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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 371

#### Organization, Functions and Delegations of Authority

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document revises the statement of organization of the Animal and Plant Health Inspection Service (APHIS) by transferring the Agency's Equal Employment Opportunity Staff (EEO) from the Office of the Administrator to the Human Resources Division (HRD) under the direction of the Deputy Administrator for Management, and makes other such functional changes in the Agency's organizational structure as are concerned with furnishing personnel services to employees in international programs and the responsibility for negotiating and implementing cooperative agreements. In addition, a new address is inserted for Veterinary Services Program's North Central Regional Office.

**EFFECTIVE DATE:** May 10, 1982.

**FOR FURTHER INFORMATION CONTACT:** John C. Frey, Animal and Plant Health Inspection Service, Hyattsville, MD 20782 (301-436-6466).

**SUPPLEMENTARY INFORMATION:** Over the last several years, APHIS has made steady gains in EEO programs. Managers who are directly responsible for these gains depend on the EEO staff, servicing personnel officers, and many employees with collateral duty responsibilities in EEO programs. The need for coordination and cooperation is the greatest between the EEO staff and

the personnel management programs of HRD. By combining the EEO staff with HRD, APHIS will be ensuring a totally coordinated approach to carrying out a comprehensive personnel management program. By organizing the EEO programs within HRD, more resources, information, and qualified staff will be directly available to the EEO Manager in carrying out the assigned functions. In addition, the responsibility for furnishing personnel services to personnel stationed at foreign duty posts is transferred from the International Programs Support Staff of HRD to the Field Servicing Office. Finally, responsibility for negotiating and implementing cooperative agreements is being transferred from the Administrative Services Division to the Budget and Accounting Division. APHIS believes that this alignment of organizational functions conforms to the mission of the Agency and that placing these functional responsibilities as indicated will enable APHIS to serve the public more efficiently and therefore, the statement of organization, functions and delegations of authority for APHIS is being amended as outlined.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the *Federal Register*. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

#### List of Subjects in 7 CFR Part 371

Organization and functions (Government Agencies).

#### PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: 5 U.S.C. 301.

2. Section 371.1 is amended by revising paragraphs (b) and (c)(2) to read as follows:

#### § 371.1 General statement.

(b) *Central Office.* The central offices of APHIS are located at Washington, D.C. and Hyattsville, Maryland, and consist of the Office of the Administrator, Associate Administrator, and three Deputy Administrators as follows:

Office of the Administrator  
Information Division  
Associate Administrator  
Deputy Administrator, Plant Protection and Quarantine  
Deputy Administrator, Veterinary Services  
Deputy Administrator for Management  
(c) \* \* \*

(2) *Veterinary Services.*

#### Laboratories

National Veterinary Services Laboratories,  
P.O. Box 844, Ames, IA 50010.

#### Regions

North Central: 317 Inverness Way South,  
Englewood, CO 80112  
Northern: Bldg. 12, GSA Depot, Scotia, NY  
12302  
Southeastern: 700 Twiggs St., Rm. 821,  
Tampa, FL 33602  
South Central: 221 West Lancaster Ave.,  
Suite 310, Ft. Worth, TX 76102  
Western: 245 E. Liberty St., Rm. 300, Reno,  
NV 89501

3. Section 371.2 is amended by revising paragraph (a) as follows and by removing and reserving paragraph (f).

#### § 371.2 The Office of the Administrator.

(a) *The Administrator.* The Administrator of APHIS, under the direction of the Assistant Secretary for Marketing and Inspection Services, formulates, directs, and supervises the execution of APHIS policies, programs and activities. The Administrator is authorized to take any action, execute any document, authorize any expenditure, promulgate any rule, regulation, order or instruction required by or authorized by law and deemed by the Administrator to be necessary and proper to the discharge of the functions assigned to APHIS and to delegate, and provide for redelegation of authority to appropriate officers and employees consistent with, and with due regard to the continuing responsibility for the proper discharge of delegations made by the Administrator. Delegations and

provisions for redelegations are stated in Section 371.6.

(f) [Reserved]

4. Section 371.5 is amended by adding a new paragraph (a)(5) and by revising paragraphs (b) (2), (3) and (4), (c)(2), and (g)(2), to read as follows:

§ 371.5 Administrative Management.

(a) \* \* \*

(5) Planning and providing for the selection, documentation, negotiation, and implementation of cooperative agreements.

(b) \* \* \*

(2) Planning, providing staff leadership and assistance to APHIS management and program leaders in the areas of EEO and Civil Rights, organization, position classification, salary and wage administration, employee development and training pertaining to executive and managerial development, supervisory, administrative and clerical training and related activities, recruitment and placement, safety, employee relations and labor management relations.

(3) Providing leadership and coordination to liaison activities associated with APHIS international programs.

(4) Providing leadership to and coordination of personnel management review and evaluation activities throughout APHIS to ensure that personnel management programs are effective, efficient, and in compliance with laws, regulations and policy.

(c) \* \* \*

(2) Planning, providing staff leadership and operating administrative services and assisting APHIS managers and supervisors in: real and personnel property management and utilization, procurement of supplies, equipment, and services through competitive and noncompetitive procedures or from established contract sources, providing for the development and control of forms, records systems and disposal, correspondence, reports, records security, printing and distribution, mail and shuttle service, and providing overall direction and coordination for the design and construction of APHIS facilities, and directives management.

(g) \* \* \*

(2) Within the provisions of applicable policies, procedures and laws, provides personnel, financial and administrative services to all APHIS personnel.

Issued at Washington, D.C., this 3rd day of May 1982.

Harry C. Mussman,  
Administrator, Animal and Plant Health  
Inspection Service.

[FR Doc. 82-12635 Filed 5-7-82; 8:45 am]

BILLING CODE 3410-07-M

Farmers Home Administration

7 CFR Parts 1861, 1872, and 1965

Security Servicing for Multiple Family Housing Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises, rennumbers, and updates its regulations relating to security servicing for multiple family housing loans made by the Agency. This action is taken to reflect changes which have previously occurred in the respective loan programs involving rural rental housing, farm labor housing, rural cooperative housing, and rural housing site loans. The regulation prescribes the actions necessary to process security servicing actions including transfers, reamortizations, consolidations, and other servicing actions affecting the FmHA loan security. These regulations will improve the response time by FmHA to requests from borrowers for servicing action by redelegating certain approval authorities to the field staff and establishing uniform procedures for processing these requests and the accompanying servicing actions.

EFFECTIVE DATE: May 10, 1982.

FOR FURTHER INFORMATION CONTACT: Dean Greenwalt, Multiple Housing Servicing Officer, Multi-Family Housing Servicing and Property Management Division, Room 5321-S, Farmers Home Administration, 14th and Independence Avenue, S.W., Washington, D.C. 20250. Telephone: (202) 382-1615.

SUPPLEMENTARY INFORMATION:

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be nonmajor. It will not 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.

This instruction does not directly affect any FmHA programs or projects which are subject to A-95 clearinghouse review.

CFDA numbers and titles: 10.405 Farm Labor Housing Loans and Grants, 10.411 Rural Housing Site Loans, 10.415 Rural Rental Housing Loans.

This action requires no increase in costs to the Government or the public. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action. We have determined that this regulation maximizes net benefit to society at the lowest net cost.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

FmHA revises and redesignates its regulations on security servicing for multiple family housing loans from Subpart C of Part 1861 to a new Subpart B of Part 1965. This regulation consolidates the security servicing activities relating to the rural rental housing (RRH), rural cooperative housing (RCH), farm labor housing (LH), and rural housing site (RHS) loan programs and prescribes servicing actions not adequately addressed by the current Agency servicing procedures which it replaces and coincides with program authorizations currently implemented.

The regulations relative to security servicing which are being replaced were issued in 1965 and are inadequate, often requiring special authorization from the National Office for certain routine servicing functions. These security servicing regulations are now consistent with the reassignment of responsibility for these loans from the FmHA County Office to the FmHA District Office. FmHA loans will be serviced according to the security instruments of the loan in a manner which will assure that the long term loan objectives are met and are consistent with the respective loan program requirements.

These regulations will also improve the Agency's ability to assure the continued availability of the facilities financed under the FmHA multiple housing programs to eligible users.

The alternatives to issuance of these regulations which were considered included not changing existing regulations, partial revision of selected portions of the current regulations, and allowing each FmHA State Office to establish procedures consistent with local practices. Each of these alternatives was rejected because it did not promote efficiency in Agency operations, assure long term compliance with the objectives for which the FmHA assistance was provided, and could lead to a proliferation of regulations and requirements more stringent than necessary and confusing to the public, especially borrowers with operations in more than one jurisdiction. On this basis, the Agency has determined that the chosen alternative maximized the net benefit to society at the lowest net cost.

On October 2, 1981 FmHA published in the Federal Register (46 FR 48693) a notice of proposed rulemaking setting forth the proposed changes in the regulations. Interested parties were given the opportunity to submit, not later than December 1, 1981 any comments, views, or recommendations regarding the proposed changes.

During the public comment period 33 individuals and organizations submitted comments. An additional 6 comments were received shortly after the closing date.

The final rule contains revisions to the proposed rule which reflect FmHA's consideration of the comments received as well as other information available to FmHA. The final regulation also reflects recent experiences between borrowers and the FmHA staff at the District, State, and National levels. The following is a discussion of the comments received and the significant changes made:

**§ 1965.52.** One comment was received requesting the definition of District Director be expanded to include the Area Loan Supervisor for Alaska. We concur with this comment and have incorporated it, as well as expanded the definition to include Island Directors for Hawaii.

**§ 1965.55.** It was suggested the amount of approval authority for the State Director be clarified. This suggestion has been incorporated to be consistent with specific loan program authorizations.

**§ 1965.58.** Three comments were received questioning the ability of the District Director to provide technical guidance to multiple housing borrowers. However, FmHA is providing training to State and District staffs and we believe adequate guidance is available from the State Director's staff to supplement the District Office in providing the technical guidance needed.

**§ 1965.61.** One comment was received suggesting FmHA permit leasing of RRH and LH projects to other nonprofit organizations, limited equity cooperatives, and limited partnerships. This change will not be made since one of the basic eligibility requirements to obtain these loans is the borrower's intention to own and operate the project for the purposes for which the loan was made.

**§ 1965.63.** Several comments were received suggesting this paragraph be revised to clarify the information needed to admit limited partners in a limited partnership with or without FmHA consent. This section has been revised to establish consistency with specific loan program regulations and the agreements executed to secure the indebtedness.

**§ 1965.65.** Comments on this section indicated that the proposed rule was unclear and would prevent the resale of RRH projects at a fair market value. Comments also suggested that payment of equity to the transferee and the subsequent increase in the return of investment would be disadvantageous to the tenants. It was further suggested transfers be allowed when, "not to the tenants' or Government's detriment", that additional explanation of the transfer terms be included, and that budgets and tenant certifications be directly assumed by the transferee. Additionally, individual comments were received suggesting that transfers be made to ineligible applicants only after the State Director has canvassed all other potentially eligible applicants, that junior liens on the project be allowed to secure equity payments to the transferor, that transfers only to obtain equity not be allowed, that all transfers made only to obtain equity be made subject to the prepayment restrictions, and that FmHA authorize the expanded use of deep subsidy payments (Rental Assistance) to assist tenants in projects where the transfer is made to obtain equity and the transferee's initial investment increases causing the rents to increase.

Based on these comments this section was clarified to permit the transfer of projects for equity but not to increase the amount of initial investment. This will reduce impact of transfers of ownership on tenants currently in the project. It has also been clarified to specifically allow the transferee to utilize the current tenant certifications. The position on equity payments has been clarified to allow greater flexibility for the transferor and transferee to negotiate the equity payments, provided neither the project nor project income are encumbered.

Other suggestions were not adopted due to the additional restrictions they would place on the transferor and transferee, or due to the increased costs to the Government and the need for increased involvement by FmHA in the transfer process.

**§ 1965.68.** Three comments were received. It was suggested that consolidation authorities be expanded to permit consolidation of all loans in the market area including those on scattered sites, without transfer of title, and that the loans be consolidated at the highest interest rate of any existing loan being consolidated. These suggestions were not adopted since we believe there is sufficient flexibility to accomplish the intended purposes of consolidation. Also consolidation of scattered projects in the market area is not practical since each project has already established an independent identity. Consolidation of loans is only practical at the time of transfer or new terms because a new account will be established for the specific borrower.

**§ 1965.70.** Comments received suggested reamortization be allowed at less than the thresholds established. This suggestion was rejected because the insignificant difference in the rental rates which would be passed on to the tenants as a result of the reamortization negate the possible limited benefits to the borrower.

**§ 1965.75.** This section has been revised to clarify the actions necessary to obtain the services of management agents or caretakers for abandoned projects.

**§ 1965.77.** One comment received suggested this section be expanded to include utility easements. It was rejected on the basis that utility easements are generally established prior to approval of the loan and thus considered when determining the market value. Subsequent utility easements serving other than the project could diminish the market value of the security and would therefore require adequate compensation before being authorized.

**§ 1965.79.** This section was revised to clarify the conditions for subordination of LH and RRH loans.

**§ 1965.85.** Three comments were received suggesting that quarterly delinquency reports be provided to the District Office. Presently, these reports are provided to the FmHA State Office for program monitoring and the information passed on to the District Office for implementation of the appropriate followup or servicing action. No further action is planned because the proposed regulations were consistent

with current agency policies and procedures.

§ 1965.90. Three comments were received. This section will not be changed to require additional restrictions on the prepayment of FmHA accounts. All loans approved after December 21, 1979 will remain subject to the prepayment restrictions as established to prevent any increase in the public reporting burden or unduly restrict free enterprise. Tenants who may be displaced as a result of prepayment will continue to be offered priority occupancy rights in other FmHA financed projects.

#### List of Subjects

##### 7 CFR Part 1861

Grant programs—Housing and community development, Loan programs—Housing and community development, Reporting requirements, Rural areas.

##### 7 CFR Part 1872

Foreclosure, Loan programs—Agriculture, Rural areas.

##### 7 CFR Part 1965

Administrative practice and procedure, Loan programs—Housing and community development, Low and moderate income housing, Rental housing, Mortgages, Rural areas.

Therefore, for the reasons stated above, Chapter XVIII of Title 7, Code of Federal Regulations is amended as follows:

#### PART 1861—ROUTINE

1. Sections 1861.41—1861.48 (Subpart C) are Redesignated as Subpart B of Part 1965 and revised.

#### PART 1872—REAL ESTATE SECURITY

##### Subpart A—Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases

2. Paragraph (a) of § 1872.1 is revised to read as follows:

##### § 1872.1 General.

(a) *Purpose.* The purpose of this subpart is to delegate authority and prescribe policies and procedures for servicing and liquidating real estate security for Farmers Home Administration (FmHA) loans to individuals, including loans on leasehold interests, and certain note-only cases, except Rural Rental Housing (RRH) and Labor Housing (LH) loans to individuals or to Business and Industrial (B&I) loans. This subpart does not apply to

loans subject to an FmHA Contract or Guarantee.

#### PART 1965—REAL PROPERTY

3. Subpart C of Part 1861 is revised and redesignated to a new Subpart B of Part 1965 which reads as follows:

##### Subpart B—Security Servicing for Multiple Housing Loans

###### Sec.

- 1965.51 General.
- 1965.52 Definitions.
- 1965.53—1965.54 [Reserved]
- 1965.55 Authority of State Director.
- 1965.56—1965.57 [Reserved]
- 1965.58 Responsibilities.
- 1965.59—1965.60 [Reserved]
- 1965.61 General loan servicing requirements.
- 1965.62 [Reserved]
- 1965.63 Issuance or transfer of stock, or change in membership or membership interest in organizations indebted to FmHA.
- 1965.64 [Reserved]
- 1965.65 Transfer of real estate security and assumption of loans.
- 1965.66—1965.67 [Reserved]
- 1965.68 Consolidation.
- 1965.69 [Reserved]
- 1965.70 Reamortization.
- 1965.71 [Reserved]
- 1965.72 Deceased borrower.
- 1965.73 Bankruptcy and insolvency.
- 1965.74 Divorce actions.
- 1965.75 Abandonment.
- 1965.76 [Reserved]
- 1965.77 Consent to sale or other disposition of security property.
- 1965.78 [Reserved]
- 1965.79 Subordinations.
- 1965.80 [Reserved]
- 1965.81 Severance agreements.
- 1965.82 [Reserved]
- 1965.83 Consent to junior liens.
- 1965.84 [Reserved]
- 1965.85 Default and liquidation.
- 1965.86 [Reserved]
- 1965.87 Miscellaneous security.
- 1965.88 [Reserved]
- 1965.89 Obtaining additional security for inadequately secured loans.
- 1965.90 Payment in full.
- 1965.91 Servicing loans in formerly eligible areas.
- 1965.92—1965.93 [Reserved]
- 1965.94 State Supplements.
- 1965.95 [Reserved]
- 1965.96 Nondiscrimination.
- 1965.97 Exception authority.
- 1965.98—1965.100 [Reserved]

##### Exhibit A—Notice of Prepayment

##### Subpart B—Security Servicing for Multiple Housing Loans

###### § 1965.51 General.

This Subpart prescribes the policies, procedures, and authorizations for servicing and liquidating all Farmers Home Administration (FmHA) multiple

housing type loans and labor housing grants. These loans include Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Rural Housing Site (RHS), and Farm Labor Housing (LH). The servicing functions described in this Subpart are for the purpose of assisting the borrower in meeting the objectives of the loan, repaying loans on schedule, complying with FmHA agreements and regulations, protecting the interest of FmHA, and maintaining the security property. Borrowers will be required to pay their debts to the FmHA and other creditors according to their agreements. Borrowers shall be required to operate their facilities according to FmHA regulations and applicable State and local laws and regulations. State Directors with the assistance of OGC should issue necessary State Supplements to assure compliance with State laws. After careful analysis, any borrower in default who does not evidence prospects of attaining successful operations within a reasonable time will have its loan liquidated according to authorizations contained in this Subpart and Subpart A of Part 1955.

###### § 1965.52 Definitions.

(a) *FmHA.* "FmHA" means the United States of America acting through the Farmers Home Administration; it also includes FmHA's predecessor agencies.

(b) *OGC.* "OGC" means the Regional Attorney or the Attorney in charge in the field office of the Office of the General Counsel of the United States Department of Agriculture.

(c) *Servicing.* "Servicing" includes the broad scope of activities undertaken by FmHA to see that the objectives of the loan are carried out; to assure compliance with the respective policies, procedures and authorizations set forth for each respective loan program; or to bring to a successful conclusion each loan or grant made by FmHA through transfer, sale, reamortization, payment or liquidation.

(d) *Borrowers.* "Borrowers" means all individuals, partnerships, cooperatives, trusts, public agencies, private or public corporations and other organizations which have received a loan or grant from FmHA for LH, RRH, RCH, or RHS purposes.

(e) *Governing body.* "Governing body" means those elected or appointed officials of an organization or public agency type borrower responsible for the operations of the project.

(f) *District Director.* For the purpose of this Subpart, the term also includes the Assistant District Director, and other qualified District Staff who may be

delegated responsibilities under this Subpart according to the provisions of Subpart F of Part 2006 (available in any FmHA office). In the case of LH loans still being serviced in the County Office, this definition also includes qualified County Office staff. This definition also includes the Area Supervisor and Island Directors and other qualified members of their staff in Alaska and Hawaii, respectively.

(g) *Note*. "Note" includes any note, bond, assumption agreement, or other evidence of indebtedness, including the obligations of labor housing grant only recipients operating under a grant agreement. All LH grant only recipients will be serviced in strict accordance with their grant agreement, appropriate program regulations, and this Subpart.

(h) *Mortgage*. "Mortgage" includes deeds of trust and similar real estate security instruments and where appropriate chattel security instruments.

(i) *Case file*. "Case file" includes the total cumulative records concerning a borrower.

#### §§ 1965.53—1965.54 [Reserved]

#### § 1965.55 Authority of State Director.

(a) Each State Director is authorized to perform the following functions upon determining that the action will not be to the financial detriment of FmHA:

(1) Require additional security in accordance with § 1965.89 of this Subpart.

(2) Require borrowers to carry insurance of the types and amounts determined necessary on property mortgaged to the FmHA. Evidence of insurance is required for Multiple Housing loans according to the provisions of Subpart A of Part 1806 (FmHA Instruction 426.1).

(3) Approve the issuance or transfer of stock, change or transfer of membership, admittance of new or substitute partners, or withdrawal of partners from a partnership, provided the State Director determines that the requirements of § 1965.83 of this Subpart have been met, and that the change will not jeopardize the successful operation of the project, the soundness of the loan, or the eligibility of the borrower.

(4) Approve transfers with assumption of FmHA loan accounts when all development has been completed and the unpaid principal balance and accrued interest does not exceed the State Director's loan approval authority as set forth in Subpart A of Part 1901 for the type of loan(s) involved. Transfers will be processed according to § 1965.85 of this Subpart.

(5) Approve the reamortization of FmHA indebtedness that is within the

State Director's loan approval authority as set forth in Subpart A of Part 1901 for the type of loans involved according to the provisions of § 1965.70 of this Subpart.

(6) Consent to the sale, exchange, or release of security property according to the applicable provisions of § 1965.77 of this Subpart.

(7) Accept prepayment of RRH, RCH and LH loans subject to the provisions of § 1965.90 of this Subpart.

(8) Approve subordination of FmHA lien position if the total debt against the security after the transaction is within the State Director's approval authority as set forth in Subpart A of Part 1901 for the type of loan(s) involved according to the provisions of § 1965.79 of this Subpart.

(9) Approve requests from borrowers for the creation of additional indebtedness on the security property. These approvals must take into account the provisions of loan resolutions or other agreements with FmHA and other existing creditors. If the proposed additional debt would make the total outstanding obligations of the borrower exceed the FmHA loan approval limit of the State Director as set forth in Subpart A of Part 1901, the borrower's request, complete documentation, and the State Director's recommendations must be sent to the National Office for prior review and authorization to approve.

(10) Renew existing security instruments after consulting with OGC.

(11) Approve, with the concurrence of OGC, changes in a borrower's legal organization such as revisions to certifications of limited partnership, partnership agreements, articles of incorporation or charter, bylaws, or trust agreements when the changes proposed will promote better borrower organization and business operation, and will not adversely affect the repayment of the loan, impair the security rights of the FmHA, or make the borrower ineligible for FmHA loan or grant assistance.

(12) Approve the borrower's execution, extension, renewal, modification, or cancellation of contracts of types not covered elsewhere in § 1965.55 when the State Director, with the legal advice of OGC, determines that the action is in the best interest of both the borrower and the FmHA; and, in the case of RRH, RCH, and LH projects, will not be detrimental to the tenants.

(13) Approve the extension or expansion of facilities and services when the action will best serve the interest of both the borrower and the FmHA, and will not be in conflict with

the FmHA regulation under which the loan was made.

(14) Approve the lease of security property according to § 1965.61(e) of this Subpart.

(b) The State Director may reject any servicing request not in accordance with the guidelines of this Subpart.

(c) Any borrower directly and adversely affected by action under this subpart will be granted the appropriate appeal rights according to Subpart B of Part 1900. Any authority not specifically delegated to the State Director may be requested from the National Office. The requests must be submitted in writing to the National Office for prior authorization and must be consistent with the intent and requirements of each respective loan program. The request will be accompanied by the complete docket and the State Director's specific recommendations.

#### §§ 1965.56—1965.57 [Reserved]

#### § 1965.58 Responsibilities.

(a) *District Directors*. (1) Keeping sufficiently informed of the borrower's operations to know whether they are operating successfully and complying with their obligations to the FmHA.

(2) Furnishing borrowers with information, notices, reminders, advice and assistance, and taking other actions regarding the loan obligations and compliance therewith as considered necessary to determine whether borrowers are operating successfully, are complying with their loan obligations, and are likely to continue with compliance.

(3) Promptly reporting to the State Director the failure of any borrower to comply with the terms and conditions of its agreements with FmHA after noncompliance has been brought to the attention of the borrower and recommended corrective action has not been taken.

(4) Furnishing training and technical guidance not readily available through other sources to borrowers to protect the FmHA's interests. This training and guidance may relate to business operations, project management, personnel training, membership activities, or any other phase which vitally affects the borrower's operations.

(5) Maintaining the Management System Card System according to Subpart A of Part 1905 (available in any FmHA office) to assure prompt compliance by borrowers with FmHA requirements relating to repayments, budgets and reports, taxes, insurance and bond renewals, reports required by State law or regulations as indicated in

State Supplements, security instrument expirations, and other items of loan and security servicing.

(6) Maintaining the official borrower case files according to the requirements of Subpart A of Part 2033 (available in any FmHA office).

(7) Prompt collection of loan obligations to the FmHA and servicing security for those loans.

(b) *State Directors.* (1) Coordinating and directing loan servicing activities relating to borrowers and performing other functions as prescribed by this Subpart.

(2) Designating appropriate State staff member(s) responsible for loan servicing, appraising and for providing District Directors with technical guidance, training and follow-up supervision to service loans.

(3) Administrative follow-up to ascertain that District Directors carry out their responsibilities.

(4) Coordination with OGC.

(5) Maintaining necessary liaison with State and local officials.

#### §§ 1965.59—1965.60 [Reserved]

#### § 1965.61 General loan servicing requirements.

(a) *Payments.* Payments will be handled according to the applicable provisions of Subparts A and B of Part 1951, and Subparts D and E of Part 1944.

(b) *Borrower reports, audits, and analyses.* Borrower reports, audits, and analyses, including the approval or disapproval of annual operating budgets, requests for rent increases, and occupancy problems will be processed and handled according to Subpart C of Part 1930.

(c) *Maintenance.* Project maintenance is of utmost importance. All projects must be adequately maintained not only to protect the Government's interest, but also to attract potential clients (tenants for rental projects, purchasers for RHS). Maintenance should be reviewed during each supervisory visit and appropriate recommendations made to the borrower. The District Director will inspect the real estate security as required by Subpart C of Part 1930.

(d) *Actions by third parties affecting FmHA security.* Cases including third party action will be handled according to the provisions of § 1872.2(c) of Subpart A of Part 1872 (Paragraph II C of FmHA Instruction 465.1), except that references to the County Supervisor shall be construed to mean District Director when applied to multiple housing type programs.

(e) *Lease of security property.* The leasing of property (except to tenants for specific program purposes) serving as

security for multiple housing loans and grants other than as indicated in this Section is not authorized. Approval of leases by the State Director is authorized in the following cases:

(1) *Leases to public housing authorities.* RRH or RCH borrowers may be permitted to continue leasing all or part of the housing facilities to a housing authority with the benefits of the HUD Section 23 leasing program as the leases are renewed. No new leases will be entered into. The lease will be on a form provided by the housing authority and must be on terms that will enable the borrower to continue the objectives of the loan and make payments on schedule.

(2) *Lease of a portion of the security property.* When the RRH or RCH borrower will continue to operate the facilities for the purpose for which the loan or grant was made, the State Director or his/her designee may approve the leasing of related facilities such as laundries, commissary stores, recreational facilities and community buildings, subject to the applicable provisions of § 1944.212 of Subpart E of Part 1944 and according to the following conditions:

(i) The lease is advantageous to the borrower and the tenants, and will not impair the Government's interest.

(ii) The amount of the consideration is adequate. The consideration must be sufficient to pay all prorated expenses and the prorated part of the loan amortization at the note rate of interest.

(iii) The lease should provide for restoration of the leased space to its original condition or a condition acceptable to the owner and FmHA.

(iv) Consent to the lease shall not exceed one year at a time.

(v) If foreclosure action has been approved, consent to lease and use of proceeds will be granted only under directions from OGC or the U.S. Attorney as appropriate.

(vi) When another lienholder's mortgage requires consent of that lienholder to a lease, written consent will be obtained prior to FmHA approval of the lease.

(vii) The authority to approve the lease of laundry facilities may be redelegated in writing to the District Director by the State Director.

(3) *Mineral leases.* Mineral leases will be handled according to § 1872.8(d) of Subpart A of Part 1872 (Paragraph VIII D of FmHA Instruction 465.1) except that all references to County Supervisor will be construed to mean District Director when applied to the Multiple Housing Programs.

(4) *Processing.* When a borrower requests consent to lease a portion of

the security property or the District Director discovers that the borrower is leasing the security without consent, Form FmHA 465-1, "Application for Partial Release, Subordination or Consent," will be prepared.

(i) The form will show the terms of the proposed lease and will specify the use of proceeds, including any proceeds to be released to the borrower.

(ii) The form will be submitted to the State Director, along with a copy of the lease, official borrower case files, the District Director's comments and recommendations, and any other information pertinent to the transaction.

(iii) The State Director will review the material, obtain the guidance of OGC prior to indicating approval or disapproval on Form FmHA 465-1, and provide additional servicing instructions to the District Director.

(f) *Consent of lienholders.* Before FmHA consents to any transaction which affects its security or lien position, the written consent of any other lienholders must be obtained. The consent will include an agreement on the disposition of any funds resulting from the transaction and will be consistent with the respective loan program requirements.

#### § 1965.62 [Reserved]

#### § 1965.63 Issuance or transfer of stock, or change in membership or membership interest in organizations indebted to FmHA.

Organizations which may be indebted to FmHA include, but not limited to, (1) public bodies, (2) broadly-based nonprofit corporations, (3) nonprofit organizations of farmworkers, (4) nonprofit organizations that are not broadly-based, such as those receiving LH loans prior to June 10, 1973, or those indebted for RHS loans, (5) associations of farmers, (6) consumer cooperatives, (7) profit and limited profit corporations, (8) trusts, (9) profit and limited profit partnerships, and (10) limited partnerships. This section describes the policy of FmHA in approving changes of membership, membership interest, or transfer or issuance of stock in these organizations, to determine the continued eligibility of the borrower entity. It does not cover the sale or exchange of title to the security property.

(a) *Broadly-based nonprofit corporations or nonprofit organizations of farmworkers.* FmHA consent will not be required for broadly-based nonprofit corporations or nonprofit organizations of farmworkers indebted to FmHA to change or transfer membership. Each organization, however, must maintain the number and type of members

required by its Articles of Incorporation and Bylaws. Organizations not maintaining the required membership will be serviced according to § 1965.63 (d) of this Subpart.

(b) *Other organizations.* Other organizations indebted to FmHA may or may not issue stock. They are, however, required by the loan agreement or resolution to obtain prior FmHA consent to transfer stock, to transfer any interest or to change any interest in the borrower. Therefore, when organizations with an existing loan request FmHA consent to: issue additional stock; transfer stock; change membership or membership interests; admit new or substitute general partners of any kind; withdraw general partners of any kind; alter the beneficiary of the trust; or, when such a change has taken place without FmHA consent, the District Director shall process Form FmHA 465-1 for submission to the State Director. The State Director is authorized under § 1965.55 (a) of this Subpart to approve or disapprove these transfers or changes on Form FmHA 465-1. For approval, the State Director must determine that the following conditions will be met:

(1) The borrower shall provide a listing showing the name, address, and percent of ownership of each member, stockholder, partner, or beneficiary of a trust that will have an interest in the organization.

(2) All new or substitute general partners, trustees, members, stockholders, or beneficiaries that will hold an interest in the organization in excess of 10 percent must submit a current, dated, and signed financial statement showing assets and liabilities, with information on the status and repayment schedule of each debt. In lieu of a financial statement, each limited partner in a limited partnership will submit a dated and signed statement certifying the approximate net worth of the limited partner. All financial statements submitted must comply with the reporting requirements set forth in Exhibit A-6 to Subpart E of Part 1944. A resume must also be submitted, together with a statement setting forth any identity of interest as described in Exhibit A-6 to Subpart E of Part 1944. The resume should also explain the past performance, experience, qualifications, and abilities of the individual or organization except for limited partners in a limited partnership, who are obtaining an interest in the borrower organization.

(3) The borrower must be unable to provide the housing or other facilities from its own resources and must be unable to obtain the necessary credit

from private or cooperative sources on terms and conditions that would enable the borrower to refinance the FmHA indebtedness and operate the project for amounts within the payment ability of those eligible to occupy the housing or benefit from the project. When tenants are benefiting from any FmHA or other Government subsidy program, the continued availability of the subsidy will be considered in making this decision. For profit and limited profit organizations, the assets of the individual general partners, members or stockholders will also be considered.

(4) This type of change may be permitted if the State Director determines that the transaction will not adversely affect the operations of the project. Liens may not be taken against the security. Payments on any debt incurred for the purchase of the stock or interest in the organization will not be considered authorized debt payments and will not be included in project operations as a budgeted expense.

(5) In the case of the sale of the interest of a general partner, or the admission of a substitute general partner, in either a limited partnership or a general partnership, the new or substituted general partner must agree to assume the responsibilities and obligation of the withdrawing general partner under the terms of the FmHA promissory note, mortgage, and the borrower's partnership agreements. This includes the assumptions of the personal liability, if any, of the withdrawing general partner. After consulting OGC, the State Director will require the new or substitute general partner to execute an agreement as follows for inclusion in position 5 of the official case file:

**ASSUMPTION OF WITHDRAWING PARTNER'S OBLIGATIONS**

In consideration for being approved by the Farmer's Home Administration (FmHA) for admission as a general partner into \_\_\_\_\_ (the partnership), the undersigned hereby assumes all responsibilities and obligations of \_\_\_\_\_ under the terms of the Partnership Agreement dated \_\_\_\_\_, the terms of (a) (all) note(s) or assumption agreement(s) dated \_\_\_\_\_ in the respective amount(s) of \_\_\_\_\_, and the terms of the FmHA security instrument(s) taken on the partnership property dated \_\_\_\_\_ and filed for record in the \_\_\_\_\_ office at \_\_\_\_\_

Document No. or Book and Page No. \_\_\_\_\_

Date \_\_\_\_\_

Signature of New or Substitute Partner \_\_\_\_\_

(6) Any stockholder, member, or partner personally liable for the FmHA indebtedness will not be released of liability unless the new stockholder, member, or partner is made personally

liable for the FmHA debt on an agreement approved by OGC, and the State Director determines that the assets and net worth of the new stockholder, member, or partner are substantially the same as or greater than that of the party to be released.

(7) The State Director must determine that approval of the transaction will not adversely affect the FmHA program in the area, that the objectives of the loan will not be changed, and that the successful operation of the project will not be jeopardized. In making this determination, the State Director must consider the past performance, experience, qualifications and abilities of any individual or organization obtaining an interest in the borrower organization, other than a limited partner in a limited partnership. However, the past performance, experience, qualifications and abilities of any individual or organization will be considered when that individual or organization is obtaining the majority interest of the limited partners in a limited partnership and the partnership agreement permits the limited partners to remove and replace the general partner by a consensus of the majority of the limited partners.

(8) For LH loans made to an association of farmers, the new member (stockholder) or members must be eligible farmers as described in Subpart D of Part 1944.

(9) For loans made to a Trust, any proposed changes in the beneficiary will be reviewed by OGC for compliance with program requirements before the State Director takes action on the borrower's request.

(c) *RCH consumer cooperatives.* Changes in the membership of RCH consumer cooperative borrowers will be processed according to the provisions of the Subscription Agreement and the Occupancy Agreement (Exhibits A and B to FmHA Instruction 444.7 (available in any FmHA office)).

(d) *Changes in required membership number.* Should the minimum number of required members in any organization fall below that prescribed by their organizational documents, the following actions will be taken:

(1) The District Director will provide the State Director with a complete written report of the circumstances including the organization's plan for obtaining additional membership and the continued operation of the project. The District Director should submit this report only after he or she has personally met with the governing body and found that they will not be able or willing to comply with FmHA

requirements. The report should be precise and include recommendations on further servicing actions.

(2) The State Director will review the report and evaluate the adverse effect the noncompliance will have on the loan. If it appears that the interest of the United States will be adversely affected, the State Director will forward the material together with appropriate comments and recommendations, to the Regional Attorney for review and guidance in the continued servicing or liquidation of the account as appropriate. The State Director will provide the District Director with instructions for servicing the account.

(e) *Unauthorized stock, partnership, or membership changes.* Unauthorized stock, partnership, or membership changes which the State Director cannot approve under the conditions of this section will be submitted to the National Office for handling.

§ 1965.64 [Reserved]

§ 1965.65 **Transfer of real estate security and assumption of loans.**

This section applies when there is an actual transfer of title to the security property and liability for the FmHA indebtedness is assumed by an organization or an individual who is not presently liable for the debt against the security property.

(a) *General.* Borrowers should be properly informed during loan processing that each applicant must have the ability and intention to own and operate the proposed housing project for the purposes for which the loan is made. Only RHS loans can be approved or closed for applicants that plan to sell their projects within a short period of time.

(1) When the mortgage or deed of trust requires FmHA consent to the sale or other transfer of real estate security, the borrower should be advised of its provisions. Before firm agreements are reached between the borrower and the proposed purchaser or transferee, the District Director should be contacted relative to the proposed sale or transfer.

(2) Proposed transfers must benefit the tenant and not be to the detriment of the Government to be approved. Transfers of projects solely to obtain equity within the first 5 years will not be authorized unless equity from the transfer is needed to remove a hardship which would have forced the borrower out of operation or seriously restricted the borrower's ability to successfully continue operations if the transfer had not been approved. All RRH transferees are subject to these provisions if ownership is again transferred within 5

years of their assumption of the FmHA loan. LH loans will only be transferred when they will continue to be used to provide housing for farm laborers as defined in Subpart D of Part 1944.

(3) If a proposed sale will not result in the FmHA account being paid in full, the District Director will explain the transfer requirements of this section as they relate to the transaction.

(4) In all cases, the purchaser is required to provide evidence of its inability to obtain credit elsewhere on rates and terms that will not cause rental rates in excess of what low- and moderate-income tenants could afford.

(b) *State Director authority.* The State Director is authorized under § 1965.55(a)(4) of this Subpart to approve initial and subsequent transfers to eligible and ineligible transferees with an appropriate assumption of the FmHA unpaid loan balance when the principal amount plus accrued interest is within the State Director's loan approval authority, subject to the following general conditions and requirements:

(1) Transfers will be made to either eligible or ineligible applicants. Eligible applicants are those applicants meeting all of the eligibility criteria as defined by the appropriate loan program regulations. Ineligible applicants are those applicants failing to meet the eligibility requirements for the respective loan type. Transfers to eligible applicants will receive preference over transfers to ineligible applicants, provided recovery to FmHA is not less than it would be if the transfer were to an ineligible applicant.

(i) Transfers to eligible applicants will generally be completed on the basis of same terms if the loan account is current or can be brought current when the transfer and assumption is closed.

(ii) Eligible applicants assuming loans which are delinquent and cannot be brought current at the time of closing, and transfers to ineligible applicants, will be transferred on the basis of new terms.

(2) If the authorized FmHA appraiser determines that the total secured FmHA debt(s) exceeds the present market value of the security, the transferee must assume an amount at least equal to the present market value less any prior liens. In those cases, the transferor will not be released from liability and the remaining debt will be processed according to the applicable provisions of Part 1864 (FmHA Instruction 456.1). Otherwise, the transferee will assume the total FmHA secured debt(s). Security must be adequate for the FmHA indebtedness being assumed. Security will be upgraded if necessary to meet FmHA standards.

(3) The transferor should not receive any equity payment unless the total unpaid FmHA indebtedness is assumed, all real estate taxes are current, and the FmHA loan payment and reserve account is on schedule at the time of transfer, less any authorized withdrawals. Any equity payment due the transferor should be paid in cash at the time of transfer or, if paid on terms, the terms and conditions must be documented in the file and the transferee must be able to show that the obligations can be met from outside sources of income without jeopardizing the operation of the project. Any equity payment to be made on terms shall not be considered an authorized debt payment of the project. Furthermore, any equity payment which includes an unsecured note is not authorized unless the approval official determines:

(i) No rental income will be used to make payments on the note.

(ii) No liens will attach either to the secured property or to revenue from operation of the property.

(iii) An assignment of project income will be taken by FmHA as additional security with the advice and guidance of OGC.

(iv) The reserve account is current.

(4) If a payment to the transferor is to be made in connection with the transfer, the total FmHA debt on the property must be assumed unless the payment received by the transferor is applied on a prior lien or to the portion of the transferor's FmHA debt not assumed. When the full amount of the FmHA secured debt is assumed and other FmHA debts owed by the transferor are not adequately secured, the State Director may, as a condition of approving the transfer, require that all or a part of any equity payment be applied on those debts.

(5) There must be no lien, judgment, or other claims against the security being transferred other than those by FmHA and those authorized prior liens to which FmHA has previously agreed, unless prior written approval is obtained from the National Office.

(6) When the loan(s) is secured by both chattel and real estate, all chattel security must be transferred, sold, or liquidated by the time of closing the transfer of the real estate.

(7) The transferee must complete and submit Form HUD 935.2, "Affirmative Fair Housing Marketing Plan," for the State Director's approval.

(8) When the spouse of a deceased individual borrower is not currently liable for the indebtedness, a transfer and assumption to the spouse can be accomplished through the use of Form

FmHA 460-9, "Assumption Agreement (Same Terms—Eligible Transferee)," on the same rates and terms if the spouse is determined to be an eligible applicant according to the applicable provisions of the respective loan program and this Subpart.

(9) In the case of borrowers with a loan agreement or resolution, the transfer must be completed with the advice and closing instructions of the OGC.

(10) The rents can be increased to the tenants only if the provisions of paragraph IX of Exhibit B to Subpart C of Part 1930 are met. In considering any rent increase, the rents of comparable units in the community must be considered. In no case should the rents be higher than comparable rents in the area for units available to low and moderate income tenants.

(11) The transferee will be required to submit reports according to § 1930.124 of Subpart C of Part 1930.

(c) *Transfers to eligible applicants.* Transfers of security with an assumption of FmHA debts by transferees who are eligible applicants for the type of loan being assumed may be approved subject to the general conditions contained in § 1965.65(b) of this Subpart and the following:

(1) An eligible transferee will be required to make any necessary improvements to assure that the housing will be decent, safe and sanitary. Funds for such improvements may be from the reserve account being transferred, contributions by the transferee, or, if loan funds are available, from the use of an RRH or LH loan as appropriate.

(2) If the full debt is assumed at the same interest rate and terms, Form FmHA 460-9 will be executed by the transferee according to the Forms Manual Insert (FMI).

(3) The unpaid FmHA indebtedness being transferred should be current at the time of transfer. If this is not the case, the transfer may be authorized on new terms to remove any delinquency or to extend the existing loan repayment period to the extent possible, considering the remaining security. Transfers of rental property, on new terms may increase the interest rate to the current rate and extend the final due date to the maximum term authorized by the appropriate loan program. The new repayment period, however, cannot exceed the repayment period for a new loan of the type involved. To complete the transfer on new terms, the transferee may execute Form FmHA 460-5, "Assumption Agreement (New Terms)." (RRH loans being transferred on new terms may be consolidated under § 1965.68 of this Subpart). The interest

rate charged in those cases will be as follows:

(i) All loans except LH loans will be transferred at the current rate being charged for those loans, or the note rate of interest, whichever is greater.

(ii) LH loans will be transferred at the rate specified in the note, except that loans transferred to public bodies, nonprofit organizations of farmworkers, and broadly-based non-profit corporations for LH purposes may be at a one percent interest rate regardless of the rate specified in the note if the State Director determines that the reduction is necessary in order to maintain rental rates at a level affordable to the tenants. When the State Director determines that a transfer at one percent is necessary for other types of LH transferees, the case should be submitted to the National Office, with the State Director's recommendations and justifications for consideration.

(iii) Loans for RRH and RCH projects which are amortized on an annual payment basis and are transferred on new terms through the use of Form FmHA 460-5, shall be converted to a monthly payment amortization. This may be accomplished by changing the date to be inserted for item 15 of the Forms Manual Insert for Form FmHA 460-5 to the date which is one month from the effective date of Form FmHA 460-5. Also, the words "each January 1" on the fifth line of payment alternative (a) on the reverse of Form FmHA 460-5 should be deleted. In their place should be the word "the" followed by the numerical day of the month in which Form FmHA 460-9 is effective (or 28th, whichever is less), and the words "day of the month".

(4) For rental projects, the transferor's project operating accounts, reserve account, any tenant security deposits, any balance remaining in the transferor's supervised bank account, and any equipment purchased with project funds, will be transferred to the transferee. Any RA payments not received by the transferor, will be assigned to the transferee. Every attempt should be made to have the funds in the reserve account at the scheduled level and transferred to the transferee at the time of transfer. If the RRH transferee wishes to convert to the loan agreement/resolution format of Form FmHA 1944-33, "Loan Agreement", 1944-34, "Loan Agreement", or 1944-35, "Loan Resolution", as appropriate, the transferee may accomplish this by amending the existing loan agreement/resolution with the advice of OGC according to § 1965.65(c)(10) of this Subpart.

(5) Any excess development funds held in a supervised bank account must be refunded to the respective loan account upon receipt of the transfer request.

(6) A loan and/or grant may be made in connection with a transfer subject to the policies and procedures governing the kind of loan and/or grant being made. Loan and/or grant funds may *not* be used, however, to pay equity to a transferor.

(7) The transferee must prepare operating budgets, as required by the appropriate program regulations governing the kind of loan being transferred, covering the first partial year and the next full year's operation. The budgets must be realistic and reflect sufficient funds to pay operation and maintenance expenses, maintain any required reserve, and keep the FmHA account(s) current. The charges for the use of the facility or services must be within the payment ability of those it is intended to serve. A current utility allowance must also be prepared when required by program regulations.

(8) For transfers of RRH loan accounts, current executed tenant certifications using Form FmHA 444-8, "Tenant Certification," or a HUD approved form of "Certification or Recertification of Tenant Eligibility" for any tenants receiving Section 8 subsidy, must be on file with FmHA or provided for each tenant, as required by Paragraph VI E of Exhibit B to Subpart C of Part 1930, evidencing that the units are or will be occupied by eligible tenants when the transfer is closed.

(9) For transfers of RRH and LH loan accounts, all leases should also be assigned to the transferee no later than the date of closing.

(10) The proper type of loan agreement or loan resolution for the type of transferee involved must be in effect and secured by the mortgage or deed of trust at the time of transfer. If changes are needed in the existing loan agreement or loan resolution to accomplish this, amendments must be made to the existing loan agreement or resolution secured by the mortgage on the security property with the advice and approval of OGC or any other method acceptable to OGC.

(11) A limited profit RRH transferee's initial investment in the project will remain the same as that originally provided to the transferor. If a loan to a nonprofit or profit type borrower is being transferred to a limited profit type transferee, the initial investment to be shown in the loan resolution or agreement will be "None" unless an exception is made by the National

Office. An exception will be considered when the transferee contributes funds for repairs or authorized improvements. In exception cases, the transfer will be referred to the National Office with the appropriate recommendations and a request to establish an initial investment for the transferee. Any initial investment established by the National Office will not exceed 5 percent of the original loan amount.

(12) The rate of return permitted on a limited profit RRH transferee's initial investment will not exceed the rate stated in the appropriate loan agreement or resolution for the type of borrower as set forth in § 1944.215(e) of Subpart E of Part 1944 when the transfer is approved.

(13) If the transfer involves an RRH or RCH loan using interest credit with a Form FmHA 444-7, "Interest Credit and Rental Assistance Agreement" in effect, it will be cancelled as of the date of the transfer. If the transfer is to be made on a nonprofit or limited profit basis, the transferee may receive interest credit if the transferor was eligible for interest credit according to Exhibit B to Subpart E of Part 1944. A new Form FmHA 444-7 will be executed by the transferee, attached to Form FmHA 460-5 or 460-9, as appropriate and submitted (simultaneously with any interest credit cancellation for the transferor) to the Finance Office when the transfer is closed.

(14) A transferee may participate in the rental assistance program if the transferor's project is an eligible project and the transferee is an eligible borrower according to Exhibit C to Subpart E of Part 1944. If the transferor participates in the rental assistance program, the transferee may assume the remaining portion of the transferor's rental assistance agreement if the transferee is eligible. When the transferee is assuming the transferor's rental assistance agreement, the transferor's rental assistance agreement will be described on the assumption agreement (Form FmHA 460-5 or 460-9, as appropriate) giving the date executed, number of units, term of agreement, and the amount of obligation remaining. If the transferee will not be assuming an existing Rental Assistance Agreement, the agreement will be cancelled and Finance Office notified of the cancellation.

(15) If a project operates under the HUD Section 8 program the HAP contract must also be assigned to the transferee with prior approval from HUD. This approval must be obtained so that the assignment of the HAP contract occurs no later than the closing of the transfer.

(16) The transferee must thoroughly understand all loan requirements including the tenant eligibility, the management, reserve account, audit, and reporting requirements of applicable FmHA regulations, and the loan agreement or loan resolution. Before the transfer is closed the District Director shall carefully review with the transferee Subparts E and L of Part 1944, Subpart C of Part 1930, and the loan agreement or resolution with the transferee.

(17) Release of liability will be considered according to the following:

(i) When all FmHA security is transferred and the total outstanding debt is assumed, the policy will be to release the transferor from liability.

(ii) In those cases where the value of the security transferred and debt assumed is less than the full amount of the FmHA debt, the transferor may be released from liability if the State Director determines that the transferor has no reasonable debt-paying ability considering assets and income at the time of the transfer, and certifies that the transferor has cooperated in good faith, has used due diligence to maintain the security property against loss, and has otherwise fulfilled the covenants incident to the loan to the best of the borrower's ability. The approval official must execute a memorandum containing the following statement for inclusion in the official case file:

(Transferor's name), in our opinion, does not have reasonable debt-paying ability to pay the balance of the debt not assumed after considering its assets and income at the time of the transfer. Transferors have cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of its ability. Therefore, we recommend that the transferor be released of personal liability upon the transferee's assumption of that portion of the indebtedness equal to the present market value of the security property.

(18) All transfers of RRH, RCH and LH loans approved prior to December 21, 1979 which are transferred to eligible applicants on new terms will become subject to the prepayment requirements of Section 502(c) of Title V, Housing Act of 1949, as amended. The appropriate restrictive language concerning prepayment set forth in § 1944.176(c)(2) of Subpart D of Part 1944 for LH loans or § 1944.236(b)(4) of Subpart E of Part 1944 for RRH and RCH loans must be inserted in the Assumption Agreement and in the Loan Agreement or Resolution. For transfers on new terms the period will begin on the date the transfer and assumption is closed.

(d) *Transfers to ineligible applicants.* The transfer of an FmHA loan account to a transferee who is an ineligible applicant for the type of loan involved will be considered only when the transfer is needed as a method for servicing a problem case in which the objectives of the original loan cannot be realized and an eligible transferee is not available. Transfers will not be considered when they basically serve as a method for providing a means by which members of a borrower-organization can obtain an equity payment, or when they serve basically as a method of providing a source of credit for purchasers. The State Director is authorized to approve transfers to ineligible applicants, subject to the general conditions of § 1965.65(b) and the following:

(1) Each ineligible transferee will be encouraged to make as large a downpayment on the FmHA secured indebtedness as the transferee is financially able. Ineligible applicants can only be approved when a downpayment is made equivalent to 10 percent of the remaining loan balance to be assumed.

(2) The transferee must have the ability to pay the FmHA debt(s) according to the assumption agreement and must possess the legal capacity to enter into the contractual agreement.

(3) The balance of the FmHA indebtedness assumed must be scheduled for repayment in two years or less for RHS accounts, and usually 10 years or less for other types of multiple family loan accounts. If longer terms are needed for LH, RRH, or RCH projects with multiple unit structures, the State Director may authorize longer terms up to 20 years (Single family type structures may be sold on terms for 15 years or less.) Amortized monthly or annual installments will be charged with interest to the transferee at the rate currently applicable to above-moderate RH loans, including insurance charges, or at the rate of interest specified in the note(s) being assumed, whichever is greater. Form FmHA 460-5 will be executed by the transferee.

(4) The State Director may release the transferor from liability under the same provisions as stated in § 1965.65(c)(17) of this Subpart only when all of the real estate security for a loan is transferred; the total outstanding indebtedness or that portion of the debt equal to the present market value of the security is assumed; and the debt assumed by the ineligible transferee is scheduled for repayment in five years or less from the date of the assumption agreement.

(5) When an ineligible transferee assumes an FmHA loan scheduled for repayment in more than 5 years from the date of the assumption agreement, the transferor must acknowledge their continued liability for the debt by signing an agreement as follows:

*Continued Liability Agreement of Present Debtors*

The undersigned hereby acknowledges the continued personal liability for the indebtedness owed to the FmHA and assumed by (assuming parties) under assumption agreement dated \_\_\_\_\_  
Date \_\_\_\_\_

(The original of the signed agreement will be attached to the original assumption agreement, a copy filed in the transferee's District Office case folder, and a copy provided the transferor.)

(6) Transfers to ineligible applicants of loans made on or after December 21, 1979, will not be authorized without the prior consent and authorization of the National Office. Authorization must be requested in writing and include all the information required in § 1965.65(e) of this Subpart.

(7) Those loans which are transferred to ineligible applicants will be classified as Other Real Estate (ORE) and serviced according to this Subpart to the extent possible. Those cases which cannot be serviced according to this Subpart will be forwarded to the National Office for advice and guidance.

(e) *Submission to National Office.* In those cases where the proposed transfer cannot be made in compliance with § 1965.65 (a) and (b) or (c) of this Subpart, the State Director may submit the entire proposal, complete with all the case files, the State Director's specific recommendations and justifications to the National Office for review, consideration, and any special instructions for handling the account(s). The State Director must have determined prior to submission, however, that it is in the best interest of the Government to permit the transfer before submitting the proposal for consideration. All transfers where the

total indebtedness (principal and interest) exceed the State Director's approval authority must be submitted to the National Office for prior review and authorization to approve the transfer request.

(f) *Processing transfers.* (1) Form FmHA 465-5, "Transfer of Real Estate Security," must be completed to reflect the agreement between the transferor and transferee. The form will be prepared to show all agreements involved such as the prorating of taxes and insurance, title, legal and filing fees, equity and method of payment, assignment of project accounts and leases, and other appropriate items. The effective date of the transfer is the actual date the transfer is closed and Form FmHA 460-5 or 460-9, as appropriate, is executed. This is the date the loan account(s) is/are assumed by use of Form FmHA 460-5 or 460-9, as appropriate. The unpaid principal balance and accrued interest to be shown on Form FmHA 460-5 or 460-9 will be computed from Form FmHA 451-26, "Transaction Record," or Form FmHA 451-11, "Statement of Account." The transferee also will be advised of the total amount paid as of the closing date which has not been credited to the account, the payment required to place the account on schedule as of the previous installment due date, and any payments required to bring any monthly or annual payments current. If the loan account cannot be brought current the transfer will be closed on new terms at the note rate or current interest rate, whichever is greater.

(2) When the property transferred will continue to be used for the same or a similar purpose for which Federal financial assistance was extended, the transferee must sign Form FmHA 400-4, "Assurance Agreement."

(3) An FmHA official authorized to make the appropriate type of appraisal involved will supplement the present appraisal report by attaching information to the "Remarks" section as to the present market value of the

property to be transferred if the last appraisal is less than one year old and the transfer is within the State Director's approval authority. A new appraisal prepared according to program requirements is required in all other cases or whenever the Transfer Approval Official determines that a new appraisal report is needed.

(4) When the transfer docket forms are completed, the approval official must determine that:

(i) The proposed transfer conforms to the applicable procedural requirements.

(ii) Each form is prepared correctly according to the Forms Manual Insert or other appropriate regulations, and

(iii) Items such as names, addresses, and the amount of the indebtedness to be assumed are the same on all forms in which those items appear.

(5) The District Director will record in the Running Case Record or in memo form the pertinent information concerning the negotiations made by an eligible transferee and the discussion between FmHA personnel, the applicant's creditors, and other lenders concerning the availability of other credit. The investigation and availability of other credit for eligible transferees will be documented in the case file as required for the kind of loan being assumed. Any letters from lenders or other evidence which may have been obtained indicating that the applicant is unable to obtain credit elsewhere on rates and terms that would not cause rental rates to be in excess of what low and moderate-income tenants could afford will be included in the docket.

(6) A compliance review should be conducted as required by Subpart E of Part 1901, if one has not recently been completed.

(7) The District Director will forward the transferee's application docket and the official case file, with any comments and recommendations to the State Office. The following table will be used as a guide in distributing the necessary forms for a transfer docket:

Form No.	Name of form or document	Total No. of copies	Signed by borrower	No. for loan docket	Copy for borrower
AD-825*	Application for Federal Assistance (Short Form).....	3	1	2-O and 1C.....	1-O.
HUD Form 2530*	Previous Participation Certificate.....	2	1	2-O and 1C.....	1-C.
	Information to be Submitted with Preapplication for Loan as required by program regulations specifically related to applicant eligibility*.	2	0	1-O.....	1-C.
	Letter of Application with applicable attachments as required in Subpart G of Part 1822 (FmHA Instruction 444.8) or Subpart D or E of Part 1844*.	2	1	1-O.....	1-C.
	Evidence of Legal Authority (Copies of citation of specific provisions of State constitution, statutory authority, etc)**.	2	1	1-O.....	1-C.
	Proof of Organization (certified copy of Charter, Articles of Incorporation, or Certificate of Limited Partnership, etc.)**.	2	1	1-O.....	1-C.
	Certified copies of bylaws, partnership agreement, or regulation**.	2	1	1-O.....	1-C.
	List of names and addresses of officers, directors, and members, and ownership interest held by each**.	2	1	1-O.....	1-C.

Form No.	Name of form or document	Total No. of copies	Signed by borrower	No. for loan docket	Copy for borrower
	A current financial statement from the transferee, and others, as required by appropriate program regulations.	2	1	1-O	1-C.
	Credit Report(s)*	1		1-O	
FmHA 465-5	Transfer of Real Estate Security <sup>2</sup>	3	1-O	1-O	1-C.
FmHA 1930-7*	Statement of Budget, Income, and Expense (excluding Depreciation) (Operating Budget-first year) (Operating Budget-typical year).	2	2-O and 1C	1-O	1-C.
HUD 935.2	Affirmative Fair Housing Marketing Plan, or evidence of being signatory to a HUD approved voluntary agreement.	2	1-O	1-O	1-C.
FmHA 400-1*	Equal Opportunity Agreement	2	2-O and 1C	1-O	1-C.
FmHA 400-4*	Assurance Agreement	2	2-O and 1C	1-O	1-C.
FmHA 1940-1	Request for Obligation of Funds <sup>3</sup>	3	2-O and 1C	2-O and C	1-C.
FmHA 451-26	Transaction Record (most recent)	1		1	
FmHA 451-10*	Request for Statement of Account	2		2-O and C (O to FO)	
FmHA 451-11*	Statement of Account	1		1	
FmHA 451-25*	Status of Account	2	0	2-O and C	
FmHA 422-7*	Appraisal Report For Multiunit Housing	1		1-O	
FmHA 422-8*	Property Information and Appraisal Report—Rural Housing Nonfarm Tract (2 units or less).	1		1-O	
FmHA 426-1*	Valuation of Buildings	1		1-O	
FmHA 424-1*	Development Plan	2	1-O	2-O and C	1-C.
FmHA 460-5*	Assumption Agreement (New Terms)	4	1-O	1-O	1-C.
FmHA 460-9*	Assumption Agreement (Same Terms)	4	1-O	1-O	1-O.
FmHA 465-8*	Release from Personal Liability <sup>1</sup>	2		1-C	1-C.
FmHA 440-9*	Supplementary Payment Agreement <sup>1</sup>	3	1-O	2-O and C	1-C.
FmHA 444-7*	Interest Credit and Rental Assistance Agreement (RRH and RCH Loans) <sup>1</sup>	3	1-O	1 (O to FO)	1-C.
FmHA 444-27*	Rental Assistance Agreement	2	1-O	1-O	1-C.
	Loan Agreement <sup>1</sup>	2	1-O	1-O	1-C.

O = Original; C = Copy.

\*When applicable.

\*\*When applicant is an organization.

<sup>1</sup> The original Form will not be executed until date of closing the transfer.

<sup>2</sup> When requested, prepare an additional copy for delivery to transferee.

<sup>3</sup> Applicant must sign and date this form unless a similar certification is obtained on the application form. For ineligible transferees, delete the first sentence referring to other credit in item 34 of the form. The applicant must initial each deletion.

Other transfer docket items may include a mortgagee title policy, title evidence or report of lien search, foreclosure notice agreement, original or certified copy of deed to any property, purchase contract or other instrument of ownership, assignment of HUD Section 8 Housing Assistance Payments contract, and information on prior or junior mortgage(s). When less than the total amount of the indebtedness is assumed, the transferor's financial statement will be included. When an initial or subsequent loan is involved, include any additional forms required by the appropriate loan making instruction. (Subsequent loans will not be made to pay equity.)

(8) If the transfer is within the State Director's loan approval authority, the docket will be forwarded to OGC for review and necessary closing instructions. If the transfer is not within the State Director's loan approval authority, or all planned development is not complete; the complete transfer docket, borrower case file, OGC comments, and complete comments and recommendations of both the District and State Director will be forwarded to the National Office for review and approval authorization.

(9) During the period that a transfer is pending in the District Office, payments received by the Finance Office will continue to be applied to the transferor's account. Those payments include any downpayments made in connection with the transfer for reducing the amount of

the debt to be assumed. Any payment on the account not included in the latest transaction record will be deducted from the total amount of principal and interest calculated from the latest information available before the assumption agreement is completed and signed.

(i) *Identification* For payments received on the date of transfer, Form FmHA 451-2, "Schedule of Remittances," or Form FmHA 444-9, "Multiple Housing Certification and Payment Transmittal," as appropriate will be prepared to show "Transfer in process for account owed by (borrower's name and case number) to be transferred to (name of transferee and case number, if known)." If the borrower number portion of the case number has not yet been assigned for a transferee, only the State and County portion of the case number will be shown. A statement for the information of the Finance Office will be attached to the assumption agreement showing the date of Form FmHA 451-2 or 444-9, and the amount paid.

(ii) *Payment*. When a payment is due on the assumption agreement shortly after the transfer is completed, the payment should, if possible, be collected at the time of transfer and remitted in the transferee's name.

(g) *Closing transfer cases*. (1) Title clearance and legal services will be obtained according to Part 1807 (FmHA Instruction 427.1) and when appropriate, OGC closing instructions.

(2) The parties to the transfer are responsible for obtaining legal services necessary to accomplish the transfer. A profit or limited profit organization transferee may use any designated attorney or title insurance company to close the transfer according to the applicable closing instructions if the attorney or the title insurance company and their principals or employees are not members, officers, directors, trustees, stockholders or partners of the transferee or transferor entity. Nonprofit organization transferees may use a designated attorney who is a member of their organization if the cost is reasonable and typical for the area, and is earned.

(3) The transferee will obtain insurance according to the appropriate program requirements for the outstanding loan(s) involved, unless the State Director requires additional insurance as a condition of approval. When insurance is required, it may be obtained either by transfer of the existing coverage by the transferor or by acquisition of a new policy by the transferee. When the full amount of the FmHA debt is being assumed and an amount has been advanced for insurance premiums or any other purposes, the transfer will not be completed until the Finance Office has charged the advance to the transferor's account.

(4) The proper type of loan agreement or resolution for type of transferee involved must be in effect at the time of

the transfer. If changes are needed in the existing loan agreement or resolution cited in the mortgage, the changes should be made by amending the existing loan agreement or resolution after obtaining the advice of OGC.

(5) The restrictive language contained in § 1944.176(c)(1) of Subpart D of Part 1944 and § 1944.236(b)(1) of Subpart E of Part 1944 must be inserted in the deed of conveyance or other instruments as required by OGC for RRH, RCH, and LH loans.

(6) At a time no later than the transfer closing, the transferee will be provided copies of the security instruments (promissory note, mortgage or deed of trust, rental assistance agreement, loan agreement or resolution, etc.) which were executed by the transferor or previous borrower to originally secure the loan being assumed.

(h) *Transfer not completed.* If for any reason a transfer will not be completed after approval, the District Director will immediately notify the State Director. The State Director will notify the Finance Office. Servicing of the account will be resumed in the name of the borrower.

#### §§ 1965.66—1965.67 [Reserved]

#### § 1965.68 Consolidation.

(a) *General.* RRH and LH loans can be consolidated at FmHA's option upon request by the borrower as a servicing tool only when the loans are for security on the same or contiguous property and are being transferred under new terms to the transferee. Loan agreements can be consolidated to improve the effectiveness of borrower operations only when the loans described are for security on the same or contiguous property. These actions may be approved by the State Director only with the advice of OGC and if all the following conditions are met:

(1) The security offered is adequate for the total indebtedness.

(2) The total indebtedness of all loans being consolidated does not exceed the State Director's approval authority.

(3) The loans being consolidated are for the same purposes. Loans specifically made for senior citizen projects cannot be consolidated with loans for family projects.

(4) The consolidation will not cause rents to exceed the repayment ability of eligible occupants.

(5) For RRH loans, the transferee must agree to operate on a limited profit basis and Interest Credit Plan II must be implemented.

(6) FmHA's security position must not be lessened as a result of the consolidation.

(7) Consolidation of notes under a transfer on new terms will not cause the term of the loan to exceed the maximum time allowed by the respective loan programs.

(8) The notes to be consolidated must be current. Delinquent accounts can only be consolidated with prior National Office authorization.

(b) *Processing.* All consolidations will be processed with the advice of OGC and assistance of the State Director.

(1) Loan consolidation with transfers on new terms will be processed as follows:

(i) Form FmHA 440-16, "Promissory Note," will be prepared for notes or assumption agreements being consolidated according to the FMI. If the District Office does not have possession of the original note or assumption agreement, the District Director will ask the Finance Office to return the original form so it is in the District Office before Form FmHA 440-16 is processed. A copy of Form FmHA 440-16 will be sent to the Finance Office according to the FMI. All promissory notes will be prepared on a monthly payment basis.

(ii) The original and District Office copies of all notes or assumption agreements that are consolidated, will be stamped "Consolidated", by the District Office. The original instruments being consolidated will be filed with the borrower's new consolidated note and a copy will be filed in the borrower's case file. When the consolidated or rescheduled note has been paid in full or otherwise satisfied, it and all other instruments will be handled according to the provisions of § 1951.15 of Subpart A of Part 1951.

(iii) Revised loan agreements or resolutions will be provided to reflect current reporting requirements and the authorized initial investment attributable to the owner.

(iv) Consolidation of notes will only be accomplished with the guidance and assistance of OGC. Under no circumstances will promissory notes be consolidated if the security position of FmHA will be adversely affected.

(v) New security instruments which describe the consolidated note will be filed to perfect the FmHA lien position. If the new lien position taken is junior only to the previous lien position securing the loan being consolidated, the previous security instruments may be released with the guidance and assistance of OGC.

(2) Consolidation of loan agreements or loan resolutions may be used as a security tool to provide more effective management and supervision, as follows:

(i) All of the general requirements of § 1965.68(a) of this Subpart are met;

(ii) A revised loan agreement or loan resolution must be executed which accurately reflects the total indebtedness, reserve requirements, and return originally described in the individual agreements;

(iii) All of the loan agreements or loan resolutions being consolidated must be secured by a deed of trust or mortgage describing all of the loans for the project;

(iv) Neither the terms nor the due dates of the loan(s) involved are altered, and other security instruments remain unchanged.

(v) The advice and assistance of OGC will be obtained when processing consolidation of loan agreements or loan resolutions.

#### § 1965.69 [Reserved]

#### § 1965.70 Reamortization.

(a) *General.* State Directors may approve the reamortization of RRH, RCH, and LH loan accounts within their approval authority for the type of loan involved. RHS loans will not be reamortized and will be serviced according to program requirements. If an RHS loan becomes seriously delinquent and efforts to sell the lots are not successful, the account will be liquidated according to Subpart A of Part 1955.

(b) *Conditions for reamortization.* The conditions under which a reamortization will be considered are:

(1) The borrower has made extra payments and/or refunds totaling 10 percent or more of the original loan amounts being reamortized (from sources other than the sale of units within the LH, RRH, or RCH project), and the State Director determines that the borrower and the tenants cannot reasonably be expected to meet their obligations unless the account is reamortized to reduce substantially the FmHA installments and rental rates; or,

(2) The borrower has a substantial delinquency which cannot be liquidated within one year; which was caused by circumstances beyond the ultimate control of the borrower, however, the borrower has acted in good faith and has complied with all applicable FmHA procedures and policies governing the particular program under which the loan is made; and,

(3) All of the following conditions exist and are adequately documented in the official case file and on Form FmHA 451-33, "Reamortization Request (Association Loan)", as appropriate:

(i) The reamortization will not operate to the financial detriment of the Government or impair the security rights of the Government.

(ii) The budget or plan of operations for the borrower provides reasonable assurance that the newly scheduled payments will be made according to the terms of the proposed reamortization, and that the charges for the use of the facility or service are within the payment ability of those it is intended to serve; are comparable to other units in the area; and, the rent increase procedures set forth in Exhibit C of Subpart C of Part 1930 will be followed if any increase in rental rates is required.

(iii) The Board of Directors and membership will retain, or have definite plans for obtaining, membership and community support and, will provide competent management for the continued operation of the borrower entity and the facility financed with the loan.

(iv) The State Director believes that reamortization will enable the borrower to operate successfully and carry out the purpose of the loan.

(v) The FmHA lien position remains unchanged.

(vi) The security must be adequate to protect the Government's interests. A current appraisal must be made and must reflect that the security is adequate for the principal and interest being reamortized.

(c) *Submission to National Office.* When the unpaid indebtedness of the borrower's account(s) to be reamortized exceeds the State Director's approval authority and the State Director determines that the conditions of § 1965.70(b) of this Subpart can be met, the request for reamortization, official case file and all other pertinent information, along with complete comments and recommendations by both the State and District Directors, will be sent to the National Office. The State Director shall submit all subsequent reamortization requests to the National Office for prior authorization.

(d) *Processing reamortizations.* To reamortize the account, the following actions will be taken:

(1) Form FmHA 452-2, "Reamortization and/or Deferral Agreement," will be completed according to the FMI. (Only Item A will be used. Payments on Multiple Family Housing Loans cannot be deferred.)

(2) If the note or assumption agreement being reamortized is not held in the District Office, the District Director will obtain the promissory note and any assumption agreement from the

Finance Office before processing the reamortization.

(3) On the back of the original of the note or assumption agreement (new terms), below all signatures and endorsements, the District Director will insert the following: "A reamortization agreement dated \_\_\_\_\_, 19\_\_\_\_, in the principal sum of \$ \_\_\_\_\_, has been given to modify the payment schedule of this note."

(4) The end of the amortization period will be the final due date of the note being reamortized, unless the term is extended with the advice and guidance of OGC, it is permissible according to State and local Statutes, and the FmHA lien position is not altered. (Any extension of the final due date will not exceed the lesser of the remaining useful life of the security property or the maximum term authorized by the respective loan program authorizations.)

(5) The interest rate for the account will be unchanged, except when the final due date has been extended, the interest rate will be either the note rate or the current interest rate whichever is greater.

(6) The reamortization will be processed with the guidance of OGC.

(7) If the borrower is to receive interest credit benefits following the reamortization of the account, a new Form FmHA 444-7, "Interest Credit and Rental Assistance Agreement," will be prepared and attached to Form FmHA 452-2 for submission to the Finance Office.

(8) The prepayment provisions of Section 502(c) of Title V, Housing Act of 1949 will be applied to any reamortization which extends the final due date regardless of when the loan was originally approved. The appropriate restrictive language set forth in § 1944.176(c)(2) of Subpart D of Part 1944 for LH loans, or § 1944.236(b)(4) of Subpart E of Part 1944 for RRH or RCH loans, will be inserted in the reamortization agreement and in the revised loan agreement or resolution which will be obtained to accurately reflect the revised terms.

#### § 1965.71 [Reserved]

#### § 1965.72 Deceased borrower.

Deceased borrower cases will be handled according to the policy outlined in § 1962.46 of Subpart A of Part 1962 except that all references to the County Supervisor are now construed to mean the District Director. The advice of OGC will be obtained as necessary.

#### § 1965.73 Bankruptcy and insolvency.

Bankruptcy and insolvency cases will be handled according to the policy

outlined in § 1962.47 of Subpart A of Part 1962 except that all references to the County Supervisor now mean District Director. The handling of bankruptcy cases varies from state to state. Therefore, the State Director may issue State Supplements providing more specific guidance to expedite the handling of those cases. The advice of OGC will be obtained as necessary.

#### § 1965.74 Divorce actions.

When individual borrowers with loans are involved in a divorce action, the District Director will review the case after the final divorce decree has been granted to determine future servicing of the account. The District Office file will be submitted to the State Director for advice if the District Director is uncertain of the servicing actions needed to protect the Government's interest or if continuation of the loan with the remaining borrower is not authorized. No subsequent loan will be made as a result of a divorce action.

#### § 1965.75 Abandonment.

When the District Director believes that the borrower has abandoned a project, an immediate check with the appropriate sources (for example: tenants, management agents, assessor's office, etc.) will be made to determine if the borrower has moved and, if so, whether a forwarding address can be determined so that further servicing actions can be taken.

(a) A property is considered abandoned when any or all of the following conditions exist:

(1) The borrower cannot be located after the District Director has made diligent efforts to contact the borrower. This condition also applies to those instances where the general partner(s) of a limited partnership cannot be located and the limited partners are unknown or also cannot be located.

(2) The project remains unoccupied for an extended period of time and the borrower makes no effort to maintain the security property and/or secure eligible occupants and comply with the objectives of the loan within a reasonable period of time as specified by the District Director in a certified letter sent to the borrower requesting compliance.

(b) If the property is not being maintained and the District Director determines that the borrower has abandoned the project, the District Director will attempt to contact any prior lienholders with a request that they take control of the property and make any emergency repairs necessary. If no prior lienholder is involved or the

prior lienholder cannot immediately be contacted or refuses to make the emergency repairs, the District Director will immediately notify the State Director and request permission to take possession of the property pending liquidation, make emergency repairs to prevent further deterioration of the security, and to enter into a lease with the individual tenants, or a management or caretaker's agreement, on behalf of the borrower.

(c) A caretaker or management agent will normally be obtained when the borrower has abandoned the security property or has failed to maintain its operation and the State Director determines, with the advice of OGC, that the FmHA should take possession of the property to best protect the interest of the Government subject to the following:

(1) *Selection of a caretaker or management agent.* Persons or firms chosen as caretakers or management agents should have experience in operating and managing similar properties or have business background or experience which qualifies them to perform the needed services. They must be located near the property to provide day-to-day supervision or appoint a qualified local person to meet this requirement. Caretakers will normally be selected for unoccupied projects or those not suitable for occupancy. Management agents will only be selected for projects which are occupied. Selection procedures will be in accordance with § 1955.63(a) of Subpart B of Part 1955, and will be appropriately documented.

(2) *Fees.* The amount of the management agent or caretaker's fee should be no more than the typical rate for similar services in the area. The amount may be based on a percentage of the income from the property or a flat fee amount. The fees will be considered a recoverable cost and charged to the borrower's account. The fees will be paid by processing Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," on a monthly basis.

(3) *Rental rates for abandoned projects.* Rental rates will normally remain the same for eligible occupants as when the project was under the control of the borrower. Rental rates may be revised, however, with the approval of the State Director under the following conditions:

(i) Any lease agreement between the borrower and tenant will permit changing the rates.

(ii) A change of rates is needed to provide income sufficient to pay operational and maintenance expenses,

including the caretaker's fee, and to repay the loan on schedule.

(iii) Any increase will not result in rental rates above the payment ability of eligible occupants, unless the State Director has given the authority to rent units to ineligible occupants.

(d) All these actions shall be fully documented in the official case file. Liquidation will immediately be instituted according to Subpart A of Part 1955.

#### § 1965.76 [Reserved]

#### § 1965.77 Consent to sale or other disposition of security property.

(a) *General policies.* The State Director may approve requests for and consent to:

(1) Use of the proceeds from the sale of a portion of or an interest in the security,

(2) Exchange of all or a part of the undeveloped security for other real estate, or

(3) Granting or conveyance of rights-of-way subject to the conditions and requirements of this section.

(b) *Processing requests.* These requests will be made on Form FmHA 465-1. The District Director will forward a properly completed and executed Form FmHA 465-1, the proposed deed, easement, or other forms of title conveyance, and the case file to the State Director with a memorandum containing additional information, as needed, to justify the approval or disapproval of the proposed transaction.

