.

While OSM acknowledges that these comments have some technical merit, OSM disagrees with them as they relate to § 816.49(b)(3) because the post-construction certification requirements in § 816.46(b)(3) derive from section

515(b)(10)(B)(ii) of the Act. None of these commenters provided any evidence that the Congress in amending section 507(b)(14) of the Act also intended to amend section 515(b)(10)(B)(ii). Absent such evidence, OSM is constrained by the explicit language of section 515(b)(10)(B)(ii) to keep the existing certification requirements of § 816.46(b)(3). OSM does not intend this interpretation to reflect in any way upon the competence of qualified, registered, professional, land surveyors to prepare and certify the designs of small impoundments.

OSM agrees in principle with these comments as they relate to § 816.49(a)(10). Contrary to an incorrect statement in the proposed rule (49 FR 38959; October 2, 1984), this section is not based on section 515(b)(10)(B)(iii) of the Act. And while section 816.49(a)(10) is not governed by the amendment to section 507(b)(14), there is nothing in the Act to preclude OSM from amending section 816.49(a)(10) to authorize qualified, registered, professional, land surveyors to inspect small impoundments. This authority for small impoundments was given to land surveyors in previous section 816.49(h) (44 FR 15395; March 13, 1979). Based on these comments OSM is considering whether to propose an amendment to section 816.49(a)(10) to restore this authority to land surveyors. With respect to amending section 816.49(a)(10) in this final rule, OSM has concluded that the proposed rule did not provide sufficient notice for such an amendment.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

Section 817.49 Impoundments.—Except for substituting a reference to the corresponding rule for underground mining activities in 30 CFR 784.16(a), section 817.49 is revised in the same way and for the same reasons as discussed previously for section 816.49.

A commenter pointed out that proposed section 817.49(a)(2) incorrectly referenced section 784.25(a). The final rule includes the correct reference to section 784.16(a).

III. Procedural Matters

Federal Paperwork Reduction Act

This rule contains no new information collection requirements. The information collection requirements in the affected sections of the previous rules were submitted to the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1029-0035 (§ 779.25), 1029-0036 (§§ 780.14 and

780.25), 1029-0038 (§ 783.25), 1029-0039 (§§ 784.16 and 784.23).

Executive Order 12291

The DOI has examined this rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis. Any negative economic impact on professional engineers or geologists will be offset by a corresponding positive impact on land surveyors. The estimated number of directly affected surveyors is 500, with a potential shift in income of \$700,000 to \$3.5 million annually. OSM disagrees with the commenter on the proposed rule who, without providing any evidence, suggested that this estimated number of surveyors was too low.

Regulatory Flexibility Act

The DOI also has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this rule will not have a significant economic impact on a substantial number of small entities. While under the rule some registered professional engineers or geologists who work in small business or are self-employed may lose work to professional land surveyors, any negative economic impact on engineers or geologists should be offset by a corresponding positive impact on surveyors who are similarly employed.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) on this rule, and has made a finding that it would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). The EA and finding of no significant impact are on file in the administrative record for this rule in the OSM Administrative Record Room at 1100 L Street, NW., Washington, D.C.

List of Subjects

30 CFR Part 779

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 780

Coal mining, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 783

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 784

Coal mining, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

Accordingly, 30 CFR Parts 779, 780, 783, 784, 816 and 817 are amended as follows:

Dated: March 28, 1985.

J. Steven Griles,

Deputy Assistant Secretary for Land and Minerals Management.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

1. The authority citation for Part 779 is revised to read as follows:

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98-146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

2. Section 779.25 is amended by redesignating the introductory language as paragraph (a), redesignating paragraphs (a) through (k) as paragraphs (a)(1) through (a)(11), redesignating paragraphs (k)(1) through (k)(3) as paragraphs (a)(11)(i) through (a)(11)(iii), and redesignating paragraph (l), the last paragraph, as paragraph (b).

3. In § 779.25, new paragraph (b) is revised to read as follows:

§ 779.25 Cross sections, maps and plans.