(c) *Conditions of approval.* The State Director may grant consent provided:

(1) The orderly repayment of the FmHA indebtedness will not be impaired. This requirement will not apply in condemnation cases after the final judgment or award has been granted and is not appealed.

(2) The transaction will not interfere with the successful operation of the multiple housing project or prevent the borrower from carrying out the purpose for which the loan was made. This requirement will not apply in the case of a condemnation action in which a final judgment or award has been made and is not appealed.

(3) The sale of individual units or developed portions of an RRH, RCH or LH project shall require the prior concurrence and authorization of the National Office.

(4) If property to be sold or exchanged is to be used for the same or similar purpose for which the FmHA loan or grant was made, the purchaser shall execute Form FmHA 400-4. The agreement will remain in effect as long as the property continues to be used for

the same or similar purpose for which the FmHA loan or grant was made.

(5) The consideration is at least equal to the market value of the security property disposed of or the rights being granted. However, right-of-way easements may be granted or conveyed without consideration if the value of the security property will not be reduced, its suitability for the intended purpose will not be impaired, and the easement is granted for the borrower to develop additional lots or units which will be integrated into the project. A FmHA official authorized to appraise multi-unit housing properties shall either make a new appraisal if the current appraisal is more than one year old, or supplement the present appraisal report by inserting in or attaching to the "Remarks" section, information as to the market value of the security property. However, if the proceeds are to be used for development or enlargement, a new appraisal reflecting the market value of the security property as improved or enlarged will be made in all cases. The State Director may request an appraisal for any transaction involving security property whenever necessary.

(6) The remaining property is adequate security for the unpaid balance of the FmHA loan, or the transaction will not adversely affect FmHA's security position or interfere with the successful operation of the security property.

(7) The proceeds from the disposition of the security are used for one or more of the following purposes:

(i) To pay the customary incidental closing costs such as title and recording fees appropriate to the transaction, including additional real estate tax the borrower is required to pay for the year for which arrangements to pay cannot otherwise be made.

(ii) To pay debts owed to any prior lienholders.

(iii) To make extra payments on the FmHA loan.

(iv) To pay costs necessary to determine the reasonableness of an offer or asking price, such as fees for appraisal of minerals, land, or timber where the necessary appraisal cannot be obtained without costs.

(v) To pay real estate brokers' commissions if a borrower can reasonably expect to obtain proceeds in an amount at least equal to the commission in excess of what could otherwise be obtained had the sale been made without the assistance of the real estate broker.

(vi) To develop or enlarge the borrower's facility for purposes for which a loan of the same type involved

could be made, if the development or enlargement is necessary to improve the borrower's debt-paying ability, place the operation on a more sound basis, or otherwise further the objectives of the FmHA loan. Any proposed development will be planned and performed according to Subpart A of Part 1924 and funds to be used for development or enlargement will be handled according to Subpart A of Part 1902.

(vii) To purchase or acquire property to be used for purposes for which a loan of the same type involved is authorized, if the FmHA debt will be as well secured after the transaction as before. FmHA will obtain a lien on the acquired property, and will obtain title evidence according to Part 1807 (FmHA Instruction 427.1).

(viii) To pay any additional income tax which the borrower must pay for the year because of the capital gain or royalty tax attributable to the transactions. Funds for back taxes must be estimated and held in a supervised bank account until actual payment of the tax.

(8) FmHA liens are not released until receipt of the appropriate sales proceeds for application on the Government's claim.

(d) *Releasing security.* Security for FmHA loans addressed in this Subpart will be released according to applicable program regulations and as follows:

(1) Borrowers will be held strictly accountable to the FmHA for all proceeds derived from the sale of mortgaged property which the FmHA is entitled to receive under its lien.

(2) Consent to disposition of part of, or an interest in, security property as authorized in this subpart may be given by approving a completed Form FmHA 465-1 or other forms approved by OGC or prescribed in State Supplements. Upon request for consent, the District Director will forward Form FmHA 465-1, the borrower's case folder, and any other pertinent information to the State Director.

(i) Chattel security may be released from a chattel mortgage by use of Form FmHA 460-1, "Partial Release," or other approved form, and from a security interest under the Uniform Commercial Code by use of Form FmHA 462-12, "Statements of Continuation, Partial Release, Assignment, Etc." Satisfaction or termination of chattel security instruments will be accomplished following the guidance of Subpart A of Part 1962.

(ii) Real estate security may be released by use of Form FmHA 460-1 or other form approved by OGC. Satisfaction or termination of real estate security instruments when the FmHA

debt has been paid in full or satisfied by debt settlement action will be accomplished with the use of Form FmHA 460-4, "Satisfaction."

(iii) Any consent which would result in the FmHA loan account being paid in full will be subject to the prepayment provisions of § 1965.90 of this Subpart as applied to RRH, RCH, and LH loans.

#### § 1965.78 [Reserved]

#### § 1965.79 Subordination.

(a) *General policies.* The State Director is authorized to approve request for a subordination according to this section, if the total debt against the security after the transaction does not exceed the State Director's loan approval authority for the type of loan involved. Subordination requests exceeding this limit must be submitted to the National Office for prior authorization to approve. Each request for subordination will be made on Form FmHA 465-1. The District Director will forward a properly completed and executed copy of the form to the State Director with a memorandum containing any needed information to justify approval or disapproval of the request.

(b) *Conditions of approval.* The subordination must be for the purpose of permitting another creditor to refinance, extend, reamortize, or increase the amount of a prior lien, or place a lien ahead of the FmHA lien. When the prior lien is being increased by an amount which exceeds normal transaction costs or a new prior lien is being placed against the security, an FmHA official authorized to make appraisals for the type of project involved will supplement the present appraisal report by inserting in the "Remarks" section information as to the market value of the security after the transaction if the appraisal is less than one year old. If the appraisal is more than one year old, a new appraisal must be completed. The State Director may also request an appraisal at any time deemed appropriate. In all cases, the following conditions must be met:

(1) The transaction must either further the objectives for which the FmHA loan was made or improve the borrower's debt-paying ability and, in either case, must result in the FmHA's debt being adequately secured.

(2) The borrower is unable to refinance the FmHA loan on terms which can reasonably be expected to be met yet still meet the original intent of the program.

(3) The terms and conditions of the prior lien will be such that the borrower can reasonably be expected to meet them as well as all other debts.

(4) The amount of the indebtedness against the security property, including the amount of the subordination, will not exceed its present market value.

(5) When an increase in the amount of the prior lien or a new prior lien is involved, subordination will be granted only when the funds will be used for the same purposes for which a loan of the same type is authorized; except LH loans on a farm tract may be subordinated for essential farm improvements and any other purpose for which an FmHA Farm Ownership loan can be made as described in § 1943.16 of Subpart A of Part 1943. LH loans will not be subordinated to provide operating capital or purchase chattels. If the LH loan is secured only by the LH units and the project site, the LH loan will only be subordinated for purposes for which an LH loan may be made.

(6) Any proposed development will be planned and performed according to Subpart A of Part 1924 or in a manner directed by the other creditor which reasonably attains the objectives of Subpart A of Part 1924 and is concurred with by the State Director.

(7) Funds to be used for development or enlargements will be handled as prescribed for loan funds in Subpart A of Part 1902 except that, if the creditor will not permit the use of a supervised bank account, arrangements should be made to assure that funds will be spent for planned purposes and should be approved by the District Director before being released.

(8) In case of land purchase, FmHA will obtain the best lien obtainable on the land purchased.

(9) Subordinations need not cover the entire site. If a subordination is requested to permit an interim lender to advance construction funds, only the portion of the site scheduled for construction will be subordinated. If the entire farm tract has been taken as security for a LH loan, subordination of the lien on all property except the minimum adequate site, including necessary ingress and egress, on which the LH units are situated, may be authorized for any purpose consistent with the LH program regulators and § 1965.79(b)(5). For RHS loans, the prorated portion of the lien for the individual lots may be subordinated to permit construction of dwelling units utilizing conditional commitments as authorized in the RHS program regulations.

(10) All subordination requests will be forwarded to OGC for review. The guidance of OGC should be obtained in the preparation of the documents necessary to effect the subordination.

(11) The subordination is for a specific amount.

(12) The proposed action will not so change the nature of the borrower's activities as to make it ineligible for appropriate loan program assistance.

**§ 1965.80 [Reserved]**

**§ 1965.81 Severance agreements.**

(a) *General policies.* Severance agreements or other instruments of similar effect under which a borrower may acquire through other credit, items such as laundry equipment, air conditioning units, and basic household furnishings that will not become part of real estate security, may be approved by the State Director, provided:

(1) The transaction will not adversely affect the FmHA's security position and any additional obligations incurred will be within the borrower's repayment ability.

(2) The items covered by the severance agreement are needed in the successful operation of the security property.

(3) The financing arrangements are otherwise sound and proper.

(b) *Handling requests.* Requests will be made on Form FmHA 465-1. The District Director will forward to the State Director a properly completed and executed Form FmHA 465-1, any proposed severance agreement, the case file, and specific recommendations regarding the request.

(c) *Consent and approval.* The State Director will indicate approval or disapproval on Form FmHA 465-1. The OGC will be requested to prepare or approve the form of severance agreement and issue any special instructions when necessary.

**§ 1965.82 [Reserved]**

**§ 1965.83 Consent to junior liens.**

(a) *General policies.* Borrowers will be strongly discouraged from giving junior liens to other creditors on the FmHA security property. Each request for consent to junior liens will be made on Form FmHA 465-1.

(b) *Conditions of approval.* The State Director may approve a junior lien if the request for the lien is authorized prior to the lien being placed against the property under the following conditions:

(1) The junior lien will enable the borrower to obtain additional credit to make needed improvements or repairs on the security property for purposes for which a loan of the same type involved could be made and funds in the reserve account have been depleted.

(2) The junior lien will improve the borrower's total financial condition or

debt-paying ability as it relates to the multiple family housing project.

(3) The terms of the junior lien will not jeopardize the borrower's ability to repay the FmHA indebtedness and, in the case of RRH, RCH, and LH loans, will not result in increased rental rates for the project unless authorized according to Exhibit C to Subpart C of Part 1930.

(4) The junior creditor agrees in writing that foreclosure action under their lien will not be initiated before holding a discussion with the District Director and after giving a reasonable period of notice to FmHA, and any operating plans of the junior lien holder are consistent with FmHA requirements.

(5) Security for the junior lien must not include project income or revenue.

(6) No junior liens will be authorized in connection with a transfer of ownership.

(7) The total FmHA debt is within the State Director's approval authority. All other requests for consent to junior liens must be submitted to the National Office with complete comments and recommendations from both the District Director and State Director, and all of the borrower's case files.

(8) When a junior lien is placed on any property without the prior consent of FmHA, the account will be serviced for liquidation with the guidance of OGC according to the security instruments. However, the State Director may request permission to post approve the junior lien by submitting a formal request to the National Office provided he/she determines that all other conditions set forth in this section are met.

**§ 1965.84 [Reserved]**

**§ 1965.85 Default and liquidation.**

(a) *General.* Liquidation will be recommended only after all efforts by FmHA officials have failed to effect a satisfactory solution whereby the borrower will comply with its obligations under the note, mortgage, loan agreement or resolution, and all related security agreements and other instruments. Liquidation, whether by voluntary conveyance or foreclosure, will be handled in strict accordance with the provisions of Subpart A of Part 1955.

(b) *Servicing delinquent accounts.* Delinquent multiple housing accounts will be serviced according to the respective program requirements and the following:

(1) The District Director will service delinquent accounts with guidance and assistance as necessary from the State Director. Every delinquent borrower will

be serviced according to a routine established for the particular loan type by the State Director. The following sequential steps should be taken for each delinquent account:

(i) Each quarterly delinquency report will be reviewed for accuracy by the District Director.

(ii) If the report is in error, the District Director will immediately contact the Finance Office and provide any information necessary to remove the account from the delinquent status. These communications with the Finance Office should be directed to the Multiple-Family Housing unit. Before contacting the Finance Office, the District Director must complete a field audit of the account to be submitted with the inquiry.

(iii) If the report is accurate and a delinquency indeed exists, the District Director will immediately contact the borrower to determine the reason for the delinquency and will attempt to collect either in a lump sum or in additional monthly payments over a short period of time, usually not to exceed one year. This should include foregoing any cash return until the account is current.

(iv) Within 30 days of receipt of the quarterly delinquency report, the District Director will submit to the State Director a detailed report and specific comments and recommendations for servicing each delinquent account. The State Director will assist the District Director in developing a realistic servicing plan for each delinquent account. Appropriate consideration should be given to reamortizing, transferring, conveying or foreclosing the account recognizing the willingness of the borrower to cooperate and comply with FmHA requirements and to meet the purposes for which the loan was made. Consideration should also be given to:

(A) Adequate budgeting.

(B) Improving management and outreach.

(C) Implementing interest credit and/or rental assistance if the borrower and project qualify.

(D) Participating in the HUD Section 8 program for existing housing through the local Public Housing Agency (PHA).

(E) Effecting a justified rent increase according to applicable program requirements.

(F) Obtaining an assignment of project income.

(2) District Directors should be firm in dealing with the borrower or the borrower's representative. However, the management agent is not the party ultimately responsible for the loan, and it is therefore imperative that the

borrower fully understand the consequences of the default. Courtesy, cooperation and sound judgment must be involved. If the delinquent account cannot be brought current within a reasonable period, steps should be taken according to Subpart A of Part 1955 to protect the Government's interest.

(c) *Failure to maintain reserves.* A borrower's failure to maintain adequate reserves should be treated in a manner similar to delinquent accounts. The District Director should carefully monitor the required transfers to the reserve account. Borrowers who fail to make the required transfers or use reserve funds without prior FmHA authorizations should be carefully counselled. Demand should be made upon borrowers willfully misusing the reserve account to promptly correct any deficiency. As appropriate, the District Director may request assistance from the State Director. As necessary to protect the Government's interests, assistance from OGC or OIG should be requested through the State Office.

(d) *Non-monetary defaults.* Attempts to resolve nonmonetary defaults should be handled whenever possible at the District Office level with appropriate guidance and assistance from the State Office. The State Director should counsel with OGC, to determine the appropriate servicing actions in those cases where nonmonetary defaults cannot be resolved at the District Office level. These actions may include liquidation of the account.

(e) *Liquidation.* Liquidation of all multiple-family type loans will be handled according to the applicable portions of Subpart A of Part 1955. In cases of forced liquidation where the acceleration notice has been delivered and the borrower has willfully failed to make the required loan payments, any outstanding interest credit agreement will be cancelled after the appeal period prescribed in Subpart B of Part 1900 has expired; eligible tenants are not occupying the units; and/or the borrower is not collecting the approved rents or transmitting the required payments to FmHA. In all liquidation cases, the State Director will be responsible for the final decision to liquidate the account based upon an opinion from the OGC and the following information supplied by the District Director:

(1) The specific recommendations of the District Director on the method of carrying out the liquidation,

(2) The case file and any other pertinent information developed in support of the accusations,

(3) A summary of FmHA efforts to work out an acceptable solution short of liquidation,

(4) A current appraisal of the security property completed by an FmHA official authorized to make that particular type of appraisal and an estimate of the net amount that may be realized from the sale of the assets,

(5) The most recent balance sheet or financial statement from the borrower,

(6) A current statement of account from the Finance Office, and

(7) A problem case report using Form FmHA 465-7, or Exhibit A to Subpart A of Part 1955 as appropriate.

#### § 1965.86 [Reserved]

#### § 1965.87 Miscellaneous security.

(a) *Membership liability agreements.* As a loan approval requirement, some borrowers may have special agreements with members of the organization for the purchase of shares of stock or for the payment of a pro rata share of the loan in the event of default, or they may have instruments which are commonly referred to as individual liability agreements which are usually assigned to and held by the FmHA as additional security for the loan. In other cases the borrower's note may be endorsed by individuals. These security and liability instruments will be serviced in a manner indicated by the agreements to adequately protect the interest of the FmHA. The State Director will develop servicing actions with the assistance of OGC.

(b) *Other security.* Other security such as collateral assignments, assignments of rents, Housing Assistance Payments Contracts, and notices of lienholder interest will be serviced according to acceptable practices in the respective states. The State Director should develop any special servicing actions with the assistance of OGC to protect the interest of FmHA. Evidence of the security will be filed in the loan docket in the District Office. A notation will be made on the Management System Card showing that the security has been retained. When this other security is taken, a plan for servicing it should be developed by the approval official and included as an approval condition at the outset.

#### § 1965.88 [Reserved]

#### § 1965.89 Obtaining additional security for inadequately secured loans.

(a) *General policies.* As a general policy, additional security for multiple housing loans should not be needed or taken to protect the interest of FmHA. However, the State Director may authorize taking additional security in

the form of real estate or other security as described in § 1965.87(b) of this Subpart when the additional security will enhance the chances that the Government will not suffer a loss and any of the following conditions exist:

- (1) The account is behind schedule.
- (2) The property has not been properly managed or maintained.
- (3) There is serious doubt that the borrower can carry out the objectives of the loan.

(b) *Conditions of approval.* In cases where the District Director determines that the conditions as stated in § 1965.89(a) of this Subpart exist, the borrower's case file will be forwarded to the State Director with a memorandum providing the following information:

- (1) The facts which justify the taking of additional security.
- (2) A conservative estimate of the market value of any real estate to be mortgaged; however, it will not be necessary to make a formal appraisal of the property to be mortgaged unless determined necessary by the State Director.
- (3) A brief description of any existing liens on the additional security including the repayment terms and unpaid balance.
- (4) The name of the title holder and how title to the property is held. Title evidence need not be required.
- (5) A plan for servicing the additional security to be taken.

(6) A description of the other servicing alternatives available to assure that the objectives of the loan will be met and to protect the Government from loss.

(c) *Processing.* The guidance and assistance of OGC will be obtained whenever additional security is taken. The highest quality security will be taken whenever additional security is considered.

#### § 1965.90 Payment in full.

(a) *General.* Payment in full of a loan will be handled according to Part 1866 (FmHA Instruction 451.4), subject to any applicable prepayment provisions in the respective program regulations, loan agreements, or mortgages. For RRH, RCH, and LH loan prepayments, the borrower must submit a written request to prepay the loan(s) to the District Director at least 60 days prior to actually making the offer to prepay.

(b) *Prepayment of loans approved prior to December 21, 1979.* For any RRH, RCH, or LH loans approved prior to December 21, 1979, the District Director will accept prepayment or graduation when he/she can assure that conditions are met:

(1) The borrower has been advised that any valid existing leases must be honored until they expire or are terminated under the provisions of the lease.

(2) Upon acceptance of the offer to prepay, assure written notice of approval is given to each tenant. This notice should include a statement advising the tenants of their priority rights for occupancy in other FmHA financed projects if they are displaced or if the prepayment has caused them to experience rent overburden as defined in Paragraph XIII A 4 of Exhibit B to Subpart C of Part 1930. The tenants should be advised in the notice that they have six (6) months from the date of prepayment to exercise their priority right by applying for a letter of priority from the District Director. This information should be posted within the building(s) upon notification of approval. Exhibit A of this Subpart is provided as guide for the District Director's use.

(3) Upon receiving an application submitted within six (6) months of the prepayment by a tenant displaced as a result of prepayment, provide to the affected tenant a letter of priority entitlement to all other FmHA RRH projects in the area. This area includes FmHA projects within a reasonable commuting distance of the affected project. The letter of priority entitlement should include a statement that the affected tenant has thirty (30) days to apply with other FmHA RRH projects in the area. The letter of priority entitlement will enable those tenants to move to the top of any waiting list in those projects. A list of FmHA RRH projects in the area will be included as part of the letter of priority entitlement. Eligible tenants in LH projects will also be advised of other available LH projects in the area.

(4) Provide the State Director with a detailed report in the format set forth in § 1965.90(d) of this Subpart. This report must be provided upon acceptance of the offer to prepay.

(c) *Prepayment of loans approved on or after December 21, 1979.* For any RRH, RCH, or LH loan approved on or after December 21, 1979, or which has subsequently been made subject to the prepayment restrictions of Section 502 of Title V of the Housing Act of 1949, the District Director may accept prepayment or graduation with the prior concurrence of the State Director provided all of the following conditions are met:

(1) The written notice requirement set forth in § 1965.90(b) of this Subpart is satisfied.

(2) A report is provided to the State Director with sufficient detailed

information regarding occupancy and need so that the State Director can examine the offer and its likely consequences.

(3) The offer may be accepted with the State Director's concurrence, unless the State Director determines:

(i) That due to a change in the use of the housing and related facilities, or to an increase in rental or other charges likely to occur as a result of prepayment, the low and moderate income and elderly or handicapped tenants occupying the assisted housing at the time of the offer or request cannot reasonably be expected to remain in occupancy for that period. However, in spite of this determination, the offer or request to prepay may be processed only if affordable, decent, safe, sanitary, and nonassisted alternative housing, or vacant assisted units for which there is no waiting list, is available to the tenants who are likely to be displaced as a result of the change or increase, and

(ii) In the case of housing or related facilities containing more than 10 dwelling units, that the changes likely to occur as a result of the prepayment will have a substantial adverse effect on the supply of affordable, decent, safe, and sanitary housing available to low- and moderate-income and elderly or handicapped persons in the area in which the housing and related facilities are located.

(4) For transfers outside the program, if the State Director makes an affirmative determination under § 1965.90(c) (1) or (2) of this Subpart, then prepayment may be accepted only if the following clause is included in the deed or other document of conveyance:

The purchaser agrees that the housing located on this property will be used only as authorized under section 514 of the Housing Act of 1949 and FmHA regulations then extant until (insert date, 15 years for unsubsidized or 20 years for subsidized loans from the date the last loan on the project was closed). A tenant may seek enforcement of this provision as well as the United States. No person occupying the housing shall be required to vacate during such period because of early repayment.

(5) That if the borrower wishes to prepay and operate the property within the objectives of the program or transfer the loan to a transferee that will keep the housing within the program, a document containing the restrictive language that appears below must be executed. In the case of transferees, the restrictive language will be inserted in the Assumption Agreement. In the case of borrowers prepaying but not transferring the property, the following

restrictive language will be inserted in the deed of release and filed for record:

The borrower and any successors in interest agree to use the housing for the purpose of housing people eligible for occupancy as provided in Section 514 or 515 of Title V of the Housing Act of 1949 and FmHA regulations then extant during the

(15 years for unsubsidized and 20 years for subsidized loans) year period beginning

(the date the last loan on the project is closed). The borrower also agrees that no person occupying the housing shall be required to vacate prior to the close of such

(15 years for unsubsidized and 20 years for subsidized loans) year period because of early prepayment. The borrower will be released from these obligations only when the Government determines that there is no longer a need for the housing or that Federal or other financial assistance provided to the residents of such housing will no longer be provided.

(6) The District Director will provide the State Director with a detailed report in the format set forth in § 1965.90(d) of this Subpart upon servicing information.

(d) *Prepayment report.* Immediately upon receiving information regarding the prepayment of any RRH, RCH, or LH loans the District Director will send a report on each prepayment case to the State Director for indefinite retention containing the following information:

(1) Date of initial loan approval.  
(2) Type of borrower entity and plan of operation.

(3) The number of units in the project.  
(4) The number of eligible tenants presently occupying the units.

(5) The estimated replacement cost per unit.

(6) The estimate of the number of households that will be displaced as a result of prepayment.

(7) The estimated relocation cost of the households being displaced.

(8) An indication of the displaced households' ability to pay relocation costs.

(9) The income range of the tenants presently in the project.

(10) The number of elderly tenants in the project.

(11) The present and projected rents.

(12) The number of Section 8 or RA units, and whether Section 8 will continue after prepayment.

(13) Any cause of displacement other than rent.

(14) The availability of other vacant units in the area.

(e) *Final payment and release.* Final payments and the release of security will be handled according to Subpart B of Part 1951, Subpart A of Part 1962, and Part 1866 (FmHA Instruction 451.4), and appropriate program requirements and regulations. In all cases, references to

County Supervisor shall be construed to mean District Director when applied to multiple family type borrowers. The District Director will notify the bonding company in writing that the government no longer has an interest in the fidelity bond and will release the FmHA's interest in insurance policies according to the applicable provisions of Subpart A of Part 1806 (FmHA Instruction 426.1) FmHA's interest in any other security will also be released in the manner prescribed by the State Director with the assistance of OGC as necessary.

**§ 1965.91 Servicing loans in formerly eligible areas.**

All servicing actions contained in this subpart are authorized without regard to whether the area may no longer be defined as an eligible area.

**§§ 1965.92—1965.93 [Reserved]**

**§ 1965.94 State Supplements.**

State Supplements will be prepared with the advice of OGC as necessary to comply with State laws and to provide guidance to the District Director in the servicing actions required. All State Supplements must be submitted for prior National Office approval before implementation. Requests for approval must include complete justification, citations of State law, and appropriate legal opinions from the respective Regional Attorney.

**§ 1965.95 [Reserved]**

**§ 1965.96 Nondiscrimination.**

Each instrument of conveyance for any transfer or foreclosure sale of real property subject to Title VI of the Civil Rights Act of 1964 will contain the following covenant: "The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title IV of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973 and the regulations as issued pursuant thereto for so long as the property continues to be used for the same or similar purposes for which the Federal financial assistance was extended or for so long as the purchaser owns it, whichever is later."

**§ 1965.97 Exception authority.**

The Administrator of the Farmers Home Administration may, in individual cases, make an exception to any requirements of this Subpart not inconsistent with the authorizing statute if the Administrator finds that application of the requirement would adversely affect: (a) the interest of the Government; or (b) the immediate health

or safety of the tenants or the community. The Administrator will exercise the authority only at the request of the State Director. The State Director will submit the request supported by data which demonstrates the adverse impact, identifies the particular requirement involved, shows proper alternative courses of action, and identifies how the adverse impact will be eliminated.

**§§ 1965.98—1965.100 [Reserved]**

**Exhibit A—FmHA Instruction 1965-B**

**Notice of Prepayment**

TO: Tenants of

(Project Name)

On \_\_\_\_\_, (Date) Farmers Home Administration (FmHA) accepted payment in full of the loan which financed your rental unit. As a condition of acceptance, you are hereby advised that the new owners will be bound by the terms of your existing lease until it expires or is terminated in accordance with the provisions of such lease.

You are further advised that you may have priority rights for occupancy in other FmHA financed projects within a reasonable commuting distance from your present location if you are displaced without cause because any subsequent increase in rents causes you to experience rent overburden. You have six (6) months from the above date to exercise this priority right. You may do this by applying to my office for a letter of priority.

If you have any questions you may contact my office at:

(Signature)

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: April 1, 1982.

**Charles W. Shuman,**  
*Administrator, Farmers Home Administration.*

[FR Doc. 82-12632 Filed 5-7-82; 8:45 am]  
**BILLING CODE 3410-07-M**

**DEPARTMENT OF ENERGY**

**Office of Conservation and Renewable Energy**

**10 CFR Part 459**

[Docket No. CAS-RM-81-127]

**Residential Energy Efficiency Program**

**AGENCY:** Office of Conservation and Renewable Energy, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Department of Energy, in accordance with a statutory requirement, issues a final rule for the

Residential Energy Efficiency Program, a Federal financial assistance program authorized by the Energy Security Act of 1980 to demonstrate the feasibility of capturing wasted energy through retrofit of existing residential buildings. The delivery of these conservation services would be accomplished through a cooperative venture between the private sector, utilities and State and local governments. Most of the comments on the proposed rule were negative to the program in concept, finding it unnecessary or unlikely to be workable or fair. The few positive comments cited the program's value in facilitating delivery of conservation services but recognized the complex administrative burdens it would pose. While issuance of this rule is required by statute, providing Federal financial assistance under it is not. The Department does not intend to fund the program. The Department's 1982 appropriations, moreover, do not require that any financial assistance be provided under the program. The Administration has requested that Congress again appropriate no funds for the program for fiscal year 1983.

**EFFECTIVE DATE:** June 9, 1982.

**FOR FURTHER INFORMATION CONTACT:**

Susan Heard, Building Services Division, Office of Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, S.W., Room 5F-044, Washington, D.C. 20585, telephone (202) 252-9426.

Daniel Ruge, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 6B-144, Washington, D.C. 20585, telephone (202) 252-9519.

**SUPPLEMENTARY INFORMATION:**

- I. Introduction and Background.
- II. Comments on Proposed Rule and Content of Final Rule.
- III. Regulatory Impact, Regulatory Flexibility Act, and Environmental Reviews.

**I. Introduction and Background**

In order to comply with a statutory requirement, the Department of Energy (DOE or Department) today issues a final rule for the Residential Energy Efficiency Program (REEP or program), under Subtitle C of Title V of the Energy Security Act (ESA), Pub. L. 96-294, June 30, 1980, adding Part 5 to Title II of the National Energy Conservation Policy Act (NECPA), 42 U.S.C. 8235 *et seq.*

Section 265(b) of the NECPA requires DOE to issue final rules and regulations for the REEP, 42 U.S.C. 8235d(b). Providing Federal financial assistance under the program, however, is discretionary, 42 U.S.C. 8235a(c).

Today's notice satisfies the requirement for final rules and regulations.

The program as envisioned by the statute authorizes the Department, in its discretion, to award financial assistance to States and local governments for the establishment of not more than four demonstrations to test one possible approach to increasing residential energy efficiency. Under the program, a public utility would contract with an independent company (Energy Conservation Company or ECCO) to provide energy conservation retrofit services (such as the installation of wall and attic insulation) to the residences of all residential customers in a designated demonstration area, who were willing to accept the services. The utility would make payments to the ECCO to the extent that the retrofit services actually resulted in utility savings in the form of reduced purchases of generating fuel and/or of avoided construction of new generating capacity.

Before applying for Federal funding, the State or local government would have to develop a detailed plan for the demonstration. A State or local application for Federal funding would contain a description of both the REEP plan and the contract to be entered into between the utility and the Energy Conservation Company and a description of the manner in which the various statutory requirements applicable to the plan and/or contract would be met. These statutory responsibilities include, among others, a particular process for selecting the ECCO; a requirement on the ECCO to offer and perform inspections and to inform residents of the energy conservation measures which would be installed and the measures' expected savings; ECCO warranties on installation and materials; development and use of a specific methodology for measuring energy savings; and the requirement for payment of an agreed-to price for energy saved.

The statute directs DOE to consider several factors in deciding whether a REEP application should be selected for award. These statutory evaluation criteria include the energy savings potential of the demonstration, its anticipated anticompetitive effects, and the likelihood that the value of energy saved would be sufficient to compensate for the estimated supply and installation costs.

## II. Comments on Proposed Rule and Content of Final Rule

DOE received 29 written comments and three individuals testified at the public hearing held on the proposed rule 46 FR 8016, January 26, 1981. A

substantial majority of the comments expressed opposition to REEP. They stated that REEP was neither feasible nor necessary to achieve the main program objective of energy conservation. Many commentors felt that the program would be ineffective because of its administrative complexity and the difficult issues that would be involved, such as calculating the amount and monetary value of energy saved.

Commentors also stated that REEP would pose virtually unresolvable anticompetitive problems. The Antitrust Division of the United States Department of Justice expressed its concerns in a written comment which characterized the REEP as "a fundamentally anticompetitive program."

A number of comments addressed the problems associated with utility recovery of costs for REEP-related payments. The statute requires that the retrofitting services be performed "without charge" to the owner or occupant of any building retrofitted, 42 U.S.C. 8235a. This would preclude a direct charge to these individuals and might well also preclude an indirect charge to them through the rate structure. Moreover, some commentors thought that an indirect charge would reduce the program's likelihood of success. At the same time, commentors frequently felt that neither all the ratepayers nor the stockholders should be required to subsidize those customers who directly benefited from the program. Some also felt that it would be particularly unfair for the rates of those customers who had already undertaken conservation efforts on their own to reflect any of the costs of the program.

There were also some concerns raised as to the usefulness of REEP in various regions of the country. Several utilities in the South felt that the program would not enable them to reduce the peaking demands in their service areas during the summer months when air-conditioning use is at its highest. A commentor in the Northeast felt that the program would be least beneficial in that region because gas and electric utilities would be unwilling to pay for the installation of conservation measures which would reduce the consumption of oil, the predominant heating fuel in the region. Also, several commentors felt that the program would be unnecessary in light of substantial continuing individual initiative and the various State and utility conservation programs currently in effect. Finally, one positive comment stated that while the program raises many of the serious concerns discussed above, it does address an important conservation

problem by facilitating delivery of conservation measures and practices.

The final rule is brief. Section 459.101 states that the regulations are those required for REEP by section 265(b) of the NECPA.

Section 459.102 states that no financial assistance will be made available for a REEP demonstration unless there is a solicitation at some future date in accordance with the Department's generic financial assistance rules, 10 CFR Part 600, and then only subject to the availability of appropriated funds. Section 459.102 also precludes the consideration of any unsolicited proposals for REEP funding.

Section 459.103 incorporates by reference the generic financial assistance regulations and the program's authorizing legislation, as applicable, to govern the award and administration of any financial assistance under the program. Incorporating applicable provisions of the NECPA by reference would achieve the same effect as the extensive provisions in the proposed rule which quoted or paraphrased the program legislation.

## III. Regulatory Impact, Regulatory Flexibility Act, and Environmental Reviews

This final rule was reviewed under Executive Order 12291, 46 FR 13193, February 19, 1981. DOE has concluded that because the rule affects only the possible implementation of a maximum of four demonstrations, it is not a "major rule," as defined by section 1(b) of the Executive Order.

The final rule was also reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The maximum possible implementation of four projects should not involve a substantial number of small entities as defined by the Act. Section 264(b)(3) of NECPA, moreover, should operate to preclude approval of any demonstration the anticipated anticompetitive effects of which were judged to be unduly burdensome on small entities within the geographic area of the demonstration. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, it is certified that this rule will not have a significant impact on a substantial number of small entities.

In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, DOE prepared an Environmental Impact Statement (EIS) for the entire Residential Conservation Service (RCS) program. A notice of availability of the final EIS was published on November 7, 1979, 44 FR 64602.

In the event that the REEP were ever implemented, DOE expects that its implementation would be adequately covered by the RCS program EIS since it should involve generally the same measures and impacts addressed in the program EIS. Given the limited number of possible demonstrations that would ever be approved, it is highly unlikely that any implementation of REEP would have significant environmental impact. In any event, the final rule itself is purely procedural in nature and clearly will have no significant environmental impact. Consequently, no NEPA review is required for promulgation of the rule. If, in the future, it is proposed to implement the program, DOE will determine whether additional environmental review is required.

#### List of Subjects in 10 CFR Part 459

Energy audits, Energy conservation, Housing, Energy retrofits, Grant programs-energy.

In consideration of the foregoing, DOE hereby amends Chapter II of Title 10 of the Code of Federal Regulations by establishing Part 459 as set forth below.

Issued in Washington, D.C., April 12, 1982.  
Joseph J. Tribble,  
Assistant Secretary, Conservation and Renewable Energy.

10 CFR is amended by adding a new Part 459 entitled "Residential Energy Efficiency Program" to read as follows:

#### PART 459—RESIDENTIAL ENERGY EFFICIENCY PROGRAM

- Sec.  
459.101 Purpose and scope.  
459.102 Availability of financial assistance.  
459.103 Award and administration of financial assistance.

**Authority:** Part 5 of Title II of the National Energy Conservation Policy Act, 42 U.S.C. 8235 *et seq.*, as added by Subtitle C of Title V of the Energy Security Act; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*

##### § 459.101 Purpose and scope.

As required by section 285(b) of the National Energy Conservation Policy Act, as amended, 42 U.S.C. 8235d, this part sets forth the procedures for awarding and administering financial assistance under the Residential Energy Efficiency Program.

##### § 459.102 Availability of financial assistance.

No financial assistance will be made available under this part without a prior solicitation issued in accordance with 10 CFR Part 600 and then only subject to the availability of appropriated funds. The Department of Energy will not

consider any unsolicited proposal for financial assistance under this part.

##### § 459.103 Award and administration of financial assistance.

The award and administration of financial assistance under this part are governed by:

- (a) Part 5 of Title II of the National Energy Conservation Policy Act, as amended, 42 U.S.C. 8235 *et seq.*; and  
(b) Applicable provisions of 10 CFR Part 600, insofar as these provisions do not conflict with Part 5 of Title II of the National Energy Conservation Policy Act, as amended.

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#### DEPARTMENT OF COMMERCE

##### Economic Development Administration

##### 13 CFR Parts 305, 306, 307 and 308

##### Miscellaneous Amendments to Financial Assistance Programs Regarding Energy Conservation

**AGENCY:** Economic Development Administration (EDA), Commerce.  
**ACTION:** Interim rule.

**SUMMARY:** This rule amends several of EDA's program regulations which were published in final form (45 FR 57960 *et seq.*, August 29, 1980, as amended 45 FR 65997, October 6, 1980) to implement Executive Order 12185 which directed Federal agencies to revise their regulations to encourage recipients of Federal financial assistance to conserve energy. During the 15 months that these regulations have been in effect, EDA's experience indicates that several of the energy conservation provisions adopted have tended to be unduly burdensome upon its grantees and borrowers, have impeded the administration of its financial assistance programs, and would require an excessive diversion of limited staff resources to administer the programs and to monitor compliance in an effective manner. The energy conservation goals of EO 12185 can be attained through cooperation between the agency and the recipient of its financial assistance on a voluntary basis that will not strain the available resources of either the recipient or the agency.

Because the existing rules are impeding the orderly administration of EDA's programs and are unduly burdening potential recipients of financial assistance, the amendments will be published as interim rules, taking effect as of the date of publication,

however, the public is invited to provide written comments within sixty (60) days. Comments received will be considered before these rules are published in final form.

**DATES:** Effective date: May 10, 1982.  
Comments by: July 9, 1982.

**ADDRESS:** Send comments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

**FOR FURTHER INFORMATION CONTACT:** Alan Gregerman, U.S. Department of Commerce (EDA), Operations Directorate, Room 7824, Washington, D.C. 20230. Telephone: (202) 377-3081.

**SUPPLEMENTARY INFORMATION:** EDA is amending its program regulations in the following manner:

1. 13 CFR Part 305, § 305.59(a) is amended by deleting "encourage the conservation of energy" and by substituting "promote the conservation of energy," and by deleting "will" and substituting "are encouraged to." The mandatory "will" is inconsistent with the voluntary nature of the compliance to be requested. The word "requirements" is removed and "procedures" is substituted therefor.

2. Section 305.59(a)(1) is removed for the same reason. An applicant for a public works project will no longer be required to submit an energy efficiency analysis as part of the application. The applicant will be encouraged to prepare an energy efficiency analysis, for submission with the application or at an appropriate time during the project design process. Submission of an energy efficiency analysis will no longer be a requirement for project approval.

3. Section 305.59(a)(1)(i) is redesignated as "§ 305.59(a)(1)"; the word "prepare" is added as the initial word of this paragraph as redesignated.

4. Sections 305.59(a)(1)(i) (A), (B), (C), (D), and (E) are redesignated as "§§ 305.59(a)(1) (i), (ii), (iii), (iv), and (v)," respectively.

5. Section 305.59(a)(1)(ii) is amended by adding the words "and where able," immediately after the initial comma, and this section is redesignated as "§ 305.59(a)(2)."

6. Sections 305.59(a)(1)(ii) (A), (B), (C), (D), and (E) are redesignated as "§§ 305.59(a)(2) (i), (ii), (iii), (iv), and (v)," respectively.

7. Section 305.59(a)(2) is amended by deleting "Applicants will" and by substituting "Applicants, where able, may" as the initial words of the section. It is redesignated as "§ 305.59(a)(3)."

8. Section 305.59(a)(3) is amended by adding "where appropriate" between

"change" and "evolving", and by deleting "must be" and substituting "may be" between "consumption" and "justified" in the first sentence of that paragraph. The term "should be" is deleted, and "may be" is substituted between "employed" and "consistent" in the second sentence. The section is redesignated as "§ 305.59(a)(4)."

9. Section 305.59(a)(4) is amended by deleting "will", and by substituting "may, where able," between "applicants" and "incorporate", and by redesignating it as "§ 305.59(a)(5)."

10. Section 305.59(a)(5) is redesignated as "§ 305.59(a)(6)."

11. 13 CFR Part 306, § 306.12(g)(4) is amended by deleting "must" from the second sentence and substituting "may, where able" between "Applicants" and "demonstrate."

12. Section 306.12(j) is amended by adding "where able" between "Applicants" and "constructing," and by deleting "are required to" and substituting "may, where able," between "processes" and "analyze" in the first sentence thereof; the second sentence is amended by deleting "must" and substituting "may, where able" between "projects" and "contain." The third sentence is amended by deleting "should be" and substituting "may be" between "employed" and "consistent."

13. 13 CFR Part 307, § 307.22(b) is amended by deleting "shall" between "recipients" and "ensure," and between "subpart" and "provide," substituting "may" in both instances.

14. Section 307.28(c)(6) is amended by adding "Possible" as the initial word of this paragraph.

15. Section 307.55(a)(5) is amended by deleting "will be," and by substituting "may be" between "process" and "coordinated; also, "where able," is inserted between "efforts" and "to ensure."

16. Section 307.55(c)(5) is amended by deleting "shall be" from the second sentence thereof, and substituting "may be" between "process" and "coordinated."

17. Section 307.56(h) is amended by deleting the phrase "as required by this subpart" from its first sentence and substituting the phrase, "as suggested by this subpart."

18. Section 307.57(a)(6) is amended by adding the phrase "may be submitted" to the end of this paragraph.

19. 13 CFR Part 308, § 308.6(a)(8) is amended by adding to its first sentence the phrase, "and where able," immediately after "where appropriate,"; its second sentence is amended by deleting "shall be" and substituting "may be" between "analysis" and "generally"; its third sentence is

amended by deleting, "The energy efficiency and analysis will include the following:", and substituting, therefor, "The energy efficiency analysis may include the following:".

Because this rule relates to EDA's grant and loan programs, it is exempt from the notice and comment procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, while the rule will become effective upon publication in interim form, the public will be given an opportunity to comment before it is published in final form. In accordance with Section 3(c)(3) of Executive Order No. 12291, this rule has been submitted to the Director of the Office of Management and Budget. It is not a major rule as defined in that Order. The requirement for an initial or final regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, is also inapplicable. Because this amendment does not contain an information collection requirement, the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, does not apply.

#### List of Subjects in 13 CFR Parts 305, 306, 307 and 308

Grant programs, Loan programs, Public works, Energy conservation.

Accordingly, EDA amends the following regulations:

#### PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

1. 13 CFR 305.59(a) is revised to read as follows:

##### § 305.59 Energy conservation and other requirements.

(a) *Energy conservation.* In order to promote the conservation of energy in connection with public works facilities assisted under this part, applicants are encouraged to comply with the following procedures:

(1) Prepare an energy efficiency analysis of the facilities for which EDA assistance is requested. Such analysis may include the following:

- (i) The overall design of the facilities;
- (ii) Special conservation measures to be utilized;
- (iii) Fuel requirements for heating, cooling and production processes of the facilities;

(iv) Consideration given to the use of cost-effective alternative and renewable energy sources for heating, cooling and production processes of the facilities; and

(v) BTU savings resulting from the design of the facilities compared to standard design criteria.

(2) Where appropriate, and where available, the following information concerning energy considerations of the firms which will use the facilities for which EDA assistance is requested:

- (i) Fuel needs;
- (ii) Fuel sources;
- (iii) Transportation needs;
- (iv) Provisions being made for renewable fuel sources; and
- (v) Energy conservation decisions made in order to determine the site and users of the facilities.

(3) Applicants, where able, may base the energy efficiency analysis on energy evaluation techniques which are broad enough to permit the use of any recognized and accepted methodology that is most appropriate to project needs.

(4) Each design change, where appropriate, evolving from the basic design which results in higher initial costs and lower energy consumption may be justified by a life cycle cost analysis. The life cycle cost methodology employed may be consistent generally with the Department of Energy's Methodology and Procedures for Life Cycle Cost Analyses, as set forth in 10 CFR Part 436.

(5) Applicants may, where able, incorporate into the project those energy conservation features identified in the energy efficiency analysis unless funds are not available from EDA and/or the applicant to cover the costs of such measures, or unless there are other overriding economic development considerations;

(6) The requirements of this subsection apply to applications authorized on or after October 1, 1980.

\* \* \* \* \*

#### PART 306—BUSINESS DEVELOPMENT PROGRAM

2. 13 CFR 306.12 is amended by revising paragraphs (g)(4) and paragraph (j) to read as follows:

##### § 306.12 Allowable costs for projects involving fixed assets.

\* \* \* \* \*

(g) \* \* \*

(4) In otherwise eligible projects, costs associated with incorporating energy conserving features into facilities and production processes. Applicant, may, where able, demonstrate that incorporation of the proposed features for which assistance is being requested will result in the more efficient and cost-effective use of non-renewable energy

sources and/or renewable sources of energy.

(j) Applicants, where able, constructing new facilities or proposing expansion or rehabilitation of existing facilities and planning to use petroleum or natural gas for new heating, cooling or production processes may analyze alternatives for long-run cost savings. Applications for such project, may, where able, contain an architect/engineer's or operating engineer's certification that the proposed alternative is the most feasible and energy conserving available based on a life cycle cost analysis. The life cycle cost methodology employed may be consistent generally with the Department of Energy's Methodology and Procedures for Life Cycle Cost Analyses, as set forth in 10 CFR Part 436.

3. 13 CFR 307.22(b) is revised to read as follows:

**§ 307.22 Planning grant objectives.**

(b) In order to further the objectives of Executive Order 12185 to conserve petroleum and natural gas, recipients may ensure that economic development planning processes assisted under this subpart may provide a means for addressing energy conservation concerns and principles.

4. 13 CFR 307.28(c)(6) is revised to read as follows:

**§ 307.28 Continuation planning grants.**

(6) Possible incorporation by the grantee of energy conservation concerns and principles into the economic development planning process.

5. 13 CFR 307.55 is amended by revising paragraph (a)(5) and paragraph (c)(5) to read as follows:

**§ 307.55 Application requirements.**

(a) \* \* \*

(5) That the planning process may be coordinated with energy conservation planning efforts, where able, to ensure that energy conservation principles, activities and measures are reflected in State economic development plans, programs and projects.

(c) \* \* \*

(5) That, in undertaking the activities described in paragraphs (c)(3) and (c)(4) of this section, attention will be given to incorporating energy conservation concerns and principles into any economic development plans, programs, and projects. The economic

development planning process may be coordinated with existing State and local energy conservation planning efforts.

6. 13 CFR 307.56(h) is revised to read as follows:

**§ 307.56 Grant limitations.**

(h) Grants may cover costs incurred for ensuring that energy conservation concerns are incorporated into the economic development planning process and resultant plans and programs as suggested by this subpart. Such costs will not be allowed if the grantee is receiving other Federal assistance to perform the above activity.

7. 13 CFR 307.57(a)(6) is revised to read as follows:

**§ 307.57 Annual reports.**

(a) States. \* \* \*

(6) For grants approved after October 1, 1980, certification regarding the manner in which the State incorporated energy conservation concerns into the activities of its planning process may be submitted.

**PART 308—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE GRANTS**

8. 13 CFR 308.6(a)(8) is revised to read as follows:

**§ 308.6 Planning requirements.**

(a) \* \* \*

(8) Where appropriate, and where able, a completed energy efficiency analysis and life cycle cost analysis of the facilities for which EDA assistance is requested. The life cycle cost analysis may be generally consistent with the Department of Energy's Methodology and Procedures for Life Cycle Cost Analyses, as set forth in 10 CFR Part 436. The energy efficiency and analysis may include the following:

- (i) The overall design of the facilities;
- (ii) Special conservation measures to be utilized;
- (iii) Fuel requirements for heating, cooling and production processes of the facilities;
- (iv) Consideration given to the use of alternative and renewable energy sources for heating, cooling and production processes of the facilities; and
- (v) BTU savings resulting from the design of the facilities compared to standard design criteria.

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); sec. 1-105, Executive Order

12185; Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended))

Dated: April 23, 1982.

Carlos C. Campbell,  
Acting Assistant Secretary for Economic Development.

[FR Doc. 82-12634 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-24-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 81-NW-23-AD; Amdt. 39-4375]

**Airworthiness Directives; Boeing Model 727 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD) applicable to Boeing Model 727 airplanes which requires either color-coding or modification of the ground spoiler hydraulic lines to eliminate the possibility of cross-connecting them. Cross-connection of these lines will cause inadvertent, asymmetric extension of the ground spoilers, resulting in a hazardous flight condition if takeoff is attempted. This AD is required to assure proper operation of the ground spoilers.

**DATE:** Effective date June 11, 1982. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

**ADDRESSES:** The applicable service information may be obtained from The Boeing Company, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary D. Lium, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations to adopt an Airworthiness Directive which requires modification or color-coding of the ground spoiler hydraulic lines on the Boeing Model 727 airplanes was published in the Federal Register on

June 22, 1981 (46 FR 32266). The ground spoiler up and down lines run parallel to each other and in close proximity for most of the distance between the wheel well and the wings. The connections in each of these lines are arranged so that it is possible to cross-connect them. Three operators have reported inadvertently cross-connecting a ground spoiler-up hydraulic line with a ground spoiler-down hydraulic line during routine maintenance, which resulted in asymmetric ground spoiler extension when the hydraulic system was pressurized. In two of these instances, the discrepancy was detected and corrected prior to flight. In one instance, the airplane took off with the right wing ground spoiler panels extended. The airplane experienced a No. 3 engine compressor stall and required lateral and directional control to maintain level flight. The airplane subsequently returned and made a safe landing.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Nineteen comments were received in response to the Notice of Proposed Rulemaking. Most of the commenters stated that an AD is not needed, since existing maintenance procedures are adequate to detect crossed lines prior to flight. The FAA disagrees. Three occurrences of crossed lines, with two discovered during taxi-out and the third not detected until after takeoff, clearly show that an additional means of preventing crossed hydraulic lines is required.

Most commenters objected to the proposed requirement to replace hydraulic tubing with new tubing containing staggered unions, citing long delays due to parts availability and airplane down time, in addition to substantial economic penalty. These commenters asserted that permanently color-coding the lines at each connection point would provide an equivalent level of safety without the severe penalty associated with tubing replacement. The FAA agrees. Color-coding of the affected tubing would provide the required additional check of proper tubing hook-up without the substantial costs and airplane downtime associated with tubing replacement.

The Boeing Company issued Revision 1 to Service Bulletin 727-27-202 on December 18, 1981. This revision expanded the effectivity of the optional color-coding method of compliance to include all 727 airplanes. The original issue, which was referenced in the NPRM, provided instructions for tubing color-coding as an alternate method of compliance for certain earlier airplanes only. For operators that choose to

replace the tubing instead of color-coding, this procedure is explained in the revised bulletin and is an acceptable method of compliance with the AD.

After a careful review of all available data, including the comments above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes previously noted.

#### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

#### Boeing: Applies to Boeing Model 727

airplanes, line number 1 through 1612, certificated in all categories. Compliance is required within the next 2500 hours time-in-service from the effective date of this AD, unless already accomplished. To minimize the possibility of cross-connecting the ground spoiler hydraulic tube assemblies, accomplish either one of the following, unless already accomplished:

A. Replace the ground spoiler hydraulic tube assemblies per figure 1 of Boeing Service Bulletin 727-27-202, Revision 1, dated December 18, 1981, or later revisions approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

B. Color code the ground spoiler hydraulic tube assemblies per figure 2 of the same bulletin.

Alternate means of compliance with the AD which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This Amendment becomes effective June 11, 1982.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). I certify that this rule will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act, since it involves few, if any, such entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington on April 27, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-12562 Filed 5-7-82; 9:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 82-CE-4-AD; Amdt. 39-4379]

#### Airworthiness Directives; Helio Models H-250, H-295, HT-295, H-391, H-391B, H-395 and H-395A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule. Revision of existing Airworthiness Directive (AD).

SUMMARY: This amendment revises Airworthiness Directive (AD) 81-26-07, applicable to Helio Models H-250, H-295, HT-295, H-391, H-391B, H-395 and H-395A airplanes. The revision adds a paragraph providing for approval of an equivalent means of AD compliance. This action is necessary to facilitate approval of acceptable inspection procedures which were not considered when AD 81-26-07 was issued.

EFFECTIVE DATE: May 14, 1982.

Compliance: As prescribed in the body of the AD.

#### FOR FURTHER INFORMATION CONTACT:

Douglas W. Haig, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

#### SUPPLEMENTARY INFORMATION:

Amendment 39-4319 (47 FR 9196 thru 9199), AD 81-26-07, applicable to Helio Models H-250, H-295, HT-295, H-391, H-391B, H-395 and H-395A airplanes, requires initial and repetitive inspections of the P/N 295-030-401 carry-through assembly for cracks and replacement of cracked assemblies. Subsequently, the FAA found that the inspection procedure prescribed in the AD is inappropriate for those airplanes

equipped with floats. Accordingly, AD 81-26-07 is being revised to add a paragraph providing for approval of an equivalent means of compliance for those airplanes on floats and/or to cover other unusual circumstances not envisioned by the AD.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

#### List of Subjects in 14 CFR Part 39

Aviation safety.

#### Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, AD 81-26-07, Amendment 39-4319 (47 FR 9196 through 9199), § 319.3 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows: Add paragraph (E) which reads as follows:

"(E) An equivalent means of compliance with this AD may be used, if approved by Chief, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209."

This amendment becomes effective on May 14, 1982.

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89)).

**Note.**—The FAA has determined that this amendment involves revision of a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves inspection and possible repair of only a few aircraft owned by small entities.

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on April 28, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-12580 Filed 5-7-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 82-NM-35-AD; Amdt. 39-4378]

#### Airworthiness Directives; McDonnell Douglas Model DC-9, Series 30, 50, 80 and C-9B Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adds a new Airworthiness Directive (AD) which requires inspection and replacement, as necessary, of the horizontal stabilizer alternate longitudinal trim actuator motors on certain McDonnell Douglas DC-9 and C-9B series airplanes. Failure of the trim actuator motor will result in inability to trim the airplane using the stabilizer primary trim system.

**DATE:** Effective date May 18, 1982. Compliance is required within the next 90 days after the effective date of this AD, unless already accomplished.

**ADDRESSES:** The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, or 4344 Donald Douglas Drive, Long Beach, California 90808.

**FOR FURTHER INFORMATION CONTACT:** Lonnie F. Tarver, Aerospace Engineer, ANM-130L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2831.

**SUPPLEMENTARY INFORMATION:** There has been one (1) reported instance in which a flight crew experienced the inability to trim the aircraft using the stabilizer primary trim system. Investigation revealed that the auxiliary trim motor brake had failed in the release position due to shearing of rivets which were not of the specified type design for this assembly.

Subsequent review of the available manufacturing records indicated that installation of the improper rivets is isolated to a particular manufacturing lot and certain reworked units. McDonnell Douglas issued Alert Service Bulletin A27-234 on January 14, 1982, and Revision 1 dated January 16, 1982, requesting that inspection and replacement of the defective parts be accomplished within 90 days from issuance of the Service Bulletin. McDonnell Douglas additionally issued

All Operator Letter AOL 9-1333 dated January 21, 1982, which apprised operators of the reported incident, and enclosed Flight Operations letter C1-255-GRJ-L666 dated December 21, 1981, containing information relative to flight crew recognition of this failure mode and appropriate interim flight procedures in the event of such failure. Flight Operations letter C1-E60-GRJ-L021 dated January 14, 1982, contained information to correct errors in letter C1-255-GRJ-L666.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires inspection of the alternate longitudinal trim actuator motor and replacement as necessary on certain McDonnell Douglas DC-9 and C-9B series airplanes.

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

#### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

**McDonnell Douglas:** Applies to McDonnell Douglas DC-9, series 30, 50, 80 and C-9B airplanes certificated in all categories, with factory serial numbers listed in Service Bulletin A27-234. Compliance required within 90 days unless already accomplished.

To prevent loss of ability to trim the aircraft by use of the primary longitudinal trim system, accomplish the following:

A. Determine serial number of horizontal stabilizer alternate longitudinal trim motor P/N D1775 by visual examination of motor or from aircraft maintenance records.

B. Replace trim motor if serial number is listed in table of item #2 in Service Bulletin A27-234.

**Note.**—Service Bulletin A27-234 contains recommended procedures for gaining access to the horizontal stabilizer alternate longitudinal trim motor, and for checkout of the trim system subsequent to replacement of the motor.

C. Alternative means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein

and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60).

These documents also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808.

This Amendment becomes effective May 18, 1982.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

**Note.**—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington on April 28, 1982.

Wayne Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-12559 Filed 5-7-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 82-NM-17-AD; Amdt. 39-4376]

**Airworthiness Directives; Rockwell International Models NA 265-60 (Modified by STC SA687NW) and NA 265-65 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adds a new Airworthiness Directive (AD) which requires initial and repetitive inspections to detect potentially defective internal bearings in the flap screwjack actuators of all Sabreliner Model NA 265-65 series airplanes and Model NA 265-60 airplanes which are modified per STC SA687NW. Failure of these bearings could cause a malfunction of the screwjacks allowing the flap to be driven beyond the limits of the skew detection system during extension or retraction. Possible flap to aileron interference and loss of aileron control may result.

**DATES:** Effective date May 17, 1982. Compliance schedule as prescribed in the body of the AD.

**ADDRESS:** Sabreliner Service Bulletin No. 81-14 dated December 28, 1981, pertains to this matter. This bulletin may be obtained from Rockwell International, Sabreliner Division, 6161 Aviation Drive, St. Louis, MO 63134; Telephone (314) 731-2260.

**FOR FURTHER INFORMATION CONTACT:** Marvin D. Beene, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

**SUPPLEMENTARY INFORMATION:** A failure in the flap system on a Sabreliner Model NA 265-65 airplane occurred during a landing approach. The failure, at a preselected flap setting of 10 degrees, resulted in an asymmetric flap condition with the right flap skewed such that its outboard trailing edge contacted the inboard edge of the aileron. The cause was a failure of the internal ball bearings in the outboard screwjack actuator on the right flap that allowed the flap to be driven beyond the limits of the skew detection system. With aileron movement restrained by the nonretractable flap, the crew landed the airplane without further incident, using aileron trim and rudder. Subsequent inspections of the screwjack indicate the failure was due to either defective or inadequate bearing lubrication.

Rockwell International has devised an inspection technique to detect defective bearings within the screwjack assembly without disassembly of the actuator. This technique is based upon listening to the sounds emitted from the bearings while extending or retracting the flaps. A constant high pitch grinding or growling noise from the actuator is an indication of a malfunctioning bearing. Rockwell Service Bulletin 81-14 dated December 28, 1981, pertains to these inspections. Rockwell International is developing a modification to the actuator which, when incorporated, will

eliminate the need for the recurring inspections defined in the Service Bulletin and this Airworthiness Directive.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires repetitive inspections of the screwjack actuators to detect failed bearings, which may cause interference between the flaps and ailerons which may result in loss of lateral control of the airplane.

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

#### List of Subjects in 14 CFR Part 39

Aviation safety, aircraft.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

#### Rockwell International: Applies to Models

NA 265-60 modified per STC SA 687 NW (S/N 306-5, -6, -12, -24, -50, -71, -109, -116, -119, and -122); NA 265-65, S/N 465-1 through 465-76, and S/N 306-114 airplanes certificated in all categories. Compliance required as indicated unless already accomplished. To reduce the possibility of a flap screwjack actuator malfunction due to bearing failure, accomplish the following:

A. Within the next 50 hours time-in-service after the effective date of this AD and within each additional 300 hours time-in-service, inspect each flap screwjack in accordance with Rockwell International Service Bulletin 81-14 dated December 28, 1981. Replace or repair any flap screwjack not meeting the acceptance criteria in this service bulletin.

B. Model NA 265-65 Sabreliner airplanes are approved for take-offs and landings with zero degree flap settings and may, therefore, be operated with a defective flap screwjack, provided the flap system is deactivated and the airplane operated in accordance with the zero flap performance data in the Airplane Flight Manual SR-77-006.

C. Model NA 265-60 airplanes may be operated with a defective flap screwjack, provided the flap system is deactivated and the following operating limitations are observed:

1. Takeoff must be conducted in compliance with Airplane Flight Manual zero flap requirements.

2. Landing weather minimums are one mile or RVR 5000.

3. Zero flap, dry runway landing distance must be determined by multiplying the factored landing distance shown in the Rockwell International Airplane Flight

Manual, Supplement No. SR-81-018, by a factor of one point five.

4. Zero flap, wet runway landing distances must be determined by multiplying the distance obtained in "3." above by a factor of one point one five.

5. Thrust reversers must be operative prior to takeoff.

D. Alternative means of compliance with this AD which provide an equivalent level of safety must be approved by the Chief, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7000.

This amendment becomes effective May 17, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedure (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on April 27, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-12561 Filed 5-7-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 81-NW-42-AD, Amdt. 39-4377]

### Airworthiness Directive, Rockwell NA 265-60 Airplanes Modified in Accordance With STC SA687NW and Equipped With Lear Siegler Flap Actuation System, and Rockwell NA 265-80 Airplanes Modified in Accordance With STC SA847NW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On July 9, 1981, the FAA issued a Telegraphic Airworthiness

Directive, (AD) T81-15-51, to all known operators of Rockwell NA 265-60 airplanes modified in accordance with STC SA687NW and equipped with Lear Siegler Flap Actuation System, and all known operators of Rockwell NA 265-80 airplanes modified in accordance with STC SA847NW, effective upon receipt. This AD required operators to remove and rework the power drive unit and flap jackscrew actuators, and to repetitively accomplish a torque check and shear pin replacement, in order to prevent improper flap motion caused by a failure in the flap actuating system. This action was prompted by an incident which revealed that the flap actuation system may fail in such a way that a trailing edge flap may skew while extending or retracting, thus imposing unusual loads on the flap tracks. If a flap track fails due to skewed flap motion, airloads may cause the flap to separate from the airplane. This AD is hereby published in the Federal Register to make it effective to all persons. Further, this document amends T81-15-51 to increase the allowable repetitive rework interval, and to modify the rework procedures.

**DATES:** Effective date May 18, 1982. This AD was effective earlier to all recipients of Telegraph AD T81-15-51 dated July 9, 1981.

**ADDRESSES:** The service bulletin specified in the Airworthiness Directive may be obtained upon request to Rockwell International, Sabreliner Division, Technical Publications, Dept. 632, 8161 Aviation Drive, St. Louis, Missouri 63134, or may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary D. Liium, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

**SUPPLEMENTARY INFORMATION:** A reported incident revealed that the flap actuation system on the modified Rockwell Sabreliners listed above may fail in such a way that a trailing edge flap may skew while extending or retracting, thus imposing unusual loads on the flap tracks. If a flap track fails due to skewed flap motion, airloads may cause the flap to separate from the airplane. Service Bulletin No. 81-5 dated July 10, 1981, was issued by the manufacturer which required removal and rework of the power drive unit and the four flap jackscrew actuators prior to the accumulation of 200 landings on

the system, and repetitively at 200 landings thereafter, performance of a torque check on the power drive unit and removal and rework and four flap jackscrew actuators. A telegraphic AD was issued on July 9, 1981, to require compliance with the service bulletin, with the exception that the 200 landing interval for the power drive unit torque check was reduced to 100 landings.

On December 15, 1981, an amendment to the service bulletin was issued which required that the torque check of the power drive unit be performed by the manufacturer at the factory, rather than on the airplane, in order to insure the accuracy of the torque checks. The results of the manufacturer's torque checks performed thus far, plus the fact that the checks are now controlled by the manufacturer, indicate that the 100 landing check specified in the telegraphic AD may be relaxed to the 200 landing interval recommended by the manufacturer. In addition, an incident involving the jamming of a no-back clutch in the flap jackscrew actuator revealed that an extra hole may exist in some of the drive shafts now in service. This extra hole may have contributed to the jamming of the clutch. When the flap jackscrew actuators are recycled through the manufacturer for overhaul, these suspect shafts will be replaced with new drive shafts that do not have the extra hole. This AD publishes the original telegraphic AD in the Federal Register, as well as requires the changes discussed above.

Since this condition was likely to exist or develop on other airplanes of the same type design, a telegraphic airworthiness directive was issued which requires inspections and modification to certain Rockwell NA 265-60 and 265-80 airplanes. It is now published to make it effective to all persons.

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

#### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Rockwell: Applies to all Rockwell NA 265-60 airplanes modified in accordance with

STC SA687NW and equipped with Lear Siegler Flap Actuation System, and all Rockwell NA 285-80 airplanes modified in accordance with STC SA847NW. To prevent improper flap motion caused by a failure in the flap actuation system, accomplish the following unless already accomplished:

A. Within the next 20 landings following the effective date of this AD, or prior to the accumulation of 200 landings after incorporation of STC SA687NW or STC SA847NW, whichever comes later, rework the power drive unit and flap jackscrew actuators in accordance with paragraphs 1(a) and 1(b) of Rockwell International Sabreliner Service Bulletin 81-5, dated July 10, 1981. During rework of the flap jackscrew actuators, replace any drive shaft, part No. 57400-1640, found to have an extra hole with a new part that does not contain an extra hole.

B. Repetitively, on or before every 200 landings following the accomplishment of paragraph (A) above, remove and replace the power drive unit and flap jackscrew actuators in accordance with paragraphs 3(a) and 3(b) of Rockwell International Sabreliner Service Bulletin 81-5, Revision 1, dated December 15, 1981.

Airplanes may be flown to a maintenance base for repairs or replacement in accordance with FAR 21.197 and FAR 21.199.

Alternate means of compliance or other actions which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the addresses listed above. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective May 18, 1982 and was effective earlier to those recipients of Telegraph AD T81-15-41 dated July 9, 1981.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

**Note.**—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be

prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington on April 28, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-12558 Filed 5-7-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 91

[Docket No. 22050; Reference SFAR No. 44-3]

#### Air Traffic Control System; Interim Operations Plan

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of policy.

**SUMMARY:** Because of the limited capacity of the Air Traffic Control System resulting from the illegal air traffic controllers' strike, rights to land ("slots") at 22 of the Nation's busiest airports have been allocated to air carriers by the Federal Aviation Administration (FAA) under the Interim Operations Plan, Special Federal Aviation Regulation (SFAR) Nos. 44 through 44-3. Some air carriers contend that seasonal changes in demand for airline services and other market forces require greater flexibility in the allocation of slots. Since March of this year, carriers have been able to exchange slots through a procedure conducted by the Air Transport Association (ATA) under a grant of antitrust immunity by the Civil Aeronautics Board (CAB).

Under SFAR 44-3, airlines may only operate flights for which they hold a slot. The FAA maintains a master list of slot allocations and formally advises each carrier of the slots it may use. Exchanges of slots made under the ATA procedure are therefore reported to the FAA, which must verify them to update each carrier's base before it may operate flights associated with the exchanged slots. To date, the FAA has only accepted one-for-one slot exchanges made under the ATA procedure.

**DATE:** Effective immediately, but for a limited period, the FAA will "approve" any transfer of arrival slots at the 22 impacted airports between carriers, subject to certain limitations, if the transferee of each slot or set of slots provides evidence that the transferor in fact had been allocated the slot or slots in its "base" allocation under SFAR 44-3 and has agreed to the transfer. Slots whose transfers have been "approved" will be added to a carrier's base. This policy will be in effect for a limited period only, until June 10, and then will be reviewed for possible continuation.

#### FOR FURTHER INFORMATION CONTACT:

Franklin K. Willis, Deputy Assistant Secretary for Policy and International Affairs, Office of the Secretary of Transportation, Washington, D.C. 20590, 202-426-4540.

or

Donald R. Segner, Associate Administrator for Policy and International Aviation, Federal Aviation Administration, Washington, D.C. 20591, 202-426-3030

**SUPPLEMENTAL INFORMATION:** The actions of certain air traffic controllers in August of 1981 reduced the number of controllers available to operate the Air Traffic Control (ATC) system. In order to assure the safe and efficient use of the navigable airspace, the FAA has been obliged to ration the limited ATC capacity among users. It has done so by assigning "slots" (rights to land) under a series of emergency regulations [SFAR No. 44 (46 FR 30606; August 4, 1981); SFAR No. 44-1 (46 FR 44424; September 4, 1981); SFAR No. 44-2 (46 FR 48906, October 5, 1981); and SFAR No. 44-3 (47 FR 7816, February 22, 1982)].

Airlines began the period of restricted operations with a "base" number of slots at 22 restricted airports derived from their pre-strike operations. As the capacity of the ATC system has increased, additional slots have been awarded in response to requests of the carriers under procedures prescribed by SFARs 44-1, 44-2, and 44-3. These regulations also provide that air carriers must use slots awarded to them or lose them from their base.

Because SFAR No. 44-3 does not provide for adjustments in slot assignments that may be occasioned by seasonal variations in demand, competitive pressures, or economic decisions of the carriers, the FAA has been receptive to efforts to add flexibility to the slot allocation system. To this end, the FAA withdrew its opposition to an air carrier request for antitrust immunity from the CAB to permit blind trades of slots between

carries under a procedure administered by the ATA. While this procedure has been successful in increasing scheduling flexibility among the carriers, many believe it is not adequate.

To administer the slot allocation system, the FAA has maintained a computerized recordkeeping system. Because of the highly complex nature of the system, the FAA has only accepted exchanges of slots between air carriers conducted under the CAB-approved trade procedures. Other transfers of slots proposed by carriers have been disapproved.

In the interest of allowing air carriers maximum flexibility while at the same time maintaining strict regimen of slot control, the FAA is now prepared, for a limited period, to accept transfers of slots between carriers in any number and for any type of consideration.

Before a carrier may operate a flight with a transferred slot or slots, it must report the transfer to the FAA with suitable evidence that the transferor has agreed to the transfer. The FAA will verify that the transferor actually held the transferred slot or slots in its base allocation, and then "approve" the transaction, as it presently does with all slot allocations. FAA's handling of trades made under the ATA procedures will remain unchanged.

FAA "approval" of transfers at the 22 impacted airports will be given under the following circumstances:

1. Any slot or slots to be transferred must come from the transferor's FAA-approved April 25-May 31 operating base, as determined under SFAR 44-3.

2. All requests for approval must be submitted in writing to the Associate Administrator for Policy and International Aviation, API-1, Federal Aviation Administration, Washington, D.C. 20591 in the same format as slot requests submitted under SFAR No. 44-3. Transfer requests combined with other requests under the SFAR (such as slides) will not be accepted.

3. Written evidence of the transferor's consent to the transfer must be provided.

4. A record of the transfer will be made available to the public.

5. Transfers that would reduce the number of slots allocated to an air carrier that has been afforded priority treatment in the distribution of new slots under § 3(c) of the Appendix to SFAR No. 44-3 (certain new entrant airlines) will not be approved unless the transferor waives its right to be considered a "new entrant" in future distributions under the Interim Operations Plan.

6. Transfers of slots necessary for the provision of essential air service within

the meaning of section 419 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1389, will not be approved.

7. Applications for transfer will be accepted only until June 10.

The provisions of SFAR No. 44-3 continue to apply. In particular, it should be noted that only carriers may hold slots, and that a single slot covers only an arrival in a given hour at a single airport. In addition, for the present, the transfer of "tower en route" and ARTCC slots will not be "approved".

Affirmative approval must be obtained from the FAA before slots may be used. The FAA anticipates that properly documented transfer requests will be approved within two weeks of the receipt of a request.

Such "approval" by the FAA does not indicate any approval of the terms of a transfer. The FAA will not base its "approval" on the consideration for the transfer. A slot is a temporary creation of FAA emergency regulations, and does not confer on any carrier a long-term right. Slots can be taken from any carrier in accordance with the terms of the existing SFAR or any amendments to it. Moreover, the FAA does not guarantee that slots will be required at any airport for any particular period of time. As soon as possible, the FAA intends to relieve the carriers from the requirement of obtaining slots.

After reviewing the results of this temporary policy, we will consider whether further transfers can be permitted under these less restrictive procedures consistent with the purposes of the Interim Operations Plan.

(49 U.S.C. 1301 *et seq.* and 49 U.S.C. 1651 *et seq.*)

Issued at Washington D.C. on May 6, 1982.

Andrew L. Lewis, Jr.,  
Secretary of Transportation.

[FR Doc. 82-12794 Filed 5-7-82; 9:53 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 904

#### Civil Procedures; Correction

**AGENCY:** National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Interim final rule; correction.

**SUMMARY:** On December 18, 1981, NOAA published interim final rules providing consolidated civil penalty assessment, hearing, and appeal

procedures for various statutes it administers. This document amends the interim final rules by correcting citations to the Lacey Act, 16 U.S.C. 3371-3378.

**FOR FURTHER INFORMATION CONTACT:** Stephen J. Powell at (202) 254-8350.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 81-34431, appearing at page 61644 in the issue of December 18, 1981, the citations of authority are corrected in the second and third columns by changing "Lacey Act, 18 U.S.C. 42-44, 3054, 3112" to read "Lacey Act, 16 U.S.C. 3371-3378"; and appearing at page 61645, 15 CFR 904.100(a)(1)(iv) is corrected by changing "16 U.S.C. 42-44, 3045, 3112" to read "16 U.S.C. 3371-3378".

Dated: May 3, 1982.

Francis J. Balint,  
Director, Office of Information and Management Services.

[FR Doc. 82-12822 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-22-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 13

[Docket 9028]

#### Brunswick Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.

**ACTION:** Modifying order.

**SUMMARY:** This order modifies the Commission's final order issued on August 14, 1980, 96 F.T.C. 151, 45 FR 62032, by adding Paragraphs IX and X to the order, in accordance with the decision and judgment of the Eighth Circuit Court of Appeals. The new paragraphs: (1) Limit Yamaha's liability in this matter solely to violations of section 5 of the Federal Trade Commission Act; and (2) insures that nothing in the order prevents respondents from imposing upon themselves, their dealers and distributors, vertical restraints in connection with the sale by them for resale in the U.S. of outboard motors.

**DATES:** Final order issued August 14, 1980. Modifying order issued April 29, 1982.

**FOR FURTHER INFORMATION CONTACT:** FTC/C, Thomas J. Campbell, Washington, D.C. 20580. (202) 523-3601.

**SUPPLEMENTARY INFORMATION:** In the Matter of Brunswick Corporation, a corporation; Yamaha Motor Co., Ltd., a corporation; and Mariner Corp., a corporation. Codification under 16 CFR

Part 13, appearing at 45 FR 62032, remains unchanged.

#### List of Subjects in 16 CFR Part 13

Advertising, Investments, Labeling, Packaging and containers, Securities, Trade practices, Warranties, Credit.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

The Modified Order To Cease and Desist, including further order requiring report of compliance therewith, is as follows:

#### United States of America Before the Federal Trade Commission

Commissioners: James C. Miller III, Chairman, David A. Clanton, Michael Pertschuk, Patricia Bailey.

In the Matter of *Brunswick Corporation*, a corporation; *Yamaha Motor Co., Ltd.*, a corporation; and *Mariner Corp.*, a corporation.

Docket No. 9028

#### Modified Order To Cease and Desist

The Commission having issued a final cease and desist order herein on August 14, 1980, and such order having been modified and affirmed by the United States Court of Appeals for the Eighth Circuit, and the Supreme Court having denied the petition for certiorari filed by respondents Brunswick Corporation and Mariner Corp.:

Now, therefore, it is ordered that the aforesaid order to cease and desist be, and hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read as follows:

For the purposes of this Order:

(a) "Brunswick" shall mean the Brunswick Corporation, together with its present and future domestic and foreign subsidiaries, affiliates, joint ventures, related corporations (including Mariner Corp.), and corporations controlled by Brunswick Corporation; and all successors to Brunswick Corporation and their domestic and foreign subsidiaries, affiliates, joint ventures and related corporations; and all corporations controlled by the successors of Brunswick Corporation.

(b) "Yamaha" shall mean Yamaha Motor Co., Ltd., together with its present and future domestic and foreign subsidiaries, affiliates, joint ventures, related corporations, and corporations controlled by Yamaha Motor Co., Ltd.; and all successors to Yamaha Motor Co., Ltd. and their domestic and foreign subsidiaries, affiliates, joint ventures and related corporations; and all corporations controlled by the successors of Yamaha Motor Co., Ltd.

(c) "Mariner" shall mean Mariner Corp., together with its present and future domestic and foreign subsidiaries, affiliates, joint ventures, related corporations, and corporations controlled by Mariner Corp.; and all successors to Mariner Corp. and their domestic and foreign subsidiaries, affiliates, joint ventures and related corporations; and all corporations controlled by the successors of Mariner Corp.

#### I

It is ordered that within 90 days of the date this Order becomes final, Brunswick and Mariner shall sell to Yamaha, and Yamaha shall buy from Brunswick and Mariner, all capital stock, bonds, debentures, and other securities and other interests held by Brunswick and Mariner in Sanshin Kogyo Co., Ltd. ("Sanshin"). The purchase price shall be equal in dollars to the value of the net tangible assets per share, computed and adjusted to the last day of the six month term immediately preceding the date of the sale.

#### II

It is further ordered that, on or before 90 days from the date this Order becomes final, Brunswick, Yamaha, and Mariner shall rescind in all respects the Joint Venture Agreement, and the agreements attached thereto, entered into on November 21, 1972, and all agreements modifying the Joint Venture Agreement and the agreements attached thereto, shall consider them null and void, and shall cease and desist from observing or enforcing the terms of said agreements.

#### III

It is further ordered that from the date this Order becomes final, Brunswick and Mariner shall cease any and all representation on the board of directors of Sanshin, cease and desist from taking any steps to nominate, seat, or admit any representatives of Brunswick and Mariner to the board of directors of Sanshin, and cease and desist from exercising any of the rights of a shareholder of Sanshin except the right to receive dividends.

#### IV

It is further ordered that from the date this Order becomes final, neither Brunswick nor Mariner shall enter into, continue to be a party to, or enforce any agreement which in whole or in part prevents a manufacturer, seller, or distributor of outboard motors from manufacturing, selling, or distributing such motors in the United States, its territories or possessions.

#### V

It is further ordered that from the date this Order becomes final, Yamaha shall not enter into, continue to be a party to, or observe any agreement which in whole or in part prevents Yamaha from manufacturing, selling, or distributing outboard motors in the United States, its territories or possessions.

#### VI

It is further ordered that Brunswick, Yamaha, and Mariner shall, for a period of three years from the date this Order becomes final, cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Federal Trade Commission, all or any part of the stock or share capital of any concern, corporate or noncorporate, engaged in the production, distribution or sale of outboard motors in or for the United States, or capital assets pertaining to such production, distribution or sale of such motors in or for the United States.

#### VII

It is further ordered that Brunswick, Yamaha, and Mariner notify the Federal Trade Commission at least 30 days prior to any proposed change in its corporate structure such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any change in the corporation which may affect compliance obligations arising out of this Order.

#### VIII

It is further ordered that Brunswick, Yamaha, and Mariner shall within 120 days of the date this Order becomes final, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which Brunswick, Yamaha, and Mariner each intends to comply or has complied with this Order. Brunswick, Yamaha, and Mariner shall submit such other information as may from time to time be requested by the Commission.

#### IX

Nothing in this Order or in the opinions of the Commission in this case shall be construed as a finding or conclusion that Yamaha has violated Section 7 of the Clayton Act. All findings and relief against Yamaha are based solely on Section 5 of the Federal Trade Commission Act.

#### X

Nothing in this Order, including in particular Paragraphs IV or V hereof, shall prevent either Brunswick, Mariner, or Yamaha, respectively, from imposing upon itself, its dealers, or its distributors, ancillary vertical restraints in connection with the sale by it for resale in the United States of outboard motors.

By the Commission.

Issued: April 29, 1982.

Carol M. Thomas,  
Secretary.

[FR Doc. 82-12644 Filed 5-7-82; 8:45 am]  
BILLING CODE 6750-01-M

#### POSTAL SERVICE

#### 39 CFR Part 775

#### National Environmental Policy Act (NEPA); Amendment of Public Notice Provisions

AGENCY: Postal Service.

ACTION: Final rule.

**SUMMARY:** The Postal Service relaxes certain provisions of its environmental impact procedures, inasmuch as those procedures unnecessarily require, rather than permit, the mailing of notices of local actions to potentially interested community organizations and to owners and occupants of nearby or affected property. The relaxed procedures are substantially similar to comparable

permissive provisions of the NEPA regulations of the Council on Environmental Quality.

**EFFECTIVE DATE:** June 9, 1982.

**FOR FURTHER INFORMATION CONTACT:** Mr. Royal Rasmussen, (202) 245-4354.

**SUPPLEMENTARY INFORMATION:** On March 12, 1982, the Postal Service published for comment in the *Federal Register* (47 FR 10859) a proposal to make certain of its procedures in 39 CFR 775.10 regarding notice to the public of environmental actions permissive rather than mandatory. No comments were received.

#### List of Subjects in 39 CFR Part 775

Environmental impact statements, Postal Service.

Accordingly, the Postal Service amends title 39 Code of Federal Regulations as follows:

#### PART 775—ENVIRONMENTAL PROCEDURES

In § 775.10, revise paragraph (a) to read as follows:

##### § 775.10 Public notice and information.

(a) Public notice is given of NEPA-related hearings, intent to undertake environmental assessments and environmental impact statements, and the availability of environmental documents (that is, environmental assessments, findings of no significant impact, and environmental impact statements), as follows:

(1) Notices must be mailed to those who have requested them.

(2) Notices concerning a proposal of national concern must be mailed to national organizations reasonably expected to be interested. Any such notice must be published in the *Federal Register*. (See paragraph (a)(4) of this section.)

(3) Notices of any proposed action having effects primarily of local concern are given as follows:

(i) Any such notice, including a copy of any pertinent environmental document, must be mailed to state, areawide, and local A-95 clearinghouses listed in OMB Circular A-95 (Revised) for the geographic area involved, to the State Historic Preservation Officer, and to local public officials.

(ii) Any such notice must be published in one or more local newspapers.

(iii) Any such notice must be posted on and near any proposed and alternate sites for an action.

(iv) Any such notice may be mailed to potentially interested community organizations, including small business associations.

(v) Any such notice may be mailed to owners and occupants of nearby or affected property.

(4) A copy of every notice of intent to prepare an environmental impact statement must be furnished to the Assistant General Counsel, Legislative Division, Law Department, who will have it published in the *Federal Register*.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-12589 Filed 5-7-82; 8:45 am]

BILLING CODE 7710-12-M

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[A-4-FRL-2111-6]

#### Approval and Promulgation of Implementation Plans; Florida; Volatile Organic Compounds Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving three Florida State Implementation Plan (SIP) revisions which delete the regulation on existing petroleum refineries in nonattainment areas and add test methods for gasoline truck tanks, vapor collection systems, volatile organic compound (VOC) content of coating materials and gasoline bulk terminals for sources located in ozone nonattainment areas. The revised rules establish incremental compliance dates for existing VOC sources and extend final compliance dates for certain gasoline service stations. The rules also establish test methods for certain VOC sources, three definitions used in the test methods, and exemption of six VOCs.

**EFFECTIVE DATE:** This action will be effective on July 9, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit,  
Library Systems Branch,  
Environmental Protection Agency, 401  
M Street, S.W., Washington, D.C.  
20460;  
Library, EPA, Region IV, 345 Courtland  
Street, N.E., Atlanta, Georgia 30365;

Library, Office of the Federal Register,  
1100 L Street NW., Room 8401,  
Washington, D.C. 20005;

Bureau of Air Quality Mgmt., Twin  
Towers Office Building, 2600 Blair  
Stone Road, Tallahassee, Florida  
32301.

**FOR FURTHER INFORMATION CONTACT:** Mr. Barry Gilbert, Air Programs Branch, EPA Region IV at the above address and telephone number 404/881-3286 or FTS 257-3286.

**SUPPLEMENTAL INFORMATION:** EPA is taking action on three SIPs submitted by the Florida Department of Environmental Regulation (FDER) concerning VOC sources: May 30, 1980, July 14, 1980, and December 23, 1981. For clarity, the applicable regulations being approved are identified in this notice by both the rule numbers in effect when these revisions were submitted and when the entire regulations were reformatted on August 11, 1981.

The May 30, 1980, submittal establishes incremental compliance dates for existing VOC sources and extends final compliance date for certain gasoline service stations. Final compliance is to be achieved during or prior to 1982. There are also certain reporting requirements and exemptions on certain sizes of sources. The submittal was subject to a hearing and adopted by FDER on March 12, 1980. It contains the following regulations:

1. 17-2.100—Definitions, (170)—Vapor Control Systems (previously 17-2.02(132))

2. 17-2.510—New Source Review for Nonattainment Areas, (3)—General Exemptions and Special Provisions, (b)—Special Provisions, 2.—Pollutant Specific Special Provisions, a.—Cutback Asphalt/Gasoline Service Stations concerning compliance schedules (previously 17-2.17(3)(b)(2)(a))

3. 17-2.650—Reasonably Available Control Technology (RACT), (1)—Volatile Organic Compounds, (b)—Compliance, reporting, Permits, 1.a., b., c. and d. concerning compliance schedules (previously 17-2.(2)(a))

4. 17-2.650—Reasonably Available Control Technology (RACT), (1)—Volatile Organic Compounds, (b)—Compliance, reporting, Permits, 2.—Permits—Special Considerations and 3.—Reporting (previously 17-2.(2)(b) and (c))

5. 17-2.650—Reasonably Available Control Technology (RACT), (1)—Volatile Organic Compounds, (f)—Specific Emission Limitations, 8.—Petroleum Liquid Storage, (a)—applicability and (ii)(B) exempting

certain vessels (previously 17-2.17(8)(a) 2.B.(ii))

6. 17-2.650—Reasonably Available Control Technology (RACT), (1)—Volatile Organic Compounds, (f)—Specific Emission Limitations, 11.—Gasoline Service Stations—Stage I, a. and b(i) (previously 17-2.16(6)(k)1. and 2.(a))

The July 14, 1980, *submittal* deletes the regulation on existing petroleum refineries in nonattainment areas since such sources do not exist in nonattainment areas in Florida. The revision also includes test methods for gasoline truck tanks, vapor collection systems, VOC content of coating materials and gasoline bulk terminals located in ozone nonattainment areas. On May 15, 1980, FDER held a hearing and adopted rules 17-2.02 (Definitions) and 17-2.16,

(Nonattainment Areas and Emission Limits for Volatile Organic Compounds), Florida Administrative Code (FAC) to comply with the requirements of EPA and to correct an error in Chapter 17.2. The revisions are as follows:

1. The following definitions were deleted because these terms correspond to the Petroleum Refinery Source section 17-2.16(6)(1) which was also deleted.

Section 17-2.02(2), "Accumulator";  
Section 17-2.02(30), "Condenser";  
Section 17-2.02(49), "Forebay";  
Section 17-2.02(57), "Hot Well";  
Section 17-2.02(127), "Turnaround";  
Section 17-2.02(129), "Vacuum Producing Systems"

2. Section 17-2.16(6)(1), Petroleum Refinery, which contained emission limitations for existing sources in ozone nonattainment areas was deleted because no sources of this type exist in ozone nonattainment areas.

3. Section 17-2.650—Reasonably Available Control Technology (RACT), (1)—Volatile Organic Compounds, (g)—Standards and Tests for Emission Limits, 1.—Delivery Vessels—Gasoline Truck Tanks (previously section 17-2.16(7)(a)) was added to FDER's rules. This section contains the test for leaks in gasoline truck tanks servicing ozone nonattainment areas.

4. Section 17-2.650(1)(g)2., Vapor Collection System on Vapor Balance System (previously section 17-2.16(7)(b)), was added to FDER's rules. This section contains the test for leaks in vapor collection and vapor balance systems during loading and unloading at gasoline bulk plants and terminals in ozone nonattainment areas.

5. Section 17-2.650(1)(g)3., VOC Content of Coating Materials (previously Section 17-2.16(7)(c)), was added to FDER's rules. This added section contains tests for determining

the volatile content of coating materials in ozone nonattainment areas.

6. Section 17-2.650(1)(g)4., Gasoline Bulk Terminals (previously Section 17-2.16(7)(d)), was added to FDER's rules. This added section contains the test for determining VOC emissions from vapor control systems in gasoline terminals located in ozone nonattainment areas.

The December 23, 1981, *submittal* amended (at a hearing on October 28, 1981) the following parts of Chapter 17-2, Florida Administrative Code: Part I Definitions; Part VI, Emission Limiting and Performance Standards; and Part VII, Source Sampling and Monitoring. These amendments pertained to test methods for sources of volatile organic compounds and to the addition of six organic compounds to the list of those exempted from control for VOC sources in nonattainment areas.

Part VII, section 17-2.700(6)(b), EPA Test Procedures, was amended by the addition of EPA test methods 24 and 25. Further, the method contained in the Document EPA 450/2-79-041 was included in the new section 17-2.700(6)(c)—Supplementary Test Procedures. Adoption of these methods was necessary to meet the EPA test requirement for a number of RACT sources in VOC nonattainment areas, and to replace the test for coating operations deleted from Part VI with the updated version contained in EPA method 24. In addition, compliance verification procedures were adopted in section 17-2.700(6)(c), Supplementary Test Procedures for sources, such as gasoline storage tanks and perchloroethylene dry cleaners, which are not required necessarily to have compliance demonstrated by a test (method 25 or the method contained in the document EPA 450/2-79-041) or by the solvent coating content test (method 24). With minor changes, the test method for tank trucks, leaks in vapor balance systems, and bulk terminals deleted from Part VI were added to Part VII under section 17-2.700(6)(c)—Supplementary Test Procedures. Also included in this section were various ASTM and API test methods which are referred to in the Definitions section of the rule and in section 17-2.650. EPA is acting only on the VOC test methods described herein and not those included in the September 8, 1981, Federal Register (46 FR 44783) proposal on point source emission testing.

This revision necessitated the adoption of three new definitions (17-2.100): (8)(a)—Destructive control device, (8)(b)—Non-destructive control device and (112)(a)—halogenated organic compound. Also, the revision exempts 6 additional organic

compounds from the provisions of 17-2.650 (1)(d) to be consistent with the same change in the New Source Review section 17-2.510.

Trichlorotrifluoromethane, dichlorodifluoromethane, chlorodifluoromethane, trifluoromethane, dichlorotetrafluoroethane, and chloropentafluoroethane are organic compounds exempted from Reasonably Available Control Technology (RACT). In addition, section 17-2.600(1)(g), Standards and Tests for Emission Limits containing VOC test methods for tank trucks, vapor collection systems' leaks, coating operations and gasoline bulk terminals was deleted, and its contents transferred to Part VII.

These regulations meet EPA requirements.

Based on the foregoing, EPA hereby approves revisions in Florida's VOC regulations identified herein. The public should be advised that this action will be effective July 9, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. 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.

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 (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

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

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

Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1981.

#### List of Subjects in 40 CFR Part 52

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

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: April 30, 1982.

Anne M. Gorsuch,  
Administrator.

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

##### Subpart K—Florida

In § 52.520 is amended by adding paragraph (c)(43) as follows:

##### § 52.520 Identification of plan.

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

(43) On July 14, 1980, the Florida Department of Environmental Regulation (FDER) submitted a revision pertaining to deletion of the regulation on existing petroleum refineries in nonattainment areas and adding test methods for gasoline truck tanks, vapor collection systems, volatile organic compound (VOC) content of coating materials and gasoline bulk terminals for sources located in ozone nonattainment areas. On May 30, 1980, FDER submitted a revision establishing incremental compliance dates for existing VOC sources and extending final compliance dates for certain gasoline service stations. On December 23, 1981, FDER submitted a revision establishing test methods for certain VOC sources, adopting three definitions used in the test methods, and exempting six VOCs.

[FR Doc. 82-12594 Filed 5-7-82; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 52

[A-6-FRL 2103-3]

#### Approval and Promulgation of Louisiana State Implementation Plan: New Source Performance Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The purpose of today's rulemaking is to approve a revision to section 6.1 of Louisiana State Air Quality Regulation 6.0 which has been adopted by the Louisiana Environmental Control Commission and submitted to EPA by the Governor for approval as a revision to the Louisiana State Implementation Plan (SIP). This action approves a State SIP revision under Section 110 of the Clean Air Act to

adopt, by reference, EPA regulations on New Source Performance Standards (NSPS).

**EFFECTIVE DATE:** This action will be effective on July 9, 1982, unless notice is received within 30 days that someone wishes to submit critical or adverse comments.

**ADDRESSES:** Copies of the State's submittal are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Branch, First International Building, 1201 Elm Street, Dallas, Texas 75270

Louisiana Department of Natural Resources, Air Quality Division, Room 825, 625 North Fourth Street, Baton Rouge, Louisiana 70804

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460  
The Office of the Federal Register, Room 8401, 1100 L Street NE., Washington, D.C. 20408.

Written comments on this action should be submitted to William H. Taylor, Jr., at the address given below.

**FOR FURTHER INFORMATION CONTACT:** William H. Taylor, Jr., Chief, Technical Section, Air Branch, Air and Waste Management Division, Region 6, U.S. Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270; (214) 767-1594 or (FTS) 729-1594.

**SUPPLEMENTARY INFORMATION:** On November 30, 1981, the Governor submitted a SIP revision to EPA concerning Section 6.1 of Regulation 6.0 of the Louisiana Air Quality Regulations. Section 6.1 of Regulation 6.0 adopts by reference EPA's NSPS regulations. Section 6.1 was adopted to allow the State to receive delegation of authority from EPA to enforce the Federal NSPS regulations. EPA approves this revision to the Louisiana SIP. The approval of this regulation by EPA does not affect in any way EPA's authority to enforce NSPS regulations.

This revision is being approved today without a prior proposed rulemaking because EPA does not anticipate that this rulemaking will generate adverse public comments. The public should be advised that this action will be effective 60 days from (the date of publication). However, if EPA receives a notice within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. 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.

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this final action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from the date of publication). This action may not be challenged later in proceedings to enforce its requirements (section 307(b)(2)).

Incorporation by reference of the State Implementation Plan for the State of Louisiana was approved by the Director on July 1, 1981. This notice is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

Under 5 U.S.C. Section 605(b), I certify that this SIP approval will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 40 CFR Part 52

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

Dated: April 30, 1982.

Anne M. Gorsuch,  
Administrator.

#### PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

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

##### Subpart T—Louisiana

Section 52.970, *Identification of Plan*, is amended by adding a new paragraph (c)(33).

##### § 52.970 Identification of plan.

(c) \* \* \*  
(33) Section 6.1 of Regulation 6.0 amended and adopted by the Louisiana Environmental Control Commission on October 22, 1981, was submitted by the Governor on November 30, 1981.

[FR Doc. 82-12585 Filed 5-7-82; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 52

[A-3-FRL-2107-3]

#### Approval and Promulgation of Implementation Plans; Approval of Revision of the Maryland State Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This notice announces EPA's approval of a revision of Maryland's State Implementation Plan. The revision is a Modified Amended Consent Order for the Potomac Electric Power Company's (PEPCO) Chalk Point generating station. The Order allows PEPCO until March 31, 1983 to complete the installation and testing of particulate control equipment on Chalk Point Units No. 1 and 2.

**EFFECTIVE DATE:** This action will be effective July 9, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Copies of the revision and accompanying documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency,  
Region III, Air Programs & Energy  
Branch, Curtis Building, Tenth Floor,  
Sixth & Walnut Streets, Philadelphia,  
PA 19106, Attn: Patricia Sheridan  
Maryland Department of Health &  
Mental Hygiene, Air Management  
Administration, 201 W. Preston Street,  
Baltimore, Maryland 21201, Attn:  
George P. Ferreri  
Public Information Reference Unit,  
Room 2922, EPA Library, U.S.  
Environmental Protection Agency, 401  
M Street SW., Washington, D.C. 20460  
The Office of the Federal Register, 1100  
L Street NW., Room 8401,  
Washington, D.C. 20408.

All comments should be addressed to:  
Henry J. Sokolowski, P.E. Chief, MD-  
DE-DC Metro Section (3AW12), Air  
Programs & Energy Branch, U.S.  
Environmental Protection Agency,  
Region III, Curtis Building, Tenth Floor,  
Sixth & Walnut Streets, Philadelphia, PA  
19106, Attn: AH038MD.

**FOR FURTHER INFORMATION CONTACT:**  
Cynthia A. Clark (3AW12), U.S.  
Environmental Protection Agency,  
Region III, Sixth & Walnut Streets,  
Philadelphia, PA 19106, telephone: 215/  
597-9377.

**SUPPLEMENTARY INFORMATION:** The State of Maryland submitted for EPA's approval a revision of its State Implementation Plan (SIP). The revision is a Modified Amended Consent Order for the Potomac Electric Power Company's (PEPCO) Chalk Point generating station. The Order revises a previously approved Amended Consent Order (see 44 FR 19192, April 2, 1979) by allowing PEPCO until March 31, 1983 to complete the installation and testing of particulate control equipment on Units No. 1 and 2. The equipment is necessary to bring the units into full compliance

with COMAR 10.18.09.06B—Control of Particulate Matter.

The original Order required compliance with the regulation by December 31, 1981. PEPCO requested an extension of the final compliance date because of unforeseen delays in acquiring and installing the control equipment and auxiliary apparatus.

During the term of the extension, visible emissions are limited to 40 percent opacity and the ash content of coal used as fuel is limited to 15 percent. The time extension will not cause a violation of the National Ambient Air Quality Standards.

The SIP revision was the subject of a public hearing on October 27, 1981 as required by 40 CFR 51.4. No public comments were received. The revision satisfies all Federal requirements and is approvable by EPA.

The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and other notices will be published before the effective date. 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.

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

Under 5 U.S.C. Section 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 Fed. Reg. 8709.)

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 (insert 60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon Monoxide, Hydrocarbons.

(42 U.S.C. 7401-642)

Dated: April 30, 1982.

Anne M. Gorsuch,  
Administrator.

**Note.**—Incorporation by reference of the State Implementation Plan for the State of Maryland was approved by the Director of the Federal Register on July 1, 1981.

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

**Subpart V—Maryland**

In § 52.1070, paragraph (c)(64) is added to read as follows:

52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \* \* \*  
(64) A revision submitted by the State of Maryland on November 18, 1981, consisting of a Modified Amended Consent Order for Potomac Electric Power Company's Chalk Point generating station.

[FR Doc. 82-12596 Filed 5-7-82; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Parts 264 and 265**

[SWH-FRL-1942-76]

**Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Financial Requirements****Correction**

In FR Doc. 82-9262 appearing at page 15032 in the issue for Wednesday, April 7, 1982, please make the following correction:

(1) On page 15060, in the third column, under the heading "Financial Guarantee Bond", in the first line, "Dated" should be "Date".

(2) On page 15061, in the middle column, under the heading "Performance Bond", in the eleventh line, the second word should be "Identification".

(3) Two lines farther down, the word "guaranteed" should be "guaranteed".

(4) On page 15061, in the third column, in the next to last paragraph, in the fifth line, the next to last word should be "performance".

**Note.**—All corrections are to the "Trust Agreement" contained in § 264.151 which begins on page 15059.

BILLING CODE 1505-01-M

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17****Emergency Determination of Endangered Status for Two Fish Species in Ash Meadows, Nevada**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Emergency rule.

**SUMMARY:** The Service determines the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish to be Endangered species. This action is being taken because the distribution of these species is restricted to the Ash Meadows region and groundwater basin in Nye County, Nevada. Imminent land development for housing subdivisions, clearing of land for road construction and agricultural purposes, mining, pumping of groundwater and diversion of surface flows threaten the integrity of the species' habitat and, therefore, their survival. This emergency rule provides protection to these species for 240 days (until January 5, 1983).

**DATES:** This emergency determination is effective on May 10, 1982, and expires on January 5, 1983.

**ADDRESS:** Interested persons or organizations can obtain information from the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sanford R. Wilbur, U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232 or phone (503/231-6131).

**SUPPLEMENTARY INFORMATION:****Background**

The Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mionectes*) and Ash Meadows speckled dace (*Rhinichthys osculus nevadensis*) are found only in the Ash Meadows basin and require the integrity of its physical environment and maintenance of spring, surface, and subsurface flows for survival.

The Ash Meadows region is a unique and diverse desert wetland located east of the Amargosa River. These wetlands are maintained by flow from several dozen springs and seeps which are fed by an extensive groundwater system which extends more than 167 km northeast of Ash Meadows. Hundreds of plant and animal species (many of them endemic) are associated with these wetlands and depend upon them for survival.

Homesteaders originally attempted to farm Ash Meadows because of the plains-like topography and availability of free-flowing water from the springs; these efforts failed because the salty, clay soils were not suitable for crops.

Interest in agricultural usage in the late 1960's and early 1970's caused large tracts of land to be plowed and the installation of groundwater pumps and

diversion ditches to support a cattle-feed operation. This resulted in the destruction of many populations of plant and animal species and their wetland habitats by alteration of the land surface and lowering the water table. In 1976, the Supreme Court limited the amount of groundwater pumping in Ash Meadows to protect water levels in the only known habitat of the Endangered Devil's Hole pupfish. The agricultural interests in Ash Meadows sold approximately 36 km<sup>2</sup> of land to a real estate developer, Preferred Equities Corporation (PEC), in 1977.

While BLM is the principal landowner in Ash Meadows, PEC owns most of the surface water rights, presently designed for municipal use. Groundwater pumping would be required to develop and support agricultural activities. Development and concomitant destruction of Ash Meadows by PEC is imminent unless an acceptable alternative can be devised with BLM to protect this fragile habitat. A possibility did exist whereby BLM would have exchanged land suitable for development in Pahrump, approximately 20 miles SE of Ash Meadows, with PEC for its Ash Meadows holdings; BLM would then have managed Ash Meadows. However, recent negotiations between FWS, BLM, and PEC proved fruitless: PEC found BLM lands in Pahrump unacceptable because of inadequate water supply. PEC had intended to commence lot sales in early March and construction in early summer of 1981. The initial phase of construction would result in the destruction of Crystal, Point-of-Rocks, and Jackrabbit Springs and possibly lower the level of other springs by groundwater pumping; the amount of land which would be altered for housing is unknown. PEC has recently constructed a multi-lane road which connects Ash Meadows at Point-of-Rocks Spring with Pahrump Valley, a connecting section of road (2 miles long and 80 feet wide) north of Jackrabbit Spring, and a new road (1.5 miles long and 30 feet wide) east of Crystal Pool. It has also substantially altered surface flows and spring hole morphometry at these sites. In addition, approximately 1,000 acres of cotton have been planted west of Point-of-Rocks Spring.

Construction activity, however, has not been limited to areas within the initial phase. Fairbanks Spring, the northernmost spring, has recently been excavated by heavy equipment and its pristine character destroyed.

The imminent threat to the existence of the Ash Meadows species is the proposed development of Ash Meadows by PEC into a residential, recreational, industrial, and agricultural community.

Construction activities will clear large tracts of essential habitat; extirpate many populations of fish, wildlife, and plant species; and alter surface drainage patterns. Human habitation will require great quantities of potable water; utilization of surface outflows from springs and pumping of the aquifer will reduce or eliminate surface flows, lower the groundwater table, and interfere with groundwater recharge which will destroy down-gradient wetlands. Development of an Ash Meadows residential community will cause the extirpation of the Ash Meadows biological community.

The Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mionectes*) and Ash Meadows speckled dace (*Rhinichthys osculus nevadensis*) are restricted to the larger warmwater springs and related outflows of Ash Meadows. The pupfish inhabits the pools and outflows of at least eight of the largest springs (Crystal, Fairbanks, Point-of-Rocks, Big, Longstreet, Jackrabbit, Rogers, and Bradford) which are oriented along an irregular north-south contour line for an approximate distance of 16 km at elevations from 655 to 700 m above sea level; water temperatures remain constant between 24° and 30° C. Flowing water of spring outflows is preferred by the speckled dace. Although formerly inhabiting much of the interconnected surface drainage in Ash Meadows, dace populations have been severely reduced and are now restricted to only four of the springs (Crystal, Big, Jackrabbit, and Bradford) which also support the pupfish. A number of exotic species, such as mosquitofish and black mollies, have been introduced to these springs and compete with the native fishes.

The Service has previously proposed the Ash Meadows turban snail (*Fluminicola erythropoma*) as Threatened on April 28, 1976 (41 FR 17742) and withdrawn on December 10, 1979 (44 FR 70796) as a result of the 1978 Amendments to the Endangered Species Act. Current evidence indicates that, as proposed, this entry comprised more than one species. This area has an extraordinarily diverse freshwater mollusk fauna, which is currently being studied by Dr. Dwight Taylor of Tiburon, California. Of special interest is the presence of two species flocks or complexes of snails which are found within a five-mile radius in Ash Meadows and give Ash Meadows the highest concentration of endemic species of animals in the United States. Most of these mollusk species have not been scientifically described and named.

A general notice of review on candidate plants in the December 15, 1980 Federal Register (45 FR 82479) included seven Ash Meadows plant species, but only included general state distributions. These plant species were not included in this listing because, although restricted to specific soil types and discrete surface and groundwater regimes, they do not directly inhabit the springs and their immediate surface outflows. These species and edaphic associations are as follows: the spring-loving centaury (*Centaureum namophilum* var. *namophilum*) is restricted to wet clay soils of spring areas and stream banks; the Amargosa niterwort (*Nitrophila mohavensis*) is only found on undisturbed, salt-encrusted, heavy alkaline mud flats in the Carson Slough area in Inyo County, California; the Ash Meadows gum plant (*Grindelia fraxino-pratensis*) occurs in small populations in mostly undisturbed moist to wet clay soils of spring areas and stream banks, and is often associated with the spring-loving centaury; the Ash Meadows stick-leaf (*Mentzelia leucophylla*) is associated with desert washes in coarse-grained, water-sorted, alkaline soils; the Ash Meadows milk-vetch (*Astragalus phoenix*) occurs in washes and on flats and low knolls in fine-grained, clay-like soils; the King Ivesia (*Ivesia eremica*) occurs on light-colored clay uplands and occasionally in spring areas associated with other rare and endemic plants; the corrugated sunray (*Enceliopsis nudicaulis* var. *corrugatum*) occupies strongly alkaline and often poorly drained soils in several localities.

Three additional species which occur in Ash Meadows included in that review were not included in this listing because their distribution is more extensive; these species are the Merriam desert-poppay (*Arctomecon merriamii*), Tecopa bird's-beak (*Cordylanthus tecopensis*), and alkali mariposa lily (*Calochortus striatus*).

#### Factors Affecting the Species

The Service's listing regulations (50 CFR Part 424) provide for a review of the five factors below when listing (or reclassifying or delisting) a species (§ 424.11):

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Utilization for commercial, sporting, scientific, or educational purposes at levels that detrimentally affect it;

(3) Disease or predation;

(4) Absence of regulatory mechanisms adequate to prevent the decline of a

species or degradation of its habitat; and

(5) Other natural or manmade factors affecting its continued existence.

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the subject species, are as follows:

1. *Habitat.* The two species included in this rulemaking are endemic to the Ash Meadows basin and depend upon the integrity of this fragile ecosystem for their survival. These species require undisturbed flows from the extensive Ash Meadows basin aquifer.

The availability of potable and irrigation water is the primary factor motivating development of Ash Meadows. Diversion of spring outflows and pumping of spring holes and groundwater to provide water for the proposed residential, recreational, agricultural, and industrial development of Ash Meadows will destroy essential habitat of the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish. Since all springs in this aquifer are intricately connected, drawdown at one location would affect water levels of many other springs. In addition, such alteration of surface flows will prevent migration to other suitable habitats and therefore prevent expansion of range by these species.

2. *Overutilization for commercial, sporting, scientific or educational purposes.* Although taking endangered wildlife is prohibited, these activities could affect the tenuous existence of the fish species.

3. *Disease or predation.* Introduction of exotic fish species by tropical fish breeders and individuals to spring pools has proved detrimental to the fish species; in many instances, aggressive exotic species have eliminated native species by predation and competition for food and territory.

4. *The inadequacy of existing regulatory mechanisms.* No regulations exist to protect the Ash Meadows species included in this rulemaking.

5. *Other natural or man-made factors affecting its continued existence.* Because these species are restricted to very specialized aquatic habitats and are limited to a small geographical area, the magnitude of adverse activities which occur in these species' habitats would tend to be intensified. Vandalism has been reported at a number of pools; the dumping of toxic chemicals and alteration of surface flows can have deleterious and irreversible effects on the aquatic habitats.

#### Critical Habitat

Service listing regulations for Critical Habitat (50 CFR 424.12) provide in part that: (a) Critical Habitat shall be specified to the maximum extent prudent at the time a species is proposed for addition to the list. If the Director determines that the designation of Critical Habitat is not prudent, he will state the reasons for such determination in the proposed and final rules listing a species. Conditions under which a designation of Critical Habitat is not prudent include, but are not limited to the following:

(1) When the species is threatened by taking or other human activity and identification of Critical Habitat can be expected to increase the degree of such threat to the species, or

(2) When such designation of Critical Habitat would not be beneficial to the species.

Publication of Critical Habitat maps could prove detrimental to the fragile aquatic ecosystems which are inhabited by the subject fish species. Public notice could increase vandalism in this area; incidents of toxic chemical dumping and destruction of natural features have already occurred in this area. Because such action could increase the threats to the Ash Meadows ecosystem and therefore not be beneficial to the subject species, designation of Critical Habitat is not deemed prudent at this time. After recovery and protection plans for these species have been developed, Critical Habitat may be considered in the future.

#### Reasons for Emergency Determination

Under authority conferred by 50 CFR 424.19, this listing of two Ash Meadows species shall take place immediately upon publication of this rulemaking. An emergency exists which poses an immediate threat to the survival of these sixteen species. Initial construction activities in late spring and summer of 1981 to develop the Ash Meadows ecosystem for housing, agriculture, and recreation have severely altered the watercourses of two springs (Point-of-Rocks and Bradford) and related spring hole morphometry; these activities severely reduced the populations of the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish in Bradford Springs. According to Service biologists, recent excavation of Fairbanks Spring has apparently eliminated all but one pupfish.

These latest events complement the destruction of fish habitat which has occurred since the advent of agricultural activities at Ash Meadows. The ranges of the pupfish and dace have been

reduced at the following springs: Bradford Springs outflow, from 1 mile to 200 yards; Big Spring outflow, from 3 miles to 1.5 mile; Point-of-Rocks outflow, from 6 miles to 200 yards, and extirpation of the dace; Fairbanks-Rogers-Longstreet Springs complex, from 2,000 acres to approximately 0.5 acre, and extirpation of the dace; Crystal Spring, which formerly supported substantial populations of both species, presently contains few pupfish and no dace; at Jackrabbit Spring, a pump was suspended over the pool and the dace and pupfish populations were temporarily extirpated when the pool was pumped dry; dace and pupfish populations have been extirpated from Tubbs Spring and Forest Spring.

Ash Meadows springs are intricately interconnected and are the sole discharge for groundwater from this extensive aquifer. Because of this relationship, pumping of groundwater from one spring may also affect the water levels in other springs, as evidenced by the situation which occurred at Devil's Hole in the 1970's. Pumping of groundwater from nearby wells for agriculture was lowering the water level in Devil's Hole, which caused a severe decline in the population of the Endangered Devil's Hole pupfish; continued pumping could have caused the extinction of that species. In 1976, the Supreme Court ruled (*United States vs. Cappaert et al.*) that a minimum water level must be maintained to protect the Devil's Hole pupfish. While Devil's Hole is the most sensitive spring in Ash Meadows and the springs are interconnected, the impact of groundwater pumping from wells south of Devil's Hole appears to be greater than from those located in the north. However, because agricultural and municipal activities require large volumes of water and pumping of groundwater from the northern areas may be necessary to supplement flows from the south, it is expected that the proposed development by PEC will create a demand for water throughout Ash Meadows.

Long-term development plans call for direct alteration of many of these springs with construction to progress in 3 phases in the following areas: Phase I—Crystal Pool; Phase II—Point-of-Rocks Spring; Phase III—Fairbanks Spring complex. The Nye County Commission has already approved Phases I and II, and work has begun. To date, the outflow channels of Crystal Pool and King Pool (Point-of-Rocks Spring) have been modified to increase flows which have lowered the level of

the pools 1-1.5 feet and, consequently, decreased riparian habitat; Fairbanks Spring has been excavated by heavy equipment. Further, PEC, as principal owner of water rights, has made application to the State of Nevada to divert water from many of the other Ash Meadows springs which will destroy more riparian habitat. Groundwater pumping may seriously deplete water levels (directly and indirectly) upon which the fish species depend. Introduction of exotic fish and other aquatic species which compete with or prey upon native species has caused the extinction of the Ash Meadows killifish (*Empetrichthys merriami*) and reduced or extirpated other native fish populations; increased human activity can only exacerbate this problem. Sequential extirpation of these fish populations will soon cause extinction of the species.

The terrestrial habitats of the Ash Meadows ecosystem are as fragile as the aquatic habitats. Many candidate plant species are dependent upon the unique hydrological characteristics of this basin and require undisturbed soils for sustenance and propagation. Earthmoving activities will directly eliminate populations of these species and preclude successful reproduction in or recolonization of these areas; lowering of water levels by diversion and pumping will eliminate essential habitat areas for terrestrial and aquatic species. A significant area of land has already been altered by road construction in the vicinity of Crystal, Point-of-Rocks, and Jackrabbit Springs. Because such construction activities have begun and will create irreversible changes to this unique and fragile ecosystem, they will result in the extinction of these species.

Recent negotiations between PEC, BLM, Nevada Department of Wildlife, and FWS, to reach a compromise on land use planning have proved fruitless, to date. PEC has yet to offer lots for sale and it therefore remains the largest private landowner in Ash Meadows. However, once lot sales begin, negotiations will involve hundreds of interested parties rather than four, and a suitable agreement to protect this unique ecosystem will be highly unlikely. Because these circumstances create severe time constraints, it would be impossible to list these species pursuant to normal procedures before the habitat was destroyed and these species jeopardized.

Pursuant to 50CFR, 424.19 the Governor of Nevada has been notified of this action. This emergency rule shall remain in effect for only 240 days

following publication in the Federal Register. Therefore, the Service intends formally to propose some or all of these species for listing pursuant to 50 CFR 424.16 and 424.17. Comments will be requested on the proposed rulemaking from the public and other concerned Federal and State agencies and private interests as required by those regulations.

Since this is issued under the emergency circumstances noted above, the Department has determined that this emergency rule is exempt from the rulemaking procedures of Executive Order 12291 and 43 CFR Part 14. Compliance with such procedures will be ensured during development of the proposed and final rules for permanent listing.

#### Effect of the Rule

Endangered Species regulations already published in Title 50, § 17.21 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations referred to above which pertain to such species are summarized below.

With respect to the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, will apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the Federal Register of September 26, 1975 (40 FR 44412), codified at 50 CFR 17.22 and 17.23, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Subsection 7(a)(2) of the Act requires Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the subject

species, but also requires them to insure that their actions are not likely to result in the destruction or adverse modification of the species' habitat which has been determined to be critical by the Secretary. Provisions of Interagency Cooperation are codified at 50 CFR Part 402.

#### National Environmental Policy Act

A draft Environmental Assessment will be prepared when this rule is formally proposed pursuant to regulations in 50 CFR 424.16 and 50 CFR 424.17. A determination will be made at the time of finalizing this rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 and 40 CFR Parts 1500 through 1508.

#### References

The following documents were consulted in preparing this rule:

(1) Bateman, R.L., A.L. Mindling, and R.L. Naff. 1974. Development and Management of Ground Water in Relation to Preservation of

Desert Pupfish in Ash Meadows, Southern Nevada. Center for Water Resources Research, Desert Research Institute, University of Nevada System; Publication No. 17.

(2) Beatley, J.C. 1977. *Ash Meadows: Nevada's unique oasis in the Mojave Desert*. *Mentzelia* 3:20-24.

(3) Dudley, W.W. and J.O. Larson. 1976. Effect of irrigation pumping on desert pupfish habitats in Ash Meadows, Nye County, Nevada. United States Geological Survey, Professional Paper 927:1-52.

(4) Fiero, G.W. and G.B. Maxey. 1970 (June). Hydrogeology of the Devil's Hole area, Ash Meadows, Nevada. Center for Water Resources Research, Desert Research Institute, University of Nevada System.

(5) Hardy, T. In press. The Inter-Basin Area Report—1979. A Summary of the Proceedings of the Eleventh Annual Symposium of the Desert Fishes Council.

(6) Naiman, R.J. and D.L. Soltz. 1981. *Fishes in North American Deserts*. John Wiley and Sons, New York.

(7) Soltz, D.L. and R.J. Naiman. 1978. The Natural History of Native Fishes in the Death Valley System. Natural History Museum of Los Angeles County, Science Series 30:1-76.

(8) Williams, J.D., and C.K. Dodd, Jr. 1978. Importance of Wetlands to Endangered and Threatened Species. In *Wetland Functions and Values: The State of Our Understanding*.

Ed. by P.E. Greeson, et. al. American Water Resources Assoc.

The primary author of this rule is Thomas A. Strekal, U.S. Fish and Wildlife Service, Office of Endangered Species, Washington, D.C. 20240 (703/235-1975).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife.

#### Regulation Promulgation

### PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, until January 5, 1983, Part 17 of Title 50 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-632, 92 Stat. 3751; and Pub. L. 96-159, 93 Stat. 1241 (16 U.S.C. 1531, et seq.).

2. Amend § 17.11(h) by adding in alphabetical order to the list of animals:

#### § 17.11 Endangered and threatened wildlife.

\* \* \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical Habitat	Special rules
Common name	Scientific name						
Fishes:							
Dace, Ash Meadows speckled.....	<i>Rhinichthys osculus nevadensis</i> .....	USA (CA,NV).....	Entire.....	E.....		N/A.....	N/A
Pupfish, Ash Meadows Amargosa.....	<i>Cyprinodon nevadensis mionectes</i> .....	USA (NV).....	Entire.....	E.....		N/A.....	N/A

Dated: May 5, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-12630 Filed 5-7-82; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 301

#### Pacific Halibut Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission, publishes notice of regulations promulgated by that Commission and approved by the United States Government to govern the Pacific halibut fishery for 1982.

The purpose of these regulations is to achieve conservation measures, and protective measures where necessary, to help rebuild and sustain at an adequate level the halibut stocks of the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: May 10, 1982.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, (907) 586-7221, or Executive Director, International Pacific Halibut Commission, P.O. Box 5009, University Station, Seattle, Washington 98105, (206) 634-1838.

SUPPLEMENTARY INFORMATION: The International Pacific Halibut Commission (IPHC), under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of

the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, D.C. on March 29, 1979), has promulgated regulations governing the Pacific halibut fishery for 1982. The regulations have been approved by the Secretary of State of the United States of America and by the Governor-General of Canada, by Order-in-Council. On behalf of the International Commission, the 1982 regulations are published in the Federal Register in order to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements established therein.

The regulations are very similar to those which have been in effect in previous years under the Convention,

except for establishment of different seasons and catch limits, and except for reformulation of certain sections for purposes of clarity and simplicity. Only those sections or paragraphs which have been changed since 1981 are published; sections which remain the same can be found at 50 CFR Part 301 (46 FR 30345, June 8, 1981).

Because approval by the Secretary of State of the IPHC regulations is a foreign affairs function, *Jensen v. National Marine Fisheries Service*, 512 F. 2d 1189 (9th Cir., 1975), the Administrative Procedures Act, Section 553, Executive Order 12291, and the Regulatory Flexibility Act do not apply to this notice of the effectiveness and content of the regulations.

#### List of Subjects in 50 CFR Part 301

Fish, Fisheries.

Dated: May 4, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

#### PART 301—PACIFIC HALIBUT FISHERIES

50 CFR Part 301 is amended as follows:

1. The authority citation for Part 301 reads as follows:

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 772-772j.

2. Section 301.1 is revised to read as follows:

##### § 301.1 Regulatory areas.

(a) "Convention waters" means the waters off the west coasts of the United States and Canada, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which each Party exercises exclusive fisheries jurisdiction as of March 29, 1979. For purposes of this Convention, the "maritime area" in which a Party exercises exclusive fisheries jurisdiction includes without distinction areas within and seaward of the territorial sea or internal waters of that Party. All bearings are magnetic, unless otherwise stated, and all positions are determined by the most recent charts issued by the United States Coast and Geodetic Survey or National Ocean Survey.

(b) Area 2A includes all waters off the coasts of California, Oregon, and Washington in which the United States claims exclusive fisheries jurisdiction.

(c) Area 2B includes all waters off the coast of British Columbia in which

Canada claims exclusive fisheries jurisdiction.

(d) Area 2C includes all waters off the coast of Alaska, in which the United States claims exclusive fisheries jurisdiction that are east of a line running northwest one-quarter west (312°) from Cape Spencer Light (latitude 58°11'57" N., longitude 136°38'18" W.), and south and east of a line running south one-quarter east (177°) from said light.

(e) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (latitude 57°41'15" N., longitude 155°35'00" W.) to Cape Ikolik (latitude 57°17'17" N., longitude 154°47'18" W.), then along the Kodiak Island coastline to Cape Trinity (latitude 56°44'50" N., longitude 154°08'44" W.), then southeast by east one-quarter east (121°).

(f) Area 3B includes all waters between Area 3A and a line extending southeast (135°) from Cape Lutke (latitude 54°29'00" N., longitude 164°20'00" W.).

(g) Area 4 includes all waters in the Bering Sea and all waters in the Gulf of Alaska west of Area 3B.

3. Section 301.3 is revised to read as follows:

##### § 301.3 Fishing seasons.

(a) The fishing seasons for each Regulatory Area are shown in the following table and will apply providing that the catch limits specified in § 301.6 are not taken earlier.

Regulatory Area and fishing period	Opening date	Closing date
2A:		
1	May 12	May 24
2	June 9	June 21
3	July 7	July 19
4	Aug. 9	Aug. 22
5	Sept. 4	Sept. 16
2B:		
1	May 12	May 24
2	June 9	June 21
3	July 7	July 19
4	Aug. 9	Aug. 22
5	Sept. 4	Sept. 16
2C:		
1	May 12	May 17
2	June 10	June 15
3	July 10	July 15
3A:		
1	May 11	May 19
2	June 9	June 17
3	July 9	July 17
3B:		
1	May 11	May 19
2	June 9	June 17
3	July 9	July 17
4	August 20	Aug. 27
4:		
1	May 11	May 19
2	June 9	June 28
3	July 9	( <sup>1</sup> )

<sup>1</sup> To be determined under provisions of Section 8.

(b) Notwithstanding the provisions of paragraph (a), if Area 3A is closed under the provisions of § 301.6 prior to attaining the catch limit in Area 3B, Area 3B will close on the same date. Area 3B will reopen on August 20 and continue until the catch limit specified in § 301.6 is attained.

(c) Each fishing period shall begin at 1500 hours and terminate at 0600 hours on the designated dates. All hours of opening and closing shall be Pacific Standard Time.

4. Section 301.6 is revised to read as follows:

##### § 301.6 Catch limits.

(a) The total allowable catch of halibut to be taken during the halibut fishing periods specified in § 301.3 shall be limited to the pounds or metric tons shown in the following table:

Regulatory Area	Catch limits	
	Pounds	Metric tons
2A	200,000	91
2B	5,400,000	2,449
2C	3,400,000	1,542
3A	14,000,000	6,350
3B	3,000,000	1,361
4	1,500,000	680

(b) The Commission will determine and announce the date on which the catch limits will be attained in each area. Fishing for halibut in the area will be prohibited after that date.

5. Section 301.10 is revised to read as follows:

##### § 301.10 Fishing gear.

(a) Halibut are to be taken only with hook and line gear. The retention or possession of halibut taken with any other gear, such as nets or pots, is prohibited except as provided in § 301.11.

(b) The retention or possession of halibut is prohibited when any commercial fishing gear other than hook and line gear or nets used solely for the capture of bait are on board.

(c) No person or vessel that uses longline fishing gear to fish for any species of fish during the 72 hours prior to the opening of a halibut fishing period shall catch, retain, or possess halibut in convention waters during that halibut fishing period.

[FR Doc. 82-12894 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register

Vol. 47, No. 90

Monday, May 10, 1982

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 TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 82-NM-37-AD]

#### Airworthiness Directives; Lockheed-Georgia Company Model 382 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes a new Airworthiness Directive (AD) that would require inspection of the outer wing rib caps and braces on Lockheed Model L-382 series airplanes with greater than 10,000 hours time in service, within the next 200 hours time in service and thereafter at intervals not to exceed 6,300 hours time in service. The proposed AD is needed to detect cracks in the rib caps and braces which could result in structural failure of the wing and loss of the airplane, if not corrected.

**DATE:** Comments must be received no later than July 9, 1982. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

**ADDRESSES:** The applicable service information may be obtained from: Lockheed-Georgia Company, Marietta, Georgia 30063. This information may also be examined at FAA, Atlanta Aircraft Certification Office, 3400 Norman Berry Drive, East Point, Georgia.

**FOR FURTHER INFORMATION CONTACT:** Jack Bentley, ACE-120A, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or

notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the rules docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

#### Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness rules Docket No. 82-NM-37-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

#### Discussion

There have been reports of cracks in the outer wing rib caps and braces on Lockheed Model L-382 series airplanes. Propagation of these cracks, if uncorrected, could result in structural failure of the wing and loss of the airplane. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require an initial and repetitive inspection of the rib caps and braces on these airplanes.

Therefore, in consideration of the hazardous consequence of possible structural failure due to cracks in the outer wing rib and braces, the proposed AD is considered to be necessary.

It is estimated that 20 airplanes will be affected by this AD, that it will take approximately 600 man-hours per airplane to accomplish an inspection and repair, and that the average labor cost will be \$22 per man-hour. Based on these figures, initial cost impact of this AD is estimated to be about \$264,000. This action is to be repeated after 6,300 hours time-in-service (about 2 years) with a somewhat smaller economic impact. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291.

## List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

### The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

**Lockheed-Georgia Company:** Applies to Lockheed Model L-382 series airplanes, serial numbers 3946 and subsequent, certificated in all categories. Compliance is required within the next 200 hours time in service after the effective date of this AD or upon reaching 10,200 hours total time in service, whichever occurs later, unless already accomplished, and thereafter at intervals not to exceed 6,300 hours time in service.

To prevent possible structural failure of the outer wing and loss of the airplane, accomplish the following:

- Inspect the outer wing rib caps and braces in accordance with Lockheed-Georgia Company Service Bulletin No. 382-57-51, dated March 2, 1982, Appendix "A".
- If cracks are found, replace the cracked caps and braces with serviceable parts and fasteners, before further flight.
- Alternative means of compliance providing an equivalent level of safety may be used when approved by the Chief, Atlanta Aircraft Certification Office, Federal Aviation Administration, Central Region.
- Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base in order to comply with the inspection requirements of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Lockheed-Georgia Company, Marietta, Georgia 30063.

These documents also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, or Atlanta Aircraft Certification Office, 3400 Norman Berry Drive, East Point, Georgia.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

**Note.**—The FAA has determined that this document involves a proposed regulation that is not major under the provisions of Executive Order 12291, because of its minimal economic impact, as summarized earlier in this document. It has been further determined that this proposed regulation is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT." In addition, I certify that under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, since it involves few, if any, small entities.

Issued in Seattle, Washington, on April 28, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-12357 Filed 5-7-82; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 944

#### Cancellation of Public Hearing on the Proposed Utah Permanent Program Cooperative Agreement

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

**ACTION:** Cancellation of public hearing.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement is announcing the cancellation of a public hearing on the proposed permanent program cooperative agreement between the Department of the Interior and the State of Utah for the regulation of surface coal mining and reclamation operations on Federal lands in Utah.

This notice cancels the public hearing scheduled for May 13, 1982, announced in the *Federal Register* on March 31, 1982 (47 FR 13738). It does not alter the time and location at which the proposed rule or related information are available for public inspection or the comment period during which interested persons may submit written comments on the proposed rule.

**DATE:** The following hearing is cancelled: The public hearing on the proposed Utah permanent program cooperative agreement, May 13, 1982, at 9:00 a.m., in Salt Lake City, Utah.

**ADDRESSES:** Written comments must be mailed to: Administrative Record R&I-05, Office of Surface Mining, Room 5315-

L, 1951 Constitution Avenue NW., Washington, D.C. 20240.

Written comments may be hand carried to:

Administrative Record R&I-05, Office of Surface Mining, Room 239, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C.

or

Administrative Record R&I-05, Office of Surface Mining, Room 5315, 1100 L Street NW., Washington, D.C.

#### FOR FURTHER INFORMATION CONTACT:

Andrew DeVito, Office of Surface Mining, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C. 20240; Phone: (202) 343-5866.

#### SUPPLEMENTARY INFORMATION:

On March 31, 1982, a notice of proposed rulemaking announcing an opportunity for public hearing on the proposed Utah permanent program cooperative agreement was published in the *Federal Register* (47 FR 13738). The hearing, which was to have been held on May 13, 1982, at 4241 State Office Building, Salt Lake City, Utah, is cancelled. The proposed rule, published on March 31, 1982, would adopt a cooperative agreement between the Department of the Interior and the State of Utah for the regulation of surface coal mining and reclamation operations on Federal lands in Utah pursuant to section 523(c) of the Surface Mining Control and Reclamation Act of 1977.

The March 31, 1982, notice stated that any person interested in making an oral or written presentation at the hearing should contact OSM by April 30, 1982, and that if no person contacted OSM by that date to express an interest in participating in the hearing, the hearing would be cancelled. Because no one expressed an interest in attending the hearing by April 30, 1982, the hearing is cancelled.

While there will be no public hearing, interested persons may still submit written comments on the proposed rule. Written comments should be mailed or hand-delivered to the addresses listed above. Written comments must be received by June 1, 1982, before 5:00 p.m., local time, in order to be considered.

Copies of the proposed cooperative agreement are available for inspection Monday through Friday, 8:30 a.m. to 4 p.m., excluding holidays, at the following addresses:

State of Utah, Department of Natural Resources, Division of Oil, Gas and Mining, 4241 State Office Building, Salt Lake City, Utah 84114

or

Office of Surface Mining, Room 5315, 1100 L Street NW., Washington, D.C. 20005.

Dated: May 5, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc 82-12623 Filed 5-7-82; 8:45 am]

BILLING CODE 4310-05-M

## 30 CFR Part 950

### Abandoned Mine Land Reclamation Program

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

**ACTION:** Proposed rule.

**SUMMARY:** On April 15, 1982, the State of Wyoming submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the State Plan.

**DATES:** Written comments on the Plan must be received on or before 5:00 p.m., June 9, 1982. Written comments on whether OSM should hold a public hearing on the Plan must be received by 5:00 p.m., May 25, 1982. A public hearing will be held on May 25, 1982 at 2:00 p.m. and will continue until all discussions have been completed. The hearing may be cancelled, as discussed under Supplementary Information below.

**ADDRESSES:** The public hearing, if held, will be at Ramada Inn, at Interstate 25 and Center Avenue, Casper, Wyoming. The hearing may be cancelled, as discussed under Supplementary Information below. Copies of the full text of the proposed Wyoming Plan are available for review during regular business at the following locations:

State of Wyoming, Land Quality Division, 401 West 19th Street, Cheyenne, Wyoming 80202

Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644.

Office of Surface Mining Reclamation and Enforcement, Administrative Record—Rm. 5315, 1100 "L" Street, N.W., Washington, D.C. 20240

Written comments must be mailed or hand carried to: Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644. Comments received after 5:00 p.m., June 9, 1982 will not ordinarily be considered or included in

the administrative record for this rulemaking.

The administrative record will be available for public review at the OSM Mills, Wyoming Office, on Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

**FOR FURTHER INFORMATION CONTACT:**

Ronald Bertram, Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644. Telephone: (307) 261-5550.

**SUPPLEMENTARY INFORMATION:** Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may approve the State program and grant to the State exclusive responsibility and authority to implement the approved program.

On April 15, 1982, OSM received a proposed Abandoned Mine Land Reclamation Plan from the State of Wyoming. The purpose of this submission is to demonstrate both the intent and capability to assume responsibility for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Land Reclamation (AMLR) Program (30 CFR Chapter VII, Subchapter R) as published in the Federal Register (FR) on October 25, 1978, 43 FR 49932-49952.

This notice describes the proposed program and sets forth information concerning public participation in the Assistant Secretary's determination of whether or not the submitted Plan may be approved. The public participation requirements for the consideration of a State Plan are found in 30 CFR 884.13 and 884.14 (43 FR 49948 (1978)). Additional information may be found under corresponding sections of the preamble to OSM's AMLR Program Final Rules (43 FR 49932-49940 (1978)).

The receipt of the Wyoming Plan submission is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands in Wyoming.

By submitting a proposed Plan, Wyoming has indicated that it wishes to be primarily responsible for this program. If the submission is approved by the Assistant Secretary for Energy and Minerals of the Department of the Interior, the State will have primary responsibility for the reclamation of abandoned mine lands in Wyoming. If the program is disapproved and the State does not choose to revise the Plan, a Federal AMLR program will be implemented and OSM will have primary responsibility for these activities.

All written comments must be mailed or hand carried to OSM's State Office Director at the Mills, Wyoming address listed above under "Addresses." Written comments may be hand carried to the public hearing, if a public hearing is found to be necessary, and submitted as exhibits to the proceedings.

If OSM's State Office Director finds that the State has given the public adequate notice and opportunity to comment in public hearings, and that the record of such hearing does not reflect major unresolved controversies and there are not a significant number of requests during the 15-day period to comment on the need for a hearing, the hearing will be cancelled.

Written comments on the issue of waiver of the public hearing must be received by 5:00 p.m., May 25, 1982.

Representatives of OSM's State Office Director will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. at OSM's office in Mills, Wyoming, indicated above under "Addresses", at the request of members of the public to receive their advice and recommendations concerning the proposed Wyoming Reclamation Plan and Program.

Persons wishing to meet with representatives of the State Director's Office during this time period may place such request with Ronald Bertram, telephone 307/261-5550.

The Department intends to continue to discuss the State's Plan with representatives of the State throughout the review process. All contracts between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 at 44 FR 54444.

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Wyoming Plan will not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Wyoming Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment (EA) or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The Wyoming Abandoned Mine Land Reclamation Plan can be approved if:

1. The Assistant Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the Plan.

4. The Plan meets all requirements of the OSM, AMLR Program Provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. It is determined that the Plan is in compliance with all applicable State and Federal laws and regulations.

The Wyoming Division of Land Quality has been designated by the Governor of the State of Wyoming to implement and enforce the Abandoned Mine Land Reclamation Program in accordance with SMCRA. The Department has developed State regulations to carry out the State mandate. Contents of the State Plan submission include:

(a) Designation of authorized State Agency to administer the Program;

(b) State's chief legal officer's opinion on the authority of the designated agency to conduct the program in accordance with Title IV of the SMCRA;

(c) Description of the policies and procedures to be followed in conducting the Program including:

(1) Goals and objectives;

(2) Project ranking and selection procedures;

(3) Coordination with other reclamation projects;

(4) Land acquisition, management and disposal;

(5) Reclamation on private land;

(6) Rights of entry; and

(7) Public participation in the Program;

(d) Description of the administrative and management structure to be used in the Program including:

(1) Description of the organization of the designated agency and its relationship to other organizations that will participate in the Program;

(2) Personnel staffing policies;

(3) Purchasing and procurement systems and policies; and

(4) Description of the accounting system including specific procedures for operation of the reclamation fund;

(e) Description of the public's participation in the preparation of the Plan;

(f) A general description of activities to be conducted under the Plan including:

(1) Known or suspected eligible lands and water requiring reclamation, including a map;

(2) General description of the problems identified and how the Plan proposes to deal with them;

(3) General description of how the lands to be reclaimed and proposed reclamation relate to the surrounding lands and land uses;

(4) A table summarizing the quantities of land and water affected and an estimate of the quantities to be reclaimed during each year covered by the Plan;

(5) General description of the social, economic, and environmental conditions in the different geographic areas where reclamation is planned, including:

(i) The economic base;

(ii) Sociologic and demographic characteristics;

(iii) Significant aesthetic, historic or cultural, and recreational values;

(iv) Hydrology, including water quality and quantity problems associated with past mining;

(v) Flora and fauna, including endangered and threatened species and their habitat;

(vi) Underlying or adjacent coal beds and other minerals and projected methods of extraction; and

(vii) Anticipated benefits from reclamation.

#### List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

Dated: April 28, 1982.

J. R. Harris,

Director, Office of Surface Mining.

Dated: May 4, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

[FR Doc 82-12744 Filed 5-7-82; 8:45 am]

BILLING CODE 4310-05-M

## VETERANS ADMINISTRATION

### 38 CFR Part 3

#### Veterans Benefits; Definition of Term "Former Prisoner of War"

**AGENCY:** Veterans Administration.

**ACTION:** Proposed regulation amendment.

**SUMMARY:** The Veterans Administration is proposing to amend its adjudication regulations to implement a provision of a new law, the Former Prisoner of War Benefits Act of 1981, section 3, Pub. L. 97-37, which defines the term "former prisoner of war."

**DATES:** Comments must be received on or before June 7, 1982. We propose to make this change effective August 14, 1981, the date of enactment of Pub. L. 97-37.

**ADDRESSES:** Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans

Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until June 17, 1982. Persons visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to a VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

**FOR FURTHER INFORMATION CONTACT:** T. H. Spindle, Jr. (202-389-3005).

**SUPPLEMENTARY INFORMATION:** Section 3(a), Pub. L. 97-37 amends 38 U.S.C. 101 by adding the following new paragraph to section 101:

(32) The term "former prisoner of war" means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty—

(A) by an enemy government or its agents, or a hostile force, during a period of war; or

(B) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

The Veterans Administration is proposing to implement this definition of the term "former prisoner of war" by adding paragraph (y) to 38 CFR 3.1.

Prior to enactment of 38 U.S.C. 101(32), the Veterans Administration accepted a service department finding that a veteran had been a prisoner of war. We find nothing in the language of section 101(32), or in its legislative history, to indicate that Congress intended to change this long established policy insofar as POW (prisoner of war) status during wartime is concerned. Therefore, the proposed 38 CFR 3.1(y)(1) provides that the Veterans Administration shall continue to accept a service department finding that a person was a POW during a period of war.

Under 38 U.S.C. 101(32)(B), however, the Veterans Administration is specifically charged with determining whether a serviceperson was a POW during peacetime. The proposed 38 CFR 3.1(y)(2) sets forth the factors that the Veterans Administration intends to use to determine peacetime POW status.

The legislative history of 38 U.S.C. 101(32)(B) indicates that Congress wants

to extend the POW benefit provisions of title 38, United States Code, to peacetime veterans who are detained or interned in situations similar to the "Pueblo incident." The crew of the *Pueblo* was taken captive on January 23, 1968 by North Korea. They were considered POW's because they were captured during the Vietnam era, a period of war, even though their capture was not related to the Vietnam war. If the "Pueblo incident" had occurred during a peacetime period, the captured crew would not have been entitled to consideration as POW's by the Veterans Administration. Section 101(32)(B) was enacted since it would "give the Administrator the authority to determine if such an incident occurring in a time other than a period of war would be comparable to a period of war for purposes of title 38." S. Rep. No. 88, 97th Cong. 1st Sess. 19 (1981).

The legislative history does not specifically address what Congress intended by the phrase "under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war" in section 101(32)(B). The Veterans Administration has considered whether the reasons for the capture as well as the nature of the deprivations endured by the captured serviceperson should be included as factors for determining whether the detention or internment occurred under comparable circumstances. Following discussions with the Department of Defense regarding these factors, the Veterans Administration has concluded that information concerning the deprivations endured by a captured serviceperson may not be available to the Veterans Administration because of its classified nature. Therefore, the Veterans Administration proposes to use the reasons for a serviceperson's capture as the determining factor in extending POW status to a serviceperson detained or interned during a peacetime period.

Therefore, the proposed 38 CFR 3.1(y)(2)(i) provides that the reason for detention or internment is the determinative factor in deciding whether a serviceperson was a POW during a period other than a period of war. During wartime, servicepersons are taken prisoner because of their status as members of the Armed Forces, or because of their military mission, and not for personal reasons. When a serviceperson is detained or interned during a period other than a period of war by a foreign government or its

agents, or a hostile force, primarily to further or enhance anti-American military, political or economic objectives or views, or to embarrass the United States, the detained or interned serviceperson is being held under circumstances comparable to those under which servicepersons have been detained or interned during periods of war, and not for reasons personal to the serviceperson.

The language of section 102(32)(B) requires a forcible detention or internment during a peacetime period to have occurred in line of duty. This language necessitates that such a finding be made on a case by case basis. Under the proposed § 3.1(y)(2)(iii), the Veterans Administration shall consider that forcible detention or internment was in line of duty unless the evidence or record discloses that forcible detention or internment was proximately caused by the serviceperson's willful misconduct.

The term "hostile force" is not defined in section 101(32)(B) and there is nothing in the legislative history which would indicate its meaning. The proposed § 3.1(y)(2)(iv) defines the term to mean "any force whose actions are taken to further or enhance anti-American military, political or economic objectives or views or to attempt to embarrass the United States."

The Chief Benefits Director, consistent with the delegation of authority contained in §§ 2.67 and 3.100, has designated the Director of Compensation and Pension Service, Veterans Administration Central Office as the approving official of all determinations of peacetime POW status. This will insure a uniform decision for all servicepersons whose forcible detention or internment arose from the same incident. This will also permit faster adjudication since the first decision may serve as a precedent for other claims arising out of the same incident. Proposed § 3.1(y)(2)(v) reflects this designation.

Final regulations to implement section 4, Pub. L. 97-37 were previously published. See 47 FR 11655 (1982) (to be codified in 38 CFR 3.307, 3.309).

The Administrator hereby certifies that this proposed rule, if promulgated, will not have a significant economic impact, in terms of compliance costs, paperwork and recordkeeping, or any other regulatory burden, on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this regulation only affects individuals applying for Veterans Administration

benefits as former prisoners of war. Pursuant to 5 U.S.C. 605(b), this proposed rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, we have determined that this proposed regulation change is nonmajor for the following reasons:

- (1) It will not have an effect on the economy of \$100 million or more.
- (2) It will not cause a major increase in costs or prices.
- (3) It will not have 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.

#### List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

(Catalog of Federal Domestic Assistance Program number is 64.109)

Approved: April 15, 1982.

Robert P. Nimmo,  
Administrator.

#### PART 3—ADJUDICATION

The Veterans Administration proposes to amend 38 CFR Part 3 as follows:

Section 3.1 is amended as follows:

- (a) By removing "Secretary of Health, Education, and Welfare" and inserting "Secretary of Health and Human Services" in paragraph (g)(5).
- (b) By adding a note following paragraph (m) as follows:

Note.—See § 3.1(y)(2)(iii) for applicability of "in line of duty" in determining former prisoner of war status.

- (c) By adding a note following paragraph (n) as follows:

Note.—See § 3.1(y)(2)(iii) for definition of "willful misconduct" in determining former prisoner of war status.

- (d) By adding paragraph (y) as follows:

#### § 3.1 Definitions.

(y) "Former prisoner of war"—(1) *Wartime service.* The term "former prisoner of war" means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty by an enemy government or its agents, or a hostile force, during a period of war. The Veterans Administration shall accept

the finding of the appropriate service department that a person was a prisoner of war during a period of war.

(2) *Peacetime service.* The term "former prisoner of war" also means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty by a foreign government or its agents, or a hostile force, during a period other than a period of war in which the serviceperson was held under circumstances which the Veterans Administration finds to have been comparable to the circumstances under which servicepersons have generally been forcibly detained or interned by enemy governments during periods of war. The Veterans Administration shall use the following factors to determine if a serviceperson was a POW (prisoner of war) in a period other than a period of war:

(i) *Reason for forcible detention or internment.* To be considered a former prisoner of war during a period other than a period of war a serviceperson shall have been forcibly detained or interned by a foreign government or its agents, or a hostile force, primarily to further or enhance anti-American military, political or economic objectives or views, or to embarrass the United States. A serviceperson who is detained or interned by a foreign government for an alleged violation of its laws is not entitled to be considered a former POW based on that period of detention or internment, unless the charges are a sham intended to legitimize anti-American military, political or economic objectives or views, or actions embarrassing to the United States.

(ii) *Treatment during detention or internment.* The manner in which a serviceperson is treated during detention or internment is immaterial in determining whether a serviceperson was a POW during a period other than a period of war.

(iii) *In line of duty.* The Veterans Administration shall consider that a serviceperson was forcibly detained or interned in line of duty unless the evidence of record discloses that forcible detention or internment was proximately caused by the serviceperson's willful misconduct. Willful misconduct means an act involving conscious wrongdoing or known prohibited action. It involves deliberate or intentional wrongdoing with knowledge of or wanton and reckless disregard of its probable consequences.

(iv) *Hostile force.* For the purposes of peacetime former prisoner of war determinations, the term "hostile force" means any force whose actions are

taken to further or enhance anti-American military, political or economic objectives or views, or to attempt to embarrass the United States.

(v) *Determinations of Peacetime POW status.* The Director of the Compensation and Pension Service, VA Central Office, shall approve all Veterans Administration Regional Office determinations establishing or denying peacetime POW status. (38 U.S.C. 101(32))

[FR Doc. 82-12588 Filed 5-7-82; 8:45 am]

BILLING CODE 8320-01-M

## POSTAL SERVICE

### 39 CFR Part 111

#### Carrier Route Presort Customer Products

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service provides free carrier route information to mailers monthly and on a semi-annual basis in several formats, including computer tape and hardcopy. In order to reduce the amount of paper being generated and distributed through the Carrier Route Information System (CRIS), the Postal Service proposes to produce this information in microfiche form for customers currently receiving hardcopy (paper) who desire national or regional carrier route information. In addition, the Postal Service is consolidating the ordering of carrier route scheme information into a single location.

**DATE:** Comments must be received on or before June 9, 1982.

**ADDRESS:** Written comments should be directed to the Director, Office of Post Office Services, Delivery Services Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday in room 7347, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW, Washington, DC 20260.

**FOR FURTHER INFORMATION CONTACT:** Richard D. Moskal, Address Information Systems Division, (800) 238-3150.

**SUPPLEMENTARY INFORMATION:** The Postal Service produces CRIS delivery schemes for use by postal customers in preparing carrier route presorted mailings. The National schemes are currently available in computer tape and hardcopy (paper) format. Hardcopy national or regional schemes, on 8-1/2 x 11 paper, are now being provided for 211 customers. Over the past several months, the scheme file has grown to a

total of 3.2 million records. The hardcopy paper scheme for the national file now comprises 66 cubic feet of paper, weighing 594 lbs., and equivalent of 22 ten-ream cartons of paper.

The number of postal customers using the CRIS presort system for various classes of mail has also increased dramatically, and is expected to continue to grow due to the rate incentives associated with the presort programs. With the increase in both file size and customers requesting CRIS products, the Postal Service desires to reduce the burden and expense of hardcopy schemes for the Postal Service and for customers. The Postal Service proposes that hardcopy schemes be provided in the form of microfiche (59x) at no charge to customers requesting hardcopy schemes for the entire United States, or for one or more regions. The computer scheme tape will continue to be available for customers requesting national or regional computer tapes. In addition, customers who desire national or regional hardcopy in paper format will be able to borrow a CRIS scheme print tape, which contains carrier route information in machine sensible (print image) form, to allow mailers to generate hardcopy locally. The Postal Service will continue to provide hardcopy schemes for customers requesting CRIS information for specific 3-digit or 5-digit ZIP Code areas rather than for an entire region or the nation.

In addition to the change described above, the Postal Service is providing a single address for fulfillment of all customer requests for CRIS products, instead of the existing two addresses for different kinds of requests.

Accordingly, although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of the Domestic Mail Manual, which is incorporated by reference in the Federal Register. 39 CFR 111.1.

#### List of Subjects in 39 CFR Part 111

Postal Service.

#### PART 111—GENERAL INFORMATION ON POSTAL SERVICE

##### Part 620—Classification

In 622.1 revise .11e(2) to read as follows:  
622.1 Eligibility

\* \* \* \* \*  
.11 Carrier Route Presort Level

\* \* \* \* \*  
e. Current Scheme

\* \* \* \* \*  
(2) Obtaining Schemes

(a) *Ordering CRIS Products.* Mailers ordering any of the CRIS products described in (b)-(e) below may do so by sending a written request to the following address:

CRIS, Customer Fulfillment Requests,  
National ZIP Code Data Center, Memphis,  
TN 38188-0008

(b) *CRIS Hardcopy (paper) Semi-Annual Updates and Monthly Scheme Changes.* Hardcopy paper schemes are available only for specific 5-digit or specific 3-digit ZIP Code areas. Hardcopy in paper form is not available from the Postal Service on a regional or national basis. In the written request, mailers must specify which specific 5-digit or 3-digit ZIP Code scheme are desired.

(c) *CRIS National and Regional Semi-Annual Updates and Monthly Scheme Microfiche Changes.* CRIS schemes for one or more postal regions, or for the entire United States are available on microfiche (reduction rate of 59x) by sending a written request specifying which postal regions are desired.

(d) *CRIS National Semi-Annual Updates and Monthly Scheme Tape Changes.* CRIS scheme information in machine sensible form is available for one or more postal regions, or for the entire United States.

(e) *CRIS National Semi-Annual Updates and Monthly Scheme Print Tape Changes.* CRIS scheme information in machine sensible (print image) form is available on loan for one or more postal regions or for the entire United States to allow mailers the ability to generate hardcopy (paper) locally if required.

**Note.**—In any CRIS National Scheme Tape and/or regional or national print image tape request, the mailer must specify which Postal Service regions are desired and which of the following magnetic tape characteristics are required:

- 7 or 9 track
- 800, 1,600 or 6,250 bits per inch
- ASCII or EBCDIC
- If Header/Trailer Labels are desired

(f) *Other Methods.* Mailers may, under the provisions of 945.4, request a copy of the city scheme used by clerks for sorting mail. They may also request that the Postal Service sort address cards, plates or stencils by carrier routes. However, the mailer is responsible for sorting in accordance with the latest CRIS scheme provided in 622.11e(2)(a)-(e). The mailer is considered to have made a sorting error only if the mail was not sorted according to the latest CRIS scheme.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401, 403, 404)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-12547 Filed 5-7-82; 8:45 am]

BILLING CODE 7710-12-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[A-3-FRL-2109-1]

#### Commonwealth of Pennsylvania; Proposed Revision of the Pennsylvania State Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** In this notice, EPA is proposing the substitution of an expanded ridesharing program in place of the electrification of the Newtown Branch commuter rail line. The Newtown branch project was originally submitted as a transportation control measure (TCM) in Pennsylvania State Implementation Plan (SIP) under Section 175 of the Clean Air Act. However, changes in the region's transit priorities have necessitated the substitution of an alternative TCM which will provide equivalent air quality benefits. This substitute project will result in equivalent hydrocarbon reductions, and therefore will not degrade air quality.

**DATE:** Comments must be submitted on or before June 9, 1982.

**ADDRESSES:** Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency,  
Air Programs & Energy Branch, Curtis  
Building, 6th and Walnut Streets,  
Philadelphia, Pa. 19106, Attn: Patricia  
Sheridan (3AW12).

Delaware Valley Regional Planning  
Commission, 1819 J. F. Kennedy Blvd.,  
Philadelphia, Pa. 19103, Attn: John J.  
Coscia.

Pennsylvania Department of  
Environmental Resources, Bureau of  
Air Quality Control, 200 North 3rd  
Street, Harrisburg, Pa. 17120, Attn:  
James K. Hambright.

Public Information Reference Unit,  
Room 2922, EPA Library, U.S.  
Environmental Protection Agency, 401  
M Street SW. (Waterside Mall),  
Washington, D.C. 20460.

All comments on the proposed  
revision submitted on or before June 9,  
1982 will be considered and should be  
directed to Glenn Hanson at the address  
below.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. Glenn Hanson, Chief, Pennsylvania  
Section (3AW11), Air and Waste  
Management Division, U.S.  
Environmental Protection Agency,

Region III, 6th & Walnut Streets, Curtis  
Building, Philadelphia, Pa. 19106 (215)  
597-8173.

**SUPPLEMENTARY INFORMATION:** The  
proposed changes to the Pennsylvania  
SIP were submitted on December 9, 1981  
after a public hearing on October 15,  
1981.