(b) Cross sections, maps and plans included in a permit application as required by this section shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture, and shall be updated as required by the regulatory authority.

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

4. The authority citation for Part 780 is revised to read as follows:

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98-146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

5. In § 708.14, paragraph (c) is revised to read as follows:

§ 780.14 Operation plan: Cross sections, maps and plans.

(c) Except as provided in §§ 780.25(a)(2), 780.25(a)(3), 780.35(a), 816.71(b), 816.73(c) and 816.81(c) of this chapter, cross sections, maps and plans required under paragraphs (b)(4), (5), (6), (10) and (11) of this section shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture.

6. In § 780.25, paragraphs (a)(1)(i) and (a)(3)(i) are revised to read as follows:

§ 780.25 Reclamation plan: Ponds, impoundments, banks, dams and embankments.

(a) *General.* Each application shall include a general plan for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam or embankment within the proposed permit area.

(1) Each general plan shall—

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture;

(3) Each detailed design plan for a structure that does not meet the size or other criteria of § 77.216(a) of this title shall—

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional, land surveyor, except that all coal processing waste dams and

embankments covered by §§ 816.81–816.84 of this chapter shall be certified by a qualified, registered, professional engineer;

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

7. The authority citation for Part 783 is revised to read as follows:

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98-146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

8. Section 783.25 is amended by redesignating the introductory language as paragraph (a), redesignating paragraphs (a) through (k) as paragraphs (a)(1) through (a)(11), redesignating paragraphs (k)(1) through (k)(3) as paragraphs (a)(11)(i) through (a)(11)(iii), and redesignating paragraph (l), the last paragraph, as paragraph (b).

9. In 783.25, new paragraph (b) is revised to read as follows:

§ 783.25 Cross sections, maps and plans.

(b) Cross-sections, maps and plans included in a permit application as required by this section shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture, and shall be updated as required by the regulatory authority.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

10. The authority citation for Part 784 is revised to read as follows:

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98-146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

11. Section 784.16 is revised to read as follows:

§ 784.16 Reclamation plan: Ponds, impoundments, banks, dams and embankments.

(a) *General.* Each application shall include a general plan for each proposed sedimentation pond, water impoundment, and coal processing

waste bank, dam or embankment within the proposed permit area.

(1) Each general plan shall—

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional, land surveyor with assistance from experts in related fields such as landscape architecture;

(3) Each detailed design plan for a structure that does not meet the size or other criteria of § 77.216(a) of this title shall—

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional, land surveyor, except that all coal processing waste dams and embankments covered by §§ 817.81–817.84 of this chapter shall be certified by a qualified, registered, professional engineer;

12. In § 784.23, paragraph (c) is revised to read as follows:

§ 784.23 Operation plan: Cross sections, maps and plans.

(c) Except as provided in §§ 784.16(a)(2), 784.16(a)(3), 784.19, 817.71(b), 817.73(c) and 817.81(c) of this chapter, cross sections, maps and plans required under paragraphs (b)(4), (5), (6), (10) and (11) of this section shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

13. The authority citation for Part 816 is revised to read as follows:

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98-146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

14. In § 816.49, paragraph (a)(2) is revised to read as follows:

§ 816.49 Impoundments.

(a) * * *

(2) *Design certification.* The design of impoundments shall be certified in accordance with § 780.25(a) of this chapter as designed to meet the requirements of this part using current, prudent, engineering practices and any design criteria established by the regulatory authority. The qualified, registered, professional engineer or qualified, registered, professional, land surveyor shall be experienced in the design and construction of impoundments.

* * * * *

**PART 817—PERMANENT PROGRAM
PERFORMANCE STANDARDS—
UNDERGROUND MINING ACTIVITIES**

15. The authority citation for Part 817 is revised to read as follows:

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98-146, 97 Stat. 936 (30 U.S.C. 1257), unless otherwise noted.

16. In § 817.49, paragraph (a)(2) is revised to read as follows:

§ 817.49 Impoundments.