On May 20, 1980, EPA published a  
conditional approval of Pennsylvania's  
SIP, which includes the transportation  
element for the Delaware Valley area.  
One of the conditions on this SIP was  
that the Delaware Valley Regional  
Planning Commission (DVRPC), as lead  
agency for transportation/air quality  
planning, must obtain firm commitments  
for the implementation of the Newtown  
Branch electrification project by  
December 31, 1980, or obtain  
commitments for a substitute measure  
by June 30, 1981. (These deadlines were  
finalized in the Federal Register notice  
of March 19, 1981, 46 FR 17552).

On December 9, 1981, Acting  
Secretary Peter S. Duncan, Pennsylvania  
Department of Environmental Resources  
(DER), submitted a revision to the  
Pennsylvania SIP which substitutes an  
expanded ridesharing program in the  
Delaware Valley for the Newtown  
branch electrification project. This  
substitution became necessary when the  
electrification project was withdrawn  
from the fiscal year 1981 Annual  
Element of the Transportation  
Improvement Plan for the Delaware  
Valley. This withdrawal resulted from  
changes in priorities for capital projects  
managed by the Southeastern  
Pennsylvania Transportation Authority.  
This project may be completed in the  
future, but not soon enough to satisfy  
emission reduction commitments made  
in the 1979 SIP.

The existing ridesharing program has  
been operating since 1974, and has  
aided in the initiation of 250 vanpools  
and 3,172 carpools during this time. The  
measure being proposed today consists  
of an expansion of this existing  
ridesharing program. An expected 30  
vanpools and 67 carpools will result  
from this program expansion.

DVRPC has submitted an adequate  
commitment to implement the expanded  
program. This commitment is the  
adoption by the DVRPC Board of the  
expanded ridesharing program on June  
25, 1981. In addition, on October 22,  
1981, the Board adopted a  
recommendation that DER add the  
expanded ridesharing program to the  
Early Action Program of the  
Transportation Element of the  
Pennsylvania SIP.

EPA has reviewed the information  
submitted by the State and is today

proposing the approval of the expanded ridesharing program as a satisfactory substitute for the Newtown Branch electrification project.

Based upon the above evaluations, the Administrator is proposing to approve this revision to the Pennsylvania State Implementation Plan as discussed in this notice.

The public is invited to submit comments on whether these amendments should be approved as a revision to the Pennsylvania State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based upon the comments received and on a determination as to whether they meet the requirements of Part D of Title I and Section 110(a)(2) of the Clean Air Act.

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

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981).

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon Monoxide, Hydrocarbons.

(42 U.S.C. 7401-7642)

Dated: April 13, 1982.

**Note.**—Incorporation by reference of the State Implementation Plan for the State of Pennsylvania was approved by the Director of the Federal Register on July 1, 1981.

Peter N. Bibko,

*Regional Administrator.*

[FR Doc. 82-12548 Filed 5-7-82; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 262

[SWH-FRL-2120-8]

#### Hazardous Waste Management Systems: Standards for Generators, Transporters, Owners and Operators, Storage and Disposal Facilities; Extension of Comment Period

**AGENCY:** Environmental Protection Agency.

**ACTION:** Extension of comment period for proposed rule.

**SUMMARY:** On March 4, 1982, the Environmental Protection Agency, in a joint rulemaking with the Department of Transportation, proposed a rule which

would establish a uniform hazardous waste manifest form (47 FR 9336). Generators would be required to use this form for all shipments of hazardous waste. The proposed rule announced that public comments must be submitted before May 3, 1982. EPA has received several requests for an extension to the comment period and concluded they are meritorious. Accordingly, the Agency is extending the comment period for an additional 45 days to June 17, 1982.

**DATE:** Comments on the national manifest proposed March 4, 1982, must be received on or before June 17, 1982.

**ADDRESS:** Comments should be addressed to the Docket Clerk (3002—Manifest), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C., 20460, (202) 382-4487.

The public docket for this rulemaking is available in Room S-269, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C., 20460 and is available for viewing from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays.

#### FOR FURTHER INFORMATION CONTACT:

For technical information on the proposal or on the extension, contact Rolf P. Hill, Environmental Protection Agency, Office of Solid Waste (WH-563), 401 M Street SW, Washington, D.C. 20460 or call (202) 382-4753. For additional assistance, call the RCRA Hotline at (800) 424-9346 (in Washington, D.C. call 382-3000).

**SUPPLEMENTARY INFORMATION:** On March 4, 1982, in a joint rulemaking effort, the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) published a draft Uniform Hazardous Waste Manifest form and proposed its required use by generators for the interstate and intrastate transportation of hazardous waste.

A manifest form is a control and transport document that travels with the waste from its point of generation to its point of disposal. EPA's Resource Conservation and Recovery Act (RCRA) regulations presently require generators who transport, or offer for transportation, hazardous waste for offsite treatment, storage or disposal to prepare a manifest which must accompany the waste. Although the regulations specify certain required information that must appear on the manifest, there are no requirements for a standard form to be used.

Since the RCRA regulations became effective, numerous States have

developed their own manifest forms which meet Federal requirements but require additional State information. These differing manifest requirements among States have resulted in confusion and compliance difficulties for the transport of hazardous waste. EPA and DOT proposed to resolve these difficulties through a joint rulemaking effort. EPA, on March 4, 1982, proposed to amend its regulations to require the use of a specific manifest form. DOT, in a companion action, proposed to amend its Hazardous Materials Regulations to require that shippers and carriers of hazardous waste comply with EPA's proposed amendments and to clarify that, whether or not a State has interim or final authorization by EPA, any requirement of a State or political subdivision of a State specifying a different or additional manifest is inconsistent with the Hazardous Materials Regulations (47 FR 9346).

Several requests to extend the comment period have been received from the regulated community and a State association. One comment received by telephone indicated that the California Public Utility Commission would not be able to submit comments before the May 3, 1982, comment deadline because the Commission board only meets periodically and could not approve the comment submission until later in May. In addition, the Hazardous Material Advisory Council and the Association of State and Territorial Solid Waste Management Officials requested extra time to enable them to work together on several of the complex issues raised in the proposed rule.

The Agency wants to encourage talks between the Hazardous Material Advisory Council (which represent industry) and the States. The comments and suggestions which result from these talks should enable EPA and DOT to develop a manifest form which better accommodates the views of the regulated community and the States. The Agency is therefore extending the comment period for an additional 45 days. EPA will accept comments on the proposed rule on or before June 17, 1982. (The DOT is also extending its comment period until June 17, 1982.)

Dated: May 2, 1982.

Rita Lavelle,

*Assistant Administrator for the Office of Solid Waste and Emergency Response.*

[FR Doc 82-12544 Filed 5-7-82; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Subtitle A and Subtitle B

Wildlife Program Policy Statement;  
Availability for Review and Comment

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of draft wildlife program policy statement; availability for review and comment.

**SUMMARY:** The Bureau of Land Management proposes to publish its basic policies for managing and safeguarding wildlife resources on the public lands. This statement provides an overview of existing Bureau policies, priorities, and philosophies concerning management of wildlife resources. It also addresses how wildlife is integrated with other multiple uses. This statement is being developed to enhance public understanding of the Bureau's wildlife program since most people are unfamiliar with our internal policy Manual Sections and materials. To summarize, the statement outlines the magnitude of the Bureau's wildlife responsibilities; emphasizes the need for open communication and partnership with the States, adjoining landowners, and other interests; outlines key program goals and policies; and provides information on resolving conflicts among resource uses and on program priorities.

**DATE:** Comments must be received on or before June 30, 1982.

**ADDRESS:** Copies are available from: Director (240), Bureau of Land Management, 1800 C Streets, NW., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** J. David Almand, Assistant Chief, Division of Wildlife (240), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240, 202-653-9202.

**SUPPLEMENTARY INFORMATION:** This draft policy statement is part of the Bureau's continuing efforts to inform the public of its programs and to secure the benefit of public views and comment. The Bureau is charged by legislation, including the Federal Land Policy and Management Act, the Sikes Act, as amended, and the Endangered Species Act—to name a few—with protection and enhancement of wildlife resources on the public lands. The Federal Land Policy and Management Act, for example, directs that wildlife is one of the seven principal or major uses of the public lands.

In managing wildlife resources on the public lands, the Bureau works in partnership with the States who are responsible for the management of resident wildlife species. This partnership is evidenced by long-standing formal agreements with each of the Western States and a few in the East where the Bureau administers land. On-the-ground cooperation is typified by over 200 habitat management plans, encompassing over 30 million acres. We view this continuing cooperation with the States and others as vital to the cost-effective and efficient management of wildlife resources.

The Bureau is also striving to integrate wildlife in other Bureau programs and activities such as livestock grazing, mining and mineral development, timber management, and other such resource programs. Through such efforts, millions of additional acres of public land are being protected or managed in varying degrees for wildlife. This multiple-use/sustained-yield approach will be continued to the maximum extent practical.

Important wildlife habitats and management opportunities will be identified during the land-use planning process. Management decisions made subsequent to planning will fully consider wildlife needs and opportunities. Public involvement in all phases of the program will continue to be encouraged to make full use of the interest, knowledge, and experience of others interested in sound and proper management of wildlife and its habitat and for other multiple uses on a sustained-yield basis.

Copies of the draft wildlife program policy statement are available from the Director (240), Bureau of Land Management, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

Dated: May 4, 1982.  
Robert F. Burford,  
Director, Bureau of Land Management.

[FR Doc. 82-12701 Filed 5-7-82; 8:45 am]

BILLING CODE 4310-84-M

## 43 CFR Part 2820

Roads and Highways; Revocation of  
Regulations Concerning Roads and  
Highways

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Proposed rulemaking.

**SUMMARY:** This proposed rulemaking would revoke the existing regulations concerning the granting of rights-of-way to State agencies by the Bureau of Land

Management in coordination with the Federal Highway Administration. These regulations are burdensome, counterproductive and are no longer needed. They will be replaced with a Memorandum of Understanding between the Department of the Interior and the Department of Transportation as authorized by section 307 of the Federal Land Policy and Management Act.

**DATE:** Comments should be submitted by June 9, 1982.

**ADDRESS:** Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public inspection in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Leon Kabat, (202) 343-5441.

**SUPPLEMENTARY INFORMATION:** Sections 107(d) and 317 of title 23 of the United States Code provide for appropriation of lands by the Secretary of Transportation from the Secretary administering Federal lands which are desired for use in connection with the Federal-aid highway program. The law sets out the procedures to be followed in the coordination between the Department of Transportation and other agencies in determining whether designated lands are or are not available for appropriation for the Federal-aid highway program. This coordination can be carried forward without regulations. This is especially true with regard to lands under the jurisdiction of the Bureau of Land Management because section 307 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737) authorizes the use of a Memorandum of Understanding as an appropriate tool for the management, protection, development and sale of public lands. The Memorandum of Understanding will provide adequate protection of any public lands under the jurisdiction of the Bureau of Land Management that might be needed for the Federal-aid highway program, while at the same time reducing the complex and time-consuming application and granting process now imposed on the States by the Bureau of Land Management under the regulations in 43 CFR Part 2820.

Action is now progressing on the completion of a Memorandum of Understanding that will be the basis of an on-going program of providing available public lands under the jurisdiction of the Bureau of Land

Management for the Federal-aid highway program.

The principal author of this proposed rulemaking is Leon Kabat, Division of Rights-of-Way, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National

Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the authority of sections 107(d) and 317 of Title 23 of the United States Code (72 Stat. 885, 892, 916) and section 307 of the Federal Land Policy and Management Act of 1976 (43 U.S.C.

1737), it is proposed to amend Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations, as set forth below:

**PART 2820—ROADS AND HIGHWAYS [REMOVED]**

Part 2820 is removed in its entirety.

Dated: March 24, 1982.

**Garrey E. Carruthers,**  
*Assistant Secretary of the Interior.*

[FR Doc. 82-12621 Filed 5-7-82; 8:45 am]

**BILLING CODE 4310-84-M**

# Notices

Federal Register

Vol. 47, No. 90

Monday, May 10, 1982

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.

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### Agreement With National Park Service (Department of the Interior) Regarding the Lease and Exchange of Historic Properties

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Notice.

**SUMMARY:** This notice provides information about and invites comments on a proposed Programmatic Memorandum of Agreement providing for the protection of historic and cultural properties that may be affected by leasing or exchange authorized pursuant to the National Historic Preservation Act of 1966 (NHPA).

**DATE:** Comments must be submitted on or before June 9, 1982.

**ADDRESS:** Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, DC 20005.

**FOR FURTHER INFORMATION CONTACT:** Dr. Thomas F. King, Director, Office of Cultural Resource Preservation, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, DC 20005, telephone 202-254-3974.

**SUPPLEMENTARY INFORMATION:** The Council proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of its regulations "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the National Park Service, Department of the Interior, and the National Conference of State Historic Preservation Officers concerning the leasing and exchanges of historic and cultural properties authorized in accordance with Section 111 of the National Historic Preservation Act of 1966. The proposed Programmatic Memorandum of Agreement will establish standards for identifying properties eligible for leasing or

exchange and guidelines for treatment of historic properties to meet the requirements of Section 106 of the NHPA (16 U.S.C. 470(f)).

The intent of this Agreement is to protect historic properties and to reduce the time and expense of treating historic properties as opportunities arise for their leasing or exchange. Interested parties are encouraged to obtain a copy of the proposed Programmatic Memorandum of Agreement from the Council and submit comments.

Dated: May 4, 1982.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 82-12604 Filed 5-7-82; 8:45 am]

BILLING CODE 4310-10-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Brookhaven National Laboratory; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00358. Applicant: Brookhaven National Laboratory, Upton, New York 11973. Article: Ultra High Vacuum Sample Manipulator. Manufacturer: VG Scientific, United Kingdom. Intended use of article: See Notice on page 48279 in the Federal Register of October 1, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket No. 81-00127, which was denied without prejudice to resubmission for informational deficiencies (July 14,

1981). The foreign article provides for a Z shift of 150 mm. The National Bureau of Standards advises in its memorandum dated February 17, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-12645 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-25-M

#### Brookhaven National Laboratory; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00292. Applicant: Brookhaven National Laboratory, Upton, NY 11973. Article: Electron Spectrometer used in ADES 400 System. Manufacturer: V.G. Scientific Instruments, United Kingdom. Intended use of article: See Notice on page 48279 in the Federal Register of October 1, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application

is a resubmission of Docket No. 81-00121 which was denied without prejudice to resubmission for informational deficiencies (April 7, 1981). The foreign article is an accessory which, with its compact size and mountability on a goniometer, permits angle resolved photoemission studies within an existing vacuum chamber. The National Bureau of Standards advises in its memorandum dated February 16, 1982 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc. 82-12646 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-25-M

### Final Affirmative Countervailing Duty Determination; Ceramic Tile From Mexico and Countervailing Duty Order

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Final affirmative countervailing duty determination and countervailing duty order.

**SUMMARY:** We have determined that the government of Mexico is providing its manufacturers, producers, and exporters of ceramic tile with benefits that are bounties or grants within the meaning of the countervailing duty law. Future imports of this merchandise will be subject to the assessment of countervailing duties.

**EFFECTIVE DATE:** May 10, 1982.

**FOR FURTHER INFORMATION CONTACT:** Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377-1279.

**SUPPLEMENTARY INFORMATION:**

#### Final Determination

Based upon our investigation and in accordance with section 705(a) of the Tariff Act of 1930 ("the Act"), we have determined that the government of Mexico provides its manufacturers,

producers, and exporters of ceramic tile certain benefits that are bounties or grants within the meaning of section 303 of the Act. We have determined the net subsidy to be 15.84 percent of the f.o.b. value of the imported merchandise.

#### Case History

On October 5, 1981, we received a countervailing duty petition from counsel for the Tile Council of America, Inc., alleging that the government of Mexico is providing bounties or grants to its producers and exporters of ceramic tile. After reviewing the petition we initiated an investigation on October 26, 1981 (46 FR 53738).

On November 2, 1981, we presented a questionnaire to the government of Mexico, at its embassy in Washington, D.C. and requested a response. We determined that the case was extraordinarily complicated. On December 15, 1981, we published a notice of postponement of the preliminary countervailing duty determination (46 FR 61160). We presented a supplementary questionnaire to the government of Mexico on December 29, 1981, and requested a response. The government of Mexico provided a response to each of the questionnaires.

Counsel on behalf of Jesus Garza Arocha ("Arocha"), a manufacturer and exporter of ceramic tile in Mexico, requested exclusion from any preliminary or final determination. The reason cited for the request for exclusion was that Arocha has not applied for or received benefits under the CEDI and CEPROFI programs and, although it received FOMEX benefits during six months of 1980, it has not applied for them since and will not apply for or receive them in the future. On January 29, 1982, the government of Mexico submitted information that Arocha has never requested or received benefits under the CEDI or CEPROFI programs, and that Arocha has received loans during the first seven months of 1980 but has not requested or received any other loan from FOMEX.

The Department of Commerce ("the Department") published a notice in the Federal Register (47 FR 7866) on February 23, 1982, of its preliminary affirmative countervailing duty determination. It stated that we had preliminarily determined that the government of Mexico is providing its manufacturers, producers, and exporters of ceramic tile with benefits that are bounties or grants within the meaning of the countervailing duty law. We estimated the net subsidy to be 17.36 percent of the f.o.b. value of the imported merchandise, and directed the

U.S. Customs Service to suspend liquidation of all entries, or warehouse withdrawals for consumption, of this merchandise and to require a cash deposit, bond or other security in an amount equal to the estimated net subsidy.

On March 10-18, 1982, Department personnel verified in Mexico the government of Mexico's response to our questionnaires. We also verified that Arocha has not applied for or received CEDI and CEPROFI benefits and has not received FOMEX loans since 1980. Accordingly, on April 1, 1982, we notified the U.S. Customs Service to reduce the countervailing duty deposit rate for imports of ceramic tile produced and exported by Arocha to a zero rate.

#### Scope of Investigation

The merchandise included in this investigation is ceramic tile, including non-mosaic, glazed and unglazed ceramic floor and wall tile. It is currently classified under items numbers 532.24 and 532.27 of the *Tariff Schedules of the United States*. Section 303 of the Act applies to this investigation because Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act. Under the applicable law, no injury determination is required.

#### Programs Under Investigation

We have determined that the government of Mexico is providing bounties or grants to its manufacturers, producers, and exporters of ceramic tile under three programs: CEDI, CEPROFI and FOMEX.

#### The CEDI

The Certificado de Devolucion de Impuesto ("CEDI") is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are utilized, a percentage of the c.i.f. value of the exported product. The Secretary of Commerce of Mexico is responsible for setting the CEDI rate, which is not published; it is a percentage of the value of the product. Beginning December 1, 1980, the CEDI rate for ceramic tile was raised from 5 percent to 10 percent of the f.o.b. value. Based upon the government of Mexico's responses to our questionnaires and our verification of those responses we have found that the current rate for exports of ceramic tile is 10 percent of the f.o.b. value. We verified that generally all ceramic tile producers who properly apply for a 10 percent CEDI certificate on their tile exports receive it. Exporters

are required to apply for each CEDI by providing to the Ministry of Commerce ("SECOM") documentation with respect to each individual shipment of qualifying exports. SECOM processes the application and, on approval, instructs the Ministry of Treasury ("TESORERIA") to issue the CEDI's in the amount specified. The CEDI's are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

In general, when a subsidy program contains carry-over provisions, we calculate the benefit based on the value of the entire outstanding balance. However, where: (1) the amount of the benefit is known or easily foreseeable at the time of export; (2) the benefits may be used at once, both in the legal sense (the CEDI program does not require delay in using the credits) and the practical sense (the certificates may be used for a wide range of taxes, including, several which must be paid even by a firm not earning a profit); and (3) our investigation reveals that the credits are almost always utilized as soon as they become available rather than carried forward, then the amount of countervailable benefits utilized in a particular year may be considered equivalent to the value of credits made available during that year. Under these circumstances, the CEDI may be treated as the equivalent of a direct cash grant which is countervailable in full in the amount of 10 percent of the f.o.b. value of the exported merchandise.

#### Issue

Counsel for certain ceramic tile exporters argue that the CEDI is not countervailable in full since: (a) Not all exporters make application for, and thus do not receive the CEDI, and (b) the CEDI's are not necessarily utilized in the same period in which the shipment was exported, this reducing the value of the *ad valorem* benefit in situations of rising exports. Counsel argues that because receipt and utilization experience varies by each firm, the actual benefit amounts to less than the nominal CEDI rate allowed, and the Department should instead allocate total CEDI benefits received during a specific period of time over total exports to the United States during the same period.

Counsel cites *Industrial Fasteners Group, American Importers Association v. United States*—C.I.T.—, Slip. Op. 82-13, February 11, 1982, wherein the court held that any estimate of the tax benefits allowed by the government of India to exporters as a whole must take

into account, *inter alia*, the fact that certain exporters neither filed for nor received any or all tax benefits under the program. Counsel argues that if the Department uses an industry-wide rate, the exports for which the firms do not make an application for a CEDI must be factored into the calculation to reflect the rate of benefit received by the industry as a whole. Counsel also cites the Brazilian countervailing duty cases wherein the Department allocated the benefits earned over exports made during the period in which the tax credits were utilized (i.e., in the period following the fiscal year in which the tax credits were earned).

#### DOC Position

If we were to calculate one countervailing duty rate on the CEDI program by using an average receipt or utilization rate (i.e., less than 10 percent), we would be applying a countervailing duty to firms which receive no benefit, and applying an average rate (i.e., less than 10 percent) to firms which receive the full 10 percent CEDI. Since all firms can receive the 10 percent CEDI upon approval of their application, we will apply a 10 percent countervailing duty to the CEDI program, and we will provide for a certification process that will allow an adjustment to the duty deposit rate to zero for firms certified and verified as not applying for the countervailable benefits.

Our verification of the government of Mexico's responses revealed that CEDI applicants utilize the certificates for payment of a wide variety of taxes within a relatively short time after receipt. The primary reason that certain companies utilized certificates to pay taxes at a rate lower than 10 percent of exports in 1980 and 1981 was that the companies' exports have been increasing. If exports of ceramic tile from Mexico were to decrease, then CEDI applicants could utilize the certificates at a rate greater than 10 percent of exports. In addition, it was demonstrated during the verification that there may be short delays from the time of application for CEDI to the time individual firms receive the CEDI certificates, but such delays do not constitute the basis for an offset under our law.

The Department believes that the facts in *Indian Fasteners* and Brazilian countervailing duty cases are not directly comparable to the facts in this case, and that those decisions do not have direct bearing on this determination. In contrast to the Indian tax deduction program, the actual CEDI benefit allowed and received is the

same since the CEDI is consistently granted as a fixed proportion of the f.o.b. value of each export shipment. The Department has also allowed imports from those exporters who are properly certified and verified as not applying for any subsidy to be exempt from the posting of any duty deposits. Furthermore, the controlling factor in the Department's decision in the Brazilian cases is that the value of the firm's tax credit is based on the ratio of its annual exports to its total annual revenues, and utilization is dependent upon the federal income tax liability of the firm in that given year. There is no provision for carrying forward any unused portion of the firm's tax credit. Under these conditions, the Brazilian exporters do not know the amount of benefit, if any at all, until the end of their fiscal year. Mexican tile exporters, however, not only know the full value of the benefit from the start, but they have demonstrated that they use the full face value of the certificate in a short period of time.

#### Issue

Counsel for the respondents also argued that if the Department declined to calculate a single rate for the entire industry in the manner outlined by counsel above, the Department should calculate company-specific rates or a weighted average utilization rate for the two largest exporters.

#### DOC Position

It is the longstanding practice of the Department to set country-wide countervailing duty rates where at all possible. The Department believes that by setting a zero duty deposit rate for imports from firms properly certified and verified as not applying for subsidies, it has adequately protected against the assessment of duties where clearly no benefits have been bestowed.

The Department has determined that the government of Mexico is providing bounties or grants to its manufacturers, producers, and exporters of ceramic tile under the CEDI program in the amount of 10 percent of the f.o.b. value. In calculating the value of the countervailable benefit attributable to the CEDI, the Department determines that the benefit is the nominal rate granted on each shipment of the subject merchandise (i.e., 10 percent of the f.o.b. value of ceramic tiles). For those firms which are properly certified by the government of Mexico as not applying for any subsidies whatsoever, upon proper verification the duty deposit rate may be reduced to zero percent.

### The CEPROFI Program

In 1979, the government of Mexico introduced a four-year National Industrial Development Plan ("NIDP") which spells out broad economic goals for the country. Tax credits, which are called Certificates of Fiscal Promotion ("CEPROFI"), are used to increase employment and to promote the NIDP goals, which include the promotion of regional decentralization, industrial investment, and small and medium sized firms.

CEPROFI certificates are similar to CEDI certificates; both are non-transferable tax certificates of a set value which may be used for a five-year period to pay federal taxes. CEPROFI certificates are granted for carrying out investments in "priority" industrial activities. The amount of the CEPROFI is based upon the location of the activity, the number of jobs generated, the value of the investments in new plants and equipment, or the amount of purchase of capital goods produced in Mexico.

We found that CEPROFI's granted with respect to ceramic tile manufacturers were intended to encourage industrial development in specific regions in Mexico. The Department has consistently held that regional development benefits are countervailable. We, therefore, have determined that the CEPROFI's granted in this case are domestic subsidies.

The Department notes that the promotion of exports is included in the extensive list of NIDP goals and the objectives listed in the preamble to the CEPROFI decree. The Department may in other instances determine that the CEPROFI's serve as export subsidies. However, in this particular case, the Department did not find significant evidence to indicate that the CEPROFI's granted to the ceramic tile manufacturers was for the primary purpose of promoting exports. The ceramic tile manufacturers have a large home market for their products and are not geographically concentrated along the border or port areas. A CEPROFI such as this may be expected to benefit the entire production of the firm and not exports alone.

The Department has determined that the government of Mexico is providing bounties or grants to its manufacturers, producers, and exporters of ceramic tile under the CEPROFI program. We have allocated the countervailable CEPROFI benefits received in the first nine months of 1981 over the total production of tile produced during that period, which results in a net subsidy of .09 percent *ad valorem*.

### Preferential Financing Programs

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust established by the Government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department, with the Bank of Mexico (Mexico's central bank) acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions. The financial institutions establish contracts for lines of credit with manufacturers and exporters of ceramic tile.

We found that FOMEX loans are available at preferential rates to producers, manufacturers, and exporters of ceramic tile for two purposes: pre-export (production) financing or export financing.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks to the extent of the loans. We found that the maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent in the currency of the country of importation.

#### Issue

The government of Mexico contends that the FOMEX loans are comparable to loans authorized by the OECD arrangement on export credits ("Arrangement"), that such loans under the Arrangement are not countervailable, and that therefore FOMEX loans are not countervailable. The Mexican government and counsel for certain exporters believe that paragraph K of the Illustrative List of Export Subsidies (Annex A of the Agreement of Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade) establishes the standard of review for FOMEX financing under the United States countervailing duty law.

### DOC Position

FOMEX terms and rates are different from those under the OECD Arrangement. Mexico is not a member of the Arrangement, and the U.S. government has not recognized loans under the Arrangement as non-countervailable. There are a large number of precedents in previous cases before the Department supporting a determination that similar preferential loans are countervailable, and the benefits should be calculated on the basis of commercially available rates.

We believe that regardless of what effects the Illustrative List of Prohibitive Export Subsidies may have on U.S. law otherwise, the uniform past practices on this issue in comparison with the legislative history of the Trade Act requires us to calculate the bounty or grant provided under a preferential loan program on the basis of a comparison between the preferential rate and the commercially available rate rather than on the basis of a comparison with the cost of the funds to the government.

The government of Mexico did not provide information on the commercial rate of interest in Mexico which was available to tile manufacturers and exporters. We contacted various banks in Mexico City and consulted with the American Embassy in Mexico City and the U.S. Department of the Treasury to determine what the comparable commercial rate of interest was in Mexico for ceramic tile exporters during the first nine months of 1981. During our verification of the government of Mexico's response, we verified that certain exporters received commercially available dollar-denominated and peso-denominated loans.

On the basis of the best information available, the Department has determined that the government of Mexico is providing bounties or grants to its manufacturers, producers, and exporters of ceramic tile under the FOMEX program. We have determined that during the first nine months of 1981, comparable dollar-denominated loans were available at 23.49 percent, which is 4 percent over the average U.S. prime rate for the first three quarters of 1981. For comparable peso-denominated loans, we found that interest rates were commercially available at 45 percent interest for large ceramic tile manufacturers and exporters and 55 percent interest for other ceramic tile manufacturers and exporters during the period.

For those FOMEX loans obtained by ceramic tile manufacturers during the period January 1, 1981—September 30,

1981, we computed the difference in interest expense between the FOMEX loans and that which would have been incurred had the loans been made at commercial rates. We allocated this amount over the value of total exports during the same period in the case of pre-export financing loans, and over the value of exports to the U.S. during the same period in the case of export financing loans. We have determined the net amount of the benefit rate for loans granted for pre-exports to be 3.42 percent *ad valorem* and the net amount of the benefit rate for export financing to be 2.33 percent *ad valorem*, for a total subsidy under the two programs of 5.75 percent *ad valorem*.

#### Final Determination

We have determined that the government of Mexico is providing bounties or grants within the meaning of section 303 of the Act to its producers, manufacturers, and exporters of ceramic tile and that the estimated net amount of these bounties or grants equal 15.84 percent of the f.o.b. value of the exported merchandise.

#### Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with the Department of Commerce's Regulations (19 CFR 353.35). No request was received for a public hearing in this case. In addition, written views have been received in accordance with the Department of Commerce's Regulations (19 CFR 355.34(a)).

Customs officers are directed to continue the suspension of liquidation ordered in the preliminary determination. Effective upon the publication of this notice in the *Federal Register* and until further notice a cash deposit, in the amount of 15.84 percent *ad valorem*, must be posted on all ceramic tile entering the United States from Mexico or being withdrawn from warehouses for consumption, except for those manufactured by Jesus Garza Arocha for which the duty deposit rate is zero.

We have deleted from the Commerce Regulations Annex III, which listed countervailing duty orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published pursuant to sections 303 and 706 of the Act (19 U.S.C. 1303, 1671e).

Gary N. Horlick,

Acting Assistant Secretary for Trade Administration.

May 3, 1982.

[FR Doc. 82-12637 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-25-M

#### Frederick Cancer Research Center; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00379. Applicant: Frederick Cancer Research Center, P.O. Box B, Frederick, MD 21701. Article: Digital Scan Control Unit. Manufacturer: VG Micromass/VG Data Systems, United Kingdom. Intended Use of Article: See Notice on page 51626 in the *Federal Register* of October 21, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket No. 80-00394, which was denied without prejudice to resubmission for informational deficiencies (March 5, 1981). The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-12647 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-25-M

#### Smithsonian Institution; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00360. Applicant: Smithsonian Institution, U.S. National History, Washington, D.C. 20560. Article: Scanning Electron Microscope, Stereoscan 250 T with Accessories. Manufacturer: Cambridge Instruments, Ltd., United Kingdom. Intended use of article: See Notice on page 48279 in the *Federal Register* of October 1, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides large specimen (30 mm x 5 mm) XY motion of 100 mm, Z motion of 20 mm, tilt of 0-40° and rotation of 300°. The National Bureau of Standards advises in its memorandum dated February 22, 1982 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-12648 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-25-M

### Texas Tech University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00322. Applicant: Texas Tech University, Department of Industrial Engineering, Lubbock, TX 79409. Article: Respiration Gas Meter Model 59 with Accessories. Manufacturer: Gesellschaft Fur Geratebau, West Germany. Intended Use of Article: See Notice on page 43729 in the Federal Register of August 31, 1981.

Comments: No comments have been received with respect to this application. Decision: application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is a portable device capable of taking samples of exhaled air. The Department of Health and Human Services and the National Bureau of Standards advise in their memoranda dated December 1, 1981 and February 23, 1982, respectively, that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-12649 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-25-M

### National Technical Information Service

#### Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

SN 6-140,063, N-Sulfonyl Amine-Mediated Sulfamation of Amines. Filed 19 April 80 by Dept. of HHS. Inventor: Grant E. Dubois.

SN 6-140,064, Sulfamo Dihydrochalcone Sweeteners. Filed 14 April 80 by Dept. of HHS. Inventor: Grant E. Dubois.

SN 6-148,491, Apparatus and Method for Continuous Countercurrent Extraction and Particle Separation. Filed 9 May 80 by Dept. of HHS. Patent 4,324,661 issued 13 April 82. Inventor: Dr. Yoichiro Ito.

SN 6-330,020, Self-Contained Lysis-Filtration Blood Culture Chamber. Filed 11 Dec 81 by Dept. of HHS. Inventor: Dr. Charles H. Zierdt.

SN 6-349,313, Modified Silver Stain for Proteins in Polyacrylamide Gels. Filed 16 Feb 82 by Dept. of HHS. Inventor: James H. Morrissey.

SN 6-363,480, Neisseria Gonorrhoeae Vaccine. Filed 30 March 82 by Dept. of HHS. Inventor: Buchanan et al.

[FR Doc. 82-12611 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-04-M

#### Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Efratom Systems Corporation having a place of business at Irvine, California 92715 an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Frequency Stabilization Utilizing Multiple Modulation," U.S. Patent No. 4, 122,408

(dated October 24, 1978). The availability of this invention for licensing was announced in the Federal Register (43 FR 22232, dated May 24, 1978). Copies of the Patent may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: May 3, 1982.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 82-12612 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-04-M

## DEPARTMENT OF DEFENSE

### Defense Logistics Agency

#### Privacy Act of 1974;

#### Amendment to System of Record

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice of Amendment to System of Records.

SUMMARY: The Defense Logistics Agency proposes to amend a system of records subject to the Privacy Act of 1974. Specific changes to the system is set forth below followed by the system notice published in its entirety as amended.

DATES: This system shall be amended as proposed without further notice on June 9, 1982.

ADDRESSES: All comments should be addressed to Civilian Personnel, DLA-KW, Hq., DLA, Cameron Station,

Alexandria, Virginia 22314, telephone 202/274-6039.

**FOR FURTHER INFORMATION CONTACT:** Mr. Preston B. Speed, DLA-XAM, Hq. DLA, Cameron Station, Alexandria, VA 22314, telephone 202/274-6234.

**SUPPLEMENTARY INFORMATION:** The Defense Logistics Agency system of records subject to the Privacy Act of 1974, Title 5 U.S.C. 552a (Pub. L. 93-579, 44 stat. 1896, *et seq.*) were published in the Federal Register at FR Doc. 82-874 (47 FR 2544), January 18, 1982.

This proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Privacy Act which requires the submission of an altered system report.

M. S. HEALY,

OSD Federal Register Liaison Officer,  
Department of Defense.

May 5, 1982.

#### Amendment

##### S434.15 DLA-KP

###### System name:

S434.15 Automated Payroll, Cost and Personnel System (APCAPS) Personnel Subsystem (44 FR 5700) January 29, 1979.

###### System location:

Add the following activities:

Defense Contract Administration Services Region (DCASR), Atlanta  
Defense Contract Administration Services Region (DCASR), Boston  
Defense Contract Administration Services Region (DCASR), Chicago  
Defense Contract Administration Services Region (DCASR), Cleveland  
Defense Contract Administration Services Region (DCASR), Dallas  
Defense Contract Administration Services Region (DCASR), Los Angeles  
Defense Contract Administration Services Region (DCASR), New York  
Defense Contract Administration Services Region (DCASR), St. Louis

###### Authority:

Change "Chapter 293" to "Chapters 290 and 293."

###### Safeguards:

Change the second paragraph from "Civil Service Commission Officials" to "Office of Personnel Management Officials."

###### System manager:

Add "DCASR Atlanta, DCASR Boston, DCASR Chicago, DCASR Cleveland, DCASR Dallas, DCASR Los Angeles, DCASR New York, DCASR St. Louis."

#### Record Source Categories:

Change "U.S. Civil Service Commission" to "U. S. Office of Personnel Management."

##### S434.15 DLA-KP

###### SYSTEM NAME:

434.15 Automated Payroll, Cost and Personnel System (APCAPS) Personnel Subsystem.

###### SYSTEM LOCATION:

Offices of Civilian Personnel at:  
Defense Construction Supply Center (DCSC)  
Defense Electronics Supply Center (DESC)  
Defense General Supply Center (DGSC)  
Defense Personnel Support Center (DPSC)  
Defense Property Disposal Service (DPDS)  
Defense Depot Memphis (DDMT)  
Defense Depot Ogden (DDOU)  
Defense Depot Tracy (DDTC)  
Defense Depot Mechanicsburg (DDMP)  
Defense Logistics Agency Administrative Support Center (DASC)  
Defense Contract Administration Services Region (DCASR), Atlanta  
Defense Contract Administration Services Region (DCASR), Boston  
Defense Contract Administration Services Region (DCASR), Chicago  
Defense Contract Administration Services Region (DCASR), Cleveland  
Defense Contract Administration Services Region (DCASR), Dallas  
Defense Contract Administration Services Region (DCASR), Los Angeles  
Defense Contract Administration Services Region (DCASR), New York  
Defense Contract Administration Services Region (DCASR), St. Louis

###### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defense Logistics Agency (DLA) civilian employees serviced by Offices of Civilian Personnel at the activities listed under LOCATION and other Department of Defense civilian employees who are both serviced by the Offices of Civilian Personnel and paid by the activities listed under LOCATION.

###### CATEGORIES OF RECORDS IN THE SYSTEM:

Employee data segment of APCAPS data bank, including data being manually collected prior to implementation of the automated record system. For the civilian personnel segment of APCAPS, the employee data segment of the APCAPS data bank contains, for civilian employees, current personnel data on employment status

and selected personal data, such as Social Security Number (SSN), name, sex, minority group designator, date of birth, age physical handicap, Government insurance, military reserve status, retired military status, education, whether individual passed the Federal Service Entrance Examination or the Professional and Administrative Career Examination, status preceding employment with DLA, U.S. citizenship, and veterans preference.

*Position data segment of APCAPS data bank.* For the civilian personnel segment of APCAPS, the position data segment of the APCAPS data bank contains position data pertinent to established positions, both those positions occupied by a civilian employee as well as those not so occupied.

Personnel history file. The personnel history file contains a profile of selected civilian employee personnel data as of the most recent transaction processed against it, as well as a chronological extract of all prior transactions processed on the employee.

###### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 302; E.O. 10561; Federal Personnel Manual, Chapters 290 and 293.

###### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purposes of the system are to affect Federal personnel actions, maintain the Federal personnel service control system, fulfill Federal personnel reporting requirements, and provide information to officials of DLA for effective personnel management and personnel administration.

Prospective employees. For employment determination purposes.

Credit firms. For verification of data for credit determination purposes.

Taxing authorities. For tax administration purposes.

Officials of the Executive Branch. For performance of official duties.

Officials of the Judicial Branch. For performance of official duties.

Hospitals, medical offices and institutions. For medical/hospital administration purposes.

Executor or administrator of the estate of a deceased employee, former employee, or annuitant, or next-of-kin. For estate settlement purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

**STORAGE:**

Computer magnetic tapes or discs.  
Computer paper printouts. Paper records  
in file folders.

**RETRIEVABILITY:**

Information identified to a specific  
civilian employee is accessed and  
retrieved by Social Security Number.

**SAFEGUARDS:**

Records are either secured in locked  
storage and/or file cabinets or under the  
constant observation of personnel office  
officials during duty hours. During non-  
duty hours, records are either secured in  
locked storage and/or file cabinets; the  
records file area is locked, and/or the  
building in which the records are stored  
is protected by building security guard.  
If the records area is not protected by  
security guard, all records must be  
locked. Individually identifiable  
personnel documents will either be  
handcarried or will be transmitted in  
envelopes addressed to a specific office  
or individual and marked to be opened  
by addressee only. Magnetic tapes and  
discs are kept in the computer room  
which is itself a security container with  
locked door and access limited to  
persons appropriately cleared and  
identified. Tapes and disc packs are  
stored in a tape library when not used in  
processing, and are logged in and out  
only to cleared personnel with an  
official need. Reports with individual  
data are closely controlled. Computer  
personnel who process these reports are  
appropriately cleared and maintain  
continuous observation of reports during  
all processing phases. Individual  
requesting information must identify  
himself/herself and his/her relationship  
to the individual upon whom the record  
information is being requested.  
Individual other than the individual of  
record must specify what information is  
requested and the purpose for which it  
would be used if disclosed. Personnel  
office official determines if request is  
reasonable and consistent with  
provisions of the Freedom of  
Information Act and the Privacy Act of  
1974. In order to prevent unauthorized  
modification of records contents,  
original records documents may only be  
reviewed in the presence of a witness  
designated by the Personnel Office.

Physical access, that is the ability to  
obtain the record, is limited to:  
Personnel office officials  
Office of Personnel Management  
officials

Date processing officials

Supervisors for those records for  
which they are authorized to maintain.  
Responsible officials are granted  
temporary custody of an original record

in order to monitor the review of the  
record by the individual to whom it  
pertains, when the individual is  
geographically remote from the  
personnel office.

**RETENTION AND DISPOSAL:**

Records which are filed in the Official  
Personnel folder (OPF) are retained in  
the personnel office until the employee  
leaves the agency. At that time the  
permanent portion of the OPF is  
transferred to the gaining Federal  
agency and temporary OPF records are  
destroyed by shredding or burning.  
Copies of records which are furnished to  
the employee concerned may be  
retained at his or her discretion. Copies  
of records authorized to be maintained  
by supervisors or other operating offices  
are destroyed by shredding or burning  
when the employee leaves the agency.  
Operating records maintained within the  
Civilian Personnel Office may be  
retained up to three years, as needed. At  
that time, or sooner, they may be  
destroyed by burning or shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

Staff Director, Civilian Personnel, HQ  
DLA and Directors of Civilian Personnel  
at DCSC, DPDS, DESC, DGSC, DPSC,  
DDMT, DDOU, DDTC, DDMP, DASC,  
DCASR Atlanta, DCASR Boston,  
DCASR Chicago, DCASR Los Angeles,  
DCASR New York or DCASR St. Louis.

**NOTIFICATION PROCEDURE:**

Written or personal requests may be  
directed to the System Manager at the  
activity where the record is maintained.  
Individual must provide name (last, first,  
middle initial) and SSN in order to  
determine whether or not the system  
contains a record about him/her. If a  
written request, individual must provide  
a return address.

For personal visits, the individual  
should be able to provide some  
acceptable identification, such as  
employing office identification card.

**RECORD ACCESS PROCEDURES:**

Written requests are required. The  
request is to contain the name of the  
individual (last, first, middle initial),  
SSN, return mailing address, telephone  
number where individual can be  
reached during the day, and a signed  
statement certifying that the individual  
understands that knowingly or willfully  
seeking or obtaining access to records  
about another individual under false  
pretenses is punishable by a fine of up  
to 5,000 dollars. Complete records are  
maintained only on magnetic tapes or  
discs and are not available for access by  
personal visits.

**CONTESTING RECORD PROCEDURES:**

The agency's rules for contesting  
contents and appealing initial  
determination by the individual  
concerned may be obtained from the  
System Manager.

**RECORD SOURCE CATEGORIES:**

Agency supervisors and  
administrative personnel, medical  
officials, previous Federal employers,  
U.S. Office of Personnel Management,  
applications and forms completed by  
individual.

**SYSTEMS EXEMPTED FROM CERTAIN  
PROVISIONS OF THE ACT:**

None.

[FR Doc. 82-12583 Filed 5-7-82; 8:45 am]

BILLING CODE 3620-01-M

**Department of the Navy****Privacy Act of 1974; Addition of  
Systems of Records**

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Addition of one system of  
records notice.

**SUMMARY:** The Department of the Navy  
proposes to add one new system of  
records to its inventory of systems of  
records subject to the Privacy Act of  
1974.

**DATE:** The proposed action will be  
effective without further notice on June  
9, 1982, unless comments are received  
which would result in a contrary  
determination.

**ADDRESS:** Any comments, to include  
written data, views or arguments  
concerning the action proposed should  
be addressed to the system manager  
identified in the system notice.

**FOR FURTHER INFORMATION CONTACT:**  
Mrs. Gwendolyn R. Aitken, Privacy Act  
Coordinator, Office of the Chief of  
Naval Operations (OP-09B1P),  
Department of the Navy, The Pentagon,  
Washington, DC 20350. Telephone: (202)  
694-2004.

**SUPPLEMENTARY INFORMATION:** The  
Department of the Navy inventory of  
systems of records notices as prescribed  
by the Privacy Act have been published  
in the Federal Register at: FR. Doc. 81-  
674 (47 FR 2574) January 18, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer,  
Department of Defense.

May 5, 1982.

1. *System Identification and Name:*  
N01131-2, "U.S. Naval Academy  
Admissions Records."

2. *Responsible Official:* Comments on  
the proposed new System notice may be

directed to: Admissions Officer, Office of the Dean of Admissions, U.S. Naval Academy, Annapolis, Maryland 21402, telephone: (301) 267-4361, extension 39.

3. *Purpose:* To provide a data base from which: the Admissions Board can examine each candidate's school records (SAT and ACT scores), recommendations from school officials, record of extracurricular activities, and other evidence of character, leadership potential, and academic aptitude and achievement, to assist in selecting candidates for admission; the Naval Academy can provide the applicant's Congressman or other nominating official with periodic status reports, including a preliminary evaluation of the applicant, results of the medical examination, and other information which may assist the applicant in being selected for a Congressional nomination; and to enable Naval Academy officials to counsel applicants on all aspects of admission.

4. *Authority for Maintenance System:* 5 U.S.C. 301; 10 U.S.C. 6956, 6957 and 6958; 44 U.S.C. 3101.

5. *Number of Individuals:* The system will affect each of the current 4500 midshipmen and each year will affect approximately 1500 additional candidates for admission.

6. *Information on First Amendment Activities:* No information relating to the individual's exercise of First Amendment rights is contained in this system.

7. *Measures to Assure Information Accuracy:* Data is verified by educational technicians who screen records prior to submitting to the Admissions Board for final review. All self-reported data is verified by school officials. Updating provides for subsequent changes/corrections of data as it is received.

8. *Other Measures to Assure System Security:* Files are maintained in a controlled environment with permission to view records on a need to know basis only to those in the midshipman's chain of command, both military and academic.

9. *Relations to State/Local Government Activities:* None.

10. *Supporting Documentation:* No changes to existing procedural or exemption rules are required.

N01131-2

**SYSTEM NAME:**

U.S. Naval Academy Admissions Records.

**SYSTEM LOCATION:**

U.S. Naval Academy, Leahy Hall, Annapolis, Maryland 21402.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All candidates for admission to the Naval Academy.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Admissions records, including information on nominations and appointments, and candidate guidance files. Admissions files contain personal data, personal statements, transcripts from previous academic institutions, admission tests results, physical aptitude exam results, recommendation letters from school officials and others, interest inventory, extracurricular activities report, and report of officer interview. Nominations and appointments records consist of card files of all Congressional Offices and who each congressman appointed; files of candidates nominated for the following academic year; status cards, indexed by nominating source, of all candidates appointed, admitted, and graduated or resigned prior to graduation. Similar files are separately kept on foreign candidates. Candidate guidance files consist of precandidate questionnaires concerning educational background, personal data, physical data, extracurricular activities and employment.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, 10 U.S.C. 6956, 6957, and 6958, 44 U.S.C. 3101.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Nominations and admissions records, including pre-candidate questionnaires, are the starting point of records for all future midshipmen. They are used to keep track of all candidates nominated by Congress and other sources. All nominating sources have access to records. The Academy admissions department uses the records to determine qualification status for candidates. The records may also be used by various faculty department heads, and the Naval Academy Prep School.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

All records are filed in folders or index boxes, and stored in file cabinets in the appropriate offices.

**RETRIEVABILITY:**

Basic admissions records are retrieved by use of a six digit candidate number. Nominations and Appointment personal data, physical data,

extracurricular activities and employment.

**AUTHORITY FOR MAINTENANCE OF SYSTEM:**

5 U.S.C. 301, 10 U.S.C. 6956, 6957, and 6958, 44 U.S.C. 3101

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Nominations and admissions records, including pre-candidate questionnaires, are the starting point of records for all future midshipmen. They are used to keep track of all candidates nominated by Congress and other sources. All nominating sources have access to records. The Academy Admissions department uses the records to determine qualification status for candidates. The records may also be used by various faculty department heads, and the Naval Academy Prep School.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

All records are filed in folders or index boxes, and stored in file cabinets in the appropriate offices.

**RETRIEVABILITY:**

Basic admissions records are retrieved by use of a six digit candidate number. Nominations and Appointment records are indexed either by candidate names or by nomination source. Candidate guidance questionnaires are stored by candidate names alphabetically.

**SAFEGUARDS:**

Visitor control and all files are kept in locked file cabinets and locked offices.

**RETENTION AND DISPOSAL:**

Admissions records of admitted candidates are kept by the Registrar's office after a candidate reports. Unsuccessful candidate files are kept for one year in locked file, then destroyed. Nomination and Appointment files vary in retention. All Congressional Office card files are kept for 10 years on the premises. Status cards of admittees are kept until graduation or resignation, and then transferred to the Academy archives and microfilmed. Nominations files are disposed of yearly through normal refuse removal methods. Candidate guidance files are destroyed after one year.

**SYSTEM MANAGER(S) AND ADDRESS:**

Admissions Officer, Office of the Dean of Admissions, U.S. Naval Academy, Annapolis, Maryland 21402.

**NOTIFICATION PROCEDURE:**

Written request may be made to the system manager.

**RECORD ACCESS PROCEDURES:**

Rules for access to records may be obtained from the system manager.

**CONTESTING RECORD PROCEDURES:**

Rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Educational institutions, nominating sources, individual candidates, school officials, personal statements, Blue and Gold officer interviews, and letters of recommendation.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 82-12593 Filed 5-7-82; 8:45 am]

BILLING CODE 3810-AE-M

**Office of the Secretary****Armed Forces Epidemiological Board; Open Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board Subcommittee on Disease Control

Date of meeting: June 23, 1982  
Time: 0900-1600

Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.

**Proposed Agenda**

Antibiotic use in rickettsial and diarrheal disease, immunization schedules in the Armed Forces, multiple immunizations and use of quadrivalent meningococcal vaccine.

This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 2D455 Pentagon, Washington, D.C. 20310 (Telephone 695-9115).

Dated: April 30, 1982.

Charles W. Halverson,  
Captain, MSC, USN Executive Secretary.

[FR Doc. 82-12638 Filed 5-7-82; 8:45 am]

BILLING CODE 3710-08-M

**Armed Forces Epidemiological Board; Open Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board Task Force on Epidemiological Methods in the Health Care Delivery System

Date of meeting: June 23, 1982  
Time: 0900-1600

Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.

**Proposed Agenda**

Presentations and discussions by the services and DOD concerning Medical Lost Time by AFSC, service-wide ambulatory care information systems, Navy occupational health information monitoring systems, utilization of current health information systems by departmental planners and policy makers, Navy hearing conservation program data management system and medical health care delivery systems within the U.S. Army.

This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the Committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 2D455 Pentagon, Washington, D.C. 20310. (Telephone 695-9115).

Dated: April 30, 1982.

Charles W. Halverson,  
Captain, MSC, USN, Executive Secretary.

[FR Doc. 82-12639 Filed 5-7-82; 8:45 am]

BILLING CODE 3710-08-M

**Armed Forces Epidemiological Board; Open Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board

Date of meeting: June 24-25, 1982  
Time: 0900-1600 June 24, 1982, 0900-1400 June 25, 1982

Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.

**Proposed Agenda:**

Recent trends in surveillance and control of penicillinase producing *Neisseria gonorrhoeae* (PPNG) in the U.S., Service preventive medicine

reports, update on Operation Ranch Hand (herbicide orange) and reports from the AFEB Subcommittees on Disease Control, Environmental Quality and Health Maintenance.

This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 2D455 Pentagon, Washington, D.C. 20310. (Telephone 695-9115).

Dated: April 30, 1982.

Charles W. Halverson,  
Capt, MSC, USN, Executive Secretary.

[FR Doc. 82-12640 Filed 5-7-82; 8:45 am]

BILLING CODE 3710-08-M

**Defense Intelligence Agency Advisory Committee; Meeting Cancellation**

The closed meeting of the DIAAC on the special study on bomber prelaunch survivability scheduled for May 13, 1980, at Plaza West, Rosslyn, Virginia, as published in the *Federal Register* (47 FR 15406) April 9, 1982, has been canceled.

Dated: May 5, 1982.

M. S. Healy,  
OSD Federal Register Liaison Officer,  
Department of Defense.

[FR Doc. 82-12605 Filed 5-7-82; 8:45 am]

BILLING CODE 3810-01-M

**Public Information Collection Requirement Submitted to OMB for Review**

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

## New

*Portfolio Business Profile*

The Booker T. Washington Foundation, under a Department of Defense contract, has developed the DOD portfolio system; an outreach program which seeks out, on a voluntary basis, those disadvantaged business firms who desire to participate in DOD's acquisition program. The Portfolio Business Profile form is used by Booker T. Washington Foundation Account Executives to obtain significant data from such firms through personal interview with appropriate officials. It lists their capabilities and capacities in terms of equipment, numbers and skills of employees, kinds of work done in the past, and general capability to perform.

Disadvantaged Business Firms: 5,000 responses; 10,000 hours.

Forward comments to Kenneth Allen, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 4B929, Pentagon, Washington, D.C. 20301, telephone (292) 697-1195.

A copy of the information collection proposal may be obtained from A. F. Williams, OPI, Room 2A340, Pentagon, Washington, D.C. 20301, telephone (202) 697-1481.

M. S. Healy,

*OSD Federal Register Liaison Officer,  
Department of Defense.*

May 5, 1982.

[FR Doc. 82-12626 Filed 5-7-82; 8:45 am]

BILLING CODE 3810-01-M

## DELAWARE RIVER BASIN COMMISSION

### Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 19, 1982, commencing at 1:30 a.m. The hearing will be a part of the Commission's regular May business meeting, which is open to the public. Both the hearing and the meeting will be held in the Pilot Room at the Virden Conference Center, University of Delaware, Lewes, Delaware. The subject of the hearing will be application for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Cape May County Municipal Utilities Authority (D-74-153 CP).* Expansion of a sewage collection system and upgrading of a sewage treatment plant to serve the City of Cape

May, the Boroughs of West Cape May and Cape May Point and a portion of the Township of Lower, Cape May County, New Jersey. The proposed treatment facilities are designed to remove 85 percent of BOD and suspended solids from a peak flow of three million gallons per day projected for 1990. Treated wastewater will continue to be discharged, via the outfall from the existing plant, into Delaware Bay.

2. *New York State Environmental Facilities Corp. (D-81-66 CP).* A sewage treatment project serving the Village of Woodridge and portions of the Town of Fallsburg, Sullivan County, New York. An existing treatment facility will be replaced by a new plant designed to provide a minimum of 90 percent removal of BOD from a sewage flow of 790,000 gallons per day. Treated effluent will discharge to the Neversink River.

3. *J. O. Ryder Rendering Company, Inc. (D-82-18).* Expansion of industrial wastewater treatment facilities to serve the existing rendering plant in Westfall Township, Pike County, Pennsylvania. The expanded facilities are designed to remove approximately 96 percent of BOD and 94 percent of the suspended solids from a flow of 161,000 gallons per day. Treated effluent will continue to be discharged into the Delaware River.

Documents relating to the above-listed projects may be examined at the Commission's offices. Contact Mr. David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

W. Brinton Whitall,  
*Secretary.*

May 3, 1982.

[FR Doc. 82-12613 Filed 5-7-82; 8:45 am]

BILLING CODE 6360-01-M

## DEPARTMENT OF EDUCATION

### National Advisory Council on Ethnic Heritage Studies; Meeting

**AGENCY:** National Advisory Council on Ethnic Heritage Studies, Ed.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the National Advisory Council on Ethnic Heritage Studies. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

**DATES:** May 25, 1982—9:00 a.m. to 4:30 p.m., May 26, 1982—9:00 a.m. to 12 noon.

**ADDRESS:** Federal Office Building 6, Room 3000, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

**FOR FURTHER INFORMATION CONTACT:** Dr. Wilton Anderson, Chief, Program Assistance and Operations Branch, Education Program Support Division, Room 1167 Donohoe Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202. (202) 245-8213.

**SUPPLEMENTARY INFORMATION:** The National Advisory Council on Ethnic Heritage Studies is established under Section 956 of the Elementary and Secondary Education Act of 1965 as amended (20 U.S.C. 3366). The Council makes recommendations regarding the collection of data to facilitate program planning and evaluation; suggests innovations to meet program needs or otherwise improve ethnic heritage studies; recommends appropriate areas for research; and provides such administrative and legislative proposals as may be appropriate.

The meeting of the Council shall be open to the public. The proposed agenda includes the introduction and swearing in of new Council members; review of current status and past accomplishments in ethnic heritage education; issues and recommendations regarding the future of ethnic heritage education; and Council business, old and new.

Records are kept of all Council proceedings and are available for public inspection at the Program Assistance and Operations Branch, Room 1157 Donohoe Building, 400 6th Street, S.W., Washington, D.C. 20202 from the hours of 8:00 a.m. to 4:30 p.m.

Dated: May 5, 1982.

Monika Edwards Harrison,

*Director of Policy Planning and Program  
Development/Executive Assistant.*

[FR Doc. 82-12654 Filed 5-7-82; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Privacy Act of 1974; Proposed New System of Records

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Public notice of proposed new system of records.

**SUMMARY:** The Federal Energy Regulatory Commission (the Commission) proposes to establish a new system of record keeping to be identified as the Time Distribution

Reporting System (TDRS). The proposed system will be used to secure and maintain data on the time expended on the various items of the Commission's workload. Collection of this data will promote the budget formulation process and facilitate the determination of fees to be charged for Commission services. The Commission will accept public comments on the proposal.

**DATES:** This system shall become effective as proposed on July 1, 1982, unless comments are received on or before that date which would result in a contrary or changed determination.

**ADDRESS AND COMMENT PROCEDURES:** All comments must be submitted in writing. Three copies of any comments should be submitted to: Office of the Secretary, ATTENTION: Kenneth M. Pusateri, Office of Program Management, 825 North Capitol Street, N.E., Washington, D.C. 20428.

**FOR FURTHER INFORMATION CONTACT:** Kenneth M. Pusateri, Office of Program Management, 825 North Capitol Street, N.E., Washington, D.C. 20428. (202) 357-8002.

**SUPPLEMENTARY INFORMATION:** The Commission herein provides notice of a proposed new system of record keeping. The system involves bi-monthly report forms completed by Commission employees in order to record time expended against specified Commission activities. Utilizing electronic data processing methods, individual records are summarized to produce organizational reports on time expended by activity. The purpose of the system is to enhance the formulation of the Commission's budget, improve the management of staff resources, and provide data for the assessment of fees for Commission services.

Information to be stored in the system will come from reports by Commission personnel. The proposed system will summarize individual reports into organizational components to permit access by the Commission's managerial and supervisory staff. While control of the data will remain at all times with the Commission, the computer facilities of Boeing Computer Services will be used to process and store some of the data as provided in the contract between Boeing and the Department of Energy; these services are available to the Commission pursuant to a common support agreement entered into between the Department and the Commission.

As required by section 3 of the Privacy Act of 1974, 5 U.S.C. 552a(o) (1977), the Commission has submitted to Congress and the Office of Management and Budget (OMB) advance notice of the proposed new system of record keeping.

The report was made pursuant to OMB Circular No. A-108, and OMB Transmittal Memoranda Nos. 1 and 3.

#### FERC-13

##### SYSTEM NAME:

Time Distribution Reporting System (TDRS)—FERC-13.

##### SYSTEM LOCATION:

Commission computer facilities, Washington, D.C.; Boeing Computer Services, Inc. computer facilities, Vienna, Virginia.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioners, Administrative Law Judges, attorneys, technical, environmental, managerial, and all other staff personnel. With respect to information concerning these individuals, their name, organizational component, position, grade, dates of Commission employment, and time expended on designated activities will be entered into the system. Staff hours expended by individuals on specific activities will be maintained only for the current or most recent calendar quarter before the personal identifiers are deleted from the system.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records will contain (1) information regarding the amount of time expended by individuals on the designated work products and activities performed at the Commission, and (2) information relating to each individual employed during the reporting period. Each calendar quarter, individual records for each Commission organization will be totaled by activity and all reference to individual staff hours will be removed.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 717; 16 U.S.C. 825H, 42 U.S.C. 7172(a)(2), 44 U.S.C. 3101.

##### ROUTINE USES:

The records and information may be used:

(a) By authorized Commission personnel to identify the distribution of Commission staff time by work product, by organization, and by budget decision unit;

(b) By authorized Commission personnel to extract manpower processing requirements for determination of fees to be charged for certain filings with the Commission;

(c) By authorized Commission personnel to allocate manpower and make staff resource adjustments for the

effective management of the Commission workload;

(d) By authorized Commission personnel to forecast staff requirements for development of budget requests;

(e) By authorized Commission personnel to produce management reports;

(f) By authorized Commission personnel to monitor and analyze Commission productivity;

(g) As a data source for management information, for production of summary statistics and analytical studies in support of the function for which these records are collected and maintained, or for related personnel management functions or manpower studies compiled by the staff or a contractor of the Commission;

(h) By members of advisory committees that are created by the Commission or by the Congress to render advice and recommendations to the Commission or the Congress to be used solely in connection with their official designated functions;

(i) By any person with whom the Commission contracts to reproduce by typing, photocopy or other means, any record within this system for use by the Commission and its staff in connection with their official duties or by any person who is utilized by the Commission to perform clerical or stenographic functions relating to the official business of the Commission;

(j) To aid in responding to inquiries from members of Congress, other federal agencies, the press, and the public.

##### RECORDS MANAGEMENT POLICIES AND PRACTICES STORAGE:

Maintained on magnetic tape and computer disk files.

##### RETRIEVABILITY:

Records will be retrieved by work product identify elements (product category, docket number, task code, budget decision unit), organizational component (office, division, branch, section), report period, and position identifier.

##### SAFEGUARDS:

Stored in a secured computer facility, with access limited to selected authorized TDRS project management personnel.

##### RETENTION AND DISPOSAL:

Records will be maintained by employee and activity for the current or most recent calendar quarter. All employee staff hours will then be compiled into organizational level records and transferred to a history file for permanent retention.

**SYSTEM MANAGER AND ADDRESS:**

Director, Office of Program  
management, Federal Energy Regulatory  
Commission, Room 3311, 825 North  
Capitol Street, NE., Washington, D.C.  
20426.

**NOTIFICATION PROCEDURE:**

All requests to determine whether this  
system of records contains a record  
pertaining to the requesting individual  
should be made in accordance with the  
Commission's General Rules, 18 CFR  
3b.220 (a) and (b). Individuals should  
provide the appropriate identifying  
information as specified in 18 CFR  
3b.222.

**RECORDS ACCESS PROCEDURES:**

Requests for access to records in this  
system should be made in accordance  
with 18 CFR 3b.221. Individuals should  
provide the appropriate identifying  
information as specified in 18 CFR  
3b.222.

**CONTESTING RECORD PROCEDURES:**

Requests to amend records should be  
made in accordance with 18 CFR 3b.224.

**RECORD SOURCE CATEGORIES:**

Individuals covered by the system.

Dated: May 4, 1982.

Joseph R. Neubeiser,  
Deputy Director, Office of Program  
Management.

[FR Doc. 82-12583 Filed 5-7-82; 8:45 am]

BILLING CODE 6717-01-M

**FEDERAL MARITIME COMMISSION****Independent Ocean Freight Forwarder  
License; Applicants**

Notice is hereby given that the  
following applicants have filed with the  
Federal Maritime Commission  
applications for licenses as independent  
ocean freight forwarders pursuant to  
section 44(a) of the Shipping Act, 1916  
(75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why  
any of the following applicants should  
not receive a license are requested to  
communicate with the Director, Bureau  
of Certification and Licensing, Federal  
Maritime Commission, Washington, D.C.  
20573.

Ord, Brough & Collins, Inc., c/o Susan Kohn  
Ross, Esquire, 420 So. Beverly Drive, Suite  
207, Beverly Hills, CA 90212.  
Officers: Ray Lewis, Vice President—  
Operations, B. I. Horowitz, President  
Unitrans International Corp. (S.F.), 905 Grand  
View Drive, So. San Francisco, CA 94080  
Officers: Fred E. Saxer, President, Frank J.  
Gulli, Vice President, H. Rudy Ehrat,  
Vice President/Director, John B.  
Laviaguerre, Vice President/Director

TransHansa Projects, Inc., 21 West Street,  
New York, NY 10004.

Officers: Frank E. Olschewski, President/  
Director, Christiane Scribner, Treasurer/  
Secretary, Karl Georg Gorski, Vice  
President/Director

By the Federal Maritime Commission.

Dated: May 5, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-12642 Filed 5-7-82; 8:45 am]

BILLING CODE 6730-01-M

**[Independent Ocean Freight Forwarder  
License No. 1671-R]****Benedict Shipping International Inc.;  
Order of Revocation**

On April 27, 1982, Benedict Shipping  
International, Inc., 80 Wall Street, Suite  
618, New York, NY 10005 surrendered its  
Independent Ocean Freight Forwarder  
License No. 1671-R for revocation.

Therefore, by virtue of authority  
vested in me by the Federal Maritime  
Commission as set forth in Manual of  
Orders, Commission Order No. 1  
(Revised), section 10.01(e) dated  
November 12, 1981;

It is ordered, that Independent Ocean  
Freight Forwarder License No. 1671-R  
issued to Benedict Shipping  
International Inc. be revoked effective  
April 27, 1982, without prejudice to  
reapplication for a license in the future.

It is further ordered, that a copy of  
this Order be published in the Federal  
Register and served upon Benedict  
Shipping International Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and  
Licensing.

[FR Doc. 82-12641 Filed 5-7-82; 8:45 am]

BILLING CODE 6730-01-M

**FEDERAL RESERVE SYSTEM****Acquisition of Bank Shares by Bank  
Holding Companies**

The companies listed in this notice  
have applied for the Board's approval  
under section 3(a)(3) of the Bank  
Holding Company Act (12 U.S.C.  
1842(a)(3)) to acquire voting shares or  
assets of a bank. 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 may be inspected at  
the offices of the Board of Governors, or  
at the Federal Reserve Bank indicated  
for that application. With respect to  
each application, interested persons  
may express their views in writing to the  
address indicated for that application.  
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.

A. Federal Reserve Bank of Richmond  
(Lloyd W. Bostian, Jr., Vice President)  
701 East Byrd Street, Richmond, Virginia  
23261:

1. *Jefferson Bankshares, Inc.*,  
Charlottesville, Virginia; to acquire 100  
percent of the voting shares or assets of  
First National Bank of the Valley, Luray,  
Virginia. Comments on this application  
must be received not later than May 28,  
1982.

B. Federal Reserve Bank of Dallas  
(Anthony J. Montelaro, Assistant Vice  
President) 400 South Akard Street,  
Dallas, Texas 75222:

1. *State Bancshares, Inc.*, Littlefield,  
Texas, to acquire 58.78 percent of the  
voting shares of West Texas  
Bancshares, Inc., Muleshoe, Texas.  
Comments on this application must be  
received not later than June 2, 1982.

C. Secretary, Board of Governors of  
the Federal Reserve System,  
Washington, D.C. 20551:

1. *Consolidated Bancshares, Inc.*,  
Abilene, Texas; to acquire 100 percent of  
the voting shares or assets of American  
National Bank, Wichita Falls, Texas.  
Comments on this application must be  
received not later than June 2, 1982.

3. *Consolidated Bancshares, Inc.*,  
Abilene, Texas; to acquire 100 percent of  
the voting shares or assets of Travis  
Bank & Trust, Austin, Texas. Comments  
on this application must be received not  
later than June 2, 1982.

2. *Consolidated Bancshares, Inc.*,  
Abilene, Texas; to acquire 100 percent of  
the voting shares or assets of Western  
State Bank, Midland, Texas. Comments  
on this application must be received not  
later than June 2, 1982.

Board of Governors of the Federal Reserve  
System, May 3, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-12572 Filed 5-7-82; 8:45 am]

BILLING CODE 6210-01-M

**Southeast Banking Corp.; Merger of  
Bank Holding Companies, Indirect  
Acquisition of Banks, and Acquisition  
of Florida National Credit Corporation  
and Florida National Financial  
Services, Inc.**

Southeast Banking Corporation,  
Miami, Florida ("Southeast"), has  
applied for the Board's approval under  
section 3(a)(5) of the Bank Holding  
Company Act (12 U.S.C. 1842(a)(5)) to

merge with Florida National Banks of Florida, Inc., Jacksonville, Florida ("Florida National"). Southeast has also applied for the Board's prior approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire indirect ownership, control, or power to vote voting shares of each of Florida National's subsidiary banks. 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)).

Subsidiaries of Southeast are also engaged in the following nonbank activities: mortgage banking, consumer financing, leasing, data processing, credit insurance, and real estate management. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposed merger and acquisition in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

Southeast has also applied, pursuant to section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to indirectly acquire voting shares of Florida National Credit Corporation, Jacksonville, Florida, and Florida National Financial Services, Inc., Jacksonville, Florida, through Southeast's proposed merger with Florida National.

Southeast indicates that the proposed subsidiaries would engage in the leasing of personal property and the arrangement of credit life insurance for consumer loan customers of Florida National's subsidiary banks, respectively. These activities would be performed from existing offices of Florida National in Jacksonville, Florida, and the geographic areas to be served are the banking markets for the banking subsidiaries of Florida National. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the banking factors involved in the applications submitted under section 3 of the Act and on the question whether consummation of the acquisitions proposed under section 4 of the Act 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 these issues 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.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 4, 1982.

Board of Governors of the Federal Reserve System, May 5, 1982.

Dolores S. Smith,

*Assistant Secretary of the Board.*

[FR Doc. 82-12572 Filed 5-7-82; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

### Early Termination of the Waiting Period of the Premerger Notification Rules; American Financial Corp.

**AGENCY:** Federal Trade Commission.

**ACTION:** Granting of request for early termination of the waiting period of the premerger notification rules.

**SUMMARY:** American Financial Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Penn Central Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by American Financial Corp. Neither agency intends to take any action with respect to this acquisition during the waiting period.

**EFFECTIVE DATE:** April 22, 1982.

**FOR FURTHER INFORMATION CONTACT:** Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

**SUPPLEMENTARY INFORMATION:** Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait

designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

*Secretary.*

[FR Doc. 82-12651 Filed 5-7-82; 8:45 am]

BILLING CODE 6750-01-M

### Early Termination of the Waiting Period of the Premerger Notification Rules; Damson Oil Corp.

**AGENCY:** Federal Trade Commission.

**ACTION:** Granting of request for early termination of the waiting period of the premerger notification rules.

**SUMMARY:** Damson Oil Corp. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Juniper Petroleum Corp. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

**EFFECTIVE DATE:** April 29, 1982.

**FOR FURTHER INFORMATION CONTACT:** Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

**SUPPLEMENTARY INFORMATION:** Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

*Secretary.*

[FR Doc. 82-12652 Filed 5-7-82; 8:45 am]

BILLING CODE 6750-01-M

### Early Termination of the Waiting Period of the Premerger Notification Rules; Farm House Foods

**AGENCY:** Federal Trade Commission.

**ACTION:** Granting of request for early termination of the waiting period of the premerger notification rules.

**SUMMARY:** Farm House Foods is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Great Atlantic & Pacific Tea Company from Tengelmann Warengesellschaft. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

**EFFECTIVE DATE:** April 29, 1982.

#### FOR FURTHER INFORMATION CONTACT:

Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

**SUPPLEMENTARY INFORMATION:** Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the *Federal Register*.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-12853 Filed 5-7-82; 8:45 am]

BILLING CODE 6750-01-M

### GENERAL SERVICES ADMINISTRATION

#### Transportation and Public Utilities Service

[Intervention Notice 148]

### Washington Gas Light Co.; Public Service Commission of the District of Columbia; Proposed Intervention in Gas Rate Increase Proceeding

April 28, 1982.

The General Services Administration (GSA) seeks to intervene in a

proceeding before the Public Service Commission of the District of Columbia concerning the application of the Washington Gas Light Company for an increase in its gas rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to John L. Stanberry, Assistant Commissioner, Office of Public Utilities, General Services Administration, Washington, D.C. (mailing address: General Services Administration (TU), Washington, D.C. 20406), 202-275-1027, on or before June 9, 1982, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Service Act, 40 U.S.C. 481(a)(4))

Janice Mendenhall,

Acting Commissioner, Transportation and Public Utilities Service.

[FR Doc. 82-12807 Filed 5-7-82; 8:45 am]

BILLING CODE 6620-AM-M

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Alcohol, Drug Abuse, and Mental Health Administration

##### National Advisory Bodies; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of June 1982.

Basic Psychopharmacology and Neuropsychology Research Review Committee, June 3-4; 9:00 a.m., Ramada Inn, Skyview and Terrace C Conference Rooms, 8400 Wisconsin Avenue, Bethesda, Maryland 20814

Open—June 3, 9:00-10:00 a.m.

Closed—Otherwise

Contact: Shirley Maltz, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3944.

Purpose: The Basic Psychopharmacology and Neuropsychology Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of basic psychopharmacology and neuropsychology and makes recommendations to the National

Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., June 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

• Psychopathology and Clinical Biology Research Review Committee, June 3-5; 9:00 a.m., Shoreham Americana, 2500 Calvert Street, N.W., Washington, D.C. 20008

Open—June 3, 9:00-10:00 a.m.

Closed—Otherwise

Contact: Christine Peers, Room 9C24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1340.

Purpose: The Psychopathology and Clinical Biology Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of clinical psychopathology and clinical biology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., June 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

• Criminal and Violent Behavior Review Committee, June 9-11; 9:00 a.m., Gramercy Inn, Parkview and Westview rooms, 1616 Rhode Island Avenue, N.W., Washington, D.C. 20036

Open—June 9, 9:00-10:30 a.m.

Closed—Otherwise

Contact: Phyllis Pinzow, Room 9C14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4868.

Purpose: The Criminal and Violent Behavior Review Committee is charged with the initial review of applications

for assistance from the National Institute of Mental Health for support of research and training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:30 a.m., June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal Assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

- Mental Health Research Education Review Committee, June 10-11; 9:00 a.m., Sheraton Inn Washington-Northwest, 8727 Colesville Road, Silver Spring, Maryland 20910
- Open—June 10, 1:00-2:00 p.m.  
Closed—Otherwise

Contact: Emilie Embrey, Room 9-101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3857.

Purpose: The Mental Health Research Education Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the fields of biological sciences, the psychological sciences, and the applied behavioral sciences areas, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 1:00-2:00 p.m., June 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix 1).

- Life Course Review Committee, June 10-11; 9:00 a.m., Shoreham Hotel, Club Room B, 2500 Calvert Street, N.W., Washington, D.C. 20008

Open—June 10, 9:00-10:00 a.m.  
Closed—Otherwise

Contact: Dee Herman, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1367.

Purpose: The Life Course Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., June 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

- Research Scientist Development Review Committee, June 14-16; 9:00 a.m., Coolfront Conference Center, Berkeley Springs, West Virginia 25411
- Open—June 14, 9:00-9:30 a.m.  
Closed—Otherwise

Contact: Diana Souder, Room 9-97, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4844.

Purpose: The Research Scientist Development Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for the support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals engaged full time in research and related activities relevant to mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-9:30 a.m., June 14, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

- Alcohol Biomedical Research Review Committee, June 16-18; 9:00 a.m., Embassy Square Hotel, 2000 N Street, N.W., Washington, D.C. 20036
- Open: June 16, 9:00-11:00 a.m.  
Closed—Otherwise

Contact: Harvey P. Stein, Ph.D., Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6106.

Purpose: The Alcohol Biomedical Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00-11 a.m., June 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

- Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, June 17-18; 9:00 a.m., Holiday Inn Capital, 550 C Street, S.W., Washington, D.C. 20024

Open—June 17, 9:00-10:00 a.m.  
Closed—Otherwise

Contact: Pamela J. Mitchell, Room 4-68, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6470.

Purpose: Psychopharmacological, Biological, and Physical Treatments Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and training activities in the fields of development and assessment of psychopharmacological, biological, and physical treatments of mental illness, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., June 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and

Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

• Mental Health Small Grant Review Committee, June 17-19; 1:30 p.m., The Canterbury Hotel, Rooms 208, 209, and 201, 1733 N Street, N.W., Washington, D.C. 20036

Open—June 17, 1:30-2:30 p.m.

Closed—Otherwise

Contact: Virginia Harter, Room 9-104, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4843.

Purpose: The Mental Health Small Grant Review Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health for support of research in all disciplines pertaining to alcohol, drug abuse, and mental health, including psychiatry, sociology, anthropology, psychological sciences, biological sciences, and epidemiology, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda: From 1:30-2:30 p.m., June 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

• Cognition, Emotion, and Personality Research Review Committee, June 18-19; 9:00 a.m., Holiday Inn, Lobby Room, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815

Open—June 18, 9:00-10:00 a.m.

Closed—Otherwise

Contact: Jean Pierce, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3936.

Purpose: The Cognition, Emotion, and Personality Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of personality, cognition, emotion and higher mental processes and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., June 18, the meeting will be open for discussion of administrative announcements and

program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

• Drug Abuse Clinical and Behavioral Research Subcommittee of the Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee, June 21-24; 9:00 a.m., Linden Hill Hotel, Longwood Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814

Open—June 21, 9:00-9:30 a.m.

Closed—Otherwise

Contact: Daniel L. Mintz, Room 10-42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2620.

Purpose: The Drug Abuse Clinical and Behavioral Research Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00-9:30 a.m., June 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

• Drug Abuse Psychosocial Research Subcommittee of the Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee, June 21-24; 8:30 a.m., Conference Room "I", Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Open—June 21, 8:30-9:00 a.m.

Closed—Otherwise

Contact: Ron Gold, Room 10-42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2620.

Purpose: The Drug Abuse Psychosocial Research Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research

training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30-9:00 a.m., June 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

• Drug Abuse Biomedical Research Review Committee, June 21-25; 9:00 a.m., Linden Hill Hotel, Sea Pines Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814

Open—June 21, 9:00-9:30 a.m.

Closed—Otherwise

Contact: Alan A. Schreier, Ph.D., Room 10-42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2620.

Purpose: The Drug Abuse Biomedical Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00-9:30 a.m., June 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2860. NIDA: Ms. Claudette Wright, Committee Management Officer, Room 10-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-1644. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room

17C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, (301) 443-4333.

Dated: May 4, 1982.

Elizabeth A. Connolly,  
Committee Management Officer Alcohol,  
Drug Abuse, and Mental Health  
Administration.

[FR Doc. 82-12566 Filed 5-7-82; 8:45 am]

BILLING CODE 4160-20-M

## Office of Human Development Services

### Debt Collection Procedures

**AGENCY:** Office of Human Development Services, HHS.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Office of Human Development Services (OHDS) is publishing this notice to advise the public of the new procedures governing collection of debts owed by recipients of discretionary grants or cooperative agreements awarded by HDS program offices (i.e., the Administration for Children, Youth and Families, Administration on Aging, Administration on Developmental Disabilities, Administration for Native Americans, Office of Policy Development, and the Office of Program Coordination and Review.)

These policies and procedures incorporate the Department of Health and Human Services debt collection procedures and supplement the Departmental policies by addressing the methods by which debts will be collected. The policies will soon be published as Chapter 18 of the HDS Grants Administration Staff Manual.

**DATE:** Comments must be received by June 9, 1982.

**ADDRESS:** In order to be considered, comments must be addressed to: Department of Health and Human Services, Office of Human Development Services, Division of Grants and Contracts Management, Room 1296, North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

**FOR FURTHER INFORMATION CONTACT:** Beverly Córdova, (202) 472-6709 or Jack Daschbach, (202) 472-3243.

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose

Under the Federal Claims Collection Act (31 U.S.C. SS 951-953) and the regulations issued jointly by the Comptroller General and the Attorney General (4 CFR Parts 101-104), an agency must take aggressive action, on a timely basis with effective follow-up, to

collect all debts owed to the United States by the public. The Department of Health and Human Services at 45 CFR Part 30 adopted for Department operation all provisions of the joint regulations.

On September 17, 1980, the Department of Health and Human Services published in the Federal Register (45 FR 61792) its Debt Collection Procedures. A subsequent notice was published in the Federal Register (45 FR 73523) on November 5, 1980, to notify the public of an internal Department-wide policy on resolution of audit findings affecting the Department's grants, contracts, and cooperative agreements. The latter policy provides basic standards and comprehensive instructions for resolving audit findings from receipt of an audit report to final resolution. The audit resolution policy is published as Chapter 1-105 of the Department's Grants Administration Manual.

For grant-related purposes, a debt arises when a recipient receives money from the Federal Government and fails to fulfill the resulting obligation to the Government by either charging costs to the grant determined to be unallowable or failing to meet the cost-sharing or matching requirements of the grant. A disallowance of a cost, or the failure of a recipient to meet its cost-sharing or matching requirement, has the net effect of financial assistance being paid to the recipient by the Federal Government in excess of the amount to which the recipient was entitled. The excess amount constitutes the debt owed by the recipient to the Federal Government for which the Government is obliged to seek recovery.

In accordance with Departmental policy, all debts are due thirty (30) days from the date of the official notification of the disallowance, regardless of whether the disallowance is for an unallowable cost or for the failure of a recipient to meet its cost-sharing or matching requirement. Interest will be charged on the amount uncollected as of the due date and will be computed every 30 days on the uncollected balance. The due date is not extended by the filing of any form of appeal.

##### Prior Policy and Procedures

In the past, HDS has collected monetary audit disallowances by one of the following methods:

- Direct check payment to the Department.
- Writing a check from non-Federal resources to the grant account.
- Allowing recipients to increase the non-Federal share participation (usually through third-party in-kind

contributions) in the current or subsequent budget period.

- Offsetting the Federal share of the current or subsequent year's grant.

These methods were used interchangeably regardless of whether the disallowance was for an unallowable cost charged to the Federal share of the grant or because the recipient failed to meet its cost-sharing or matching requirement.

##### New Policies and Procedures

In response to Departmental guidelines, we have determined that the methods by which debts are collected depend on the reason for the monetary audit disallowance. Thus, certain methods must be used when the disallowance is in the expenditure of Federal funds and other methods when the recipient has failed to provide adequate cost-sharing or matching for the Federal funds advanced for the period in which the disallowance was made. If an inappropriate method is applied, the recipient could carry the disallowance from one budget period to another and indefinitely postpone possible recoupment by the Federal Government.

The following procedures shall govern collection of debts owed by recipients of HDS discretionary grants.

- Where the disallowance is in the expenditure of Federal funds (i.e., an unallowable cost charged to the Federal share of the grant), the debt must be repaid either by direct check payment to the Government [not to the grant account] or through offset of the grant.

Offset means that subsequent Federal funds due a recipient will be reduced by the amount of the disallowance. The recipient may not repay the debt by increasing the non-Federal share through grantee-incurred costs or third-party in-kind contributions in the current or subsequent budget period.

Extended payment plans may be negotiated if the recipient is unable to pay in one lump sum. If an extended payment plan is approved, the recipient must send a check to the Department for a predetermined amount (principal plus interest) at regular intervals over a specified period of time, generally not to exceed three years. Provided an extended payment plan has been negotiated and confirmed in writing within 90 days from the date of the official notification of the disallowance, the recipient will continue to receive grant payments *in advance* as long as the installment payments are made according to schedule.

If offset is required (i.e., where refund is not made, an extended payment plan

is not negotiated, or an appeal is not filed or is denied), the recipient will be removed from advance funding and placed on a reimbursement method of payment. Once the full amount of disallowed Federal funds [plus interest] has been recovered by offset against reimbursement vouchers, the net amount due the recipient will be paid by U.S. Treasury check. Thereafter, the payment of advances may be reestablished based on the undisbursed Federal balance of the award, and the reimbursement method discontinued.

In accordance with departmental regulations, interest will be charged on the amount uncollected as of the due date and will be computed every thirty days on the uncollected balance.

Where the disallowance is for failure to meet the cost-sharing or matching requirement of the grant, the recipient may elect to (1) repay the excess Federal funds advanced by direct check payment to the Government; (2) offset the current or subsequent year's grant; or (3) increase the non-Federal share participation in the current or subsequent budget period. In the latter case, the recipient may provide in-kind services or non-Federal cash over a specified period to make up the shortage of matching funds.

In accordance with Departmental regulations, interest will be charged on the amount uncollected as of the due date and will be computed every thirty days on the uncollected balance.

If the recipient chooses to increase the non-Federal share participation in the current or subsequent budget period to make up the shortage of match from the prior period involved in the disallowance, interest will be charged on the excess Federal funds until such time as the contribution is completed. The interest computation shall be based on the appropriate Treasury rate for a like period of an extended payment plan. The interest must be paid in cash or check.

The contributions provided will be applied to any disallowance from the prior year before being counted for the current year's matching requirement. The principle that will be applied in this case will be the "first-in, first-out" concept (i.e., the first costs incurred that are charged to the non-Federal share plus the value of third-party in-kind contributions will be applied as match for the excess Federal funds advanced in the prior period). An interim SF-269, Financial Status Report, shall be submitted as soon as this action has occurred. Once the prior year Federal funds have been matched, the recipient must then match all Federal funds drawn against the current year's award.

Where the debt is owed for any reason other than a monetary audit disallowance (e.g., interest earned on advances of grant funds, money from the sale of property, failure to deduct program income, etc.), the debt must be repaid by either direct check payment to the Government or through offset of the grant.

Dated: May 5, 1982.

Jaime L. Manzano,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 82-12650 Filed 5-7-82; 8:45 am]

BILLING CODE 4130-01-M

### National Institutes of Health

#### Biotechnology Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biotechnology Resources Review Committee, Division of Research Resources, June 3 and 4, 1982, Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland.

This meeting will be open to the public June 3 from 1:00 p.m. to approximately 5:00 p.m., and from 8:00 a.m. to adjournment on June 4 for analysis and discussion of current and future needs for support of technologies by the Biotechnology Resources Program over the next five years and for discussions of the guidelines for Biotechnology Resources Program applications and potential new areas for grants. 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. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 8:15 a.m. to approximately 12:00 noon on June 3 for the review, discussion, and evaluation of individual research prospectuses submitted by organizations seeking access to PROPHET System services. These prospectuses and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the prospectuses, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B-10, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496-5545, will provide summaries of meetings and rosters of committee members.

Dr. Charles L. Coulter, Executive Secretary, Biotechnology Resources Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B-41, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496-5411, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.371, Biotechnology Research, National Institutes of Health.)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that circular.

Dated: April 29, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 82-12596 Filed 5-7-82; 8:45 am]

BILLING CODE 4140-01-M

#### General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Research Support Review Committee, Division of Research Resources, June 24-25, 1982 at the National Institutes of Health. The meeting will be held in Conference Room 9, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public from 9:00 a.m. to approximately 1:30 p.m. on June 24, 1982, to discuss policy matters relating to the Minority Biomedical Research Support Program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 24, 1982, from approximately 1:30 p.m. to 5:00 p.m. and on June 25 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications submitted to the Minority Biomedical Research Support Program. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B10, Bethesda, Maryland 20205, telephone (301) 496-5545, will

provide summaries of meeting and rosters of committee members. Dr. Sidney A. McNairy, Executive Secretary of the General Research Support Review Committee, Building 31, Room 5B29, Bethesda, Maryland 20205, telephone (301) 496-6743 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13,375, Minority Biomedical Research Support Program, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: April 29, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 82-12597 Filed 5-7-82; 8:45 am]

BILLING CODE 4140-01-M

### Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on July 9-10, 1982, in Building 31, Conference Room 7.

This meeting will be open to the public on July 9, 1982 from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on July 9, from approximately 9:30 AM until adjournment on July 10, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Larry Blaser, Chief of the Research Reporting Section, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Research Review Committee A, Westwood Building, Room 648, National Institutes of Health, Bethesda,

Maryland 20205, phone (301) 496-7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health.)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: April 29, 1982.

Betty J. Beveridge,

National Institute of Health, Committee Management Officer.

[FR Doc. 82-12598 Filed 5-7-82; 8:45 am]

BILLING CODE 4140-01-M

### Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on July 9-10, 1982, in Building 31, Conference Room 9.

This meeting will be open to the public on July 9, 1982, from 8:30 a.m. to approximately 10:00 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on July 9, 1982, from approximately 10:15 a.m. to adjournment on July 10, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Larry Blaser, Chief of the Research Reporting Section, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meetings and rosters of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: April 29, 1982.

Betty J. Beveridge,

NHI Committee Management Officer.

[FR Doc. 82-12599 Filed 5-7-82; 8:45 am]

BILLING CODE 4140-01-M

### Maternal and Child Health Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Maternal and Child Health Research Committee, National Institute of Child Health and Human Development, on June 21-22, 1982, in the Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on June 21, from 9:00 to 10:15 a.m. to discuss items relative to the Committee's activities including announcements by the Acting Director, Associate Director for Scientific Review and Chiefs of the Human Learning and Behavior and the Clinical Nutrition and Early Development Branches and the Executive Secretary of the Committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 21 from 10:30 a.m. to adjournment on June 22 for the review, discussion and evaluation of individual grant applications.

The 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 property. Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of committee members. Dr. Jane Showacre, Executive Secretary, Maternal and Child Health Research Committee, NICHD, Landow Building Room 6C03, National Institutes of Health, Bethesda, Maryland, Area Code

301, 496-1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, Research for Mothers and Children, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: April 29, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-12800 Filed 5-7-82; 8:45 am]

BILLING CODE 4140-01-M

### Minority Access to Research Careers Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Minority Access to Research Careers Review Committee, National Institute of General Medical Sciences, National Institutes of Health, Building 31-C, Conference Room 8, on June 10-11, 1982, 9:00 a.m.

This meeting will be open to the public on June 10, 9:00 a.m. to 10:30 a.m. This portion will consist of opening remarks and discussion of procedural matters. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public for approximately the last six hours of the day on June 10, and until adjournment on June 11. It is estimated that this will occur from 10:30 a.m. to 5:00 p.m., on June 10, and on June 11 from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of institutional and individual grant applications.

These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Ms. Ellen Casselberry, Public Information Officer, NIGMS, Westwood Building, Room 9A-10, 5333 Westbard Avenue, Bethesda, Maryland 20205, telephone (301) 496-7301, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Harriert L. Gordon, M.D., Executive Secretary, Westwood Building, Room 949, Bethesda, Maryland 20205, telephone (301) 496-7585.

(Catalog of Federal Domestic Assistance Program 13.880, Minority Access to Research Careers (MARC), National Institutes of

Health, Department of Health and Human Services)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: April 29, 1982.

Betty J. Beveridge,

National Institutes of Health.

[FR Doc. 82-12801 Filed 5-7-82; 8:45 am]

BILLING CODE 4140-01-M

### National Advisory Research Resources Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources (DRR), June 7-8, 1982, Conference Room 10, Bldg. 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The meeting will convene in open session on June 7, at 9:00 a.m., for the regular conduct of Council business, a report of the Acting Director, DRR, staff reports by the Program Directors of the Animal Resources, Biomedical Research Support, Biotechnology Resources, General Clinical Research Centers, and Minority Biomedical Research Support Programs, a budget report by the Executive Officer, DRR, an update of the DRR Five-Year Plan, and a review of the Council Operating Procedures. The meeting will continue as follows from approximately 11:00 a.m. to 3:00 p.m.: Animal Resources Program Work Group, Rm. 2A52; Biotechnology Resources Program Work Group, Rm 9A51; Biomedical Research Support Program Work Group, Rm. 5B23; General Clinical Research Centers Program Work Group, Rm. 5B03; and Minority Biomedical Research Support Program Work Group, Conference Rm 10. The meeting will reconvene, in open session, on June 8 from 8:30 a.m. to approximately 10:30 a.m. for Program Work Group reports and recommendations to the full Council for discussion and action. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6) Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 7 from approximately 3:00 p.m. to recess, and on June 8 from approximately 10:30 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, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Mr. James Augustine, Information Officer, Division of Research Resources, Rm. 5B10, Bldg. 31, National Institutes of Health, Bethesda, MD 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Council members. Dr. James F. O'Donnell, Acting Director, Division of Research Resources, Rm. 5B03, Bldg. 31, National Institutes of Health, Bethesda, MD 20205, (301) 496-6023, will furnish substantive program information and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistant Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biotechnology Resources; 13.375, Minority Biomedical Research Support, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: April 29, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 82-12802 Filed 5-7-82; 8:45 am]

BILLING CODE 4140-01-M

### Pharmacological Sciences Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pharmacological Sciences Review Committee, National Institute of General Medical Sciences, National Institutes of Health, June 18, 1982, at the Dulles Marriott Hotel, Dulles International Airport, Washington, D.C. 20041.

This meeting will be open to the public on June 18 from 8:30 a.m. to 9:30 a.m. for opening remarks and general administrative business. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public for approximately 8 hours for the review, discussion, and evaluation of individual grant applications. It is anticipated that this will occur on June 18, from approximately 9:30 a.m. to adjournment. These applications and the discussion could reveal personnel information concerning individuals

associated with the applications, disclosure of which constitute a clearly unwarranted invasion of personnel privacy.

Ms. Ellen Casselberry, Public Information Officer, NIGMS, Westwood Building, Room 9A10, Bethesda, Maryland 20205, Telephone: 301, 496-7301, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Anthony Demsey, Executive Secretary, Pharmacological Sciences Review Committee, Westwood Building, Room 950, Bethesda, Maryland, Telephone: (301) 496-7125.

(Catalog of Federal Domestic Assistant Program 13-859, Pharmacology-Toxicology Research, National Institute of General Medical Sciences, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular.

Dated: April 29, 1982.

Betty J. Beveridge,  
Committee Management Officer, National Institutes of Health.

[FR Doc. 82-12603 Filed 5-7-82; 8:45 am]

BILLING CODE 4140-01-M

### Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on June 24-25, 1982, at the National Institutes of Health, Building 31C, Conference Room 7, Bethesda, Maryland 20205. The meeting will be open to the public on June 24 from 8:30 a.m. until 9:30 a.m. for approval of the minutes of the previous meeting, selection of future meeting dates and comments from the Director, and Deputy Director, NIAID, the Director of the Immunology, Allergy, and Immunologic Diseases Program and the Acting Director, Extramural Activities Program with regard to (among other items) budget, and review policies and procedures. 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. Code, and section 10(d) of Pub. L. 92-463, the meeting of the AITRC Transplantation

Biology and Immunology Subcommittee will be closed to the public for review, evaluation, and discussion of individual grant applications and contracts proposals from 9:45 a.m. to approximately 5:00 p.m. on June 24 and from 8:30 a.m. until adjournment on June 25.

These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Resonance, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the Committee members as requested.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496-7968, 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)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in sections 8(b) (4) and (5) of that Circular.

Dated: May 3, 1982.

Betty J. Beveridge,  
National Institutes of Health Committee Management Officer.

[FR Doc. 82-12595 Filed 5-7-82; 8:45 am]

BILLING CODE 4140-01-M

### Public Health Service

#### Availability of Cancer Bioassay Report on 1,2-Dibromo-3-chloropropane

The HHS' National Toxicology Program today announces the availability of a Technical Report on a carcinogenesis bioassay of 1,2-dibromo-3-chloropropane (DBCP).

DBCP, once a widely-used pesticide, caused cancer in both sexes of rats and mice in this 103-day inhalation study. It produced nasal and tongue cancers in both sexes of rats, adrenal gland tumors in female rats, and both nasal and lung cancers in male and female mice.

DBCP was used to kill nematodes on vegetables, fruits, nuts, and ornamental

plants. By 1972, an estimated 12.3 million pounds were produced. In 1977, 800,000 pounds were used in California, mostly on grapes and tomatoes.

In 1977, after workers manufacturing DBCP were found to have testicular dysfunction and a few became sterile, DBCP was banned in California. Subsequently, the Environmental Protection Agency announced that most uses of DBCP were suspended.

Copies of the Technical Report—*Carcinogenesis Bioassay of 1,2-dibromo-3-chloropropane* (T.R. 206)—are available without charge by writing to the NTP Public Information Office, MD B2-04, Box 12233, Research Triangle Park, NC 27709; Telephone: (919) 541-3991, FTS 629-3991.

Dated: April 29, 1982.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 82-12562 Filed 5-7-82; 8:45 am]

BILLING CODE 4140-01-M

### Office of the Secretary

#### Office for Civil Rights; Statement of Organization, Functions, and Delegation of Authority

Part A, Chapter AT (Office for Civil Rights) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (43 FR 40927, September 13, 1978, as amended most recently at 45 FR 47474, July 1, 1980) is amended to reflect significant organizational changes within the Office for Civil Rights. The changes are being made to further strengthen and improve overall program management and include: (1) the disestablishment of the three major program offices (Office of Program Development, Office of Compliance and Enforcement and Office of Technical Assistance); the staff offices of the Associate Director for Administration, the Office of Public Affairs, the Office of Intergovernmental Affairs, the Office of Quality Assurance, and the Office of the Principal Deputy; (2) the establishment of two new program offices, the Office of Management and Policy and the Office of Program Operations, and the transfer of the functions the disestablished offices (Office of Public Affairs, Intergovernmental Affairs, Quality Assurance, Administration, Program Development, Compliance and Enforcement and Technical Assistance) to these new program offices.

Part A, Chapter AT as revised reads as follows: Chapter AT, Office for Civil

Rights, AT.00 Mission, AT.10 Organization, AT.20 Functions.

**Section AT.00 Mission:** The primary mission of the Office for Civil Rights is to eliminate unlawful discrimination and to insure equal opportunities for the beneficiaries and potential beneficiaries of Federal financial assistance provided by the Department of Health and Human Services. This shall be accomplished as quickly and effectively as possible, but with meaningful efforts at voluntary compliance.

**Section AT.10 Organization:** The Office for Civil Rights is under the supervision of the Director who reports to the Secretary. The Director also serves as the Secretary's Special Assistant for Civil Rights, responsible for overall coordination of the Department's Civil rights activities. The Office is comprised of the following headquarters components.

Organization, Office of the Director, Executive Secretariat, EEO/Affirmative Action Coordinator.

Office of the Deputy Director for Management and Policy, Policy and Special Projects Division, Quality Control and Management Analysis Division, Administration and Management Information Division, Planning, Evaluation and Budget Division.

Office of the Deputy Director for Program Operations, Voluntary Compliance and Outreach Division, Operational Analysis and Training Division, Investigations Division.

**Section AT.20 Functions:**

**A. Office of the Director:** As the Department's chief officer for the enforcement of the nondiscrimination provisions of law and as adviser to the Secretary on civil rights, the Director is responsible for the overall operations of the Office for Civil Rights; establishes policy and serves as adviser to the Secretary on civil rights matters, including intradepartmental activities aimed at incorporating civil rights compliance into programs the Department administers; sets overall direction and priorities of the Office through budget requests and long-range operating plans; determines policies and standards for the civil rights investigative and voluntary compliance programs in coordination with the Secretary and other Federal agencies; determines cases for enforcement action. In consultation with the Office of the General Counsel (OGC), identifies cases for referral to the Department of Justice for legal action and cases for the institution of administrative enforcement proceedings; consults with and advises the Assistant General

Counsel, Civil Rights Division; represents the Secretary before Congress and the Executive Office of the President on matters relating to civil rights; and solicits the participation of beneficiaries and recipients in the conduct of the Department's civil rights enforcement and voluntary compliance programs.

**1. Executive Secretariat:** Review all documents forwarded to the Director for approval; establishes and monitors procedures for timely responses to the Secretary, Department components, Congress, government agencies, and the public; assigns responsibility for preparation of documents and clearance dates; determines internal clearance procedures; arranges for necessary coordination with other Department components; follows up on work assignments made by the Director; disseminates Director's decisions in headquarters; serves as liaison with Secretary's executive secretariat; and maintains Director's official files.

**2. EEO/Affirmative Action Coordinator:** Serves as principal adviser to the Director regarding EEO/affirmative action planning, implementation, and direction. Is responsible for assisting OCR Senior Staff and Regional Civil Rights Directors to identify and achieve affirmative action goals. Works with Department-level EEO/Affirmative Action Staff to insure that OCR's plans and procedures adhere to Departmental and Equal Employment Opportunity Commission (EEOC) guidelines. Serves as primary liaison to OS Personnel for the implementation of OCR's Federal Equal Opportunity Recruitment Program (FEORP) in headquarters, and advises Regional Civil Rights Directors on FEORP liaisons with Regional Personnel Offices. Serves as primary contact with all standing OCR affirmative action committees. Facilitates settlement of EEO complaints made against OCR and assists in implementing EEO settlements.

**B. Office of Management and Policy:** Serves as the Director's principal adviser in civil rights policy, public and legislative affairs, quality assurance, management policy, long-range planning, budget formulation and execution, and automated data processing systems for the office. In addition, provides administrative, logistical, evaluative, analytical and management information support services. As directed, undertakes special projects in program areas to provide guidance in implementation strategies for new or revised programs. Develops and disseminates civil rights policy,

legal standards, regulations and guidelines.

**1. Policy and Special Projects Divisions:** Conducts a research program to develop and maintain a body of information on civil rights issues in health and human services; in cooperation with the Office of Program Operations, collects and maintains information on recurrent and special policy issues and needs; develops civil rights policy, legal standards, regulations and guidelines; provides policy interpretations and policy research information to other OCR components; reviews Departmental regulations for civil rights adequacy; reviews policy implications of legislative proposals and budget documents submitted to the Director for approval; and maintains and disseminates a policy digest.

Initiates and implements pilot or model compliance reviews to test new program approaches or to validate standards and procedures; translates pilot or model review findings into specific program activities needed to support similar reviews; and conducts special studies involving new or revised programs and makes recommendations for implementation.

Maintains liaison with Congress and other Federal departments and agencies charged with civil rights enforcement responsibilities; prepares the Interagency Report and other cross-cutting reports for which OCR plays a lead role; conducts activities in coordination and consultation with the Assistant Secretary for Legislation; reviews pending legislation for civil rights implications; notifies appropriate Congressional committees of significant civil rights developments and informs members of compliance developments affecting recipients of Federal funds in their Congressional districts; coordinates preparation of responses to Congressional inquiries; coordinates OCR public affairs activities with the Assistant Secretary for Public Affairs including facilitating coverage and interpretation of OCR's programs; prepares news releases; articles and other informational material; administers FOIA and Privacy Act.

**2. Quality Control and Management Analysis Division:** Develops and conducts ongoing substantive quality assurance program for field and headquarters components; performs review and analysis of selected completed cases to assess consistency in the application of Office policies and procedures; analyzes case processing and support systems to assess efficiency and effectiveness; prepares reports and

recommendations for improving program activity; identifies areas in which new or modified compliance policies are necessary and makes recommendations; through quality assurance program identifies programmatic training needs in headquarters and the field and makes appropriate recommendations to the Office of Program Operations; conducts audits and management studies to assess effectiveness and efficiency of OCR component operations and develops recommendations for improvement; develops, tracks, analyzes and reports on Secretary and Director level OMS; develops and disseminates administrative policy and guidance; advises OCR components on effect of changes in Departmental administrative policy; provides management analysis services; assists in the development of performance standards for headquarters personnel; monitors implementation of standards in headquarters and, through the Office of Program Operations, in the field; administers employee performance management, merit pay and SES systems for headquarters and the field.

**3. Administration and Management Information Division:** Functions as liaison with Department personnel, logistical support and management information offices; provides administrative support for all OCR training activities; provides full range of property management services, including space, equipment and supplies management; insures adherence to Federal and Departmental policies and standards regarding security of records, files and equipment; manages files and records maintenance systems; develops and directs counseling and training activities concerning employees' career development opportunities and other programs for personnel development; collects, maintains and disseminates automated management information; coordinates management information requests for all OCR components; provides ADP support services to all OCR components including studies to determine areas where needs could be met by the use of data processing technology; conducts studies to determine methods of reducing costs and improving quality and effectiveness of data collection and referral; acquires equipment, supplies and products necessary to support the ADP system; insures adherence to Department and Federal ADP standards; establishes controls, to assure the security of the ADP equipment and the data within the information systems; as directed, develops programs to be incorporated in the system.

**4. Planning, Evaluation and Budget Division:** Conducts program surveys and other studies to identify areas for compliance activities; evaluates survey and study data and develops, in concert with the Office of Program Operations, an annual operating plan for the office; coordinates preparation of OCR component workplans.

Plans and directs research on recipient and beneficiary populations and analyzes the resulting data to identify unresolved policy issues and to provide Policy and Special Projects Division with information to be used in policy formulation; provides statistical analysis and research support for the recipient and beneficiary information needs throughout the office; establishes evaluation systems and conducts studies.

Formulates and executes OCR Budget; serves as liaison with departmental financial management units; reports to the Deputy Director on fiscal and planning matters; translates office-wide goals into budgets with supporting documentation for legislative recommendations; planning calendar and develops resource and operations planning and budget development guidelines within OMB's framework; prepares testimony for use by the Director before appropriation committees of Congress.

**C. Office of Program Operations:** Directs and manages a national program of civil rights complaints investigations and voluntary compliance outreach activities. Serves as principal adviser to the Director in field enforcement and voluntary compliance activities. Supervises OCR field components and serves as their representative in headquarters. Identifies and fills field training and procedures needs. Carries out the responsibility for the uniform and timely implementation of program and administrative policies in field components. Reviews cases recommended for enforcement and makes final enforcement recommendations to the Director and the Office of General Counsel.

**1. Voluntary Compliance and Outreach Division:** Oversees a systematic compliance review program for recipients; provides assistance to field offices for uniform implementation of voluntary compliance policies; provides field offices with necessary headquarters assistance concerning program matters in compliance reviews; develops and manages the provision of intradepartmental technical assistance and outreach programs aimed at civil rights policy implementation; develops and manages the provision of

comprehensive outreach programs to constituent groups; develops and disseminates specialized materials for recipients and beneficiaries; provides leadership and guidance in planning and implementing civil rights compliance activities in the operating divisions (OPDIVs) of the Department; plans and conducts a continuing program of evaluating civil rights compliance activities in the OPDIVs; conducts program of training for OPDIV staff to carry out their civil rights responsibilities; facilitates communication of matters related to civil rights with other Departmental offices, Federal departments, non-HHS agencies, and State and local governments, including organizations representing such units of government; and advises recipients on requirements for filing civil rights compliance assurance forms and maintains a file of completed forms.

**2. Operational Analysis and Training Division:** Develops and monitors OMS goals, timeframes and internal objectives for case processing; acts as central intake control point for tracking case related activities in headquarters; analyzes field workloads through the Case Management Information System and recommends adjustments in case processing goals; develops, implements and monitors field management systems, including a comprehensive work measurement system; serves as liaison with the Office of Management and Policy in the development of performance standards in the field; provides guidance to insure uniform implementation of administrative and management policy in the field and serves as a liaison with the Office of Management and Policy in these matters; conducts management studies and reviews of field offices to identify problems and needs; recommends operational resource adjustments to improve field office efficiency and effectiveness; serves as the representative of the field in management and administrative areas. Develops and directs civil rights training programs for headquarters and field offices; assists Office components identifying training needs; locates appropriate sources to meet those needs, including outside training courses, consultant instruction, and development of internal programs; identifies needs for procedures/manuals; develops and disseminates procedures/manuals for the conduct of investigations and compliance activities.

**3. Investigations Division:** Oversees conduct of investigations that result from constituent complaints or other

information requiring formal investigation; provides assistance to field offices for uniform and timely implementation of regulations and policies in investigations; monitors investigations activities to determine procedural problems; assesses investigative plans and letters of finding to insure proper case development and supportable findings; provides field offices with necessary headquarters assistance concerning technical program matters in investigations; provides liaison between headquarters and field offices to facilitate resolution of issues and policy questions; serves as intake unit and determines jurisdiction in age discrimination complaints and forwards them to the Federal Mediation and Conciliation Service; reviews cases recommended for enforcement and makes final enforcement recommendations to the Deputy Director; conducts negotiations in conjunction with field offices to secure compliance in cases recommended for enforcement; secures resource persons for preparation of testimony in enforcement cases; provides supplemental staff and technical support in precedent setting or extensive investigations; maintains a library of letters of finding issued by OCR; and operates an office system to warn the Deputy Director, Director and Secretary of imminent case decisions and their potential effects.

Dated: April 30, 1982.

Richard Schweiker,  
Secretary.

[FR Doc. 82-12578 Filed 5-7-82; 8:45 am]  
BILLING CODE 4150-04-M

### Statement of Organization, Functions and Delegations of Authority

This notice amends Part A (Office of the Secretary) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, to reflect certain changes in Chapter AF, Office of the Inspector General (42 FR 17531, April 1, 1977, as amended by 43 FR 50508, October 30, 1978; 43 FR 58871, December 18, 1978; and 45 FR 16567, March 14, 1980).

The description of the Office of Inspector General is republished below in its entirety, in order to reflect substantial revisions of the organization of the Immediate Office of the Inspector General, the Audit Agency, and the Office of Investigations, as well as a change in the name of the Office of Health Care and Systems Review to the Office of Systems Integrity and a change in the name of the Audit Agency to the Office of Audit. Along with the

structural reorganization of the Office, there are significant reassignments of functions performed by the Office of Inspector General. The most significant purposes of this reorganization are to improve the management of the Immediate Office of the Inspector General, to broaden the responsibilities of the Office to cover non-criminal investigations, to encourage greater managerial responsiveness to audit or investigative findings, and to parallel more closely the operating divisions (OPDIVs) of the Department.

Chapter AF is amended to read as follows:

**AF.00 Mission.** The Office of Inspector General, under the general supervision of the Inspector General and the Secretary, is responsible for:

(1) Conducting and supervising audits and investigations relating to programs and operations of the Department;

(2) Maintaining security programs designed to protect government property, sensitive information, and personnel;

(3) Providing leadership and coordination for, and recommending policies and corrective actions concerning, activities designed to:

(A) Promote economy and efficiency in the administration of, and

(B) Prevent and detect fraud and abuse in, the Department's program and operations; and

(4) Providing a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the need for corrective action.

**AF.10 Organization.** The Office of Inspector General, under the supervision of an Inspector General, consists of:

Office of the Inspector General  
Immediate Office of the Inspector General

Office of Audit  
Office of Investigations  
Office of Systems Integrity

#### **AF.20 Functions.**

##### **A. Office of the Inspector General.**

The Inspector General operates under the general supervisions of the Secretary or the Under Secretary, and (1) supervises, coordinates, and provides policy direction for auditing, investigative, and security activities relating to programs and operations of the Department; (2) recommends policies for, and conducts, supervises, or coordinates other activities carried out or financed by the Department for the purposes of promoting economy and efficiency in the administration of, or detection and prevention of fraud and

abuse in, the programs and operations of the Department; (3) recommends policies for, and conducts, supervises, or coordinates relationships between the Department and other federal agencies, state and local governmental agencies, and other non-governmental entities with respect to audit and investigative matters relating to (a) the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department or (b) the identification and prosecution of participants in such fraud and abuse; (4) keeps the Secretary and the Congress informed concerning fraud and other serious problems, abuses, and deficiencies in the administration of programs and operations administered or financed by the Department; recommends corrective actions concerning such problems, abuses, and deficiencies; and reports on the progress made in implementing such corrective action; (5) delivers reports to the Secretary, Congress, and others as required by section 204 of P.L. 94-505; (6) to avoid duplication and provide efficient use of time and funds, keeps apprised of activities of the Comptroller General of the United States pertaining to the Department, and coordinates and reviews the Department's responses to draft and final reports by the GAO; (7) gives prior notice to the Secretary of major investigations to be undertaken with respect to programs and operations of the Department; and (8) in general, coordinates activities with the Office of General Counsel.

**B. The Immediate Office of the Inspector General.**—(1) *The Inspector General.* The Inspector General is the senior official of the office. The Inspector General is responsible for the management of all office personnel, for determining the budget needs of the office, for setting office policy and priorities, for oversight of office operations, and for reporting to the Secretary and Congress.

(2) *The Deputy Inspector General.* The Deputy Inspector General assists the Inspector General in the administration of the office and during the absence or temporary incapacity of the Inspector General, or during a vacancy in the office, acts as the Inspector General.

(3) *Executive Secretariat.* Establishes and monitors control procedures to insure that correspondence referred to the Inspector General's Office is responded to in a timely and complete manner. Serves as point of contact with the Secretary's Executive Secretariat; and maintains official office

correspondence files and records. Directs OIG records management system and maintains directives system. Assesses effectiveness of paperwork management processes, and recommends changes to increase efficiency.

(4) *Public Affairs Staff.* Exercises functional management of all public affairs activities for the Inspector General, including policy direction and technical assistance. Serves as the Inspector General's principal counsel on public affairs matters, and processes requests for information under the Freedom of Information and Privacy Acts. Reviews and disseminates all informational materials produced by OIG. Cooperates in Department-wide public affairs programs as established by the Assistant Secretary for Public Affairs.

(5) *Legislative Liaison Staff.* Maintains liaison with Congress. In consultation with the Assistant Secretary for Legislation, establishes processes to facilitate exchange of information between the OIG and the Congress; reviews pending legislation of concern to OIG; develops position statements; and coordinates policy and legal or statutory interpretation issues for OIG in the development of legislative proposals. Coordinates with appropriate OIG and Departmental offices on testimony and briefing materials for Congressional hearings pertaining to OIG.

(6) *Planning and Coordination Staff.* Develops long-range goals and plans for the Office of Inspector General. Updates multi-year plan annually for use by OIG operating components. Advises on effects of changes in economic, administration, and legislative policies and recommends courses of action to insure appropriate internal OIG priorities. Serves as principal advisor on planning and serves as principal staff coordinator on such matters with staffs of the Assistant Secretary for Planning and Evaluation and the Immediate Office of the Secretary. At the direction of the Inspector General, develops and coordinates special projects which involve complex issues and one or more OIG components. Monitors all special projects for the Inspector General. Prepares the Inspector General's Annual Report. Acts as principal liaison with special activities of the Office of Management and Budget and the President's Council on Integrity and Efficiency.

(7) *Medical Advisor Staff.* Responsible for advising the Inspector General and Assistant Inspector Generals and their staffs regarding studies and recommendations regarding

health programs administered or financed by the Department. Provides professional assistance and recommendations on complex medical administrative and management problems in programs relating to health care and health research. Prepares technical reports and recommendations, related to medical management improvement methods. Makes recommendations for policy changes as relates to audit and investigative procedures.

(8) *Administrative Office.* The Administrative Office serves as the principal advisor to the Inspector General on management and administrative activities of the Office of Inspector General. Manages and coordinates functions in the areas of resources planning, budgeting, resource management, personnel, and training.

(a) *Planning, Budget, and Resource Management Staff.* Develops long-range budget guidelines within the framework of the OIG multi-year plan and advises on out-year effects of changing goals and priorities. Serves as principal advisor on budget matters emanating from the Office of the Secretary and serves as principal staff coordinator to develop OIG annual budget. Assists OIG offices and divisions in the development of financial resource requirements and justifications; and provides actual cost data and estimates of future obligations for current and long-range budgets. Develops and implements OIG control system to insure conformance with allotments and timely reporting on commitments and expenditures. Manages OIG budget execution system and insures control and reprogramming of allocated funds. Advises on fiscal effect of reallocations of funds. Submits regular financial status reports. Implements OIG contract program; establishes policies, procedures, and reports on fiscal matters including pay, travel, contract services, supplies, and space. Responsible for managing the budget and grant award processes for the State Medicaid Fraud Control Units, including the coordination of termination and suspension actions.

(b) *Human Resources Management Staff.* Provides liaison with the Office of the Assistant Secretary for Personnel Administration, the Office of the Secretary Personnel Office, and the regional personnel offices regarding OIG personnel matters. Develops and maintains the internal personnel data system for the Office of Inspector General. Directs and supervises all personnel planning and recruiting efforts and administers a position management system. Develops and coordinates an

employee awards program, equal employment opportunity program, and an upward mobility program. Participates with other OIG components in planning, scheduling, and preparing materials for training professional personnel in headquarters and regional offices and conducts a training program covering all non-professional areas. Responsible for counseling activities concerning employee career development opportunities and staff development. Monitors OIG personnel authority as delegated to HHS components.

C. *The Office of Audit.* The Office of Audit is under the general supervision of the Assistant Inspector General for Audit.

1. *The Office of Audit:*

(a) Provides audit services to all management levels within the Department through the conduct of comprehensive audits which include examinations of the operations of the Department and its grantees and contractors;

(b) Works with other components of the Office of Inspector General on special assignments and projects;

(c) Provides technical assistance as necessary to federal, state, and local investigative staffs on matters concerning the Department's programs or operations;

(d) Develops policies, procedures, standards, and criteria relating to audit activities at all levels within the Department;

(e) Participates in interagency cooperative efforts intended to implement OMB Circulars A-102 and A-110, which call for use of the single audit concept for most external audits;

(f) Develops general and special audit programs as may be necessary to conduct audits of programs and activities performed by the Department and its operating divisions;

(g) Determines when audits can be most appropriately carried out by other audit organizations outside of the Department, including those by other agencies of government, or by private organizations;

(h) Evaluates the adequacy of audits performed for the Department by others;

(i) Performs audits and activities administered by other federal departments in accordance with the system of audit cognizance administered by the Office of Management and Budget;

(j) Accumulates and provides the Inspector General with data on unresolved audit findings—such data serving as the basis for quarterly reports to the Congress, and for the Under

Secretary's use as Chairman of the Audit Resolution Council;

(k) Conducts follow-ups and special analyses to determine completeness and propriety of actions taken on previously reported audit findings and recommendations;

(l) Prepares and disseminates reports of audits or special studies to OPDIVs, Regional Directors, and others who may be concerned;

(m) Reviews legislative and program proposals for audit implications;

(n) Performs special reviews of grant or contract proposals for the purpose of determining the financial capabilities of the grantees or contractors;

(o) Provides assistance to appropriate OPDIVs and staff divisions of the Secretary (STAFFDIVs) in the development of grants and procurement management policy and in the formulation of policy to govern establishment of indirect cost rates;

(p) Acts as Departmental liaison with the General Accounting Office (GAO).

With respect to this responsibility:

(i) Reviews drafts and final reports concerning Department activities, and through the Inspector General, advises the Secretary and other officials of significant findings.

(ii) Reviews all replies to GAO reports on behalf of the Inspector General to insure that they are responsive, properly coordinated, and represent Departmental policy.

(iii) Maintains and fosters liaison with representatives of the Office of Management and Budget and others regarding GAO reports and proposed Department responses.

The Office of Audit consists of the following divisions:

(a) Audit Coordination Division

(b) Advanced Audit Techniques Staff

(c) National Professional Development Center

(d) Social Security Audit Division

(e) Health Care Financing Audit Division

(f) Grants and Internal Systems Audit Division

(g) EDP Audit Division

(h) Regional Audit Offices

(a) *Audit Coordination Division:*

(i) Develops policies, procedures, and instructions for Office of Audit staff;

(ii) Develops audit plans and audit schedules and recommends or approves adjustments to such plans and schedules as determined necessary;

(iii) Coordinates development and handling of responses to GAO reports and letters;

(iv) Maintains liaison with other federal audit organizations in determining audit cognizance and arranging for cross-servicing;

(v) Develops policies and procedures for OIG or Department application on matters that transcend or cut across the individual responsibilities of other divisions and offices;

(vi) Develops and evaluates results of the OIG audit effort, including appraising effectiveness of field office management and general quality of audit performance.

(b) *Advanced Audit Technique Staff:*

(i) Researchers and develops new techniques to use the computer in detecting fraud, abuse, and waste in HHS programs, nationwide;

(ii) Develops OIG-wide policies and instructions for use of advanced techniques associated with the use of electronic data processing, statistical sampling, and mathematical analysis;

(iii) Provides technical guidance (in the areas of computers, statistical sampling, and mathematical techniques) during OIG nationwide initiatives to combat and prevent fraud, abuse, and waste.

(c) *National Professional Development Center (NPDC):*

(i) Develops and implements a comprehensive professional development program (the program is technical in nature and provides both professional enhancement and state-of-the-art courses);

(ii) Initiates and coordinates studies on professional problems, standards and policies and is responsible for joint initiatives with other government agencies, professional organizations, and the academic communities.

(d, e, f) *Social Security Audit Division, Health Care Financing Audit Division, Grants and Internal Systems Audit Division* each, for their assigned functional area:

(i) Develops standards and policies for audits;

(ii) Develops audit guides and programs to review financial aspects, compliance aspects, economy and efficiency, and where feasible, program results achieved;

(iii) Plans, arranges for, or performs an appropriate program of internal audits;

(iv) Reviews issued audit reports;

(v) Visits regional offices and audit sites to appraise technical adequacy of audits and to provide technical assistance on audits;

(vi) Develops audit reports for the Secretary and top officials on findings from audit assignments at multi-location, interregional audit assignments.

(g) *EDP Audit Division:*

(i) Reviews design and development of Departmental computer-based systems as required by the Comptroller General in "Standards for Audit of

Governmental Organization, Programs, Activities and Functions", 1981 Revision;

(ii) Performs comprehensive audits of general and application controls in computer-based systems;

(iii) Extracts and compares computer data to probe for fraud and abuse involving computer transactions;

(iv) Provides EDP support to OIG and regional offices.

(h) *Regional Audit Offices.* Carry out the full range of duties of the Office of Audit in their assigned geographic areas.

D. *The Office of Investigations.* The Office of Investigations is under the general supervision of the Assistant Inspector General for Investigations.

1. *The Office of Investigations:*

(a) Provides leadership, policy direction, planning, coordination, and management of the investigative programs of OIG and is responsible for the physical, documentary, and executive security programs of the Department;

(b) Reports results of investigations to the Inspector General and keeps the Inspector General informed of significant developments regarding OI activities;

(c) Provides technical assistance and advice to the program staffs of the OPDIVs within the Department in identifying areas of high fraud potential and in developing integrity controls to minimize that potential;

(d) Reports information, allegations, and complaints regarding suspected criminal activity and conduct involving Departmental employees to the Department of Justice pursuant to the requirements of 28 U.S.C. 535;

(e) Serves as the Department's principal liaison with the Department of Justice on all matters relating to investigations of Departmental programs and personnel;

(f) Provides technical assistance and advice to the program staffs of the OPDIVs of the Department regarding physical and documentary security concerns and the integrity of program files;

(g) Reports information, allegations, and complaints regarding the compromise, theft, or loss of classified material to the Department of Justice and other interested Government agencies;

(h) Advises appropriate Department OPDIVs and STAFFDIVs of the results of investigations and security surveys conducted by the Office of Investigations, including the disposition of any matter presented to the Department of Justice for possible criminal prosecution;

(i) Works with other OIG components and other investigative agencies on special assignments and projects; and  
 (j) Reviews legislative and program proposals for investigative implications.

The Office of Investigations consists of the following divisions and staff offices:

- (a) Criminal Investigations Division
- (b) Civil Fraud Division
- (c) State Fraud Division
- (d) Security and Protection Division
- (e) Investigative Systems Staff
- (f) Regional and Field Offices

(a) *The Criminal Investigations Division:*

- (i) Provides direction and coordination to the investigative field offices concerning projects and investigations;
- (ii) Implements guidelines and policies for the detection, investigation, and prevention of fraud and abuse in Department programs, and for the investigation of wrongdoings by grantees or contractors, or by Department employees in the performance of their official duties;
- (iii) Identifies systemic and programmatic vulnerabilities in the Department's operations, and makes recommendations for changes in statutes, policies, and procedures;
- (iv) Develops investigative techniques and programs and coordinates investigative projects with other OIG components and with other agencies;
- (v) Provides programmatic expertise and disseminates information on new programs, procedures, regulations, and statutes to the field offices;
- (vi) Reviews completed reports of investigation for accuracy and compliance with OI guidelines and policies and disseminates reports to prosecutive agencies management officials, and through the Inspector General, to the Secretary;
- (vii) Maintains liaison with OPDIVs and STAFFDIVs, OIG counterparts, and other investigative and law enforcement agencies;
- (viii) Assists Assistant Inspector General for Investigations in establishing investigative priorities, supervising and evaluating field offices, and monitoring and reporting on the effectiveness of Division efforts;
- (ix) Prepares management and statistical reports for the Assistant Inspector General for Investigations;
- (x) Assists OIG in responding to Congressional inquiries, and requests for information made under the Privacy and Freedom of Information Acts;
- (xi) Maintains a laboratory facility which provides examination and analysis of questioned documents to establish authorship and authenticity.

(b) *The Civil Fraud Division:*

- (i) Investigates or coordinates investigations which result in civil fraud litigation or imposition of a civil money penalty;
  - (ii) Investigates or coordinates investigations which result in administrative actions against employees, contractors, or grantees for misconduct;
  - (iii) Investigates or coordinates investigations of allegations of violations of standards of conduct by Department employees;
  - (iv) Recommends to the Secretary, OPDIVs and STAFFDIVs, when necessary, consideration of debarment actions against contractors and grantees, and personnel actions against employees who have committed wrongful acts against the Department;
  - (v) Monitors and coordinates administrative sanctions taken by OPDIVs or STAFFDIVs as a result of OIG referrals;
  - (vi) Maintains liaison with OPDIVs and STAFFDIVs to insure that appropriate procurement review and action is made on OIG referrals;
  - (vii) Maintains an index of individuals, corporations, and organizations which are prohibited from conducting business with the Department or any of its components;
  - (viii) Operates the OIG Hotline and receives and evaluates all complaints against HHS employees or programs, which have been filed with GAO or other agencies' Hotlines;
  - (ix) Conducts a Department-wide employee education program regarding availability of the Hotline;
  - (x) Analyzes patterns or trends which indicate problems developing within STAFFDIVs and OPDIVs, and conducts management reviews when necessary.
- (c) *The State Fraud Division:*
- (i) Develops strategies, techniques, and manuals to assist State efforts to detect, prevent, investigate, audit, prosecute, or take administrative or programmatic action against those who defraud or abuse governmental programs funded by the Department;
  - (ii) Fosters improved relations and effective interaction among federal, state, and local agencies and organizations responsible for the investigation and prosecution of fraudulent and abusive activities within the programs funded by the Department;
  - (iii) Analyzes, reviews, and evaluates State efforts in the administration of such programs, and their efforts to control fraud and abuse, and recommends improvements;
  - (iv) Reviews Federal policies, practices, and statutes which impact upon State effectiveness to control fraud

and, when necessary, recommends improvements;

(v) Administers program aspects of grants to States for the investigation and prosecution of Medicaid provider fraud, and certifies State units designated for this purpose;

(vi) Plans, coordinates, and conducts regional and National training conferences relevant to fraud and abuse in HHS programs;

(vii) Assists various jurisdictions in investigations and prosecutions through the detailing of personnel; the coordination of multi-jurisdictional investigations; and the development of computer profile techniques, which identify suspected fraudulent activity.

(d) *The Security and Protection Division:*

- (i) Provides for the personal protection of the Secretary, and when necessary the Secretary's family, in order that the Secretary may effectively execute the duties of his office;
- (ii) On a contingency basis provides personal protection, guidance, and assistance to other high-level Department officials;
- (iii) Provides and maintains Department-wide policy, oversight, and guidance for the protection of Department property, activities, and personnel;
- (iv) Develops and maintains an Occupant Emergency Plan (OEP), pursuant to GSA Federal Property Management Regulations, for the HHS Headquarters complex and provide OEP policy guidance to OPDIVs and STAFFDIVs;
- (v) Establishes departmental policies, procedures, and guidelines for the protection of classified (national security) information, as mandated by Executive Order 12085, National Security Information; for communications security and industrial security; and for development, control, and safeguarding of all Departmental identification media;
- (vi) Conducts evaluations, inspections, and reviews to ascertain the effectiveness of Department-wide executive, physical, and information security programs;
- (vii) Provides and maintains a Department-wide security awareness/education/training program relating to the safeguarding of classified and non-classified sensitive information, protection of Government property, and crime prevention;
- (viii) Maintains liaison with OPDIVs and STAFFDIVs and other federal agencies on all matters pertaining to executive protection and other security programs affecting the Department.

**(e) Investigative Systems Staff:**

(i) Provides for the development, maintenance, and operation of all centralized investigative data and management information systems for OI;

(ii) Analyzes, distributes, and reports the information required by the Assistant Inspector General for Investigations to support OI Headquarters and field activities;

(iii) Renders technical electronic data processing assistance to OI investigative units in the form of evidence analysis and computerized data interpretation;

(iv) Maintains official OI investigative files and indices;

(v) Operates mail and supply distribution functions for OI Headquarters.

**(f) Regional and Field Investigative Offices:**

(i) Receives and evaluates allegations of fraud, abuse, or wrongdoing;

(ii) Initiates and conducts investigations under guidelines and policies established by the Assistant Inspector General for Investigations;

(iii) Prepares investigative, management, and statistical reports;

(iv) Assists government attorneys in criminal, civil, or administrative proceedings resulting from investigations;

(v) Provides assistance to the Civil Fraud Division, State Fraud Division, and Security and Protection Division in the furtherance of their missions;

(vi) Within their area of responsibility, maintains liaison with and provides assistance to local HHS officials; other OIG components; other federal, state, and local enforcement agencies; and U.S. Attorneys and other prosecutors.

**D. The Office of Systems Integrity.** The Office of Systems Integrity is under the general supervision of the Assistant Inspector General for Systems Integrity.

**The Office of Systems Integrity:**

(a) Reviews management of the Department's programs, giving particular attention to management information systems, quality control systems, and program integrity;

(b) Works with other OIG staff offices on special cross-cutting projects and assignments;

(c) Encourages Department officials to be sensitive to risk analysis and fraud prevention;

(d) Analyzes OIG audit and investigative reports and other documents and data to ascertain patterns and trends of fraud;

(e) Reviews existing and proposed legislation and regulations to assess fraud, abuse, and waste implications in HHS programs and operations;

(f) Maintains liaison with other offices of Inspectors General, related

professional organizations, federal agencies, and non-governmental entities to promote the objectives of the OIG;

(g) Conducts special research and analysis projects at the request of the Secretary or the Congress;

(h) Assesses the impact and effectiveness of HHS delivery of services and programs for the Secretary;

(i) Serves as a policy, strategy and program advisor to the Inspector General and Deputy Inspector General.

The Office of Systems Integrity consists of the following divisions:

(a) Social Security Division

(b) Health Care Financing Division

(c) Grants and Internal Systems

Division

(d) Service Delivery Assessment Division

The functions of the divisions of the Office of Systems Integrity are:

(a, b, c) *Social Security Division, Health Care Financing Division, and the Grants and Internal Systems Division:*

Are concerned specifically with improving efficiency and preventing conditions that provide the potential for fraud, abuse, and waste in the Social Security programs; medicare and medicaid programs; and human services, health services, and other HHS programs and functions which may involve management of HHS programs or contracts, loans, and grant practices; respectively. Within its functional area, each Division:

(i) Reviews the Department's legislative and regulatory proposals and makes recommendations for modification where necessary to provide better safeguards against fraud, abuse, or waste.

(ii) Studies the Department's programs for systemic vulnerabilities and recommends alternatives that would reduce the potential for fraud, abuse, or waste.

(iii) Undertakes reviews of specific projects or activities where there are allegations of waste or abuse which do not involve fraud or misuse of federal funds.

The Health Care Financing Division is established pursuant to section 203(d) of Pub. L. 94-505, and working with the Office of the Medical Advisory, who reports directly to the Deputy Inspector General, they have the specific full time responsibility for overseeing antifraud and antiabuse activities relating to the Medicare, Medicaid, Renal Disease, and Maternal and Child Health programs.

(d) *The Service Delivery Assessment Division* provides the management direction and oversight of regional Service Delivery Assessment offices, including preparation of the work plan, determination of project assignments,

staff training, and supervises and coordinates each project. Service Delivery Assessments are national in scope and provide the Secretary and HHS operating components with information and recommendations for improving the effectiveness, timeliness, and economy by which HHS programs are serving its clients.

Dated: April 29, 1982.

Richard S. Schweiker,  
Secretary.

[FR Doc. 82-12579 Filed 5-7-82; 8:45 am]

BILLING CODE 4110-12-M

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management****Moab District, Price River and Range Creek Planning Units; Unleased Federal Coal Lands; Meeting and Comment Period**

April 30, 1982.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meeting and public comment period.

**SUMMARY:** Notice is hereby given that the unsuitability criteria (43 CFR Part 3460) have been applied to 3,869.13 acres of unleased Federal coal lands within the Price River and Range Creek planning units of the Bureau of Land Management's Moab District and that the land use plan for the Price River/Range Creek Coal Area is being accordingly amended. A public comment period is provided during the period May 10, 1982 through June 10, 1982. A public open house is provided on May 27, 1982 at the "contact" address below during the hours 9:00 am through 3:00 pm.

**CONTACT:** Leon E. Berggren, Price River Resource Area Manager, Bureau of Land Management, 900 North 700 East, P.O. Drawer AB, Price, Utah 84501; (801) 637-4584.

**BACKGROUND:** Notice of application of the unsuitability criteria within the Price River/Range Creek Coal Area was made in FR Doc. 81-20831 dated July 16, 1981, pages 36947-36948. Notice of amending the associated land use plan for the application of the unsuitability criteria to the additional 3,869.13 acres was made in FR Doc. 82-8737 dated April 1, 1982, pages 13911-13912.

Through the application of unsuitability criteria to the 3,869.13 acres, only Criteria 3 (public roads) and 11 (golden eagle nests) have been found to be applicable. Criterion 14 (migratory birds) has not been fully applied due to

a lack of data. Lands identified as unsuitable have been found acceptable for further consideration for leasing with the underground mining exemption and appropriate stipulations.

Documents relating to the Price River/Range Creek Coal Area remain available for public review at the "contact" address. A brochure which summarized the results of the original land use plan remains available on request. The preliminary results of the land use plan amendment and maps of the area considered in the amendment are also available from the "contact".

Gene Nodine,  
District Manager.

[FR Doc. 82-12614 Filed 5-7-82; 8:45 am]  
BILLING CODE 4310-84-M

### Minerals Management Service

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron, U.S.A. Inc.

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the receipt of a proposed development and production plan.

**SUMMARY:** Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3398, Block 277, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

**FOR FURTHER INFORMATION CONTACT:** Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

**SUPPLEMENTARY INFORMATION:** Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised

§ 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 3, 1982.

Lowell G. Hammons,  
Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-12615 Filed 5-7-82; 8:45 am]  
BILLING CODE 4310-31-M

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Transco Exploration Co.

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the receipt of a proposed development and production plan.

**SUMMARY:** Notice is hereby given that Transco Exploration Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3546, Block 58, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

**FOR FURTHER INFORMATION CONTACT:** Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

**SUPPLEMENTARY INFORMATION:** Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 3, 1982.

Lowell G. Hammons,  
Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-12616 Filed 5-7-82; 8:45 am]  
BILLING CODE 4310-31-M

### Office of Surface Mining Reclamation and Enforcement

#### Petition To Designate Certain Federal Lands on Camp Swift Military Reservation, Bastrop County, Texas, Unsuitable for Surface Coal Mining and Reclamation Operations; Public Hearing; Availability of Petition Draft Evaluation Document for the Camp Swift Petition

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

**ACTION:** Notice of availability of the draft petition evaluation document evaluating certain lands on Camp Swift Military Reservation as to whether they are unsuitable for surface coal mining and reclamation operations and Notice of Public Hearing to receive comments on the draft document.

**SUMMARY:** The Office of Surface Mining (OSM) received a petition August 7, 1981, to designate 9,500 acres within Camp Swift Military Reservation in Bastrop County, Texas unsuitable for surface coal mining and reclamation operations. This petition, which was filed by John R. Prager, was amended by him on October 13, 1981. The petition alleges that the mining of lands on the Camp Swift Military Reservation would irreparably harm quantity and quality of the surface and ground waters. It further alleges that soil conditions would make reclamation technically and economically infeasible, that harm would be done to the endangered Houston toad, and that cultural resources (cemeteries) would be impacted.

**DATES:** A Public Hearing will be held on June 7, 1982. It will begin at 9:00 a.m. and continue with appropriate recesses until all who desire to speak have been heard. Written comments on the draft document must be received by 5:00 p.m. (local time) on June 14, 1982, at the address given below:

**ADDRESSES:** Copies of the draft document are available at the OSM Western Technical Center, 2nd Floor, Brooks Towers, 1020 15th Street, Denver, Colorado 80202. Written comments on the draft document may be mailed or handcarried, and must be received by the date and time given above, to Mr. Richard Dawes, Deputy Administrator, Western Technical Center, OSM, 1020 15th Street, Denver, Colorado 80202.

A Public Hearing will be held on June 7, 1982, in the Cafeteria of the Bastrop Public High School, 1602 Hill Street, Bastrop, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mel Shilling; Office of Surface Mining, Western Technical Center, 1020 15th

Street, Denver, Colorado 80202; telephone (303) 837-5656.

**SUPPLEMENTARY INFORMATION:** The draft petition evaluation document presents an analysis of the allegations made in the petition. The document summarizes available information on the petition area (including related NEPA reviews) as well as material from new studies. The document also contains discussion of the potential coal resources in the area; the demand for coal resources; the impact of designation on the environment, the economy and the supply of coal; and the impacts of alternatives available to the Secretary.

Two petitions were also filed with the Texas Railroad Commission for designating non-Federal lands outside of Camp Swift as unsuitable for surface mining. OSM will process the petition on Federal lands, while the Railroad Commission will process the petitions on non-Federal lands. Each agency will have a hearing.

The OSM, with the assistance of several Federal, State, and county agencies, has been evaluating the petition. Copies of the draft evaluation document are being made available today. OSM has arranged delivery to assure that known interested parties have a full 30 days for review. The public is encouraged to comment on the document. Additional information on the mailing address for comments is given below.

Copies of the draft evaluation document are being made available today. OSM has arranged delivery to assure that known interested parties have a full 30 days for review. The public is encouraged to comment on the document.

A public hearing is scheduled at the time and place indicated under "DATES" and "ADDRESSES" above. Individual testimony at this hearing will be limited to 10 minutes except where the number of persons wishing to comment is small enough to allow more time. Anyone who wishes to comment will be given the opportunity to do so. Persons wishing to be scheduled to present testimony should contact OSM Western Technical Center at the address given above. An opportunity to register to speak will also be available at the hearing. Witnesses are encouraged to bring three copies of written statements to the hearings for presentation to the hearing panel. Submission of written statements to the OSM address given above, in advance of the hearing date would give OSM officials an opportunity to consider appropriate questions which could be asked to clarify or elicit more specific

information from the person commenting. All written comments may be mailed to the OSM Western Technical Center at the address listed above under "ADDRESSES". But must be received no later than the time indicated under "DATES" in order to be considered.

Until June 4, 1982, at 5:00 p.m., any person may file an application for intervention in the proceeding at the above address. Such application must contain allegations of facts, supporting evidence, a short statement identifying the petition to which the allegations pertain, and the intervenor's name, address, and telephone number.

Dated: May 4, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-12595 Filed 5-7-82; 8:45 am]

BILLING CODE 4310-05-M

### Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Ch. 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202-395-7340.

Title: 30 CFR 817, Permanent Program Performance Standards (Underground)  
Bureau Form Number: None  
Frequency: Nonrecurring, Annually, Quarterly, and on occasion.  
Description of Respondents: State Governments and Underground Coal Mine Operators.

Annual Responses: 41,168

Annual Burden Hours: 1,273,138

Bureau clearance officer: Darlene Grose 202-343-5447

Carson W. Culp,

Acting Assistant Director, Management and Budget.

[FR Doc. 82-12742 Filed 5-7-82; 8:45 am]

BILLING CODE 4310-05-M

### INTERSTATE COMMERCE COMMISSION

#### Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by

Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

#### Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

**Note.**—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

#### Volume No. OP1-80

Decided: April 30, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 30650 (Sub-8), filed April 12, 1982. Applicant: C. HARRELL, INC., Garrison Road, R.D. 3, Elmer, NJ 08381.

Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525-4050. Transporting *general commodities* (except classes A and B explosives and household goods), between Kansas, Windsor, Ashmore, and Tower Hill, IL, Huntertown, Wallen, Laotto, Swan, Avilla, Gadsden, Toto, Tefft, Charlottesville, Greenfield, Philadelphia, Gem, Cumberland, Hebron, Denham, Plainfield, Clayton, Amo, Coatesville, Fillmore, Pennville, West Cambridge City, Hillsboro, Waynetown and Covington, IN, Ludlow, MA, Clinton, Tekonsha, Homer, Concord, Spring Arbor, Centreville, Nottawa, Fairfax, Colon, Sherwood and Union City, MI, Elm, Mt. Hope, Vernon, Rudeville, Highland Lakes, Blairstown, Marksboro, Greendell, Cranberry Lake, Lake Lackawanna, Pemberton and Ft. Dix, NJ, New Milford, Rosendale, High Falls, Rifton, Tillson, Williamsville, Gardiner, Modena, Lee, Blossvale, Lima, Malane, Constable, Trout River, Leicester, LaGrange, Groveland, Mt. Morris, Sonyea, Linden, Oneida Castle, Red Oaks Mill, Fishkill Plains, St. Andrew, Plattekill, Ilion and Stafford, NY, Berwick, Ellis, Dresden, Cadiz, Patterson, Grant, Lisbon, Westerville, Galena, Sunbury, Centerburg, Bangs, Mount Liberty, Millwood, Phalanx, Garrettsville, Piney Fork, Pekin, Paris, Amsterdam, Wolf Run, Pattersonville, Augusta, Mechanicstown, Bergholz, Harrod, White Cottage, Moxahala Park, Roseville, Hepburn, Meeker, Big Island, New Lexington, Savona, Fort Jefferson, Germantown, Farmersville, Ingomar, West Alexandria, Trotwood, Brookville, Bachman, West Sonora, Eldorado, Glass

Rock, Mt. Perry, Fultonham, East Fultonham and Crooksville, OH, and Heilwood, Mountain Home, Strawberry Ridge, Evers Grove, Pulaski, Spring City, Seiple, Upland, Carlton, Dimeling, Madera, Potts Run, Nanty Glo, Lilly, Alexandria, Mount Pleasant, Hepburnville, Woodland Park, Cochranton, Utica, Niles, New Providence, Garland, Pittsfield, Youngsville, Irvine, Starbrick, Waterford, Union City, Beaver Dam, Elgin, Spring Creek, Greason, Audubon, Newville, Oakville, Cornwall, Northwood, Vail, Bald Eagle, Port Matilda, Julian, Unionville, Wingate, South Bradford, Degolia, Custer City, Lewis Run and Slatington, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

**Note.**—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 94990 (Sub-3), filed April 23, 1982. Applicant: NASSAU WORLD-WIDE MOVERS, INC., 57 Central Avenue, Farmingdale, NY 11735. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20423, (202) 785-0024. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 110841 (Sub-24), filed April 12, 1982. Applicant: PORT NORRIS EXPRESS CO., INC., North Avenue, Port Norris, NJ 08349. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, (703) 525-4050. Transporting *general commodities* (except classes A and B explosives and household goods), between Kansas, Windsor, Ashmore, and Tower Hill, IL, Huntertown, Wallen, Laotto, Swan, Avilla, Gadsden, Toto, Tefft, Charlottesville, Greenfield, Philadelphia, Gem, Cumberland, Hebron, Denham, Plainfield, Clayton, Amo, Coatesville, Fillmore, Pennville, West Cambridge City, Hillsboro, Waynetown and Covington, IN, Ludlow, MA, Clinton, Tekonsha, Homer, Concord, Spring Arbor, Centreville, Nottawa, Fairfax, Colon, Sherwood and Union City, MI, Elm, Mt. Hope, Vernon, Rudeville, Highland Lakes, Blairstown, Marksboro, Greendell, Cranberry Lake, Lake Lackawanna, Pemberton and Ft. Dix, NJ, New Milford, Rosendale, High Falls, Rifton, Tillson, Williamsville, Gardiner, Modena, Lee, Blossvale, Lima, Malone, Constable, Trout River, Leicester, LaGrange, Groveland, Mt. Morris, Sonyea, Linden, Oneida Castle, Red Oaks Mill, Fishkill Plains, St. Andrew, Plattekill, Ilion and Stafford, NY, Berwick, Ellis, Dresden, Cadiz, Patterson, Grant, Lisbon, Westerville,

Galena, Sunbury, Centerburg, Bangs, Mount Liberty, Millwood, Phalanx, Garrettsville, Piney Fork, Pekin, Paris, Amsterdam, Wolf Run, Pattersonville, Augusta, Mechanicstown, Bergholz, Harrod, White Cottage, Moxahala Park, Roseville, Hepburn, Meeker, Big Island, New Lexington, Savona, Fort Jefferson, Germantown, Farmersville, Ingomar, West Alexandria, Trotwood, Brookville, Bachman, West Sonora, Eldorado, Glass Rock, Mt. Perry, Fultonham, East Fultonham and Crooksville, OH, and Heilwood, Mountain Home, Strawberry Ridge, Evers Grove, Pulaski, Spring City, Seiple, Upland, Carlton, Dimeling, Madera, Potts Run, Nanty Glo, Lilly, Alexandria, Mount Pleasant, Hepburnville, Woodland Park, Cochranton, Utica, Niles, New Providence, Garland, Pittsfield, Youngsville, Irvine, Starbrick, Waterford, Union City, Beaver Dam, Elgin, Spring Creek, Greason, Audubon, Newville, Oakville, Cornwall, Northwood, Vail, Bald Eagle, Port Matilda, Julian, Unionville, Wingate, South Bradford, Degolia, Custer City, Lewis Run and Slatington, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

**Note.** Applicant proposes to provide a substituted motor-for-rail service.

MC 147311 (Sub-9), filed April 12, 1982. Applicant: T & S TRANSPORTATION, INC., 7420 Ranco Road, P.O. Box 9729, Richmond, VA 23228. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210, (703) 525-4050. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Kansas, Windsor, Ashmore, and Tower Hill, IL, Huntertown, Wallen, Laotto, Swan, Avilla, Gadsden, Toto, Tefft, Charlottesville, Greenfield, Philadelphia, Gem, Cumberland, Hebron, Denham, Plainfield, Clayton, Amo, Coatesville, Fillmore, Pennville, West Cambridge City, Hillsboro, Waynetown and Covington, IN, Ludlow, MA, Clinton, Tekonsha, Homer, Concord, Spring Arbor, Centreville, Nottawa, Fairfax, Colon, Sherwood and Union City, MI, Elm, Mt. Hope, Vernon, Rudeville, Highland Lakes, Blairstown, Marksboro, Greendell, Cranberry Lake, Lake Lackawanna, Pemberton and Ft. Dix, NJ, New Milford, Rosendale, High Falls, Rifton, Tillson, Williamsville, Gardiner, Modena, Lee, Blossvale, Lima, Malone, Constable, Trout River, Leicester, LaGrange, Groveland, Mt. Morris, Sonyea, Linden, Oneida Castle, Red Oaks Mill, Fishkill Plains, St. Andrew, Plattekill, Ilion and Stafford, NY,

Berwick, Ellis, Dresden, Cadiz, Patterson, Grant, Lisbon, Westerville, Galena, Sunbury, Centerburg, Bangs, Mount Liberty, Millwood, Phalanx, Garrettsville, Piney Fork, Pekin, Paris, Amsterdam, Wolf Run, Pattersonville, Augusta, Mechanicstown, Bergholz, Harrod, White Cottage, Moxahala Park, Roseville, Hepburn, Meeker, Big Island, New Lexington, Savona, Fort Jefferson, Germantown, Farmersville, Ingomar, West Alexandria, Trotwood, Brookville, Bachman, West Sonora, Eldorado, Glass Rock, Mt. Perry, Fultonham, East Fultonham and Crooksville, OH, and Heilwood, Mountain Home, Strawberry Ridge, Evers Grove, Pulaski, Spring City, Seiple, Upland, Carlton, Dimeling, Madera, Potts Run, Nanty Glo, Lilly, Alexandria, Mount Pleasant, Hepburnville, Woodland Park, Cochran, Utica, Niles, New Providence, Garland, Pittsfield, Youngsville, Irvine, Starbrick, Waterford, Union City, Beaver Dam, Elgin, Spring Creek, Greason, Audubon, Newville, Oakville, Cornwall, Northwood, Vail, Bald Eagle, Port Matilda, Julian, Unionville, Wingate, South Bradford, Degolia, Custer City, Lewis Run and Slatington, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note. Applicant proposes to provide a substituted motor-for-rail service.

MC 161590, filed April 20, 1982. Applicant: B-SURE ENTERPRISES, INC., P.O. Box 319, Holmdel, NJ 07733. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836-1144. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 161640, filed April 23, 1982. Applicant: BUD KENT, d.b.a. KENT TRUCKING, Route 1, Box 74, Palouse, WA 99161. Representative: Kevin M. Clark, 2417 Bank Dr., Ste., Boise, ID 83705. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161661, filed April 26, 1982. Applicant: MICHAEL HEIM, d.b.a. HEIM TRUCKING, Route 3, Denmark, WI 54208. Representative: Nancy J. Johnson, 103 East Washington St., Box 218, Crandon, WI 54520, (715) 476-3341. Transporting (1) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil*

*conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.; and (2) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 161671, filed April 26, 1982. Applicant: JACK L. SMOOT, 1061 Black Oak Drive, Roseburg, OR 97470. Representative: Jack L. Smoot (same address as applicant), (503) 673-3220. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

#### Volume NO. OP4-158

Decided: April 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 144757 (Sub-19), filed March 16, 1982, previously noted in the Federal Register issue of April 27, 1982, and republished this issue. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 E St Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343-4036. Transporting *general commodities* (except classes A and B explosives and household goods), between Irvington, NE, Evanston, IA, Orange City, IA, Beech Bluff, Lexington and Luray, TN, Ralston and Terrell, TN, Benton, Dexter, Hardin and PI Junction, KY, Broughton, Dales, Equality and Havoline, IL, Paoli, IN, Big Sandy, TN, DeWalt, Herbert, and Smada, TX, Boyd, Fox, Joliet, Red Lodge and Roberts, MT, Dunseith and Thorne, ND, Maxine, KS, Empire, MO, Ashley, Benton, Eddy, Foraker, Hamilton, Helmer, Hudson, South Milford, Stoney Creek, Topeka and Wolcottville, IN, Edon, OH, Bloomfield, Carbon, South Ottumaw, and West Grove, IA, Villa Park, CA, Alden, Barker Creek, Bellaire, Bendon, Central Lake, Chief Lake, Douglas, Ellsworth, Harpers, Interlochen, Norwalk, State Hospital, Rapid City and Wealthy, MI, Beecher City, Berry, Breckenridge, Converse Branch, Edinburg, Iola, Lakewood, Louis, Millersville, Oweneco, Rochester, Sharpsburg, and Tower Hill, IL, Barton, Furman, Kline, Lena, Seigling and Valentine, SC, Alford and Gorday, GA, Abbeville, College Hill, Hudsonville, Lamar, McClary, Michigan City, Oxford, Spraggins, Taylor, Waterford and Water Valley, MS, Bolivar, Congor, Hichery Valley, Malesus, Medon, Middleburg,

and Toone, TN, Deanfield, Oakridge, Philpot, and Whitesville, KY, Edgote, Masonville, and Thompsonville, KY, Ashland City, Chapmansboro, Doddsville, Fox Bluff, Hichery Point, Jordonia, Kenwood, Riverside, Scottsboro, and Steel City, TN, Blackford, Camp Breckenridge, Clay, Corydon, Crayne, Crider, De Koven, Fluornoy, Fredonia, Grove Center, Henshaw, Marion, Mexico, Morganfield, Repton, St. Vincent, Sturgis, Sullivan, Uniontown, Waverly and Wheatcroft, KY, Flanagan, Graymont, and Rook's Creek, IL, Deanburg, Hornsby, Lacy, Parksburg, Serles, and Silerton, TN, Cumberland, Dancy, Gibbons, Mantee, Reform, Sherwood and Woodland, MS, Lexington and Owens Wells, MS, Fordsville and Narrows, KY, Caroleen and Henrietta, NC, Arnheim, Chassel, Hancock, Keweenaw and Pilgrim, MI, Forest, Starrucca, Thompson and Uniondale, PA, Chatsworth, Winslow Junction and Woodmansie, NJ, Transfer, PA, Light Street, PA, Westminster, OH, Clarksville, IN, Garrett Road, Llanerch and Grassland, PA, Napier, PA, Cromby, Parker Ford, Pennhurst and Spring City, PA, Newton Square Bance, PA, Honey Brook, PA, Carlon, PA, Allendale, IL, Rosendale, NY, Jacobs, Pauls and Rands, ME, Bell and McNary, AZ, Mottville, and Skaneateles Falls, NY, Readers, AL, and Sherryl Spur, MT, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a Certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

Notes.—The purpose of this application is to substitute motor common carrier for abandoned rail service.