(a) * * *

(2) *Design certification.* The design of

impoundments shall be certified in accordance with § 784.16(a) of this chapter as designed to meet the requirements of this part using current, prudent, engineering practices and any design criteria established by the regulatory authority. The qualified, registered, professional engineer or qualified, registered, professional, land surveyor shall be experienced in the design and construction or impoundments.

* * * * *

[FR Doc. 85-9736 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-05-M

Register Federal Paper

Wednesday
April 24, 1985

Part III

Department of Education

Office of Special Education and
Rehabilitative Services

Centers for Independent Living; Fiscal Year
1985 Funding Priorities and Application
Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Centers for Independent Living; Fiscal Year 1985 Funding Priorities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final funding priorities for Fiscal Year 1985.

SUMMARY: The Secretary announces final funding priorities for new projects to be funded in Fiscal Year 1985 under the Centers for Independent Living program, authorized under Section 711 of the Rehabilitation Act of 1973, as amended. These final funding priorities inform potential applicants for grants and other persons interested in vocational rehabilitation services of the areas in which competition for grants will be held in Fiscal Year 1985. These funding priorities will ensure effective use of Fiscal Year 1985 program funds.

EFFECTIVE DATE: These priorities will take effect either 45 days after publication in the *Federal Register* or later if Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Harold F. Shay, Director, Division of Special Projects, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 732-1325.

SUPPLEMENTARY INFORMATION: Grants for Centers for Independent Living are authorized by Title VII, Part B of the Rehabilitation Act of 1973, as amended (29 U.S.C. 796e). Program regulations are established at 34 CFR Part 366. The purpose of the Centers for Independent Living Program is to establish and operate Centers designed to provide a combination of services to severely handicapped individuals to enable them to live more independently in family and community or to secure and maintain appropriate employment. The Act requires that handicapped individuals be substantially involved in policy direction and management of each Center established and operated under this authority.

Two Fiscal Year 1985 priorities were proposed for public comment in the *Federal Register* on December 6, 1984 (49 FR 47650). The priorities will extend independent living services to additional groups of disabled persons and will

assist severely handicapped person in making the transition from school or institution to community living or employment.

Interested persons were invited to submit comments or suggestions regarding the proposed priorities on or before January 7, 1985. Thirty-three letters were received in response to this invitation.

Summary of Comments and Responses

The comments received in response to the Notice of Proposed Funding Priorities published in the *Federal Register* on December 6, 1984 (49 FR 47650) and the Secretary's responses to these comments are summarized below:

Priority 1: Expanding Services to Additional Groups of Disabled Persons

Comment: A number of commenters suggested that more program emphasis be given to older blind persons and persons with low vision.

Response: No change has been made. Older blind persons and low vision persons constitute a sizeable segment of our disabled population. Priority 1 addresses expansion of services to additional groups of disabled persons. This priority will provide an opportunity for those Centers that have not been serving older blind persons or low vision persons in the past or who have not been emphasizing services to these groups to develop a special program focus at this time.

Comment: A number of commenters suggested certain additional groups of disabled persons for identification in the list of examples under Priority 1. These suggested groups included racial and ethnic minorities and persons residing in rural areas.

Response: No change has been made. Priority 1, as proposed, listed several examples of the types of program expansion possible under this priority. It is important to remember that these were only examples, and there was no intent to make the list all inclusive or to give preference to any listed area of program expansion. The key point to remember, when addressing this priority, is the extent to which there is a demonstrated need for expansion from a limited population served to a described broader population.

Comment: Several commenters suggested that transportation and housing services should receive special emphasis.

Response: No change has been made. One of the significant characteristics of the Centers for Independent Living Program is that the services provided are, for the most part, those services that are selected by the Centers. Centers

have had, and will continue to have, an opportunity to make their own decisions on what services they feel are most needed as well as most compatible with their financial resources and staff expertise.

Comment: A commenter suggested that special funding be put aside to train center staff in servicing the needs of the additional groups of disabled persons addressed in Priority 1.