The purpose of this republication is to correctly indicate the proper means of protesting this application. The earlier publication allowed more liberal intervention.

#### Volume No. OP2-88

Decided: April 28, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160033 (Sub-1), filed April 16, 1982. Applicant: PENN TRUCKING & WAREHOUSING CO., 2147 South Delaware Ave., Philadelphia, PA 19148. Representative: Barbara S. Chesarek, 2600 The Fidelity Bldg., Philadelphia, PA 19109, 215-875-7000. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 161243, filed April 20, 1982. Applicant: B. L. CHESSER, d.b.a. HARPER TRANSFER & STORAGE, 1101 Front St., Laurel, MS 39440. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202-785-0024. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 161332, filed April 2, 1982. Applicant: LEE EWING & ASSOCIATES, P.O. Box 976, Gardnerville, NV 89410. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, (702) 882-5649. (1) Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161562, filed April 16, 1982. Applicant: CENTAUR CORPORATION, P.O. Box 3658, Mission Viejo, CA 92690. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., NW., Washington, DC 20005, 202-296-3555. As a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 82-12576 Filed 5-7-82; 8:45 am]  
BILLING CODE 7035-01-M

### Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon

which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

### Motor Carriers of Property Notice No. F-169

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 116652 (Sub-1-1TA), filed April 21, 1982. Applicant: CHARLES W. ASCHE, 5910 Edgewood Drive, Niagara Falls, NY 14304. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Passengers and their baggage, in special operations, in round-trip sightseeing or pleasure tours, limited to the transportation of not more than 14 passengers in any one vehicle, but not including the driver thereof and not including children under ten years of age who do not occupy a seat or seats*, beginning and ending at Niagara Falls, NY, and points in Niagara County, NY, and extending to ports of entry on the US/CD Boundary line at Niagara Falls and Lewiston, NY. Supporting shipper: Niagara Falls Motel, 8710 Pine Avenue, Niagara Falls, NY.

MC 78039 (Sub-1-2TA), filed April 27, 1982. Applicant: B & R MOTOR EXPRESS, INC., P.O. Box 4085, Utica, NY 13504. Representative: Murray J. S. Kirshtein, 118 Blecker Street, Utica, NY 13501. *Contract carrier: irregular routes: Machinery, and materials and supplies used in the manufacture and marketing of machinery* between Rome, NY and points in the U.S. except AK and HI under continuing contract(s) with National-Standard of Rome, NY.

Supporting shipper: National-Standard, RD #3, Box 227, Rome, NY 13440.

MC 65491 (Sub-1-7TA), filed April 28, 1982. Applicant: GEORGE W. BROWN, INC., P.O. Box 1208, Hightstown, NJ 08520. Representative: Irving Klein, Suite 7, 1205 Franklin Avenue, Garden City, NY 11530. *Sheet steel and metal parts used in the manufacture of containers* between Chicago, IL, on the one hand, and, on the other, Williamsport, PA. Supporting shipper: Rheem Manufacturing Company, 7600 So. Keozie Avenue, Chicago, IL 60652.

MC 160570 (Sub-1-1TA), filed April 28, 1982. Applicant: CITY SERVICE TAXICAB OF BUFFALO, INC., 1379 Niagara Street, Buffalo, NY 14213. Representative: Cohen, Lombardo, Blewett, Fisher, Hite and Spandau, 343 Elmwood Avenue, Buffalo, NY 14222. *Contract carrier: irregular routes: Patients for the Veterans Administration Medical Center* from The Veterans Administration Medical Center in Buffalo, NY, to all points in PA under continuing contract(s) with The Veterans Administration Medical Center, Buffalo, NY. Supporting shipper: Veterans Administration Medical Center, 3495 Bailey Avenue, Buffalo NY 14215.

MC 146957 (Sub-1-2TA), filed April 21, 1982. Applicant: DACIANO A. SANTOS, d.b.a. CONNECTICUT AIRPORT SERVICE, 17 Fairfield Avenue, Danbury, CT 06810. Representative: John E. Fay, 663 Maple Avenue, Hartford, CT 06114. *Passengers and their baggage, in charter service, between Bethel, Bridgewater, Brookfield, New Fairfield, Newtown, Redding, Ridgefield, Weston, Danbury, Naugatuck, Waterbury, Bridgeport, La Guardia Airport, John F. Kennedy Airport, NY and Newark International Airport, NJ, on the one hand, and, on the other, points in the U.S. east of the Mississippi River*. Supporting shipper(s): There are six statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 142603 (Sub-1-34TA), filed April 21, 1982. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Barbara J. Withers (same as applicant). *Contact carrier: irregular routes: General commodities (except articles of unusual value, classes A and B explosives, commodities in bulk, commodities which because of size or weight, require the use of special equipment, household goods as defined by the Commission, and hazardous waste)*, between Westfield and Chester, MA, Niagara

Falls, NY, and points in the U.S. (except AK and HI), under continuing contract(s) with General Abrasive/Div. of Dresser Industries, Inc., Niagara Falls, NY. Supporting shipper: General Abrasive/Div. of Dresser Industries, Inc., 2000 College Avenue, Niagara Falls, NY 14305.

MC 161416 (Sub-1-1TA), filed April 8, 1982. Applicant: GOULET TRUCKING, INC., 27 South Maple Street, Hadley, MA 01035. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Agricultural fertilizers and fertilizer related materials*, between Albany County, NY, on the one hand, and, on the other, points in CT, MA and NH. Supporting shipper: Agrway, Inc., P.O. Box 4933, Syracuse, NY 13221.

MC 16961 (Sub-1-1TA), filed April 23, 1982. Applicant: HUTCHINS TRUCKING COMPANY, 1000 Congress Street, P.O. Box 95 West End, Portland, ME 04102. Representative: John C. Lightbody, Esq., 30 Exchange Street, Portland, ME 04101. *Such commodities as are dealt in by wholesale and retail chain grocery and food house* between Portland, ME, on the one hand, and, on the other, Newington, NH and Bedford, MA. Supporting shipper: S. Praver & Co., 150 Read Street, Portland, ME 04104.

MC 145468 (Sub-1-9TA), filed April 27, 1982. Applicant: KSS TRANSPORTATION CORP., Route 1 & Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Westergren, Hauptman & O'Brien, P.C., Suite 201, 9202 W. Dodge Road, Omaha, NE 68114. *Food and related products* between Lackawanna Cold Storage at Scranton, PA and Lehigh Valley Refrigerated Services at Allentown, PA, on the one hand, and, on the other, points in the U.S. Supporting shipper: Lackawanna Cold Storage and Lehigh Valley Refrigerated Services, Divisions of Beatrice Foods Company, 355 Snowdrift Road North, Fogelsville, PA 18051.

MC 111656 (Sub-1-1TA), filed April 27, 1982. Applicant: FRANK LAMBIE, INC., Pier 79 North River, New York, NY 10018. Representative: John L. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract Carrier: irregular routes: General Commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)*, between New York, NY, and points in AL, AR, CA, CT, DE, FL, GA, IL, IN, KS, MD, MA, MI, NJ, NY, OH, PA, and VA, under continuing contract(s) with Mitsui & Co. (U.S.A.), Inc. of New York, NY. Supporting

shipper: Mitsui & Co. (U.S.A.), Inc., 200 Park Avenue, New York, NY 10166.

MC 161711 (Sub-1-1TA), filed April 28, 1982. Applicant: MAMAX INDUSTRIES, INC., P.O. Box 1061, Buffalo, NY 14240. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier: irregular routes: Unfinished steel stampings*, between Buffalo, NY, on the one hand, and, on the other, Cleveland, OH, under continuing contract(s) with The Crosby Company, Buffalo, NY. Supporting shipper: The Crosby Co., 183 Pratt Street, Buffalo, NY 14204.

MC 161711 (Sub-1-2TA), filed April 28, 1982. Applicant: MAMAX INDUSTRIES, INC., P.O. Box 1061, Buffalo, NY 14240. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier: irregular routes: Wood waste, wood flour and flock fillers*, between North Tonawanda, NY, on the one hand, and, on the other, points in IN, LA, MD, MI, NJ, NY, OH, and PA, under continuing contract(s) with International Filler Corporation, North Tonawanda, NY. Supporting shipper: International Filler Corporation, North Tonawanda, NY 14120.

MC 153204 (Sub-1-2TA), filed April 23, 1982. Applicant: MANCHESTER SECURITY SERVICE, INC., 600 Harvey Road, P.O. Box 4916, Manchester, NH 03108. Representative: L. John Osborn, Esq., Verner, Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street, NW., Washington, D.C. 20036. *Banking commodities, including currency, coin, gold, silver, negotiable and non-negotiable instruments, safety deposit boxes, diamonds and other valuables, and bank documents and memoranda* between points in Windham and Windsor Counties, VT and points in MA. Supporting shipper: Bellows Falls Trust Company, P.O. Box 399, Bellows Falls, VT 05101.

MC 123274 (Sub-1-2TA), filed April 27, 1982. Applicant: MARSHALL SERVICE, INC., Pearl Street, Newfield, NJ 08344. Representative: George A. Olsen P.O. Box 357 Gladstone, NJ 07934. (1) *Plastic containers, and (2) materials equipment, and supplies used in the manufacture, sale, and distribution of plastic containers*, between McKee City, NJ, on the one hand, and, on the other, points in CT, DE, GA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, and DC. Supporting shipper(s): Atlantic Plastic Containers, Inc., West Jersey Ave., McKee City, NJ 08232.

MC 140608 (Sub-1-3TA), filed April 22, 1982. Applicant: BENTLEY WARREN TRUCKING, INC., Newburyport

Turnpike, Ipswich, MA 10938. Representative: Ignatius C. Goode, 132 Harris Road, Nashua, NH 03062. *Pig iron in dump vehicles having a prior movement by waters* from Portsmouth, NH to Laconia, NH. Supporting shipper: Phillips Bros. Inc., 1221 Avenue of the Americas, New York, NY 10020.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 158994 (Sub-2-2TA), filed April 21, 1982. Applicant: ABLE TRANSPORT, INC., 307 Progress Avenue, Zilienople, PA 16063. Representative: Brian L. Troiano, 918 16th Street, NW., Washington D.C. 20006. *Contract: irregular: (1) Cement, in dump vehicles*, from ports of entry on the U.S.-Canada Boundary Line in NY to Tarentum PA, and (2) *Coal, in dump vehicles*, from points in PA on the west of a line beginning at the NY-PA border at U.S. Highway 219, thence south on U.S. Highway 219 to its intersection with U.S. Highway 119, thence south on U.S. Highway 119 to the PA-WV border, to ports of entry on the U.S.-Canada Boundary Line in NY, under continuing contract with Independent Cement Corp., Albany, NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Independent Cement Corporation, Washington Avenue Extension, P.O. Box 12-319, Albany, NY 12212.

MC 161474 (Sub-II-1TA), filed April 12, 1982. Applicant: FRANKLIN R. ABSHER, d.b.a. ABSHER TRUCKING, Route 1, Box 107A, Arvon, VA 23004. Representative: John M. Schilling, 300 W. Main St., Richmond, VA 23220. *Bagged fertilizer*, from Richmond, VA to points in NC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) Richmond Guano, 9 S. Fifth St., Richmond, VA 23219.

MC 35519, (Sub-II-2TA), filed April 26, 1982. Applicant: J. W. ATHEY, SR. & J. W. ATHEY, JR., d.b.a. ATHEY TRUCKING, Rt. 1, Box 364, Stephens City, VA 22655. Representative: Frank B. Hand, Jr., 523 S. Cameron St., Winchester, VA 22601. *Malt beverages*, from Philadelphia, PA and Hammonton, NJ to Winchester, VA. Supporting shipper(s): S & F Distributing Co., 2705 Papermill Rd., Winchester, VA 22601.

MC 157691 (Sub-II-1TA), filed April 26, 1982. Applicant: BLUE VELVET TRANSPORT, INC., 50 West Broad Street, Columbus, OH 43215. Representative: James W. Muldon, 50 West Broad Street, Columbus, OH 43215. *Malt beverages*, from Fort

Wayne, IN to points in CT, NJ, NY, OH and PA for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper(s): Falstaff Brewing Corporation, 1025 Grant Street, Fort Wayne, IN 46801.

MC 69695 (Sub-II-2TA), filed April 30, 1982. Applicant: RAY L. BRANDT TRUCKING CO., 460 W. Philadelphia St., York, PA 17404. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. *Ground limestone, in bulk in tank vehicles*, from York, PA to Falling Waters, WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: White Pigment Co., York, PA 17405.

MC 146685 (Sub-II-3TA), filed April 28, 1982. Applicant: BEN CAPOBIANCO TRUCKING, INC., 9814-18 Princeton-Glendale Road, Cincinnati, OH 45246. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. (1) *Compressors and pumps, liquid or gas, cooling or freezing machines, and evaporator coils*, between Sidney, Fostoria, Wapakoneta and West Union, OH; Brushville, IN; Hartselle, AL; and Shelby, NC, on the one hand, and, on the other, pts in AR, AZ, CA, CO, NM, OR, TX and UT; and (2) *used compressors for reconditioning, and cooling or freezing machines*, between pts in AR, AZ, CA, CO, NM, OR, TX and UT, on the one hand, and, on the other, pts in Sidney, Fostoria, Wapakoneta and West Union, OH; Brushville, IN; Hartselle, AL; and Shelby, NC, for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper: Copeland Corporation, West Campbell Road, Sidney, OH 45365.

MC 146080 (Sub-II-1TA), filed April 26, 1982. Applicant: MCKINLEY MUNCY, JR., d.b.a. CARINAL BUS LINES, 2759 5th Ave., Huntington, WV 25702. Representative: McKinley Muncy, Jr., (same address as applicant). *Passengers and their baggage, in special and charter operations*, between points in WV, KY and, OH, on the one hand, and, on the other, points in the U.S. (including AK & HI), for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Dorsey Tours, 504 Elizabeth Ave., S. Charleston, WV 25303, Owenetis Club, 8th Ave. & 5th St. W., Huntington, WV 25704, Westmoreland Womens Club, 3509 Auburn Rd., Huntington, WV 25704, INCO Retirees, 331 Lynda Ct., Huntington, WV 25704.

MC 152509 (Sub-II-26TA), filed April 27, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). *Contract; irregular:*

*adhesives, chemicals, paint increasing compounds, plasticizers and titanium dioxide between Jersey City and Sayreville, NJ; Charleston, WV, St. Louis, MO, and Newberry, CA, on the one hand, and, on the other, pts in the U.S. (except AK and HI), under continuing contract(s) with N.L. Chemicals, Hightstown, NJ, for 270 days. Supporting shipper: N.L. Chemicals, P.O. Box 700, Hightstown NJ 08520.*

MC 151518 (Sub-II-2TA), filed April 26, 1982. Applicant: JOHN V. DONVITO, 1001 Eynon St., Scranton, PA 18504. Representative: Joseph A. Keating Jr., 121 S. Main St., Taylor, PA 18517. *Foodstuffs and related products*, between Luzerne and Lackawanna Counties, PA on the one hand, and, on the other, Albany County, NY and the New York Commercial Zone, NY; Essex and Hudson Counties, NJ; Baltimore County, MD, and New Castle County, DE, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Douarhy & Hazzouri & Co., 211 7th Ave., Scranton, PA 18504; Halem Hazzouri Wholesale Bananas, 117 6th St., Scranton, PA 18504.

MC 161686 (Sub-II-1TA), filed April 26, 1982. Applicant: LEWIS B. FISHER, d.b.a. FISHER TRUCKING AND CARTAGE, 1343 Buford Rd., Richmond, VA 23235. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *Contract, irregular: pet and animal foods*, from the facilities of Ralston Purina Company at or near Mechanicsburg (Cumberland CY), PA, to the facilities of Ralston Purina Company at or near Richmond, VA, under continuing contract(s) with Ralston Purina Company of St. Louis, MO. An underlying ETA seeks 120 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63164.

MC 149111 (Sub-II-4TA), filed April 26, 1982. Applicant: GENERAL COMMODITIES WAREHOUSE & DISTRIBUTING CO., INC., 1200 Lebanon Rd., West Mifflin, PA 15122. Representative: Sally A. Davoren, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Contract; irregular: (1) Alcoholic beverages*, between pts. in Baltimore County, MD, on the one hand, and, on the other, pts. in Lebanon County, PA, under continuing contract(s) with Joseph E. Seagram & Son, Inc., New York, NY; and (2) *Such commodities as are dealt in and distributed by wholesale, retail and chain grocery stores and food business houses*, between pts. in Alliance, Archibald, Boardman, Cincinnati, Cleveland, Columbus, Fostoria, Maple Heights, Napoleon and Youngstown, OH; and

Buffalo, Dunkirk, Rochester and Niagara Falls, NY, on the one hand, and, on the other, pts. in Allegheny and Butler Counties, PA and Mahoning County, OH, under continuing contract(s) with Giant Eagle Markets, Inc., Pittsburgh, PA, for 270 days. Supporting shipper(s): Joseph E. Seagram & Sons, Inc., 800 Third Ave., New York, NY 10022; Giant Eagle Markets, Inc., 101 Kappa Dr., RIDC Park, Pittsburgh, PA 15238.

MC 161618 (Sub-II-1TA), filed April 26, 1982. Applicant: COLLERS EXPRESS, INC., 10155 Reading Rd., Cincinnati, OH 45241. Representative: James Duvall, 226 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *Laminated products and materials, equipment and supplies used in the manufacture, sale and distribution of laminated products*, between the facilities of Formica Corporation at or near Cincinnati, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Formica Corporation, 10155 Reading Rd., Cincinnati, OH 45241.

MC 134086 (Sub-II-2TA), filed April 27, 1982. Applicant: LEWIS A. HANNABASS, INC., Route 1, Box 866, Moneta, VA 24121. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Contract, irregular: General commodities*, (except Class A and B explosives, household goods as defined by the Commission and commodities in bulk) between points in KY, OH, NC, TN, VA, and WV under continuing contract with Montgomery Ward & Co., Inc., Sharonville, OH. Supporting shipper: Montgomery Ward & Co., Inc. 2101 E. Kemper Road, Sharonville, OH 45285.

MC 146407 (Sub-II-1TA), filed April 27, 1982. Applicant: KING CARRIAGE CO., 2200 Victory Parkway, Cincinnati, OH 45206. Representative: Gilbert D. Kaffeman, 1240 Madison Ave., Covington, KY 41011. *General commodities*, between pts. in Covington, Ludlow and Erlanger, KY, on the one hand, and, on the other, pts. in the U.S. (except AK and HI), for 270 days. Applicant intends to tack authority sought herein with authority held under MC 146407. Supporting shipper(s): There are 7 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 151767 (Sub-II-2TA), filed April 30, 1982. Applicant: BOYD F. POWERS AND MICHAEL J. POWERS, d.b.a. POWERS TRUCKING CO., 52 Market St., Lock Haven, PA 17745. Representative: John E. Fullerton, 407 N. Front Street, Harrisburg, PA 17101. *Good*

products, between points in Clinton and Bradford Counties, PA on the one hand, and, on the other, Wilmington, DE; Baltimore, MD; Camden, Elizabeth, Jersey City and Newark, NJ; and Buffalo and Rochester, NY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Velda U S Inc., P.O. box 313, McElhattan, PA 17748.

MC 136077 (Sub-II-6TA), filed April 28, 1982. Applicant: REBER CORP., 2216 Old Arch Road, Norristown, PA 19401. Representative: Richard L. Thurston, 15th Floor, One Franklin Plaza, Philadelphia, PA 19102. *Cement in bags and bulk*, from the facilities of Coplay Cement Co., in Nazareth (Northampton County), PA and Egypt (Lehigh County), PA, to points in VA, WV, DE, MD, and DC for 270 days. Supporting shipper: Coplay Cement Co., Nazareth, PA 18064.

MC 141483 (Sub-2-1TA), filed April 26, 1982. Applicant: VALCON PACKAGE DELIVERY, INC., 3840 West St., Landover, MD 20785. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. *Contract; Irregular: Such commodities as are dealt in, sold by, or used by manufacturers of cosmetics and personal grooming aids*, from Hagerstown and Cumberland, MD, to points in Allegany, Garrett and Washington Counties, MD, Frederick County, VA, and points in WV under contract with Avon Products, Inc., for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Avon Products, Inc., Ogeltown Rd., Newark, DE 19711.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 145637 (Sub-3-6TA), filed April 29, 1982. Applicant: B&B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, SC 29606. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Plastic film, sheeting and tape, materials, supplies and equipment used in the manufacture, sale and distribution of same*, between Florence County, SC, on the one hand, and, on the other, points in CA. Supporting shipper(s): E. I. DuPont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19398.

MC 157925 (Sub-3-2TA), filed April 29, 1982. Applicant: DANNY GOUGE d.b.a. GOUGE TRUCKING COMPANY, Route 1, Box 34, Greenmountain, NC 28740. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005. *Olivine*, between points in Yancey County, NC, on the one hand, and, on the other,

points in the U.S. in and east of TX, OK, KS, NE, SD, and ND. Supporting shipper: International Minerals and Chemicals Corporation, 421 East Hawley Street, Mundelein, IL 60060.

MC 161232 (Sub-3-1TA), filed April 28, 1982. Applicant: ROMANS TRANSPORTATION, INC., 3101 Dixie Highway, Louisville, KY 40216. Representative: Cecil Romans (same address as applicant). *General commodities (except classes A and B explosives, household goods, and commodities in bulk)*, between points in AL, AR, DE, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MO, MS, NE, NJ, NY, NC, OH, OK, PA, TN, TX, VA, WV, and WI. There are five (5) supporting shipper statements attached to this application which may be reviewed at the Regional ICC office in Atlanta, GA.

The following protests were filed in Region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 113855 (Sub-4-4TA), filed April 27, 1982. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102. *Contract, Irregular, General commodities (except household goods, commodities in bulk and classes A and B explosives)*, between points in the U.S., under a continuing contract(s) with United Air Lines, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: United Air Lines, Inc., P.O. Box 66100, Chicago, IL 60666.

MC 115651 (Sub-4-15), filed April 26, 1982. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road—P.O. Box 39, Rockford, IL 61105. Representative: R. D. Higgins (same as applicant). *Liquified petroleum gas in bulk, in tank vehicles*, from points in the state of WI, to points in the state of MI. Supporting shipper: Universal Energy Corporation, 1301 East Main Street, Waukesha, WI 53186.

MC 123499 (Sub-4-1TA), filed April 23, 1982. Applicant: LOWELL L. TREFFERT, INC., 3323 Rodney Lane, Racine, WI 53406. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203, (414) 273-7410. *Malt beverages*, from Memphis, TN, to Racine, WI, and return of empty containers from Racine, WI, to Memphis, TN. An underlying ETA seeks 120 days authority. Supporting shipper: Rapids Beer Distributors, Inc., 2924 Rapids Dr., Racine, WI 53404.

MC 140276 (Sub-4-5TA), filed April 26, 1982. Applicant: LARRY SCHEFUS

TRUCKING, INC., Route 1, Box 202, Redwood Falls, MN 56283. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Steel Tubing*, from Chicago, IL, Detroit, MI, Cleveland, OH, Birmingham, AL, Tampa, FL, Memphis, TN and Baltimore, MD to points in the U.S. in and east of TX, OK, KS, NE, SD and ND. Restriction: Restricted to traffic for the account of Metal Specialists International, Inc., Palm Harbor, FL. Supporting shipper: Metal Specialists International, Inc., 1114 Florida Ave., Suite C, Palm Harbor FL 33563.

MC 141361 (Sub-1-1TA), filed April 26, 1982. Applicant: LONSBURG TRUCKING AND MATERIALS, INC., 545 Broadway, Platteville, WI 53818. Representative: A. R. Hanson, Atty., 2105 Madison Street, Madison, WI 53711. *Fertilizer*, in bags, in bulk and liquid from Dubuque, IA and East Dubuque, IL, including their respective commercial zones, to points in Grant, Iowa and Lafayette Counties, WI. There are seven supporting shippers.

MC 143885 (Sub-4-2TA), filed April 1, 1982. Applicant: HARLAND A. WILCOX, and LEROY H. WILCOX, d.b.a. WILCOX TRUCKING, 206 Charles St., Elk Rapids, MI 49629. Representative: Rick A. Rude, Esq., Suite 611 1730 Rhode Island Ave., N.W., Washington, D.C. 20036. *Canned goods, and Materials, Equipment and Supplies used in the manufacture of such commodities*, between Elk Rapids, East Jordan, and Traverse City, MI., on the one hand, and, on the other, points in the U.S. (except AK. and HI). Supporting shippers: Traverse City Canning Co., 3710 Cass Road., Traverse City, MI. 49684; Sherman Canning Company, P.O. Box R, East Jordan, MI 49727; and Elk Rapids Packing Co., P.O. Box 128, Elk Rapids, MI 49629.

MC 145807 (Sub-4-4TA), filed April 26, 1982. Applicant: DERBY TRANSPORT, INC., 609 First Ave., N., Box 695, Weyburn, Saskatchewan, Canada S4H1P1. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Weed killer (in bags)*, between ports of entry on the International Boundary Line between the U.S. and Canada located at points in ND, on the one hand, and, on the other, points in ND. Supporting shipper: G & R Trucking, Ltd., #6 Robertson Bay, Regina, Saskatchewan, Canada S4R6H4.

MC 149094 (Sub-4-2TA), filed April 23, 1982. Applicant: JAMES PRINCL d.b.a., JAMES PRINCL TRUCKING, 1641 Carole Lane, Green Bay, WI 54303. Representative: Richard A. Westley,

Attorney, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. *Crude Asphalt, in bulk, in tank vehicles* from the facilities of Koch Asphalt Company at or near Chicago, IL to Oak Creek, WI. Supporting shipper: Koch Asphalt Company, 6866 South 10th Street, Oak Creek, WI 53154.

MC 154127 (Sub-4-8TA), filed April 26, 1982. Applicant: A. LUURITSEMA PRODUCE, INC., 5367 School St., P.O. Box 67, Hudsonville, MI 49426. Representative: Michael D. McCormick, SCOPELITIS & GARVIN, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contact, irregular, Food and related products* (canned or preserved foodstuffs), From Kent City, MI to points in IL, IN, KY, OH, and WI, under a continuing contract or contracts with National Fruit Products, Inc., Winchester, VA. An underlying ETA seeks up to 120 days of operating authority. Supporting shipper: National Fruit Products, Inc., 550 Fairmont Avenue, Winchester, VA 22601.

MC 155021 (Sub-4-2TA), filed April 27, 1982. Applicant: ECONEXPRESS INCORPORATED, 618 South West St., Wheaton, IL 60187. Applicant's Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603. *Contract irregular: General Commodities* (except Classes A & B Explosives, commodities in bulk, and household goods, as defined by the ICC); between points in IL, IN, IA, KY, MI, MN, MO, OH, and WI, on the one hand, and, on the other, points in the U.S., under continuing contracts with Capitol Mfg. Co., Faygo Beverages, Inc., Great Lakes Terminal & Transport, and Purex Industries, Inc. Supporting shippers: Capitol Mfg. Co., 753 W. Fulton, Columbus, OH 43216; Faygo Beverages, Inc., 3579 Gratiot Avenue, Detroit, MI 48202; Great Lakes Terminal & Transport, 1750 N. Kingsbury St., Chicago, IL 60614; and Purex Industries, Inc., 6120 N. Detroit Ave., Toledo, OH 43612.

MC 155136 (Sub-4-2TA), filed April 26, 1982. Applicant: RED TRAIL TRANSPORT, INC., Box 997, Beach, ND 58621. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502. *Mercer commodities* (except commodities in bulk), between points in ND, SD, MT, and WY. ETA seeks 120 days authority. Supporting shippers: AL Aquitaine, Route 2, Box 86, Belfield, ND 58622, Jerry Chambers Division, Box 245, Belfield, ND 58622.

MC 15735 (Sub-4-12TA), filed April 27, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680.

*Contact irregular: Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Associates Corporation of North America. Supporting shipper: Associates Corporation of North America, Dallas, TX 75222.

MC 161265 (Sub-4-1TA), filed April 26, 1982. Applicant: H. B. G. TRUCKING CO., 24105 Pierce, Southfield, MI 48075. Representative: Henry B. Gavins (same as above). *Contract irregular: Couplings and oil well parts* between Detroit, MI and points in OH, IN, IL, KY, TN, MS, LA, AR, and TX. Supporting shipper: Clipper International Corp., 8651 E. 7 Mile, Detroit, MI 48234.

MC 161650 (Sub-4-1TA), filed April 23, 1982. Applicant: G & S TRUCKING, 3117 Columbus Ave. So., Minneapolis, MN 55407. Representative: James F. Crosby, Associates, 7363 Pacific St., Suite 210B, Omaha, NE 68114. *Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products*, between Natrona, Campbell, and Converse Counties, Wyoming on the one hand, and, on the other, points in TX and OK. An underlying ETA seeks 120 day authority. Supporting shipper: Sivalis Tanks, Inc., P.O. Box 5456, Casper, WY 82604.

MC 161696 (Sub-4-1TA), filed April 27, 1982. Applicant: MARATHON TRANSPORT INC., 3977 County Hwy. J., Schofield, WI 54476. Representative: Odin Hanson, 908 7th St., Wausau, WI 54401. *Contract carrier irregular: General commodities* (except class A & B explosives) between points in the U.S., under continuing contract with Marathon Intermodal Shippers Association Inc. Supporting shipper: Marathon Intermodal Shippers Association Inc. 3977 County Hwy. J., Schofield, WI. 54476.

MC 140276 (Sub-4-6TA), filed April 29, 1982. Applicant: LARRY SCHEFUS TRUCKING, INC., Route 1, Box 202, Redwood Falls, MN 56283. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Contract irregular: Farm equipment and machinery*, from Clay Center, KS, Shelbyville, Valparaiso and Indianapolis, IN and Chicago, IL, to Redwood Falls and Moorhead, MN for the account of Wood and Conn, Inc., Redwood Falls, MN. Supporting shipper: Wood and Conn, Inc., Hwy. 19 and 71 East, Box 187, Redwood Falls, MN 56283.

MC 142601 (Sub-4-1TA), filed April 28, 1982. Applicant: CECO TRANSPORT, INC., 1400 Kensington Road, Oak Brook, IL 60521. Applicant's Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601. *Such commodities as are dealt in or utilized by manufacturers of mobile homes*, between Pulaski Co., AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Elixir Industries, 10001 Colonel Glen Rd., P.O. Box 5420, Little Rock, AR 72215.

MC 154258 (Sub-4-1TA), filed April 26, 1982. Applicant: G. L. WASKO AND SONS, Stevensville, MI 49127. Applicant's Representative: Paul M. Ross, Attorney, 3104 S. Cedar Street, Lansing, MI 48910. (517) 394-4220. *Contract irregular: Transporting food and related products* between Eau Claire, MI, and points in IL, IN, MN, WI, MO, and OH, on the one hand, and, on the other, between points in the United States under continuing contract with Fruit Hill, Inc., of Eau Claire, MI. An underlying ETA seeks 90 day authority. Supporting shipper: Fruit Hill, Inc., Old Pipestone Road, Eau Claire, MI.

MC 159008 (Sub-4-2TA), filed April 28, 1982. Applicant: NORTHERN CARRIERS, INC., 3814 11th St., Rockford, IL 61110. Representative: William D. Brejcha, 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601. *Contract; Irregular: Such commodities as are dealt in, used by or distributed by manufacturers of paint and paint products*, between points in the U.S. (except AK and HI) under continuing contract(s) with Valspar Corporation. Supporting shipper: Valspar Corporation, 1101 S. Third St., Minneapolis, MN 55415.

MC 161673 (Sub-4-1TA), filed April 26, 1982. Applicant: RAILHEAD CARTAGE, INC., 10742 South Western Ave., Chicago, IL 60643. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60643. *General commodities* (except Classes A & B explosives, household goods, and commodities in bulk), between Chicago, IL and its commercial zone, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, OH, and WI. Supporting shippers: Acme Fast Freight, Inc., 2641 South Leavitt Avenue, Chicago, IL 60608; Maytag Company, Newton, IA 50208; Transamerica Transportation Services, 1800 West 43rd Street, Chicago, IL 60604; and Transportation Rail Services, 3750 West 47th Street, Chicago, IL 60632.

MC 161674 (Sub-4-1TA), filed April 26, 1982. Applicant: B KOSZYLKO d.b.a., B & K TRUCKING, 5144 W. 83rd St., Burbank, IL 60459. Representative: Bob Koszylo, 3112 W. 40th St., Chicago, IL 60632. *General Commodities* (except Classes A & B explosives, commodities in bulk and those requiring special equipment), between Chicago, IL and its Commercial Zone, on the one hand, and, on the other, points in IL, IN, WI, IA, and MI. Supporting shipper: C.S. Greene and Company, Inc., Ill Corp., 2803 Butterfield Road, Oak Brook, IL 60521.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 16334 (Sub-5-6TA), filed April 26, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212. *Food and related products* between points in Marshall County, MS; Ontario County, NY; and San Bernardino County, CA, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Master of Mixes, Inc., 8717 W. 110th Street, Corporate Woods 14, Overland Park, KS 66212.

MC 26825 (Sub-5-26TA), filed April 26, 1982. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Lubricating oil (except in bulk)* between pts in Union County, NJ, on the one hand, and, on the other, pts in the U.S. Supporting shipper: Borne Chemical Company, Inc., 632 South Front Street, P.O. Box 256, Elizabeth, NJ 07207.

MC 86539 (Sub-5-1TA), filed April 26, 1982. Applicant: HIPKE TRUCKING, INC., Route 5, Atkinson, NE 68713. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Fertilizer*, (1) from Lea and Eddy Counties, NM to pts in NE; and (2) from Caribou County, ID to pts in IA, NE and SD. Supporting shipper: O'Neill Fertilizer, Inc., O'Neill, NE 68763; Beker Industries, Inc., Conda, ID 83230; Tilden Fertilizer, Inc., Crookston, NE 69212; and Ag-Supply Center, Inc., Petersburg, NE 68652.

MC 129222 (Sub-5-2TA), filed April 26, 1982. Applicant: FORD TRUCK LINE, INC., South Lynn Street, Tipton, IA 52772. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Liquid nitrogen fertilizer solution, in bulk*, (1) From East Dubuque, IL to pts in IA and WI; and (2) From Hampton, IA to pts in MN. Supporting shipper(s): Twin-State Engineering & Chemical Co.,

341 East Kimberly Road, Davenport, IA 52807.

MC 133035 (Sub-5-1TA), filed April 26, 1982. Applicant: DILTS TRUCKING, INC., P.O. Box 156, Crescent, IA 51526. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Fertilizers, in bulk*, from Sugar Creek, MO to pts in KS, NE, and IA. Supporting shipper: Chevron Chemical Company, P.O. Box 282, Fort Madison, IA 52627.

MC 135693 (Sub-5-1TA), filed April 26, 1982. Applicant: SOUTHERN CEMENT TRANSPORT, INC., P.O. Box 98, Saratoga, AR 71859. Representative: M. J. Lucy, No. 2 Cement Road, Saratoga, AR 71859. Contract; Irregular. *CEMENT, in bulk and in packages*, from Okay Junction, AR to points in MO. Supporting shipper: Ideal Basic Industries, Inc., Cement Division, P.O. Box 8789, Denver, CO.

MC 146787 (Sub-5-1TA), filed April 26, 1982. Applicant: DEAN ALBAUGH & MICKEY ALBAUGH, d.b.a. ALBAUGH FARMS, R.R. #2, Ankeny, IA 50021. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Building materials* between Kane County, IL on the one hand, and, on the other, pts in IA and NE. Supporting shipper: Contractors Steel Corp., Des Moines, IA.

MC 147196 (Sub-5-48TA), filed April 27, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10686, Jefferson, LA 70181-0686. Representative: Martin White, P.O. Box 5387, Richardson, TX 75080. *Paper and Paper products, Copy machines noi and copy machine parts* between OK, TX, and AR on the one hand, and, AR, CA, CO, GA, IL, KS, LA, MS, MO, NM, OK, TN, and TX on the other. Supporting shipper: Xerox Corp. 2810 Ave E East, Arlington, TX.

MC 147536 (Sub-5-16TA), filed April 26, 1982. Applicant: D.L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Boulevard, Oklahoma City, OK 73118. *Metal building materials and materials, equipment and supplies used in the manufacture thereof*, between points in Jasper County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): Appleton Supply Co South Inc, 3602 East 20th Street, Joplin, MO 64801.

MC 150534 (Sub-5-3TA), filed April 26, 1982. Applicant: ENERGY SALES, INC., P.O. Box 128, Cabool, MO 65689. Representative: David Montgomery

(same address as applicant). *Petroleum and petroleum products* (1) from Cicero and Wood River, IL to points in MO, (2) from Lawrenceville and Pekin, IL to points in KS, MO, and OK, and (3) from Memphis, TN to points in MO, and *ashpalt and asphalt products* from Wood River, IL, and Memphis, TN, to Cabool, MO. Supporting shipper: (1) Hugh Dennis Grease & Oil Co., 1101 E. Tampa, Springfield, MO 65801; (2) Southern Missouri Oil Company, Inc., Hwy 181 South, Cabool, MO 65689; and (3) Southern States Asphalt Company, 1003 Ashland Dr., P.O. Box 14, Cameron, MO 64429.

MC 151178 (Sub-5-2TA), filed April 26, 1982. Applicant: DIXON FARM SUPPLY, 102 S.W. A St., Stigler, OK 74462. Representative: Kenneth Dixon (same as applicant). Contract; Irregular. *Coal in Bulk* from points in Haskell County, OK and LeFlore County, OK to Howe, OK for furtherance by interstate rail carrier. Supporting shipper: K & R Coal Company, Box 586, Stigler, OK 74462.

MC 151368 (Sub-5-3TA), filed April 26, 1982. Applicant: KOCH TRUCK LINE, INC., 619 Iowa, Sabetha, KS 666534. Representative: Eugene W. Hiatt, 207 Casson Building, 603 Topeka Boulevard, Topeka, KS 66603. *Agricultural machinery, parts, supplies and steel products* between all points in KS, NE and MO west of Hwy 63 on the one hand, and, on the other, points in IL, IN, IA, NM, ND, SD, CO, OK and TX. Supporting shipper: TravAlong, Inc., Blue Rapids, KS 66411; Linn Enterprises, Inc., Linn, KS 66953; Plymouth Manufacturing, Inc., Plymouth, NE 68424.

MC 152277 (Sub-5-6TA), filed April 27, 1982. Applicant: LONG MILE RUBBER COMPANY, 6820 Forest Park, Exchange Park, Dallas, TX 75245. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Food and related products* from Salem, Eugene and Medford, OR and Lynden, WA to points in TX, OK, AR, GA, AL, LA, MS, CO, TN, SC and NC. Supporting shipper(s): Agripac, Inc., 325 Patterson, Salem, Oregon 97304.

MC 152959 (Sub-5-13TA), filed April 26, 1982. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, Longview, TX 75067. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *Trailer or Trailer Chassis and/or Parts Thereof* between points in the United States. Under continuous contract(s) with The Heil Company of Lancaster, PA; ARCO Trailer Company of Springfield, MO.

MC 153025 (Sub-5-3TA), filed April 26, 1982. Applicant: FLANCO TRANSPORTATION, INC., 104 Thompson Avenue, Corsicana, TX

75110. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Such articles as are dealt in by manufacturers or distributors of machinery, farm equipment, metal products and oil field materials, equipment or supplies* between TX on the one hand, and, on the other, points in the U.S. Supporting shipper(s): There are five (5) supporting shippers to this application.

MC 157957 (Sub-5-2TA), filed April 26, 1982. Applicant: LORAS KALB, 904 Monticello Drive, Dubuque, IA 52001. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001. Contract: Irregular. *Coal and coal products*, from pts in Dubuque County, IA, to pts in Richland County, WI. Supporting shipper: ContiCarriers & Terminals Inc., 1050 Kerper Blvd., Dubuque, IA 52001.

MC 158959 (Sub-5-2TA), filed April 26, 1982. Applicant: RINEHART'S MEAT PROCESSING, INC., SR 2, Hollywood Hills, Branson, MO 65616. Representative: Charles J. Fain, 333 Madison Street, Jefferson City, MO 65101. Contract: Irregular. *Food and related products* from Branson, MO between points in AR, OK, KS, NE, MO, IA, TN, IL and MS. Supporting shippers: Ozark Food Sales, Springfield, MO 65802 Consumer's Market, Inc., Springfield, MO 65804.

MC 159155 (Sub-5-3TA), filed April 27, 1982. Applicant: PULLEN BROS., INC., Rt. 4, Box 6H, Sikeston, MO 63801. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Frozen confections*, between Mississippi county, MO, on the one hand, and, on the other, in the U.S. (except AK and HI). Supporting shipper: Gold Bond Ice Cream Co., Inc., 808 Packerland Dr., Green Bay WI 54303.

MC 160592 (Sub-5-3TA), filed April 26, 1982. Applicant: BACK TRUCKING CO., P.O. Box 293, Denison, IA 51442. Representative: D. Douglas Titus, 340 Insurance Exchange Building, Sioux City, IA 51101. Contract irregular *meat, meat products, meat byproducts and articles and supplies used or distributed by meat packinghouses*, between Cherokee, Denison, Des Moines, Fort Dodge, and Iowa Falls, IA and Crete, Lincoln, and Omaha NE, on the one hand, and, pts in the U.S. except AK and HI, on the other. Supporting shipper: Farmland Foods INC., P.O. Box 403, Denison, IA 51442.

MC 161452 (Sub-5-2TA), filed April 26, 1982. Applicant: COWBOY TRANSPORTATION CO., 401 East 6th Street, P.O. Box 215, Stillwater, OK 74076. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Paper and paper products*,

between the facilities of Fort Howard Paper Company at or near Green Bay, WI and Muskogee, OK, on the one hand, and, on the other, points in AZ, CO, KS, MO, NE, NM, OK, UT, WI, and WY. Supporting shipper: Fort Howard Paper Company, 1919 S. Broadway, Green Bay, WI 54305.

MC 161664 (Sub-5-1TA), filed April 26, 1982. Applicant: DISTRIBUTION SERVICE CORPORATION, P.O. Box 65093, Des Moines, IA 50322. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. Carpet from Des Moines, IA to pts in IA, IL, NE, SD, MN, and MO. Supporting shipper: Hawkeye Carpet Association, Inc., P.O. Box 3602, Des Moines, IA 50322.

MC 161666 (Sub-5-1TA), filed April 26, 1982. Applicant: TOMMY DAVIDSON, INC., Hwy 7 South, Russellville, AR 72801. Representative: James K. Young, P.O. Box 761, Russellville, AR 72801. Contract, Irregular. *Breeding, flour, food and related products* from Chicago, IL and Ponchatoula, LA to Russellville, AR under continuing contract with Valmac Industries (Tasty Bird), P.O. Box 847, Russellville, AR 72801.

MC 9644 (Sub-5-4TA), filed April 29, 1982. Applicant: HAYES TRUCK LINE, INC., P.O. Box 4018, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Transportation equipment*, between Shenandoah, IA, and Kansas City, MO. Supporting shipper: Kenworth Truck Company, 5300 Kenworth Road, Kansas City, MO 64120.

MC 61396 (Sub-5-22TA), filed April 28, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Cement, in bag and in bulk*, between pts in Forsyth and Durham Counties, NC, on the one hand, and, on the other, in VA, TN, and WV. Supporting shipper: Santee Portland Cement Corporation, a subsidiary of Dundee Cement Company, One Windsor Point Road, Columbia, SC 29206.

MC 128087 (Sub-5-3TA), filed April 30, 1982. Applicant: JOHN N. JOHN III, INC., P.O. Box 921, Crowley, LA 70526. Representative: William M. John (same as above). *Liquid Amorphous Polypropylene* from Lake Charles LA to Cleveland OH. Applicant intends to tack. Supporting shipper: Hercules Inc., Lake Charles, LA.

MC 146055 (Sub-5-16TA), filed April 30, 1982. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite

210B, Omaha, NE 68114. *Meats and packinghouse products*, from the facilities of E.A. Miller & Sons Packing Company of Hyrum, UT to pts in the U.S. Supporting shipper: E.A. Miller & Sons Packing Company, Inc., 200 West 400 North, Hyrum, UT 84319.

MC 146388 (Sub-5-2TA), filed April 28, 1982. Applicant: GRANTSKI GRAIN CORPORATION, P.O. Box 158, Beaver Crossing, NE 68313. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. *Salt and salt products*, from pts in Salt Lake County, UT, to pts in CO, IA, KS, MI, MN, MT, NE, OK, ND, IL, SD, WI, WY, OH, TX, and IN. Supporting shipper: Domtar Industries, Inc., Sifto Salt Division, 4825 North Scott, Schiller Park, IL 60176.

MC 147196 (Sub-5-49TA), filed April 30, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10686, Jefferson, LA 70181-0686. Representative: Martin White, P.O. Box 5387, Richardson, TX 75080. Common Carrier Irregular Route: *Water proofing compounds and materials and oils and grease*. Between: Tarrant County, TX, on the one hand, and, on the other points in the U.S. Supporting shipper: Southwestern Petroleum Corporation, 534 N. Main, Ft. Worth, TX 76101.

MC 149088 (Sub-5-7TA), filed April 28, 1982. Applicant: TRANSPORTATION, INC., P.O. Box 362, Ottawa, KS 66067. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Cementitious products, building materials and sand*, between the commercial zones of Wichita, KS, Kansas City, KS; Oklahoma City, OK and Dallas, TX, on the one hand, and, points and places in KS, OK, TX, MO, NE, IA, and CO, on the other hand. Supporting shipper: Quikrete Division of Ritchie Packing, Inc., P.O. Box 4048, Wichita, KS 67204.

MC 152599 (Sub-5-5TA), filed April 28, 1982. Applicant: SOUTHERN CARRIERS, INC., P.O. Box 631, Galena Park, TX 77547. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *General commodities (except classes A and B explosives or hazardous materials) in containers having a prior or subsequent movement by rail or water* between Dallas, Ft. Worth, and Houston, TX and points in their commercial zone, on the one hand, and, on the other, points in AR, CO, KS, LA, MO and NM. Supporting shipper(s): (22).

MC 154121 (Sub-5-11TA), filed April 28, 1982. Applicant: TRAILINER CORP., 2169 E. Blaine, Springfield, MO 65803. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *General*

*commodities (except classes A and B explosives, household goods, and commodities, in bulk) between the facilities used or utilized by Becton, Dickinson and Company, its subsidiaries, divisions, and vendors, at points in the US (except AK and HI), on the one hand, and, on the other, points in the US (except AK and HI).* Supporting shipper(s): Becton, Dickinson and Company, Rutherford, NJ 07070.

MC 154488 (Sub-5-8TA), filed April 28, 1982. Applicant: LASLEY TRUCKING COMPANY, INC., P.O. Box 1368, Conway, AR 72032. Representative: John B. Fowikes, Jr. (same address as applicant). Contract: irregular, *steel sucker rod and such commodities as may be used in the manufacture thereof* between points in AR, LA, MS, OK, and TX. Supporting shipper: J. A. Patton Corporation, 11800 Arch Street, Little Rock, AR.

MC 158786 (Sub-5-2TA), filed April 28, 1982. Applicant: ILCON INC., 2105 Anthony Drive, Tyler, TX 75701. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Mercer commodities between points in Gregg, Harrison and Panola Counties, TX, on the one hand, and, on the other, points in LA.* Supporting shippers: Marshall Exploration, Inc., P.O. Box 1689, Marshall, TX 75670 and Pool Well Service, Inc., P.O. Box 911, Kilgore, TX 75662.

MC 159367 (Sub-5-2TA), filed April 28, 1982. Applicant: MID-AMERICA TRAVEL CENTERS, INC., 508 6th Street, Grundy Center, IA 50638. Representative: Martha Martell, 600 Fifth Avenue Plaza, Des Moines, IA 50309. *Passengers and their baggage, in the same vehicle as passengers, in round-trip charter operations, beginning and ending at pts in Blackhawk County, IA, and extending to pts in the U.S. (including AK, but excluding HI).* Supporting shippers: Cedar Falls Chamber of Commerce, 10 Main Street, Cedar Falls, IA 50613; Sunnyside Temple, 3520 Ansbrough, Waterloo, IA 50701.

MC 161646 (Sub-5-1TA), filed April 28, 1982. Applicant: JAMES PATTON, 1570 Tarberry, Houston, TX 77088. Representative: C. W. Ferebee, 3910 FM 1960 W. Suite 106, Houston, TX 77068. *Construction equipment, and parts and accessories thereof between the facilities of Case Power and Equipment located in Houston and Alvin, TX, on the one hand, and points in OK, LA, and AR on the other hand.* Supporting shipper: Case Power and Equipment, Houston, TX.

MC 161705 (Sub-5-1TA), filed April 28, 1982. Applicant: JIM MARCUM, INC., Rt.

1, Box 67, Fordland, MO 65652. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. (1) *Bananas* from Gulfport, MS and Galveston, TX to points in AR, MO, and KS; and (2) *meat and meat products* from Waterloo and Cedar Rapids, IA, Marshall, MO, Dakota City, NE, and Amarillo, TX to Baton Rouge, LA. Supporting shippers: Groover Fruit Company, Box 3184, Glenstone Station, Springfield, MO 65808; Castle & Cooke Foods, P.O. Box 8743, Metairie, LA 70011; Associated Wholesale Grocery, 3201 Division Street, Springfield, MO 65808; Amanda Brothers, P.O. Box 3374, Baton Rouge, LA 70821.

MC 161767 (Sub-5-1TA), filed April 30, 1982. Applicant: BOBBY SMITH BROKERAGE, INC., P.O. Box 7026, Fort Worth, TX 76111. Representative: (same address as applicant). *Frozen foods* between points in WA, ID, CA, UT, on the one hand, and, on the other, points in KS, OK, TX, AR, LA, and NM. Supporting shipper: The Lemmons Co., Inc., Dallas, TX.

MC 161768 (Sub-5-1TA), filed April 30, 1982. Applicant: HOLMAN-MARRS, INC., P.O. Box 6821, Moore, OK 73153. Representative: Trent Holman (same as above). *Motors, tools, and drilling jars in shipments not to exceed 20,000 pounds per shipment*, between Moore, OK on the one hand, and, on the other, points in AR, CA, CO, IL, IN, KS, LA, MI, MO, MS, NM, TX and WY. Supporting shipper: Baker International Services, Tool Division (Drilling Motors), 120 N.E. 27, Moore, OK.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 159777 (Sub-6-1TA), filed April 22, 1982. Applicant: CAR-DEL, INC., d.b.a. AABCO, INC., P.O.B. 16112, Sacramento, CA 95816. Representative: John F. Parks, III (same as applicant). *Contract Carrier, Irregular Route: Such commodities as are dealt with or used by mail order houses* from railyards in Oakland, San Jose, and Richmond, CA to all points in CA, and to Reno, NV and all points within a 50 air-mile radius of Reno, NV for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Spiegel's Corporation, 1515 West 22nd Street, Oak Brook, IL 60521.

MC 153713 (Sub-6-2TA), filed April 26, 1982. Applicant: ADAMS DELIVERY SERVICE, INC., 600 Montague St., San Leandro, CA 94577. Representative: Marshall G. Berol, 601 California St., Suite 1900, San Francisco, CA 94108. *Contract carrier, Irregular route, medical supplies and equipment, drugs,*

*and sundries*, between points in Santa Clara County, CA, on the one hand, and, on the other, points in NV, for 270 days. Supporting shipper: Travenol Laboratories, Inc., 569 Charcot Ave., San Jose, CA 95131.

MC 161687 (Sub-6-1TA), filed April 26, 1982. Applicant: JAMES B. DEGEN, 6983 London Drive, Eureka, CA 95501. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579. *Contract carrier, irregular routes, such commodities as are dealt in by distributors, retailers and wholesalers of lumber and building materials*, between CA, AZ, ID, MT, NV, OR, UT, WA, NM and TX for the account of Schaller Forest Products, Marquart Wolfe Lumber Company and Noble Lumber Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Schaller Forest Products, Co., P.O. Box "N", Redding, CA 96099; Marquart Wolfe Lumber Company, P.O. Box 127, Tustin, CA 92680; Noble Lumber Company, P.O. Box "P", San Rafael, CA 94903.

MC 160977 (Sub-6-1TA), filed April 23, 1982. Applicant: MAX R. GOULD, 205 W. Main, Teton, ID 83451. Representative: J. D. Hancock, P.O. Box 427, Rexburg, ID 83440. (1) *Coal* from and to all points in ID, UT, MT, WY, and WA; and (2) *fertilizer*, between all points in ID, UT, MT, WY, and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 5 shippers. Their statements may be examined at the Regional office listed above.

MC 161701 (Sub-6-1TA), filed April 27, 1982. Applicant: INTERNATIONAL LIQUID TRANSPORT, INC., 18281 Colville St., Fountain Valley, CA 92708. Representative: Donald B. Dixon (same as applicant). *Alcoholic beverages, liquors and wine, juice and juice concentrates, tallows and yellow greases, and alcohol and distilled spirits used in manufacture, production or distillation of the above named commodities in bulk* between Ports of Entry on the International Boundary Line between the U.S. and the Republic of Mexico located in CA and TX and points in CA and TX on the one hand, and, on the other, points in CA, AZ, OR, WA, NM, TX, UT, ID, KS, PA, IL, NY, NJ, IA, LA, MN, KY, OH, WI and from point in NM to points in AZ and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 5 supporting shippers. Their statements may be examined in the Regional Office listed.

MC 159876 (Sub-6-1TA), filed April 26, 1982. Applicant: K-K JR. TRUCKING, A

DIVISION OF K-K JR. ENTERPRISES, 14266 Catalina St., San Leandro, CA 94577. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579. *Contract Carrier*, irregular routes, magazines, magazine paper, scrap or waste paper for recycling, materials and supplies used in the operation and production of printing and publishing plants (except in bulk) and commodities manufactured, used, and dealt in by the printing industry (except in bulk), between Los Angeles, CA and San Francisco, CA, on the one hand, and Albuquerque, NM, Boise, ID, Butte, MT, Coeur D'Alene, ID, Craig, CO, EL Paso, TX, Laramie, WY, Las Vegas, NV, Phoenix, AZ, Portland, OR, Reno, NV, Salt Lake City, UT, Seattle, WA, Spokane, WA and Tucson, AZ, for the account of Pacific Press, Inc., Division of Arcata Graphics, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Pacific Press, Inc., Division of Arcata Graphics, 5201 S. Soto St., Vernon, CA 90058.

MC 161707 (Sub-6-1TA), filed April 27, 1982. Applicant: MONTY PETERSEN, d.b.a. PETERSEN TRUCKING, 3909 South 7th West, Missoula, MT 59801. Representative: William E. O'Leary, 4G Arcade Building, Helena, MT 59601. Transporting heavy machinery, equipment and supplies (including logging, mining and construction machinery, equipment and supplies dismantled or otherwise), between points in: MT, WA, OR, ID, WY, ND, SD, UT, CO, AZ, NV, IL, WI, CA, and MN, for 270 days. Supporting shippers: There are 5 supporting shippers. Their statements may be examined in the regional office listed.

MC 34227 (Sub-6-5TA), filed April 27, 1982. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, 15910 E. Colfax Ave., Denver, CO 80011. Representative: Steven K. Kuhlmann, Ste. 2600, Petro-Lewis Tower, 717 17th St., Denver, CO 80202. *Contract carrier*, irregular routes: Glassware, from Lancaster and Columbus, OH and their commercial zones to points in the U.S. (except AK and HI), restricted to a transportation service to be provided under contract(s) with Simon Marketing, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Simon Marketing, Inc., 1379 Logan Circle, NW, Atlanta, GA 30318.

MC 133172 (Sub-6-1TA), filed April 27, 1982. Applicant: GREAT SOUTHWEST WAREHOUSES, INC., d.b.a. SEATTLE TRANSFER & STORAGE, E. 108 Jackson, Spokane, WA 99207. Representative: James E. Wallingford, POB 2647, Spokane, WA 99220. *General Commodities* (excluding Type A & B

explosives, and bulk commodities) between points in ID, MT, OR, and WA; for a period of 270 days: Supporting shippers: Trailer Train, 82 S. Massachusetts, Seattle, WA; Allied Van Lines, P.O.B. 4403, Chicago, IL 60680; Pudget Sound Traffic Association, P.O.B. 68927, Seattle, WA; and TIOFCA, INC., P.O.B. 88924, Tukwila, WA 98188.

MC 158657 (Sub-6-2TA), filed April 27, 1982. Applicant: PATRICK A. BARRETT, d.b.a. SHAMROCK ENTERPRISES, 2540 Gail Dr., Riverside, CA 92509. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Petroleum products*, in packages, from Compton, CA to Reno and Las Vegas, NV; El Paso, TX; Salt Lake City and Roosevelt, UT; Rock Springs and Sheridan, WY; Phoenix and Tucson, AZ; Denver, CO; Boise and Pocatello, ID; Glendive, Billings, Butte, Great Falls, Helena and Missoula, MT; Williston and Minot, ND; and Farmington and Albuquerque, NM, for 270 days. Supporting shipper: Mouren Laurens Oil Co., Inc., 641 E. Compton Blvd., Compton, CA 90220.

MC 161658 (Sub-6-1TA), filed April 23, 1982. Applicant: WILLIAM R. WOFFORD, d.b.a. WOFFORD TRUCKING COMPANY, P.O.B. 1078, Walden, CO 80480. Representative: Nancy P. Bigbee, 745 E. 18th Ave., #101, Denver, CO 80203. *Crude oil* from Grand, Jackson, Routt, and Moffat Counties, CO to Laramie and Sweetwater Counties, WY; for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Quality Exploration Incorporated, 3545 E. 51st Street, Suite 24, Tulsa, OK 74135; Lemmon Drilling, P.O.B. 772981, Steamboat Springs, CO 80477; and Jackson County Limited Partnership, Box 617, Walden, CO 80480.

MC 161740 (Sub-6-1TA), filed April 28, 1982. Applicant: DALE BYBEE, d.b.a. 4-D TRUCKING, P.O.B. 65, Preston, ID 83263. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Contract Carrier*, irregular routes: *Pet foods and materials and supplies used in the manufacture thereof*, from Ogden, UT to points in ID, OR and WA, for the account of American Nutrition, Inc., for 270 days. Supporting shipper: American Nutrition, Inc., P.O.B. 1405, Ogden, UT 84402.

MC 161742 (Sub-6-1TA), filed April 29, 1982. Applicant: D. FERBER TRUCKING LTD., #202-201-18 Ave. N.E., Calgary, Alberta, T2G 1J9. Representative: Murray K. Mullen, P.O.B. 8984 Str. F, Calgary, Alberta, T2J 5S6. *Contract Carrier*, irregular routes: *Non-Alcoholic Beverages*, from points on the International Boundary line between CD

and the U.S. located in MT, to points in CA under a continuing contract(s) with Renoir Water Multinational Ltd., of Calgary, AB, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Renoir Water Multinational Ltd., of #3-3640-26th St. N.E., Calgary, Alberta T1Y 4T7.

MC 161741 (Sub-6-1TA), filed April 29, 1982. Applicant: DONALD HOLLANDSWORTH, 1150 Carriage Lane, Casper, WY. Representative: Donald Hollandsworth (same as applicant). *Machinery, material, equipment and supplies used in, or in connection with the discovery, development, production, refining, manufacturing, processing, storage transmission and distribution of natural gas and petroleum and their products and by products*. Between points in WY, TX, OK, ND, SD, MT, CO, NM, AZ, UT, ID, NV, CA, WA, for 270 days. Supporting shippers: There are 7 supporting shippers. Their statements may be examined in the Regional office listed.

MC 161725 (Sub-6-1TA), filed April 28, 1982. Applicant: LAR-CO EXPRESS, 10803 Los Jardines E., Fountain Valley, CA 90278. Representative: Lawrence J. Exe (same as applicant). *Contract Carrier*: Irregular Routes, (1) *General Commodities* (except classes A and B explosives). Between the commercial zone of Los Angeles, CA, Maricopa County, Tucson, and Bagdad, AZ; Portland, OR, Seattle, and Tacoma, WA, and between points in the U.S., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lawi/CSA Consolidators, Inc., 5610 So. Soto St., Hunt-ington Park, CA 90255.

MC 133545 (Sub-6-1TA), filed April 28, 1982. Applicant: LEMONS HOUSE MOVING, INC., 1250 Houston Rd., Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Buildings, prefabricated and building materials*, from the facilities, of The Boise Co., at or near Laurel, MT to points in ND, for 270 days. Supporting shipper: The Boise Co., P.O.B. 8358, Boise, ID 83707.

MC 161721 (Sub-6-1TA), filed April 28, 1982. Applicant: JOHN S. POCOCK AND RALPH R. POCOCK, d.b.a. POCOCK FARMS, Route 1, Sugar City, ID 83448. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Chemicals and fertilizers*, from points in UT and WA to points in ID, south of the southern boundary of Idaho County, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: J. R. Simplot Co., P.O.B. 27, Boise, ID 83701.

MC 144108 (Sub-6-1TA), filed April 29, 1982. Applicant: RELIABLE CARTAGE, INC., 5100 Amelia Earhart Dr., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O.B. 2465, Salt Lake City, UT 84110. *Contract Carrier*, Irregular routes: *General commodities* (except household goods, commodities in bulk and Classes A and B explosives), between points in the U.S. (except AK and HI), for the account of Facet Automotive Filter Company of Salt Lake City, UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Facet Automotive Filter Company, 1900 South 3480 West, Salt Lake City, UT 84104.

MC 161528 (Sub-6-1TA), filed April 29, 1982. Applicant: T.O.S.M. TRUCKING, INC., 306 Lone Pine Drive, Navajo, NM 87328. Representative: Steve Maynerich, 305 Valentina Drive, Gallup, NM 87301. *Contract Carrier*, Irregular routes: *Lumber, and lumber products*, between Navajo, NM and points in AZ, CO, NM, and TX, for the account of Navajo Forests Products, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Navajo Forest Products Ind., P.O. Box 1280, Navajo, NM 87328.

MC 126327 (Sub-6-10TA), filed April 29, 1982. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: William J. Monheim, P.O. B. 1756, Whittier, CA 90609, 213/945-2745. *General commodities* (except commodities in bulk, Classes A and B explosives, hazardous waste and household goods), between points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. There are 115 statements in support attached to this application which may be examined at the Regional Office listed.

MC 161739 (Sub-6-1TA), filed April 29, 1982. Applicant: WILLS FREIGHT LINE, INC., 1700 West Grand Ave., Oakland, CA 94623. Representative: Armand Karp, 743 San Simeon, Dr., Concord, CA 94518. *Contract Carrier*, Irregular routes: *Electrical machinery, equipment or supplies, and materials, equipment and supplies used in the manufacture, distribution and sale thereof*, between Oakland, CA and points in the counties of Alameda, Contra Costa, Fresno, Madera, Marin, Merced, Monterey, Napa, Placer, Sacramento, San Benito, San Francisco, San Joaquin, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Yolo and Yuba, all in CA, for the account of General Electric Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: General Electric

Company, 5420 East 12th St., Oakland, CA 94601.

Agatha L. Mergenovich,  
*Secretary.*

[FR Doc. 82-12577 Filed 5-7-82; 8:45 am]

BILLING CODE 7035-01-M

### Motor Carriers Permanent Authority Decisions; Decision-Notice

#### Correction

In FR Doc. 82-9449 appearing on page 15168 in the issue of Thursday, April 8, 1982, make the following correction.

On page 15169, third column, second complete paragraph, "MC-149400 (Sub-2)" the states MD and MO were reversed in lines 11 and 13. As corrected those lines should read:

"bulk), between points in MD, on the one hand, and, on the other, points in MI, MO, KS, and IA."

BILLING CODE 1505-01-M

### [Ex Parte No. MC-82 (Sub-No. 4)]

### New Procedures in Motor Carrier Revenue Proceedings—Inclusion of Niagara Frontier Tariff Bureau, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final decision.

**SUMMARY:** In a decision in this proceeding published at 46 FR 62959 (December 29, 1981), the Commission adopted cost justification procedures for Niagara Frontier Tariff Bureau, Inc. The Commission provided that, unless it received comments which warranted reconsideration of the procedures, the decision would become effective February 12, 1982. No comments were received. Therefore, the Commission's December 29, 1981, decision became effective February 12, 1982.

**FOR FURTHER INFORMATION CONTACT:** Jane Mackall (202) 275-7656 or Raymond Hobbs (202) 275-6780.

Dated: April 30, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, and Andre.

Agatha L. Mergenovich,  
*Secretary.*

[FR Doc. 82-12574 Filed 5-7-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-318N)]

### Rail Carriers; Conrail Abandonment Between Bayard and Fairhope, OH; Notice of Findings

#### Correction

In FR Doc. 82-9760 appearing on page 15667 in the issue of Monday, April 12, 1982, make the following correction:

On page 15667, third column, in the last line of the page, "\$71,352" should have read "\$741,352".

BILLING CODE 1505-01-M

[Docket No. AB-167 (Sub-273N)]

### Rail Carriers; Conrail Abandonment Between Williams & Clark and End of Track, NJ; Notice of Findings

#### Correction

In FR Doc. 82-9602 appearing on page 15434 in the issue for Friday, April 9, 1982 please make the following correction:

In the second paragraph, in the second line, "\$19,412" should have read "\$91,412".

BILLING CODE 1505-01-M

[EX Parte No. 387 (Sub-126)]

### Railroads; Texas Mexican Railroad Co., Exemption for Contract Tariff ICC-TM-C-14

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional exemption.

**SUMMARY:** Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirement of 49 U.S.C. 10713(e) and may file this contract tariff on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Donald J. Shaw, Jr., (202) 275-7656.

**SUPPLEMENTARY INFORMATION:** The Texas Mexican Railroad Company (TM) filed on April 20, 1982, a petition for exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests we permit contract tariff ICC-TM-C-14 to become effective on one day's notice. The contract provides allowances to the shipper on carloads of iron or steel billets, rods or wire rods. The contract was filed with the Commission on April 16, 1982 with a schedule effective date of May 24, 1982.

Under 49 U.S.C. 10713(e) contracts must be filed to become effective on not

less than 30 nor more than 60 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under section 10505 exemption authority in exceptional situations.

The petition shall be granted. As a result of the contract, the rail contract shipper will more promptly receive allowances on these export movements permitting the carrier to ship greater volumes on a more consistent basis. This is the type of exceptional or emergency situation which warrants an exception. We thus conclude that authorization of a provisional exemption is warranted and the contract may become effective on one day's notice.

We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding, on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking these exemptions under 49 U.S.C. 10105(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: April 29, 1982.

By the Commission, Division 2,  
Commissioners Gresham, Taylor, and  
Simmons. Commissioner Simmons did not  
participate.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 82-12575 Filed 5-7-82; 8:45 am]  
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-207N)]

### Rail Carriers; Conrail Abandonment Between E. Longbranch and Branchport, N.J.; Notice of Findings

#### Correction

In FR Doc. 82-9121 appearing on page 14799 in the issue for Tuesday, April 6, 1982, please make the following correction:

In the last paragraph of the document, in the second line, "\$71,950" should have been \$171,950".

BILLING CODE 1505-01-M

### LIBRARY OF CONGRESS

#### American Folklife Center Board of Trustees; Meeting

In accordance with Pub. L. 94-463, the Board of Trustees of the American Folklife Center announces its meeting to be held on Saturday, June 5, 1982, in the Whittall Pavilion of the Library of Congress from 9:30 a.m. to 5:00 p.m. The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center, (202) 287-6590.

The American Folklife Center was created by the U.S. Congress with passage of Pub. L. 94-201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publication, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Raymond L. Dockstader,  
Deputy Director, American Folklife Center,

[FR Doc. 82-12906 Filed 5-7-82; 8:45 am]

BILLING CODE 1410-01-M

### NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

#### Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday and Tuesday, May 24 and 25, 1982. The meeting will be held in Rooms 416 and B-100, Page Building 1, 2001

Wisconsin Avenue, NW., Washington, D.C.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations and State and local government, was established by Congress by Public Law 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, or reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Monday, May 24, 1982 (Room 416)

9:00 a.m.-12:30 p.m.—Plenary  
9:00 a.m.-9:30 a.m.—Swear-in Ceremony for  
New Member: Edward N. Gladish,  
Manager, Land Services, Champlin  
Petroleum, Co., CA  
9:30 a.m.-12:30 p.m.—Review and Approval  
of Fisheries Panel Report  
12:30 p.m.-1:30 p.m.—Lunch  
1:30 p.m.-4:30 p.m.—(To Be Announced)  
4:30 p.m.—Recess

Tuesday, May 25, 1982

8:00 a.m.-9:30 a.m.—Panel meeting  
• OCS Revenue Sharing  
Topic: Review Proposed Legislation and  
Refine Position  
9:30 a.m.-12:30 p.m.—Plenary  
9:30 a.m.-11:30 a.m.—Adm. John B. Hayes,  
Commandant, U.S.C.G.  
11:30 a.m.-12:30 p.m.—To Be Announced  
12:30 p.m.-1:30 p.m.—Lunch  
1:30 p.m.-3:00 p.m.—Plenary  
• Review of Action Items  
OCS Revenue Sharing Position for  
Testimony  
Ocean Satellites Initiative  
Annual Report Review  
3:00 p.m.—Adjourn Regular Meeting  
3:00 p.m.-6:00 p.m.—Panel Meeting  
• Marine Minerals Chairman: Burt Keenan  
(Room 416)  
Topic: Work Session—Draft Report  
6:00 p.m.—Recess

Wednesday, May 26, 1982

9:00 a.m.-1:00 p.m.—Panel meeting continued  
• Marine Minerals Chairman: Burt Keenan  
(Room B-100)  
Topic: Work Session—Draft Report  
1:00 p.m.—Adjourn.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting.

The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235.

Dated: May 5, 1982.

Steven N. Anastasion,  
Executive Director.

[FR Doc. 82-12617 Filed 5-7-82; 8:45 am]

BILLING CODE 3510-12-M

## NATIONAL SCIENCE FOUNDATION

### Forms Submitted to OMB for Review

In accordance with the Paperwork Reduction Act and OMB guidelines, NSF is posting this notice of recordkeeping requirements that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357-7580.

Title: Survey of Individual Demographic Characteristics in Systematic Biology (Phase Two)—Revision.

OMB No.: 3145-0069.

OMB Officer: Anita Ducca (202) 395-7340. This report is non-recurring.

Affected public: Systematic Biologists.

Number of responses: 10,000; total number of hours: 33,000 hrs.

This data system, which is unavailable from any other source provides demographic information on the individual researcher in the systematic community. These data will help in the planning and evaluation of long-term programs and give insight into the upcoming generation of systematic biologists and their goals, education, and needs.

Herman G. Fleming,  
Clearance Officer.

[FR Doc. 82-12625 Filed 5-7-82; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN-50-528-OL; STN-50-529-OL; STN-50-530-OL]

### Arizona Public Service Co.; et al.; Resumption of Hearing

May 5, 1982.

In the Matter of Arizona Public Service Company, et al. (Palo Verde

Nuclear Generating Station, Units 1, 2 and 3 Operating License Proceeding), Docket Nos. STN-50-528-OL; STN-50-529-OL; STN-50-530-OL.

The evidentiary hearing in the above identified proceeding will resume on May 25, 1982 at 9:00 a.m., local time, in Courtroom 2 of the Federal Building, 230 N. First Avenue, Phoenix, Arizona 85025.

It is so ordered.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Chairman, Administrative Judge.

[FR Doc. 82-12661 Filed 5-7-82; 8:45 am]

BILLING CODE 7590-01-M

### [Docket No. 40-8355]

### AMAX Inc.; Negative Declaration Regarding Storage of Contaminated Soil Under License

The U.S. Nuclear Regulatory Commission (the Commission) is considering licensing AMAX Inc., to stabilize and store soil contaminated with source material at a site in Wood County, West Virginia. The low-level contamination resulted from past zirconium ore processing operations at the site. AMAX Inc. has proposed to collect and move all soil contaminated above acceptable limits to a central area on the site and to stabilize the wastes under a clay cap designed to reduce water infiltration, prohibit dispersal of solid radioactive particulates into air and to limit any radon or thoron emissions. The stabilized material would remain in storage under a license issued by the Commission to AMAX Inc.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed contaminated soil stabilization and storage actions. On the basis of this appraisal, the Commission has concluded that the environmental impact created by the proposed actions would not be significant and does not warrant the preparation of an environmental impact statement, and, accordingly, it has been determined that a negative declaration is appropriate. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Silver Spring, Maryland, this 3rd day of May, 1982.

R. G. Page,

Chief, Uranium Fuel Licensing Branch,  
Division of Fuel Cycle and Material Safety,  
NMSS.

[FR Doc. 82-12656 Filed 5-7-82; 8:45 am]

BILLING CODE 7590-01-M

### [Docket No. 50-249]

### Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 63 to facility Operating License No. DPR-25 issued to Commonwealth Edison Company, which revised the License and Technical Specifications for operation of the Dresden Nuclear Power Station Unit 3 located in Grundy County, Illinois. The amendment is effective as of the date of issuance.

The changes to the License and Technical Specifications support Cycle 8 operation of the facility using reload fuel supplied by, and the associated analyses performed by the Exxon Nuclear Company. Previous plant operation utilized fuel and analyses provided by the General Electric Company.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated January 11, 1982, (2) Amendment No. 63 to License No. DPR-25, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room,

1717 H Street NW, Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of April 1982.

For the Nuclear Regulatory Commission,  
**Domenic B. Vassallo,**  
*Chief, Operating Reactors Branch No. 2,*  
*Division of Licensing.*

[FR Doc. 82-12657 Filed 5-7-82; 8:45 am]  
 BILLING CODE 7590-01-M

[Docket No. 50-285]

**Fort Calhoun Station, Unit No. 1;  
 Proposed Issuance of Amendment to  
 Facility Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-40, issued to Omaha Public Power District (the licensee), for operation of the Fort Calhoun Station, Unit No. 1 (the facility), located in Washington County, Nebraska.

In accordance with the licensee's application for amendment dated March 12, 1982, the amendment would permit the expansion of the facility's spent fuel storage capacity. This expansion will be accomplished by replacing the existing spent fuel storage racks, which have a capacity for 493 fuel assemblies, with new storage racks which will have a capacity for approximately 728 fuel assemblies.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By June 9, 1982, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman

of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date.

Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative of the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (In Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark: (petitioner's name and telephone number); (date petition was mailed); (Fort Calhoun); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to LeBoef, Lamb, Leiby and Mac Rae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036, attorneys for licensee. Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 12, 1982, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska, 68102.

Dated at Bethesda, Maryland, this 4th day of May, 1982.

For the Nuclear Regulatory Commission,  
**Robert A. Clark,**  
*Chief, Operating Reactors Branch No. 3,*  
*Division of Licensing.*

[FR Doc. 82-12658 Filed 5-7-82; 8:45 am]  
 BILLING CODE 7590-01-M

**Regulatory Guide; Issuance and  
 Availability**

The Nuclear Regulatory Commission has issued revisions to two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by

the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 19, "Design and Fabrication Code Case Acceptability, ASME Section III, Division 1," and Regulatory Guide 1.85, Revision 19, "Materials Code Case Acceptability, ASME Section III, Division 1," list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides are periodically revised to update the listings of acceptable code cases and to include the results of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office.

Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager. (5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 3rd day of May 1982.

For the Nuclear Regulatory Commission,  
Robert B. Minogue,  
Director, Office of Nuclear Regulatory Research.

[FR Doc. 82-12680 Filed 5-7-82; 8:45 am]  
BILLING CODE 7599-01-M

### State of Colorado; Discontinuance of Certain Regulatory Authority and Responsibility Within the State

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of amended agreement with State of Colorado.

SUMMARY: Notice is hereby given that on March 30, 1982, the Honorable Nunzio J. Palladino, Chairman of the Nuclear Regulatory Commission, and that on

April 20, 1982, the Honorable Richard D. Lamm, Governor of the State of Colorado, signed an Amendment to the existing section 274b. Agreement between NRC and the State of Colorado pursuant to Section 274 of the Atomic Energy Act of 1954, as amended. The amendment permits the State to continue to regulate byproduct material as defined in section 11e.(2) of the Act (uranium mill tailings) in conformance with the requirements of section 274o. of the Act.

The proposed Amendment to the existing section 274b. Agreement was published in the Federal Register for public comment for four consecutive weeks beginning October 14, 1981 (46 FR 50628-50632). A minor change to the introductory text was made to conform the Amendment to the requirements of the "Stratton-Schmitt" amendment (Pub. L. 97-88). The amended agreement was modified to delete the following paragraph:

Whereas, it is necessary to enter into this amendment in order to implement new requirements of Section 274 of the Act which become fully effective on November 8, 1981; and.

Public Law 97-88 makes it clear that such an amended agreement is not "necessary" for the State to continue to regulate uranium mill tailings after November 8, 1981. The following was inserted in its place:

Whereas, the Governor of the State has requested this amendment in accordance with Section 274 of the Act; and.

The Amendment is published in accordance with the requirements of Public Law 86-373. A copy of the consolidated version of the Agreement is available at the Office of State Programs.

FOR FURTHER INFORMATION CONTACT:  
John R. McGrath, Office of State Programs, U. S. Nuclear Regulatory Commission, Washington, DC 20555. Phone: (301) 492-9889.

#### SUPPLEMENTARY INFORMATION:

Amendment to Agreement Between the United States Nuclear Regulatory Commission and State of Colorado for Discontinuance Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, the United States Atomic Energy Commission<sup>1</sup> (hereinafter

<sup>1</sup> Under the provisions of the Energy Reorganization Act of 1974, the regulatory functions formerly carried out by the Atomic Energy Commission are now carried out by the Nuclear Regulatory Commission as of January 19, 1975.

referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of January 16, 1968) with the State of Colorado under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), which Agreement became effective on February 1, 1968, and provided for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State has requested this amendment in accordance with section 274 of the Act; and

Whereas, the Commission found on March 1, 1982, that the program of the State for the regulation of materials covered by this amendment is in accordance with the requirements of section 274o. of the Act and in all other respects compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, this amendment is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, Therefore, it is hereby agreed between the Commission and the Governor of the State, acting on behalf of the State, as follows:

Section 1. Article I of the Agreement of January 16, 1968, is amended by adding "as defined in section 11e.(1) of the Act;" after the words "byproduct materials" in paragraph A., by redesignating paragraphs B. and C. as paragraphs C. and D., and by inserting the following new paragraph immediately after paragraph A.:

"B. Byproduct materials as defined in section 11e.(2) of the Act;"

Section 2. Article II of the Agreement of January 16, 1968, is amended by inserting "A." before the words "This agreement," by redesignating paragraphs A. through D. as subparagraphs 1. through 4., and by adding the following at the end thereof:

"B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct materials as defined in section 11e.(2) of the Act:

"1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable

standards and requirements pertaining to such material have been met.

"2. The Commission reserves the authority to establish minimum standards governing reclamation, long term surveillance or maintenance, and ownership of such byproduct material. Such reserved authority includes:

"a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site:

"b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State at the option of the State (provided such option is exercised prior to termination of the license);

"c. The authority to permit use of surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to subparagraph B.2.b. of this Article, but such use of land transferred to the State may be made only with the concurrence of the State;

"d. The authority to require the Secretary of the Department of Energy, other Federal Agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety, and other actions as the Commission deems necessary; and

"e. The authority to enter into arrangements as may be appropriate to assure Federal long term surveillance or maintenance of such byproduct material and its disposal site on land held in trust by the United States for any Indian tribe or land owned by an Indian tribe and subject to a restriction against alienation imposed by the United States."

Section 3. Article III of the Agreement of January 16, 1968, is amended by inserting "otherwise licensable by the State under Article I of this Agreement" after the words "special nuclear material."

Section 4. Article VII of the Agreement of January 16, 1968, is amended by inserting "all or part of" after the words "terminate or suspend,"

by inserting "(1)" after the words "finds that," and by adding at the end before the period the following:

", or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with the provisions of section 274 of the Act."

Section 5. Article VIII of the Agreement of January 16, 1968, is amended by redesignating it Article IX and by inserting a new Article VIII as follows:

"In the licensing and regulation of byproduct material as defined in section 11e.(2) of the Act, or of any activity which results in production of such material, the State shall comply with the provisions of section 274o. of the Act. If, in such licensing and regulation, the State requires financial surety arrangements for the reclamation or long term surveillance or maintenance of such material,

"A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity which results in the production of such material. Such funds include, but are not limited to, sums collected for long term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and

"B. Such State surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long term management of such byproduct material and its disposal site."

This amendment shall become effective on April 20, 1982, and shall remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at Denver, State of Colorado, in triplicate, this 20th day of April 1982.

For the State Of Colorado.

**Richard D. Lamm,**  
Governor.

Done at Washington, District of Columbia, in triplicate, this 30th day of March 1982.

For the United States Nuclear Regulatory Commission.

**Nunzio J. Palladino,**  
Chairman.

Dated at Bethesda, Maryland, this 4th day of May, 1982.

For the United States Nuclear Regulatory Commission.

**G. Wayne Kerr,**  
Director, Office of State Programs.

[FR Doc. 82-12859 Filed 5-7-82; 8:45 am]

BILLING CODE 7590-01-M

## POSTAL RATE COMMISSION

[Docket No. A82-10; Order No. 432]

**Oceana Station, Virginia Beach, Virginia 23453 (T. J. Hutchings, Jr., Petitioner); Filing of Appeal**

May 4, 1982.

On April 12, 1982, the Commission received a letter from T. J. Hutchings, Jr. (hereinafter "Petitioner"), concerning alleged United States Postal Service plans to close the Oceana station in Virginia Beach. Following a response from the Secretary of the Commission, Petitioner sent a second letter, with a copy of the Postal Service's notice that it had decided to close the Oceana Station permanently. Although the letters make no explicit reference to the Postal Reorganization Act, we believe they should be construed as a petition for review pursuant to section 404(b) of the Act (39 U.S.C. 404(b)), so as to preserve Petitioner's right to appeal which is subject to a 30-day time limit.<sup>1</sup> However, section 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.<sup>2</sup>

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views".<sup>3</sup> The petitions request that the decision to close the Oceana station be reconsidered. The April 10, 1982, petition states that the alternative postal station suffers from inconvenient parking and overcrowding. The petition also states the alternative facility would be a hardship for the elderly. From the face of the petition it is unclear whether any hearings were held and whether a determination has been made in

<sup>1</sup> 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

<sup>2</sup> 39 CFR 3001.1.

<sup>3</sup> 39 U.S.C. 404(b)(1).

accordance with 39 U.S.C. 404(b)(3). The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.<sup>4</sup>

The Postal Reorganization Act states:

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.

Upon preliminary inspection, the petition appears to raise the following issues of law:

1. Whether the Postal Service's actions with regard to the Oceana station in Virginia Beach, Virginia must comply with the requirements of 39 U.S.C. 404(b).

2. Whether the Postal Service considered the change the closing would cause in the community's use of the postal services under the effect on postal service factor, section 404(b)(2)(C).

The first issue, whether a closing of the Oceana station is a consolidation or closing of a post office within the meaning of 39 U.S.C. 404(b), is a threshold question which should be addressed at an early stage in this proceeding. Therefore, we are requesting the Postal Service to file, within 20 days of the issuance of this Order, a memorandum on this subject. The Postal Service is to serve Petitioner with a copy of the memorandum. In the interests of procedural fairness and administrative efficiency, we will modify the usual schedule for the filing of the Petitioner's brief so that it is due after the Postal Service is to file its memorandum rather than 30 days after the petition is filed.

<sup>4</sup>39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

Other issues of law may become apparent when the Commission has had the opportunity to examine the determination made by the Postal Service. Such additional issues may emerge when the parties and the Commission review the Service's determination for consistency with the principles announced in *Lone Grove, Texas, et al.*, Docket Nos. A79-1, *et al.* (May 7, 1979), and the Commission's subsequent decisions on appeals of post office closings and consolidations. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserve the right to request a legal memorandum from the Service in addition to the one requested previously in this Order on one or more of the issues described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the determination and record pursuant to section 113 of the rules of practice (39 CFR 3001.113) make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioner by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution in appropriate circumstances, the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in Section 404(b) cases, and none is being appointed. The Commission orders that:

(A) The letters of April 12 and 28, 1982, from T. J. Hutchings, Jr. be construed as a petition for review pursuant to Section 404(b) of the Act (39 U.S.C. 404(b)).

(B) The Secretary of the Commission shall publish this Notice and Order in the *Federal Register*.

(C) The Postal Service shall file a memorandum by May 24, 1982, on whether 39 U.S.C. 404(b) is applicable to the action of the Postal Service complained of in the petition.

By the Commission.

David F. Harris,  
Secretary.

#### Appendix

April 12, 1982—Filing of Petition.

May 4, 1982—Notice and Order of Filing of Appeal.

May 14, 1982—Filing of Record by Postal Service (see 39 CFR 3001.113(a)).

May 14, 1982—Last day for filing of petitions to intervene (see 39 CFR 3001.111(b)).

May 24, 1982—Filing of Postal Service's legal memorandum.

June 14, 1982—Petitioner's initial brief (see 39 CFR 3001.115(a)).

June 29, 1982—Postal Service answering brief (see 39 CFR 3001.115(a)).

July 14, 1982—(1) Petitioner's reply brief, should petitioner choose to file such brief (see 39 CFR 3001.115(c)).

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

August 20, 1982—Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5)).

[FR Doc. 82-12569 Filed 5-7-82; 8:45 am]

BILLING CODE 7715-01-M

## SMALL BUSINESS ADMINISTRATION

[License No. 06/06-5207]

### Capital-Management Services, Inc.; Filing an Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701(1981)) for transfer of ownership and control of Capital-Management Services, Inc., 1910 North Grant, Suite 200, Little Rock, Arkansas 72201, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*). The proposed transfer of ownership and control of Capital-Management Services, Inc., which was licensed March 14, 1979, is subject to the prior written approval of SBA.

During the course of the Board of Directors' meeting of September 24, 1981, an informal agreement was made between Mr. David & Linda Hale and the other stockholders, whereby Mr. & Mrs. Hale would purchase their stock, with the exception of Mr. Carter Dennis, and the ownership of the Licensee's stock to be as follows:

Name	Office	Percent of ownership
David L. Hale.....	President.....	68.75
Carter Dennis.....	Stockholder.....	25.00
Linda Sue Hale.....	Assistant Secretary.....	6.25

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners and management, and the probability of successful operations of the company under this management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is given that any person may, not later than May 25, 1982, submit written comments on the proposed transfer of ownership and control to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Little Rock, Arkansas.

Dated: May 3, 1982.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

**Robert G. Lineberry,**

*Acting Deputy Associate Administrator for Investment.*

[FR Doc. 82-12608 Filed 5-7-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0163]

**First Ohio Capital Corp.; Issuance of a Small Business Investment Company License**

On January 27, 1982, a notice was published in the *Federal Register* (47 FR 1228) stating that an application has been filed by First Ohio Capital Corporation 606 Madison Avenue, Toledo, Ohio 43604, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)) for a license as a small business investment company.

Interested parties were given until close of business February 11, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0163 to First Ohio Capital Corporation to operate as a small business investment company.

Dated: April 29, 1982.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

**Robert G. Lineberry,**

*Acting Deputy Associate Administrator for Investment.*

[FR Doc. 82-12609 Filed 5-7-82; 8:45 am]

BILLING CODE 8025-01-M

[SBLC No. 03/B-0024]

**Gulf American SBL, Inc.; Filing of Application for Eligibility Determination as a Small Business Lending Company**

An Application for Eligibility Determination as a Small Business Lending Company has been filed by Gulf American SBL, Inc. (Applicant), 659 Jenks Avenue, P.O. Box 2062, Panama City, Florida 32401, with the Small Business Administration pursuant to § 120.4(b) of the SBA Regulations (13 CFR 120.4(b) (1981)), promulgated under the Small Business Act.

As a Small Business Lending Company (SBLC), under Subsection (b) mentioned above, the Applicant will be engaged solely in the making of loans to small business concerns, in participation with SBA, and in accordance with applicable SBA Regulations. It will be subject to supervision and examination by the SBA.

The Applicant is incorporated under the laws of the State of Florida and will commence operation with minimum capitalization of \$1,000,000, which will be raised through the sale of 100% of its common shares to Gulf American Financial Corporation, 659 Jenks Avenue, P.O. Box 2062, Panama City, Florida 32401. Gulf American Financial Corporation was formed on March 30, 1981, for the primary purpose of engaging in lending, financing, and other related commercial and financial activities. It is a controlled subsidiary of H. G. Harders and Son, Inc., 5521 East Highway 98, Panama City, Florida 32401, which will own 80% of Gulf American Financial Corporation's common shares.

The Officers and Directors of the Applicant as well as the parent are:

William E. Welliver, 604 Bunkers Cove Road, Panama City, Florida 32401—  
President and Director

Ryan D. Tennyson, 4623 North Shore Road, Lynn Haven, Florida 32444—  
Vice President and Director

Fred M. Webb, 4605 North Shore Road, Lynn Haven, Florida 32401—Director  
Randolph T. McInvale, 4510 Aster Street, Panama City, Florida 32401—  
Director

John B. Jinks, 100 Cherry Street, Unit #4, Panama City, Florida 32401—Director

Donald R. Crisp, 731 Driftwood Drive, Lynn Haven, Florida 32444—Director  
Julian Bennett, 3127 West 30th Court, Panama City, Florida 32405—Director  
Lydia L. Frein, 5618 S. Lagoon Drive, Panama City Beach, Florida 32401—  
Director

J. Paul Padgett, 6506 Minneola Street, Panama City, Florida 32401—Director

John Christo, III, 808 W. 39th Court, Panama City, Florida 32401—Director

Girard L. Clemons, Jr., 518 Bunkers Cove Road, Panama City, Florida 32401—  
Director

The Applicant intends to initially conduct its operations in the State of Florida and sell in the Secondary Market the SBA's guaranteed portion of loans made to small business concerns.

Matters involved in SBA's consideration of the Application include the general business reputation and character of management, and the probability of successful operation of the corporation under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act and the Regulations promulgated thereunder.

Notice is hereby given that all interested parties may, not later than May 25, 1982 submit to SBA written comments on the proposed Applicant and/or its management. Any such communications should be addressed to: Wayne S. Foren, Director, Office of Lender Relations and Certification, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Panama City, Florida, as well as in the Eastern Regional Edition of the *Wall Street Journal*.

Dated: April 30, 1982.

(Catalogue of Federal Domestic Assistance Program No. 59.012 Small Business Loans)

**Edwin T. Holloway,**

*Associate Administrator for Finance and Investment.*

[FR Doc. 82-12610 Filed 5-7-82; 8:45 am]

BILLING CODE 8025-01-M

**OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE**

**Import Relief on Prepared or Preserved Mushrooms: Request for Public Comment on Retention or Termination of Relief for Canned and Frozen Mushrooms Broiled in Butter or in Butter Sauce**

By Presidential Proclamation 4801 of October 29, 1980, the President provided for increase for 3 years in the duty on

imports of prepared or preserved mushrooms provided for in item 144.20 of the Tariff Schedules of the United States (TSUS). That proclamation implemented the President's determination, under section 202(b) of the Trade Act of 1974 (the Act) [19 U.S.C. 2252(b)], which was contained in a Memorandum from the President to the United States Trade Representative dated October 17, 1980.

By Presidential Proclamation 4904 of February 27, 1982, the President provided for the termination of import relief with respect to certain wild specialty mushrooms valued at over \$1.60 per pound and to certain whole oriental mushrooms in retail-size containers. That proclamation implemented the President's determination pursuant to section 203(h)(4) of the Act (19 U.S.C. 2253(h)(4)).

At the request of the United States Trade Representative, the International Trade Commission (the Commission) instituted an investigation on December 29, 1981, in order to advise the President with respect to (1) developments in the mushroom industry since import relief became effective, and (2) the probable economic effect on the domestic mushroom industry of exempting canned and frozen mushrooms broiled in butter or in butter sauce (buttered mushrooms) from the import relief duties currently in place. In the report of their findings, dated April 15, 1982 (Report to the President, Investigation No. TA-203-10), the Commission advises that termination of the import relief for buttered mushrooms would have an adverse economic effect on the domestic industry concerned.

The Trade Policy Staff Committee (TPSC) must prepare a recommendation to the United States Trade Representative concerning what action, if any, he should advise the President to take. To assist the TPSC in developing that recommendation, interested persons are invited to submit written views on the advice given on buttered mushrooms in the Commission's April 15 report.

Comments should be submitted to the Secretary, Trade Policy Staff Committee, Room 500, 600 17th Street, NW., Washington, D.C. 20506. Submissions must be received no later than close of business May 21, 1982. For further information, call Robert Simpson on

202-395-5006. Legal questions should be directed to Alice Zalik on 202-395-3432.

Frederick L. Montgomery,  
Chairman, Trade Policy Staff Committee.

[FR Doc. 82-12907 Filed 5-7-82; 8:45 am]

BILLING CODE 3190-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 82-048]

#### Towing Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Request for Applications.

**SUMMARY:** The U.S. Coast Guard is seeking applicants for appointment to membership on the Towing Safety Advisory Committee (TSAC). TSAC advises the Commandant on rulemaking matters related to shallow draft inland and coastal waterway navigation and towing safety.

Nine (9) members will be appointed as follows: Five (5) members from the barge and towing industry, reflecting a geographical balance; one (1) member from port districts, authorities or terminal operators; one (1) member from maritime labor; and two (2) members of the general public, preferably those with environmental backgrounds. To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is particularly interested in receiving applications from minorities and women. The committee will meet at least once per year at a location selected by the sponsor.

**DATE:** Requests for applications should be received no later than June 24, 1982.

**ADDRESS:** Persons interested in applying should write to: Commandant (G-CMC/44), U.S. Coast Guard Headquarters, Washington, D.C. 20593.

#### FOR FURTHER INFORMATION CONTACT:

CDR A.D. UTARA, Executive Secretary, Towing Safety Advisory Committee (G-CMC), Room 4402, U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202) 426-1477.

Dated: May 5, 1982.

A. D. Utara,  
Commander, USCG, Regulations Officer.

[FR Doc. 82-12899 Filed 5-7-82; 8:45 am]

BILLING CODE 4910-14-M

## DEPARTMENT OF THE TREASURY

### Customs Service

[T.D. 82-87]

#### Reimbursable Services—Excess Cost of Preclearance Operations

May 5, 1982.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning May 16, 1982.

Installation	Biweekly excess cost
Montreal, Canada.....	\$18,286
Toronto, Canada.....	31,294
Kindley Field, Bermuda.....	6,577
Nassau, Bahama Islands.....	18,682
Vancouver, Canada.....	14,151
Winnipeg, Canada.....	1,722
Freeport, Bahama Islands.....	10,390
Calgary, Canada.....	8,238
Edmonton, Canada.....	5,013

Jack T. Lacy,  
Comptroller.

[FR Doc. 82-12655 Filed 5-7-82; 8:45 am]

BILLING CODE 4820-02-M

## VETERANS ADMINISTRATION

### Geriatrics and Gerontology Advisory Committee; Meeting

The Veterans Administration, in accordance with Pub. L. 92-463, gives notice that a meeting of the Geriatrics and Gerontology Advisory Committee will be held in room 817 at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on May 20 and 21, 1982. The purpose of the Geriatrics and Gerontology Advisory Committee is to advise the Administrator and the Chief Medical Director relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research Education and Clinical Centers established by the Department of Medicine and Surgery.

The sessions on May 20 will be open to the public from 8:30 a.m. to 12 noon and will be closed from 1 p.m. to 4:30 p.m. The sessions on May 21 will be closed from 8:30 a.m. to 12 noon and open to the public from 1 p.m. to



# Sunshine Act Meetings

Federal Register

Vol. 47, No. 90

Monday, May 10, 1982

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).

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### FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, May 13, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

#### Agenda, Item No., and Subject

**General—1—Title:** Implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979. **Summary:** The Commission is soliciting public comments, through a series of documents in this proceeding (Docket 80-739), on national implementation of the Final Acts of the 1979 World Administrative Radio Conference. This Notice of Inquiry considers the technical standards for transmitters authorized by the Commission.

**General—2—Title:** Notice of Proposed Rulemaking to expand the frequencies available for use by Aural broadcast STL and Intercity relay stations. **Summary:** The Commission will consider the merits of RM-2697, filed by the National Association of Broadcasters (NAB), to reallocate the 942-947 MHz band back to the Broadcast Auxiliary Service and RM-3246, filed by Moseley Associates, Inc., to use unassigned UHF-TV channels for Broadcast Auxiliary Service. Additionally, the Commission will consider the merits of sharing the 2130-2150 MHz and 2180-2200 MHz bands, presently allocated to the Private Operational-Fixed Microwave Service, with the Broadcast Auxiliary Service.

**General—3—Title:** An Inquiry Relating to Preparation for an International Telecommunication Union World Administrative Radio Conference on the Use of the Geostationary-Satellite Orbit and the Planning of the Space Services Utilizing it. **Summary:** This proceeding requests public comment concerning Commission preparation for a World

Administrative Radio Conference on the use of the geostationary-satellite orbit and the planning of the space service utilizing it. The Conference will be held in two sessions in 1985 and in 1987. This item before the Commission is the second Notice in this proceeding. It provides objectives, principles and other guidance for U.S. preparations in the development of the Commission's recommendations for U.S. proposals.

**General—4—Title:** Amendment of Parts 2, 21, 87 and 90 of the Commission's Rules to Allocate Spectrum for, and to Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision of Digital Communications Services. **Summary:** The Commission considers petitions for reconsideration of the First Report and Order in Docket 79-186, which request modification of technical standards for digital termination systems (DTS) and of policy, procedural, and legal matters relating to the use of DTS in the Digital Electronic Message Service.

**Private Radio—1—Title:** In the Matter of Amendment of Section 90.555(b) of the Commission's Rules to provide for Geographic Reallocation of certain channels in the Detroit area to the Business Radio Service—PR Docket No. 81-1, RM-3365. **Summary:** The FCC has before it for consideration disposition of its proceeding in Docket No. 81-1 to amend Part 90 of the Commission's Rule to provide for geographic reallocation from other private land mobile radio services to the Business Radio Service of all channels in the bands 150-174 MHz and 450-470 MHz in the Detroit area which show both zero-measured use and no licensees authorized to use them.

**Common Carrier—1—Title:** Application of Williamsport Mobile Telephone Company for review of the Common Carrier Bureau's grant of the application of Buffalo Valley Telephone Company, File No. 21754-CD-P-81. **Summary:** The Commission will consider the Application for Review filed by Williamsport Mobile Telephone Company (WMTC) challenging the Common Carrier Bureau's grant of the application of Buffalo Valley Telephone Company for a one-way frequency in Union, Pennsylvania. WMTC has argued that Buffalo Valley's application failed to adequately demonstrate need, was incomplete in regard to required information, and unjustifiably requested a waiver of certain Commission Rules. WMTC has also challenged the Mobile Services Division's authority to act upon contested applications.

**Common Carrier—2—Title:** Alfred C. Cordon, Jr. **Summary:** The Commission will consider whether to reconsider its declaratory ruling in *Alfred C. Cordon, Jr.*, 80 FCC 2d 328 (1980), which ruled that

applications in the Domestic Public Land Mobile Radio Service (DPLMRS) will be returned if the applicant has been denied state certification and the state appeal process has been exhausted. The Commission will also consider whether the Common Carrier Bureau properly returned applications filed by Radio and Communication Consultants, Inc. for DPLMRS stations at Shreveport, Louisiana, pursuant to the Commission's *Cordon* ruling.

**Common Carrier—3—Title:** Comsat's participation in the provision of ship earth station equipment. **Summary:** Memorandum Opinion and Order: [1] severing the ship earth station issue from the other issues raised in the Notice of Proposed Rulemaking in CC Docket No. 80-634 (see Communications Satellite Corporation, 81 FCC 2d 287 (1980); and [2] addressing the issue of whether applicable law and policy prohibit COMSAT General TeleSystems, Inc., a Comsat subsidiary, from supplying ship earth station terminal equipment for use in the INMARSAT global maritime satellite system. The issue was raised when COMSAT General notified the Commission of the intent to engage in such activities, and was addressed in comments filed in the CC Docket No. 80-634 rulemaking proceeding.

**Renewal—1—Title:** License Renewal Applications of Dena Pictures, Inc. and Alexander Broadcasting Company, a joint venture d/b/a Kaye-Smith Enterprises for Stations KJRB and KEZE-FM, Spokane, Washington; KISW(FM), Seattle, Washington; and KXL(AM) and KXL-FM, Portland, Oregon and Applications for Assignment of Licenses of the above referenced stations from Kaye-Smith Enterprises to Alexander Broadcasting Company. **Summary:** The Commission will consider a petition to deny and informal objections to the renewal and assignment of licenses of the above stations filed by Vincent L. Hoffart.

**Renewal—2—Title:** Competing Applications of Dena Pictures, Inc. and Alexander Broadcasting Company, a joint venture d/b/a Kaye-Smith Enterprises for renewal of license of Station KISW(FM), Seattle, Washington, and Vincent L. Hoffart d/b/a Hoffart Broadcasting for a construction permit. **Summary:** The Commission will consider designating the Kaye-Smith and Hoffart applications for hearing in a consolidated proceeding.

**Renewal—3—Title:** "Petition for Review By Review Board" filed July 27, 1981 by Vincent L. Hoffart of denial of an informal objection to the assignment of licenses of Stations KCKN and KCKN-FM, Kansas City, Kansas. **Summary:** Vincent L. Hoffart seeks review by the Review Board of the denial of his informal objection to the assignment of licenses of Stations KCKN

and KCKN-FM, Kansas City, Kansas by the Broadcast Bureau. Denial was made pursuant to delegated authority on July 14, 1981.

**Aural-1—Title:** In re application of Soundamerica Corporation, licensee of WDWQ(FM), St. George, South Carolina. **Summary:** The Commission considers its action of January 15, 1982 granting the application by delegated authority and applications for review of that action filed by WEZL, Inc. and KTM Broadcasting, Inc., licensees of FM Stations WEZL and WKTM, Charleston and North Charleston, South Carolina, respectively.

**Aural-2—Title:** Seven applications for authority to operate the facilities of former stations WMOU(AM) and WXLQ(FM), Berlin, New Hampshire. **Summary:** The Commission considers the applications and a petition to deny two of them.

**Television-1—Applications of Charleston, S.C. VHF television stations (WCBD, WCIV, WCSC, and WITV) to make changes in their facilities; petitions to deny. Summary:** The Commission will consider whether grant of the applications will have an impact on UHF stations in Columbia and Florence, S.C., which would adversely affect the public interest.

**Broadcast-1—Title:** Changes in the rules relating to non-commercial, educational FM broadcast stations. **Summary:** The Commission will consider a *Second Further Notice of Proposed Rule Making* which would address the unresolved issues in the Docket 20735 proceeding.

**Broadcast-2—Title:** Petitions for Reconsideration of Report and Order In the Matter of Petition for Rule Making to Amend the Television Table of Assignments to Add New VHF Stations in the Top 100 Markets and to Assure that the New Stations Maximize Diversity of Ownership, Control and Programming. (Docket No. 20418—"VFH Drop-Ins".) **Summary:** Petitioners seek Commission reconsideration of its Report and Order in Docket 20418 either in whole or in part. The Memorandum Opinion and Order discusses and resolves the issues raised in those petitions.

**Broadcast-3—Title:** Amendment of Parts 2 and 73 of the Commission's AM broadcast rules with reference to the use of the AM carrier for utility load management purposes. **Summary:** On December 17, 1981, the Commission adopted a *Notice of Proposed Rule Making* (47 FR 1386, January 13, 1982) proposing to permit utility load management signals to be transmitted through the AM broadcast carrier as long as they do not degrade AM main channel broadcasting. This new authorization would allow expansion of energy management communication alternatives for utilities. The *Report and Order* discusses and resolves this issue.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: May 5, 1982.

**William J. Tricarico,**  
*Secretary, Federal Communications Commission.*

[S-887-82 Filed 5-5-82; 3:08 pm]

BILLING CODE 6712-01-M

## 2

### FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, May 13, 1982, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C.

#### *Agenda, Item No., and Subject*

**Hearing-1.—Application for Review of the Review Board Decision (88 FCC 2d 401) in the Sulphur Springs, Texas, FM comparative proceeding (Docket Nos. 80-60 and 80-61).**

**Hearing-2.—Application for Review in the Dale A. Owens, Beaverton, Oregon AM comparative proceeding (BC Docket Nos. 81-919, 81-920).**

These items are closed to the public because they concern Adjudicatory Matters (See CFR 0.603(j)).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: May 5, 1982.

**William J. Tricarico,**  
*Secretary, Federal Communications Commission.*

[S-888-82 Filed 5-6-82; 3:08 pm]

BILLING CODE 6712-01-M

## 3

### FEDERAL ENERGY REGULATORY COMMISSION

#### Notice of Meeting

May 5, 1982.

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission.

**TIME AND DATE:** May 12, 1982, 10:00 a.m.

**PLACE:** 825 North Capitol Street, N.E., Washington, D.C. 20426 Room 9306.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

Note.—Item listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers

relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

**Consent Power Agenda—749th Meeting, May 12, 1982, Regular Meeting (10 a.m.)**

- CAP-1.** Project No. 2965-000, East Coast Energy Technology, Inc.; Project No. 3040-000, New Hampshire Water Resources Board; Project No. 3254-000, Concord Electric Co.
- CAP-2.** Project Nos. 4161-001, 4162-000, 4163-000 and 4164-000, Sierra Pacific Power Co.
- CAP-3.** Project Nos. 4008-000, 4008-001 and 4008-002, Long Lake Energy Corp.; Project No. 4938-000, Villiage of Iliion, New York
- CAP-4.** Project No. 5601-001, Oroville-Wyandotte Irrigation District
- CAP-5.** Project No. 3878-001, Gregory Wilcox; Project No. 5343-000, Montana Power Co.; Project No. 5375-000, Utah Power & Light Co.
- CAP-6.** Project No. 3344-000, Town of Gassaway, West Virginia; Project No. 3808-000, Old Dominion Electric Cooperative; Project No. 3929-000, Southeastern Renewable Resources, Inc., and the County of Braxton
- CAP-7.** Project No. 2629-000, the Village of Morrisville, Vermont
- CAP-8.** Project No. 5234-001, County of Calaveras, California
- CAP-9.** Project Nos. 87-000, and 2868-000, Southern California Edison Co.; Project No. 2904-000, Cities of Anaheim and Riverside, California
- CAP-10.** Project No. 3687-000, Tuolumne County Water District No. 2
- CAP-11.** Project No. 2866-000, the Metropolitan Sanitary District of Greater Chicago
- CAP-12.** Project No. 5588-001, Eda I. Brown
- CAP-13.** (A) Project No. 3568-001, Mitchell Energy Co., Inc.; Project No. 3952-000, Energenic Systems, Inc.; Project No. 4031-000, City of Peru, Illinois; Project No. 4038-000, Cities of Oglesby and Ladd, Illinois; Project No. 4447-000, Village of Winetaka, Illinois. (B) Project No. 3594-001, Mitchell Energy Co., Inc.; Project No. 4459-000, City of Marseilles, Illinois; Project No. 4499-000, Village of Winnetka, Illinois. (C) Project No. 3567-000, Mitchell Energy Co., Inc.; Project No. 3944-000, Village of Rockdale, Illinois; Project No. 4523-000, City of Joliet, Illinois; Project No. 4577-000, Commonwealth Edison Co.; Project No. 4571-000, Village of Winnetka, Illinois.
- CAP-14.** Docket No. ER82-257-001, Kansas Gas and Electric Co.
- CAP-15.** Docket No. ER82-301-000, Connecticut Light & Power Co.
- CAP-16.** Docket Nos. ER82-389-000 and ER82-80-000, Public Service Co., of Oklahoma
- CAP-17.** Docket No. ER82-404-000, Upper Peninsula Power Co.
- CAP-18.** Docket Nos. ER82-155-000, and ER82-188-000, Central Maine Power Co.
- CAP-19.** Docket Nos. ER76-304-005, ER76-317-001, ER76-498-001 and E-8641, New England Power Co.
- CAP-20.** Project No. 2861-000, Robert W. Shaw

- CAP-21. Project No. 5358-002, Woods Creek, Inc.  
 CAP-22. Docket No. ER76-828-000, Nantahala Power and Light Co.; Docket No. EL78-18-000, Town of Highlands, North Carolina, et al., V. Nantahala Power and Light Co.  
 CAP-23. Project No. 2890-000, Kings River Conservation District

**Consent Miscellaneous Agenda**

- CAM-1. Docket No. QF82-48-000, Nornev Demonstration Geothermal Co.  
 CAM-2. Docket No. QF82-80-000, Windfarms, Ltd., Small Power Production and Cogeneration Facilities—Qualifying Status  
 CAM-3. Docket No. RM79-76 (New Mexico—10), High-Cost Gas Produced From Tight Formations  
 CAM-4. Docket No. GP82-20-000, Public Service Co. of Oklahoma  
 CAM-5. Docket No. GP81-37-000, Northwest Pipeline Corp.  
 CAM-6. Docket No. GP81-27-000, Railroad Commission of Texas, Section 108 NGPA Determination, Gulf Oil Corp., Cap Yates Well No. 8 JD No. 79-17112  
 CAM-7. Docket No. GP80-96, State of Kansas, Section 108 NGPA Determination, Texaco Inc., Garden City Unit #1, JD No. 80-04002, Anderson-Shrier unit #1, JD No. 80-040006, Landgraf Unit #1, JD No. 80-04005  
 CAM-8. Docket Nos. RO81-4-000, RO81-6-000, RO81-7-000, RO81-9-000, RO81-11-000, RO81-12-000, RO81-13-000, RO81-14-000, RO81-15-000, RO81-16-000, RO81-17-000, RO81-19-000, RO81-21-000, RO81-22-000, RO81-23-000, RO81-24-000, RO81-25-000, RO81-26-000, RO81-27-000, RO81-28-000, RO81-29-000, RO81-30-000, RO81-31-000, RO81-32-000, RO81-33-000, RO81-34-000, RO81-35-000, RO81-38-000, RO81-39-000, RO81-40-000, RO81-41-000, RO81-42-000, RO81-43-000, RO81-45-000, RO81-46-000, RO81-48-000, RO81-49-000, RO81-50-000, RO81-51-000, RO81-52-000, Sunset Boulevard Car Wash; Docket No. RO81-56-000, Albert Torretta, Ye Old Pump House; Docket No. RO81-57-000, Bud Dietrich, d.b.a. Bud Dietrich's Orinda Shell; Docket No. RO81-58-000, George Cravines, d.b.a. Circle Service; Docket No. RO81-70-000, A. J. Ataie, d.b.a. Sycamore Shell; Docket No. RO81-71-000, Bob Oyster, d.b.a. Sharon Heights Shell; Docket No. RO82-1-000, Anthony N. Marrazzo, d.b.a. Sherwood Garden Chevron; Docket No. RO82-2-000, Richard Atkinson & John Galbraith, d.b.a. Alcatraz Mobil Service; Docket No. RO82-4-000, Ed Manz, d.b.a. A-1 Arco; Docket No. RO82-6-000, Gerald Bushman, d.b.a. Gerald Bushman Chevron; Docket No. RO82-7-000, Harvey Miller, d.b.a. Harv's Sacramento Car Wash; Docket No. RO82-8-000, Ben Sosbee's, d.b.a. Ben Sosbee's Chevron Service; Docket No. RO82-9-000, Bill Nelson, d.b.a. Nelson's Service Center, Inc.; Docket No. RO82-10-000, Jim Daniels,

- d.b.a. Jim's Texaco Service; Docket No. RO82-11-000, Howard De Rouen, d.b.a. Howard De Rouen Shell; Docket No. RO82-12-000, Jerry Bullard, d.b.a. Jerry Bullard's Chevron; Docket No. RO82-13-000, Don Skilling, d.b.a. Don Skilling Chevron Service; Docket No. RO82-14-000, Ed Forrester, d.b.a. Ed's Exxon; Docket No. RO82-21-000, Herbert Bailey, d.b.a. Aptos Shell; Docket No. RO82-22-000, Ken Betts, d.b.a. Bubble Machine; Docket No. RO82-23-000, Bud Adams, d.b.a. Bud's Exxon Service; Docket No. RO82-24-000, C. J. King, d.b.a. C. J. King Chevron; Docket No. RO82-25-000, Charles Sallas, d.b.a. Charlie's Exxon Service; Docket No. RO82-26-000, Roland K. Aronson, d.b.a. Crossroad Texaco; Docket No. RO82-27-000, Demetrius Montalvano, d.b.a. Dimitri's Arco; Docket No. RO82-28-000, Eugene Lew, d.b.a. Eugene's Chevron Service; Docket No. RO82-29-000, John J. Hughes Jr., d.b.a. Hughes Burlingame Shell; Docket No. RO82-30-000, Jerry Anderson, d.b.a. Jerry's Shell Service; Docket No. RO82-31-000, Young Kim, d.b.a. Kim's Mobil; Docket No. RO82-32-000, V. J. Haavisto, d.b.a. Mowry Chevron Service; Docket No. RO82-33-000, Vic Sosskian, d.b.a. Pacifica Shell Service; Docket No. RO82-34-000, Paul Provost, d.b.a. Paul Provost Chevron; Docket No. RO82-35-000, Bill Sandusky, d.b.a. Sandusky's Service; Docket No. RO82-36-000, Bud Tuite, d.b.a. Shelter Creek Chevron; Docket No. RO82-38-000, Charles Arivett, d.b.a. Skycrest Shell; Docket No. RO82-38-000, Jim Campbell d.b.a. Suds Machine Chevron; Docket No. RO82-39-000, Ed Neiman, d.b.a. Union Park Service  
 CAM-9. Docket No. RO81-72-000, Gray Goodnough d.b.a. Gateway Texaco

**Consent Gas Agenda**

- CAG-1. Omitted  
 CAG-2. Omitted  
 CAG-3. Docket No. TA82-2-33-000 (PGA82-2, IPR82-2, AP82-2 & TT82-2), El Paso Natural Gas Co.  
 CAG-4. Docket No. TA82-2-42-002 (PGA82-2, IPR82-2), Transwestern Pipeline Co.  
 CAG-5. Docket No. RP80-72-007, Algonquin Gas Transmission Co.  
 CAG-6. Docket No. RP81-49-000, RP81-134-000, RP81-135-000 and RP82-5-000, Natural Gas Pipeline Co. of America  
 CAG-7. Docket Nos. ST81-260 and CP82-206, Mustang Fuel Corp.  
 CAG-8. Docket No. RI74-188-003, RI74-188-004 and RI75-21-002, Independent Oil and Gas Association of West Virginia  
 CAG-9. Docket Nos. CI82-177-000 and CI82-185-001, Texama Production Co.; Docket No. CI82-201-001, the Superior Oil Co.; Docket No. CS71-656-001, A. R. Dillard, Jr. and Cobra Oil Gas & Gas Corp., A. R. Dillard, Jr., et al.; Docket No. CS75-470-002, TXO Production Corp., Tonkawa Gas Processing Co., and the Nueces Co. [Texas

- Oil & Gas Corp., Tonkawa Gas Processing Co. and the Nueces Co.; Docket No. CS78-543-001, Rockwood Resources, Inc. [Rockwood Oil & Gas Corp.] Rate Schedule No. 543, Exxon Corp.  
 CAG-10. Docket No. CS78-543-000, 001, Rockwood Resources, Inc. [Rockwood Oil & Gas Corp.]  
 CAG-11. Docket No. CP82-49-000, 001, Locust Ridge Gas Co.  
 CAG-12. Docket No. CP77-435-004, United Gas Pipeline Co.; Docket No. CP77-435-005, Transcontinental Gas Pipe Line Corp.  
 CAG-13. Omitted  
 CAG-14. Docket No. CP77-421-019, Transcontinental Gas Pipe Line Corp.; Docket Nos. CP77-321-003, CP78-241-003, CP79-73-002, Southern Natural Gas Co.  
 CAG-15. Docket No. CP81-518-000, Mountain Fuel Supply Corp.  
 CAG-16. Docket No. CP82-117-000, Texas Eastern Transmission Corp.  
 CAG-17. Docket No. CP82-81-000, Columbia Gas Transmission Corp.  
 CAG-18. Docket Nos. TA81-2-11-000 (PGA81-2, LFUT81-2) and TA82-1-11-000 (PGA82-1, IPR82-1, IPR82-1) (not consolidated), United Gas Pipe Line Co.  
 CAG-19. Docket No. TA82-1-4-000, Granite State Gas Transmission, Inc.

**I. Licensed Project Matters**

P-1. Reserved

**II. Electric Rate Matters**

- ER-1. Docket No. ER82-225-001 and ER82-225-002, Resources Recovery (Date County), Inc.  
 ER-2. Omitted  
 ER-3. Omitted  
 ER-4. Docket No. ER81-388-000, et al., Virginia Electric and Power Co.  
 ER-5. Docket No. ER80-71-000, Central Illinois Public Service Co.  
 ER-6. Docket No. ER77-277-002 (Phase II), Pennsylvania Power Co.  
 ER-7. Docket No. ER77-347-000, Wisconsin Power & Light Co.  
 ER-8. (A) Docket No. EF80-2011-000 (Remand), U.S. Secretary of Energy, Bonneville Power Administration; (B) Docket Nos. EF81-2011-000 and EF81-2021-000, Bonneville Power Administration  
 ER-9. Docket No. EF81-5021-000, Western Area Power Administration  
 ER-10. Docket No. EL81-14-000, American Municipal Power-Ohio, Inc., and the City of St. Mary's, Ohio, v. The Dayton Power & Light Co.  
 ER-11. Omitted

**Miscellaneous Agenda**

- M-1. Docket No. RM82-28-000, Extension of Filing Date Under Section 133 of PURPA  
 M-2. Omitted  
 M-3. Reserved  
 M-4. Reserved

## Gas Agenda

## I. Pipeline Rate Matters

RP-1. Omitted

RP-2. Docket No. TA81-2-17-002 (PGA81-2, IPR81-2, DCA81-2, LFUT81-3 and TT81-2), Texas Eastern Transmission Corp.

RP-3. Docket No. TA81-1-32-000, Colorado Interstate Gas Co.

RP-4. Omitted

## II. Producer Matters

CI-1. Reserved

## III. Pipeline Certificate Matters

CP-1. Docket No. CP74-192-005 (Remand), Florida Gas Transmission Co.

CP-2. Docket Nos. CP77-330-001, CP77-331-001 and CP77-270-001, El Paso Eastern Co.; Docket No. CP77-332-001, El Paso Natural Gas Co.; Docket No. CP77-269-001, El Paso LNG Terminal Co.; Docket No. CP77-271-001, United Gas Pipeline Co.

CP-3. Docket Nos. G-17370-001 and G-17371, the Montana Power Co.

CP-4. (A) Docket No. CP81-52-00-000, United Gas Pipeline Co.; (B) Docket No. CP81-99-000, Transwestern Pipeline Co.; (C) Docket No. CP81-496-000, Delhi Gas Pipeline Corp. and Houston Pipe Line Co.

CP-5. Docket No. CP80-346-000, Consolidated Gas Supply Corp. and Consolidated Gas Transmission Corp.

CP-6. Docket No. CP81-273-000, Cities Service Gas Co.

CP-7. Omitted

CP-8. Docket Nos. CP78-123, et al., Alaskan Northwest Natural Gas Transportation Co.

CP-9. Docket No. CP82-50-000, Natural Gas Pipeline Co. of America

Kenneth F. Plumb,

Secretary.

[S-683-82 Filed 5-6-82; 11:22 am]

BILLING CODE 6717-01-M

Service Corporation Activity—Coast Federal Savings and Loan Association, Sarasota, Florida, Perpetual American Federal Savings and Loan Association, Washington, D.C., California Federal Savings and Loan Association, Los Angeles, California.

[No. 31, May 6, 1982]

[S-682-82 Filed 5-6-82; 9:47 am]

BILLING CODE 6720-01-M

## 5

## FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 6, 1982, 47 FR 19613.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: May 12, 1982, 9:00 A.M.  
CHANGES IN THE MEETING: Additions of the following items to the closed session:

3. Docket No. 73-17; Sea-Land Service, Inc. and Gulf Puerto Rico Lines, Inc.—Proposed Rules on Containers and Docket No. 74-40; Puerto Rico Maritime Shipping Authority—Proposed ILA Rules on Containers—Consideration of remand from the court.

4. Docket No. 81-11: "50 Mile Container Rules" Implementation by Common Carriers by Water Serving the Atlantic and Gulf Coast Ports of the United States—Possible Violations of the Shipping Act, 1916, and of the Intercoastal Shipping Act, 1933—Consideration of procedural motions.

[S-684-82 Filed 5-6-82; 1:12 pm]

BILLING CODE 6730-01-M

## 6

## FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10:00 a.m., Friday, May 14, 1982

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551

STATUS: Closed

## MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. 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

Dated: May 6, 1982.

James McAfee,

Associate Secretary of the Board.

[S-689-82 Filed 5-6-82; 3:15 pm]

BILLING CODE 6210-01-M

## 7

## NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-12]

TIME AND DATE: 9 a.m., Tuesday, May 18, 1982

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594

STATUS: Open

## MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*: Ronson Aviation Bell 206B, (N27670) and Seminole Air Charter Piper PA-34-200T, (N811OR) Midair Collision, East Rutherford, New Jersey, September 23, 1982.

2. *Recommendation* to Federal Aviation Administration regarding pilot and air traffic control training.

3. *Aircraft Accident Report*: Sky Train Air, Inc., Gates Learjet 24, N44CJ, Felt, Oklahoma, October 1, 1981.

4. *Railroad Accident Report*: Side Collision and Derailment of Norfolk & Western Railway Company Trains Nos. 6B578, Yard Shifter, and 67HNP, Crewe, Virginia, November 28, 1981.

[S-685-82 Filed 5-6-82; 1:55 pm]

BILLING CODE 4910-58-M

## 8

## NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-13]

TIME AND DATE: 9 a.m., Thursday, May 20, 1982.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: The first three items will be open to the public; the remainder will be closed under Exemption 10 of the Government in the Sunshine Act.

## 4

## FEDERAL HOME LOAN BANK BOARD:

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 47, Page No. 19507, Date Published Wednesday, May 5, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 A.M., Thursday, May 6, 1982.

PLACE: Board Room, 6th Floor, 1700 G St., N.W., Washington, D.C.

STATUS: Open meeting.

## CONTACT PERSON FOR MORE

INFORMATION: Mr. Marshall (202-377-6679)

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board Meeting.

**MATTERS TO BE CONSIDERED:**

1. *Proposed Board Order:* Safety Studies Program.
2. Safety Studies Proposals.
3. *Brief of Aviation Accident:* U.S. Air Carrier, File No. 1-0015; Texas International Airlines, Baton Rouge, Louisiana, March 15, 1980.
4. *Opinion and Order:* Administrator v. Blackburn, Dkt. SE-5262; disposition of the appeals of both parties.
5. *Opinion and Order:* Administrator v. Garber, Dkt. SE-5252; disposition of respondent's appeal.
6. *Opinion and Order:* Administrator v. Honan, Dkt. SE-5192; disposition of respondent's appeal.

[S-686-82 Filed 5-6-82; 1:55 pm]

BILLING CODE 4910-58-M

Part II

Department of  
Transportation

Coast Guard

Safety Rules for Self-Propelled Vessels  
Carrying Hazardous Liquids and Gases  
Liquefied Gases

1. ...

2. ...

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9. ...



## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 46 CFR Parts 1, 153 and 154

[CGD 81-052]

## Safety Rules for Self-Propelled Vessels Carrying Hazardous Liquids and Bulk Liquefied Gases

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

**SUMMARY:** The Coast Guard is proposing to revise the rules for self-propelled vessels carrying hazardous liquids and bulk liquefied gases. The proposed rule would make the examination and certification procedures for tankers carrying cargoes regulated under Subchapter O, regarding certain bulk dangerous cargoes, more consistent with those for other tankers. The proposed rule would accomplish this by rescinding the requirement for foreign flag tankers to obtain a Letter of Compliance to carry hazardous liquids or liquefied gases in United States waters.

The proposed rule also would reduce the amount of information the vessel owner must supply to Commandant (G-MHM) with the initial application. When an examination is required, the proposed rule would substitute a twenty-four hour advance notice to the local Officer in Charge, Marine Inspection, for the fourteen day advance notice to Commandant (G-MHM) required under the present rules.

**DATE:** Comments must be received on or before August 9, 1982.

**ADDRESS:** Comments should be submitted to: Commandant (G-CMC/24) (CGD81-052), U.S. Coast Guard, Washington, D.C. 20593.

Between the hours of 7:00 a.m. and 5:00 p.m., Monday through Thursday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/24), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Winston S. Jones, Office of Merchant Marine Safety (G-MHM/14), Room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 (202-426-1217).

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Each comment should include the name and address of the

person submitting the comment, reference the docket number (CGD81-052), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. If an acknowledgment is desired, a stamped addressed postcard should be enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

The Coast Guard discussed this rulemaking at a public meeting of the Chemical Transportation Advisory Committee (CTAC) which was held on October 8, 1981 at U.S. Coast Guard Headquarters, Washington, D.C. At this meeting the Coast Guard presented the objectives of this rulemaking, described the proposed changes to procedures for foreign flag tankers, and explained the benefits expected from it. Two questions were directed to the Coast Guard. The first concerned the length of the comment period. The Coast Guard explained it planned a ninety day comment period and questioned the committee about the adequacy of the ninety days. The members of CTAC made no conclusive comment on the adequacy of a ninety day comment period. The second question addressed the mechanics of the proposed examination procedures. The Coast Guard responded by describing in detail how the proposed rule would be implemented. The Coast Guard received no comments at this meeting which were incorporated into the proposed rule. A transcript of the meeting has been placed in the public docket and a tape recording is available from Commandant (G-CMC/24), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C., 20593. No other public hearing is planned, but one will be held at a time and place to be set in a later notice in the *Federal Register* if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). The principal benefit of this rulemaking will be reduced vessel delays associated with examination arrangements; this is estimated to be 1.2 million dollars per year. Additional

benefits will include an estimated 670 hour reduction in annual paperwork burden resulting in savings of \$13,400 to the marine industry and of \$13,000 to the Coast Guard. The Coast Guard expects this proposed rule to permit a reduction in supporting staff. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant impact on a substantial number of small entities. We do not expect this rulemaking to impose any new costs on vessel owners and operators. The \$1.2 million dollars per year benefits which will result from reduced vessel delays equals \$2,400 per vessel per year which is 10 percent of one day's operating costs. Though beneficial, we do not consider the impact significant. A draft evaluation has been prepared and placed in the public docket.

## Drafting Information

The principal persons involved in drafting this proposal are: Lieutenant Commander Winston S. Jones, Project Manager, Office of Merchant Marine Safety and Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

## Discussion of the Proposed Regulation

The Letter of Compliance program was developed when there were no international standards for chemical and liquefied gas tankers and when there was little operational experience with these types of vessels. At that time the Coast Guard performed complete plan review of foreign vessels carrying these cargoes and then examined the vessels to ensure they were built to the approved plans. Fourteen days' advance notice was required to arrange delivery of the approved plans to the inspecting office and to provide technical assistance from Coast Guard Headquarters. Adoption of the IMCO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, Resolution A.212, (Chemical Code) and the IMCO Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, Resolution A.328, (Gas Code), which are similar to United States regulations, by most vessels' flag administrations has practically eliminated the need for Coast Guard plan review. In most cases review of vessel's IMCO Certificate of Fitness is all that is necessary to verify that the vessel is designed to U.S. standards. Consequently, the requirement to arrange the biennial examination through commandant (G-MHM) no longer serves its original purpose and is unnecessary.

This proposed rule would make the examination and certification procedures for chemical and liquefied gas tankers more consistent with those for other types of tankers. Procedures for foreign barges and existing liquefied gas tankers (currently in 46 CFR Part 154a) will be updated in future rulemakings. The special "Letter of Compliance" would no longer be required for chemical and new liquefied gas tankers. Under the proposed rules chemical and liquefied gas tankers would receive a "Certificate of Compliance" as required by the Port and Tanker Safety Act of 1978 for all foreign flag vessels carrying oil or hazardous materials in bulk. The Certificate of Compliance would include an endorsement listing the cargoes the vessel is authorized to carry. The basis for authorizing cargoes would be the initial application which would consist of the vessel's IMCO Certificate of Fitness and additional information required to verify compliance with U.S. standards which exceed the IMCO Codes; Commandant (G-MHM) would continue to review this material. Under the proposed rule the vessel owner would arrange vessel examinations directly with the Officer in Charge, Marine Inspection, having jurisdiction over the port where the examination is to be conducted. To facilitate the examination, the Officer in Charge, Marine Inspection, would be able to require the vessel owner to submit a basic set of plans prior to the examination; in most cases these would be the plans carried on board the vessel. Following satisfactory completion of the examination, the Officer in Charge, Marine Inspection, would issue the vessel a Certificate of Compliance to be valid for a period not to exceed twenty-four months. As with other foreign flag tankers, the Coast Guard would continue to examine a chemical or liquefied gas tanker annually, provided the vessel calls at a U.S. port at least that often.

#### Comments on Specific Sections

*Section 1.01(b)(1) Organization.* In the description of the duties of the Chief, Cargo and Hazardous Materials Division, the specific reference to the "Letter of Compliance program" would be replaced with the more general statement " \* \* \* administers the program to certificate foreign vessels carrying cargoes of unusual hazard \* \* \* "

In the following sections of Parts 153 and 154 the words "Letter of Compliance" have been replaced with "Certificate of Compliance."

Sec.	
153.9	154.5
153.16	154.150
153.808	154.151
153.809	154.1802
153.900	154.1803
153.902	154.1808
153.904	

#### Part 153, Authority:

The proposed rule would revise the authority cited for this part to reflect the increased authority granted to the Coast Guard to issue regulations for hazardous materials carried in bulk on vessels.

*Section 153.2 Definitions.* The definition of "Letter of Compliance" would be deleted. Two new definitions are proposed: "Certificate of Compliance," and "Officer in Charge, Marine Inspection." These definitions are necessary to clarify the procedures proposed in this rulemaking. A Certificate of Compliance form is presently being developed by the Coast Guard and will be implemented in a future rulemaking. The proposed definition of the term "Certificate of Compliance" would be broad enough to include a Tank Vessel Safety Examination Letter endorsed to certify compliance with the regulations in this chapter.

*Section 153.7 Existing tankships.* The proposed rule would add the Certificate of Compliance to the list of documents defined as "permits" under § 153.7(a)(1). The proposed rule would add a definition for "Letter of Compliance" which was the permit issued to a foreign tankship prior to December 27, 1977.

*Section 153.9 Foreign flag vessel endorsement application.* The proposed rule would simplify the application for a vessel whose flag administration issues IMCO certificates. In most cases the IMCO certificate itself would be sufficient to verify that the vessel is designed to comply with U.S. regulations. Since Commandant (G-MHM) no longer performs plan review and since the design of these vessels is reasonably standard, there is no need to maintain a set of plans at Coast Guard Headquarters. Plans carried onboard the vessel would be sufficient for inspectors to use during examinations. Submission of the IMCO Certificate to Commandant (G-MHM) is necessary to verify that the vessel is designed to U.S. standards and so that Commandant (G-MHM) can monitor the implementation of the IMCO Chemical Code in other nations.

For certain cargoes the proposed rule would require additional supporting statements in addition to the IMCO Certificate. An additional statement would be required for vessels which are to carry alkylene oxides. This statement would verify that the vessel complies

with § 153.530 (b), (d), and (p)(1). It is needed because these standards exceed those in the IMCO Chemical Code. The Coast Guard in the past has requested this type of statement under § 153.9(c). An additional statement would also be required for vessels which are to carry high vapor pressure cargoes. This statement is needed to ensure that the vessel meets § 153.370 or § 153.371 and § 153.438. The Coast Guard standards in this case exceed those of IMCO by requiring, in the absence of cargo cooling, pressure containment; IMCO does not specifically require pressure containment.

The proposed rule would not change the application procedure for a vessel whose flag administration does not issue IMCO Certificates. Such vessels would continue to be accepted after Coast Guard plan review identical to that required for a U.S. flag vessel.

The proposed rule would renumber § 153.9(c) as § 153.9(c)(1). The proposed rule would add as § 153.9(c)(2) the requirement that IMCO Certificates be submitted in English or French.

*Section 153.808 Examination required for a Certificate of Compliance.* The proposed rule would clarify this section by explaining that the Officer in Charge, Marine Inspection, will determine during the examination whether or not the vessel meets the requirements of 46 CFR, and that the examination is required for both initial issue and reissue of the Certificate of Compliance.

*Section 153.809 Procedures for having the Coast Guard examine a vessel for a Certificate of Compliance.* Under the proposed procedure the vessel owner would arrange the required examination through the local Officer in Charge, Marine Inspection, by providing twenty-four hour notice of the vessel's arrival. The proposed rule adds a provision to allow the Officer in Charge, Marine Inspection, to require the owner to provide a basic set of plans prior to commencement of the examination so that the Coast Guard inspectors may familiarize themselves with the vessel before conducting the examination. These plans would be returned to the owner after the examination.

Under § 153.809(c) of the proposed rule fourteen day notice to Commandant (G-MHM) would be required for the initial examination of vessels accepted on the basis of plan review under § 153.9(b). This is necessary to allow for transmission of the approved plans to the examining office so that the Officer in Charge, Marine Inspection, can verify the vessel is built according to the approved design.

*Section 153.810 Fourteen day notice required for a Letter of Compliance examination.* The proposed rule would remove this section. Except in the situation described in § 153.809(c), fourteen day notice is not required under the proposed procedures.

*Section 153.811 Carrying cargo in U.S. waters on the voyage for a Letter of Compliance examination.* The proposed rule would remove this section because it is unnecessarily burdensome to require a vessel to sail to the United States for an examination without cargo on board.

*Section 153.900 Certificates, letters, endorsements required.* The proposed rule would delete the incorrect references to § 153.808 from § 153.900(b)(2) and § 153.900(c)(2).

*Section 153.901 Certificates or letters required to be on bridge.* The proposed rule would make this section consistent with § 31.05-5 and § 154.1804 by requiring only the Certificate of Inspection issued to a U.S. flag vessel to be posted in the wheel house.

*Section 153.902 Expiration of Certificate of Compliance.* The proposed rule would also substitute "twenty-four months" for "two years" to make the language of the rule consistent with the language in the Port and Tanker Safety Act of 1978. The proposed rule would delete the requirement for the Coast Guard to enter the expiration date on the Certificate of Compliance.

*Section 153.903 Expiration of IMCO Certificates.* The proposed rule would add this section to make it clear that the Certificate of Compliance endorsement to carry cargoes from Table I, issued under § 153.9(a), is based upon the presumption that the vessel possesses an IMCO Certificate. Since the IMCO Certificate is accepted by the Coast Guard in place of plan review, a current IMCO Certificate is needed to ensure that a vessel continues to meet United States standards. This situation is distinct from the expiration of the Certificate of Compliance under § 153.902. When the IMCO Certificate expires only the carriage of Table I cargoes would be affected; the Certificate of Compliance would remain valid for carriage of other cargoes, such as flammable and combustible materials.

#### Part 154, Authority

The proposed rule would revise the authority cited for this part to reflect the increased authority granted to the Coast Guard to issue regulations for hazardous materials carried in bulk on vessels.

*Section 154.3 Definitions and abbreviations.* The proposed rule would delete the definition of "Letter of

Compliance." Two new definitions are proposed: "Certificate of Compliance" and "Officer in Charge, Marine Inspection." These definitions are necessary to clarify the procedures proposed in this rulemaking. A Certificate of Compliance form is presently being developed by the Coast Guard and will be implemented in a future rulemaking. The proposed definition of the term "Certificate of Compliance" would be broad enough to include a Tank Vessel Safety Examination Letter endorsed to certify compliance with the regulations in this chapter.

*Section 154.5 Foreign flag vessel: Certificate of Compliance endorsement application.* The only change the proposed rule would make to the application is to delete the requirement for submission of SOLAS Certificates. Commandant (G-MHM) needs the other information required by § 154.5(a) (1) and (2) to verify that a vessel meets United States standards which exceed the IMCO Gas Code in the areas of design ambient temperatures, tank design stress factors, crack arresting steels, and pressure and temperature control. Commandant (G-MHM) needs the plan set described by § 154.5(a) (3) through (8) to ensure that foreign administrations do not unilaterally accept novel liquefied gas containment system designs under one of the categories presently described in the IMCO Gas Code. The Coast Guard intends to continue its program of conceptual approval of new liquefied gas containment systems. Because of the wide variety of liquefied gas containment system designs, the plan set is also needed by Commandant (G-MHM) and (G-MMT) to provide technical assistance to Coast Guard field units. Since this additional information would normally be required for liquefied gas tankers, footnote 1 would be removed.

The proposed rule would not change the application procedure for a vessel whose flag administration does not issue IMCO Certificates. Such vessels would continue to be accepted after Coast Guard plan review identical to that required for U.S. flag vessels.

*Section 154.150 Examination required for a Certificate of Compliance.* The proposed rule would revise this section to make it clear that the examination to which this section refers is required if a vessel is to carry a cargo from Table 4 of 46 CFR 154. The proposed rule would also explicitly state that it is Officer in Charge, Marine Inspection, who conducts the examination and that the examination is required for both initial

issue and reissue of the Certificate of Compliance.

*Section 154.151 Procedures for having the Coast Guard examine a vessel for a Certificate of Compliance.* Under the proposed procedure the vessel owner would arrange the required examination through the local Officer in Charge, Marine Inspection, by providing twenty-four hour notice of the vessel's arrival. The proposed rule would add a provision to allow the Officer in Charge, Marine Inspection, to require the owner to provide a general arrangement plan, showing the location of fire and safety equipment, and a cargo manual prior to commencement of the examination so that the Coast Guard inspectors can familiarize themselves with the vessel. These materials would be returned to the owner after the examination.

Under § 154.151(c) of the proposed rule, fourteen day notification to Commandant (G-MHM) would still be required for the initial examination of vessels accepted on the basis of plan review under § 154.5(b). This is necessary to allow for transmission of the approved plans to the examining office so that the Officer in Charge, Marine Inspection, can verify that the vessel is built according to the approved design.

*Section 154.152 Notification of arrival for a Letter of Compliance examination.* The proposed rule would remove this section. Except in the situation described in § 154.5(c), fourteen day notice is not required under the proposed procedure.

*Section 154.153 Carrying a cargo into U.S. waters for a Letter of Compliance examination.* The proposed rule would remove this section because it is unnecessarily burdensome to require a vessel to sail to the United States for an examination without cargo on board.

*Section 154.1802 Certificates, letters, and endorsements: Foreign flag vessels.* The proposed rule would remove the references to § 154.153 which would be removed.

*Section 154.1803 Expiration of Certificate of Compliance.* To make the language of this section consistent with that of the Port and Tanker Safety Act of 1978, the proposed rule would substitute "twenty-four months" for "two years." The proposed rule would delete the requirement for the Coast Guard to enter the expiration date on the Certificate of Compliance.

The proposed rule would add a subsection to make it clear that the Certificate of Compliance endorsement to carry cargoes from Table 4, issued under § 154.5(a), is based upon the presumption that the vessel possesses

an IMCO Certificate. Since the IMCO Certificate is accepted by the Coast Guard is place of plan review, a current certificate is needed to ensure that a vessel continues to meet U.S. standards. This situation is distinct from the expiration of the Certificate of Compliance under § 154.1803(a). When the IMCO Certificate expires only the carriage of Table 4 cargoes would be affected; the Certificate of Compliance could remain valid for carriage of other cargoes.

For the foregoing reasons, Chapter I of Title 46, Code of Federal Regulations is proposed to be amended as follows:

#### List of Subjects

##### 46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies).

##### 46 CFR Part 153

Tank vessels, Barges, Hazardous materials transportation.

##### 46 CFR Part 154

Natural gas vessels, Gases, Hazardous materials transportation, Marine safety, Foreign trade, Harbors.

### PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

1. By revising § 1.01(b)(1)(iv) to read as follows:

#### § 1.01 Organization.

(b) \* \* \*

(1) \* \* \*

(iv) The Chief, Cargo and Hazardous Materials Division, at Coast Guard Headquarters, under the direction of the Chief, Office of Merchant Marine Safety, administers the program for the development of safe containment systems for certain bulk dangerous cargoes, administers the program to certificate foreign vessels carrying cargoes of unusual hazard, and evaluates the hazards involved in the shipment of dangerous cargoes.

### PART 153—SAFETY RULES FOR SELF-PROPELLED VESSELS CARRYING HAZARDOUS LIQUIDS

2. By revising the authority citation for Part 153 to read as follows:

Authority: 46 USC 391a, 49 USC 1801-11; 49 CFR 1.46 (n)(4) and (t).

#### § 153.2 [Amended]

3. By removing the definition for "Letter of Compliance" from § 153.2.

4. By amending § 153.2 by adding in alphabetical sequence the following definitions:

"Certificate of Compliance" means a certificate issued by the Coast Guard which certifies that a foreign flag vessel has been examined and found to comply with the regulations in this chapter.

"Officer in Charge, Marine Inspection," is defined in § 1.05(b) of this chapter.

5. By revising § 153.7(a)(1) and adding a new paragraph (a)(3) to read as follows:

#### § 153.7 Existing tankships.

(a) \* \* \*

(1) "Permit" means a Certificate of Inspection, Letter of Compliance, or Certificate of Compliance.

(2) \* \* \*

(3) "Letter of Compliance" means a letter formerly issued by the Coast Guard which permitted a foreign flag tankership to carry a bulk cargo regulated under this part.

6. By revising § 153.9(a), the introductory text of (b), and (c) to read as follows:

#### § 153.9 Foreign flag vessel endorsement application.

(a) *Application for a vessel whose flag administration issues IMCO Certificates.* A person who desires a Certificate of Compliance endorsed with the name of a cargo in Table I of this part, as described in § 153.900, must submit to Commandant (G-MHM) an application which includes a copy of the IMCO Certificate<sup>2</sup> issued by the vessel's flag administration with:

(1) If a person desires a Certificate of Compliance endorsed with the name of an alkylene oxide, and additional classification society statement that the vessel complies with § 153.530 (b), (d), and (p)(1); and

(2) If a person desires a Certificate of Compliance endorsed with the name of a cargo whose vapor pressure exceeds 100 kPa absolute at 37.8°C (approximately 14.7 psia at 100°F), an additional classification society statement that the vessel complies with § 153.370, § 153.371, and § 153.438.

(b) *Application for a vessel whose flag administration does not issue IMCO Certificate.* A person who desires

<sup>2</sup> Generally, the IMCO Certificate is sufficient for the Coast Guard to endorse the vessel's Certificate of Compliance with the names of those cargoes in Table I that are listed on the IMCO Certificate. The IMCO Certificate would not be sufficient when the Certificate authorized a cargo that is not permitted in U.S. waters, when the Certificate is in error or waives part of the Code, when the regulations in this part exceed those of the Code, or similar situations.

a Certificate of Compliance endorsed with the name of a cargo in Table I of this part, as described in § 153.900, must submit an application to Commandant (G-MHM) which includes the following information:

#### (c) Conditions applying to all Certificate of Compliance applications.

(1) If requested by the Commandant (G-MHM), a person desiring a Certificate of Compliance for a vessel must furnish any other vessel information such as plans, design calculations, test results, certificates, and manufacturer's data, that the Coast Guard needs to determine that the vessel meets the standards of this part.

(2) Correspondence with the Coast Guard and vessel information submitted under this part must be in English except IMCO Certificates which may be in French.

7. By revising the introductory text of § 153.16 to read as follows:

#### § 153.16 Requirements for foreign flag vessel permits.

To have its Certificate of Compliance endorsed with the name of a cargo listed in Table I, a foreign flag vessel must:

8. By revising § 153.808 to read as follows:

#### § 153.808 Examination required for a Certificate of Compliance.

Before a vessel receives either an initial or a reissued Certificate of Compliance endorsed with the name of a cargo from Table I of this part, the vessel must call at a U.S. port for an examination during which the Officer in Charge, Marine Inspection, will determine whether or not the vessel meets the requirements of this chapter.

9. By revising the introductory text, (b) and (c) of § 153.809 to read as follows:

#### § 153.809 Procedures for having the Coast Guard examine a vessel for a Certificate of Compliance.

To have the Coast Guard examine the vessel for a Certificate of Compliance, as required in § 153.808, the owner of a foreign flag vessel must proceed as follows:

(b) Except when paragraph (c) of this section applies,

(1) After receiving notification that review is complete and the application is acceptable, dispatch the vessel to a United States port;

(2) Contact the Officer in Charge, Marine Inspection, for the port where the vessel is to be inspected at least 24 hours before the vessel arrives and

arrange the exact time and other details of the examination;

(3) If requested by the Officer in Charge, Marine Inspection, the vessel owner shall provide the following plans before the examination required by § 153.808:

(i) A general arrangement (including the location of firefighting, safety, and lifesaving gear);

(ii) A capacity plan;

(iii) A schematic diagram of cargo piping on deck and in tanks (including the location of all valves and pumps); and

(iv) A schematic diagram of cargo tank vent piping (including the location of relief valves and flame screens).

These plans will be used to facilitate the required examination and will be returned when it is completed.

(c) If the vessel was accepted for U.S. service on the basis of the Coast Guard plan review under § 153.9(b), the vessel owner shall notify Commandant (G-MHM) fourteen days prior to the vessel's first arrival at a U.S. port. This notification must include:

(1) The name of the vessel's first U.S. port of call;

(2) The date the vessel is scheduled to arrive;

(3) The name and telephone number of the owner's local agent; and

(4) The names of all cargoes listed in Table I of this part that will be on board the vessel.

**§ 153.810 [Removed]**

10. By removing § 153.810.

**§ 153.811 [Removed]**

11. By removing § 153.811.

12. By revising § 153.900 (b) (1) and (2) and (c) (1) and (2) to read as follows:

**§ 153.900 Certificates, letters, endorsements required.**

\* \* \* \* \*

(b) \* \* \*

(1) An IMCO Certificate issued by the flag administration and a Certificate of Compliance issued and endorsed under this part with the name of the cargo; or

(2) Prior written authorization under § 153.5(b) from the Commandant (G-MHM).

(c) \* \* \*

(1) A Certificate of Compliance issued and endorsed under this part with the name of the cargo; or

(2) Written authorization under § 153.5(b) from the Commandant (G-MHM).

13. By revising 153.901 to read as follows:

**§ 153.901 Certificates or letters required to be on bridge.**

No person may operate a U.S. flag tankship unless the endorsed Certificate of Inspection is posted in a conspicuous place in the wheelhouse.

14. By revising § 153.902 to read as follows:

**§ 153.902 Expiration of Certificates of Compliance.**

A Certificate of Compliance expires after a period not to exceed twenty-four months from the date of examination under § 153.808.

15. By adding a new § 153.903 to read as follows:

**§ 153.903 Expiration of IMCO Certificates.**

If a vessel's IMCO Certificate expires or otherwise becomes invalid, its Certificate of Compliance becomes invalid for the carriage of cargoes listed in Table I of this part. To maintain the validity of the Certificate of Compliance, the vessel's owner must submit a copy of any revised or reissued IMCO Certificate to Commandant (G-MHM).

16. By revising § 153.904 to read as follows:

**§ 153.904 Limitations in the endorsement.**

No person may operate a tankship unless that person complies with all limitations in the endorsement on the tankship's Certificate of Inspection or Certificate of Compliance.

**PART 154—SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES**

17. By revising the authority citation for Part 154 to read as follows:

Authority: 46 U.S.C. 391a, 49 U.S.C. 1801-11; 49 CFR 1.46 (n)(4) and (t).

**§ 154.3 [Amended]**

18. By removing the definition of "Letter of Compliance" from § 154.3.

19. By amending § 154.3 by adding in alphabetical sequence the following definitions:

"Certificate of Compliance," means a certificate issued by the Coast Guard which certifies that a foreign flag vessel has been examined and found to comply with the regulations in this chapter.

\* \* \* \* \*

"Officer in Charge, Marine Inspection," is defined in § 1.05(b) of this chapter.

20. By revising the introductory text of paragraph (a), (a)(9), (b) and (c) of § 154.5 to read as follows:

**§ 154.5 Foreign flag vessel: Certificate of Compliance endorsement application.**

(a) A person who desires an endorsed Certificate of Compliance required

under § 154.1802(a) for a foreign flag vessel, whose flag administration issues IMCO Certificates, must submit to the Commandant (G-MHM), U.S. Coast Guard, Washington, D.C. 20659, an application which includes a copy of the IMCO Certificate issued to the vessel with:

\* \* \* \* \*

(9) Any additional plans, certificates, and information that the Commandant (G-MHM) may request.

(b) A person who desires an endorsed Certificate of Compliance required under § 154.1802(b) for a foreign flag vessel, whose flag administration does not issue IMCO Certificates, must submit to the Commandant (G-MHM) the plans, calculations, and information under § 154.4(b).

(c) Correspondence to the Coast Guard and vessel information submitted under this part must be in English, except IMCO Certificates which may be in French.

21. By removing footnote 1 to § 154.5.

22. By revising the center heading preceding § 154.150 to read as follows:

**Examination Requirements for Foreign Flag Vessels.**

23. By revising § 154.150 to read as follows:

**§ 154.150 Examination required for a Certificate of Compliance.**

Before a vessel receives an initial or reissued Certificate of Compliance endorsed with the name of a cargo from Table 4 of this part, the vessel must call at a United States port for an examination, during which the Officer in Charge, Marine Inspection, will determine whether or not the vessel meets the requirements of this chapter.

24. By revising § 154.151 to read as follows:

**§ 154.151 Procedures for having the Coast Guard examine a vessel for a Certificate of Compliance.**

To have the Coast Guard examine the vessel for a Certificate of Compliance, as required in § 154.150, the owner of a foreign flag vessel must proceed as follows:

(a) After submitting an application under § 154.5, await notification by the Commandant (G-MHM) that review of the vessel's plans or IMCO Certificate and supporting documents is complete.

(b) Except when paragraph (c) of this section applies,

(1) After receiving notification that review is complete and the application is acceptable, dispatch the vessel to a United States port;

(2) Contact the Officer in Charge, Marine Inspection, for the port where the vessel is to be inspected at least 24 hours before the vessel arrives and arrange the exact time and other details of the examination; and

(3) If requested by the Officer in Charge, Marine Inspection, the vessel owner shall provide the following information before the examination required by § 154.150:

(i) A general arrangement (including the location of firefighting, safety, and lifesaving gear); and

(ii) The cargo manual required by § 154.1810.

This information will be used to facilitate the examination and will be returned after it is completed.

(c) If the vessel was accepted for U.S. service on the basis of Coast Guard plan review under § 154.5(b), the vessel owner must notify Commandant (G-MHM) fourteen days prior to the vessel's first arrival at a U.S. port. This notification shall include:

(1) The name of the vessel's first U.S. port of call;

(2) The date the vessel is scheduled to arrive;

(3) the name and telephone number of the owner's local agent; and

(4) The names of all cargoes listed in Table 4 of this part which will be on board the vessel.

§ 154.152 [Removed]

25. By removing § 154.152.

§ 154.153 [Removed]

26. By removing § 154.153.

27. By revising § 154.1802 (a)(1), (a)(2), (b)(1) and (b)(2) to read as follows:

§ 154.1802 Certificates, letters, and endorsements: Foreign flag vessels.

(a) \* \* \*

(1) An IMCO Certificate issued by the flag administration that is endorsed with the name of the cargo that it is allowed to carry, and a Certificate of Compliance issued by the Coast Guard Endorsed under this part with the name of the cargo that it is allowed to carry; or

(2) Special approval under § 154.12.

(b) \* \* \*

(1) A Certificate of Compliance issued by the Coast Guard endorsed under this part with the name of the cargo it is allowed to carry; or

(2) Special approval under § 154.12.

\* \* \* \* \*

28. By revising § 154.1803 to read as follows:

§ 154.1803 Expiration of Certificates of Compliance.

(a) A Certificate of Compliance expires after a period not to exceed twenty-four months from the date of the examination under § 154.150.

(b) If a vessel's IMCO Certificate of Fitness expires or otherwise becomes invalid, its Certificate of Compliance becomes invalid for the carriage of cargoes listed in this part. To maintain the validity of the Certificate of Compliance, the vessel's owner must submit a copy of any revised or reissued IMCO Certificate to Commandant (G-MHM).

29. By revising § 154.1808 to read as follows:

§ 154.1808 Limitations in the endorsement.

No person may operate a vessel unless that person complies with all limitations in the endorsement on the vessel's Certificate of Inspection or Certificate of Compliance.

Clyde T. Lusk, Jr.,

Rear Admiral, Coast Guard Chief, Office of Merchant Marine Safety.

May 3, 1982.

[FR Doc. 82-12384 Filed 5-7-82; 8:45 am]

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Department of  
Health and Human  
Services

Health Care Financing Administration

Medical Programs, Comprehensive

Medical Rehabilitation Facility Services



Monday  
May 10, 1982

# Federal Register

## Part III

# Department of Health and Human Services

## Health Care Financing Administration

### Medicare Program; Comprehensive Outpatient Rehabilitation Facility Services

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration  
42 CFR Parts 405 and 481

### Medicare Program; Comprehensive Outpatient Rehabilitation Facility Services

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

ACTION: Proposed rule.

**SUMMARY:** These proposed regulations would implement section 933 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) by expanding the scope of benefits under Medicare to include services furnished by comprehensive outpatient rehabilitation facilities. The purpose of this proposal is to define comprehensive outpatient rehabilitation facility services, to specify the conditions under which these services may be furnished, and to establish the conditions of participation that these facilities must meet to be certified as provided of services in the Medicare program.

**DATE:** To assure consideration, comments should be mailed by July 9, 1982.

**ADDRESS:** Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave. S.W., Washington, D.C., or to Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP-145-P. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309-G of the Department's office at 200 Independence Ave. S.W., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

#### FOR FURTHER INFORMATION CONTACT:

Anthony Lovecchio (Coverage of Services) (301) 594-8561  
Royal Crystal (Conditions of Participation) (301) 594-7910  
John Callahan (Reimbursement) (301) 594-8480

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Under current law, Medicare covers

certain rehabilitation services in a variety of settings under the Supplementary Medical Insurance Program (Part B). Such services are included among those that may be covered when furnished "incident to" a physician's professional services, as authorized in sections 1832(a)(1) and 1861(s)(2) of the Social Security Act and in regulations at 42 CFR 405.231(b). For example, an individual may receive physical therapy as an integral, although incidental, part of a physician's professional service in the course of treatment of an injury. The service will be covered if it is furnished by the physician or under the physician's direct supervision. Section 1861(s)(2)(B) of the Act also provides coverage of rehabilitation services when provided incident to physicians' services furnished to hospital outpatients. This provision is set forth in regulations at 42 CFR 405.231(c).

In addition, coverage of outpatient physical therapy and outpatient speech pathology is authorized by sections 1832(a)(2)(C) and 1861(p) of the Act when furnished by a provider of services, clinic, rehabilitation agency, public health agency, or by others under an arrangement with these entities. Under the second sentence of section 1861(p) of the Act, outpatient physical therapy services may also be provided by an independently practicing physical therapist in an office setting (subject to certain dollar limits on the amount of payment during a year). These provisions on physical therapy and speech pathology are set forth in regulations at 42 CFR 405.231(l), 405.231(m), 405.232(e), and 405.232(j).

##### II. New Legislation

In order to provide Medicare coverage of a wide range of rehabilitative services, when these services are provided under a plan of treatment on an outpatient basis, in a coordinated setting, Congress enacted section 933 of Pub. L. 96-499. Section 933 amends sections 1861(u), 1861(z), 1863, and 1864(a) of the Act and adds sections 1832(a)(2)(E), 1835(a)(2)(E), and 1861(cc) to the Act.

Section 1835(a)(2)(E) of the Act requires, as a condition of payment under Medicare, that a physician must certify that (1) CORF services are required because the beneficiary needs skilled rehabilitation services, (2) a plan for furnishing those services has been established and is periodically reviewed by a physician, and (3) those services are furnished while the beneficiary is under the care of a physician.

Section 1861(cc)(1) of the Act provides

Medicare coverage for a broad range of items and services when they are provided by a physician or other qualified professional personnel to a beneficiary who is an outpatient at a CORF approved for participation in Medicare. Section 1861(cc)(2) of the Act sets forth the requirements that CORF's must meet in order to participate in the Medicare program as providers. These requirements are known as the conditions of participation. The remaining sections amended or added by section 933 of Pub. L. 96-499 are conforming amendments.

##### III. Provisions of the Regulations

###### A. Requirements for coverage.

**1. Referral to a CORF for treatment.** To receive covered CORF services, a beneficiary must be referred for admission by a physician who certifies that the beneficiary needs skilled rehabilitation services. The referring physician must advise the CORF of the beneficiary's medical history, current diagnosis and medical findings, contraindicated actions or limitations on type or intensity of rehabilitation services to be provided, and rehabilitation goals, if determined. This information must be available to the CORF for establishing the beneficiary's need for rehabilitative services and for developing an appropriate plan of treatment.

**2. Coverage of rehabilitation programs.** We propose to restrict coverage of CORF services to those individuals who have significant potential for restoration or improvement of lost or impaired functions. These individuals must require a relatively intense rehabilitative services program, aimed at achieving specific goals in a predictable period of time. We would not cover such programs as (1) general conditioning or ambulation for patients experiencing a temporary loss or reduction of function that is expected to improve spontaneously, and (2) maintenance programs, involving repetitive services that do not require the skilled services of nurses or therapists. Programs of this type would not meet the statutory requirement of a need for skilled rehabilitation services.

**3. Plan of treatment.** In accordance with the statute, the proposed regulations would require that upon a beneficiary's referral for care by a CORF, a physician must establish a written plan of treatment. Congress did not specify whether the physician responsible for establishing the plan of treatment should be a facility physician or the referring physician. However, we

expect that the physician who is onsite at the CORF would be responsible for establishing the plan of treatment unless the referring physician provides a detailed plan of treatment that meets the facility's requirements for these plans.

The plan of treatment must contain the diagnosis; the type, amount, frequency, and duration of services to be performed; and the anticipated rehabilitation goals. The inclusion of those items in the plan of treatment is consistent with the Medicare requirements for the plan of treatment for outpatient physical therapy and speech pathology services (42 CFR 405.250-1). Our experience indicates that these requirements are both workable and effective. We believe a plan of this scope represents the minimum necessary to assure that the beneficiary will receive the type of treatment appropriate to his or her needs.

The statute requires that the plan of treatment be reviewed periodically by a physician. We propose that the periodic review be performed at least once every 30 days. This proposal is consistent with the 30-day review period presently required by regulation (42 CFR 405.250-1) for beneficiaries receiving outpatient physical therapy and speech pathology services.

We also think that the health condition of a person receiving comprehensive rehabilitation services can change frequently enough that a monthly review period is needed to guard against a continuation of inappropriate care or a failure to recognize the need for a new treatment mode. In addition, the fact that the plan will often cover a comprehensive range of services that interact with one another requires a reasonably close followup of how well the total plan is meeting the patient's current needs.

These regulations would require that, during the periodic review, the physician would certify that the plan of treatment is being followed and that the patient is making progress in attaining the rehabilitation goals without harmful effects on the patient. When the patient has reached a point where no further progress is being made toward one or more of the goals, we would expect that the physician would eliminate those aspects of the plan of treatment.

Although a physician would be responsible for establishing the plan of treatment and continual review of the patient's goals and progress in attaining these goals, we would expect that the physician would involve qualified professional facility personnel in preparing and carrying out the plan. For example, the physician may consult with

a speech pathologist at the CORF while establishing the type of speech pathology services the beneficiary should receive.

4. *Site of CORF services.* The regulations would require that all services provided by a CORF must be furnished on the premises of the CORF. This requirement is supported by language included in the House Committee on the Budget Report on the Omnibus Reconciliation Act of 1980 (H.R. Rep. No. 96-1167, 96th Congress 2d Session 375 (1980)).

5. *Under the care of a physician.* The regulations would require that the beneficiary must be under the care of a physician during the period CORF services are being received; that is, a physician is responsible for the duration, amount, and scope of the services received by the beneficiary. This requirement is contained in the statute and we have adopted it unchanged for the regulations.

#### B. *Items and services included as CORF services.*

In its definition of comprehensive outpatient rehabilitation facility services, Congress included, in section 1861(cc)(1) of the Act, the following: Physicians' services; physical therapy, occupational therapy, speech pathology services, and respiratory therapy; prosthetic and orthotic devices, including testing, fitting, or training in the use of those devices; social and psychological services; nursing care provided by or under the supervision of a registered professional nurse; drugs and biologicals which cannot be self-administered; supplies, appliances, and equipment, including the purchase or rental of equipment; and other such items and services as are medically necessary for the rehabilitation of the patient and are ordinarily furnished by CORFs. We are proposing to define the specific CORF services as follows:

1. *Physicians' services.* Covered physicians' services are the personal services of a facility physician provided to or for an outpatient of the CORF. These services include:

a. The examination and diagnosis of patients referred to the CORF to determine the need for skilled rehabilitation services and to establish the patients' plans of treatment;

b. The prescription of medications and therapies; and

c. Consultation with and medical supervision of nonphysician staff professionals and auxiliary personnel assisting in the establishment, implementation, and review of a patient's plan of treatment.

In some cases, physicians also perform administrative services such as

management and medical direction of the CORF's rehabilitation activities; participation in developing, executing, and periodically reviewing the written policies governing the way in which CORF services are furnished; review of patient's clinical records; participation in an evaluation of the facility for licensing or accreditation; participation in review of CORF utilization; and participation in the preparation of an overall plan and budget for the facility's operation. These activities are reimbursable to the facility under the usual Medicare rules for allowing the salary expenses of physicians who perform administrative functions (see 42 CFR 405.480).

2. *Physical therapy services.* We are proposing to define physical therapy services provided by CORFs in the same way these services are defined presently when provided under other coverage provisions (section 3101.8 of the Part A Intermediary Manual (HIM-13)). This definition has worked well in practice, and has been useful in determining whether Medicare payment is proper.

As proposed, physical therapy would be covered if it were furnished by a qualified physical therapist or by a qualified physical therapy assistant under the supervision of a qualified physical therapist, as defined in 42 CFR 405.1702(d), for purposes of restoring a lost or impaired function. Physical therapy would be prescribed by the physician only when there is an expectation, based on his or her assessment of the patient's restorative potential, that the patient will improve significantly in a reasonable, generally predictable period of time. Maintenance physical therapy (that is, repetitive services required to maintain a level of functioning) would not be covered under this provision because this type of therapy is concerned with maintenance rather than restoration.

Although maintenance therapy would not be covered, the establishment of a maintenance program for a patient whose restoration potential has been reached would be a covered service. This would include examinations, evaluations of the patient's condition and preparation of the program.

3. *Occupational therapy services.* The following services would be covered as occupational therapy services when furnished by a qualified occupational therapist or by a qualified occupational therapy assistant under the supervision of a qualified occupational therapist, as defined in 42 CFR 405.1202(f): (1) Assessment of vocational potential; (2) evaluation of a patient's level of independent functioning; (3) the

selection and teaching of task-oriented therapeutic activities to restore sensory-integrative function (such as artwork or tilework to restore eye-hand control and coordination); and (4) the teaching of compensatory techniques to permit engaging in daily activities by making accommodations for physical impairments or limitations (for example, instruction in the use of crutches or a prosthetic device). These coverage provisions have been adopted from those that are currently in use and have proven practical with respect to inpatient hospital and home health agency services (section 3101.9 of the Part A Intermediary Manual (HIM-13)).

However, services involving vocational assessment would not be covered when they are related *solely* to vocational rehabilitation; that is, to prepare the patient to qualify for specific employment opportunities, achieve certain work skills, or accommodate a certain work setting. Coverage of these services would not be available because they are not related to the diagnosis or treatment of the condition for which rehabilitation services are being furnished.

4. *Speech pathology services.* In these regulations, speech pathology services would have the same definition they do under current Medicare provisions (section 3101.10A of the Part A Intermediary Manual (HIM-13)). These services would be covered if furnished by or under the supervision of a qualified speech pathologist, as defined in 42 CFR 481.22, and if the are necessary for the diagnosis and treatment of speech and language disorders that have caused communication difficulties.

These services would include assessment testing to ascertain the type, cause(s), and severity of the disorder to determine the patient's restorative speech potential, and training in development of esophageal speech and the use of an electronic larynx. Therapy for speech difficulties not related to the injury, disability, or illness for which the patient is receiving CORF services (for example, stuttering or lisping) would not be covered as speech pathology services under this provision because this therapy would not be necessary for the diagnosis or treatment of the condition for which the rehabilitation services are being furnished.

5. *Respiratory therapy services.* Respiratory therapy services would be defined as those services prescribed by a physician for the assessment, diagnostic evaluation, treatment, management, and monitoring of individuals with deficiencies and abnormalities of cardiopulmonary

function. These services would include, but are not limited to, the following:

a. The application of techniques for support of oxygenation and ventilation of the patient; for example, maintenance of artificial airways, ventilator and aerosol therapy and other means of airway maintenance, precise delivery of oxygen concentration, and techniques to aid removal of secretions from the pulmonary tree;

b. The therapeutic use and monitoring of medical gases, such as oxygen; bland and pharmacologically active mists and aerosols; and such equipment as intermittent positive pressure breathing (IPPB) machines;

c. Bronchial hygiene therapy, including deep breathing and coughing exercises, IPPB, postural drainage, chest percussion and vibration, and nasotracheal suctioning;

d. Diagnostic tests to be evaluated by a physician; for example, pulmonary function tests, spirometry, and blood gas analysis;

e. Pulmonary rehabilitation techniques such as exercise conditioning, breathing retraining, and patient education in management of respiratory problems; and

f. Periodic assessment and monitoring of chronically ill patients and their need for respiratory therapy.

These are the services currently covered by Medicare when provided to a hospital inpatient (section 3101.10 of the Part A Intermediary Manual (HIM-13)). We believe the breadth of respiratory therapy services covered in CORFs should correspond with those already covered elsewhere in the Medicare program. Respiratory therapy must be performed by qualified respiratory therapists or respiratory therapy technicians under the supervision of a respiratory therapist as defined in 42 CFR 481.22. The respiratory therapy services described in c., e., and f. above, may also be performed by a qualified physical therapist as defined in 42 CFR 405.1702(d) or by respiratory therapy technicians under the supervision of a physical therapist.

6. *Prosthetic and orthotic devices.* Our proposal would allow coverage for prosthetic devices, other than dental, ordered by a physician and fitted by a prosthetist as defined in 42 CFR 481.22 that replace all or part of an internal body organ or external body member (including contiguous tissue), or that replace all or part of the function of a permanently inoperative or malfunctioning internal body organ or external body member. Renal dialysis machines and services are not included in the definition of prosthetic devices.

Coverage of a prosthetic device includes all services necessary for formulation of its design, material, and component selection; measurement, fittings, static and dynamic alignments; and instruction of the patient in its use. Such coverage is included as an integral part of the fabrication of the device. The prescribing physician would make the final determination of the device's suitability, safety, and effectiveness.

Orthotic devices are those orthopedic appliances or apparatus used to support, align, prevent, or correct deformities, or to improve the function of moveable parts of the body. These devices would be covered when ordered by a physician and fitted by an orthotist as defined in 42 CFR 481.22. As with prosthetic devices, the coverage of an orthosis includes its design, materials, measurements, fabrications, testing, fitting, and training in the use of the orthosis. The prescribing physician determines the orthosis' suitability, safety, and effectiveness.

7. *Social services.* We propose to define social services as any of the following services that contribute to the improvement of the individual's condition and that are ordered by a physician and are provided by a qualified social worker or rehabilitation counselor as defined in 42 CFR 481.22. These would include: (1) Assessment of the social and emotional factors related to the patient's illness, need for care, response to treatment, and adjustment to care in the CORF; (2) casework services to assist in resolving problems in these areas; and (3) assessment of the relationship of the patient's medical and nursing requirements to his or her home situation, financial resources, and the community resources available when the patient is no longer receiving CORF services.

8. *Psychological services.* Psychological services would be covered only when a physician certifies that the patient exhibits a special need for these services and they are furnished by a psychologist or rehabilitation counselor who meets the definition in 42 CFR 481.22. For example, the testing or treatment of all cardiac rehabilitation patients for mental, psychoneurotic, or personality disorders would not be covered; however, diagnostic testing for a mental problem would be covered for a cardiac patient who exhibits excessive anxiety or fear following the acute phase of a cardiac problem.

Family counseling services would be covered only where the Primary purpose of that counseling is the treatment of the patient's condition; that is, there is a need to observe the patient's interaction

with family members or to assess the capability of family members to aid in the rehabilitation of the patient. Family counseling services that are primarily directed toward the treatment of a family member's problem with respect to the patient's condition are not covered because these services are not sufficiently related in a direct way to the patient's medical rehabilitative needs to be reimbursable as a CORF service under Medicare.

9. *Nursing care.* Nursing services would be covered if provided by a registered professional nurse or by a licensed practical nurse under the supervision of a registered professional nurse as defined in 42 CFR 481.22.

10. *Drugs and biologicals.* These items would be covered when they cannot be self-administered, are furnished by or under the supervision of a physician or registered nurse, and are not otherwise excluded from Medicare coverage, such as most injections for immunization.

Thus, when a patient is given tablets or other oral medication, these are excluded from coverage since the form of the drug given to the patient is usually self-administered. Similarly, if a patient is given an injection that is usually self-injected, such as insulin, this drug would be excluded from coverage unless administered in an emergency situation, such as a diabetic coma or administered to a patient who is unable to self-administer due to his or her physical condition. However, if a patient receives an injection of a drug that is not usually self-injected and that is also available in oral form, that drug would not be subject to the self-administration drug exclusion, since it is not self-administerable in the form in which it was furnished to the patient.

Immunizations are excluded from Medicare coverage under section 1862(a)(7) of the Act, unless directly related to the treatment of an injury or of direct exposure to a disease or condition, such as rabies or tetanus. However, pneumococcal vaccinations are now covered under the provisions of section 1 of Pub. L. 96-611.

11. *Supplies, appliances, and equipment.* Non-reusable supplies, such as oxygen, bandages, or ceramic tiles, used in the various therapeutic modalities, such as occupational therapy, would be covered when furnished by the facility. Supplies, equipment, and appliances of a more durable nature, such as exercycles, crutches, canes, and wheelchairs, would be covered when provided by the CORF for use by patients while they are receiving services in the CORF.

We are not proposing to cover, as a part of CORF services, supplies,

equipment, and appliances purchased or rented by the patients for use outside the CORF because we believe that the CORF benefit should be akin to the services provided by a hospital outpatient rehabilitation department.

We do not think that Congress anticipated expanding the rehabilitation services already available under Part B to beneficiaries, but rather to make the services available in a freestanding comprehensive facility. We invite comments on this issue.

12. *Such other items and services as are medically necessary for the rehabilitation of the patient and are ordinarily furnished by CORFs.* The statute gave the Secretary the discretion to include as CORF services the items and services that might fit into the category of "other items and services as are medically necessary for the rehabilitation of the patient and are ordinarily furnished by CORFs". Rather than propose specific items and services in this document, we are soliciting public comment as to the most appropriate items and services to be included. We would expect the commenters to describe the conditions under which the coverage of these items and services would be medically necessary.

We are also requesting public comment on how we can best accomplish utilization control. In particular, we are concerned with which professional would be the most appropriate to oversee the utilization of CORF services. For example, if a referring physician establishes the plan of treatment, should that physician or the facility physician be responsible for determining whether the services furnished are necessary and efficiently provided.

C. *Items and services excluded from coverage as CORF services.* The proposed regulations specify that no item or service would be included as a covered CORF service if it would not be included as a covered service when furnished to a hospital patient. This reflects section 1861(cc)(1)(following (H)) of the Act.

D. *Application of the psychiatric services limitation.* We are proposing to apply the psychiatric (mental health) services limitation (now restricted to expenses incurred for physicians' services) to CORF services. Section 1833(c) of the Act limits coverage under Medicare Part B for the treatment of mental, psychoneurotic, and personality disorders of a beneficiary who is not an inpatient of a hospital. This limit is applied by capping the amount of each beneficiary's incurred expenses for the treatment of these disorders per

calendar year. The allowable maximum is the lesser of:

a. \$312.50 or

b. 62½ percent of these expenses.

Since program reimbursement for these services is generally subject to a 20 percent coinsurance, actual program payment cannot exceed \$250 per year.

Current regulations at 42 CFR 405.243 further restrict the application of this limit to expenses incurred for physicians' services and items and supplies furnished by the physician in connection with his treatment of these psychiatric disorders. This limit applies to the services of nonpsychiatric physicians as well as psychiatrists. The regulations exempt from the limit expenses incurred for services of health personnel other than physicians, including those furnished incident to physicians' services, home health services, and outpatient services.

The variation between the statute and the regulations originated when the Medicare program was first developed in the late 1960's. At that time, the decision was made to limit the psychiatric services limitation to only physicians' services. The rationale for this decision was that:

- Physicians' services generally represent the greatest cost factor in the outpatient care of psychiatric illnesses, so that the intent of the law would be adequately served by applying the limit only to physicians' services; and
- It would be operationally difficult to determine when the limit should apply in individual cases, and to keep overall accounting of the limit, if nonphysician services were subject to the limit.

Significant changes in the practice of medicine and in the Medicare program over the last 15 years no longer support this rationale. Physicians' services are not always the most costly service. For example, the median cost of psychiatric day hospitalization (which could be covered under Medicare as hospital outpatient services) was \$1,700 per patient in 1978. The primary services in day hospitalization such as counseling, art therapy, and dance therapy are furnished by nonphysicians. In addition, the proposed CORF regulations could make benefits available through mental health clinics that have not been eligible for Medicare coverage until now. Regarding the second part of the original rationale, operational difficulties, we do not believe that accounting for this limit should be any more difficult than accounting for the Part B deductible.

We are not proposing to extend the \$250 psychiatric services limitation to all outpatient psychiatric services covered under Medicare Part B. We believe that would be too drastic a step to take at this time since it would limit reimbursement that is currently available for Part B services. However, since CORF services are a new item of coverage under Medicare Part B, we are proposing to apply the \$250 limit to all psychiatric (mental health) services provided by a CORF. We believe this policy is consistent with the original intent of the statute. Thus, expenses incurred by CORF services in connection with the treatment of a mental, psychoneurotic, or personality disorder are limited to the lesser of \$312.50 or 62½ percent of these expenses for each beneficiary per calendar year.

#### E. Method of reimbursement.

Section 942 of Pub. L. 96-499 amended section 1833(a)(3) of the Act to authorize Medicare payment for CORF services based on "the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A) \* \* \* less applicable Part B deductible and coinsurance amounts.

Section 1861(v)(1)(A) of the Act contains the basic requirement for payment of reasonable cost for certain Medicare services. It defines reasonable cost as the cost actually incurred, excluding any cost found unnecessary for efficient delivery of needed health services, and authorizes the Secretary to prescribe in regulations how reasonable cost will be determined. Regulations establishing the reasonable cost determination are found in 42 CFR Part 405, Subpart D. We are proposing that, with the exception of 42 CFR 405.455 (lower of costs or charges), the reimbursement regulations applicable to other providers would be equally applicable to CORFs. Since section 1833(a)(3) does not provide, as is the case with other providers, for reimbursement based on the lower of the reasonable costs of services furnished to beneficiaries or the provider's customary charges for the same services, we are proposing to amend 42 CFR 405.455 to specifically state that the lower of reasonable cost or customary charges limitation does not apply to CORFs.

All CORF services are subject to the Medicare Part B deductible. In addition, a CORF may charge the beneficiary an amount not to exceed 20 percent of its customary charges for the items and

services furnished to the beneficiary. In accordance with section 1833(a)(3) of the Act, after subtracting any Part B deductible amounts, payment to the CORF will be based on the lesser of:

1. 80 percent of the reasonable cost of services; or
2. The reasonable cost of services furnished, less 20 percent of customary charges.

All payment for CORF services would be made to the facility. That is, separate payment would not be made to those individual practitioners who actually provide the services in the CORF. Payment to the CORF for services furnished by therapists or other health related personnel (other than physicians), individually or through an organization, under an arrangement with the facility would be subject to guidelines issued under 42 CFR 405.432 for determining the reasonable cost of therapy and other health services furnished under arrangements.

Payment to the CORF for physician services provided under arrangements that are paid for by the CORF on a fee-for-service basis would be limited in the aggregate to 60 percent of the amount that would have been paid as the reasonable charges, as defined in 42 CFR Part 405, Subpart E. We base the 60 percent of the reasonable charge limitation on data indicating that overhead costs are 40 percent of a physician's gross revenues. Since the CORF, rather than the physician, would incur and be reimbursed for the overhead costs associated with physician services provided in the CORF, 60 percent of reasonable charges is an appropriate parameter to establish reasonable payments to physicians for CORF services and to avoid duplicate payment of overhead expenses.

In the interests of implementing the CORF provision quickly, we are proposing to determine reimbursement on the reasonable cost basis applicable to other providers. However, we are concerned that this basis may not promote the economic and efficient delivery of CORF services and that another basis for determining the reasonableness of the costs and appropriate payment levels, such as a prospective reimbursement method, may be more suitable. Therefore, we intend to adopt the reasonable cost provisions as a temporary measure only and to develop and establish an alternative prospective payment mechanism as soon as practical. We invite commenters to specifically address this issue.

F. *Conditions of participation.* Prior to developing these proposed conditions of participation, we solicited and received significant comment from many national

trade and professional organizations, as well as from individuals, expert in the field of rehabilitation. These comments were analyzed and considered in the final development of these conditions.

1. *Required services.* In accordance with the statute (section 1861(cc)(2)(B) of the Act), the proposed regulations would require a CORF to provide at least the following services:

- (a) Physicians' services.
- (b) Physical therapy services.
- (c) Social or psychological services.

This requirement would not limit the CORF from furnishing and receiving reimbursement for as many other necessary covered CORF services as it would wish to provide.

2. *Facility physician.* The regulations would require that a CORF provide, by or under the supervision of at least one physician, diagnostic, therapeutic, and restorative services. In addition, each patient must be treated under a plan established and reviewed by a physician. The facility physician(s) must assume certain administrative responsibilities in addition to direct patient care responsibilities. In developing the definition of a facility physician, we realized that although it would be desirable for a CORF to have available a physician with considerable experience and specialized training in rehabilitation, some facilities could have difficulty in obtaining the services of a physician with these qualifications. However, given the nature of the comprehensive services provided by CORFs, the specialized needs of patients, and the physician's responsibilities, any physician associated with the CORF should have some expertise in the field of rehabilitation. Therefore, we are proposing that the physician associated with the CORF have at least 1 year experience or training in the medical management of patients requiring rehabilitation services. We believe that this requirement, while not compromising patient welfare, allows the CORF greater flexibility in obtaining a facility physician than would be possible under a more restrictive definition.

The proposed regulations do not specify the amount of time the physician must be on the premises of the CORF. Rather, we have proposed a functional approach requiring that a physician be on the premises for a time sufficient to carry out his or her responsibilities. The amount of time will depend on variables such as the scope of services provided by the facility, the volume and type of patients treated, and the problems encountered during treatment.

3. *Plan of treatment.* It is a statutory requirement (section 1835(a)(2)(E) of the Act) that each patient be under the care of a physician and that the rehabilitation services be furnished under a plan of treatment established and periodically reviewed by a physician. We anticipate that the physicians involved in these activities may, at times, include both the patient's referring physician and the physician associated with the CORF. Where this situation exists, the proposed regulations contain provisions that provide for and encourage this ongoing integration of professional activity. Where this integration of activity for some reason does not exist, the regulations would allow the plan of treatment to be established by either the patient's referring physician or a physician associated with the CORF. However, we are proposing that the plan of treatment be reviewed every 30 days by the CORF physician.

We have elected to specify that the facility physician has the primary responsibility for reviewing the plan of treatment because, in most cases, the facility physician would be more familiar with the facility's services and the patient's status and have easier access to the patient's record and the professionals providing the services than the referring physician. Thus, in our view, the result would be a more complete, accurate, and beneficial plan of treatment review. However, these proposed provisions allow the referring physician the opportunity to provide input into or revise the plan of treatment because the results of the review must be communicated to the referring physician for his or her concurrence before the facility continues or discontinues patient treatment.

In addition, findings resulting from patient management activities, that is, the comprehensive initial assessment, subsequent reassessments, and case review conferences, must be communicated to the referring physician. It is reasonable to require ongoing communication between a CORF physician and the referring physician, as it is a vital element in maintaining continuity of patient care.

4. *Patient assessment.* Each qualified professional providing a service established in the plan of treatment must assess the patient's status before implementing his or her respective part of the plan. This is a traditional practice in the rehabilitation field and we have included it as a requirement to ensure the compatibility of the plan of treatment with the needs of the patient. The proposed regulations do not contain

a similar requirement that the facility physician initially assess each patient that is referred to the facility. This would not be required because the referring physician may have initially assessed the patient and it would be a duplication of services for the facility physician to perform a similar patient assessment. However, we would expect the facility physician to perform an initial assessment when necessary, especially in cases where professional judgment determines additional assessment needs.

5. *Group of professional personnel.* In accordance with the statute (section 1861(cc)(2)(D) of the Act) the proposed regulations would require that a group of professional personnel associated with the facility, including at least one physician, establish policies that govern the services the facility provides. Additionally, we propose that this group include at least one qualified professional from each of the services provided by the facility. This proposal would ensure that each service has professional input into the policy making process. The proposed regulations do not specify the method of operation of this group as we believe that a CORF would utilize input from the various professionals commensurate with the intensity and type of services they provide at the facility.

Another important function that would be required of this group is that they act on the recommendations of the utilization review committee if it is distinct from the committee. The group of professional personnel could carry out the utilization review plan, or the use of an outside group of similar composition would be allowed.

6. *Coordination of services.* An important element of service delivery that contributes to patients receiving maximum benefits from a comprehensive outpatient rehabilitation program is providing services in a coordinated setting. Coordination of services is maximized when multi-disciplinary team members provide services in a common facility, participate in the facility's patient management activities, and are accountable to the facility for the services they provide. Accordingly, the proposed regulations contain provisions that are essential in maximizing the coordination of comprehensive outpatient rehabilitation services. The regulations would require that the facility develop mechanisms to assist in the coordination of services and that it designate a qualified professional to ensure that all professional personnel coordinate their related activities and

exchange pertinent patient information. This individual would not be required to be at the facility full-time. In addition, regardless of the relationship of the professionals to the facility (that is, employees or personnel under contract), the administrator of the facility would be required to retain professional and administrative responsibility for all services provided.

7. *Provision of services.* A facility that presents itself and is certified as a facility providing comprehensive outpatient rehabilitation services must be able to provide the services needed by the patients they accept for treatment. Consequently, the regulations would require that a CORF have adequate space, equipment, and personnel to provide the services established in a patient's plan of treatment before it accepts or retains a patient for treatment. Otherwise, a patient whose established plan of treatment requires five services, two of which the CORF is unable to provide, would have to obtain those two services at other locations. This situation is contrary to congressional intent and serves as a primary basis for the enactment of CORF legislation.

#### IV Regulatory Analysis

##### A. Executive Order 12291.

We have determined that these proposed rules will not result in an economic impact of \$100 million or more or meet any other criteria established in section 1(b) of the order. These proposed rules implement the changes legislated by section 933 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499).

The exact amount of the increase in Medicare expenditures resulting from coverage of CORF services is difficult to estimate. We cannot now determine the extent to which individual rehabilitation centers will respond to these changes. We believe the costs will be approximately \$13 million in FY 82, and \$20 million in FY 85. This estimate was made by the Congressional Budget Office (CBO) (House Report No. 96-1107, p. 521).

Accordingly, a regulatory impact analysis is not required.

##### B. Regulatory Flexibility Act

The Secretary certifies, pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354), that these regulations, if promulgated, will not have a significant impact on a substantial number of small entities.

We estimate that there are about 500 potentially participating CORFs. Using the CBO cost estimates, these facilities

would gain, on an average, about \$40,000 in revenues by FY 1985. However, this impact is not caused by this regulation but by the law, which creates this new benefit entitlement.

Accordingly, a regulatory flexibility analysis is not required.

#### C. Reporting and Recordkeeping Requirements

Sections 405.260, 481.24, 481.25, 481.26, 481.28 and 481.29 of these regulations contain recordkeeping requirements that have not yet been approved by the Executive Office of Management and Budget (EOMB) but are subject to the Paperwork Reduction Act (Pub. L. 96-511).

#### V. Response to Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule we will consider all comments and respond to them in the preamble to that rule.

#### VI. List of Subjects

##### 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Comprehensive outpatient rehabilitation facilities, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

##### 42 CFR Part 481

Administrative practice and procedure, Clinics, Comprehensive outpatient rehabilitation facilities, Health facilities, Medicaid, Medicare, Nurse practitioner, Rural areas.

42 CFR Chapter IV is amended as set forth below.

#### PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The table of contents for Part 405, Subpart B is amended by revising §§ 405.243 and 405.250, adding, §§ 405.260–405.262, and revising the authority citation to read as follows:

##### Subpart B—Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment

Sec.  
405.243 Psychiatric services limitation; expenses incurred for Physician services and comprehensive outpatient rehabilitation facility services.

\* \* \* \* \*  
405.250 Procedures for payment; medical and other health services furnished by participating provider or ESRD facility; home health services; comprehensive outpatient rehabilitation facility services.

\* \* \* \* \*  
405.260 Comprehensive outpatient rehabilitation facility services; requirements for coverage.

405.261 Comprehensive outpatient rehabilitation facility services; items and services included.

405.262 Comprehensive outpatient rehabilitation facility services; exclusions.

Authority: Sec. 1102 1831–1833, 1835–1843, 1861, 1862, 1866, 49 Stat. 647, as amended, 79 Stat. 301–312, 313, 325, 327, 331; 42 U.S.C. 1302, 1395j–1395l, 1395n–1395v, 1395x, 1395y, 1395cc, and 1395hh.

2. The table of contents for Part 405, Subpart D is amended by adding § 405.431 and revising the authority citation to read as follows:

##### Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians.

\* \* \* \* \*  
Sec.  
405.431 Payment to comprehensive outpatient rehabilitation facilities for services furnished under arrangements.

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), and 1871, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v), and 1395hh, unless otherwise noted.

3. In § 405.230, the introductory language for paragraph (a) is reprinted, paragraphs (a)(4) and (a)(5) are revised, paragraph (a)(6) is reserved, and paragraph (a)(7) is added to read as follows:

##### § 405.230 Supplementary medical insurance benefits.

(a) *Benefits provided.* Any individual who is enrolled under the supplementary medical insurance plan established by Part B of title XVIII of the Act is, subject to the conditions, limitations, and exclusions described in this Part 405, entitled to have:

(4) Payment made on his or her behalf for home health services (see § 405.233) for up to 100 visits (as discussed in § 405.238) furnished by a participating home health agency during a calendar year;

(5) Payment made on his or her behalf to a participating clinic, rehabilitation agency, public health agency, or other provider of services (see § 405.231 (l) and (m)) for outpatient physical therapy services furnished after June 30, 1968, and for outpatient speech pathology services furnished after December 31, 1972; and

(6) [Reserved]

(7) Payment made on his or her behalf for comprehensive outpatient rehabilitation facility services, as defined in § 405.261, furnished by a participating comprehensive outpatient rehabilitation facility.

4. Section 405.243 is amended by revising the title, reprinting paragraph (a), and revising paragraph (b) to read as follows:

##### § 405.243 Psychiatric services limitation; expenses incurred for physician services and comprehensive outpatient rehabilitation facility services.

(a) *Limitation.* With respect to expenses incurred in any calendar year in connection with the treatment of a mental psychoneurotic, or personality disorder of an individual who is not an inpatient of a hospital (as described in paragraph (b) of this section) at the time such expenses are incurred, only the lesser of (1) \$312.50; or (2) 62½ percent of such expenses, is considered as incurred expenses for purposes of § 405.240 and 405.245.

(b) *Application of limitation.* Notwithstanding any other provision of this Subpart B, paragraph (a) of this section applies to specific expenses incurred for physicians' services (with no distinction being made between the services of psychiatrists and nonpsychiatrist physicians) and comprehensive outpatient rehabilitation facility services (as defined in § 405.261) provided to an individual who is not an inpatient of a hospital, in connection with the treatment of a mental, psychoneurotic, or personality disorder of such individual, and any items or supplies furnished by the physician in connection with his or her treatment of such disorder. The term "mental, psychoneurotic, or personality disorder" means the specific psychiatric conditions described in the American Psychiatric Association's Diagnostic and Statistical Manual—Mental Disorders. Expenses incurred for services other than comprehensive outpatient rehabilitation facility services furnished by health personnel other than physicians, including home health services and outpatient services, as well as physicians' services furnished to an individual who is an inpatient of a

hospital are not subject to such limitation even though the services are in connection with a condition which is included in the definition of mental psychoneurotic, or personality disorder. For purposes of this paragraph (b), "hospital" means a hospital which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled or sick persons; or psychiatric services for the diagnosis and treatment of mentally ill persons; or medical services for the diagnosis and treatment of tuberculosis.

*Example:* As a private patient, Mr. X's only medical expenses during the calendar year 1982 amounted to \$750 for physicians' services in connection with the treatment of a mental disorder which did not require inpatient hospitalization. The statutory limit for any calendar year on the amount of these expenses that is covered under this Subpart B is \$312.50 (\$312.50 being lesser in amount than 62½ percent of \$750). Mr. X is required to meet the first \$75 as a deductible, and 20 percent of the balance. The remaining 60 percent is payable under this Subpart B.

Total covered expenses	Mr. X's payment	Payment under subpart B
\$312.50	* \$437.50	
-75.00 <sup>1</sup>	75.00	
237.50	*47.50	*190.00

<sup>1</sup> Deductible, (see § 405.245).

<sup>2</sup> In excess of \$312.50

<sup>3</sup> 20 percent of total covered expenses less deductible.

<sup>4</sup> 60 percent of total covered expenses less deductible.

If Mr. X had incurred \$350 of the above expenses while an inpatient of an institution (see paragraph (b) of this section), and the remaining \$400 while not an inpatient of an institution, payment would be computed as follows:

Total covered expenses	Mr. X's payment	Payment under subpart B
\$250 <sup>1</sup>	*\$150	
+350 <sup>2</sup>		
600	*75	
-75		
525	*105	*420

<sup>1</sup> 62½ percent of \$400.

<sup>2</sup> In excess of 62½ percent of \$400.

<sup>3</sup> 100 percent of expenses incurred while an inpatient.

<sup>4</sup> Deductible.

<sup>5</sup> 20 percent of total covered expenses less deductible.

<sup>6</sup> 60 percent of total covered expenses less deductible.

5. Section 405.250 is amended by revising the title and introductory language, reprinting paragraph (b), and

adding paragraph (b)(4) to read as follows:

**§ 405.250 Procedures for payment; medical and other health services furnished by participating provider or ESRD facility; home health services; comprehensive outpatient rehabilitation facility services.**

Payment for medical and other health services (see §§ 405.230(a)(3), 405.231, and 405.232), for home health services (see §§ 405.230(a)(4), 405.233 through 405.236), and for comprehensive outpatient rehabilitation facility services (see §§ 405.230(a)(6) and 405.260-405.262), furnished by a participating provider of services is made to such provider only if:

(b) A physician certifies, and recertifies (see Subpart P of this part) when required, that:

(4) In the case of comprehensive outpatient rehabilitation services:

(i) The services were required because the individual needed skilled rehabilitation services;

(ii) A written plan for furnishing the services has been established and is periodically reviewed by a physician; and

(iii) The services were furnished while the individual was under the care of a physician.

6. A new § 405.260 is added to read as follows:

**§ 405.260 Comprehensive outpatient rehabilitation facility services; requirements for coverage.**

The items and services described in § 405.261 are "comprehensive outpatient rehabilitation facility services" (unless excluded under § 405.262) if the following conditions are met:

(a) The services are furnished to an individual who is referred to the facility by a physician who certifies that the individual needs skilled rehabilitation services. The referring physician must make the following information available to the facility before or at the time of initiation of treatment:

- (1) The individual's significant medical history.
- (2) Current medical findings.
- (3) Diagnosis(es).
- (4) Rehabilitation goals, if determined.
- (5) Contraindications to any treatment modality.

(b) The services are furnished onsite at a participating comprehensive outpatient rehabilitation facility (see Part 481, Subpart B of this chapter for the conditions of participation) to an individual who has been accepted as an outpatient of the facility.

(c) The services are provided under a plan of treatment that meets the following requirements:

(1) The plan must be established in writing and signed by a physician before treatment is begun.

(2) The plan must prescribe the type, amount, frequency, and duration of the services that are to be furnished to the individual and indicate the diagnosis and anticipated rehabilitation goals.

(3) The plan must be reviewed by a physician at least once every 30 days. Upon review, the physician must recertify that the plan of treatment is being followed and that the patient is making progress in attaining the rehabilitation goals without harmful effects on the patient.

(d) The services are furnished to an individual who is under the care of a physician.

7. A new § 405.261 is added to read as follows:

**§ 405.261 Comprehensive outpatient rehabilitation facility services; items and services included.**

Subject to the exclusions specified in § 405.262, "comprehensive outpatient rehabilitation facility services" means the following items and services furnished to an individual in accordance with § 405.260:

(a) *Physicians' services.* These are the personal services of a facility physician provided to or for an outpatient of the facility. These services include, but are not limited to, examinations and diagnosis, prescription of medications and therapies, consultation with and medical supervision of nonphysician staff, and establishment and review of the plan of treatment.

(b) *Physical therapy services.* Physical therapy services are services provided by a qualified physical therapist (defined in § 405.1702(d)) or a qualified physical therapy assistant (defined in § 405.1702(e)) under the supervision of a qualified physical therapist that restore a lost or impaired function. The establishment of a maintenance therapy program for an individual whose restoration potential has been reached is a physical therapy service; however, maintenance therapy itself is not covered as part of these services.

(c) *Occupational therapy services.* (1) Except as excluded in paragraph (c)(2) of this section, the following are occupational therapy services when provided by a qualified occupational therapist (defined in § 405.1202(f)) or a qualified occupational therapy assistant (defined in § 405.1202(g)) under the

supervision of a qualified occupational therapist:

- (i) Assessment of an individual's vocational potential.
- (ii) Evaluation of an individual's level of independent functioning.
- (iii) Selection and teaching of task-oriented therapeutic activities to restore sensory-integrative function.
- (iv) Teaching of compensatory techniques to permit an individual with a physical impairment or limitation to engage in daily activities.

(2) Services involving vocational assessment related solely to vocational rehabilitation are not occupational therapy services.

(d) *Speech pathology services.* Speech pathology services are those services provided by or under the supervision of a qualified speech pathologist (defined in § 481.22 of this chapter) that are necessary for the diagnosis and treatment of speech and language disorders which result in communication difficulties.

(e) *Respiratory therapy services.* Respiratory therapy services are those services that are prescribed by a physician for the assessment, diagnostic evaluation, treatment, management, and monitoring of patients with deficiencies and abnormalities of cardiopulmonary function.

(1) Except as provided in paragraph (e)(2) of this section, these services must be performed by a qualified respiratory therapist (defined in § 481.22 of this chapter), or respiratory therapy technician (defined in § 481.22 of this chapter) under the supervision of a qualified respiratory therapist.

(2) Respiratory therapy service such as bronchial hygiene therapy and pulmonary rehabilitation, as well as the periodic assessment and monitoring of these services, may be performed by a qualified physical therapist (defined in § 405.1702(d)) or respiratory therapy technician under the supervision of a qualified physical therapist.

(f) *Prosthetic devices.* Prosthetic devices are those devices, other than dental, ordered by a physician, that replace all or part of an internal body organ or external body member (including contiguous tissue) or replace all or part of the function of a permanently inoperative or malfunctioning internal body organ or external body member. Included in coverage of a prosthetic device are those services and items necessary for formulating its design, material, and component selection; measurements, fittings, static and dynamic alignments; and instruction in use of the device. These services must be performed by a qualified prosthetist (defined in § 481.22

of this chapter). Excluded from coverage are renal dialysis machines and services.

(g) *Orthotic devices.* Orthotic devices are those orthopedic appliances or apparatus ordered by a physician, that support, align, prevent, or correct deformities, or improve the function of moveable parts of the body. Included in coverage of an orthotic device are those services and items necessary for formulating its design, material, and component selection; measurements, fittings, static and dynamic alignments; and instruction in use of the device. These services must be performed by a qualified orthotist (defined in § 481.22 of this chapter).

(h) *Social services.* Any of the following services, if ordered by a physician and furnished by a social worker or rehabilitation counselor (defined in § 481.22 of this chapter), are social services:

(1) Assessment of the social and emotional factors related to the individual's illness, need for care, response to treatment, and adjustment to care in the facility.

(2) Casework services to assist in resolving these social and emotional problems.

(3) Assessment of the relationship of the individual's medical and nursing requirements to his or her home situation, financial resources, and the community resources available upon discharge from the facility.

(i) *Psychological services.* The services of a psychologist or rehabilitation counselor (defined in § 481.22 of this chapter) are included when a physician certifies that the individual exhibits a specific need for those services.

(j) *Nursing care.* Nursing services provided by a registered professional nurse or by a licensed practical nurse (defined in § 481.22 of this chapter) under the supervision of a registered professional nurse are included as nursing care services.

(k) *Drugs and biologicals.* Drugs and biologicals that are prescribed by a physician and furnished by or under the supervision of a physician or registered nurse, are included, unless they are excluded from Medicare Part B payment under the provisions of § 405.232(c).

(l) *Supplies, appliances, and equipment.* Non-reusable supplies, such as oxygen and bandages, are included when furnished by the facility. Supplies, appliances, and equipment of a more durable nature, such as exercycles and wheelchairs, are included when provided by the facility for use by individuals in the facility.

B. A new § 405.262 is added to read as follows:

**§ 405.262 Comprehensive outpatient rehabilitation facility services; exclusions.**

No item or service listed in § 405.261 is included as a "comprehensive outpatient rehabilitation facility service" if the item or service—

(a) Would not be included as a covered service when furnished to a patient of a hospital;

(b) Is provided to an individual who is experiencing a temporary loss or reduction of function that is expected to improve spontaneously; or

(c) Is provided as a part of a maintenance program that involves repetitive services that do not require the skilled services of nurses or therapists.

9. A new § 405.431 is added to read as follows:

**§ 405.431 Payment to comprehensive outpatient rehabilitation facilities for services furnished under arrangements.**

(a) The aggregate amount paid by a comprehensive outpatient rehabilitation facility on a fee-for-service basis to physicians for physicians' services provided under arrangements is an allowable expense to the extent it is not in the aggregate in excess of 60 percent of the reasonable charges, as defined in Subpart E of this part. Therefore, payment is limited to 60 percent of the amount that would otherwise be paid if the services were provided by the physician to title XVIII beneficiaries who are not outpatients of the comprehensive outpatient rehabilitation facility.

(b) Payment to the comprehensive outpatient rehabilitation facility for services furnished by health related personnel (other than physicians), individually or through an organization, under an arrangement with the facility is subject to the provisions of § 405.432 that determine the reasonable cost of therapy and other health services furnished under arrangements.

10. Section 405.455 is amended by revising paragraph (a) to read as follows:

**§ 405.455 Amount of payments where customary charges for services furnished are less than reasonable cost.**

(a) *Principle.* Providers of services, other than comprehensive outpatient rehabilitation facilities, will be paid the lesser of the reasonable cost of services furnished to beneficiaries or the customary charges made by the provider for the same services. (Payment to comprehensive outpatient rehabilitation facilities is based on the reasonable cost

of services.) Public providers of service furnishing services free of charge or at a nominal charge will be paid fair compensation for services furnished to beneficiaries. This principle is applicable to services furnished by providers in cost reporting periods beginning after December 31, 1973. For special rules concerning HMO's and providers of services and other health care facilities that are owned or operated by an HMO, or related to an HMO by common ownership or control, see §§ 405.2042(b)(14) and 405.2050(c).

#### PART 481—CERTIFICATION OF CERTAIN HEALTH FACILITIES

1. The table of contents for Part 481 is amended by adding a Subpart B to read as follows:

##### Subpart B—Comprehensive Outpatient Rehabilitation Facilities: Conditions of Participation

- Sec.
- 481.21 Purpose and scope.
- 481.22 Definitions.
- 481.23 Condition of participation: Compliance with State and local laws.
- 481.24 Condition of participation: Governing body and administration.
- 481.25 Condition of participation: Comprehensive rehabilitation program.
- 481.26 Condition of participation: Clinical records.
- 481.27 Condition of participation: Physical environment.
- 481.28 Condition of participation: Disaster procedures.
- 481.29 Condition of participation: Utilization review plan.

Authority: Secs. 1102, 1861(cc), and 1871; 49 Stat. 847, 79 Stat 313, 331; 42 U.S.C. 1302, 1395x(cc), 1395hh.

2. A new subpart B is added to read as follows:

##### Subpart B—Comprehensive Outpatient Rehabilitation Facilities: Conditions of Participation

###### § 481.21 Purpose and scope.

This subpart sets forth the conditions that facilities must meet to be certified as comprehensive outpatient rehabilitation facilities under section 1861(cc)(2) of the Social Security Act. These requirements will serve as the basis for survey activities by Federal and State surveyors. These facilities will be certified for participation in Medicare in accordance with Subpart S of Part 405 of this chapter.

###### § 481.22 Definitions.

As used in this subpart, unless the context indicates otherwise:

"Comprehensive outpatient rehabilitation facility" or "Facility" means a freestanding facility (that is,

one not administratively or otherwise affiliated with or currently certified as another Medicare provider or supplier of services) primarily engaged in providing, by or under the supervision of a physician, diagnostic, therapeutic, or restorative services at a single location to outpatients for the rehabilitation of injured, disabled, or sick persons, and meeting all requirements of this subpart.

"Facility physician" means a doctor of medicine or osteopathy, who is—

- Licensed under State law to practice medicine or surgery, and
- Has had at least 1 year of experience or training in the medical management of patients requiring rehabilitative services of the type required to be furnished by a comprehensive outpatient rehabilitation facility.

"Licensed practical nurse" means a nurse who is licensed as a practical or vocational nurse by the State in which practicing.

"Occupational therapist" means a person who meets the definition in § 405.1202(f) of this chapter.

"Occupational therapy assistant" means a person who meets the definition in § 405.1202(g) of this chapter.

"Orthotist" means a person who—

- Is licensed by the State in which practicing, if applicable;

- Has successfully completed a training program in orthotics that is jointly recognized by the American Council on Education and the American Board for Certification in Orthotics and Prosthetics; and

- Is eligible to take that Board's certification examination in orthotics.

"Physical therapist" means a person who meets the definition in § 405.1702(d) of this chapter.

"Physical therapy assistant" means a person who meets the definition in § 405.1702(e) of this chapter.

"Prosthetist" means a person who—

- Is licensed by the State in which practicing, if applicable;

- Has successfully completed a training program in prosthetics that is jointly recognized by the American Council on Education and the American Board for Certification in Orthotics and Prosthetics; and

- Is eligible to take that Board's certification examination in prosthetics.

"Psychologist" means a person who is certified and licensed by the State in which practicing, if applicable, and—

- Holds a Masters' Degree in psychology from a training program approved by the State, or
- Is eligible for membership in the American Psychological Association.

"Registered nurse" means a graduate of an approved school of nursing who is licensed as a registered nurse by the State in which practicing, if applicable.

"Rehabilitation counselor" means a person who—

- Is licensed by the State in which practicing, if applicable;
- Holds at least a Bachelor's degree; and

- Is eligible to take the certification examination administered by the Commission on Rehabilitation Counselor Certification.

"Respiratory therapist" means a person who—

- Is licensed by the State in which practicing, if applicable;

- Has successfully completed a training program accredited by the Committee on Allied Health Education and Accreditation (CAHEA) in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

- Is either—

- Eligible to take the registry examination for respiratory therapists administered by the National Board for Respiratory Therapy, Inc., or

- Has equivalent training and experience as determined by the National Board for Respiratory Therapy, Inc.

"Respiratory therapy technician" means a person who—

- Is licensed by the State in which practicing, if applicable;

- Has successfully completed a training program accredited by the Committee on Allied Health Education and Accreditation (CAHEA) in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

- Is either—

- Eligible to take the certification examination for respiratory therapy technicians administered by the National Board for Respiratory, Inc., or

- Has equivalent training and experience as determined by the National Board for Respiratory Therapy, Inc.

"Social worker" means a person who—

- Is licensed by the State in which practicing, if applicable;

- Holds at least a Bachelor's Degree from a school accredited or approved by the Council on Social Work Education; and

- Has 1 year of social work experience in a health care setting.

"Speech pathologist" means a person who—

- Is licensed by the State in which practicing, if applicable; and

(b) Is eligible to take the examination for a Certification of Clinical Competence (CCC) in speech-language pathology or audiology administered by the American Speech-Language Hearing Association; or meets the education requirements for certification and is in the process of accumulating the supervised clinical experience required for certification.

**§ 481.23 Condition of participation: Compliance with State and local laws.**

The facility must be in compliance with applicable State and local laws and regulations.

(a) *Standard: Licensure.* Except as specified in paragraph (b) of this section, the facility must be currently licensed in accordance with State and local law.

(b) *Standard: Facilities not subject to licensure.* If the facility is not required to be licensed, it must be approved as meeting the standards established for licensure.

**§ 481.24 Condition of participation: Governing body and administration.**

The facility must have a governing body that assumes full legal responsibility for establishing and implementing policies regarding the management operation of the facility.

(a) *Standard: Disclosure of ownership.* The facility must comply with the provisions of Part 420, Subpart C of this chapter that require health care providers and fiscal agents to disclose certain information about ownership and control.

(b) *Standard: Administrator.* The governing body must appoint an administrator who—

(1) Is responsible for the overall management of the facility under the authority delegated by the governing body;

(2) Implements and enforces the facility's policies and procedures relating to the health and safety of patients;

(3) Designates, in writing, an employee who in the absence of the administrator, acts on behalf of the administrator; and

(4) Retains professional and administrative responsibility for all personnel providing facility services.

(c) *Standard: Group of professional personnel.* The facility must have a group of professional personnel associated with the facility that—

(1) Develops and periodically reviews policies to govern the services provided by the facility; and

(2) Consists of at least one physician and one professional representing each of the services provided by the facility.

(d) *Standard: Institutional budget plan.* The facility must have an institutional budget plan that meets the following conditions:

(1) It is prepared—

(i) Under the direction of the governing body, and

(ii) By a committee consisting of representatives of the governing body and the administrative staff.

(2) It provides for an annual operating budget prepared according to generally accepted accounting principles.

(3) It provides for a capital expenditure plan for at least a 3 year period for anticipated expenditures in excess of \$100,000 related to the acquisition of land; the improvement of land, buildings, and equipment; and the replacement, modernization, and expansion of buildings and equipment.

(4) It provides for annual review and updating by the governing body.

(e) *Standard: Patient care policies.* The facility must have written patient care policies that govern the services it provides. The patient care policies must provide for the following:

(1) A description of the services the facility furnishes through employees and those furnished by other than employees.

(2) Rules for and personnel responsibilities in handling medical emergencies.

(3) Rules for the storage, handling, and administration of drugs and biologicals.

(4) Criteria for patient admission, continuing care, and discharge.

(5) Procedures for preparing and maintaining clinical records on all patients.

(6) A procedure for explaining to the patient or the patient's family the extent and purpose of the services to be provided.

(7) A procedure to assist the referring physician in locating another level of care—

(i) For patients whose treatment has terminated and who are discharged; and

(ii) For patients who are in need of services not available through the facility.

(8) A requirement that patients accepted by the facility must be under the care of a physician.

(9) A plan of treatment established by a physician for each patient.

(10) A procedure to ensure that the group of professional personnel reviews and takes appropriate action on recommendations from the utilization review committee regarding patient care policies.

(f) *Standard: Delegation of authority.* Administrative and supervisory functions must not be delegated to

another agency, organization, or individual.

(1) The facility may enter into a contract for purposes of assistance in financial management and may delegate to others the following and similar services:

(i) Bookkeeping.

(ii) Assistance in the development of procedures for billing and accounting systems.

(iii) Assistance in the development of an operating budget.

(iv) Purchase of supplies in bulk form.

(v) The preparation of financial statements.

(2) When the services listed in paragraph (f)(1) of this section are delegated, a contract must be in effect and provide for the following:

(i) The length of the contract must not exceed 5 years.

(ii) The contract must contain a termination clause pertaining to all provisions, that becomes effective within 60 days of written notice by either party.

(iii) The contract must contain a clause requiring renegotiation of any provision that the Secretary finds to be in contravention to any new, revised, or amended Federal regulation or law.

(iv) The contract must state that only the facility may bill the Medicare program.

(v) The contract must not include clauses that state or infer that the outside resource has power and authority to act on behalf of the facility, or clauses that give the outside resource rights, duties, discretions, and responsibilities involved in dictating the administration, management, or operation of the facility.

**§ 481.25 Condition of participation: Comprehensive rehabilitation program.**

The facility must provide a coordinated rehabilitation program that includes, at a minimum, physicians' services, physical therapy services, and social or psychological services. Provision of these services must be consistent with the plan of treatment and the results of comprehensive patient assessments.

(a) *Standard: Physician services.*

(1) Any physician associated with the facility must be present in the facility for a sufficient time to—

(i) Provide, in accordance with accepted principles of medical practice, medical direction, medical care services, and consultation;

(ii) Establish the plan of treatment in cases where a plan has not been established by the referring physician;

(iii) Assist in establishing and implementing the facility's patient care policies; and

(iv) Participate in plan of treatment reviews, patient case review conferences, comprehensive patient assessment and reassessments, and utilization review.

(2) The facility must provide for emergency physician services during the facility operating hours.

(b) *Standard: Plan of treatment.* For each patient, a physician must establish a plan of treatment before the facility initiates treatment. The plan of treatment must meet the following requirements:

(1) It must delineate anticipated goals and specify the type and intensity of services to be provided.

(2) It must be promptly evaluated after changes in the patient's condition and revised when necessary.

(3) It must, where appropriate, be developed in consultation with the facility physician and the appropriate facility professional personnel.

(4) It must be reviewed at least every 30 days by the physician associated with the facility and the professional personnel providing services. The results of this review must be communicated to the patient's referring physician for concurrence before treatment is continued or discontinued.

(5) It must be revised if the comprehensive reassessment of the patient's status or the results of the patient case review conference indicate the need for revision.

(c) *Standard: Coordination of services.* The facility must designate, in writing, a qualified professional to ensure that professional personnel coordinate their related activities and exchange information about each patient under their care. Mechanisms to assist in the coordination of services must include—

(1) Providing to all personnel associated with the facility, a schedule indicating the frequency and type of services provided at the facility;

(2) A procedure for communicating to all patient care personnel pertinent information concerning significant changes in the patient's status;

(3) Periodic clinical record entries, noting at least the patient's status in relationship to goal attainment; and

(4) Scheduling patient case review conferences for purposes of determining appropriateness of treatment, when indicated by the results of the initial comprehensive patient assessment, reassessment(s), the recommendation of the facility physician (or other physician who established the plan of treatment),

or upon the recommendation of one of the professionals providing services.

(d) *Standard: Provision of services.*

(1) All patients must be referred to the facility by a physician who provides the following information to the facility before treatment is initiated:

(i) The patient's significant past history.

(ii) Current medical findings.

(iii) Diagnosis and contraindications.

(iv) Rehabilitation goals, if determined.

(2) In order for a facility to accept or retain a patient for treatment, it must have available on its premises each of the services required by the patient as established in the plan of treatment.

(3) The facility must have on its premises the necessary equipment to implement the plan of treatment and sufficient space to allow adequate care.

(4) The number of qualified personnel must be adequate for the volume and diversity of services offered and all personnel must meet the definitions specified in § 481.22. Personnel other than those defined in § 481.22 may be used by the facility in assisting qualified staff. When an appropriate qualified professional is assisted by these personnel, the professional must instruct these personnel in appropriate patient care service techniques and retain responsibility for their activities.

(5) A qualified professional must initiate and coordinate the appropriate portions of the plan of treatment, monitor the patient's progress, and recommend changes, if necessary, to the plan.

(6) A qualified professional representing each service available at the facility must be either on the premises of the facility or must be available through direct telecommunication for consultation and assistance during the facility's operating hours. At least one qualified professional must be on the premises during the facility's operating hours.

(7) All services must be provided on the premises of the facility.

(8) All services must be provided consistent with accepted professional standards and practice.

(e) *Standard: Patient assessment.* Each qualified professional involved in the patient's care, as specified in the plan of treatment, must—

(1) Carry out an initial patient assessment; and

(2) In order to identify whether or not the current plan of treatment is appropriate, perform a patient reassessment—

(i) After significant changes in the patient's status;

(ii) Within 60 calendar days of the initial patient assessment; and

(iii) Within 60 calendar days of each subsequent reassessment unless documentation as to why the reassessment is deferred is provided.

#### § 481.26 Condition of participation: Clinical records.

The facility must maintain clinical records on all patients in accordance with accepted professional standards and practice. The clinical records must be completely, promptly, and accurately documented, readily accessible, and systematically organized to facilitate retrieval and compilation of information.

(a) *Standard: Content.* Each clinical record must contain sufficient information to identify the patient clearly and to justify the diagnosis and treatment. Each entry in the clinical record must be made as frequently as is necessary to insure effective treatment, must be signed by personnel providing services, and all entries made by assistant level personnel must be countersigned by the corresponding professional. Documentation on each patient must be consolidated into one clinical record that must contain—

(1) The initial assessment and consequent reassessments of the patient's needs;

(2) Current plan of treatment;

(3) Identification data and consent or authorization forms;

(4) Pertinent medical history, past and present;

(5) A report of pertinent physical examinations, if any;

(6) Where necessary, progress notes or other documentation reflecting patient reaction to treatment, tests, patient injury, or necessity to change the established plan of treatment; and

(7) Upon discharge, a discharge summary including patient status relative to goal achievement, prognosis, and future treatment considerations.

(b) *Standard: Protection of clinical record information.* The facility must safeguard clinical record information against loss, destruction, or unauthorized use. The facility must have procedures that govern the use and removal of records and the conditions for release of information. The facility must obtain the patient's written consent before releasing information not required to be released by law.

(c) *Standard: Retention and preservation.* The facility must retain clinical record information for 5 years after patient discharge and must make provision for the maintenance of such records in the event that it is no longer able to treat patients.

**§ 481.27 Condition of participation: Physical environment.**

The facility must provide a physical environment that protects the health and safety of patients, personnel, and the public.

(a) *Standard: Safety and comfort of patients.* The physical premises of the facility and those areas of its surrounding physical structure utilized by the facility's patients including, at a minimum, all stairwells, corridors, and passageways must meet the following requirements:

(1) Applicable Federal, State, and local building, fire, and safety codes must be met.

(2) Fire extinguishers must be easily accessible and fire regulations must be prominently posted.

(3) A fire alarm system with local (in-house) capability must be functional, and where power is generated by electricity, and alternate power source with automatic triggering must be present.

(4) Lights, supported by an emergency power source, must be placed at exits.

(5) A sufficient number of staff to evacuate patients during a disaster must be on the premises of the facility whenever patients are being treated.

(6) Lighting must be sufficient to carry out services safely; room temperature must be maintained at comfortable levels; and ventilation through windows, mechanical means, or a combination of both, must be provided.

(7) Safe and sufficient space must be available for the scope of services offered.

(b) *Standard: Sanitary environment.* The facility must maintain a sanitary environment and establish a program to identify, investigate, prevent, and control the cause of patient infections.

(1) The facility must establish written policies and procedures designed to control and prevent infection in the facility and to investigate and identify possible causes of infection.

(2) The facility must monitor the infection control program to ensure that the staff implement the policies and procedures and that the policies and procedures are consistent with current practices in the field.

(3) The facility must make available at all times a quantity of laundered linen adequate for proper care and comfort of patients. Linens must be handled, stored, and processed in a manner that prevents the spread of infection.

(4) Provisions must be in effect to ensure that the facility's premises are

maintained free of rodent and insect infestation.

(c) *Standard: Maintenance of equipment, physical location, and grounds.* The facility must establish a written preventive maintenance program to ensure that—

(1) All equipment is properly maintained and equipment needing periodic calibration is calibrated consistent with the manufacturer's recommendations; and

(2) The interior of the facility, the exterior of the physical structure housing the facility, and the exterior walkways and parking areas must be clean and orderly and maintained free of any defects that are a hazard to patients, personnel, and the public.

(d) *Standard: Access for the physically impaired.* The facility must ensure the following:

(1) Doorways, stairwells, corridors, and passageways used by patients are—

(i) Of adequate width to allow for easy movement of all patients (including those on stretchers or in wheelchairs); and

(ii) In the case of stairwells, equipped with firmly attached handrails on at least one side.

(2) At least one toilet facility is accessible and constructed to allow utilization by ambulatory and nonambulatory individuals.

(3) At least one entrance is usable by individuals in wheelchairs.

(4) In multi-story buildings, elevators are accessible to and usable by the physically impaired on the level that they use to enter the building and all levels normally used by the patients of the facility.

(5) Parking spaces are large enough and close enough to the facility to allow safe access by the physically impaired.

**§ 481.28 Condition of participation: Disaster procedures.**

The facility must have written policies and procedures that specifically define the handling of patients, personnel, records, and the public during disasters. All personnel associated with the facility must be knowledgeable with respect to these procedures, be trained in their application, and be assigned specific responsibilities.

(a) *Standard: Disaster plan.* The facility's written disaster plan must be developed and maintained with assistance of qualified fire, safety, and other appropriate experts. The plan must include—

(1) Procedures for prompt transfer of casualties and records;

(2) Procedures for notifying community emergency personnel (for example, fire department, ambulance, etc.);

(3) Instructions regarding the location and use of alarm systems and signals and fire fighting equipment; and

(4) Specification of evacuation routes and procedures for leaving the facility.

(b) *Standard: Drills and staff training.*

(1) The facility must provide ongoing training and drills for all personnel associated with the facility in all aspects of disaster preparedness.

(2) All new personnel must be oriented and assigned specific responsibilities regarding the facility's disaster plan within two weeks of their first workday.

**§ 481.29 Condition of participation: Utilization review plan.**

The facility must have in effect a written utilization review plan that assesses the necessity of services and promotes the most efficient use of services provided by the facility.

(a) *Standard: Utilization review committee.* The utilization review committee, consisting of the group of professional personnel described in § 481.24(c) or a group of similar composition, must carry out the utilization review plan.

(b) *Standard: Utilization review plan.* The utilization review plan must contain written procedures for evaluating—

(1) Admissions, continued care, and discharges using, at a minimum, the criteria established in the patient care policies;

(2) The applicability of the plan of treatment to established goals and patient assessments; and

(3) The adequacy of clinical records with regard to—(i) Assessing the quality of services provided; and

(ii) Determining whether the facility's policies and clinical practices are compatible and promote appropriate and efficient utilization of services.

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: March 26, 1982.

Carolyn K. Davis,  
Administrator, Health Care Financing Administration.

Approved: April 22, 1982.

Richard S. Schweiker,  
Secretary.

[FR Doc. 82-12591 Filed 5-7-82; 8:45 am]

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Monday, May 10, 1982

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
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DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

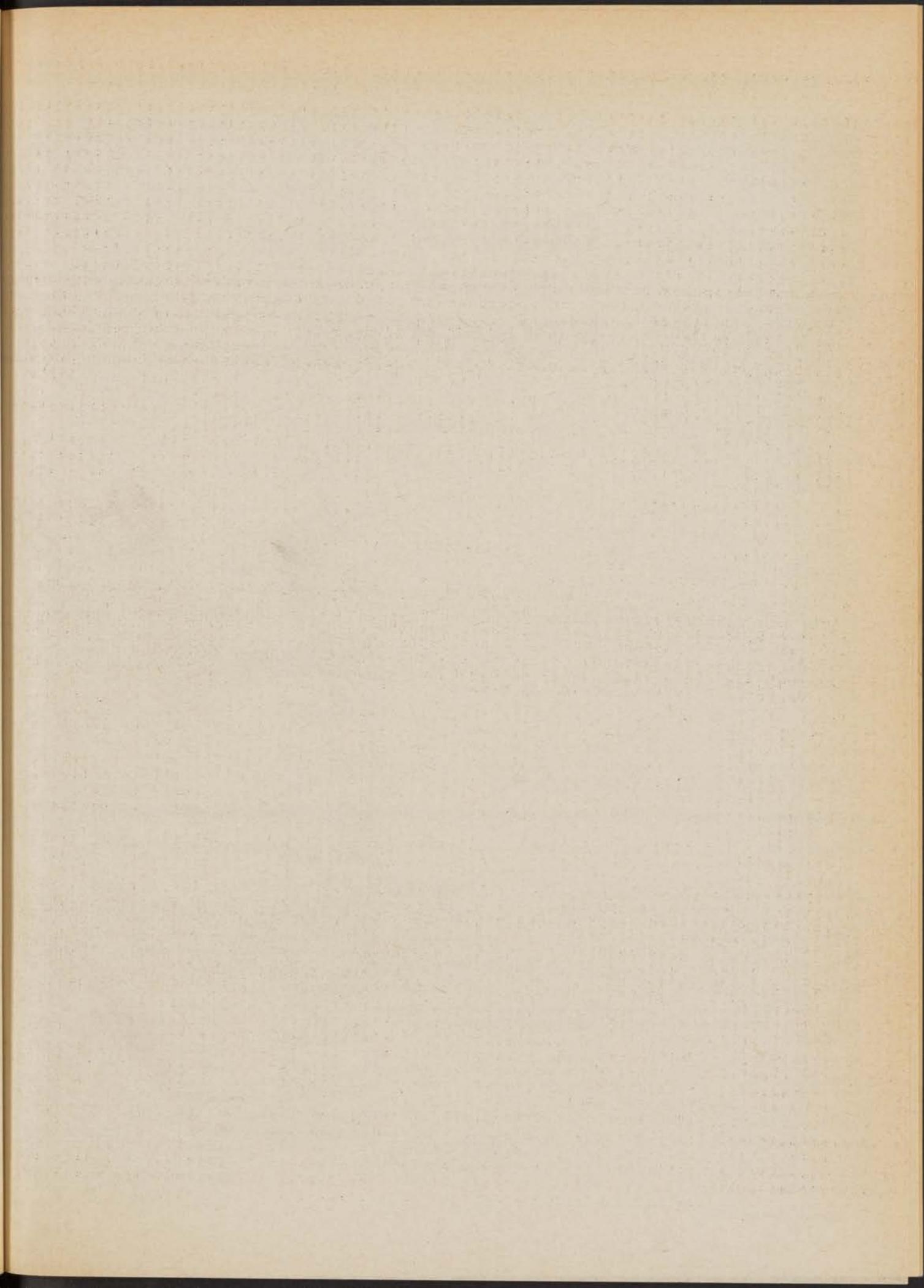
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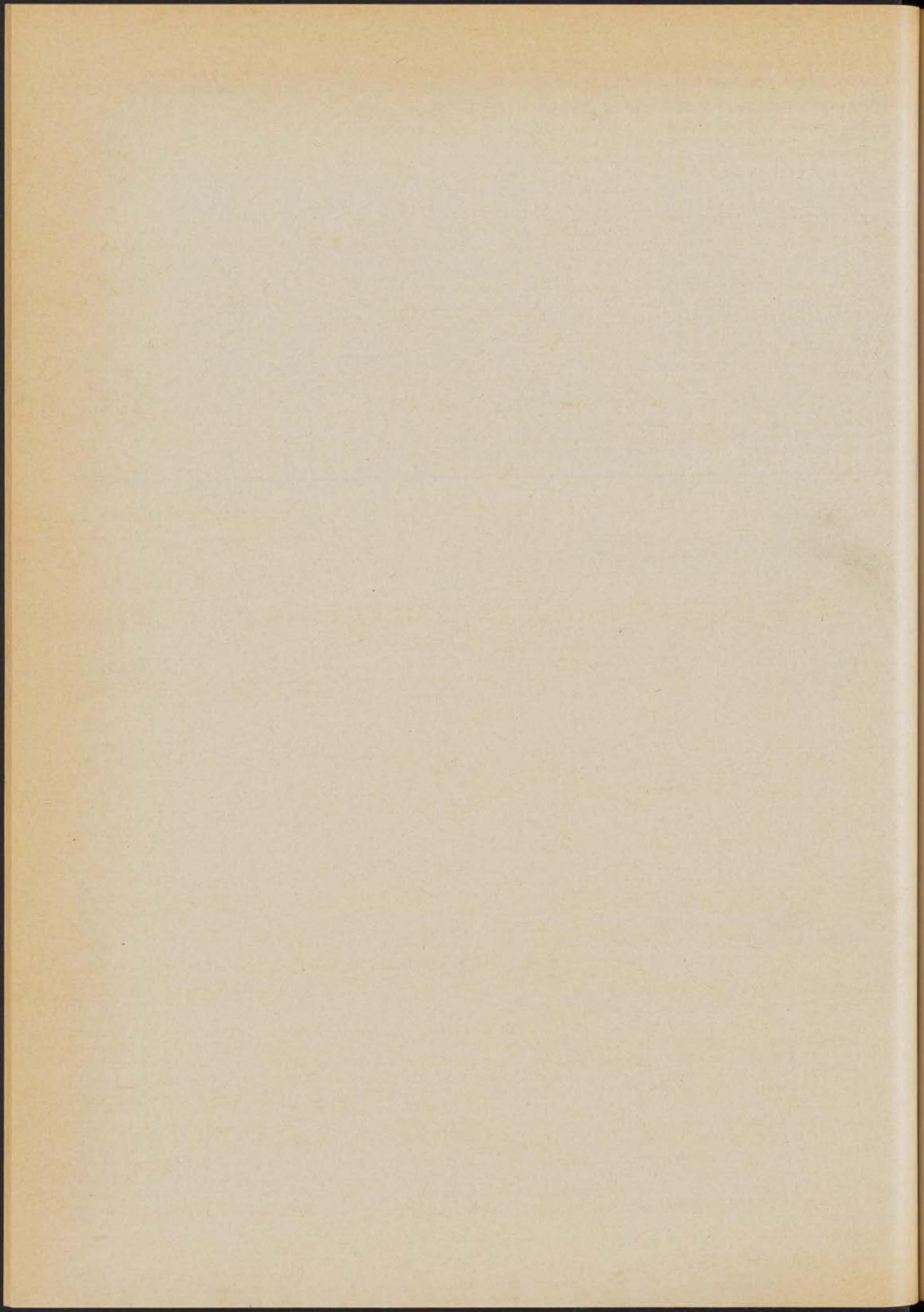
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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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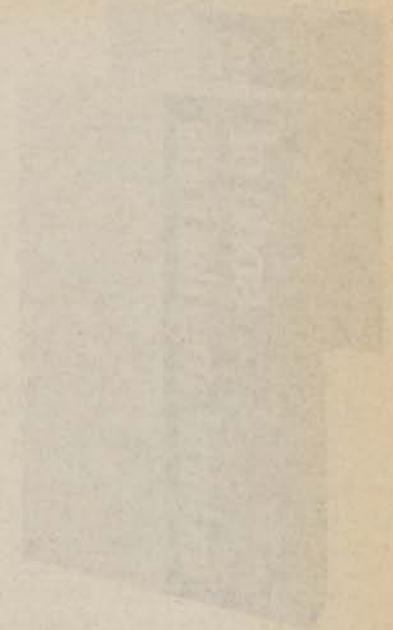




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