Response: No change has been made. Centers have over the years identified monies in their budgets for staff training. Title VII, Part B authorizes monies solely for the purpose of establishing Centers and does not address separate funding for staff training. Section 304 of the Rehabilitation Act of 1973, as amended, authorizes grants and contracts with States and public or non-profit agencies and organizations to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the number of personnel trained in providing services to handicapped individuals.

Comment: A commenter suggested that the term "deaf/blind" under Priority 1 be expanded to make clear that the priority is not restricted to those individuals who are both deaf and blind.

Response: A change has been made. The priority now cites the deaf, the blind and the deaf/blind. Again the list in Priority 1 is intended to include examples only and the reference to deaf and/or blind individuals may also include those persons with visual impairments as well as those persons with other sensory impairments.

Comment: A commenter suggested that attendant care services be included as a separate funding priority for Fiscal Year 1985.

Response: No change has been made. Attendant care services are recognized as a major element in the provision of independent living services. At the present time, however, the Medicaid Program administered by the Health Care Financing Administration, Department of Health and Human Services, has issued regulations (42 CFR 440.170f) giving States the option of covering personal care services as a separate benefit under The Medicaid Program. Since States also have the option of covering personal care services as part of a home and community-based services waiver (42 CFR 440.180), the identification of attendant care services as a separate funding priority does not appear to be appropriate under the Centers for Independent Living Program.

Priority 2: Transition From School or Institution to Community Living or Employment.

Comment: A Commenter suggested that Priority 2 Transition from School or Institution to Community Living or Employment, be redesignated as Priority 1, and Expanding Services to Additional Groups of Disabled Persons be designated Priority 2.

Response: No change has been made. There is no intent to give preference to either priority. The priorities were numbered for identification purposes only. Each priority has equal weight with respect to funding.

General Comments

Comment: A commenter suggested that local, public or private, non-profit agencies be allowed to apply directly in competition with State agencies.

Response: No change has been made. Title VII, Part B, section 711 of the Rehabilitation Act of 1973, as amended, requires the Commissioner to make grants to any designated State unit that administers the State plan under section 705 to provide for the establishment and operation of Independent Living Centers. Section 711(d) states that if, within six months after the date in each fiscal year on which the Commissioner begins to accept applications from designated State units under this section, a designated State unit in a State has not submitted an application, the Commissioner may accept applications for grants under this section from local, public agencies or private, non-profit organizations within the State.

Comment: One commenter suggested that \$500,000 be earmarked for regional training workshops to be conducted by the National Council for Independent Living Programs. Additionally, this commenter suggested that small amounts of money be allocated to fund community-based, consumer controlled, non-profit organizations as seed money, and that these monies flow through the National Council for Independent Living Programs.

Response: No change has been made. Title VII, Part B authorizes grants to establish and operate Independent Living Centers; separate funding for training workshops is not authorized. Additionally, all Title VII, Part B funds must be awarded to a designated State unit or to a local, public or private, non-profit agency or organization, should the designated State unit not submit an application.

In addition, Department of Education discretionary grant programs are subject to competitive selection procedures

described in the Education Department General Administrative Regulations (34 CFR Part 75).

Comment: A commenter suggested that Centers be encouraged or directed to work out cooperative arrangements through sub-contracts to existing agencies with the experience, expertise and specialized staff to meet the service needs of the additional disability populations.

Response: No change has been made. An important element of the Title VII, Part B, Independent Living Program has always been the development of cooperative relationships with other public and private non-profit community agencies to ensure that maximum use is made of available resources and to avoid duplication. Centers have accomplished this by both formal agreements (contracts) and informal agreements.

Final Priorities

The Secretary establishes the following final funding priorities for the Centers for Independent Living Program for Fiscal Year 1985. Available program funds will be divided equally between the two priority areas.

Priority 1: Expanding Services to Additional Groups of Disabled Persons

This priority is intended to enable those existing Centers for Independent Living that have focused in the past on a limited number of disabilities because of tradition, lack of resources, or lack of specially trained staff to expand services to additional disability populations with service needs which require specialized staff, techniques, equipment or other resources.

Examples of the type of program expansion to which this priority is addressed are: Programs currently serving mobility impaired persons that wish to expand coverage to persons with mental handicaps; programs currently serving orthopedically or neurologically impaired persons that wish to expand to serve persons with sensory impairments, including the deaf, the blind or the deaf/blind; programs currently serving persons with mental handicaps that wish to expand to serve physically disabled individuals; programs currently serving children that wish to expand to serve youths and adults; or programs currently serving younger populations that wish to expand to serve older persons, especially older blind persons.

Services to be developed under this priority will enable additional numbers of severely handicapped persons to live more independently in family and

community or to secure and maintain employment.

Priority 2: Transition From School or Institution to Community Living or Employment

Priority will be given to proposals that will enable existing Centers for Independent Living to provide independent living services cooperatively with services of other community programs so as to enhance the abilities of severely disabled persons leaving school or institution to live more independently in the community or to seek and maintain employment. Examples of other community services which should be effectively integrated into a comprehensive approach are: Local housing and transportation authorities; State or county Medicaid agencies that can assist in the provision of personal care attendant or home based services; State vocational rehabilitation agencies; technical or vocational schools and community colleges; agricultural extension services in rural areas; as well as any other service or income maintenance program which individuals need and are eligible to receive.

Projects supported under this priority must include cooperative arrangements with existing community resources that will facilitate the transition of severely handicapped persons from school or institution to community living or employment.

It is not necessary that the cooperating community agencies support the direct costs of the project, but it is expected that they will cooperatively participate to the fullest extent possible to ensure that severely disabled persons leaving school or institution achieve their maximum independence.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158, June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

(29 U.S.C. 790e)

(Catalog of Federal Domestic Assistance No. 84.132, Centers for Independent Living)

Dated: April 19, 1985.
 William J. Bennett,
 Secretary of Education.
 [FR Doc. 85-9883 Filed 4-23-85; 8:45am]
 BILLING CODE 4000-01-M

Centers for Independent Living

AGENCY: Office of Special Education and Rehabilitation Services, Department of Education.

ACTION: Application Notice Establishing Closing Date for Transmittal of Fiscal Year 1985 New Awards.

Applications are invited for new projects under the Centers for Independent Living program.

Authorization for this program is contained in section 711 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 796e).

Applications may be submitted by designated State vocational rehabilitation units. Applications may also be submitted by local public agencies or private nonprofit organizations within a State, if the designated State unit has not submitted an application within six months after the Secretary begins accepting new applications in any fiscal year. October 1, 1984 has been established as the date in Fiscal Year 1985 on which the Secretary began to accept new applications.

The purpose of this program is to establish and operate Centers for Independent Living which offer a combination of independent living services for severely handicapped individuals so that they may live more independently in family and community, or secure and maintain employment, with the maximum degree of self-direction.

Closing date for transmittal of applications: Applications for grant awards must be mailed or hand delivered by July 10, 1985.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.132, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (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 U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that 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.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Intergovernmental review: On June 24, 1983, the Secretary published in the Federal Register final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372, entitled: "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

The program in this notice is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental

responsibilities of a State or local government within the geographic area.

The following is the current list of States which have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Jersey
Arizona	New Mexico
Arkansas	New York
California	North Carolina
Colorado	North Dakota
Connecticut	Ohio
Delaware	Oklahoma
District of Columbia	Oregon
Florida	Pennsylvania
Hawaii	Rhode Island
Illinois	South Carolina
Indiana	South Dakota
Iowa	Texas
Kansas	Utah
Kentucky	Vermont
Louisiana	Virginia
Maine	Washington
Maryland	West Virginia
Massachusetts	Wisconsin
Michigan	Wyoming
Mississippi	Guam
Missouri	Northern Mariana Islands
Montana	Puerto Rico
Nebraska	Trust Territory
Nevada	Virgin Islands
New Hampshire	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out that, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by September 9, 1985, to the following address: The Secretary, U.S. Department of Education, Room 4181 (CFDA No. 84.132), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND