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Thursday
January 5, 1984

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Agricultural Marketing Service

Air Pollution Control
Environmental Protection Agency

Anchorage Grounds
Coast Guard

Animal Drugs
Food and Drug Administration

Authority Delegations (Government Agencies)
Food And Drug Administration

Banks, Banking
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Endangered and Threatened Species
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Freedom of Information
Federal Energy Regulatory Commission

Hazardous Substances
Coast Guard

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

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Presidential Documents

Title 3—

The President

Proclamation 5143 of January 3, 1984

Alaska Statehood Day, 1984

By the President of the United States of America

A Proclamation

The Territory of Alaska was admitted to the Union on January 3, 1959, as the forty-ninth State. In the twenty-five years since then, the sturdy inhabitants of our largest State have continued with distinction the work of developing this vast storehouse of abundant resources, while preserving its special environment. As a result of their efforts, Alaska now produces one-eighth of the Nation's gold, one-fifth of its petroleum, and two-fifths of its harvested fish. Ten of the sixteen strategic minerals vital to our Nation's security are produced in Alaska. The millions of dollars worth of minerals, forest and food products, and energy resources produced each year have long since repaid many times over the $7,000,000 paid by the United States to purchase Alaska in 1867.

The people of Alaska constitute a special resource, one which has made possible the wise use of all the other abundant resources of this important State. Native Alaskans and immigrants from every State, as well as foreign countries, have worked together to build the cities, pipelines, rail, water, air, and ground transportation facilities which are the basis of Alaska's prosperity. Their hard work and dedication are an example to the rest of our people as we work to maintain America's greatness.

In recognition of the importance of Alaska's people and its scenic and natural resources to the United States and in honor of the twenty-fifth anniversary of the admission of Alaska into the Union, the Congress, by Senate Joint Resolution 42, has authorized and requested the President to proclaim January 3, 1984, as "Alaska Statehood Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim January 3, 1984, as Alaska Statehood Day and call upon the people of the United States and the Federal, State, and local governments to observe that day with appropriate ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of Jan., in the year of our Lord nineteen hundred and eighty-4, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-385
Filed 1-4-84; 10:38 am]
Billing code 3195-01-M

Rules and Regulations

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII and Parts 720, 722, 735, 750, 790, 791, 792, and 793

Redesignation of CFR Chapters Assigned to National Credit Union Administration

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule; redesignation of sections.

SUMMARY: The NCUA Board has voted to redesignate some of the parts in Title 12 of CFR that are reserved to it. The basic breakdown will be into those regulations affecting credit unions and those that effect NCUA only. This is being done to simplify the ability of credit unions to locate those parts of the regulations that affect only them.

EFFECTIVE DATE: January 5, 1984.

ADDRESS: National Credit Union Administration 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Todd Okun, Assistant General Counsel, at the above address or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: The NCUA Board, in order to simplify for credit unions the locating of relevant rules and regulations, has voted to redesignate 12 CFR 700, *et seq.* into two divisions: Parts 700–789 are to be parts affecting only credit unions and Parts 790–799 are to be parts affecting only the internal operations of NCUA.

Regulatory Procedures

The NCUA Board has determined that because this action is non-substantive in nature, consideration of the Financial Regulatory Simplification Act, the Regulatory Flexibility Act and the Paperwork Reduction Act are unnecessary.

Authority: 12 U.S.C. 1766(a) and 1789(a)(11).

Accordingly, 12 CFR Parts 700, *et seq.* is amended as follows:

1. Parts 700 through 789 are designated "Subchapter A: Regulations Affecting Credit Unions."
2. Parts 790 through 799 are designated "Subchapter B: Regulations Affecting the Operations of the National Credit Union Administration."
3. Part 720, "Description of Offices, Disclosure of Official Records, Availability of Information," is redesignated as Part 790.
4. Part 722, "Rules of Board Procedure," is redesignated as Part 791.
5. Part 735, "Employee Responsibility and Conduct," is redesignated as Part 792.
6. Part 750, "Tort Claims Against the Government," is redesignated as Part 793.

By the National Credit Union Administration Board.

Rosemary Brady,
Secretary NCUA Board.

[FR Doc. 84–31 Filed 1–4–84; 8:45 am]
BILLING CODE 7535–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 453

Trade Regulation Rule; Funeral Industry Practices

AGENCY: Federal Trade Commission.

ACTION: Staff Compliance Guidelines.

SUMMARY: The staff of the Federal Trade Commission publishes the first stage of its staff compliance guidelines for the Funeral Rule. The staff is publishing these guidelines to provide assistance to industry members regarding areas in which the staff believes that guidance should prove most helpful to industry members. The views expressed in the guidelines are those of the staff only. They have not been approved or adopted by the Commission and they are not binding on the Commission. However, the guidelines will serve as enforcement criteria for the staff in assessing compliance with the trade regulation rule.

DATE: Effective January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis Rose, 202–376–3478, or Raouf M. Abdullah, 202–376–2820, Attorneys, Federal Trade Commission, Division of Enforcement, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

Compliance Guides

I. Introduction

These interpretive guidelines describe certain provisions of the Federal Trade Commission's trade regulation rule on funeral industry practices,[1] which was promulgated on September 24, 1982.[2] The Funeral Rule is scheduled to become effective on two different dates. Thoses portions of the Funeral Rule which prohibit certain oral or written misrepresentations will become effective on January 1, 1984.[3] Those portions of the Funeral Rule which impose an affirmative obligation upon funeral providers (i.e., price lists, itemization, telephone disclosures, written disclosures) will take effect on April 30, 1984.[4]

These compliance guidelines cover only those Rule provisions which become effective on January 1, 1984. A second set of compliance guidelines, covering those provisions of the Rule which become effective on April 30, 1984, will be issued at a later date. These guidelines neither amend nor modify the Funeral Rule. The staff is publishing these guidelines to provide assistance to industry members in understanding the Commission's Rule and complying with its obligations.

The views expressed in the guidelines are those of the staff only; they have not been approved or adopted by the Commission and they are not binding on the Commission. However, the guidelines will serve as enforcement criteria for staff in assessing compliance with the Commission's Funeral Rule.

These guidelines explain, section by section, the provisions of the Rule which become effective on January 1, 1984.

[1] 16 CFR Part 453.

[2] 47 FR 42260.

[3] The Rule provisions which are scheduled to become effective on January 1, 1984 are appended as Attachment A to these guidelines. The applicable sections are: 453.1, 454.3(a)(1)(i), 453.3(a)(2)(i), 453.3(b)(1)(i), 453.3(c)(1)(i), 453.3(d)(1), 453.3(e), 453.3(f)(1)(i), 453.8, and 453.9. 48 FR 45537 (October 6, 1983).

[4] The Rule provisions which are subject to the extension of the effective date are: 453.2, 453.3(a)(1)(ii), 453(a)(2)(ii), 453(b)(1)(ii), 453.3(b)(2), 453.3(c)(1)(ii), 453.3(c)(2), 453.3(d)(2), 453.3(f)(1)(ii), 453.3(f)(2), 453.4, 453.5, 453.6, 453.7, and 453.10.

Included in the discussion of each Rule provision are illustrations of how the Rule will operate in specific fact situations which may arise in the ordinary course of business for many funeral providers. The guidelines cover those areas in which guidance should prove most helpful to industry members. If you have further questions regarding the Rule, they will be handled informally by the staff, or if appropriate by the Commission, as provided for in Sections 1.1 through 1.4 of the Commission's Rules of Practice.

II. Who must comply with the Rule?

A. *Generally.* Anyone who is a "funeral provider" is covered by the Funeral Rule and must comply with all of its requirements. The Rule defines a "funeral provider" as "any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public." Only those who sell or offer to sell *both* funeral goods *and* funeral services are covered.

Funeral goods and funeral services are separately defined by the Rule. Funeral goods consist of all products sold to the public for use in connection with funeral services. Funeral services consist of two types of functions:

1. Those services used to care for and prepare human bodies for burial or other disposition; and
2. Those services used to arrange, supervise or conduct the funeral or disposition.

Both types of services must be performed in order to come within the definition of "funeral services."

Thus, in order to be classified as a funeral provider and therefore be covered by the Rule, you must sell funeral goods *and* provide services to care and prepare remains for disposition *and* provide services to arrange, supervise or conduct the final disposition.

Illustration #1: You operate a traditional funeral home selling various caskets, burial clothes and/or alternative containers. In addition, you consult with the family and clergy, arrange and direct the ceremony, prepare and file required notices, and/or coordinate with the cemetery or crematory. Other services you provide include embalming, facilities for viewing, and/or preparation of the body for disposition. Are you covered by the Rule?

Yes. You are a funeral provider as defined by the Rule. The sale or offering for sale of caskets, burial clothes and/or alternative containers meets the definition of funeral goods. In addition, the professional services you offer include both care for and preparation of human bodies for burial or other disposition, and also arrangement, supervision or conducting of the funeral and/or disposition.

Illustration #2: You have a traditional funeral practice in that you sell various funeral goods, prepare remains and arrange for final dispositions. However, you have separately incorporated the sale of funeral goods from the provision of funeral services. Are you covered by the Rule?

Yes. Under these circumstances, you must comply with the Rule because as a person who sells funeral goods and funeral services you meet the definition of a funeral provider.

Illustration #3: You have a traditional funeral practice in that you sell various funeral goods, prepare remains and arrange for final dispositions. A consumer wants you to arrange a funeral but is providing his own casket and does not want to purchase any other funeral goods from you. Is this transaction covered by the Rules even though you are not selling funeral goods to this particular consumer?

Yes. If you sell or offer to sell funeral goods and funeral services you must comply with the Rule's provisions for every consumer, even for those consumers who wish to purchase only goods or only services.

Illustration #4: You have a traditional funeral practice in that you sell various funeral goods, prepare remains and arrange for final dispositions. Rather than maintaining your own casket selection room, you use a manufacturer's showroom to sell caskets. Are you covered by the Rules?

Yes. You are selling or offering to sell funeral goods and funeral services and therefore must comply with the Rule's provisions. This is true even though you are utilizing a manufacturer's showroom to sell caskets. Although the casket manufacturer is not covered by the Rule, as discussed in Illustration No. 5 below, you still meet the definition of a funeral provider and must comply with the Rule.

Illustration #5: You are a casket salesman or a person selling caskets or coffins or kits to make caskets. Are you covered by the Rule?

No. Casket salesmen and others, if they only sell caskets, coffins or casket kits and provide no services relating to disposition, are not covered under the Rule. They are only providing funeral goods. They must also provide funeral services in order to be covered.

Illustration #6: You operate a cemetery and want to know if you must comply with the Rule. Your cemetery sells outer burial containers and grave liners. Are you covered by the Rule?

No. Under the Rule's definitions, although you sell funeral goods, you would *not* be considered a funeral provider since you only arrange or conduct final dispositions and do not prepare remains for final dispositions. Thus, a cemetery generally only performs one of the functions included in "funeral services." It would have to provide *both* in order to be covered under the Rule.

Illustration #7: Is a cemetery which also operates a funeral home covered under the Rule?

Yes. All funeral providers are covered by the Rule even those which are operated by a cemetery. As long as you provide funeral goods and services, you must comply with the Rule's requirements.

Illustration #8: You operate a direct disposition company which arranges for direct cremations and sells urns for cremated remains. Are you covered by the Rule?

Yes. In this situation, the Rule would cover the direct disposition company. The company is selling funeral goods (i.e., urns) and provides funeral services in that it cares for and prepares the bodies for the direct cremation *and* arranges the final disposition.

Illustration #9: Same situation as above except that your direct disposition company does not sell urns or any other funeral goods. Are you still covered?

No. In this situation, the direct disposition company would not be covered since it provides *only* mortuary and disposition services. To be covered by the Rule, you must provide both funeral goods *and* funeral services.

Illustration #10: Are crematories which sell urns and provide services to care for and prepare human bodies for final disposition covered by the Rule?

Yes. In this situation, the crematory meets the definition of a funeral provider. It sells funeral goods and conducts the disposition, thereby satisfying the supervisory prong of the definition of a funeral provider. In addition, the crematory in this illustration provides those services used to care for and prepare human bodies for final disposition. However, if the crematory did not provide services to care for and prepare human bodies for final disposition, it would not be covered by the Rule. In the case of a crematory, final disposition would be the cremation.

B. *Pre-Need Contracts Negotiated After Effective Date of Rule.* The Rule's coverage does extend to funeral providers who sell pre-need contracts after the effective date of the Rule. That

means that you must comply with all the relevant portions of the Rule when you discuss pre-need arrangements with consumers.

Illustration #1: You operate a traditional funeral home. After the Rule becomes effective, a family enters your establishment to pre-plan their funeral arrangements. Does the Rule apply?

Yes. The Rule applies in both pre-need and at-need circumstances. Therefore, you must comply with all of the relevant portions of the Rule when you discuss funeral arrangements.

Illustration #2: Same circumstances as above, but you sell pre-need contracts door to door, rather than solely in your establishment. Does the Rule apply?

Yes. The Rule requires funeral providers to comply whenever consumers inquire about funeral goods and services. Thus, the obligation of a funeral provider to comply with the Rule is not limited to discussions within the funeral home. If you visit a consumer, knowing that you are going to discuss pre-need arrangements, you should be prepared to comply with the Rule.

Illustration #3: You sell pre-need contracts to consumers at their residences on behalf of several funeral homes. You do not yourself, however, operate an establishment that provides funeral goods and services. Does the Rule apply?

Yes. In such a situation, you are an agent of a funeral provider. Therefore, you should be prepared to comply with the Rule.

C. *Pre-Need Contracts Negotiated Prior to Effective Date of Rule.* The Funeral Rule's coverage does not extend to pre-existing contracts such as pre-need arrangements or burial insurance policies payable in funeral goods and services.

Illustration #1: Before the Rule becomes effective, a consumer makes a pre-need arrangement with your funeral home for specific funeral goods and services. The consumer dies after the Rule goes into effect and the consumer's spouse comes to you to have you provide exactly those goods and services specified in the pre-need contract. Under these circumstances, is the transaction covered by the Rule?

No. In this situation, if you are fulfilling the obligations under a pre-existing contract, the provisions of the Rule would not apply.

Illustration #2: Same situation as Illustration #1 except that the spouse wants to upgrade the funeral arrangements specified in the pre-need contract. Does the Rule apply?

Yes. In this situation the spouse presumably intends to spend additional money for the additional funeral arrangements and has asked about funeral arrangements. Therefore, the provisions of the Rule would apply because the funeral provider is offering additional funeral goods and services.

III. What Representations are Prohibited? Section 453.3

The requirements of this section state that you can not make any misrepresentations when you sell or offer to sell funeral goods or services to consumers in six specific areas which are described below.

A. *Representations Concerning Embalming: Section 453.3(a).* This provision prohibits you from telling consumers that state or local law requires you to embalm the remains whenever that is not true. Consequently, you may not tell a consumer that you are required to embalm under any of the following circumstances, *unless state or local law requires it:*

(1) When the consumer wishes to have a *direct cremation;*

(2) When the consumer wishes to have an *immediate burial;*

(3) When the remains are placed in a sealed casket;

(4) If refrigeration is available *and* there is to be a funeral with no viewing or visitation *and* there is to be a closed casket.

Illustration #1: A family wants you to arrange for a funeral involving an immediate burial with no viewing. Can you tell the family that embalming is required?

No. Unless there is some state or local law that requires it, you may not make any representation to this family that embalming is required.

Illustration #2: Your establishment has refrigeration facilities available. The law in your jurisdiction states that if there is no burial or cremation within two days of the date of death, the remains must be either embalmed or refrigerated. A family comes to your funeral home and wants you to plan a funeral for them. There is to be no viewing, but the burial will not take place until three days after the person died. Can you tell the family that embalming is required?

Yes, but only if you told them that refrigeration is an option. However, if the state law referred to embalming only, and did not list refrigeration as an option, the Rule would not be violated if you told the family that embalming was required by law.

Illustration #3: A family comes to your funeral home and wants you to plan a funeral for them. Under the particular circumstances, the law does not require that the body be embalmed. The family requests that there be no viewing, that the remains be placed in a sealed casket, and requests two days of visitation. Can you represent to the family that embalming is required?

No. Under these circumstances you may not represent to the family that embalming is required because the remains have been placed in a sealed casket.

Illustration #4: Your state law provides that whenever a person has died of certain highly contagious diseases, such as diptheria, smallpox or malaria, the remains must be embalmed. A family comes to your establishment to arrange a funeral service for someone who died of smallpox. Can you represent to the family that embalming is required?

Yes. In this situation, you may inform the family that because of the precise circumstances, embalming is required by law.

Illustration #5: A family enters your establishment and wants to arrange for a funeral with a formal viewing. The funeral is to occur two days after the death has occured. In your jurisdiction, there is no law or regulation that requires embalming. Can you tell the family that embalming is required?

Yes. You may *not* tell the family that the *law* requires embalming since that is not the case. However, in this situation, even though there is no *legal* requirement that the body be embalmed, the Rule allows you to tell the family that embalming is a *practical* necessity to delay decomposition of the remains and to preserve them for viewing.

Illustration #6: A family enters your establishment and wants to arrange an immediate burial with no formal viewings. However, before burial, a family member wants to look at the body by lifting the lid of the unsealed casket. In your jurisdiction, there is no law or regulation that requires embalming. Can you tell the family that embalming is required?

No. You may not tell the family that the law requires embalming since that is not true. The fact that a family member wants to look at the remains does not constitute a formal viewing which would enable you to tell the family that embalming is required.

B. *Representations Concerning Caskets for Cremations: Section 453.3(b).* This provision prohibits you from telling consumers that state or local law requires them to purchase a casket when they wish to arrange for a direct cremation. The Rule defines a "direct cremation" as one that occurs without any formal viewing of the

remains or any visitation or ceremony with the body present.

Illustration #1: A family enters your establishment and wants to arrange for a funeral involving a direct cremation. This is one of the services that your establishment provides. Can you represent that a casket is required by law?

No. You may not make any representation to the family that either state or local law requires them to purchase a casket.

Illustration #2: A family wants to arrange for a funeral involving a direct cremation. This is not a service that your establishment provides. Can you tell them that the law requires them to buy a casket in such circumstance?

No. You may *not* make any statement that caskets are required by law for direct cremations.

C. *Representations Concerning Outer Burial Containers: Section 453.3(c).* This provision states that you may not tell consumers that state or local laws or regulations require the purchase of an outer burial container if that is not true; or that a particular cemetery requires an outer burial container, if that is not true. However, if the *cemetery* imposes such a requirement, you may explain this fact to the family.

Illustration #1: A family wants you to arrange a funeral involving a ground burial. No state or local laws or regulations require the purchase of an outer burial container. Moreover, there is no requirement in the cemetery that the family has chosen that an outer burial container be used. Can you represent that an outer burial container is required?

No. In this instance, you may not tell the family that an outer burial container is required by any state or local law or regulation, or by the cemetery in question.

Illustration #2: A family wishes to arrange a funeral with a ground burial. No state or local law or regulation requires outer burial containers. However, the cemetery that the family has chosen requires that the casket be placed in a rigid outer container. Can you represent that an outer burial container is required?

Yes. In this instance, you may tell the family that the cemetery requires the outer burial container.

D. *Representations Concerning Legal and Cemetery Requirements: Section 453.3(d).* This provision states that you may not tell consumers that federal, state or local law requires them to buy a particular funeral good or funeral service if that is not true. You also may not tell consumers that a particular crematory or cemetery requires them to buy a particular good or service if in fact there are no such requirements.

Illustration #1: The law in your state requires that if you are going to ship the remains into another state, you must place those remains in a sealed casket. A family asks you to arrange a funeral and requests that you ship the remains to another state for burial. Can you inform them that they must buy a sealed casket under these circumstances?

Yes. In this instance, the law requires you to use a sealed casket. Because of these legal requirements, you may inform the family that there are certain purchases that they must make.

Illustration #2: A family enters your establishment and asks you to arrange a funeral with burial in a local cemetery. The cemetery does not require any particular funeral goods for burial. Can you inform the family that the cemetery requires them to buy a specific type of sealed casket under these circumstances?

No. You may not tell consumers that a particular cemetery requires them to buy a particular good or service if in fact there are no such requirements.

E. *Representations Concerning Preservative and Protective Value Claims: Section 453.3(e).* This provision states that you may not tell consumers that any funeral goods or funeral services will delay the natural decomposition of the deceased for a long-term or indefinite time. You also may not state that funeral goods will protect the deceased from gravesite substances when that is not the case.

While the Rule flatly prohibits representations that any funeral goods or services will delay the decomposition of the deceased for a long-term or indefinite time, the Commission recognizes that it is possible that some funeral goods or services may delay decomposition for a short period of time. However, a funeral provider can not say that any goods or services will delay natural decomposition after burial when such is not the case.

Illustration #1: A family asks you to arrange a funeral with a full service and a viewing of the remains. After the service, there is to be a ground burial. Can you tell the family that embalming will temporarily preserve the body to make it suitable for viewing?

Yes. In this situation, you may, if you want, explain to the family that embalming will temporarily preserve the body to make it suitable for viewing. However, you may not make any statement to them that embalming has any preservative effect other than a temporary one.

Illustration #2: Same situation as above, except that the family now wants to discuss the purchase of a casket or outer burial container. Can you tell the family that these goods will delay the natural decomposition of the deceased for a long-term or indefinite time?

No. In explaining the properties of either of these items you may not tell the family that they can delay the natural decomposition of the remains for a long-term or indefinite period of time. You also may not state that either the casket or the vault will protect the body from air, dirt, water or other gravesite substances when such is not the case.

Illustration #3: Same situation as above. The manufacturer of the casket or burial vault states in the warranty that it will preserve the body for a period longer than five years. Must you make the warranty available to the family?

Yes. Existing federal law requires you to make all warranty information available to the consumer. This means that you must allow the family to read any of the manufacturer's warranties. However, you must disclose the warranty information without adopting as your own, any statement that you know to be a violation of the Rule. You may, if you wish, inform the family that while the manufacturer has made certain statements about the product that you are required to disclose, you do not have personal knowledge of the preservative value of the merchandise that enables you to state that it has a preservative value after burial.

F. *Representations Concerning Cash Advances: Section 453.3(f).* This provision states that you may not tell consumers that the price that you charge them for a cash advance item is the same price that you paid for it, when such is not the case. A cash advance item is any item which you describe to purchasers as a cash advance, accommodation, cash disbursement, or any similar terms.

The Rule does *not* prevent you from adding a service charge nor does it require you to disclose the amount of that charge. Moreover, there is no restriction on how much you may charge.

Illustration #1: A family asks you to arrange a funeral and asks for flowers as part of the service. You obtain the flowers from the florist and pay $50.00 for them and charge the family $75.00. Can you tell the family that the amount you are charging them is the same

amount that you paid for the flowers?

No. You may not represent to the family in any way that the cost to you for obtaining the flowers is the same as the amount that you are charging them.

Illustration #2: Same situation as above except that, instead of adding a service charge to the cost of the flowers, you charge the same amount that you paid for them but receive a trade or volume discount at the end of the year. Can you tell the family that the amount you are charging them for the flowers is the same amount that you paid?

No. You may not represent to the family in any way that the cost to you for obtaining the flowers is the same as the amount that you are charging them. As before, there is no requirement that you disclose the *amount* of that discount or rebate to the consumer.

IV. What Are the State Exemption Provisions of the Rule? Section 453.9

The Rule provides that it will not be in effect in a state to the extent specified by the Commission where:

(1) Application for an exemption is made by a state;

(2) There is a state requirement in effect which applies to any transaction to which the Rule applies; and

(3) The state requirement provides an overall level of protection which is as great as, or greater than, the protection afforded by the Rule.

If an exemption is granted, it shall be in effect only for so long as the state administers and enforces effectively the state requirement. During the exemption proceeding, the FTC Rule will remain in effect.

The Commission will issue guidelines regarding procedures for exemption proceedings at a later date. However, in the interim, the Commission will accept petitions from those states wishing to apply for an exemption.

Illustration #1: You are a funeral provider in a state which has a state requirement in effect which applies to the same transactions to which the Rule applies. The state requirement provides an overall level of protection which is as great as, or greater than, the protection afforded by the Rule. Can you file a state exemption petition?

No. The Rule provides that applications for exemption be made by state governmental agencies. Therefore, funeral providers or trade associations may not file for statewide exemption.

List of Subjects in 16 CFR Part 453

Funerals, Trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

Funeral Rule Provisions Which Become Effective on January 1, 1984

The following rules were originally published at 47 FR 42299, September 24, 1982. They are being republished without change for the convenience of the user.

§ 453.1 Definitions.

(a) *Accounting year.* "Accounting year" refers to the particular calendar year or other one year period used by a funeral provider in keeping financial records for tax or accounting purposes.

(b) *Alternative container.* An "alternative container" is a non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of cardboard, pressed-wood, composition materials (with or without an outside covering) or pouches of canvas or other materials.

(c) *Cash advance item.* A "cash advance item" is any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities and death certificates.

(d) *Casket.* A "casket" is a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, or like material, and ornamented and lined with fabric.

(e) *Commission.* "Commission" refers to the Federal Trade Commission.

(f) *Cremation.* "Cremation" is a heating process which incinerates human remains.

(g) *Crematory.* A "crematory" is any person, partnership or corporation that performs cremation and sells funeral goods.

(h) *Direct cremation.* A "direct cremation" is a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

(i) *Funeral goods.* "Funeral goods" are the goods which are sold or offered for sale directly to the public for use in connection with funeral services.

(j) *Funeral provider.* A "funeral provider" is any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public.

(k) *Funeral services.* "Funeral services" are any services which may be used to care for and prepare deceased human bodies for burial, cremation or other final disposition; and arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

(l) *Immediate burial.* An "immediate burial" is a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present, except for a graveside service.

(m) *Outer burial container.* An "outer burial container" is any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

(n) *Person.* A "person" is any individual, partnership, corporation, association, government or governmental subdivision or agency, or other entity.

(o) *Services of funeral director and staff.* The "services of funeral director and staff" are the services, not included in prices of other categories in Section 453.2 (b)(4) which may be furnished by a funeral provider in arranging and supervising a funeral, such as conducting the arrangements conference, planning the funeral, obtaining necessary permits and placing obituary notices.

(p) *Unfinished wood box.* An "unfinished wood box" is an unornamented casket made of wood which does not have a fixed interior lining

§ 453.3 Misrepresentations.

(a) *Embalming provisions.*

(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local law requires that a deceased person be embalmed when such is not the case.

(2) *Preventive requirements.* To prevent these deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in Sections 453.4(b)(1) and 453.5(2), funeral providers must:

(i) Not represent that a deceased person is required to be embalmed for

direct cremation, immediate burial, a funeral using a sealed casket, or if refrigeration is available and the funeral is without viewing or visitation and with a closed casket when state or local law does not require embalming.

(b) *Casket for cremation provisions.* (1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local law requires a casket for direct cremations.

(c) *Outer burial container provisions.*—(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods and funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local laws or regulations, or particular cemeteries, require outer burial containers when such is not the case.

(d) *General provisions on legal and cemetery requirements.* (1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for funeral providers to represent that Federal, State, or local laws, or particular cemeteries or crematories, require the purchase of any funeral goods or funeral services when such is not the case.

(e) *Provisions on preservative and protective value claims.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(1) Represent that funeral goods or funeral services will delay the natural decomposition of human remains for a long-term or indefinite time;

(2) Represent that funeral goods have protective features or will protect the body from gravesite substances when such is not the case.

(f) *Cash advance provisions.*—(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that the price charged for a cash advance item is the same as the cost to the funeral provider for the item when such is not the case.

§ 453.8 Declaration of intent.

(a) Except as otherwise provided in Section 453.2(a), it is a violation of this rule to engage in any unfair or deceptive acts or practices specified in this rule, or to fail to comply with any of the preventive requirements specified in this rule;

(b) The provisions of this rule are separate and severable from one another. If any provision is determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

(c) This rule shall not apply to the business of insurance or to acts in the conduct thereof.

§ 453.9 State exemptions.

If, upon application to the Commission by an appropriate State agency, the Commission determines that:

(a) There is a State requirement in effect which applies to any transaction to which this rule applies; and

(b) That State requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this rule; then the Commission's rule will not be in effect in that State to the extent specified by the Commission in its determination, for as long as the State administers and enforces effectively the State requirement.

[FR Doc. 84-162 Filed 1-4-84; 8:45 am]

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16 CFR Part 453

Trade Regulation Rule Concerning Funeral Industry Practices; Change in Effective Date

AGENCY: Federal Trade Commission.

ACTION: Change in effective date.

SUMMARY: The effective date for § 453.3(b)(1)(ii) of the Federal Trade Commission's Trade Regulation Rule for Funeral Industry Practices, 16 CFR Part 453, is postponed from January 1, 1984 until April 30, 1984. This section of the Rule prohibits funeral providers from representing that a casket (other than an unfinished wood box) is required for direct cremations. It is intended to operate in conjunction with § 453.4(a) of the Rule which prohibits funeral providers from requiring consumers to purchase a casket, other than an unfinished wood box, for direct cremations, if they arrange direct cremations. Because § 453.4(a) of the Rule has been stayed until April 30, 1984, the Commission has determined that a prohibition on statements by funeral providers that a casket is required for direct cremations would be inequitable.

FOR FURTHER INFORMATION CONTACT: Lewis Rose, 202-376-3478, or Raouf M. Abdullah, 202-376-2820, Attorneys, Federal Trade Commission, Division of Enforcement, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On September 24, 1982, the Commission published in the **Federal Register** a final Trade Regulation Rule for Funeral Industry Practices, 16 CFR Part 453.[1] Thereafter, the Rule was subject to Congressional review, which terminated on May 15, 1983, with neither House of Congress having passed a resolution of disapproval. On June 6, 1983, the Commission established an effective date for the Rule of January 1, 1984.[2] Subsequently, the Commission in response to petitions filed by two industry trade associations, announced its decision to postpone the effective date of portions of the Rule until April 30, 1984.[3] However, those parts of the Rule requiring only that funeral providers refrain from specified oral or written misrepresentations are scheduled to become effective on January 1, 1984, as previously determined.

The Commission has decided to stay the effective date of § 453.3(b)(1)(ii) of the Rule until April 30, 1984. This section of the Rule prohibits funeral providers from representing that a casket (other than an unfinished wood box) is required for direct cremations. It is intended to operate in conjunction with § 453.4(a) of the Rule which prohibits funeral providers from requiring consumers to purchase a casket, other than an unfinished wood box, for direct cremations, if they arrange direct cremations. Because § 453.4(a) of the Rule has been stayed until April 30, 1984, the Commission has determined that a prohibition on statements by funeral providers that a casket is required for direct cremations would be inequitable.

Accordingly, § 453.3(b)(1)(ii) of the Rule has been stayed until April 30, 1984.

List of Subjects in 16 CFR Part 453

Funerals, Trade practices.

By Direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-34853 Filed 12-30-83; 4:30 pm]

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[1] 47 FR 42260 (September 24, 1982).

[2] 48 FR 25274 (June 6, 1983).

[3] 48 FR 45537 (October 6, 1983).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154 and 271

[Docket No. RM80-47-002; Order No. 94-E]

Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978; Clarification of Final Rule

December 29, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to clarify how § 271.1104(e) of its regulations, pertaining to retroactive collection of delivery and compression allowances under section 110 of the Natural Gas Policy Act of 1978 by sellers of natural gas subject to the Commission's jurisdiction under the Natural Gas Act apply to § 154.94(k) of its regulations, the blanket affidavit section. The amendment clarifies that sellers of such natural gas who file a blanket affidavit under § 154.94(k) may retroactively collect delivery compression allowances as provided in § 271.1004(e).

EFFECTIVE DATE: March 17, 1983.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stosser, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8033

Louis J. Engel, Federal Energy Regulatory Commission, Office of Producer and Pipeline Regulation, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8667

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending § 154.94(k) of its regulations to clarify how § 271.1104(e) of the Commission's regulations, pertaining to retroactive collection of delivery and compression allowances under section 110 of the Natural Gas Policy Act of 1978 (NGPA),[1] is affected by the Commission's blanket affidavit procedure in § 154.94(k).

II. The Problem

A. Retroactive Collection of Delivery and Compression Allowances

On July 25, 1980, the Commission issued Order No. 94,[2] amending interim regulations implementing section 110 of the NGPA.[3] That order defined production-related activities, established allowances for those activities, and set out an application procedure for prospective collection of the allowances. However, because of the complexity involved in determining an allowance for two types of production-related costs, gathering and compression, the Commission believed they should be established generically. Therefore, it suspended all applications for those allowances and instituted a rulemaking proceeding to develop those allowances.[4] However, the Commission indicated that a retroactive collection procedure would be provided under which the allowance for gathering and compression costs determined under the generic rulemaking would be applied to costs incurred with respect to gas delivered on or after the date of issuance of Order No. 94, July 25, 1980, or earlier if a seller has filed an application for those allowances, provided that collection of such costs is contractually authorized.[5]

With respect to collecting delivery and compression allowances, in Order No. 94-A, the Commission developed special rules in § 271.1104(e) designed to compensate a first seller who had incurred delivery or compression costs under the terms of its contract in reliance on statements in Order No. 94 that sellers would be able to retroactively collect delivery [6] and compression allowances. The "retroactive collection period" is specifically defined as "prior to March 7, 1983 but after the earlier of July 25, 1980, or the date on which the seller filed an application with the Commission to recover the costs." [7] In order to retroactively collect an allowance for the delivery and compression costs, § 271.1104(e) provides that a first seller must have had the contractual authority to do so; that any collection must be offset by any amounts collected for delivery or compression during the retroactive collection period; and that the collection of the generic allowances must be pro-rated over time.

B. Blanket Affidavit Procedure

In addition to the authorization of retroactive recovery of delivery and compression allowances, the Commission set up procedures for collection of all production-related cost allowances under NGPA section 110. Those selling natural gas that is still subject to the Commission's jurisdiction under the Natural Gas Act,[8] however, must make certain rate filings in order to collect the allowances, and the blanket affidavit provision in § 154.94(k) was added to provide a simple means of fulfilling the requirement of sections 4, 5 and 7 of the Natural Gas Act.[9] Under that provision, a first seller that has met the eligibility requirements necessary in order to collect a production-related cost allowance, as set out in § 271.1104, may file a blanket affidavit indicating its intention to collect the production-related allowance applicable to its sale.

In order to provide eligible sellers with the opportunity to collect the allowances beginning on the effective date of the order, the Commission established a two-month grace period. Therefore, an affidavit filed on or after March 7, 1983, but not later than May 6, 1983, will be effective for deliveries beginning on March 7, 1983. However, an affidavit filed after May 6, 1983, will be effective on the date of filing with respect only to deliveries beginning on and after the date of filing.

III. Clarification

It has come to the Commission's attention that the language in the blanket affidavit rule in § 154.94(k) can be interpreted to preclude retroactive collection of delivery and compression allowances under § 271.1104(e) for pre-March 7, 1983, costs. Because the regulation reads that "an affidavit * * * shall become effective *with respect to deliveries beginning on March 7, 1983*" (emphasis added), it can be read to preclude deliveries beginning prior to that date.

Section 154.94(k) merely marks the date from which a seller, if eligible, may

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[1] 15 U.S.C. 3301-3432 (Supp. V 1981).

[2] Order No. 94, "Interim Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy under the Natural Gas Act," issued July 25, 1980, Docket No. RM80-47 (45 FR 53,099 (Aug. 11, 1980)) [hereinafter cited as *Order No. 94*].

[3] "Interim Regulations Implementing the Natural Gas Policy Act," issued December 1, 1978, Docket No. RM79-3 (43 FR 56, 448 (Dec. 1, 1978)).

[4] On December 16, 1980, the Commission issued a notice of inquiry, Docket Nos. RM80-73 and RM80-74 (45 FR 84,814 (Dec. 23, 1980)). On January 24, 1983, the Commission issued an interim rule establishing allowances (48 FR 5,190 (Feb. 3, 1983)). On September 27, 1983, the Commission issued a final rule that amended and clarified the interim rule (48 FR 44,495 (Sept. 29, 1983)).

[5] Order No. 94, *supra* note 1, and Order No. 94-A, "Final Rule and Order On Rehearing: Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," (48 FR 5,152 (Feb. 3, 1983)), Docket No. RM80-47-002, issued January 24, 1983, [hereinafter cited as *Order No. 94-A*]

[6] "Delivery" is defined as gathering and transportation. *See* 18 CFR 271.1104(c)(3) (revised 1983).

[7] *See* 18 CFR 271.1104(e)(1).

[8] 15 U.S.C. 717-717w (1976 and Supp. V 1981). *See* 15 U.S.C. 3431 (Supp. V 1981), for categories of gas covered.

[9] Order No. 94-A, *supra*, note 5, at 5,170-171.

begin to collect production-related cost allowances under a blanket affidavit. In other words, a qualifying first seller who filed a timely affidavit by May 6, 1983, could collect production-related costs incurred on and after March 7, 1983, the effective date of Order No. 94–A. Because of the Commission's promise in Order No. 94, however, the situation is somewhat different with respect to production-related cost allowances for delivery and compression. The Commission, therefore, wishes to make clear that, by filing an affidavit on or before May 6, 1983, a first seller becomes eligible to collect for deliveries and compression retroactively as of March 7, 1983, for the retroactive collection period subject to the conditions in § 271.1104(e).

Nevertheless, there are certain similarities in the tratment of all production-related costs for the period after March 7, 1983. A qualifying first seller who filed a late affidavit after May 6, 1983, may only begin to collect any production-related cost allowance prospectively from the date of that affidavit. This is also the case with respect to delivery and compression allowances for sales of gas after March 7th. With respect to those costs, a first seller is also denied collection for costs between the date of that affidavit and March 7, 1983. This does not, however, alter the seller's right to collect retroactively for delivery and compression costs incurred during the retroactive collection period.

The Commission amends the regulations slightly to reflect this clarification.

IV. Effective Date

Inasmuch as this amendment effects no substantive change in the rule but is necessary only for proper implementation, the Commission finds that public notice and comment is unnecessary under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553 (1976)). For the same reasons, the amendment is being made effective as of March 7, 1983, the date the original regulations became effective.

List of Subjects in 18 CFR Parts 154 and 271

Natural gas.

In consideration of the foregoing, Parts 154 and 271 of Title 18 Code of Federal Regulations, are amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PARTS 154 AND 271—[AMENDED]

1. The authority citations for Parts 154 and 271 are revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w, Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432, Department of Energy Organization Act, 42 U.S.C. 7101–7352, Executive Order 12009, 3 CFR, 1977 Comp., p. 142.

2. In § 154.94(k)(4), the first sentence is revised to read as follows:

§ 154.94 Changes in rate schedules.

* * * * *

(k) *Affidavit to collect production-related costs.* * * *

(4) *Effective date of coverage under affidavit.* Except as otherwise permitted for delivery and compression allowances under § 271.1104(e), an affidavit filed under this paragraph by May 6, 1983, shall become effective with respect to deliveries beginning on March 7, 1983; an affidavit filed under this paragraph after May 6, 1983, shall become effective on the date of filing with respect to deliveries beginning on and after the date of filing. * * *

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[FR Doc. 84–220 Filed 1–4–84; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Parts 271 and 274

[Docket No. RM83–3–001; Order No. 336–A]

Reduction in Filing Requirements for Well Category Applications Under Sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978

Issued December 29, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing, making clarifications and technical conforming amendments to final rule.

SUMMARY: On September 27, 1983 the Federal Energy Regulatory Commission (Commission) issued Order No. 336, a final rule that amended Parts 271 and 274 of its regulations relating to filing requirements for well category determinations under the Natural Gas Policy Act of 1978 (NGPA).

In this order, the Commission denies rehearing of petitioner's request to permit one application for a section 107(c)(1) deep, high-cost gas determination to cover natural gas produced from any completion location in the wellbore below 15,000 feet. In addition, this order clarifies the regulations implementing sections 102 and 108 and makes technical conforming changes to the Commission's regulations.

EFFECTIVE DATE: December 29, 1983.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rizzo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

Order Denying Rehearing and Making Clarifications and Technical Conforming Amendments To Final Rule

Issued December 29, 1983.

I. Introduction

On September 27, 1983 the Commission issued Order No. 336, a final rule that amended Parts 271 and 274 of its regulations relating to filing requirements for well category determinations under the Natural Gas Policy Act of 1978. The Commission received one petition for rehearing from Getty Oil Company. This order denies that petition. In addition, this order clarifies the regulations implementing sections 102 and 108 and makes certain technical conforming amendments to §§ 274.202 and 274.206.

II. Petition for Rehearing

In Order No. 336, the Commission amended § 274.205 to permit an application for a section 107(c)(1) deep, high-cost gas determination to cover natural gas produced from the completion location identified in the application and any deeper completion location. On October 27, 1983, the Commission received a timely petition for rehearing of that order from Getty Oil Company.[1] The petition requests the Commission to reconsider its decision to restrict the original application for determination to the completion location identified and any deeper completion locations. Getty requests that the Commission amend its regulations to permit the original application to cover *all* completion locations below 15,000 feet, and contends the Commission has no factual or policy reasons for limiting this rule to completion locations deeper than the original completion location.[2]

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[1] Order No. 336 covered two docket numbers: RM83–3–000 and RM81–12–000. The petition for rehearing filed by Getty Oil Company is a request for a rehearing of the issues in Order No. 336 associated with Docket No. RM83–3–000 only.

[2] On November 3, 1983, Getty filed a petition for rehearing of the Commission's declaratory order issued October 4, 1983, in Docket No. GP82–46–000. In that order the Commission determined that the Commission's regulations required a new determination for each uphole completion in a section 107(c)(1) deep gas well. This petition for rehearing is still pending at the Commission.

Getty's factual argument asserts that the same documentary evidence is used to establish the depth of a completion location regardless of its relationship to other completion locations in the same wellbore. Hence, the Commission does not need to review this documentary evidence for completion locations above the original completion location and below 15,000 feet (hereinafter referred to as "uphole completions").

The Commission permitted the original application to cover any subsequent deeper completion location because the deeper completion location necessarily satisfied the "deep gas" definition. Specifically, the Commission could be assured that the completion location was below 15,000 feet, since the original completion location depth had been verified in the original determination.

In considering whether to include "uphole completions" in this application for determination, the Commission specifically rejected this option and Getty's argument in the final rule. Since there is no assurance that an "uphole completion" will be completed below 15,000 feet, there is no basis to determine that the completion location satisfies the statutory criteria. As stated in the final rule: "[t]he filing requirements established in the regulations for these 'uphole completions' are necessary to enable the jurisdictional agencies to verify that the completion location is below 15,000 feet. The jurisdictional agency must review the well completion report and relevant portions of the well log to corroborate the depth of the completion location." [3]

Getty's second argument states that there is no policy reason for the Commission to require a separate determination for "uphole completions." Getty notes that as a practical matter, most deep gas wells will first be completed in the deepest location and subsequently be recompleted in a completion location above this deepest completion location.

The purpose of the final rules adopted in Order No. 336 was to reduce filing burdens by eliminating those applications that were not necessary to support the substantial evidence standard in section 503 of the NGPA. The Commission determined that when a producer recompleted uphole of the original completion location, the depth of this completion location must be reviewed by the jurisdictional agency to establish the substantial evidence requirement in the NGPA. Accordingly, Getty's petition is denied for the above stated reasons and the reasons set forth in the final rule.

III. Technical, Conforming Amendments to Regulations

The Commission adopted a final rule in § 271.805(e)(2) requiring the purchaser (or operator) to provide the operator (or purchaser) with a copy of its petition for a determination under § 271.806 or a copy of the motion contesting the disqualification or requalification of a stripper well. This rule removed the requirement that a copy of this petition or motion be filed with the jurisdictional agency or the Commission.

The final rule inadvertently retained the portion of the oath statement in § 274.206 that stated a copy of the petition or motion was filed with the jurisdictional agency and the Commission. The Commission is, therefore, removing these words from the oath statement to conform with the rule adopted in Order No. 336.

In addition, the final rule did not amend the reference to § 274.202(e) in § 274.202(b). Since old paragraph (e) was renumbered paragraph (d), this reference should be § 274.202(d).

IV. Clarification of OCS and Stripper Well Regulations

The Commission has received several informal inquiries concerning the stripper well regulations adopted by the Commission in Order No. 336.[4] These inquiries address the issue of whether the Commission intended to permit a well that received a section 108 determination and subsequently disqualified before December 7, 1983, the effective date of Order No. 336, to be eligible for the section 108 stripper well price if the well subsequently requalified according to the regulations adopted in Order No. 336.

The Commission intended the disqualification and requalification rules adopted in Order No. 336 to apply not only to any well that receives an affirmative determination on or after December 7, 1983 but also to any well that received an affirmative section 108 determination prior to December 7, 1983, regardless of whether that well subsequently disqualified as a stripper well prior to that date. The Commission's intent in adopting these procedures in Order No. 336 was to require only one determination for a stripper well. Thus, the rules in Order No. 336 are applicable to stripper wells that disqualify or disqualify and requalify, provided they have received an affirmative section 108 determination.

The Commission notes, however, that even though a new application need not be filed for a stripper well that was disqualified prior to December 7, 1983, the rule does not permit collection of the stripper well price for gas produced from a disqualified well before the effective date of the rule. Hence, the rule does not effect the refund obligation a producer may have incurred prior to December 7, 1983, if that producer collected the section 108 price during the period the well was disqualified or during the period the well produced within the stripper well limitation if a new application was not filed.

Finally, in Order No. 336, the Commission adopted a new procedure for determinations of gas produced from a new OCS lease under section 102(c)(1)(A) of the NGPA. Under this procedure, the jurisdictional agency (U.S. Department of the Interior, Minerals Management Service (MMS)) may file one notice of determination for all new natural gas on new OCS leases by submitting the lease number, area and block number, and the date the OCS lease was issued by the Secretary of the Interior. In addition, the Commission permitted MMS to file a blanket notice of determination to cover new leases that were issued prior to the effective date of the rule.[5] The Commission stated in the preamble that "[a]ny gas produced from a well drilled on a new lease included in this blanket notice would be eligible for the section 102 maximum lawful price beginning on the date the blanket notice is filed at the Commission."[6] Because MMS submitted its blanket notice to the Commission prior to the effective date of this rule, the Commission is clarifying that gas produced from a well drilled on a new lease included in the blanket notice is eligible for the section 102 rate beginning on December 7, 1983, the effective date of Order No. 336, unless a separate application for determination for a well was previously filed.

List of Subjects in 18 CFR Part 274

Natural gas, Wage and price controls.

In consideration of the foregoing, the Commission orders:

(A) The petition for rehearing of Order No. 336 is denied; and

[3] 48 FR 44,508, 44,515 (September 29, 1983) (Order No. 336).

[4] The Commission also has received a request from Dorchester Oil and Gas Company for an official interpretation from the General Counsel concerning these stripper well regulations. (Request for Interpretation, Dorchester Gas Producing Company, December 2, 1983.)

[5] Pursuant to § 274.104(c), the blanket notice filed by the MMS is a notice of determination and therefore is subject to the 45-day determination review period in § 275.202.

[6] 48 FR 44508, 44510 (September 29, 1983).

(B) The regulations in Part 274, Subchapter H, Chapter I, Title 18, Code of Federal Regulations are amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 274—[AMENDED]

1. The authority citation for Part 274 is revised to read as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); E.O. 12009, 3 CFR 142 (1978), unless otherwise noted.

§ 274.202 [Amended]

2. Sections 274.202 (b)(1)(v), (b)(1)(vi), (b)(2)(iv), and (b)(2)(v) are amended by removing the reference to "§ 274.202(e)" and inserting, in its place, "§ 274.202(d)".

§ 274.206 [Amended]

3. In § 274.206,

A. Paragraphs (c)(6), (d)(5), and (e)(7)(iii) are amended by removing the words "the jurisdictional agency, the Commission, and"; and

B. Paragraph (f)(5) is amended by removing the words "on the Commission and".

[FR Doc. 84–219 Filed 1–4–84; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 282

[Docket No. RM80–18–001]

Treatment Under the Incremental Pricing Program of Natural Gas Used in the Manufacturing Process for Fertilizer, Agricultural Chemicals, Animal Feed, or Food; Order Denying Rehearing

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order denying rehearing.

SUMMARY: On September 24, 1981, the Federal Energy Regulatory Commission (Commission) issued Order No. 177 (46 FR 50060, October 9, 1981), a final rule that exempted from incremental pricing the boiler fuel use of natural gas by the fertilizer, agricultural chemicals, animal feed and food industries. The Commission issued the final rule pursuant to its exemptive authority under section 206(d) of the Natural Gas Policy Act of 1978. The Commission received one application for rehearing of the final rule. For the reasons discussed in this order and in the final rule, the Commission denies rehearing of the final rule.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

Order Denying Rehearing

Issued: December 29, 1983.

I. Introduction

On September 24, 1981, the Federal Energy Regulatory Commission (Commission) issued Order No. 177 (46 FR 50060, October 9, 1981), a final rule amending the Commission's regulations on incremental pricing under Title II of the Natural Gas Policy Act (NGPA) (15 U.S.C. 3301–3432). The rule, which became effective on November 1, 1981, provides an exemption from incremental pricing surcharges for natural gas used as boiler fuel in the manufacture of fertilizer, agricultural chemicals, animal feed or food, until such time as the Commission determines that there is an alternative fuel that is economically practicable and reasonably available.

The Commission issued the final rule pursuant to its authority under section 206(d) of the NGPA. Section 206(d) authorizes the Commission to issue a rule or order, providing for the exemption, "in whole or in part, of any other incrementally priced industrial facility or category thereof."

On October 23, 1981, the Process Gas Consumers Group, the American Iron and Steel Institute, and the Georgia Industrial Gas Group (Groups) jointly filed an application for rehearing of Order No. 177. On November 20, 1981, the Commission granted the application for rehearing of Order No. 177 solely for purposes of further consideration. For the reasons discussed below and in Order No. 177, the Commission denies the application for rehearing.

II. Discussion

In the application for rehearing, the Groups argue that there was no basis for the policy decision in Order No. 177 to exempt from incremental pricing the boiler fuel use of natural gas in the manufacture of fertilizer, agricultural chemicals, animal feed or food. The application accordingly requests that the Commission revoke the exemption by rescinding the final rule.

The Groups argue that the exemption granted by Order No. 177 is contrary to Congressional intent in the NGPA. Section 206(b)(3)(B) of the NGPA includes as agricultural uses that are exempt from incremental pricing only the process and feedstock uses of gas by the fertilizer, agricultural chemicals, animal feed or food industries. The Groups assert that the Commission's use of legislative history as support for the exemption that goes beyond the uses defined in section 206(b)(3)(B) is inappropriate because the statute is clear and unambiguous in excluding the boiler fuel use of gas by these enumerated industries.

The Commission disagrees that its discussion of the legislative intent is inappropriate. Section 206(b) excludes the boiler fuel use of natural gas by the four industries from qualifying for an exemption as an *agricultural use*. On the other hand, the exemption granted by Order No. 177 was issued under section 206(d) of the NGPA.

Section 206(d) confers on the Commission broad discretion to issue exemptions in addition to those specifically enumerated in paragraphs (a)–(c) of that section. Section 206(d) allows the Commission to exempt, in whole or in part, "any other incrementally priced industrial facility or category thereof." This exemptive authority was intended to maximize the Commission's discretion in administering the incremental pricing program. The preamble to the final rule discusses the scope of this exemptive authority and cites *Ohio Association of Community Action Agencies v. Federal Energy Regulatory Commission (Ohio Association)*, 654 F.2d 811 (D.C. Cir. 1981), in support of the Commission's use of its exemptive authority in this proceeding.[1] In *Ohio Association*, the court said that the Commission is to use this exemptive authority " 'flexibly' to accomplish other purposes talked about in the legislative history—to prevent individual hardship, to protect essential process uses of natural gas, * * * [and] to introduce a measure of stability in the market * * *" [2]

In considering whether to issue the proposed exemption using its section 206(d) authority, the Commission reviewed the relevant legislative history and concluded that the exemption "appears to be consistent with Congressional intent to single out generally [the agricultural] industry for preferred treatment in connection with incremental pricing." [3]

The Groups further allege that Order No. 177 is violative of the spirit of the decision of the United States Court of Appeals for the District of Columbia Circuit in *Process Gas Consumer's Group v. United States Department of Agriculture (Process Gas)*, 657 F.2d 459

[1] 46 FR 50061.

[2] 654 F.2d at 824–825.

[3] 46 FR 50063.

(D.C. Cir 1981). They cite the *Process Gas* case as further support for their argument that the Commission cannot justify the special exemption for these uses on the grounds that they are deserving of the same special treatment which the NGPA accords to agricultural uses because the "agricultural use" class defined by Congress in Title II specifically excludes these boiler fuel uses of natural gas. The Groups also allege that the Commission did not sufficiently distinguish the *Process Gas* decision from the policy decision in Order No. 177.

The Commission does not accept this argument. The applicants' reliance on the *Process Gas* decision in this proceeding is inappropriate. That decision was reached in the context of Title IV of the NGPA, not Title II, and the issue in *Process Gas* is unrelated to the issue in this proceeding.

Title IV sets forth a system of priorities of natural gas allocation during periods of gas shortages. The highest curtailment priority category includes gas used in residences, hospitals, and similar facilities. The second priority consists of those uses of natural gas certified by the Secretary of Agriculture as "essential agricultural uses" of natural gas pursuant to section 401(f)(1) of the NGPA. The definition of "essential agricultural uses" in section 401(f)(1) is similar to the definition of "agricultural use" in section 206(b)(3). Sections 206(b)(3)(B) and 401(f)(1)(B) both include the use of natural gas as a "process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food."

The issue in *Process Gas* was whether the Secretary had the authority to define the term "process fuel" as used in section 401 so as to include in Priority 2 some boiler fuel uses of natural gas by the enumerated industries. The court held that the Commission, not the Secretary, has the explicit responsibility for defining technical terms used in the NGPA, and that, for purposes of section 401(f)(1)(B), process fuel does not mean boiler fuel. Hence, it has been argued that, because the language of sections 401(f) and 206(b) are similar, the Commission is prohibited from exempting these boiler fuel uses of natural gas from incremental pricing.

In this proceeding, however, the exemption was not issued pursuant to the Commission's authority under section 206(b) to define agricultural uses of natural gas. Rather, as previously noted, the Commission used its authority under section 206(d) of the NGPA to exempt the boiler fuel use of natural gas by the industries enumerated in section 206(b)(3)(B). Section 206(d) gives the Commission broad discretion to provide for the exemption from incremental pricing of industrial uses of natural gas not specifically exempted elsewhere in Title II.

The Groups object to the discussion in the preamble relating to the price impact that the imposition of incremental pricing surcharges on the boiler fuel use of natural gas by the fertilizer, agricultural chemicals, animal feed or food industries would have on the agricultural sector.[4] They argue that the impact estimates cannot reasonably be relied on to grant exemption relief to the enumerated industries.

The Commission disagrees. All the information submitted by commenters was thoroughly evaluated by the Commission. Based upon this information, it appeared that agricultural production would be furthered by granting the exemption. Although the applicants apparently object to this appraisal, they simply restate arguments that have been raised previously by some of the commenters, and do not present any data that were not part of the record and available to the Commission when it issued the exemption in Order No. 177.

Moreover, as fully discussed in Order No. 177, the Commission's decision to exempt the boiler fuel use of natural gas by the fertilizer, agricultural chemical, animal feed or food industries was not based solely upon a consideration of price impact. For example, the Commission was aware that, "by defining agricultural use as it did, Congress delineated a class of uses that merited special treatment under Title II of the NGPA."[5] The Commission also considered the vital relationship of these industries to agricultural production, as well as relevant legislative history and the extent of the Commission's authority under section 206(d) of the NGPA.

While the Groups raise other arguments in their application for rehearing, the Commission believes that further discussion of these issues here would serve no purpose because they were considered by the Commission and adequately discussed in Order No. 177.

The Commission Orders

Accordingly, for the reasons discussed above and in the preamble to the final rule, the Commission denies the application for rehearing of Order No. 177.

List of Subjects in 18 CFR Part 282

Natural gas.

[4] 46 FR 50062.

[5] 46 FR 50060.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, 15 U.S.C. 3301-3434)

By the Commission. Commissioner Richard concurred with a separate statement attached.

Kenneth F. Plumb,

Secretary.

Richard, Commissioner, Concurring

Issued December 29, 1983.

On December 1, 1983, the Commission issued a Notice of Proposed Rulemaking dealing with Phase II of the Incremental Pricing program.[1] In that Notice, the Commission recognized the changes in natural gas marketing conditions in recent years and noted that Phase I of the program has been "unable to achieve its intended market-ordering function in the face of those conditions." [2] The Commisson further noted that negotiations between pipelines and producers "hold more promise of restoring gas markets to balance than an artificial mechanism such as Phase II of incremental pricing." [3] For these reasons the Commission proposed not to implement a Phase II rule.

Given this de-emphasis on incremental pricing, the question of whether or not fertilizer manufacturers should receive a discretionary exemption from the program no longer has much significance. Accordingly, I see no reason not to concur in the Commission's decision to deny rehearing in the instant docket. Were incremental pricing to become a meaningful factor in the Commisson's deliberations on natural gas market ordering, I would want to reconsider the arguments raised by the Process Gas Consumers Group.

Oliver G. Richard III,

Commissioner.

[FR Doc. 84-217 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 25 FERC ¶ 61,368.

[2] *Id., slip op.* at 8.

[3] *Id., slip op.* at 10.

RAILROAD RETIREMENT BOARD

20 CFR Part 341

Statutory Lien Where Sickness Benefits Paid

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board hereby amends Chapter II of Title 20 of the Code of Federal Regulations by adding a new Part 341, Statutory Lien Where Sickness Benefits Paid. Section

12(o) of the Railroad Unemployement Insurance Act provides that sickness benefits shall be payable to an individual for days of sickness regardless of the liability of any person for the infirmity for which the benefits are paid. However, that section also provides that the Board is to be reimbursed by means of a statutory lien, for the sickness benefits actually paid from any sum or damages paid or payable to the individual by reason of the infirmity.

The new Part 341 explains when a lien is established under section 12(o) of the Railroad Unemployment Insurance Act, and how the amount of the lien is determined, what procedures must be followed by the Board in establishing the lien, and how the lien may be satisfied. In addition, the new Part 341 establishes procedures to be followed by the Board in terminating sickness benefits where it has been reported to the Board that the beneficiary has recovered through settlement or judgment any sum or damages for the same injury or sickness for which sickness benefits under the Railroad Unemployment Insurance Act have been paid.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Walter Witkovich, Bureau of Unemployment and Sickness Insurance, Railroad Retirement Board, 844 Rush Street, Room 600, Chicago, Illinois 60611, (312) 751–4810, (FTS 387–4810).

SUPPLEMENTARY INFORMATION: Part 341 was published as a proposed rule in the **Federal Register** on November 10, 1980 (40 FR 74510), with a request for comments from the public. The Board received two comments from the public concerning the proposed rule. The first comment concerned sections 341.6 and 341.8 and requested that additional language be added to those sections to make it clear that sickness benefits would not be terminated before entry of a final judgment. Concern was expressed that the wording in the proposed rule might permit termination where a judgment has been appealed and where any damages awarded might never be paid or would be delayed for an extended period. The Board agrees with this comment and has added language to the two sections to make it clear that benefits will not be terminated until notice of settlement or *final* judgment. The second comment suggested deletion of the authority provided in section 341.9 for the Board to intervene in actions for damages under certain circumstances. The Board considered this comment and determined that the authority to intervene should be retained since intervention has been necessary to protect the Board's interest in certain instances in the past.

The new Part 341 is not a major rule under Executive Order 12291 and no regulatory analysis is required. The information collections associated with this regulation have been approved by the Office of Management and Budget.

List of Subjects in 20 CFR Part 341

Railroad employees, Railroad unemployment insurance, Unemployment compensation.

Title 20, Chapter II of the Code of Federal Regulations is amended as follows:

1. A new Part 341 is added to Subchapter C to read as follows:

PART 341—STATUTORY LIEN WHERE SICKNESS BENEFITS PAID

Sec.

341.1 Lien.
341.2 Sum or damages paid or payable.
341.3 Notice of lien.
341.4 Information required to be furnished by the employee.
341.5 Amount of reimbursement.
341.6 Report of settlement or judgment.
341.7 Liability on Board's claim.
341.8 Termination of sickness benefits due to a settlement.
341.9 Board as a party; attorney's fee.

Authority: Sec. 323, Pub. L. 79–572, 60 Stat. 740, 741 (45 U.S.C. 362(o)).

§ 341.1 Lien.

After notice in accordance with this part, the Board shall have a lien upon any sum or damages paid or payable to an employee based upon an infirmity for which the employee received sickness benefits.

§ 341.2 Sum or damages paid or payable.

(a) The term "sum or damages paid or payable" means the amount of money that an employee recovers because of any claim of liability based upon his or her injury or illness.

(b) The term "sum or damages paid or payable" does not include:

(1) An amount specified in a settlement or award as payment for any loss of property, or the amount of a settlement or award specifically apportioned as pay for lost time.

(2) An amount paid as a result of a lawsuit based on wrongful death.

(3) Workers' compensation payments.

(4) "No-Fault" personal-injury protection benefits or any other benefits paid under a health, sickness, accident or similar insurance policy carried by an employee.

(5) Payments made to an employee under the terms of his or her insurance policy providing for payment of all amounts that the employee is legally entitled to recover for bodily injury from the owner or operator of an uninsured motor vehicle.

§ 341.3 Notice of lien.

(a) *Notice to alleged tortfeasor.* The Board shall mail a "Notice of Lien" to each person or company identified as liable or potentially liable for causing the employee's infirmity. The "Notice of Lien" will notify the person or company of the Board's right to reimbursement. The notice shall include:

(1) The employee's name, address and social security number;

(2) The date and place of the accident; and

(3) The employee's occupation, if injured on duty.

(b) *Notice to employee.* A notice regarding repayment of sickness benefits shall be sent to an employee who names a party other than a railroad as the alleged tortfeasor.

(c) *Notice of amount of lien.* The amount of the Board's lien shall be reported, upon request, to a railroad or other person or company that may be liable for paying damages, or to the employee, or to an attorney representing any of those parties. The amount of the lien shall be reported whether or not the terms of a settlement have been agreed upon. When requested, a list showing the sickness benefits paid for each claim period may be furnished.

§ 341.4 Information required to be furnished by the employee.

(a) When applying for sickness benefits, an employee shall report the name and address of the person or company, if any, who is alleged to have caused his or her infirmity. The employee shall also provide whatever other details are reasonably needed so that the Board may establish its lien.

(b) The employee shall, upon request, tell the Board whether and from whom he or she has collected any damages for the infirmity.

§ 341.5 Amount of reimbursement.

(a) The Board shall receive as reimbursement the lesser of:

(1) The amount of sickness benefits paid to the employee for the infirmity for which he or she recovers any sum or damages; or

(2) The net amount of the sum or damages paid to the employee for the infirmity, after substracting the amount of the expenses listed in paragraph (b) of this section.

(b) The expenses that may be subtracted from the amount of damages recovered are:

(1) The medical and hospital expenses that the employee incurred because of his or her injury. These expenses are deductible even if they are paid under an insurance policy covering the employee or are covered by his or her membership in a medical or hospital plan or association. But such expenses are not deductible if they are not covered by insurance or by membership in a medical or hospital plan or association and are consequently paid by a railroad or other person directly to the doctor, clinic or hospital that provided the medical care or services.

(2) The cost of litigation. This includes both the amount of the fee to which the attorney and the employee have agreed and the other expenses that the employee incurred in the conduct of the litigation itself.

§ 341.6 Report of settlement or judgment.

(a) When a person or company makes a settlement or must satisfy a final judgment based on an injury for which the employee received sickness benefits, the person or company shall notify the Board of the settlement or judgment. That notice shall be in writing and submitted within five days of the settlement or final judgment. That notification shall contain:

(1) The amount of the settlement or final judgment;

(2) The date of the settlement or final judgment; and

(3) The amount withheld from the settlement or final judgment to satisfy the Board's lien.

(b) Payment of the amount due the Board shall be delivered to the Board within 30 days after the date of the settlement agreement or the entry of final judgment.

(c) If the damages payable are to be paid directly to the court to satisfy a final judgment, thus making it impossible for the person or company to remit the amount of reimbursement due the Board, the person or company shall immediately notify the Board of the situation.

§ 341.7 Liability on Board's claim.

(a) A person or company paying any sum or damages to an employee who has received sickness benefits from the Board shall, upon receipt of notice as provided in § 341.3(a), be liable to the Board for the amount of reimbursement computed under § 341.5. This liability may be relieved by either:

(1) Withholding the amount reimbursable to the Board from the sum or damages payable to the employee, and subsequently paying that amount to the Board; or

(2) Including the United States Railroad Retirement Board as a payee on the check or draft along with the employee and any others who have an interest in the damages.

(b) If the person or company paying the damages does not protect the Board's lien or attempts to protect the Board's lien in some manner other than those described in paragraph (a), that person or company shall remain liable to the Board until the Board is reimbursed in full.

§ 341.8 Termination of sickness benefits due to a settlement.

(a) Sickness benefits payable to an eligible employee shall be paid without regard to whether any person or company may be liable for causing the employee's infirmity. However, the Board will terminate the payment of sickness benefits upon receipt of an oral or written report that a settlement or final judgment for the infirmity has been made.

(b) A report of settlement shall be made to the Division of Claims Operations, Bureau of Unemployment and Sickness Insurance, and shall include the information required in § 341.6. Where the report is an oral report, and the informant is neither the employee not his or her representative, the informant shall be told that written confirmation containing the information called for by § 341.6 must be submitted to the Board within five days from the date of the oral report.

(c) If, in the case of an oral report, the written confirmation as described in paragraph (b) of this section is not received within five days, the Division of Claims Operations shall take steps within five additional working days to verify whether there has been a settlement or final judgment. If there has been no settlement or final judgment, the payment of sickness benefits shall be reinstated.

(d) Within five days of the notification of a settlement or final judgment, the Board shall inform the employee of the report of the settlement or final judgment. The notice to the employee shall state how the employee may inform the Board that there has not been a settlement or final judgment. If the employee states that there has not been a settlement or final judgment, the adjudicating office shall, within 10 days after the receipt of such a statement, make a determination as to the employee's rights to future sickness benefits and shall notify him or her accordingly.

(e) An employee shall have the right to appeal from the determination of the amount of sickness benefits recoverable for the settlement or judgment.

An employee shall also have the right to appeal the termination of his or her sickness benefits after the report of a settlement or final judgment made in accordance with the procedures provided in paragraphs (b), (c) and (d) of this section. Such appeals shall be filed and processed in accordance with Part 320 of these regulations.

§ 341.9 Board as a party; attorney's fee.

(a) The Board shall not participate in the prosecution of a personal-injury claim of an employee eligible for sickness benefits and shall neither encourage nor discourage such employee with respect to the pursuit of a claim for damages.

(b) The Board shall not be a party in any action for damages brought by an employee claiming sickness benefits under the Railroad Unemployment Insurance Act. The Board's right of reimbursement under section 12(o) of the Railroad Unemployment Insurance Act shall not be construed as giving the Board a right of subrogation or other cause of action for damages against an alleged tortfeasor. The Board shall intervene in such an action only when it is apparent that intervention may be required to protect its right of reimbursement.

(c) The Board shall not be liable for the payment of any attorney's fee or other expenses incurred in connection with such a claim for damages.

By Authority of the Board.

Dated: December 1, 1983.

For the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 84-17 Filed 1-4-84; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Imports

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to imports to redelegate additional authorities to the delegates.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: Section 5.45(a) and (b) (21 CFR 5.45(a) and (b)) is being amended to authorize the officials delegated authority under those paragraphs to designate officials to determine whether food, drugs (including biological products), devices, or cosmetics imported or offered for import are in compliance with Federal Food, Drug, and Cosmetic Act (FFDCA), to authorize relabeling or other compliance actions to bring articles into compliance under the FFDCA, to refuse admission of noncomplying electronic products and notify the Secretary of the Treasury of such refusal under the Public Health Service Act (PHSA), and to refuse or grant permission and time extensions to bring noncomplying products into compliance with the PHSA.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended by revising § 5.45(a) and (b) to read as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

§ 5.45 Imports and exports.

(a) The Regional Food and Drug Directors, District Directors, and Chiefs of Station Offices are authorized, under section 801 of the Federal Food, Drug, and Cosmetic Act (FFDCA), to perform the following functions or to designate officials to:

(1) Request from the Secretary of the Treasury samples of food, drugs (including biological products), devices, or cosmetics imported or offered for import.

(2) Determine whether such articles are in compliance with the FFDCA.

(3) Authorize relabeling or other compliance actions to bring articles into compliance under the FFDCA.

(4) Supervise such compliance actions.

(d) The Director and Deputy Director, National Center for Devices and Radiological Health (NCDRH); the Director and Deputy Director, Office of Compliance, NCDRH; Regional Food and Drug Directors; District Directors; and Chiefs of Station Offices are authorized under section 360 of the Public Health Service Act (PHSA), to perform the following functions or to designate officials to:

(1) Request from the Secretary of the Treasury samples of electronic products imported or offered for import to determine whether such products are in compliance with the PHSA.

(2) Refuse admission of noncomplying products and notify the Secretary of the Treasury of such refusal.

(3) Supervise operations to bring noncomplying products into compliance under the PHSA.

(4) Refuse or grant permission and time extensions to bring noncomplying products into compliance with the PHSA in accordance with a corrective action plan approved by the Director, Office of Compliance, NCDRH.

* * * * *

Effective date. This regulation shall become effective January 5, 1984.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: December 29, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-163 Filed 1-4-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Gentamicin Sulfate Pig Pump Oral Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering Corp. providing for safe and effective use of gentamicin sulfate pig pump oral solution in neonatal swine for control and treatment of colibacillosis.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, filed NADA 130-464 providing for use of gentamicin sulfate pig pump oral solution (4.35 milligrams of gentamicin per milliliter) for control and treatment of colibacillosis caused by strains of *E. coli* sensitive to gentamicin.

The NADA is approved and the regulations are amended to reflect this approval. The basis of approval is discussed in the freedom of information summary referred to below.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefor will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 520

Animal drugs, Oral.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by redesignating § 520.1044 as § 520.1044a and by adding new §§ 520.1044 and 520.1044b, to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1044 Gentamicin sulfate oral dosage forms.

§ 520.1044b Gentamicin sulfate pig pump oral solution.

(a) *Specifications.* Each milliliter of pig pump oral solution contains gentamicin sulfate equivalent to 4.35 milligrams of gentamicin.

(b) *Sponsor.* See No. 000085 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.300 of this chapter.

(d) *Conditions of use*—(1) *Amount.* Administer 1.15 milliliters of pig pump oral solution (5 milligrams of gentamicin) orally per pig one time.

(2) *Indications for use.* In neonatal swine 1 to 3 days of age for control and treatment of colibacillosis caused by strains of *E. coli* sensitive to gentamicin.

(3) *Limitations.* For use in neonatal swine only. Do not slaughter treated swine for food for at least 14 days following treatment.

Effective date. January 5, 1984.

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

Dated: December 28, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84-156 Filed 1-3-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 876

[Docket No. 77P-0377]

Hedeco Health Development Corp.; Reclassification of Dissolvable Nasogastric Feed Tube Guide

AGENCY: Food and Drug Administration.

ACTION: Final rule; conforming amendment.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it issued an order in the form of a letter to a petitioner reclassifying the dissolvable nasogastric feed tube guide from class III (premarket approval) into class I (general controls). FDA also is issuing a final regulation that codifies the reclassification of the device. The effect of reclassifying a device into class I is to require that the device meet only the general controls applicable to all devices. If the device had remained classified in class III, each manufacturer of the device would have been required to submit to FDA for its approval an application for premarket approval. FDA reclassified this device in response to a petition from Hedeco Health Development Corp.

EFFECTIVE DATES: The reclassification was effective on January 23, 1978. This rule becomes effective February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Norman T. Welford, National Center for Devices and Radiological Health (HFK-420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

SUPPLEMENTARY INFORMATION: On April 27, 1977, Hedeco Health Development Corp., Mountain View, CA 94043, submitted to FDA, under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(2)), a petition requesting that a new device with the brand name "Keo-feed™ Tube Guide" be reclassified from class III into class I. The statute classified the device into class III because it was not substantially equivalent to a device in commercial distribution before enactment of the Medical Device Amendments of 1976 (Pub. L. 94-295). See 21 U.S.C. 360c(f)(1). FDA referred the petition to the General and Plastic Surgery Device Section (the Section) of the Surgical and Rehabilitation Devices Panel for a recommendation. The Section, which named the device the "dissolvable nasogastric feeding tube guide," recommended that the device be reclassified from class III into class I. The Section did not recommend that the device be exempted from certain requirements of section 510, 519, or 520(f) of the act, as provided in section 513(f)(2)(B)(ii) of the act.

The recommendation was based on the Section's belief that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. In a notice published in the **Federal Register** of December 13, 1977 (42 FR 62548), FDA announced the Section's recommendation and provided a period of 30 days for interested persons to submit to FDA written comments on the recommendation. No comments were received. FDA agreed with the Section's recommendation. In accordance with section 513(f)(2)(C)(i) of the act and 21 CFR 860.134(b)(6) of the regulations, FDA approved the petition and, by order in the form of a letter dated January 23, 1978 and sent to the petitioner, reclassified the device from class III into class I without exemptions.

At the time of the reclassification order, FDA intended to include the regulation describing the device's classification in the regulations classifying the general and plastic surgery devices. However, FDA now believes that the classification of the device should be codified with the regulations classifying gastroenterology-urology devices. FDA is treating the device reclassified into class I in response to the petition as an accessory to the generic type of device identified in § 876.5980 *Gastrointestinal tube and accessories* (Docket No. 78N-2072). (See the **Federal Register** of November 23, 1983; 48 FR 53012). Hence, FDA is amending 21 CFR 876.5980(b), the regulation that will govern the reclassified device, to make it conform to the reclassification decision on the accessory in question.

Accordingly, as required by 21 CFR 860.134(b)(7) of the regulations, FDA is codifying in its regulations the reclassification of a generic type of device FDA calls a dissolvable nasogastric feed tube guide from class III into class I without exemptions. Any device that FDA determines to be substantially equivalent to the dissolvable nasogastric feed tube guide also has been reclassified from class III into class I without exemptions.

After considering the economic consequences of this final rule describing FDA's earlier reclassification, FDA certifies that the final rule requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). This rule will not have a significant economic impact on a substantial number of small entities. The petitioner, and all future manufacturers of a dissolvable nasogastric feed tube guide, will be relieved of the costs of complying with the premarket approval requirements in section 515 of the act. There are no off-setting costs that the petitioner or other manufacturers would incur from reclassification into class I. The magnitude of the economic savings from approval of this petition depends on the extent of premarket approval studies that the petitioner would have conducted and the number of future competitors satisfying the same requirements. Neither of these parameters can be reliably calculated to permit quantification of the economic savings.

List of Subjects in 21 CFR Part 876

Medical devices, Gastroenterology-urology devices.

Therefore, Under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 876 is amended by revising § 876.5980, to read as follows:

PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

§ 876.5980 Gastrointestinal tube and accessories.

(a) *Identification.* A gastrointestinal tube and accessories is a device that consists of flexible or semi-rigid tubing used for instilling fluids into, withdrawing fluids from, splinting, or suppressing bleeding of the alimentary tract. This device may incorporate an

integral inflatable balloon for retention or hemostasis. This generic type of device includes the hemostatic bag, irrigation and aspiration catheter (gastric, colonic, etc.), rectal catheter, sterile infant gavage set, gastrointestinal string and tubes to locate internal bleeding, double lumen tube for intestinal decompression or intubation, feeding tube, gastroenterostomy tube, Levine tube, nasogastric tube, single lumen tube with mercury weight balloon for intestinal intubation or decompression, and gastro-urological irrigation tray (for gastrological use).

(b) *Classification.* (1) Class II (performance standards). (2) Class I (general controls) for the dissolvable nasogastric feed tube guide for the nasogastric tube.

Effective dates. This reclassification was effective January 23, 1978. This rule becomes effective on Febuary 6, 1984.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: December 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–157 Filed 1–4–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1 and 153

[CGD 83–009]

Delegation of Authority Under CERCLA

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These rules delegate authority to Coast Guard officials to perform pollution response functions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). This law provides authority to respond to releases of hazardous substances, pollutants, and contaminants into the environment. These delegations will allow field commands to respond rapidly to releases from vessels and facilities in the coastal zone.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Glenn A. Wiltshire; 202–426–9568.

SUPPLEMENTARY INFORMATION: Since these rules relate to agency management, procedure, and practice, notice and comment are unnecessary and they may be made effective upon publication in the **Federal Register.**

CERCLA (Pub. L. 96–510; 94 Stat. 2767; 42 U.S.C. 9601) provides authority to respond to releases of hazardous substances, pollutants, and contaminants into the environment. The President delegated to the Secretary of Transportation the authority under CERCLA to respond to releases in the coastal zone (E.O. 12316). The coastal zone is defined in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) at 40 CFR 300.6 (47 FR 31203). This zone includes all U.S. waters subject to the tide, U.S. waters of the Great Lakes, specified ports and harbors on the inland rivers, waters of the contiguous zone, other waters of the high seas subject to the NCP, and the land surface and land substrata, ground waters, and ambient air proximal to those waters.

The Secretary of Transportation redelegated to the Commandant authority under CERCLA to respond to releases and threats of releases from vessels and to take immediate removal action at facilities other than hazardous waste management facilities (49 CFR 1.46(gg)). The Commandant, by internal directive dated September 24, 1982, redelegated most of this authority to District Commanders and predesignated On-Scene Coordinators. The rules in this document set out the details of the delegation.

The rules include one additional delegation not included in the directive of September 24, 1982. The Chief, Office of Marine Environment and Systems at Coast Guard Headquarters is delegated authority to take remedial action involving vessels. This authortity is being retained in Coast Guard Headquarters because of coordination required with the Environmental Protection Agency (EPA) when carrying out responsibilities under this delegation.

These rules also include one modification to the directive of September 24, 1982. That directive allowed OSCs to take action that constituted intervention as long as it did not involve destroying a vessel. "Intervention" means detrimental action taken against the interest of a vessel or its cargo without the consent of the vessel's owner or operator. Section 1.01–70(f) of these rules reserves all intervention authority to the Commandant. The Commandant is reserving intervention authority because of the severe impact that its exercise can have on specific private interests. Also, this authority is complex in that it can be exercised under laws other than CERCLA. The other laws include the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321).

The Commandant is retaining CERCLA authority to (1) deny entry to and detain in port vessels that do not have certification of financial responsibility, (2) enter into contracts and cooperative agreements with States and political subdivisions for response actions, and (3) utilize emergency procurement powers. These authorities are being retained pending development of implementing regulations and procedures.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Penalties.

33 CFR Part 153

Hazardous substances, Oil pollution.

In consideration of the foregoing, Title 33, Code of Federal Regulations, is amended as follows:

PART 1—GENERAL PROVISIONS

1. A new § 1.01–70 is added to read as follows:

§ 1.01–70 CERCLA delegations.

(a) For the purpose of this section, the definitions in Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Pub. L. 96–510) apply. The Act is referred to in this section as CERCLA.

(b) The Chief, Office of Marine Environment and Systems, is delegated authority to take remedial action involving vessels under Section 104 of CERCLA.

(c) Each District Commander is delegated—

(1) Contract authority for the purpose of carrying out response actions pursuant to CERCLA sections 104(a), 104(b), 104(f), and 104(g), and consistent with each memorandum of Understanding between the Coast Guard and the Environmental Protection Agency (EPA) regarding CERCLA funding mechanisms; and

(2) Authority, pursuant to CERCLA section 106(a), to determine an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, and to secure such relief as may be necessary to abate such danger or threat through the United

States Attorney in the District where the threat occurs.

(d) Subject to paragraph (f) of this section, the provisions of Executive Order 12316 of August 14, 1981, and the provisions of 49 CFR 1.46(gg), each Coast Guard official predesignated as an On-Scene Coordinator by the applicable Regional Contingency Plan is delegated authority—

(1) Pursuant to sections 104(a), 104(b), and 104(c) of CERCLA and consistent with the National Contingency Plan, to remove or arrange for the removal of releases and threatened releases of (i) hazardous substances, and (ii) pollutants or contaminants which may present an imminent and substantial danger to the public health or welfare.

(2) Pursuant to section 106(a) of CERCLA, to issue orders to protect the public health and welfare and the environment whenever they determine that a release or threatened release of a hazardous substance from a facility may present an imminent and substantial endangerment to the public health or welfare or the environment; and

(3) Pursuant to section 104(e) of CERCLA, except for section 104(e)(2)(C), to enter establishments or other places where hazardous substances are or have been generated, stored, treated, disposed of, or transported from to inspect and obtain records, reports, samples, and information in support of response actions delegated under paragraphs (d)(1) and (d)(2) of this section.

(e) Coast Guard officials to whom authority has been delegated may redelegate and authorize successive redelegations of that authority within commands under their jurisdiction with the following exceptions:

(1) The authorities granted in paragraphs (c)(2) and (d)(1) of this section shall not be redelegated.

(2) The authority granted in paragraph (d)(2) of this section shall only be redelegated to commissioned officers.

(f) The response authority described in paragraph (d)(1) of this section does not include authority to—

(1) Summarily remove or destroy a vessel; or

(2) Take any other action that constitutes intervention under CERCLA, the Intervention on the High Seas Act (33 U.S.C. 1471 et. seq.), or other applicable laws. "Intervention" means any detrimental action taken against the interest of a vessel or its cargo without the consent of the vessel's owner or operator.

2. An authority citation for § 1.01–70 is added to read as follows:

(Pub. L. 96–510, 94 Stat. 2796 (42 U.S.C. 9615); E.O. 12316 (46 FR 42237); and 49 CFR 1.46(gg))

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

3. A new § 153.109 is added to read as follows:

§ 153.109 CERCLA delegations.

The delegations under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) are published in § 1.01–70 of this chapter.

4. An authority citation for § 153.109 is added to read as follows:

(Pub. L. 96–510, 94 Stat. 2796 (42 U.S.C. 9615), E.O. 12316 (46 FR 42237); and 49 CFR 1.46(gg))

Dated: December 29, 1983.

J. S. Gracey,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 84–272, Filed 1–4–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD3 82–036]

Drawbridge Operation Regulations; Passaic River, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Bergen, Hudson, and Essex Counties, New Jersey, the Coast Guard is changing the regulations governing the Jackson Street, Bridge Street, Clay Street, and Avondale bridges at various locations across the Passaic River. Notice of opening must be given prior to 2:30 a.m. for an opening from 3 a.m. to 8:30 a.m., and prior to 2:30 p.m. for an opening from 4:30 p.m. to 7 p.m. This change is being made because of the minimal number of openings requested during the effective hours, and because of the overall decrease in bridge openings since 1976. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on February 6, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668–7994.

SUPPLEMENTARY INFORMATION: On August 25, 1983, the Coast Guard published a proposed rule (48 FR 38654) concerning this amendment. The Commander Third Coast Guard District, also published this proposal as a Public Notice dated September 11, 1983. In each notice interested persons were given until October 11, 1983 to submit comments.

Drafting Information: The drafters of this rule are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Comments: No comments were received in response to either the Notice of Proposed Rulemaking or public notice on this action. Minimal impact is expected to occur as a result of these regulations because provisions have been made for openings during all hours of the day. No draft or final evaluation has been prepared because of minimal economic impact of these regulations. This is because no economic impact on existing operations will occur.

Economic Assessment and Certification: These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They 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 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Regulations: In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by renumbering § 117.200(a)(4)(i) through (viii) as (a)(4)(ii) through (ix) respectively, and adding a new § 117.200(a)(4)(i) to read as follows:

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, N.J., and their navigable tributaries; bridges

(a) * * *

(4) * * *

(i) Jackson Street Bridge, mile 4.6, Bridge Street Bridge, mile 5.6, Clay Street Bridge, mile 6.0 at Newark and Kearney, and Avondale Bridge, mile 10.7 at Lyndhurst, all crossing the Passaic River. The draws shall open on signal except that notice must be given prior to 2:30 a.m. for openings between 3:00 a.m. and 8:30 a.m., and notice must be given

prior to 2:30 p.m. for openings between 4:30 p.m. and 7:00 p.m. The bridges shall open at all times as soon as possible for passage of a public vessel of the United States.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: December 19, 1983.

W. E. Caldwell,

Vice Admiral, Coast Guard Commander, Third Coast Guard District.

[FR Doc. 84-252 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 153

[CGD 83-009A]

Delegation of Authority Under the FWPCA

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These rules delegate authority, with certain limitations, to designated Coast Guard officials to remove oil and hazardous substances that pose a substantial threat of discharge into U.S. waters, shorelines, or other prescribed areas. This authority was recently delegated to the Commandant. Existing rules provide delegated authority to respond only to actual discharges. This new delegation is needed to provide effective Coast Guard response to substantial threats of oil and hazardous substance discharges.

EFFECTIVE DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Glenn A. Wiltshire; 202-426-9568.

SUPPLEMENTARY INFORMATION: Since these rules relate to agency management, procedure, and practice, notice and comment are unnecessary and they may be made effective upon publication in the **Federal Register.**

Section 311(c)(1) of the Federal Water Pollution Control Act (FWPCA), Pub. L. 92-500; 86 Stat. 862; 33 U.S.C. 1321, provides authority to respond to discharges of oil and hazardous substances into navigable waters of the United States, adjoining shorelines, and into or upon the waters of the contiguous zone. This authority was delegated to the Secretary of Transportation in Executive Order 11735, and redelegated to the Commandant in 49 CFR 1.46(m). The Commandant delegated certain FWPCA authority to designated Coast Guard officials. This authority is set out in 33 CFR 153.105.

Section 311(c)(1) of the FWPCA was amended in 1977 to:

a. Authorize response to substantial threats of oil or hazardous substance discharges; and

b. Extend the area of jurisdiction to include discharges and threats of discharge—

(1) in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or

(2) which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States, including resources under the Fishery Conservation and Management Act of 1976.

The President delegated this expanded Section 311(c)(1) authority to the Secretary of Transportation in Executive Order 12418 of May 5, 1983 (48 FR 20891). The Secretary of Transportation redelegated this authority to the Commandant in 49 CFR 1.46(m) on September 27, 1983 (48 FR 44080).

Paragraphs § 105.105 (c), (d)(1), and (d)(2) of these rules restate the existing delegation to respond to oil and hazardous substance discharges. The remaining portions of these rules redelegate to Coast Guard officials predesignated as On-Scene Coordinators the authority in Section 311(c)(1), as amended, to respond to substantial threats of discharge as well as actual discharges. Paragraph § 153.105(e) limits the exercise of this authority to actions that do not constitute intervention. "Intervention" means action detrimental to the interest of a vessel or its cargo that is taken without the consent of the vessel's owner or operator.

These rules also remove paragraph § 153.105(b)(1) which delegated Section 311(d) authority to summarily remove or destroy a vessel involved in a marine disaster that has created a substantial threat of a pollution hazard. This authority is being reserved to the Commandant. It was previously delegated to the Chief, Office of Marine Environment and Systems. Actions taken under this authority would normally constitute intervention.

The Commandant is reserving intervention authority because of the severe impact that its exercise can have on specific private interests. Also, this authority is complex in that it can be exercised under laws other than the FWPCA. The other laws include the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (46 U.S.C. 9601 et seq.).

List of Subjects in 33 CFR Part 153

Hazardous substances, Oil pollution.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

In consideration of the foregoing, Part 153 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 153 is revised to read as follows:

AUTHORITY: Sec. 311 (j)(1)(A) and (m), 86 Stat. 862 (33 U.S.C. 1321 (j)(1)(A) and (m)); secs. 2, 5, and 7, E.O. 11735 (38 FR 21243) as amended by E.O. 12418 (48 FR 20891); 49 CFR 1.45(b) and 1.46 (l) and (m) (48 FR 44080), unless otherwise noted.

2. Section 153.105 of Part 153 of Title 33, Code of Federal Regulations, is amended by removing paragraph (b)(1), revising paragraph (c), and adding new paragraphs (d) and (e) to read as follows:

§ 153.105 Delegations.

* * * * *

(b) * * *

(1) Reserved

(2) * * *

(3) * * *

(c) Pursuant to paragraph (d) of this section and Section 311(c)(1) of the Act, each Coast Guard official predesignated as On-Scene Coordinator by the applicable Regional Contingency Plan is delegated authority, subject to paragraph (e) of this section, to remove or arrange for the removal of any oil or hazardous substance unless the official determines that the removal is being done properly by the owner of the vessel or facility from which the discharge or threat of discharge occurs.

(d) The authority in paragraph (c) may be exercised whenever any oil or hazardous substance is discharged, or there is a substantial threat of such discharge—

(1) Into or upon the navigable waters of the United States or adjoining shorelines;

(2) Into or upon the waters of the contiguous zone;

(3) In connection with activities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); or

(4) Which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States, including resources under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

(e) The authority described in paragraphs (c) and (d) of this section does not include the authority to—

(1) Summarily remove or destroy a vessel; or

(2) Take any other action that constitutes intervention under the Act, the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.), or other applicable laws. "Intervention" means any detrimental action taken against the interest of a vessel or its cargo without the consent of the vessel's owner or operator.

Dated: December 29, 1983.

J. S. Gracey,

Admiral, Coast Guard Commandant.

[FR Doc. 84-253 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD3 82-023]

Drawbridge Operation Regulations; Great Channel, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Cape May County, New Jersey, the Coast Guard is changing the regulations governing the Stone Harbor Boulevard drawbridge at Stone Harbor, New Jersey by requiring that advance notice of opening be given October through March from 10 p.m. to 6 a.m. This change is being made because of a steady decrease in requests for opening the draw during this period. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw during this period, and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on February 6, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668-7994.

SUPPLEMENTARY INFORMATION: On August 25, 1983, the Coast Guard published a proposed rule (48 FR 38653) concerning this amendment. The Commander Third Coast Guard District, also published this proposal as a Public Notice dated September 11, 1983. In each notice interested persons were given until October 11, 1983 to submit comments.

Drafting Information

The drafters of this rule are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Comments

No comment was received in response to the Notice of Proposed Rulemaking or the Public Notice. The bridge spans the New Jersey Intracoastal Waterway System and opens principally for vessels during the spring and summer boating season. No draft or final economic evaluation has been prepared because of minimal economic impact.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They 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 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This is because no small entity will be adversely affected by this action.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.220(r) to read as follows:

§ 117.220 New Jersey Intracoastal Waterway and tributaries; bridges.

* * * * *

(r) Stone Harbor Boulevard Bridge across Great Channel, mile 102.0 at Stone Harbor. The draw shall open on signal except as provided below:

(1) From October 1 through March 31 between 10 p.m. and 6 a.m. the draw need only open if at least eight hours notice is given.

(2) From Memorial Day through Labor Day, 8 a.m. to 6 p.m., on Saturday, Sunday, and holidays, the draw need only open for waiting vessels on the hour, 20 minutes after the hour, and 20 minutes before the hour.

(3) The draw shall be opened at all times as soon as possible for a vessel with a tow, a public vessel of the United States, or a vessel in distress.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: December 14, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 84-247 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 161

[CGD 73-186]

Berwick Bay Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule contains regulations for the vessel traffic service (VTS) at Berwick Bay (Morgan City, Louisiana). The majority of these regulations correspond with the requirements of the VTS presently in operation under a Coast Guard local order. These regulations will benefit the user by simplifying some requirements of the Coast Guard local order and arranging the regulations in a format that is common to other vessel traffic management measures.

DATE: Final rule effective February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. LaRue, Jr., (202) 426-4958.

SUPPLEMENTARY INFORMATION: On August 16, 1982, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) regarding these regulations (47 FR 35523). A 45 day comment period was provided and interested persons were requested to submit comments during that period.

One letter, from the American Waterways Operators, Inc. (AWO), requested an extension of the comment period to allow the proposed rules to be considered at the AWO Coast Guard Liaison Committee meeting (October 5, 1982) and the Towing Safety Advisory Committee (TSAC) meeting (October 6 and 7, 1982). In response to this request, the Coast Guard published a notice in the **Federal Register** (47 FR 40185; September 13, 1982) extending the comment period for an additional 45 days. Five letters were received from businesses, professional organizations, and other Federal agencies.

During the development of this rulemaking, an interval of extremely high water in the Berwick Bay area forced the Coast Guard to reevaluate the high water towing limitations then in effect in the area under a Coast Guard local order. In consultation with representatives of the towing industry and Southern Pacific Railroad, the Captain of the Port (COTP), New Orleans, modified the requirements for towing vessels during extreme high water. These requirements are contained in the most recent local order (Special Notice No. 1-83) and were recommended for inclusion in the regulations by the Towing Safety Advisory Committee (TSAC) at its

February 1983 meeting. In response to this change in the local order and the TSAC recommendations, the High Water Towing Limitations in these regulations have been amended to include, in new § 161.770, special requirements during periods of extreme high water. This has been defined as over 4.5 feet above mean sea level at the Morgan City River Gauge.

Discussion of Comments

Two comments fully supported the proposed regulations. One stressed the added hazard when the Atchafalaya River is at high flow.

One comment concerning § 161.703 suggested that the definition of "available horsepower" was quite clear without the phrase "except headboats and bow steering units". The Coast Guard agrees with this comment and the definition in § 161.703 is reworded to reflect this. In addition, all other references to headboats and bowsteering units have been removed from the regulations. The reasons for this are given in the discussion of §§ 161.768 and 161.769.

One comment concerning § 161.703 stated that the definition of "dangerous cargo" was too broad and suggested that the definition in the existing local order should be retained. The dangerous cargoes described in the existing local order are essentially the same as the "cargoes of particular hazard" listed in 33 CFR 126.10. Vessels bound for ports in the United States and carrying a "cargo of particular hazard" must give advance notice to the Coast Guard Captain of the Port (COTP). Referencing 33 CFR 126.10 reduces the burden on industry by using the same list of cargoes for similar reporting requirements and by requiring that only particularly hazardous cargoes be reported. For these reasons, the definition of "dangerous cargo" in § 161.703 has been replaced by the following: " 'Cargo of particular hazard' means cargo consisting of a commodity listed in 33 CFR 126.10". The term "dangerous cargo" has been replaced throughout the text with "cargo of particular hazard".

One comment concerning § 161.703 stated that the term "operator" should be used in place of "master", because "master" is a term more closely associated with blue water operations than with the shallow draft industry. The Coast Guard purposely used the term "master" in order to maintain consistency with other vessel traffic management regulations. The term, as defined, includes those mariners customarily referred to as "operators". For this reason, the definition is issued as proposed.

One comment concerning § 161.709 urged the Coast Guard to submit the VTS Operating Manual to TSAC for approval. VTS manuals are developed in the District in which the VTS is located according to a prescribed formula and then reviewed at Coast Guard Headquarters. As the manuals are non-regulatory documents intended to assist the VTS user, comments on their content by any organization or individual are welcome at any time; however, the formal approval of these manuals by TSAC or any other organization is not appropriate.

One comment concerning § 161.715 requested that, in addition to the Captain of the Port, the vessel traffic service Commanding Officer (VTC) be given the authority to issue an authorization to deviate from any rule. The comment stated that, because the VTC had the authority to issue directions to control traffic (§ 161.711), the authority to relax the rule should also be delegated to the VTC. The COTP, however, is assigned to handle deviation requests because the VTC is not continuously staffed at a level which would permit it to evaluate written requests. As discussed in the preamble to the proposed rule, the deviations contemplated under § 161.715 are those that would lend themselves to consideration by means of a written request. On the other hand, VTC directions under § 161.711 arise from emergency or hazardous situations best handled at the VTC level.

One comment concerning § 161.743, movement reports, stated that the paragraph was too long and could be reduced to a statement that the reports are required upon passing the points listed in § 161.783. Section 161.743 specifies what information must be given because that information is different from that required for an initial or final report. Some of the information in the more lengthy initial report need not be repeated. Unnecessary repetition would cause additional radiotelephone congestion. For these reasons, § 161.743 is issued as proposed.

One comment concerning § 161.749 suggested the requirements contained in that section could be condensed into one short paragraph. However, because this section prescribes different procedures for emergency and non-emergency deviations from the reported route, the two provisions are treated in separate paragraphs for clarity.

A second comment on § 161.749 suggested that the use of the word "deviate" in that section was misleading because it was used in a different sense in § 161.715. Section 161.715 refers to deviations from these rules; whereas § 161.749 refers to deviations from the information provided by the master in the initial report. Because the use of the word is differentiated by the context and because both sections are consistent with other VTS regulations, § 161.749 is issued as proposed.

One comment concerning § 161.767(b) recommended replacing the proposed wording with the wording of the local notice. The Coast Guard agrees with this comment because the wording of proposed § 161.767(b)(1) is not entirely clear. In addition, § 161.767(b)(2), which refers to headboats, is deleted. This paragraph is essentially informational in nature and the Coast Guard has reconsidered including it in the regulations. For these reasons, § 161.767(b) is revised to reflect the wording of Special Notice 1–83.

One comment concerning § 167.767(c) questioned whether the 10% maximum variation of draft and beam of vessels making up an integrated tow was meant to apply to the towing vessel. This requirement applies only to the barges in an integrated tow. In order to avoid confusion, the wording of § 167.767(c) has been changed to state this more clearly.

Two comments concerning § 161.767(d) objected to the concept of a horsepower to length ratio for tows to ensure that towboats are adequately powered in proportion to the size of their tows. One comment argued that because of the many possible configurations of tows and barges, a strict horsepower to length ratio is of little value. The other comment stated that the horsepower to length ratio failed to reflect the maneuvering characteristics of tows which could be affected by draft or by single screw, multiple screw, or kort nozzle propulsion. The concept of a horsepower to length ratio for Berwick Bay was the result of a study completed for the Coast Guard in 1976 which recorded all tows passing through the railroad bridge from February 1975 to January 1976. Horsepower and towlength data were extracted from the records to establish the character of the safe passage population and for comparison with the casualty population. Casualties from 1970 to 1975 were classed by horsepower/length and compared to the safe passage population. Two conclusions were reached: the number of casualties was about proportional to the number of total transits for a given configuration (the more vessels of a particular size and horsepower that

made the transit, the more casualties in that class) and the majority (86%) of casualties occurred when vessels had less than a 3:1 horsepower to length ratio. In reviewing the study, it appears that the 3:1 ratio is somewhat questionable because the study did not determine what other factors (river stage, direction of travel, loaded or light condition, etc.) could also have had a profound effect. Nor does the study indicate satisfactorily that portion of the safe transit population which had a horsepower to length ratio of less than 3:1. Because of the comments and in order for the Coast Guard to further evaluate horsepower to length ratio as a vessel traffic management tool, the Coast Guard is revising the requirements for a horsepower to towlength ratio and substituting specified length/horsepower combinations which will apply only during extreme-high water periods. These requirements are presently in effect by local order and are endorsed by the towing industry. They should provide the safety factor that the horsepower to length ratio was meant to achieve. These requirements are discussed below.

One comment concerning §§ 161.768 and 161.769 recommended that the tows of towing vessels with less than 3,000 horsepower (whether northbound or southbound) should not exceed 600 feet in length. These requirements were addressed again when COTP, New Orleans, met with towing and railroad industry representatives to develop a solution to the extreme high water problem. As a result, a requirement similar to that recommended in the comment above was included in Special Notice 1–83 under the extreme high water limitations. Because a majority of the parties most affected support such a requirement, the Coast Guard is adding this provision, essentially as it appears in the special order, in a new § 161.770, extreme high water limitations.

In the NPRM, §§ 161.768 and 161.769 were patterned after the provisions of the local order in effect in 1982 (Special Notice 1–82). During the development of Special Notice 1–83, the Coast Guard and industry agreed that the provisions in these sections should be modified and split into relaxed high water requirements and additional requirements when the water stage is extremely high. In view of this, the Coast Guard is amending §§ 161.768 and 161.769 to agree with the provisions of Special Notice 1–83. The majority of the requirements in these sections remain the same; however, the amended rules differentiate tows based upon whether or not they are integrated without regard to whether or not they have a headboat or bow steering unit, as in the proposed provisions. One reason for this change is that towboat operators stated they did not feel that headboats and bow steering units were particularly helpful in controlling a tow in this area. In addition, some operators felt that personnel working at the forward end of a tow would be in extreme danger should the tow fail to clear the bridges in Berwick Bay. A bow steering unit, which is controlled remotely from the towboat, is a better alternative; however, few of these units are in use in the Berwick Bay area. For the purpose of the proposed regulations, this means that almost all bow steering would have to be done by headboat. For these reasons, §§ 161.768 and 161.769 have been revised to reflect the requirements of Special Notice 1–83.

Another factor considered was the increased likelihood of casualties when vessels operated at night during extreme high water. At this water level, a variable and unpredictable shear forces develop near the bridges. At night, indications of the force and direction of the current are extremely difficult to detect and the mariner is less able to quickly discern changing relationships with his or her surroundings. As a result, the extreme high water limitations are organized to reflect whether a vessel is operating during daylight or darkness.

The Coast Guard believes that these modifications will relax the burden on vessel operations during the high water conditions most frequently encountered while providing for safe operations during the relatively rare extreme conditions.

Public Participation

Two comments recommended that the Coast Guard should consult more with marine industry representatives and other interested parties while developing regulations of this nature. The Coast Guard agrees that such consultation is neccessary and has actively sought, and obtained, substantial input from interested parties. The Public Participation section in the preamble to the NPRM (47 FR 35527; August 16, 1982) outlines early efforts to involve industry. The comment period on the notice was specifically extended for 45 additional days to permit the proposed rules to be considered at TSAC and AWO meetings. Industry representatives were again consulted early this year when extreme high water conditions were encountered. The limitations (§ 161.770), were developed, in part, because of TSAC recommendations.

Because vessels navigating in Berwick Bay are subject to constantly changing conditions, the Coast Guard is planning to monitor the effect of these regulations, particularly through the next high water period. Comments or suggestions regarding safe navigation in the area are always helpful and can be addressed to COTP, New Orleans.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation Policies and Procedures for Simplification, Analysis, and Review of Regulations, (DOT Order 2100.5 of May 22, 1980).

A regulatory Impact Analysis under E.O. 12291 is not required. Because the economic impact is expected to be minimal, the Coast Guard has determined that no further evaluation is necessary. The equipment required by the regulations, a radiotelephone, is required only on vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Regulations (33 CFR Part 26). Under the Bridge-to-Bridge regulations, these vessels already must have a radio telephone. Other vessels which have a report under the regulations (§ 161.701(d)) are permitted to use a telephone or other reasonable means in making their reports (§161.735(b)).

The various reports that are required by the regulations are for navigational safety purposes and call for information that is readily available or observable to vessel operators. This is information which operators would already know whether or not reporting was required. The time required for reporting on a typical voyage through the VTS Area is about five minutes for Bridge-to-Bridge vessels (5 reports) and 1 minute for other vessels (1 report).

A VTS Operating Manual is required to be on board Bridge-to-Bridge vessels operating in the VTS Area. However, this manual is available upon request (§ 161.709) and facilitates operations by combining all relevant information into one document.

Directions issued to control traffic (§ 161.711) restrict the movements of those affected, but the authority to issue these is already exercised by the Coast Guard. The regulations only permit the VTC, as well, to issue them.

Only during those periods when the High Water Towing Limitations are in effect does a potential burden arise. Because the limitations may restrict length, horsepower, and configuration of vessels with tows, certain changes may be necessitated for a particular operation to comply with the

requirements. For example, an operator may have to run fewer barges than usual to meet the length limitations. Most of these requirements, however, have been applied during high water since 1974 with no adverse comments.

The proposed general limitations dealing with a horsepower to length ratio have been deleted, never having been implemented. The proposed southbound and northbound limitations (§§ 161.768 and 161.769) have been amended to reflect the requirements of the existing local order. A section dealing with extreme high water limitations (§ 161.770) has been inserted in the rules in order to maintain a reasonable safety factor when the water is at a particularly dangerous level.

The net effect of these changes from the proposed rules is that the more stringent rules apply only when the water level is extremely high. Because the water reaches this stage infrequently, there should be less of a burden on the mariner who must adhere to the limitations. The rules which apply when the "high water" level is reached are a relaxation of those which were proposed. This also lessens the burden on the mariner.

Based on experience under the existing requirements, the Coast Guard is of the opinion that the costs imposed on vessel operators will not be burdensome. These requirements should reduce the incidence of vessels striking the bridges in the bay. Based on this, the proposed restrictions should result in a net benefit to both the maritime and railroad industries.

Regulatory Flexibility Analysis

For the reasons discussed above, the Coast Guard believes that these regulations will have a minimal economic effect. Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96–354), it is certified that these regulations will not have a significant economic impact on a substantial number of small entities.

Reporting and Recordkeeping Requirements

This rulemaking contains no information collection or recordkeeping requirements.

Environmental Impact

This action has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation, in accordance with Section 2.B.3.(g) of Commandant Instruction (COMDTINST) M16475.1A.

List of Subjects in 33 CFR Part 161

Hazardous materials transportation, Navigation (water), Vessels.

PART 161—VESSEL TRAFFIC SERVICE

In consideration of the foregoing, Part 161 of Title 33 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 161 reads as follows:

Authority: Sec. 12 of Sec. 2, Pub. L. 95–474, 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.46(n)(4).

2. By amending the Table of Contents for Part 161 by adding the following new sections to the end thereof.

Berwick Bay Vessel Traffic Service

General Rules

Sec.
161.701 Purpose and applicability.
161.703 Definitions.
161.705 Vessel operation in the VTS Area.
161.707 Laws and regulations not affected.
161.709 VTS Operating Manual.
161.711 VTC directions.
161.713 Obstructing navigable channels.
161.715 Authorization to deviate from these rules.
161.717 Emergencies.

Communications Rules

161.721 Radiotelephone listening watch.
161.723 Radiotelephone reports.
161.725 English language.
161.729 Radiotelephone equipment failure.

Reporting Rules

161.735 Means of reporting.
161.739 Initial report.
161.743 Movement reports.
161.745 Final report.
161.747 Report of equipment impairment.
161.749 Deviation report.

High Water Towing Limitations

161.761 Applicability.
161.762 Precautionary notices.
161.764 When limitations are in effect.
161.765 Notice of when limitations are in effect.
161.767 General limitations.
161.768 Southbound limitations.
161.769 Northbound limitations.
161.770 Extreme high water limitations.

Descriptions and Geographic Coordinates

161.781 VTS Area.
161.783 Reporting points.

3. By adding new §§ 161.701 through 161.783 to Part 161 as follows:

* * * * *

Berwick Bay Vessel Traffic Service

General Rules

§ 161.701 Purpose and applicability.

(a) Sections 161.701 through 161.783 prescribe rules for vessel operations in the Berwick Bay (Morgan City, Louisiana) Vessel Traffic Service (VTS) Area to prevent collisions, rammings, and groundings and to protect the navigable waters of the VTS Area from environmental harm resulting from collisions, rammings, and groundings.

(b) The General Rules in §§ 161.701 through 161.717, except the requirement in § 161.709 to have a VTS operating manual, apply to the operations of all vessels.

(c) The requirements in § 161.709 to have a VTS operating manual, the Communications Rules in §§ 161.721 through 161.729, and the Reporting Rules in §§ 161.735 through 161.749 apply to the operation of all vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Regulations in Part 26 of this chapter.

(d) In addition to the vessels under paragraph (c) of this section, § 161.725 on use of English language in reports, § 161.735 on means of reporting, § 161.739 on initial reports, and § 161.749 on deviations from the reported route apply to the operation of—

(1) Recreational vessels less than 300 gross tons intending to transit under the lift span of the Southern Pacific Railroad (SPRR) bridge; and

(2) Commerical vessels not subject to the Vessel Bridge-to-Bridge Radiotelephone Regulations in Part 26 of this chapter.

§ 161.703 Definitions.

As used in §§ 161.701 through 161.783:

"Available horsepower" means the total horsepower output of all operating propulsion equipment on all vessels engaged in a single towing operation.

"Cargo of particular hazard" means cargo consisting of a commodity listed in 33 CFR 126.10.

"Integrated tow" means a tow consisting of specially designed barges that fit to each other and to the towing vessel as one unit.

"Master" means licensed master or operator or, on vessels not required to have a licensed master or operator, the person in command of the vessel.

"Overall length" means the combined length in feet of the towing vessel or vessels and the tow.

"Person" includes an individual, firm, corporation, association, partnership, or government entity.

"SPRR bridge" means the Southern Pacific Railroad bridge across Berwick Bay between the cities of Berwick and Morgan City, Louisiana.

"Vessel Traffic Center" or "VTC" means the shore based facility that operates the Berwick Bay Vessel Traffic Service or the Commanding Officer of the facility, or that person's authorized

representative, depending upon the context in which the term is used.

"Vessel Traffic Service Area" or "VTS Area" means the area described in § 161.781.

§ 161.705 Vessel operations in the VTS Area.

Except under § 161.715 (authorized deviations) and § 161.717 (emergencies), no person may cause or authorize the operation of a vessel in the VTS Area contrary to the rules in §§ 161.701 through 161.783.

§ 161.707 Laws and regulations not affected.

Nothing in §§ 161.701 through 161.783 is intended to relieve any person from complying with—

(a) The Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 through 2072);

(b) The technical annexes to the Inland Navigational Rules (Parts 84 through 88 of this chapter);

(c) Vessel Bridge-to-Bridge Radiotelephone Regulations (Part 26 of this chapter);

(d) Subtitle II of Title 46, United States Code, "Shipping"; and

(e) Any other law or regulation.

§ 161.709 VTS Operating Manual.

The master of a vessel shall ensure that a copy of the current edition of the Berwick Bay Vessel Traffic Service Operating Manual is available on board the vessel when it is in the VTS Area.

Note.—"Berwick Bay VTS Operating Manual" includes the VTS regulations and navigation information. The manual is available from the Commander, Eighth Coast Guard District (m), Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130 or from the Commanding Officer, Berwick Bay Vessel Traffic Service, 800 David Dr., Rm. 255, Morgan City, Louisiana 70380.

§ 161.711 VTC directions.

(a) During conditions of vessel congestion, adverse weather, reduced visibility, or other hazardous circumstances in the VTS Area, the VTC may issue directions to control and supervise traffic and may specify times when vessels may enter, move within or through, or depart from ports, harbors, or other waters in the VTS Area.

(b) Whenever the VTC determines that a vessel in the VTS Area is navigating in an unsafe manner or with improperly functioning equipment, the VTC may direct the vessel's movement or direct it to anchor or moor.

(c) The master of a vessel in the VTS Area shall comply with each direction issued to the vessel under this section.

§ 161.713 Obstructing navigable channels.

Mooring in, anchoring in, or otherwise obstructing a navigable channel in any way is prohibited without first obtaining permission to do so from the VTC.

§ 161.715 Authorization to deviate from these rules.

The Captain of the Port, New Orleans, may, upon written request, issue an authorization to deviate from any rule in §§ 161.701 through 161.783 if that officer finds that the proposed operation can be done safely. A request for an authorization must state the need for the deviation and describe the proposed operation.

§ 161.717 Emergencies.

In an emergency, any master may deviate from any rule in §§ 161.701 through 161.783 to the extent necessary to avoid endangering persons, property, or the marine environment.

Communications Rules

§ 161.721 Radiotelephone listening watch.

The master of a vessel required to make the reports under §§ 161.739 through 161.749 only by radiotelephone shall ensure that a continuous listening watch is maintained on the frequency designated in the current edition of the Berwick Bay VTS Operating Manual, except when transmitting on that frequency.

§ 161.723 Radiotelephone reports.

Each report under §§ 161.739 through 161.749 made by radiotelephone must be made on the frequency designated in the current edition of the Berwick Bay VTS Operating Manual.

§ 161.725 English language.

Each report required by §§161.701 through 161.783 must be made in the English language.

§ 161.729 Radiotelephone equipment failure.

(a) Whenever a vessel's radiotelephone equipment fails, compliance with the following is not required:

(1) Section 161.721 on maintaining a listening watch.

(2) Sections 161.739 through 161.749 on reporting, unless those reports can be made by other reasonable means.

(b) Whenever a vessel's radiotelephone equipment fails, permission to proceed must first be obtained from the VTC if the vessel is:

(1) Intending to transit the lift span of the SPRR bridge;

(2) Getting underway from within the VTS Area; or

(3) Transiting any portion of the Intracoastal Waterway between Mile 93 West of Harvey Lock (WHL) and Mile 99 WHL.

(c) The master of a vessel shall ensure that the radiotelephone equipment is restored to operating condition as soon as possible.

Reporting Rules

§ 161.735 Means of reporting.

(a) Reports under §§ 161.739 through 161.749 must be made only by radiotelephone, except as provided under paragraph (b) of this section.

(b) Vessels not subject to the Vessel Bridge-to-Bridge Radiotelephone regulations in Part 26 of this chapter may make initial reports under § 161.739 and deviation reports under § 161.749 by radiotelephone, telephone ((504) 385–2462), or other reasonable means.

§ 161.739 Initial report.

When a vessel enters or begins to navigate in the VTS Area, the master of the vessel shall report the following information to the VTC:

(a) Name of the vessel.

(b) Type of vessel (towing, fishing, supply, etc.).

(c) Location of the vessel.

(d) Route within the VTS Area.

(e) Any cargo of particular hazard that is on board the vessel or any vessel being towed.

(f) Any impairment to the operation of the vessel as described in § 161.747.

(g) If towing is involved, available horsepower and overall length of the vessels.

§ 161.743 Movement reports.

(a) When a vessel passes a reporting point listed in § 161.783, other than when entering or leaving the VTS Area, the master of the vessel shall report the following information to the VTC:

(1) Name of the vessel.

(2) Name of the reporting point.

(3) If towing is involved, any revision to the available horsepower and overall length information given in the initial report under § 161.739(g).

(b) A movement report is required at the Berwick Lock Reporting Point only for vessels passing through the lock.

§ 161.745 Final report.

When a vessel anchors in, moors in, or departs from the VTS Area, the master shall report to the VTC the name of the vessel and place of anchoring, mooring, or departure.

§ 161.747 Report of equipment impairment.

The master of a vessel in the VTS Area shall report to the VTC as soon as possible—

(a) Any condition on the vessel that may impair its safe navigation, such as fire or a defect in propulsion machinery, steering equipment, radar, or gyrocompass;

(b) Any tow that the towing vessel is unable to control or can control only with difficulty;

(c) When involved in a collision, ramming, or grounding; and

(d) Any radiotelephone equipment failure.

§ 161.749 Deviation report.

(a) Except in an emergency, the master of a vessel in the VTS Area shall report each deviation from the route reported in the initial report under § 161.739(d) before making the deviation.

(b) Whenever a vessel in the VTS Area deviates, because of an emergency, from the route reported in the initial report under § 161.739(d) or from any provision in §§ 161.701 through 161.783, the master of the vessel shall report the deviations to the VTC as soon as possible.

High Water Towing Limitations

§ 161.761 Applicability.

The high water towing limitations (§§ 161.761 through 161.770) apply to the operation of vessels with tows intending to transit under the lift span of the SPRR bridge, or through the navigational openings of either of the two U.S. 90 highway bridges to the north of the SPRR bridge, when those limitations are in effect.

§ 161.762 Precautionary notices.

(a) Whenever the Morgan City River Gauge reads 2.5 feet above mean sea level and the Coast Guard Captain of the Port, New Orleans, or that person's authorized representative, anticipates that the water level will rise to 3 or more feet above mean sea level, the VTC issues precautionary notices that the high water towing limitations may soon go into effect.

(b) Precautionary notices are—

(1) Announced during Coast Guard Marine Information Broadcasts;

(2) Published in Coast Guard Local Notices to Mariners;

(3) Announced by the VTC in response to initial reports; and

(4) Available by calling the VTC at (504) 385-2462 or on the frequency designated in the current edition of the Berwick Bay VTS Operating Manual.

(c) Precautionary notices are given throughout the period during which the conditions in paragraph (a) of this section exist.

(d) During the period when the water level falls below 3 feet above mean sea level on the Morgan City River Gauge but remains at or above 2.5 feet, precautionary notices are issued only if the Coast Guard Captain of the Port, New Orleans, or that person's authorized representative, anticipates that the decrease in the level below 3 feet is only temporary.

§ 161.764 When limitations are in effect.

(a) The high water towing limitations are in effect when two vertically arranged red balls by day and two vertically arranged flashing white lights by night are displayed on top of the SPRR bridge.

(b) The VTC posts the visual displays under paragraph (a) of this section when the Morgan City River Gauge reads 3 or more feet above mean sea level.

(c) The VTC discontinues the visual displays under paragraph (a) of this section when the Morgan City River Gauge reads less than 3 feet above mean sea level.

§ 161.765 Notice of when limitations are in effect.

(a) In addition to the notice provided by the visual displays under § 161.764(a), notice of when limitations are in effect is—

(1) Announced during Coast Guard Marine Information Broadcasts;

(2) Published in Coast Guard Local Notices to Mariners;

(3) Announced by the VTC in response to initial reports; and

(4) Available by calling the VTC at (504) 385-2462 or on the frequency designated in the current edition of the Berwick Bay VTS Operating Manual.

(b) The notices under paragraph (a) of this section are given throughout the period when the limitations are in effect.

§ 161.767 General limitations.

The following general rules apply to all towing operations:

(a) Towing on a hawser in either direction is prohibited, with the exception of one self-propelled vessel towing one other vessel in a northbound direction.

(b) Barges and towing vessels must be arranged in tandem with the exception of one vessel towing one other vessel alongside.

(c) The variation in draft and beam of the barges that make up an integrated tow must not exceed 10% of the draft of the barge drawing the most water and 10% of the beam of the widest barge.

(d) All tows carrying any cargo of particular hazard must have at least 1,000 available horsepower.

§ 161.768 Southbound limitations.

In addition to the general limitations in § 161.767, the following rules apply to southbound towing operations:

(a) A towing vessel or vessels and tow which are integrated must not exceed an overall length of 1,180 feet.

(b) A towing vessel or vessels and tow which are not integrated must not exceed an overall length of 300 feet.

§ 161.769 Northbound limitations.

In addition to the general limitations in § 161.767, the following rules apply to northbound towing operations:

(a) A towing vessel or vessels and tow which are integrated must not exceed an overall length of 1,180 feet.

(b) A towing vessel or vessels and tow which are not integrated must not consist of more than two barges.

§ 161.770 Extreme high water limitations.

In addition to the general limitations in § 161.767, when the Morgan City River Gauge reads 4.5 or more feet above mean sea level, the following rules apply to all towing operations:

(a) Between sunrise and sunset:

(1) A towing vessel or vessels and tow greater than 600 feet but no greater than 1,180 feet in overall length must have at least 3,000 available horsepower.

(2) A towing vessel or vessels and tow greater than 400 feet but no greater than 600 feet in overall length must have at least 1,200 available horsepower.

(3) A towing vessel or vessels and tow no greater than 400 feet in overall length and carrying no cargo of particular hazard must have at least 600 available horsepower.

(4) A single barge tow carrying no cargo of particular hazard must have at least 400 available horsepower.

(b) Between sunset and sunrise:

(1) A multiple barge tow must be no greater than 400 feet in overall length and must have at least 1,200 available horsepower.

(2) A single barge tow carrying no cargo of particular hazard must have at least 600 available horsepower.

Descriptions and Geographic Coordinates

§ 161.781 VTS Area.

The VTS Area consists of the following segments of waterways:

(a) The Intracoastal Waterway Morgan City to Port Allen Alternate Route from Mile 0 to Mile 5.

(b) The Intracoastal Waterway from Mile 93 West of Harvey Lock (WHL) to Mile 99 WHL.

(3) The Atchafalaya River Route from Mile 113 to Mile 122.

(d) From Bayou Boeuf (Intracoastal Waterway Mile 94.5 West of Harvey Lock) south one statute mile along Bayou Shaffer.

(e) From Berwick Lock northwest one statute mile along the Lower Atchafalaya River.

§ 161.783 Reporting points.

The reporting points are as follows:

Name	Location
Stouts Point Light	Mile 113 Atchafalaya River (AR) Route.
Long Island	Southern tip of Long Island; Mile 5 Intracoastal Waterway (ICW) Morgan City to Port Allen (MC/PA) Alternate Route.
Stouts Pass	Mile 115 AR Route.
Light "18"	Swift Ship Light; Mile 3 ICW MC/PA Alternate Route.
Bayou Teche	One mile above Berwick Lock on Lower Atchafalaya River (Bayou Teche).
Berwick Lock	Near Berwick Bay on the Lower Atchafalaya River (Report only if transiting the lock).
Conrad's Point	Mile 1.5 ICW MC/PA Alternate Route.
20 Grand Point	Mile 95.5 ICW West of Harvey Lock (WHL).
Shaffer Junction	Mile 94.5 ICW(WHL) at junction with Bayou Shaffer
Bayou Shaffer	On Bayou Shaffer, one mile south of junction with Bayou Boeuf.
Bayou Boeuf Lock	Mile 93 ICW(WHL).
Overhead Cable	Mile 119 AR Route; Mile 96.5 ICW(WHL).
Floodway Gas Processing Plant.	Mile 99 ICW(WHL)
Atchafalaya River	Mile 122 AR Route.

Dated: November 30, 1983.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 84-246 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

Ice Navigation Season; Northern Portion of Chesapeake Bay and Tributaries

AGENCY: Coast Guard, DOT.

ACTION: Notice of Ice Navigation Season.

SUMMARY: The Ice Navigation Season Regulated Navigation Area (RNA) on the northern portion of Chesapeake Bay and its tributaries, including the Chesapeake and Delaware Canal will be placed in effect on January 5, 1984. The regulations for this Regulated Navigation Area, found in 33 CFR 165.503, published in the **Federal Register** May 19, 1983 (48 FR 22543), state that they are placed in effect and terminated at the direction of the Captain of the Port, Baltimore, MD by notice in the **Federal Register**. The purpose of this Regulated Navigation Area is to enhance the safety of navigation in the affected waters. It requires operators of certain vessels to be aware, during their vessel's transit of the Regulated Navigation Area, of currently effective Ice Navigation Season Captain of the Port Orders issued by the Captain of the Port, Baltimore, Maryland.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: LCDR L. H. Gibson, Port Operations Officer, USCG MSO Baltimore, Maryland at (301) 962-5105.

Nov. 25, 1983.

J. C. Carlton,

Captain, Coast Guard, Captain of the Port, Coast Guard Marine Safety Office U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

[FR Doc. 84-266 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Service to Egypt

AGENCY: Postal Service.

ACTION: Final action on International Express Mail Service to Egypt.

SUMMARY: Pursuant to an agreement with the postal administration of Egypt, the Postal Service intends to begin International Express Mail Service with Egypt at postage rates indicated in the table below Service is scheduled to begin on February 4, 1984.

EFFECTIVE DATE: February 4, 1984.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn (202) 245-4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on November 29, 1983 (48 FR 53720), the Postal Service announced that it was proposing to begin International Express Mail Service to Egypt. Comments were invited on published rate tables, which were proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which were to become effective on the date service began. No comments were received.

Accordingly, the Postal Service states that it intends to begin International Express Mail Service with Egypt on February 4, 1984 at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10.

Postal Service, Foreign relations

EGYPT—INTERNATIONAL EXPRESS MAIL

Custom designed service [1] [2]		On Demand Service [2]	
Up to and including		Up to and including	
Pounds	Rate	Pounds	Rate
1	$28.00	1	$20.00
2	31.70	2	23.70
3	35.40	3	27.40
4	39.10	4	31.10
5	42.80	5	34.80
6	46.50	6	38.50
7	50.20	7	42.20
8	53.90	8	45.90
9	57.60	9	49.60
10	61.30	10	53.30
11	65.00	11	57.00
12	68.70	12	60.70
13	72.40	13	64.40
14	76.10	14	68.10
15	79.80	15	71.80
16	83.50	16	75.50
17	87.20	17	79.20
18	90.90	18	82.90
19	94.60	19	86.60
20	98.30	20	90.30
21	102.00	21	94.00
22	105.70	22	97.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

(39 U.S.C. 401, 404, 407)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 84-158 Filed 1-4-84; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2502-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving the deletion of certain stack height provisions in the Indiana State Implementation Plan (SIP) for sulfur dioxide (SO_2). In EPA's March 12, 1982 (47 FR 10813) conditional approval of parts of Indiana's SO_2 plan, it approved stack height increases for three emissions sources in Marion County. These are Indianapolis Power and Light Company's (IPALCO) Stout Generating Station, the National Starch and Chemicals Company, and Detroit

Diesel Allison's Plant #8. Subsequently, EPA determined that the stack height increases were not formally adopted by the State of Indiana as part of its SO_2 control strategy for Marion County. EPA, therefore, proposed on February 4, 1983 to rescind its approval of the stack height increases (48 FR 5282). One comment was received in response to this proposal. Today, EPA is removing the stack height requirement from the Marion County SO_2 SIP and adding a stack height condition to its previous conditional approval of the Part D plan.

EFFECTIVE DATE: This final rulemaking becomes effective on February 6, 1984.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the public comment on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Robert B. Miller at (312) 886–6031 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6031.

SUPPLEMENTARY INFORMATION: Under section 107 of the Act, EPA designated a portion of Marion County, Indiana, as not attaining National Ambient Air Quality Standards (NAAQS) for SO_2. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). Under these circumstances, Part D of the Act requires that a state revise its SIP to provide for attaining the primary NAAQS by December 31, 1982. These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

In response to Part D of the Act, Indiana submitted to EPA a revision to the Marion County Indiana SO_2 SIP on June 26, 1979. This submittal included a revised SO_2 control strategy for attaining the NAAQS in Marion County and was based on computer dispersion modeling. The strategy consisted of site-specific SO_2 emission limits for a number of point sources in Marion County and required stack height increases for IPALCO's Stout Generating Station, the National Starch and Chemicals Company, and Detroit Diesel Allison's Plant #8.

The June 26, 1979 submittal also contained a revised SO_2 regulation, entitled APC–13. This regulation which was developed to implement the Marion County strategy, among all other counties in Indiana, included a generally applicable emission limitation of 6.0 pounds SO_2 per million British Thermal Units (lbs/MMBTU) and certain more stringent source specific limits for critical sources in nonattainment areas. The regulation itself did not address the stack height requirements in Marion County. Indiana subsequently recodified Regulation APC–13 as 325 IAC 7–1. On March 12, 1982, EPA conditionally approved [1] the Marion County SO_2 plan, including 325 IAC 7–1, as meeting the requirements of Part D of the Clean Air Act (47 FR 10813).

EPA's March 12, 1982 conditional approval of the Marion County strategy was based on the requirement that the State submit additional data to rectify deficiencies in its modeling analysis; including a determination that the strategy for the 24-hour standard is constraining, a justification of the background SO_2 levels used, a revised emissions inventory, and an adequate meteorological base and receptor network. In response to EPA's conditional approval, Indiana informed EPA that the modeling analysis would be completely revised to meet the above conditions.

Subsequent to EPA's March 12, 1982 conditional approval of the Marion County SO_2 plan, EPA re-examined the rulemaking record pertaining to the Marion County Plan. This review indicates that although the State formally adopted the site specific emission limits from the strategy document as part of Regulation 325 IAC 7–1, the State did not formally adopt the stack height increases for these sources. Because of this, the stack height provisions do not meet the requirements of Section 110(a) of the Act and the implementing regulations at 40 CFR Part 51, Subpart B.

Because the State failed to formally adopt the stack height requirements and because, therefore, the stack height requirements did not meet the requirements of 40 CFR 51.22; EPA proposed on February 4, 1983 (48 FR 5282) to rescind its approval of the stack height increases at: IPALCO's Stout Plant, the National Starch and Chemicals Plant, and Detroit Diesel Allison's #8 Plant. EPA noted that its action on these stack heights will not affect its conditional approval of the emission limitations for these plants contained in Indiana's SO_2 regulation 325 IAC 7–1. However, EPA stated that Indiana must correct the stack height deficiency in its submittal of the revised Marion County SO_2 plan. EPA noted that Indiana had not corrected the deficiencies in the Marion County SO_2 plan in a timely manner as the State had committed itself to do and EPA would address this deficiency in a **Federal Register** notice. In fact, on the previous day, February 3, 1983 (48 FR 4972), EPA had proposed possible sanctions which may be appropriate in areas where conditions on EPA's conditional approvals have not been met in a timely manner. EPA noted in this notice that the conditions on its approval of the Marion County SO_2 SIP had not been met.

EPA received one comment in response to the February 4, 1983 notice of proposed rulemaking.[2] This commenter stated that without the stack height requirement, the Marion County SO_2 strategy may no longer assure attainment and maintenance of the NAAQS. Because of this, the commenter urged EPA to withdraw its March 12, 1983 conditional approval of the Marion County SO_2 plan. This recommendation appears to be based on the assumption that EPA's withdrawal of its conditional approval would cause the SIP to revert to the strategy approved by EPA for Marion County on August 24, 1976 (41 FR 35677).

EPA agrees that the plan without the required stack height increases may no longer provide for attainment and maintenance of the SO_2 NAAQS in Marion County. However, the United States Court of Appeals for the Seventh Circuit has recently found that all of the previous Indiana SO_2 regulations are not

[1] For a discussion of conditional approvals and their practical effect, see 44 FR 38583 (July 2, 1979) and 43 FR 67182 (November 23, 1979).

[2] EPA received many comments in response to its February 3, 1983 notice of proposed rulemaking. On November 2, 1983 (48 FR 50686), EPA responded to some of these comments in its notice of final rulemaking on post-1983 SIPs. Other comments will be responded to in further EPA rulemaking on the February 3, 1983 proposal. EPA is not responding to any comments on the February 3, 1983 rulemaking today, but directs the reader to EPA's final rulemakings on the February 3, 1983 proposal.

enforceable at the Federal level [3] because an Indiana Court has invalidated these same regulations at the State level. The Indiana Court of Appeals [4] invalidated these regulations because it found that they were improperly adopted at the State level. Accordingly, removal of the March 12, 1982 conditional approval of the overall Marion County plan, including 325 IAC Article 7, would leave the County without any federally enforceable SO_2 emission limits or SIP.

Because 325 IAC Article 7 does include some federally enforceable control requirements which may limit, or possibly prevent, violations of the NAAQS in Marion County, EPA has decided not to withdraw its approval in part of 325 IAC Article 7 for Marion County. However, in today's rulemaking, EPA is adding a condition to its previous conditional approval requiring any stack height changes which are used to meet the NAAQS in Marion County to be enforceable by the State. This should assure that future SIP revisions in Marion County based on stack height revisions will contain enforceable stack height requirements. Additionally, EPA's November 2, 1983 rulemaking clarified the Agency's position that when EPA conditionally approves a SIP, such as when it conditionally approved the Marion County SO_2 SIP on March 12, 1982, this conditional approval consititutes a notification to the state under section 110(a)(2)(H) that the SIP issubstantially inadequate to attain and maintain the NAAQS. The November 2, 1983 rulemaking also stated that EPA will consider whether it is appropriate to impose sanctions in specific areas with outstanding conditions and may in the future rulemake imposing such sanctions.[5]

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

[3] *Sierra Club v. Indiana-Kentucky Electric Corporation and Indiana & Michigan Electric Company*, Slip Opinion dated August 30, 1983, Cases Nos 81-1822 and 81-2173.

[4] *Indiana Environmental Management Board v. Indiana-Kentucky Electric Corp.*, 393 N.E. 2d 213 (Ind. App. 1979).

[5] On November 16, 1983 EPA proposed rulemaking to revise emission limitations and to redesignate to attainment five townships in Marion County—Franklin, Lawrence, Pike, Warren, and Washington (48 FR 52094). Therefore, any such sanctions will only apply to the remaining townships, i.e., Center, Decatur, Perry, and Wayne, if EPA takes final rulemaking as proposed.

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 within 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 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, Intergovernmental relations.

(Secs. 110 and 172, Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: December 29, 1983.

Alvin L. Alm,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart P—Indiana

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

§ 52.770 [Amended]

1. Section 52.770 is amended by removing within paragraph (c)(19) the phrase "* * * and (3) the Mitchell Station stack height provision in the Lake County SO_2 strategy." and replacing this phrase with the revised phrase "* * * (3) the stack height provision for NIPSCO's Mitchell Station in the Lake County SO_2 strategy, and (4) the stack height provisions for IPALCO's Stout Generating Station, the National Starch and Chemicals Company, and Detroit Diesel Allison's Plant #8 in the Marion County SO_2 strategy."

2. Section 52.795 is amended by revising paragraph (e)(3) as follows:

§ 52.795 Control strategy: Sulfur dioxide.

* * * * *

(e) * * *

(3) Marion County. The plan must either contain an acceptable demonstration that the 24-hour standard is the constraining standard or 3-hour and annual attainment analyses must be provided. The plan must justify appropriate background level for all averaging periods. These must be used in all analyses. The plan must justify the adequacy of the resolution in the computer modeling receptor network. The plan must contain a complete emission inventory, including process sources. This inventory must be appropriately used in all analyses. If the plan is based on changes in existing stack heights, these revised stack heights must be State-enforceable requirements and must be submitted as revisions to the SIP. If revisions to the emission limitations are necessary, they must be submitted as revisions to the SIP.

* * * * *

[FR Doc. 84-183 Filed 1-4-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[WH-FRL-2503-4]

Hazardous Waste Management Program, Maryland; Request for Extension of Application Deadline for Interim Authorization

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of application submission and interim authorization period.

SUMMARY: The State of Maryland recently requested a further extension beyond the January 1, 1984 deadline, previously granted, for submission of their application for Phase II Interim Authorization under the Resource Conservation and Recovery Act (RCRA), as amended (48 FR 33869, July 26, 1983). A delay in adopting necessary regulations to support Maryland's hazardous waste program under Phase II, Components B and C has resulted in the State missing the January 1, 1984 deadline for submitting its application by a few weeks. The State is still committed to obtaining Interim Authorization of Phase II, Components B and C while concurrently pursuing the receipt of Final Authorization for its entire hazardous waste program.

EPA is granting an extension to February 1, 1984 for submission of a complete application for Interim Authorization of Phase II, Components B and C. This extension allows Maryland to retain Phase I and Phase II, Component A Interim Authorization pending submission of a complete application for Interim Authorization of Phase II, Components B and C.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Anthony J. Donatoni, Chief, State Programs Section, Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597-7937.

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122(c)(4) (formerly § 123.122(c)(4); 47 FR 32377, July 26,

1982) requires that States which have received any but not all Phases/Components of Interim Authorization amend their original submissions by July 26, 1983, to include all Components of Phase II. Further, 40 CFR 271.137(a) (formerly § 123.137(a); 47 FR 32378, July 26, 1982) provides that on July 26, 1983, Interim Authorization terminates except where the State has submitted by that date an application for all Phases/Components of Interim Authorization.

Where the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in that State. However, the Agency extended the July 26, 1983 deadline for the submission of an application and termination of the EPA approved State program to allow Maryland to examine and expand on EPA's Components B and C regulations where the State considered it was necessary.

Note.—40 CFR Part 123, including the July 26, 1982 amendments (47 FR 32373), was recodified on April 1, 1983 as 40 CFR Part 271 (48 FR 14248).

Anticipating the final adoption of necessary regulations for Phase II, Components B and C in January 1984, Maryland has committed to the following schedule for applying for Interim and Final Authorization:

- February 1, 1984—Submit complete application for Phase II, Components B and C.
- January 1984—Submit draft Final Authorization application.
- July 1984—Submit complete Final Authorization application.

Decision

In consideration of the above schedule and Maryland's continued efforts to obtain Interim Authorization, the immediate reversion of Phase I and Phase II, Component A, because of failure to meet the previous deadline, is not in the best interest of the State, this Agency, the regulated community, or the citizens of Maryland. I, therefore, find good cause to grant the State's request for a further extension beyond the January 1, 1984 deadline previously granted for applying for Interim Authorization. Maryland must now officially submit a complete application for Phase II, Components B and C on or before February 1, 1984. If the State fails to submit a complete application by February 1, 1984, the EPA approved State program will terminate automatically and administration of the RCRA hazardous waste management program will revert to EPA.

Compliance with Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this extension will not have a significant economic impact on a substantial number of small entities. The extension effectively suspends the applicability of certain Federal regulations in favor of Maryland's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926 and 6974(b).

Dated: December 23, 1983.

Thomas P. Eichler,

Regional Administrator.

[FR Doc. 84-180 Filed 1-4-84; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Fifty-Third Revised Service Order No. 1473]

Various Railroads Authorized To use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Fifty-third Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., January 4, 1984, and continuing in effect until 11:59 p.m., March 31, 1984, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: December 29, 1983.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by deleting at Item 6., the authority for the Missouri Pacific Railroad Company (MP), to operate certain Rock Island lines near Little Rock, Arkansas, and at Item 19., the authority for the South Central Arkansas Railway to operate between Eldorado, Arkansas, and Dubach, Louisiana. These authorities were deleted at the request of the involved carriers and the Rock Island Trustee, and in the case of the MP, represents an acquisition of the Rock Island property. Remaining items in Appendix A are renumbered accordingly.

This order is further revised, by adding at Item 22., the authority for the East Camden and Highland Railroad Company (ECHR) to operate between Eldorado, Arkansas, and Lillie, Louisiana.

Appendix B, of the previous order, is amended by removing line 30, which authority was also contained in the MP's purchase.

It is the opinion of the Commission that an emergency exists requiring that the railroads named in the appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order No. 1473.

Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).

(a) Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., January 4, 1984.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1984, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C 10304, 10305, and Section 122, Public Law 96–254.

List of Subjects in 49 CFR Part 1033

Railroad.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien. J. Warren McFarland not participating.

James H. Bayne,

Acting Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Peoria and Pekin Union Railway Company (PPU):*

A. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

2. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

3. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

4. *Chicago and North Western Transportation Company (CNW):*

A. at Omaha, Nebraska, 0.1 miles of industrial trackage in the vicinity of 19th and Pierce Streets.

5. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

B. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

6. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago

Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

7. *Cadillac and Lake City Railway Company (CLK):*

A. from Limon, Colorado (milepost 530.75) to Caruso, Kansas (milepost 430.0) a distance of 100.75 miles.

B. over-head rights from Caruso, Kansas (milepost 430.0) to Colby, Kansas (milepost 387.0), a distance of approximately 43 miles, in order to effect interchange with the Union Pacific Railroad.

8. *Baltimore and Ohio Railroad Company (BO):*

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

9. *Keota Washington Transportation Company (KWTR):*

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. at Vinton, Iowa (milepost 120.0 to 123.0).

C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

10. *The La Salle and Bureau County Railroad Company (LSBC):*

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Blue Island, Illinois (milepost 16.61), to Mokena, Illinois (milepost 29.6).

C. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (subdivision 1A, milepost 14.8), at Blue Island, Illinois.

D. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

E. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.

11. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. at Alva, Oklahoma.

B. at St. Joseph, Missouri.

12. *Iowa Northern Railroad Company (IANR):*

A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1).

B. at Vinton, Iowa (milepost 23.4), and west on the Iowa Falls Line to Dysart, Iowa (milepost 40.37).

13. *Iowa Railroad Company (IRRC):*

A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage was sold to CNW, however, the RI trustee holds rights for overhead use.)

E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance 113.79 miles.

F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 5.B.)

G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)

H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. at Rock Island, Illinois including 26th Street Yard.

J. from Altoona to Pella, Iowa.

14. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

15. *Chicago Short Line Railway Company (CLS):*

A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

16. *Kyle Railroad Company (Kyle):*

A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

B. from Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. from Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

17. *North Central Oklahoma Railway, Inc. (NCOK)*

A. from Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.14).

B. from El Reno, Oklahoma (milepost 515.0) to Hydro, Oklahoma (milepost 553.0) a distance of approximately 38 miles.

C. from Geary, Oklahoma (milepost 0.0) to Homestead, Oklahoma (milepost 42.8) a distance of approximately 43 miles.

D. from North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (Milepost 54.8) a distance of approximately 54.5 miles.

18. *Burlington Northern Railroad Company (BN):*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

19. *Omaha, Lincoln and Beatrice Railway Company (OLB):*

A. at Lincoln, Nebraska (milepost 559.16 to milepost 561.37).

20. *Texas North Western Railway Company (TNW):*

A. from Hardesty, Oklahoma (milepost 119.20) to Liberal, Kansas (milepost 152.35) a distance of approximately 33.15 miles.

21. *Farmrail Corporation (FMRC):*

A. from west of ELK City (milepost 615.0) to west of Erick, Oklahoma (milepost 642.0), a distance of approximately 27 miles.

22. *East Camden and Highland Railroad Company (ECHR):* [1]

A. from Eldorado, Arkansas (milepost 100.50) to Lillie, Louisiana (milepost 125.28) a distance of approximately 24.78 miles.

APPENDIX B

Line No.	Location to be operated	Railroads using	Rock Island functions to be performed
1	Rock Island Jct., IL. switches	CO/BO, CWPS, CR, CSL	Track maintenance.

[1] Added.

APPENDIX B—Continued

Line No.	Location to be operated	Railroads using	Rock Island functions to be performed
2	To ICG connection, Cottage Ave., Chicago, IL.	CWPS	Track maintenance.
3	Irondale Branch, Chicago, IL	CWPS, CR	Track maintenance.
4	Chicago, IL: Regional Port, District Lake, Calument Harbor, West Side.	ICG, CR, CSSB	Track maintenance.
5	Chicago (LaSalle St. Station)-Joliet, IL.	RTA	Dispatching performed at Des Moines, IA (Suburban train operation).
5a	Joliet, IL-16th and Clark Streets	ICG, RTA	Interlocking Towers.
6	Moline-East Moline, IL crossing signals.	BN, DRINW	Highway crossing signal maintenance.
7	Rock Island, IL, 28th Street	BN	Switchtender handles crossing and BN switches.
8	West Davenport-Muscatine, IA	MILW	Track and signal maintenance dispatching performed at Des Moines, IA, which controls entry switch at West Davenport (Automatic Block Signal).
9	Burlington-Mediapolis, IA	BN	Track maintenance; dispatching performed at Des Moines. Highway crossing signals maintenance on BN trackage.
10	Eddyville-Beacon, IA	CNW	Track maintenance.
11	Cedar Rapids, IA, 4th Street trackage.	ICG	Track maintenance.
12	Cedar Rapids, IA, 9th Avenue crossing.	CNW	Control of CNW-RI crossing and highway crossing signal maintenance.
13	Waterloo, IA, McKinley Street crossing signals.	CNW	Highway crossing signal maintenance.
14	Iowa Jct., Hollis, IL (Peoria Terminal Co.).	TPW	Track maintenance; dispatching performed by Peoria yardmaster.
15	Des Moines (Easton Blvd.) West Des Moines, IA.	CNW	Track and signal maintenance; operate and maintain RI and CNW tracks; signals-switches controlled at Short Line Tower (Automatic Block Signal).
16	Almena Jct.-CB&Q Jct. KS (Oronoque).	BN	Track maintenance; dispatching performed at Des Moines, IA; hand thrown switches; (Automatic Block Signal).
17	Colorado Springs, Roswell Industrial District, CO.	ATSF	Track maintenance.
18	Council Bluffs, IA, 6th, 7th, 8th St. crossing signals.	BN	Highway crossing signal maintenance.
18a	Council Bluffs, IA, vicinity BN of 14th Street.	BN	Diamond crossing maintenance. Interlocking plant maintenance and operation.
19	Albert Lea-Glenville, MN	CNW-ICG	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
20	Glenville, MN, Manly, IA	CNW	Operator at Manly.
21	Inver Grove, South St. Paul, MN	CNW, SOO	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
22	Limon, CO	UP	Operator.
23	Polo-Airline Jct., MO	MILW	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC from Polo to Birmingham. (Birmingham to Airline Jct. CTC controlled by MILW at Truman Bridge under RI dispatcher's direction.)
24	Atchison, KS-St. Joseph, MO	ATSF	Track and signal maintenance; dispatching performed at El Reno, OK.
25	Wathena-Troy, KS	UP	Track and signal maintenance; dispatching at El Reno, OK.
26	Herington, KSMP crossing interlocking.	MP	Interlocking controlled by RI operator (cannot be lined for MP and left unattended—signaling on MP cleared directionally).
27	Dodge City, KS	ATSF	Between Dodge City and ATSF Jct. over Arkansas River bridge track and bridge maintenance only (Line not in service at present).
28	McAlester-Shawnee, OK	MKT	Track and signal maintenance.
29	Shawnee-Oklahoma City, OK	ATSF-MKT	Track and signal maintenance.
31	Dallas, TX, Right of District (formerly Dallas Union Terminal).	MP, MKT, FWD, ATSF, SP, SSW, SLSF.	Track and signal maintenance; maintain and control operation from towers. Supervision and maintenance to be provided by Missouri Pacific Railroad Company.
32	Saginaw, TX	FWD, ATSF	Track and signal maintenance; interlocking controls, switches, and signals.
33	Memphis, TN, Section "A" trackage (1,460 feet) owned by LN.	ICG, LN, SOU	Track maintenance.
34	Briark, West Memphis, AR	SSW-MP	Track and signal maintenance; dispatching performed at El Reno, OK; CTC controlled from Kentucky St.
35	West Memphis-Brinkley, AR	SSW	Track and signal maintenance; dispatching performed at El Reno, OK ABS—Block signals operator at Brinkley.
36	Irving-Carrollton, TX	SLSF	Maintenance, dispatching (all functions performed by SLSF at present).
37	Iowa Falls, IA	ICG	Interlocking towers.
38	Rock Island Junction, AR to Hermitage, AR.	WSR	Maintenance.
39	Thompson, NE	BN	Diamond crossing maintenance.
40	Beatrice, NE	BN	Diamond crossing maintenance.
41	Centerville, IA	BN	Interlocking plant maintenance and operation.
42	La Salle, IL	BN	Diamond crossing maintenance.
43	Ottawa, IL	BN	Interlocking plant maintenance.
44	Colona, IL	BN	Interlocking plant maintenance.

APPENDIX B—Continued

Line No.	Location to be operated	Railroads using	Rock Island functions to be performed
45	St. Joseph, MO	BN	Diamond crossing maintenance.

[FR Doc. 84-178 Filed 1-4-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Alaskan Gray Wolf, Alaskan Brown or Grizzly Bear, Bobcat, Lynx, and River Otter Taken in 1983–84 and Subsequent Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final findings and rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. As a general rule, exports of animals and plants listed in Appendix II of CITES may occur only if a Scientific Authority (SA) has advised a permit-issuing Management Authority (MA) that such exports will not be detrimental to the survival of the species, and if the MA is satisfied that the animals or plants were not obtained in violation of laws for their protection. This notice announces final findings by the SA and MA of the United States on the export of certain Appendix II animal species native to this country. Previously, such findings were made each year on a State-by-State basis. Beginning this year, the Service is making such findings to span a period not limited to a single harvest season.

EFFECTIVE DATE: These findings are effective on January 5, 1984.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, room 537, 1717 H Street, N.W., Washington, D.C. or at the Federal Wildlife Permit Office, room 621, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Scientific Authority Finding—Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5950

Management Authority Finding—Mr. S. Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–2418

Export Permits—Mr. Richard K. Robinson, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–1903

SUPPLEMENTARY INFORMATION: In this notice, the Service issues a final rule based on CITES Scientific Authority (SA) advice and Management Authority (MA) decisions about the export of certain animal species taken during 1983–84 and subsequent harvest seasons. The species covered by this rule are listed in CITES Appendix II: the gray wolf (*Canis lupus*) and brown or grizzly bear (*Ursus arctos*) (Alaskan populations only), and the bobcat (*Lynx rufus*), lynx (*Lynx canadensis*), and river otter (*Lutra canadensis*) (United States populations).

Under the terms of CITES Article IV, export of specimens of these species may occur only if a permit has been issued. Export permits may be issued only when (a) the SA has advised that such export will not be detrimental to the survival of that species, and (b) the MA is satisfied that the specimen was not obtained in contravention of laws for the protection of fauna and flora. The Service carries out both SA and MA responsibilities for the United States.

The previous notice on this subject (48 FR 37494; August 18, 1983) invited public participation in the development of SA and MA determinations on the export of these species. In that notice, the service announced the decision from a review of listed species concluded at the Fourth Meeting of the Conference of the Parties in Botswana that each of the species or geographically separate populations addressed in these export findings should be regarded as listed in Appendix II because of its similarity in appearance to other listed species or populations. As indicated in that notice, the Conference of the Parties adopted a resolution accepting the report of the Central Committee on the 10-year review of species listed in Appendices I and II. The report included recommendations that these populations or species should be considered as listed in Appendix II only because of similarity in appearance, if they were to be retained in that appendix.

The August 18 notice described how the Service, as SA, planned to monitor the status of these species and their trade on an annual basis so that it could detect any significant downward trends in populations and, where necessary, institute more restrictive export controls in response to them. The notice also described how the Service, as MA, would determine if specimens had been lawfully acquired on the basis of tagging requirements.

Comments and Information Received

The Service received comments from 40 State wildlife conservation agencies, 3 Indian Nations, and 6 nongovernmental organizations (Defenders of Wildlife, Inc., joined by the Humane Society of the United States; Fur Conservation Institute of America; International Association of Fish and Wildlife Agencies; Tennessee Valley Authority; the American Fur Resources Institute, and the Wildlife Legislative Fund of America).

Comments from wildlife conservation agencies of the States and Indian Nations were generally as follows: (1) The agencies supported the treatment of the bobcat, lynx, and river otter as being listed for reasons of similarity in appearance under Article II.2(b) of CITES, and (2) the agencies informed the Service that harvest and subsequent export during the 1983–84 seasons of Appendix II furbearers from the respective States and Indian Nations would not be detrimental to the survival of these species. The agencies indicated that their conclusions that export of listed furbearers will not be detrimental were based on the best available biological information derived from professionally accepted wildlife management practices.

Defenders of Wildlife, Inc., submitted extensive comments. In summary, they were as follows: (1) Treating the furbearers in questions as listed only because of similarity in appearance does not alter the export standard to be applied; (2) the data do not justify treating the species in question as listed only because of similarity in appearance; (3) the Service may not alter the treatment of species as listed either for reasons of potential threat or similarity in appearance without prior notice and comment; and (4) the State tagging systems and the MA export guidelines are seriously flawed and, therefore, provide an inadequate basis for the Service to be satisfied that bobcat pelts are legally obtained.

The Fur Conservation Institute of America concurred with the Service's SA conclusion that the data support the position that it is more effective to issue non-detriment findings on a multi-year rather than an annual basis. The Institute requested the Service to allow the export of pelts without affixed tags when the processing of pelts made it necessary to remove tags to avoid damage to pelts or to machinery.

The International Association of Fish and Wildlife Agencies commented that the proposed regulations represented an acceptable and workable package, and that they incorporated most of the views of the Association.

The Tennessee Valley Authority stated that the proposed rule regarding the export of the Appendix II species under the terms of CITES was sound and biologically appropriate, and that the rule appeared to contain adequate safeguards against detrimental effects of the export of "look-alike species" by the required tagging procedure.

The American Fur Resources Institute questioned whether the proposed tagging system is necessary and must be employed to meet the criteria of CITES. They further questioned whether the Federal Government must have the State governments do the tagging to certify legal taking as set forth in the proposal, and as practiced since the Service began to implement CITES in 1977.

The Wildlife Legislative Fund of America strongly supported the proposed findings, including the move to multi-year export findings. They also stated that the tagging system proposed by the Service has been tested over several years, and no problems have been found with it. They, therefore, urged that the findings and rule be adopted as proposed.

All of the comments summarized above were considered by the Service in developing this notice of final findings and rule. The Service's responses to these comments are discussed in the following sections of the notice concerning SA advice and MA determinations, with particular reference to the critical comments from Defenders of Wildlife, Inc., and the American Fur Resources Institute.

Scientific Authority Advice

Article IV of CITES requires that an export permit for any specimen of a species included in Appendix II shall only be granted when certain findings have been made by the SA and MA of the exporting country. The SA must advise "that such export will not be detrimental to the survival of that species" before a permit can be granted. The SA for the United States must develop such advice for the export of Appendix II animals in accordance with Section 8A of the Endangered Species Act of 1973, as amended in 1982. The Act states that the Secretary of the Interior is "required to base export determinations and advice upon the best available biological information derived from professionally accepted practices used in wildlife management, but is not required to make, nor may he require any State to make, estimates of population size in making such determinations or giving such advice." The Service hereby announces its decisions on implementing the SA responsibilities for certain species.

The U.S. delegation to the fourth meeting of the Conference of the Parties to CITES (Botswana, April 19–30, 1983) introduced proposals to remove Alaskan and Canadian populations of gray wolf, and U.S. and Canadian populations of bobcat and lynx from Appendix II. The delegation also introduced a proposal to establish that the river otter is listed in Appendix II only because of its similarity in appearance to other otters. The Canadian delegation submitted similar proposals. Comments from the CITES authorities of other Parties in response to the proposals clearly showed that importing countries in Europe felt there was a lookalike problem between these animals and others, even though it was generally understood that the populations or species addressed by the proposals were not potentially threatened with extinction. The Parties and the CITES Secretariat indicated that the United States had the latitude and competence to treat bobcats or the other species in question as lookalikes in making its export findings, noting that the original proposals to list these species in Appendix II did not specify the reasons for placing each species in that appendix, and noting that decisions on export permits are to be made by authorities of the exporting nation, who are in the best position to assess the status of the species. Given the consensus of the Parties on these points, the U.S. and Canadian delegations withdrew the proposals mentioned above.

Data accumulated in the course of implementing CITES for bobcats, lynx, and river otter provide scientific evidence that similarity in appearance is the only reason why CITES should presently apply to these species or geographically separate populations. Since 1979, the SA and MA for the United States have treated the Alaskan gray wolf and Alaskan brown or grizzly bear as listed for reasons of similarity in appearance under Article II.2(b) of CITES, and have issued export findings in accordance with this treatment. Information presented to the Parties in proposals from the United States in 1982 showed that none of these five species or geographically separate populations can reasonably be considered as potentially threatened with extinction because of trade, and that trade under existing State controls would not jeopardize their survival. Information gathered more recently supports these conclusions.

For the past seven years, beginning in 1977, the SA has reviewed information on population status, management, and trade for these animals in every State where they are harvested. The Service has analyzed these data and has summarized this information in documents that detail the basis for SA advice for each State. The following information, based on data for bobcats from 1976–1982, helps to illustrate that export under current State programs is not detrimental to the survival of the species on a national level.

The nationwide population of breeding adult bobcats, not including the annual increment of young, has been conservatively estimated at 754,000-780,000 animals in 1982. The individual States involved have indicated that there have been no significant changes in the size of their bobcat populations in recent years (stable population trends). The annual harvest over the years 1976–82 averaged 88,840 animals. This is between 11 and 12 percent of the estimated population. It is less than the combined harvest level objectives of States that allow a harvest, which added up to 102,510 animals or between 13 and 14 percent of the estimated population in 1982. It also is less than the conservative 20 percent level used by the Service in evaluating State harvest level objectives last year (see 48 FR 16494, April 18, 1983).

There are professionally-run management and research programs for the species discussed in this notice in each State where a harvest is allowed. Ongoing research projects and management programs will serve to indicate whether similarity in appearance treatment remains suitable in the future. If problems arise for a geographic population of any one of these species, the Service will afford that population more restrictive treatment. The Service will maintain its export requirements in order to monitor the trade, to limit it where necessary to avoid detriment to the species involved, and to address problems of similarity in appearance. Although the national

populations of these animals are not now potentially threatened because of international trade, monitoring will enable the SA to detect any significant downward trends in the population of a given species and, where necessary, advise on more restrictive export controls in response to them. To aid the SA in monitoring the status of all species addressed in this notice, annual certification is requested from each State in which the species are harvested as to whether the best available biological information derived from professional accepted wildlife management practices indicates that harvest during the forthcoming season will not be detrimental in the survival of the species.

Apart from this routine monitoring, whenever available information from the States or other sources indicates a possible problem in any particular State, the SA will conduct a comprehensive review of accumulated information to determine whether conclusions about the treatment of these species as listed for similarity in appearance need to be adjusted in that State. When conducting such a review, the Service will analyze the best available accumulated information bearing directly on the population status and trend for the species in question. This includes the results of any recent research on distribution, abundance, and population dynamics, and any other data that have been generated for use by States to manage the species. In analyzing the potential for commercial trade, the Service will evaluate available data on harvest size, distribution, and trend in each State, together with information on the price of pelts, number of pelts exported, and any other indications of harvest pressure.

The comment from Defenders of Wildlife that the data do not justify shifting these furbearing species from potentially threatened to similarity-in-appearance status is contradicted by extensive biological information generated through wildlife research. The CITES Parties viewed the summary of this information presented to them as a sufficient basis for treating the animals in question as listed only for reasons of similarity in appearance (see CITES documents Doc. 4.37 Annex 1 and Conf. 4.26).

The Service followed a rulemaking procedure in developing proposals to remove the bobcat and lynx from Appendix II and to establish that the river otter should be listed only because of similarity in appearance (46 FR 33534; June 30, 1981; 46 FR 45652, September 14, 1981; 47 FR 1242, January 11, 1982; 47 FR 7190, February 17, 1982; 47 FR 51772, November 17, 1982; 48 FR 30732, July 5, 1983). The Service received and considered comments from Defenders of Wildlife, among others, in making decisions on these proposals. Defenders' comment that there was no opportunity for prior comment on the shift to similarity-in-appearance for these species overlooks their participation in decisionmaking prior to the CITES meeting at which such treatment was established through negotiation by the U.S. and Canadian delegations.

Defenders of Wildlife's comments on the present rulemaking also addressed the export standard to be applied to the species in question. Defenders expressed the view that the same non-detriment test must be applied regardless of the reason for listing a species in Appendix II, and that the finding should consider the effects of export both on the species itself and on other look-alike species. This view was based on the language in CITES Article IV paragraph 2, which requires nondetriment advice as a precondition for export regardless of the reason why a species was listed in Appendix II. Defenders expressed this as follows: "The rationale for this uniform treatment, which the Parties have considered and upheld, is simple: The II.2(b) species is protected under Article IV in the same way as the II.2(a) species precisely because it looks like the II.2(a) species." Further, Defenders stated that "A unitary standard for both II.2(a) and II.2(b) species recognizes the fact that, under circumstances where two species look alike, both are potentially threatened. . . ."

In response, the Service notes that CITES Article II paragraph 2(b) gives strong support for the view that nondetriment findings should address the regulation of trade in a species listed under these provisions because of similarity in appearance so as to enable trade in certain other species that are or may become endangered to be brought under effective control. This interpretation gives meaning to the nondetriment finding and achieves the purpose for which species are listed under Article II paragraph 2(b).

Although the Service does not adopt the view of Defenders on the export standard to be applied to the species in question, it should be emphasized that the actual processs of developing SA advice on species addressed in this notice accommodates the concerns that Defenders raised. A review of the best available biological information has led the Service to conclude that the species or geographically separate populations addressed here are not potentially threatened with extinction because of international trade. Comments from Defenders and others were invited and considered in making this decision (see **Federal Register** notices cited above). The determination that these animals are not potentially threatened with extinction through trade encompasses a finding that their export will not be detrimental to the survival of the species involved.

The procedure for monitoring and review that the Service will follow to establish if this determination remains correct in the future is described above. It includes a provision for limiting trade where necessary to avoid detriment to the species involved. However, the best available biological information presently leads the Service to conclude (1) that export will not be detrimental to the survival of the species or geographically separate populations involved, and (2) that with tagging of pelts as described below, the export of of these animals will not reduce the effectiveness of CITES in controlling trade in other listed species. Documents summarizing the biological information used in making these decisions are available for public inspection at the Service's Office of the Scientific Authority (see address above).

Management Authority (MA) Determinations

Exports of Appendix II species are to be allowed under CITES only if the MA is satisfied that the specimens were not obtained in contravention of laws for the protection of wildlife or plants. The Service, therefore, must be satisfied that the pelts, hides, or products of the furbearers in question were not obtained in violation of State or Federal law, in order to allow export. Evidence of legal taking for Alaskan gray wolf, Alaskan brown or grizzly bear, bobcat, lynx, and river otter is provided by State tagging systems. For the 1982–83 season, the Service required the use of locking plastic strip tags with embossed legends and arranged for the manufacture of such tags for the majority of States. Some States already use similar tags. These were allowed to use a non-complying tag style for the 1983–84 season due to early ordering requirements mandated by State law. However, these States are being notified that they will be required to use Service-approved tags in subsequent years. The Service will supply tags free of charge for these species to all States in which they are harvested during the period covered by these findings. States may

use their own tags if they meet the requirements below.

The Service is adopting the following Management Authority export guidelines for the 1983–84 and subsequent taking seasons, as indicated in the notice of proposed findings:

(1) Current State hunting, trapping, and tagging regulations and sample tags must be on file with the Service (Wildlife Permit Office);

(2) The tags must be durable and permanently locking, and must show State of origin, year of take, species, and be serially unique;

(3) The tag must be applied to all pelts within a minimum time after take, as specified by the State, and such time should be as short as possible to minimize movement of untagged pelts;

(4) The tag must be permanently attached as authorized and prescribed by the State. Tag application must be by State official, State-registered dealers, or State-licensed takers;

(5) State-registered dealers or State-licensed takers allowed by the State to attach tags must account for tags received and must return unused tags to the State within a specified time after taking season closes; and

(6) For the 1983-84 and previous exporting seasons, finished furs and fully manufactured fur products may be exported from the United States when accompanied by State tags removed from the pelts contained in the products; such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined. These tags must be surrendered to Service personnel at the point of export.

In response to comment by the Fur Conservation Institute of America, and after observing the fur tanning and manufacturing processes, it has been determined that it is necessary to allow removal of current-style export tags from raw skins to avoid damage to workers, pelts and equipment. Therefore, finished furs and fully manufactured fur products from skins harvested in the 1983–84 and previous seasons may be exported from the United States when accompanied by State export tags that have been removed in the prescribed manner from the skins that are then finished furs or contained in finished fur products. These State export tags must have been removed from the skins at time of manufacture by cutting the tag strap next to the locking socket of the tag so that the locking socket and the locking tip remained joined. These tags will be collected by the Service at the point of export from the United States.

Defenders of Wildlife commented that the Management Authority export guidelines are seriously flawed because they do not require either possession tagging or the application of permanent tags by State personnel. The American Fur Resources Institute, on the other hand, commented that the application of possession tags by State personnel does not increase the validity of the tagged pelt. In response, it should be recognized that the tagging of pelts serves two purposes under CITES. First, the tag assures that the tagged pelt being exported from the United States has been taken in a Service-approved State and in a Service-approved year. Secondly, the tag identifies the species of the pelt for purposes of addressing problems of similarity of appearance, as discussed previously in the Section on Scientific Authority advice.

While the Service and State wildlife management agencies recognize the limitations inherent in a tagging system, it remains the best available method of identifying exportable pelts of CITES listed species. The Service has required that approved export tags be attached to legally taken skins by State personnel or State registered fur dealers or State-regulated trappers. In 1983, State personnel will apply the export tag in 40 of the 45 States receiving 1983–84 Service export approval for listed fur species. State-registered fur dealers attach export tags in three States while State regulated trappers tag the pelts in two States. These five States require dealers or trappers to account for pelt tags assigned to them and the dealers must also report on their commerce in all fur skins to the State.

As reported earlier, 43 of the 45 States have official personnel or State-registered and controlled dealers apply export tags after they are assured of the origin and legality of the skin. The Service will and continue to work toward implementation of this procedure by the two remaining States that allow the State regulated trappers to tag their own pelts.

While the Defenders of Wildlife has commented upon the failure of the Service to require the use of possession tags, it offers no reason for its use. The Service believes that management of resident species of wildlife is the responsibility of the States and has developed a Federal CITES Export Program based upon State law and certification of legal take. This certification is evidenced by the export tag applied at the State level. Without at least this level of control by the State, the Service cannot be assured that a skin being exported was legally taken, and attachment of tags at the point of export as suggested by the American Fur Resources Institute is not a viable option.

Comments received from the Florida Game and Freshwater Fish Commission relate that Florida's tagging program does not warrant a State-possession tagging program. The Missouri Department of Conservation and the Colorado Division of Wildlife commented that attachment of a possession tag prior to attaching an export tag will be of very little advantage in monitoring take, but will increase the cost and administrative problems. Also, the American Fur Resources Institute stated that use of both possession tags and export tags is "clearly unnecessary and financially burdensome." Finally, the International Association of Fish and Wildlife Agencies proposed that while no bobcat skin should be exported untagged from the United States, "no possession tag should be required."

Fourteen States use a possession tag in one form or another for the involved species, but have not commented upon the use of this system. Other States believe that such a system is burdensome, costly, and unwarranted as its use would not significantly impact the effectiveness of monitoring the harvest. Available information does not indicate that requiring States to use possession tags is justified and its use should remain a decision of State program managers.

Export Approval

The Service approves exports of animals harvested in the 1983–84 and subsequent taking seasons in the following State and Indian nations on the grounds that both the SA and MA criteria have been met:

Alaskan brown or grizzly bear: Alaska.

Alaskan gray wolf: Alaska.

Bobcat: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Penobscot Nation, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Lynx: Alaska, Idaho, Minnesota, Montana, and Washington.

River otter: Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan,

Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New York, North Carolina, Oregon, Penobscot Nation, South Carolina, Vermont, Virginia, Washington, and Wisconsin.

This approval is subject to revision prior to any subsequent taking season in any particular State or Indian Nation if a review of information reveals that MA or SA findings in favor of export must be changed. The Service does not grant general approval for export of specimens of these species originating in any State or Indian Nation not named above because for one or more of the following reasons: (1) The species do not occur there, (2) no harvest of the species is allowed by the State or Indian Nation, or (3) the Service does not have current information needed for SA or MA findings.

This rule is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531, et seq.; 87 Stat. 884 as amended). It was prepared by Drs. Richard L. Jachowski and Richard M. Mitchell, Office of the Scientific Authority, and Mr. S. Ronald Singer, Federal Wildlife Permit Office.

The Department has determined that good cause exists, within the meaning of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, for making these findings and rule effective immediately. This notice represents the final administrative step in authorizing the export of bobcats and certain other species in accordance with CITES. This action has been delayed because of the need to gather and evaluate the best available biological information on these species. It is the Department's opinion that a delay in the effective date of the regulations after this rulemaking is published could affect the harvest season that already has begun in several States. It could adversely affect the species by reducing compliance with State documentation and tagging requirements. Good cause also exists for making these findings effective as soon as possible to avoid economic injury to individual trappers, dealers, or other small entities that are directly affected by the findings. It should be noted that making these findings and rule effective immediately will not adversely affect the species involved, in view of the findings on nondetriment contained herein.

Note.—The Department has determined that the final findings on the export of certain Appendix II animals taken in the 1983–84 and subsequent harvest seasons are not a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act and, therefore, the preparation of an Environmental Impact Statement is not required. The Department also has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). The findings will allow a continuation of the export of specimens taken in accordance with State programs that have operated for several years without adversely affecting the resource. The findings do not contain any information collection or recordkeeping requirements as defined by the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, imports, Plants (agriculture), Treaties.

Regulation Promulgation

Accordingly, Part 23 of Title 50, Code of Federal Regulations, is amended as set forth below:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 reads as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531–43.

Subpart F—Export of Certain Species

2. In § 23.52, add new paragraph (h) as follows:

§ 23.52 Bobcat (Lynx rufus).

* * * * *

(h) 1983–84 and subsequent harvests: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Penobscot Nation, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved and attached under conditions established by the Service. Exception to tagging requirement: for the 1983–84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

3. In § 23.52, add new paragraph (g) as follows:

§ 23.53 River otter (Lutra canadensis).

* * * * *

(g) *1983–84 and subsequent harvests:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New York, North Carolina, Oregon, Penobscot Nation, South Carolina, Vermont, Virginia, Washington, and Wisconsin.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: for the 1983–84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

4. In § 23.54, add new paragraph (g) as follows:

§ 23.54 Lynx (Lynx canadensis).

* * * * *

(g) 1983–84 and subsequent harvests: Alaska, Idaho, Minnesota, Montana, and Washington.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: for the 1983-84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

5. In § 23.55, add new paragraph (g) as follows:

§ 23.55 Gray wolf (Canis lupus).

* * * * *

(g) 1983–84 and subsequent harvests: Alaska.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered State tag of a type approved and attached under conditions established by the Service. Exception to tagging requirement: for the 1983–84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

6. In § 23.56, add new paragraph (g) as follows:

§ 23.56 Brown bear (Ursus arctos).

* * * * *

(g) 1983–84 and subsequent harvests: Alaska.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered State tag of a type approved by the Service and attached under conditions established by the Service.

Dated: December 21, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-274 Filed 1-4-84; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31215-238]

Foreign Fishing; Poundage Fee Schedule

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA implements the 1984 poundage fee schedule for foreign vessels fishing in the fishery conservation zone. Under this fee schedule, foreign vessels will pay for 26 percent of the FY 1983 Magnuson Fishery Conservation and Management Act costs. This rule is needed to comply with section 204(b)(10) of the Magnuson Fishery Conservation and Management Act.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: John D. Kelly or Susan E. Jelley, 202–634–7432.

SUPPLEMENTARY INFORMATION: NOAA implements a schedule of fees for fishing during 1984 by foreign vessels in the U.S. fishery conservation zone (FCZ). The new schedule should result in collections of about $44.5 million. As in previous years, no fee will be collected by the Federal government for U.S.-caught fish received at sea by foreign flag processing vessels (joint ventures).

Background

Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*) states, in part, "The fees * * * shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act * * * during (FY 1983) the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during (1982) bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during (1982)."

Foreign fee schedules are established for each calendar year following the provisions of section 204(b)(10). On October 27, 1983, NOAA published at 48 FR 49669 a proposed schedule of poundage fees for foreign fishing in 1984. Under this proposal, NOAA estimated the FY 1983 costs of carrying out the purposes of the Magnuson Act as $172.805 million. Of this amount, at least $45.102 million was proposed to be recovered from foreign fishing fees. This portion of the total costs is calculated from the ratio of the foreign catch in 1982 to the total catch that year in the FCZ and territorial waters, which was 26.1 percent. NOAA estimated that about $0.1 million would be recovered by permit fees and therefore proposed that the balance of $45.0 million be recovered by poundage fees. The poundage fees were apportioned by species based on proposed exvessel values subsequently adjusted for certain management considerations. The adjusted values were called management values and estimates of the catch of each species in 1984 were used to determine the management value of the total estimated foreign catch in 1984. The ratio of $45.0 million to be recovered by poundage fees to the total management value of the estimated 1984 foreign catch determined a proposed fee rate of 15.8 percent of the adopted management value of each species. NOAA received public comments on this proposal until November 28, 1983, and now adopts this final rule to set the 1984 foreign fishing poundage fee. Readers should refer to 48 FR 49669 and the documents referenced therein for detailed explanation of the proposed rule.

Comments

NOAA received comments from nine parties and organizations. The following summarizes the comments received and NOAA's responses to these comments.

1. *Comment.* The prices of wahoo, mahi mahi, and Pacific sharks should be revised to reflect recent prices.

Response. More recent prices were provided by the Honolulu Laboratory of the Southwest Fisheries Center. These recent prices in the fresh market for sales in American Samoa, Guam, Northern Mariana Islands, and Hawaii are those for the last calendar year (1982). The prices are lowered by assuming a 50 percent mark-up between the market price and exvessel price. The estimated exvessel prices for wahoo and mahi mahi are changed to $2,000 per metric ton (mt) from the proposed $1,500 per mt for mahi mahi and $2,251 per mt for wahoo. The price for sharks is raised to $1,000 per mt from the proposed $123 per mt. The final fees are $312, $312, and $156, respectively.

New preliminary estimates of the market values of alfonsin and armorhead ("seamount groundfish") are $1,214 to $2,756 per mt. However, more documentation is needed to substantiate these prices. NOAA notes that although the TALFF for seamount groundfish is 2,000 mt, the 1982 foreign harvest was only 20% of that. To encourage fuller utilization of the TALFF, the management factor is reduced to 0.5, and the final fee is reduced from the proposed fee in the final rule.

2. *Comment.* The prices of Alaska flatfish, Pacific ocean perch, Pacific cod, Atka mackerel, and "other Alaskan groundfish" are too high.

Response. The management factor for "other groundfish (Alaska)" was erroneously shown in the proposed rule as 1.0. Table 3 of the supplementary material describing the methods used to develop the schedule shows that the correct factor is 0.5. However, the exvessel value listed in the proposed rule was half the intended exvessel value shown in the supplementary material. Therefore, because of these compensatory errors the proposed fee was correct.

In response to the contention that the exvessel value is too high, NOAA looked at the actual composition of the foreign catch of "other species"; this was 25% skates, and 75% sculpins. Using this composition, NOAA calculates a weighted average price of $799 per mt.

The management value becomes $400 per mt. The expected revenues from "other groundfish" will be less than 4% of the total expected revenues from Alaska, which NOAA believes is relatively insignificant. To evaluate the comments on other fees in Alaska, NOAA compared Japanese prices from June 1982 through June 1983 for flatfish, Atka mackerel, pollock, Pacific ocean perch, rockfish, Pacific cod, swordfish, and marlin. The prices were converted from yen into dollars at each month's exchange rate. Then the mean price was calculated:

Product	Dollars per metric ton	Price as a multiple of pollock	Proposed 1984 fee	Fee as a multiple of pollock	Fee as percent of Japanese price
Fresh Alaska pollock	264	1	28	1	10.6
Fresh atka mackerel	484	1.83	42	1.5	8.7
Fresh ocean perch	3,451	13.07	90	3.2	2.6
Fresh rockfish	3,501	13.26	69	2.5	2.0
Fresh flatfish	1,599	6.06	60	2.1	3.7
Frozen cod	1,150	4.36	66	1.32	5.7
Fresh broadbill swordfish	3,050	11.55	369	21.02	12.1
Fresh striped marlin	4,142	15.69	593	20.89	14.3

The U.S. exvessel atka mackerel price was derived from the prices paid by foreign flag vessels to U.S. fishermen delivering the mackerel at sea. The U.S. value of $267 per mt is half its value in Japanese markets, and the proposed fee is only 9% of the value. NOAA feels that 9 percent is a reasonable fee, so the proposed fee for atka mackerel will become the final fee.

The fees for Pacific ocean perch, flatfish and Pacific cod are very small percentages of the Japanese prices. The proposed Pacific ocean perch fee is $3 less per metric ton than that in 1983. NOAA does not believe the proposed fees will make foreign fishing for these species in the FCZ unprofitable, so no changes in these fees are made as a result of this comment.

3. *Comment.* The proposed fee for Atlantic mackerel ($51) is too high.

Response. To date, only two countries have applied for joint ventures and directed harvests of mackerel. NOAA believes that U.S. fishermen may benefit if the management factor for mackerel is changed to 0.5. This is the same philosophy used to set the management factor for Pacific whiting at 0.5. Therefore, the management factor is reduced to 0.5 for Atlantic mackerel.

4. *Comment.* Fees should not be calculated using management factors.

Response. This procedure has been followed since implementation of the fee schedule for 1981. It is a mechanism that allows NOAA to be flexible enough to consider the economics of different fisheries and to minimize the disruption of historical fishing patterns, to encourage the harvest of those species that might not otherwise be caught, yet to encourage the U.S. commercial fishing industry to grow and to offer it a degree of protection as mandated by the Magnuson Act. The management factors may be reevaluated each year and adjusted if warranted by changes in the markets. (See criteria for establishing fees, 46 FR 55731, November 12, 1981).

A nation need not catch high-priced species even if those species are allocated to that nation. A country pays only for the species that are caught. Furthermore, the highest management factor of 1.43 is assigned not to "penalize" foreign vessels, but to acknowledge the relatively higher value of certain species to the U.S. commercial fleet and to make U.S. fish products developed from those species more competitive on the world market with fish caught in the U.S. FCZ by foreign fleets. Furthermore, the species that have a management factor of 1.43 usually have higher profit margins overseas and thus can better absorb proportionately higher fees.

5. *Comment.* The ratio of U.S. to foreign catch is based on data two years out of date.

Response. Section 204(b)(10) of the Magnuson Act requires that catch data from the prior year be used to determine the ratio. It is true that the final fee schedule uses a ratio of the catch data which is two years old. However, catch data for a calendar year are not compiled and published until the subsequent April. NOAA begins preparing the proposed rule after these data are available and a final rulemaking on the fee schedule for the upcoming year before more current catch data are available. Therefore, NOAA is using the most timely published catch data available.

6. *Comment.* Increased fees will have an adverse impact on joint ventures with U.S. fishermen.

Response. The table in response number 2, above, implies that U.S. fees are not a very large proportion of the price of fish in Japan. The proportion falls even further when one compares the fee to the retail price of processed fish products rather than fresh fish (which have little or no value-added). Commenters did not supply any financial data to show how increased fees would reduce revenues for U.S. fishermen engaged in joint ventures.

7. *Comment.* There is no clear methodology to account for the costs of the Magnuson Act. There is no way foreign fleet managers can forecast U.S. fees when projecting future operating costs, since the procedure NMFS uses is subjective rather than objective. The Independent Offices Appropriations Act (IOAA) applies. NOAA's estimates of the costs of carrying out the purposes of the Magnuson Act consistently exceed Congressional authorizations.

Response. These comments were closely evaluated last year. Please see 48 FR 27076–27077, June 13, 1983, responses to comments numbered 2, 3, 4, 5, and 6. NOAA's position on these comments is not changed.

8. *Comment.* The U.S. Coast Guard estimates of costs attributable to the Magnuson Act appear over-stated, particularly since "overhead" is included, as well as activities within the territorial sea.

Response. NOAA decided last year that overhead costs of NOAA and Department of Commerce are appropriate to include in recoverable costs. It is logical to extend this conclusion to the USCG costs. Please see 48 FR 27078, June 13, 1983, responses to comments numbered 10 to 12 for further discussion of how USCG costs are calculated.

9. *Comment.* Ship costs are excessive. Observer costs have been included in the Northeast Region. Pacific shrimp studies outside the United States and menhaden studies within the territorial sea are included.

Response. As a result of comments on the 1983 fee schedule, NOAA reviewed the estimates of research vessel costs. Corrected FY 1982 costs were used to reasonably estimate FY 83 costs in the schedule proposed for 1984. Actual FY 83 costs were not available at that time. The method used to compute vessel costs was as follows: The actual expenditures for each vessel during FY 1982 were compiled and then multiplied by the percentage of total ship days expended supporting the MARMAP (Marine Resources Monitoring, Assessment and Prediction) Program. [Even though the MARMAP program was operating before the Magnuson Act was implemented, the goals of the program clearly meet the criteria in section 204(b)(10), which includes "the total cost of carrying out * * * fisheries research * * *.] This method corrected the method used to calculate ship costs for the 1983 fee schedule. In calculating ship costs for the proposed 1984 fee schedule, the FY 83 expenditures for MARMAP were assumed to be about the same as in FY 82. The $6.6 million increase between the FY 1982 ship costs used for the 1983 fees and the FY 82 costs used in the 1984 fee calculations is a correction. In FY 1982, these costs were actually $9.5 million, not the $2.9

million used in the calculations for the 1983 fee schedule.

A breakdown of ship costs by vessel is available upon request.

NOAA reviewed the other disputed costs and deducted $900,000 for observer fees in the Northeast Region, $37,000 for shrimp research outside the FCZ, and $1,045,800 for menhaden research.

Summary

As a result of evaluation of these comments, the overall costs are reduced from $172,805,700 to $170,822,900. The fee collection target is 26.1% times $170,822,900 or $44.6 million. After deducting anticipated revenues for 1984 permit fees from this target, the poundage fee collection target is $44.5 million. Using the same procedures applied in the proposed rule, NOAA will set species fee at 15.6 percent of the final management values. The final fees are in table 1 at the end of this rulemaking.

Classification

NOAA prepared a draft regulatory impact review (RIR) that discussed the economic consequences and impacts of the proposed fee schedule and its alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, determined that the proposed schedule does not constitute a major rule under E.O. 12291. The regulatory impact review demonstrates that the fee schedule complies with the requirements of section 2 of E.O. 12291.

The General Counsel for the Department of Commerce certified that the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This certification was forwarded to the Chief Counsel for Advocacy of the Small Business Administration. Because the fee schedule will not have a significant economic impact upon a substantial number of small entities, a regulatory flexibility analysis was not prepared.

NOAA Directive 02–10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*). Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements.

The proposed fee schedule has no direct impact on the fishery resources in the FCZ. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the schedule meets the criterion that fees should minimize disruption of traditional fishing patterns on target species. The schedule is not a significant change from the 1983 fee schedule. Since this fee schedule will not prevent the harvesting of the total allowable level of foreign fishing (TALFF), and the environmental impact of harvesting the TALFF is described for each fishery management plan, no further environmental assessment is necessary.

Part of the 30-day delay in implementation required by the Administrative Procedures Act is waived so that the fee schedule can be in place on January 1, 1984. If no schedule is in place, foreign fishing vessels will not be allowed to harvest fish, and the U.S. Treasury consequently will lose revenues. Furthermore, an interruption in fishing for foreign vessels already in the FCZ would be costly to the foreign fishing companies, since their vessels would be incurring fixed operating costs while being forced to sit idle until the 30-day period elapsed.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

December 30, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons above, 50 CFR Part 611 is amended as follows:

1. The authority citation for 611.22 is:

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

2. Table 1 of § 611.22(a)(2) is revised to read as follows:

§ 611.22 Fee Schedule for foreign fishing.

* * * * *

TABLE 1.—SPECIES AND POUNDAGE FEE

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fee
1. Butterfish	156
2. Hake, red	29
3. Hake, silver	31
4. Herring, river	28
5. Mackerel, Atlantic	25
6. Other finfish (Atlantic)	146
7. Sharks (Atlantic)	66
8. Squid, Illex	60
9. Squid, Loligo	134
10. Shrimp, royal red	[1]
11. Atka mackerel	42
12. Cod, Pacific	66
13. Flatfish (Alaska)	59
14. Flounders (Pacific)	59
15. Jack mackerel	15
16. Pacific ocean perch	89
17. Other groundfish (Alaska)	62
18. Other fish (Pacific)	49
19. Pollock, Alaska	28
20. Sablefish (Alaska)	148
21. Sablefish (Pacific)	157
22. Rockfish	68
23. Snails	40
24. Squid (Pacific)	23
25. Whiting (Pacific)	14
26. Western Pacific corals	[2] 79
27. Seamount groundfish	31
28. Dolphinfish (mahi mahi)	312
29. Wahoo	312
30. Sharks (Pacific)	156
31. Swordfish (Pacific)	366
32. Striped marlin (Pacific)	585
33. Other Pacific billfish	234

[1] Reserved.
[2] Per kilogram.

[FR Doc. 83-34854 Filed 12-30-83; 4:38 pm]

BILLING CODE 3510-22-M

50 CFR Part 663

[Docket No. 31230-249]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; fishing restrictions and request for comments.

SUMMARY: NOAA issues this notice establishing restrictions to reduce the levels of fishing for widow rockfish, the *Sebastes* complex (all rockfish except Pacific ocean perch, widow, shortbelly, and *Sebastolobus* rockfishes), and sablefish taken off the coasts of Washington, Oregon, and California, and seeks public comment on these actions. These actions are authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan and are necessary because of biological stress to these stocks has been identified or is projected to occur before the end of 1984. These actions are intended to lower fishing rates, reduce biological stress, and avoid, or at least reduce the probability of, a fishery closure before the end of the year. This action supercedes fishing restrictions imposed in 1983 for widow rockfish, the *Sebastes* complex, and sablefish.

DATES: This notice is effective from 0001 (Pacific Standard Time) January 1, 1984, until modified, superceded, or rescinded. Comments will be accepted through January 19, 1984.

ADDRESSES: Send comments to T. E. (Gene) Kruse, Acting Director,

Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., Bin C15700, Seattle, Washington 98115 or Floyd S. Anders, Jr., Acting Director, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT:
T. E. (Gene) Kruse at 206–527–6150 or Floyd S. Anders, Jr. at 213–548–2575.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982, and final implementing regulations were published October 5, 1982 (47 FR 43964).

This action supercedes the **Federal Register** notices at 48 FR 30395 (July 1, 1983), which imposed size and landing limits on sablefish, and at 48 FR 41164 (September 14, 1983), which further restricted landings of widow rockfish and the *Sebastes* complex. It supplements the **Federal Register** notice at 48 FR 54671 (December 6, 1983), which announces the preliminary specifications for 1984 fisheries for Pacific groundfish species.

The FMP differentiates between numerical and non-numerical optimum yields (OY) for species. Those species which may be harvested fairly selectively have a numerical OY, which is the maximum amount of that species which may be landed in a year; landings in excess of OY are prohibited. Widow rockfish (*Sebastes entomelas*) and sablefish (*Anoplopoma fimbria*) have numerical OYs. Species which are not harvested selectively, which are of very little commercial interest, or about which there is little scientific data are part of the non-numerical OY group and are managed most commonly by gear, area, and landing restrictions. An estimate of the acceptable biological catch (ABC), the annual catch that could be taken without jeopardizing a resource's productivity, has been made for most species in this group. Some species in the non-numerical OY group may be fished above the ABC. However, when a species in the group is stressed, or will be before the end of the year, the Council must determine whether harvest of the group as a whole should be reduced even though some species in the group may not be stressed. The *Sebastes* complex (all species of rockfish managed under the FMP except Pacific ocean perch, shortbelly, widow, and *Sebastolobus* rockfishes) is included in this non-numerical OY group.

The regulations allow the Secretary of Commerce (Secretary) to reduce fishing levels if it is determined that continued fishing at current levels would cause biological stress to any species. Throughout 1982 and 1983, the Pacific Fishery Management Council (Council) documented biological stress on widow rockfish and at least one species within the multi-species *Sebastes* complex. It also acknowledged the increased likelihood of biological stress occurring in other species if fishing levels were not reduced. Management regimes were implemented for widow rockfish, the *Sebastes* complex, and sablefish, all regulated by quotas in 1983, with the intent of avoiding the closure of these fisheries which must be imposed if a quota is exceeded before the end of the year.

The Council considered advice from its Groundfish Management Team (State and Federal fishery and social scientists), Groundfish Advisory Subpanel (fishing industry and consumer representatives), Scientific and Statistical Committee (State, Federal, and university scientists), the concerned public, and an *ad hoc* Task Force created by the Council for the purpose of recommending methods of reducing fishing levels with minimal disruption to the fishing industry. The Task Force included representatives from the Council, Groundfish Management Team, fishing industry, and State fishery agencies.

At its June 8–9, 1983, meeting when it tightened the restrictions for widow rockfish and the *Sebastes* complex for 1983, the Council recognized that management measures affecting fisheries for these resources would probably become more restrictive in 1984. The Council recommended harvest guidelines for 1984 for the *Sebastes* complex in the Vancouver-Columbia area and for all flatfish managed under the FMP, not to exceed 130 percent of the summed ABCs. The harvest limit on flatfish was recommended to prevent an excessive shift of the fishery to flatfish when the landings of the *Sebastes* complex are further curtailed. The Secretary concurred with the 1984 recommendations of the Council and published a notice to this effect on July 1, 1983 (48 FR 30395).

At its November 9–10, 1983, meeting in Boise, Idaho, the Council again reviewed the latest data and considered management measures intended to limit landings of groundfish in 1984, thereby minimizing the likelihood or intensity of biological stress on groundfish stocks, and reducing the chances of having to close a fishery before the end of the year. In each case, the Council recommended some kind of trip limit. The Council's recommendations for 1984 and Secretarial actions on those recommendations are presented below. These actions supersede the intent notice published at 48 FR 30395.

The Council expressed concern over the potential difficulty of enforcing its recommended restrictions if a vessel fished in the territorial waters (0–3 nautical miles offshore) of one State and landed its catch in another State or fished in an area where the restrictions applied but landed in an area where they did not apply. To avoid this problem, the Council recommended that the restrictions apply to all groundfish taken and retained or landed in ocean waters off Washington, Oregon, and California regardless of the place of taking. Because the vast majority of groundfish landed off those three states is taken from the fishery conservation zone (FCZ), 3–200 nautical miles offshore, the Council concluded that it would be reasonable to treat all groundfish taken and retained or landed in violation of these restrictions as though they were taken in the FCZ.

Widow Rockfish

Council Recommendation: The Council recommended a trip limit of 50,000 pounds on widow rockfish, with only one landing allowed above 3,000 pounds per vessel per week. These limits would be applied coastwide and are subject to inseason adjustment so that the OY is not exceeded before the end of 1984.

Rationale: Signs of stress were documented for widow rockfish in 1982 and a coastwide trip limit of 75,000 pounds was imposed in October of that year (47 FR 46287, October 18, 1982). For 1983, the ABC and OY were reduced to 10,500 metric tons (mt), less than half the 1982 levels, and in March the trip limit was decreased to 30,000 pounds (48 FR 8283, February 28, 1983). It appeared in June that this trip limit would support the fishery throughout the year, but data available in subsequent months showed that this was not the case. Even though the average landing of widow rockfish per trip in 1983 was about half the 1982 level, OY was approached rapidly, and an early closure of the fishery was projected if further action were not taken. A trip limit of 1,000 pounds, designed to inhibit target fishing but allow incidental catches to be landed, was imposed in September (48 FR 41164). As a result landings are not expected to exceed OY in 1983.

Further stress on widow rockfish stocks was documented in 1983. Increasing juvenescence (a higher proportion of small fish) has been observed since the last half of 1981. Although some juvenescence is

expected when a virgin stock is exploited, current data forewarn of recruitment overfishing in some areas. In 1981, less than 10 percent of the female widow rockfish landed from the Columbia area were smaller than 38 centimeters (cm), the length at which half are mature. By 1983, the proportion of small females landed increased to over 60 percent. Similar trends are noted for males landed from the Columbia area. Landings of immature widow rockfish clearly are increasing. If fish are heavily harvested before becoming mature, fishing and natural mortality deplete the spawning stock and there are insufficient juveniles eventually to replace them. In a severe situation, reproductive capability of the stock declines and MSY cannot be sustained. MSY for widow rockfish recently was lowered to 10,714 mt, resulting in a reduced ABC and OY of 9,300 mt for 1984.

Because of the biological stress and lower ABC and OY for widow rockfish, the Council acknowledged that more effective management measures would be needed in 1984. Thus, although the Council recommended liberalizing the trip limit to 50,000 pounds (from 30,000 pounds), it also proposed a restriction of one landing per week above 3,000 pounds at the beginning of the season to control the number of trips, with the possibility of inseason adjustments. No limitation on trip frequency was placed on this fishery in 1983, and the 30,000-pound trip limit was not effective until March of that year.

The present action is seen as a reasonable compromise to accommodate the large vessels affected most by landing limits and the small vessels impacted most by frequency limitations.

Secretarial Action: The Secretary concurs with the Council's recommendation and hereby announces:

(1) No more than 50,000 pounds of widow rockfish may be taken and retained or landed per vessel per fishing trip.

(2) Only one landing above 3,000 pounds of widow rockfish may be made per vessel per week. A "week" is defined as seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(3) Restrictions (1) and (2) above apply to all widow rockfish taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

Landings of widow rockfish in the pink shrimp and spot and ridgeback prawn fisheries are governed by the regulations at 50 CFR 663.28. Landings of widow rockfish in excess of OY are prohibited by 50 CFR 663.21(b).

Sebastes Complex

Council Recommendation: The Council recommended that the harvest guideline for the *Sebastes* complex (all rockfish managed under the FMP except Pacific ocean perch, shortbelly and widow rockfishes, and *Sebastolobus* species) should be 110 percent of the sum of the ABCs for those species taken in the Vancouver-Columbia subarea, which equals 10,100 mt. To achieve this, the Council recommended a trip limit of 30,000 pounds on the *Sebastes* complex taken from the Vancouver-Columbia area, with only one landing above 3,000 pounds allowed per vessel per week, to be enforced by a Federal landing law. (Incidental catches less than 3,000 pounds may be landed.) It also recommended maintaining the 40,000-pound trip limit for landings of the *Sebastes* complex caught in the Eureka, Monterey, and Point Conception areas, with no limit on the number of landings allowed per week.

A harvest guideline represents the annual level of fishing the Council hopes to achieve with its management measures. A harvest guideline may be, but is not necessarily, a quota which prohibits further landings once it is reached. The 10,100 mt harvest guideline established for the *Sebastes* complex in the Vancouver-Columbia subarea is not now but may be made a quota during the 1984 fishing year.

Rationale: Biological stress of yellowtail rockfish (*Sebastes flavidus*) was documented early in 1983. At that time, landings in the Columbia area already were equal to twice the ABC for each of the past five years. Similarly, landings of canary rockfish (*S. pinniger*) exceeded ABC in the Columbia area for four of the five previous years. Although stress was not identified for canary rockfish, the Council was concerned that such a level of fishing, if continued, would stress that stock. Yellowtail and canary rockfish contributed about 70 percent of the landings of the *Sebastes* complex from the Vancouver-Columbia area in 1982 and were almost as dominant in 1983. Acknowledging that these species are part of a multispecies complex whose components are not often segregated, and considering that some other species in the complex are likely to be harvested at levels above MSY, the Council recommended reducing fishing pressure on the *Sebastes* complex as a whole in the Vancouver-Columbia area. A coastwide trip limit of 40,000 pounds imposed in March (48 FR 8283) was limited further in July to one landing above 3,000 pounds per week (48 FR 30395). At the same time, in an attempt to avoid immediate and severe disruption of the fishing industry, the Council agreed to raise the harvest guideline to 18,500 mt, nearly twice the summed ABC (9,500 mt) for the complex, with the understanding that all landings would be prohibited if this harvest guideline (quota) were reached. This guideline compares with the 18,510 mt harvested during 1982. Landings were not curtailed sufficiently, and in fact increased in parts of the area, in spite of the more severe one-trip-per-week restriction. In early September, the trip limit was reduced from 40,000 to 3,000 pounds (48 FR 41164) in an attempt to preclude target fishing but allow incidental catches to be landed as long as possible throughout 1983.

Even with the trip frequency and landing limits imposed in 1983, landings remained almost the same as in 1981 and 1982. This persistence is attributed partly to the attraction of new vessels. Pink shrimp and other coastal fisheries were declining or were restricted in 1983 and *Sebastes* provided an alternate fishery. Also, in order to maintain a constant supply of product to the market, some previously uninvolved vessels were encouraged to harvest groundfish. There is no way of knowing what landings would have been without the trip limits imposed in 1983. Nonetheless, the high landings, combined with new evidence of juvenescence in yellowtail rockfish, indicate that more restrictive management measures are needed in 1984.

The Council's recommendation (stated above) is intended to reduce landings in several ways. The harvest guideline is set at 110 percent of ABC, slightly over half of the 1983 level of 18,500 mt. The trip limit is lowered from 40,000 pounds in 1983 to 30,000 pounds in 1984 and only one landing above 3,000 pounds is allowed per vessel per week. These actions will be implemented near the beginning of 1984, whereas in 1983 the trip limit became effective in March and the trip frequency restriction in July.

The Council saw no reason to change the 40,000-pound trip limit imposed on the *Sebastes* complex taken from the Eureka, Monterey, or Conception areas. This limit is not severely restrictive yet should not encourage large shifts of effort into these areas which might occur if no limit were in place.

Secretarial Action: The Secretary concurs with the Council's recommendation and hereby announces:

(1) No more than 30,000 pounds (round weight) of the *Sebastes* complex may be

taken and retained or landed in the Vancouver-Columbia area (from 43°00′ N. latitude to the U.S.-Canada border) per vessel per fishing trip.

(2) Only one landing above 3,000 pounds of the *Sebastes* complex may be made in the Vancouver-Columbia area per vessel per week. A "week" is defined as seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(3) The 1984 harvest guideline for the *Sebastes* complex in the Vancouver-Columbia area is 10,100 mt, 110 percent of the summed ABCs (9,200 mt) of the species in this complex. This harvest guideline is not a quota.

(4) No more than 40,000 pounds (round weight) of the *Sebastes* complex may be taken and retained or landed in the Eureka, Monterey, and Point Conception areas (from 43°00′ N. latitude to the U.S.-Mexico border) per vessel per fishing trip. There is no limit on the number of landings allowed per week.

(5) The above restrictions apply to all fish of the *Sebastes* complex taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

Landings of the *Sebastes* complex in the pink shrimp and spot and ridgeback prawn fisheries are governed by regulations at 50 CFR 663.28.

Sablefish

Council Recommendation: The Council recommended that the 1983 management measures for sablefish (imposed in March 1983 at 48 FR 8283 and amended in July 1983 at 48 FR 30395) should be continued in 1984. This measure sets a trip limit of 5,000 pound on sablefish smaller than 22 inches (fork length) taken north of Point Conception (34°27′ N. latitude) and excluding Monterey Bay (37°00′ to 36°30′ N. latitude). No size limit is imposed south of Point Conception or within Monterey Bay.

Rationale: The 1984 ABC for sablefish of 13,400 mt is the same as in 1983, 4,000 mt below the 17,400 mt OY. A minimum size limit of 22 inches was imposed in 1983 in conjunction with various tolerances (333 fish, 1,000 pounds, or 10 percent by round weight of all sablefish retained, whichever was greatest) for fish smaller than 22 inches. A more liberal allowance for small fish of 5,000 pounds was granted in July. As a result, 1983 landings are projected to be near 14,000 mt, slightly above ABC. The Council found that the provisions in effect since July 1983 were familiar and acceptable to many segments of the fishing industry and contributed to keeping 1983 landings from exceeding OY. Thus, landings may approach OY more closely in 1984 if the 1983 management regime and fishing patterns continue. (More detailed discussions of the rationale for the size and trip limits for sablefish appear in the **Federal Register** at 48 FR 8283 and 48 FR 30395.)

Secretarial Action: The Secretary concurs with the Council's recommendation. The trip and size limits imposed on February 28, 1983 (48 FR 8283), as modified on July 1, 1983 (48 FR 30395), remain in effect and are repeated below:

(1) No more than 5,000 pounds of sablefish smaller than 22 inches (total length) may be taken and retained or landed per vessel per fishing trip in the area north of Point Conception (34°27′ N. latitude) to the U.S.-Canada border, excluding Monterey Bay (37°00′ to 36°30′ N. latitude).

(2) Total length is measured from the tip of the snout (mouth closed) to the tip of the tail (pinched together) without resort to mutilation of the fish or the use of additional force to extend the length of the fish.

(3) For sablefish which have been "headed," the minimum size limit is 16 inches measured from the origin of the first dorsal fin (where the front dorsal fin meets the dorsal surface of the body closest to the head) to the tip of the upper lobe of the tail; the dorsal fin and tail must be left intact.

(4) No sablefish may be retained which is in such a condition that its length has been extended or cannot be determined by the methods stated above.

(5) The above restrictions apply to all sablefish taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking, except no trip or size limits are imposed on sablefish taken, retained, and landed south of Point Conception.

These provisions will be reviewed and adjusted as necessary according to the regulations at 50 CFR 663.27(b)(3), the following paragraph on inseason adjustments in this notice, or in response to a finding of further biological stress under 50 CFR 663.22(a). Landings of sablefish in excess of OY are prohibited by 50 CFR 663.21(b).

Inseason Adjustments

At its April, 1984, meeting the Council will review the data available through March and recommend modifications to these management measures if appropriate. The Council intends to examine the progress of these fisheries at least twice during the year in order to avoid severe overfishing and to extend the fisheries as long as possible throughout the year.

Other Fisheries

These limits for sablefish, widow rockfish, and the *Sebastes* complex apply to vessels of the United States, including those vessels delivering groundfish to foreign processors. For vessels delivering groundfish to foreign processors, the specified trip limits apply on a haul-by-haul basis. The one-trip-per-week limitation for landings above 3,000 pounds of rockfish also applies but is not expected to cause any hardship. The average receipt of rockfish (excluding Pacific ocean perch) by the entire joint venture processing fleet was 7,400 pounds a week in 1983, delivered most weeks by about 15 U.S. trawlers.

The limits are not applicable to foreign trawlers or joint venture processors operating in the Pacific whiting fishery because current foreign regulations are more restrictive than the limits announced in this notice. Sablefish and rockfish are taken incidentally in these operations.

Foreign trawlers operating in the directed fishery for Pacific whiting are limited by incidental catch levels of 0.173 percent sablefish and 0.738 percent rockfish (excluding Pacific ocean perch) based on their nation's allocation of whiting. In 1983 no whiting were allocated. In 1984, TALFF is preliminarily set at 30,500 mt with incidental catches of sablefish not to exceed 53 mt and rockfish not to exceed 225 mt. If the foreign trawl fleet of any nation exceeds its incidental catch limit for any species, that foreign fishery will be terminated. Foreign incidental catches are not used in computation of OY and thus will not accelerate closure of the domestic fishery.

Joint venture processors are limited by incidental retention allowances of 0.173 percent sablefish and 0.738 percent rockfish (excluding Pacific ocean perch) based on the total allotment of whiting for joint venture processing (preliminarily set at 100,000 mt in 1984, the same as in 1983). In 1983, retention of sablefish and rockfish in the joint venture fisheries was far below allowed levels; an average of about 50 pounds of sablefish and 1050 pounds of rockfish (excluding Pacific ocean perch), most of which were discarded, were received per vessel per day by joint venture processors. Even in the worst possible case (if all the sablefish were smaller than 22 inches and all the rockfish were either widow rockfish or in the *Sebastes* complex), the 1983 catches were lower than could be taken per vessel per day

under the trip limits set in this notice. Because U.S. fishermen are not paid for species that cannot be retained by the foreign processors, there is an economic incentive to avoid incidentally-caught species. Joint venture incidental catches have not been used in computation of OY and thus will not accelerate closure of the shore-based domestic fishery.

U.S. vessels operating under an experimental fishing permit issued under 50 CFR 663.10 also must comply with these restrictions.

Classification

The determination to impose these fishing restrictions is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region, at the address above, during business hours until the end of the comment period.

These actions are taken under the authority of 50 CFR 663.22 and 663.23, and are in compliance with Executive Order 12291. The actions are covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Section 663.23 of the groundfish regulations states that the Secretary will publish a notice of action reducing fishing levels in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to the public interest. Because of the immediate need to limit the harvest of widow rockfish, the *Sebastes* complex, and sablefish and thereby reduce catch levels which could otherwise result in overharvest and closure of the fisheries, further delay of these actions is impracticable and contrary to the public interest. Anticipated fishing rates at the high levels experienced in 1983 will unquestionably result in several ABCs being exceeded. Prompt action to reduce those fishing rates is necessary to protect the resource and alleviate the necessity for year-end closures. Consequently, these actions are taken in final form effective January 1, 1984.

The public has had opportunity to comment on these management measures. The public participated in the Task Force, the Groundfish Advisory Subpanel, and Council meetings in September and November that generated most of the management actions endorsed by the Council and the Secretary. Further public comments will be accepted for 15 days after publication of this notice in the **Federal Register**.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: December 30, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-242 Filed 1-4-84; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 3
Thursday, January 5, 1984

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Proposed Rulemaking.

SUMMARY: The Office of Personnel Management is proposing to revise its regulations to add a new section on payment of premium pay for Federal Wage System (FWS) employees, other than Nonappropriated Fund employees of the Armed Forces, working flexible and compressed work schedules. The revision will also modify existing regulations to clarify creditable service entitlements for within-grade purposes and clarify the circumstances under which environmental differential pay is considered part of basic pay. These revisions are editorial changes to put into regulation those provisions of the Federal Employees Flexible and Compressed Work Schedules Act of 1982 which pertain to FWS employees and to clarify those sections of the wage regulations thought to be vague or inconsistent by reason of agency comments.

DATES: Comments must be submitted on or before March 5, 1984.

ADDRESS: Send to Mr. Reginald M. Jones, Jr., Assistant Director for Pay Programs, Compensation Group, Room 3353, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Richard Newbold, (202) 632–5454.

SUPPLEMENTARY INFORMATION: Agencies have asked the Office of Personnel Management to update its 5 CFR Part 532 regulations to clarify certain provisions and to bring others into conformance with existing law. OPM is proposing to modify its regulations accordingly as explained below.

Flexible and Compressed Work Schedules

Congress has enacted Pub. L. 97–221, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, which authorizes the Alternate Work Schedules (AWS) program for another three years. The AWS was previously an experimental program, but has been replaced by this non-experimental three year program. On September 27, 1983, OPM published final regulations (48 FR 44059) for the administration of flexible and compressed work schedules established under subchapter II of chapter 61 of title 5, United states Code. Those regulations provided requirements for time accounting, treatment of holidays for full-time and part-time employees, and leave accrual for part-time employees. A new section is now being added to Part 532 to document that FWS employees may be authorized to work flexible and compressed work schedules and are authorized premium pay under the provisions of subchapter II of chapter 61 of title 5, United States Code, rather than under sections 5343 and 5544 of title 5, United States Code. Nonappropriated Fund employees of the Armed Forces, as defined in 5 U.S.C. 2105(c), are not covered by Pub. L. 97–221.

Creditable Service for Within-Grades

The regulations have been revised to provide credit for all military services as defined in 5 U.S.C. 8331(13), for all service as a volunteer under 5 U.S.C 8332(b) (5) or (7), and for temporary service with another agency. These revisions bring the regulations into conformance with existing laws and parallels, except where differentiated by law, regulations in Part 531—Pay Under the General Schedule, Title 5, Code of Federal Regulations.

Environmental Differential

Agencies feel the environmental differential regulations are vague because they do not specify the purposes for which environmental differential are considered part of basic pay and are not as precise as the guidance material in FPM Supplements 532–1 and 2. Accordingly, the regulations are being modified to specify that environmental differential pay is part of basic pay for purposes of computing premium pay, the amount from which retirement deductions are made, and the amount on which group life insurance is based. These are long held FWS entitlements under the Coordinated Federal Wage System in 1972. The revision also sets in regulation the long held guidance that loss of environmental differential pay is not adverse action.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they are editorial changes which will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

PART 532—[AMENDED]

Accordingly, OPM proposes to amend Part 532 of Title 5 of the Code of Federal Regulations as follows:

1. Section 532.417 is amended by revising paragraphs (c)(4), (c)(6), and adding (c)(9) to read as follows:

§ 532.417 Within-grade increases.

* * * * *

(c) * * *

(4) A period of military service when:

(i) An employee is on leave of absence to perform such service and returns to pay status through the exercise of a restoration right provided by law, Executive order, or regulation, or

(ii) A former employee is reemployed with the Federal Service not later than 52 calendar weeks after separation from such service or hospitalization continuing thereafter for a period of not more than one year. Military service means honorable active service in the armed forces, in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or as a commissioned officer of the Environmental Science Services Administration after June 30,

1961, but does not include service in the National Guard except when ordered to active duty in the service of the United States.

* * * * *

(6) Time during which an employee is performing service which is creditable under section 8332(b) (5) or (7) of title 5, United States Code;

* * * * *

(9) Time during which an employee is temporarily employed by another agency in a position covered by this subpart.

2. In § 532.511, paragraph (c) is revised to read as follows:

§ 532.511 Environmental differentials.

* * * * *

(c) *Basic pay.* Environmental differential pay is part of basic pay and shall be used to compute premium pay (pay for overtime, holiday, or Sunday work), the amount from which retirement deductions are made, and the amount on which group life insurance is based. It is not part of basic pay for purposes of lump-sum annual leave payments and severance pay nor is its loss an adverse action.

3. Section 532.513 is added to Part 532 to read as follows:

§ 532.513 Flexible and compressed work schedules.

Federal Wage System employees, other than Nonappropriated Fund employees of the Armed Forces, as defined in 5 U.S.C. 2105(c), who are authorized to work flexible and compressed work schedules under section 6122 and section 6127 of title 5, United States Code, shall be paid premium pay in accordance with the provisions of subchapter II of chapter 61 of title 5, United States Code. Subpart D of Part 610 of this title, supplements that subchapter and must be read together with it.

Authority: 5 U.S.C. 5343.

[FR Doc. 84-171 Filed 1-4-84; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Carrots for Processing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to revise the voluntary U.S. Standards for Grades of Carrots for Processing. Industry has requested that the standards be revised to bring them in line with current cultural and processing practices. This proposal takes into account new technology used to harvest and prepare raw carrots for processing.

AMS has the responsibility, in cooperation with industry, to maintain the currency of its grade standards.

DATE: Comments must be received on or before March 16, 1984.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Wasington, D.C. 20250. Comments should reference the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Michael V. Morrelli, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202)447-2011.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA Procedures and Executive Order 12191 and has been designated as "nonmajor". It will not result in an annual effect of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impart on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The voluntary United States Standards for Grades of Carrots for Processing became effective in 1944. Cultural and processing practices have changed to the extent that the current standards no longer provide growers and processors with an up-to-date means of determining quality or negotiating contracts. In early 1982 the Wisconsin Carrot Growers' Association requested that the standards be revised to bring them in line with current cultural and processing practices. With their cooperation a "Market Survey" outlining a possible revision of the standards was developed. It was widely distributed for review and comment to growers and processors in September 1982 with a period for comment ending January 28, 1983. Comments, with suggested changes in certain sections, were generally favorable.

This proposed revision would make the following changes and additions:

(1) When the current standards became effective it was common practice to harvest carrots without removing all of the leafy green tops. Tops, along with the upper portion of the crown, were manually removed during the course of processing. Since that time machines have been developed that remove both tops and crowns before the carrots are harvested. This revision would make the standards applicable to either practice by having separate requirements for carrots delivered in either crowned or topped form.

(2) Both manual and mechanical means are used to prepare raw carrots for processing. In order to reduce the amount of manual labor required to trim individual defective carrots, many grower-processor contacts now require the individual carrots may not be affected by more than 15 percent unusable material. The U.S. No. 2 grade in the current standards allows 25 percent unusable material to affect an individual carrot. This proposal would bring the standards in line with current contractural arrangements by reducing from 25 to 15 percent the amount of unusable material allowed in the U.S. No. 2 grade for carrots that are badly misshapen, excessively rough or seriously damaged by any other cause.

(3) The current definitions for damage and serious damage are too general in nature for scoring certain defects. This proposal would provide specific definitions for watercore, oil spray, growth cracks, freezing, and soft rot.

(4) Update the format of the standards.

List of Subjects in 7 CFR Part 51

Agricultural commodities.

PART 51—[AMENDED]

Accordingly, it is proposed that Subpart—United States Standards for Grades of Carrots for Processing (7 CFR 51.4140 through 51.4145 be revised to read as follows:

Subpart—United States Standards for Grades of Carrots for Processing

Sec.
51.4140 General.
51.4141 Grades.
51.4142 Crowning or topping requirements.
51.4143 Size.
51.4144 Tolerances.
51.4145 Definitions.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended, 7 U.S.C. 1622, 1624.

Subpart—United States Standards for Grades of Carrots for Processing

§ 51.4140 General.

(a) Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

(b) The accompanying grades for carrots are intended to facilitate transactions between growers and processors who may wish to use a purchasing system based upon the quality of carrots delivered.

(c) In the application of these standards it is assumed that in most instances sellers will not sort their carrots into lots of U.S. No. 1 and U.S. No. 2 grades before delivery to the buyer. Upon delivery, the inspector will select representative samples and determine the percentage of each grade. Under such a procedure, there is no need for tolerances.

§ 51.4141 Grades.

(a) "U.S. No. 1" consists of carrots which meet the following requirements:

(1) Basic requirements:
(i) Similar verietal characteristics;
(ii) Firm:
(iii) Fairly well colored;
(iv) Fairly well formed;
(v) Fairly smooth; and,
(vi) Not woody.
(2) Free from: Unusable material.
(3) Free from damage by:
(i) Soft rot;
(ii) Growth cracks;
(iii) Sunburn;
(iv) Green core;
(v) Pithy core;
(vi) Watercore;
(vii) Internal discoloration;
(viii) Oil spray;
(ix) Freezing;
(x) Dry rot;
(xi) Other disease;
(xii) Insects; and,
(xiii) Mechanical or other means.
(4) Free from serious damage by: Soft rot.

(b) "U.S. No. 2" consists of carrots which meet the following requirements:

(1) Basic requirements:
(i) Similar varietal characteristics;
(ii) Firm;
(iii) Fairly well colored;
(iv) Not badly misshapen;
(v) Not excessively rough; and,
(vi) Not woody.
(2) Free from: Unusable material.
(3) Free from damage by: Soft rot.
(4) Free from serious damage by:
(i) Soft rot; and,
(ii) Any other cause.

(c) For crowning and topping requirements see § 51.4142.

(d) For size requirements see § 51.4143.

(e) For tolorances see § 51.4144.

§ 51.4142 Crowning or topping requirements.

(a) Carrots shall be specified as crowned or topped.

(1) Crowned carrots shall have the crowns cut off the root reasonably perpendicular to the longitudinal axis. In making grade determinations, unless otherwise specified, all portions of crown remaining attached to the carrot shall be removed from the carrot and scored as unusable material (§ 51.4145).

(2) Topped carrots shall have the tops or sprouts cut, snapped, or twisted off to within three-fourths inch of the crown of the root, or to any other specified length. In making grade determinations, all portions of leaf stems or sprouts over three-fourths inch long, or any other specified length, shall be removed from the carrot and scored as unusable material (§ 51.4145).

§ 51.4143 Size.

(a) Unless otherwise specified, the minimum length shall be not less than 3 inches.

(b) The minimum and maximum diameters for U.S. No. 1 and U.S. No. 2 grades may be specified by agreement between the buyer and the seller. Roots which fail to meet size specifications shall be considered as unusable material (§ 51.4145).

§ 51.4144 Tolerances.

(a) In the application of these standards to determine the percentages of carrots in the lot which meet the requirements of the respective grades, no tolerances apply. However, for the purpose of determining compliance with one of the foregoing grades the following tolerances, by weight, are provided in order to allow for variations incident to proper grading and handling:

(1) For defects. Ten percent for carrots in any lot which fail to meet the requirements of the specified grade, including therein not more than 3 percent for carrots which are damaged by soft rot and included in this latter amount not more than 1 percent for carrots which are seriously damaged by soft rot.

(2) For unusable material. Two percent in any lot.

(3) For size. Ten percent for carrots in any lot which fail to meet the specified size requirements, included therein not more than 5 percent for carrots which fail to meet the specified minimum diameter or length.

§ 51.4145 Definitions.

(a) "Similar varietal characteristics" means that the carrots are of the same general type.

(b) "Firm" means that the carrot is not soft, flabby or shriveled.

(c) "Fairly well colored" means that the outside and inside color of the carrot is orange, orange red, or orange scarlet but not a pale orange or distinct yellow color.

(d) "Fairly well formed" means that the carrot is not forked, or materially crooked, or otherwise misshapen to the extent that, in the process of trimming, a loss of over 5 percent, by weight, or the root is incurred in excess of that which would occur if the root were perfect.

(e) "Fairly smooth" means the carrot is not rough, ridged, or covered with secondary rootlets to the extent that, in the process of trimming, a loss of over 5 percent, by weight, of the root is incurred in excess of that which would occur if the root were perfect.

(f) "Woody" means that the flesh of the carrot is tough and fibrous.

(g) "Unusable material" means carrots which fail to meet the requirements of either of the foregoing grade and size specifications loose dirt, adhering caked dirt, weeds or other foreign matter, portions of attached tops or sprouts in excess of the specified length or, unless otherwise specified, attached crowns or portions of crowns. Corrots with adhering caked dirt, tops or sprouts longer than the required or specified length, or, unless otherwise specified, attached crowns or portions of crowns, shall not be scored against U.S. No. 1 or U.S. No. 2 grades, but such material shall be removed from the carrot and scored as unusable material

(h) "Diameter" means the greatest dimension of the root taken at right angles to the longitudinal axis.

(i) "Badly misshapen" means that the carrot is forked or misshapen to the extent that, in the process of trimming, a loss of over 15 percent, by weight, of the root is incurred in excess of that which

would occur if the root were perfect.

(j) "Excessively rough" means that the carrot is rough or ridged to the extent that in the process of trimming, a loss of over 15 percent, by weight, of the root is incurred in excess of that which would occur if the root were perfect.

(k) "Damage" means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the processing quality of the corrot, or which cannot be removed in the process of trimming without a loss of more than 5 percent, by weight, in excess of that which would occur if the root were perfect.

The following specific defects shall be considered as damage:

(i) Watercore when moderately discolored.

(ii) Oil spray when materially detracting from the processing quality of the carrot, or causing an oily flavor.

(iii) Growth cracks when not smooth or not shallow, or when materially detracting from the processing quality of the carrot, or, unless otherwise specified, when more than one-eighth inch in width.

(iv) Freezing when any amount affects the root.

(v) Soft rot when any amount affects the root.

(l) "Serious damage" means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the processing quality of the carrot, or which cannot be removed in the process of trimming without a loss of more than 15 percent, by weight, in excess of that which would occur if the root were perfect. The following specific defects shall be considered as serious damage:

(i) Watercore when severely discolored

(ii) Oil spray when seriously detracting from the processing quality of the carrot, or causing an oily flavor.

(iii) Freezing when any amount affects the root.

(iv) Soft rot when affecting more than 15 percent of the total weight of the root.

Done at Washington, D.C. on: December 29, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-131 Filed 1-3-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

15 CFR Part 303

Watch Duty-Exemption Program

AGENCY: International Trade Administration, Commerce; Office of Territorial and International Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This document sets forth proposed revisions to 15 CFR Part 303, which governs the allocation of duty-free benefits among watch producers in the U.S. insular possessions—the Virgin Islands, Guam, and American Samoa.

The revision of 15 CFR Part 303 is necessary because of the enactment in January, 1983, of major amendments of the law providing these benefits. The agencies also wish to take advantage of the opportunity presented by this requirement and place all program rules and regulations into a single codification and to incorporate a number of regulatory amendments which, while not strictly required by the legislative amendment, reflect the agencies' recent experience with the program.

The intended effect, therefore, is to produce a single body of regulations governing all aspects of the program and, in particular, to establish regulations to govern the agencies' new authorities to:

- Establish the annual amount of the benefits and distribute the total among the various territories;
- Issue production incentive certificates; and
- Establish minimum assembly requirements.

DATE: Comments must be received on or before February 6, 1984.

ADDRESS: Address comments to: Statutory Import Programs Staff, Rm. 1523, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Frank Creel (202) 377-1660.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 dated February 17, 1981, the Departments of Commerce and the Interior have determined that these rules do not consitute a "major rule" as defined by Section 1(b) of the Order. They are not likely to result in:

(1) Annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices in either the public or private sector; or

(3) Significant adverse impact on the domestic economy or on the ability of U.S. enterprises to compete with foreign enterprises.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Fewer than ten entities are directly affected by this action. The commercial benefits of the program governed by these regulations, for entities both directly and indirectly affected, are less than $10 million per year.

Pursuant to the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the Departments have determined that publication of this rule will increase the information collection burden on the public.

On December 21, 1982, the 97th Congress passed Pub. L. 97-446. The President signed the law on January 12, 1983. The new law establishes an incentive designed further to stimulate watch assembly activity in the U.S. insular possessions and eliminates the foreign content limitation on insular watches and watch movements in general headnote 3(a). The law also forbids the extension of headnote 3(a) privileges and benefits to articles containing materials to which Column 2 rates of duty apply and limits the size of the 1983 calendar year allocation to 3,000,000 units in the Virgin Islands, 1,200,000 units in Guam, and 600,000 units in American Samoa. The law requires the Departments to adopt minimum assembly requirements in their regulations, and Conference language added to the Senate Finance Committee Report (97-564) states that it is the intention of the Congress in this regard to "ensure that substantial and meaningful work be performed."

The new incentive created by the legislation is in the form of a production incentive certificate. Certificate holders can obtain duty refunds on specified watch, watch movement, and component imports.

The principal proposed changes in 15 CFR Part 303 are discussed below.

Reorganization of Sections

We propose to reorganize the legislative sections of the regulations in the following manner:

(1) Sections 303.1 and 303.2, although amended, will remain.

(2) Section 303.3 (Publication of annual rules) will be eliminated. Regulations subject to frequent modification will be relocated in § 303.14. In the future, proposed regulatory changes will be published as necessary rather than annually.

(3) New §§ 303.3 and 303.4 discuss new authorities given the Secretaries by Pub. L. 97–446 (see below).

(4) Proposed §§ 303.5 and 303.6 correspond with the existing Sections 303.4 and 303.5, respectively.

(5) Proposed § 303.7 consolidates §§ 303.6 and 303.7 into one section.

(6) The existing § 303.8 moves to § 303.11.

(7) Sections 303.9 and 303.10 will be redesignated §§ 303.8 and 303.9 respectively.

(8) Proposed § 303.10 will consolidate various restrictions and requirements and add new ones in a single section.

(9) See (6), above.

(10) Proposed § 303.12 sets forth the provisions governing the new production incentive system.

(11) Proposed § 303.13 (appeals) corresponds with existing § 303.11.

(12) See (2), above.

Proposed New Provisions

Section 303.1: This section states the authorities, purposes and limitations of the law as amended by Pub. L. 97–446.

Section 303.2: This section would amend existing regulations by, among other things, substituting "duty-exemption" for "quota"; clarifying the distinction between territorial and producer distributions of the exemption; and by revising the definition of "non-headnote 3(a)" merchandise to reflect legislative changes. The two forms required to administer the new production incentive system are included. The quarterly report form (ITA–321P, which was suspended in 1982 and eliminated last year) is included and proposed for reinstitution, below, in accordance with OMB requirements. We are proposing to give partial credit for non-headnote 3(a) repair activities by changing the definition of "creditable wages." See 48 FR 17580 for clarification of our intention to do this.

Section 303.3 would establish procedures and standards under the Secretaries' new authority to set the overall size of the annual exemption. The public notice procedures in (a) are designed to afford affected producers advance notice, for business planning purposes, of the Secretaries' preliminary determination.

The standards for this determination in paragraph (b) exactly reflect the new law.

Paragraph (c) establishes coordinating requirements with the International Trade Commission with regard to the annual amount of the exemption.

Section 303.4 sets forth procedures and standards for determining the territorial shares of the overall exemption (also a new authority). Paragraph (b)(4) provides standby authority for adjustment of the shares outside the normal procedure. This flexibility will allow the Departments to promote the maximum use of the benefit by all three territories. Otherwise, the standards accurately mirror legislative criteria.

Section 303.10 incorporates both existing and new provisions. Paragraph (a) restates a limitation contained in the 1983 rules (48 FR 17579, Section 10). The specific value limitations are shown in Section 303.14 because these values need periodic adjustment. Paragraph (b), for the same reason, establishes general requirements and refers to section 303.14 for the specific requirements. These differ from those established in the 1983 rules (see Section 303.14 below). The specific content of paragraph (c) is also given in Section 303.14, but these values do not differ from the 1983 provisions.

Paragraph (d) of this section introduces new provisions. Since 1967, the Departments have had and administratively applied a policy of assuring that supply relationships are conducted impartially and equitably among all producers (the "arm's-length policy"). No explicit regulatory provision comprehensively prohibiting preferential supply relationships has yet been adopted. Accordingly, we urge affected producers to give special attention to this paragraph.

Section 303.12 duplicates the provisions published earlier this year (48 FR 17579), except that the formula for calculating the value of the production incentive certificates has been removed to Section 303.14 for the reasons discussed above.

Section 303.14 provides the specific content for a variety of general provisions—the allocation formula, minimum assembly and wage criteria, and the formula for calculating the value of the certificates. Paragraph (d) contains a new entrant invitation for all three territories (all of the American Samoa share, 500,000 units of the Guam share, and 1,000,000 units of the Virgin Islands share. Paragraph (b) (1) and (2) establishes minimum assembly requirements for conventional and quartz analog movements which differ from past requirements. We solicit comments in particular on the technical suitability of these proposals.

Proposed Forms

As noted above, the Departments propose to resume use of Form ITA–321P, "Quarterly Report on Watch Assembly Operations of Firms Granted a Duty-free Watch Allocation." With this form, the Departments can determine the actual and probable use of the duty-free benefit by the various producers in the course of a calendar year. This information enables them to reallocate duty-exemptions and encourage greater overall use by the industry in each territory. Before Pub. L. 97–446, the amount of the annual benefit depended on variations in the domestic consumption of watches, and in the 1979–82 period decreasing percentages of the benefit were used by the industry. These circumstances removed the need for the information provided by the form, and the Departments suspended its use in calendar years 1982 and 1983. At the end of 1982, we discontinued the form.

With the enactment of the new law, the Departments anticipate that by exercising their discretion to adjust the amount of the benefit they will promote conditions in which the information provided by the form will again be necessary and useful. In compliance with Section 1320.12 of the OMB regulations, we are seeking OMB approval of this form.

Immediately after enactment of the new law, Departments developed two additional forms (ITA–360 and ITA–361) required to administer the new production incentive system. The information collection applied to fewer than ten respondents.

OMB published, effective May 2, 1983, a new Part 1320 to Title 5 of the Code of Federal Regulations implementing the provisions of the Paperwork Reduction Act. Section 1320.7(u)(1) of the new regulations states that "Any recordkeeping or reporting requirement contained in a rule of general applicability is deemed to involve ten or more persons."

Forms may be reviewed at the address shown above. Copies may be requested by phoning or writing the Forms Clearance Officer, International Trade Administration, Department of Commerce (Room 4102, Washington, D.C. 20230; (202) 377–3031). Any comments on the forms should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for International Trade Administration, Executive Office of the President, Washington, D.C. 20503.

List of Subjects in 15 CFR Part 303

Imports, Customs duties and inspection, Watches and jewelry, Marketing quotas, Administrative practice and procedure, Reporting and recordkeeping requirements, American Samoa, Guam, Virgin Islands.

PART 303—[AMENDED]

For reasons set forth in the preamble, Part 303 of Title 15 of the Code of Federal Regulations is proposed to be revised as follows:

PART 303—WATCHES AND WATCH MOVEMENTS

Sec.

303.1 Purpose.
303.2 Definitions and forms.
303.3 Determination of total annual duty-exemption.
303.4 Determination of territorial distribution.
303.5 Application for annual allocations of duty-exemptions.
303.6 Allocation and reallocation of exemptions among producers.
303.7 Issuance of licenses and shipment permits.
303.8 Maintenance of duty-exemption entitlements.
303.9 Restrictions on the transfer of duty-exemptions.
303.10 Limitations, requirements, restrictions, and prohibitions.
303.11 Quarterly reporting requirements.
303.12 Issuance and use of production incentive certificates.
303.13 Appeals.
303.14 Allocation factors.

Authority: Pub. L. 97–446; 96 Stat. 2329 (19 U.S.C. 1202).

§ 303.1 Purpose.

(a) This part implements the responsibilities of the Secretaries of Commerce and the Interior ("the Secretaries") under Pub. L. 97–446, enacted on 12 January 1983, which substantially amended Pub. L. 89–805, enacted 10 November 1966, amended by Pub. L. 94–88, enacted 8 August 1975. The law provides for exemption from duty of watches and watch movements produced or manufactured in a United States insular possession, without regard to the value of the foreign materials they contain, if they conform with the provisions of Headnote 6, Schedule 7, Part 2, Subpart E of the Tariff Schedules of the United States ("Headnote 6"). Headnote 6 denies this benefit to articles containing any material which is the product of any country with respect to which Column 2 rates of duty apply; establishes the total quantity of such articles at not more than 4,800,000 units in 1983; authorizes the Secretaries to establish in subsequent years the total quantity of such articles, provided that the quantity so established does not exceed 10,000,000 units one-ninth of apparent domestic consumption, whichever is greater, and provided also that the quantity is not decreased by more than ten percent nor increased by more than twenty percent (or to more than 7,000,000 units, whichever is greater) of the quantity established in the previous year.

(b) The law directs the International Trade Commission to determine apparent domestic consumption for the preceding calendar year in the first year U.S. insular imports of watches and watch movements exceed 9,000,000 units. Headnote 6 establishes the territorial shares of the 1983 quantity at 3,000,000 for the Virgin Islands, 1,200,000 for Guam and 600,000 for American Samoa; authorizes the Secretaries to establish new territorial shares in subsequent years within specified limits; and provides for the annual allocation of the duty-exemptions among insular watch producers equitably and on the basis of allocation criteria, including minimum assembly requirements, that will reasonably maximize the net amount of direct economic benefits to the insular possessions.

(c) The amended law also provides for the issuance to producers of certificates entitling the holder (or any transferee) to obtain duty refunds on watches and watch movements and parts (except discrete watchcases) imported into the customs territory of the United States. The amounts of these certificates may not exceed specified percentages of the producers' verified creditable wages in the insular possessions (90% of wages paid for the production of the first 300,000 units and declining percentages, established by the Secretaries, of wages paid for incremental production up to 750,000 units by each producer) nor an aggregate annual amount for all certificates exceeding $5,000,000 adjusted for growth by the ratio of the previous year's gross national product to the gross national product in 1982. Refund requests are governed by regulations issued by the Department of the Treasury. The Secretaries are authorized to issue regulations necessary to carry out their duties under Headnote 6 and may cancel or restrict the license or certificate of any insular manufacturer found violating the regulations.

§ 303.2 Definitions and forms.

(a) *Definitions.* Unless the context indicates otherwise:

(1) "*Act*" means Pub. L. 97–446, enacted January 12, 1983 (19 U.S.C. 1202), 96 Stat. 2329.

(2) "*Secretaries*" means the Secretary of Commerce and the Secretary of Interior or their delegates, acting jointly.

(3) "*Director*" means the Director of the Statutory Import Programs Staff, International Trade Administration, U.S. Department of Commerce.

(4) "*Sale or transfer of a business*" means the sale or transfer of control, whether temporary or permanent, over a firm to which a duty-exemption has been allocated, to any other firm, corporation, partnership, person or other legal entity by any means whatsoever, including, but not limited to, merger and transfer of stock, assets or voting trusts.

(5) "*New firm*" means an entity which is completely separate from and unassociated with (by way of ownership or control) any duty-exemption recipient in any territory. A "*new entrant*" is a new firm which has received an allocation.

(6) "*Producer*" means a duty-exemption holder which has maintained its eligibility for further allocations by complying with these regulations.

(7) "*Established industry*" means all producers, including new entrants, that have maintained their eligibility for further allocations.

(8) "*Territories,*" "*territorial,*" and "*insular possessions*" refer to the insular possessions of the United States, i.e., the U.S. Virgin Islands, Guam and American Samoa.

(9) "*Duty-exemption*" refers to the authorization of duty-free entry of a specified number of watches and watch movements into the Customs Territory of the United States.

(10) "*Total annual duty-exemption*" refers to the entire quantity of watches or watch components which may enter duty-free into the customs territory of the United States from the territories under headnote 3(a) in a calendar year, as determined by the Secretaries or by the International Trade Commission in accordance with the Act.

(11) "*Territorial distribution*" refers to the apportionment by the Secretaries of the total annual duty-exemption among the separate territories; "*Territorial share*" means the portion consigned to each territory by this apportionment.

(12) "*Allocation*" refers to the distribution of all parts of a territorial share, or a portion thereof, among the several producers in a territory.

(13) "*Creditable Wages*" means all wages—up to an amount per person periodically established by the Secretaries—paid to residents of the territories employed in a firm's headnote

3(a) watch and watch movement assembly operations, plus any wages paid for the repair of non-headnote 3(a) watches and watch movements up to an amount equal to 25 percent of the firm's other creditable wages. Excluded however, are wages paid: (i) for special services rendered to the firm by accountants, lawyers, or other professional personnel, (ii) for the assembly of non-headnote 3(a) watches and watch movements, and (iii) for the repair of non-headnote 3(a) watches and watch movements to the extent that such wages exceed the ratio set forth above. Wages paid to persons engaged in both creditable and non-creditable assembly and repair activities may be credited proportionately provided the firm maintains production and payroll records adequate for the Department's verification of the creditable portion.

(14) *"Non-headnote 3(a) watches and watch movements"* include, but are not limited to, watches and movements which are liquidated as dutiable by the U.S. Customs Service; contain any material which is the product of any country with respect to which Column 2 rates of duty apply; are ineligible for duty-free treatment pursuant to law or regulations; or are units the assembly of which the Department has determined not to involve substantial and meaningful work in the insular possession (as elsewhere defined in these regulations).

(15) *"Discrete movements and components"* means screws, parts, components and subassemblies not assembled together with another part, component or subassembly at the time of importation into the territory. (A mainplate containing set jewels or shock devises, together with other parts, would be considered a single discrete component, as would a barrel bridge subassembly.)

(b) *Forms.*—(1) *ITA–334P "Application for License to Enter Watches and Watch Movements into the Customs Territory of the United States"* (OMB Approval #0625–0040). This form must be completed annually by all producers desiring to receive an annual allocation. It is also used, with appropriate special instructions for its completion, by new firms applying for duty-exemptions.

(2) *ITA–333 "License to Enter Watches and Watch Movements into the Customs Territory of the United States."* This form is issued by the Director to producers who have received an allocation and constitutes authorization for issuing specific shipment permits by the territorial governments. It is also used to record the balance of a producer's remaining duty-exemptions after each shipment permit is issued.

(3) *ITA–340 "Permit to Enter Watches and Watch Movements into the Customs Territory of the United States."* This form is issued by the territorial government to producers holding a valid license and authorizes duty-free entry of a specified amount of watches or watch movements at a specified U.S. Customs port.

(4) *ITA–321P "Quarterly Report on Watch Assembly Operations of Firms Granted a Duty-free Watch Allocation"* (OMB approval pending). This form provides the Secretaries with data on a producer's purchase, assembly and shipment activity during the quarterly report period, and scheduled delivery of components and finished movements for the remainder of the calendar year. These data are used by the Secretaries for program evaluations and planning purposes. Each producer is required to return to the completed form to the Director on or before April 15, July 15, and October 15 of each calendar year.

(5) *ITA–360P "Certificate of Entitlement to Secure the Refund of Duties on Watches and Watch Movements"* (OMB approval pending). This document authorizes an insular producer to request the refund of duties on imports of watches, watch movements and parts therefor, with certain exceptions up to a specified value. Certificates may be used to obtain duty refunds only when presented with a properly executed Form ITA–361P.

(6) *ITA–361P "Request for Refund of Duties on Watches and Watch Movements"* (OMB approval pending). This form must be completed to obtain the refund of duties authorized by the Director through Form ITA–360P. After authentication by the Department of Commerce, it may be used for the refund of duties on items which were entered into the customs territory of the United States during a specified time period. Copies of the appropriate Customs entries must be provided with this form to establish a basis for issuing the claimed amounts. The forms may also be used to transfer all or part of the producer's entitlement to another party. (See Section 303.12.)

§ 303.3 Determination of the Total Annual Duty-Exemption

(a) *Procedure for Determination.* Not later than October 31 of each year the Secretaries shall publish in the **Federal Register** a proposed limit on the quantity of watch units which may enter duty-free into the customs territory of the United States the following year. After considering comments on the proposed limit, they shall establish the limit by **Federal Register** notice not later than December 31.

(b) *Standards for Determination.* (1) The limit established for 1984 shall not exceed 7,000,000 units.

(2) Subject to paragraph (b)(1) of this section, and paragraph (c) of this section, the total annual duty-exemption shall not be decreased by more than 10% of the quantity established for the preceding calendar year; or increased, if the resultant total is larger than 7,000,000, by more than 20% of the quantity established for the calendar year immediately preceding.

(3) The Secretaries shall determine the limit after considering the interests of the insular possessions; the domestic or international trade policy objectives of the United States; the need to maintain the competitive nature of the territorial industry; the total contribution of the industry to the economic well-being of the territories; and the territorial industry's utilization of the total duty-exemption established in the preceding year.

(c) *Determinations based on consumption.* (1) The Secretaries shall notify the International Trade Commission whenever they have reason to believe duty-free watch imports from the insular possessions will exceed 9,000,000 units, or whenever they make a preliminary determination that the total annual duty-exemption should exceed 10,000,000 units.

(2) In addition to the limitations in paragraph (b), of this section, the Secretaries shall not establish a limit exceeding one-ninth of apparent domestic consumption if such consumption, as determined by International Trade Commission, exceeds 90 million units.

§ 303.4 Determination of territorial distribution.

(a) *Procedure for determination.* The Secretaries shall determine the territorial shares concurrently with their determination of the total annual duty exemption, and in the same manner (see Section 303.3, above).

(b) *Standards for determination.*—(1) *Limitations*: A territorial share may not be reduced by more than 200,000 units in calendar year 1984 and 1985, or by more than 500,000 units in any calendar year thereafter. No territorial share shall be less than 500,000 units.

(2) *Criteria for setting precise quantities:* The Secretaries shall determine the precise quantities after considering, *inter alia*, the territorial capacity to produce and ship watch units. The Secretaries shall further bear

in mind the aggregate benefits to the territories, such as creiditable wages paid, creditable wages per unit exported, and corporate income tax payments.

(3) *Limitations on reduction of share.* The Secretaries shall not reduce a territory's share if its producers use 85 percent or more of the quantity distributed to that territory in the immediately preceding year, except in the case of a major increase or decrease in the number of producers in a territory or if they believe that a territorial industry will decrease production by more than 15 percent from the total of the preceding year.

(4) *Standby redistribution authority.* The Secretaries may redistribute territorial shares if such action is warranted by circumstances unforeseen at the time of the initial distributions, such as that a territory will use less than 80 percent of its total by the end of a calendar year, or if a redistribution is necessary to maintain the competitive nature of the territorial industries.

§ 303.5 Application for annual allocations of duty-exemptions.

(a) Application forms (ITA–334P) shall be furnished to producers by January 1, and must be completed and returned to the Director no later than January 15, of each calendar year.

(b) All data supplied are subject to verification by the Secretaries and no allocation shall be made to a producer until the Secretaries are satisfied that the data are accurate. To verify the data, representatives of the Secretaries shall have access to relevant company records including,

(1) Work sheets used to answer all questions on the application form;

(2) Original records from which such data are derived;

(3) Records pertaining to ownership and control of the company and to the satisfaction of eligibility requirements of duty-free treatment of its product by the U.S. Customs Service;

(4) Records pertaining to corporate income taxes, gross receipts taxes and excise taxes paid by each producer in the territories on the basis of which a portion of each producer's annual allocation is or may be predicated;

(5) Customs, bank, payroll, and production records;

(6) Records on purchases of components and sales of movements, including proof of payment; and

(7) Any other records in the possession of the parent or affiliated companies outside the insular possession pertaining to any aspect of the producer's headnote 3(a) watch assembly operation.

(c) Data verification shall be performed in the territories, unless other arrangements satisfactory to the Departments are made in advance, by the Secretaries' representatives by the end of February of each calendar year. In the event a company cannot substantiate the data in its application before allocations must be calculated, the Secretaries shall determine which data will be used.

§ 303.6 Allocation and reallocation of exemptions among producers.

(a) *Interim allocations.* As soon as practicable after January 1 of each year the Secretaries shall make an interim allocation to each producer equaling 70 percent of the number of watch units it has entered duty-free into the customs territory of the United States during the first eight months of the preceding calendar year, or any lesser amount requested in writing by the producer. The Secretaries may also issue a lesser amount if, in their judgment, the producer might otherwise receive an interim allocation in an amount greater than the producer's probable annual allocation. In calculating the interim allocations, the Director shall count only duty-free watches and watch movements verified by the U.S. Customs Service as having been entered on or before August 31 of the preceding year. Interim allocations shall not be published.

(b) *Annual allocations.* (1) By March 1 of each year the Secretaries shall make annual allocations to the producers in accordance with the allocation formula based on data supplied in their annual application (Form ITA–334P) and verified by the Secretaries.

(2) The excess of a producer's duty-exemption earned under the allocation criteria over the amount formally requested by the producer shall be considered to have been relinquished voluntarily (see paragraph (f) of this section). A producer's request may be modified by written communication received by the Secretaries by February 28, or, at the discretion of the Secretaries, before the annual allocations are made. An allocation notice shall be published in the **Federal Register.**

(c) *Supplemental allocations.* At the request of a producer, the Secretaries may supplement a producer's initial allocation if the Secretaries determine the producer's initial allocation will be used before the Secretaries can issue the annual allocation. Allocations to supplement a producer's annual allocation shall be made under the reallocation provisions prescribed below.

(d) *Allocations to new entrants.* In making initial and annual allocations to producers selected the preceding year as new entrants, the Secretaries shall take into account that such producers will not have had a full year's operation as a basis for computation of its duty-exemption. The Secretaries may make an initial or annual allocation to a new entrant even if the firm did not operate during the preceding calendar year.

(e) *Special allocations.* A producer may request a special allocation if unusual circumstances kept it from making duty-free shipments at a level comparable with its past record. In considering such requests, the Secretaries shall take into account the firm's proposed assembly operations; its record in contributing to the territorial economy; and its intentions and capacity to make meaningful contributions to the territory. They shall also first determine that the amount of the special allocation requested will not significantly affect the amounts allocated to other producers pursuant to Section 303.6(b)(1).

(f) *Reallocations.* Duty-exemptions may become available for reallocation as a result of cancellation or reduction for cause, voluntary relinquishment or nonplacement of duty-exemption set aside for new entrants. The Secretaries may reallocate such duty-exemptions among the remaining producers who can use additional quantities in a manner judged best for the economy of the territories. The Secretaries shall consider such factors as the wage and income tax contributions of the respective producers during the preceding year and the nature of the producer's present assembly operations. In addition, the Secretaries may consider other factors which, in their judgment, are relevant to determining that applications from new firms, in lieu of reallocations, should be invited for part or all of unused portions of the total duty exemptions. Such factors may include:

(1) The ability of the established industry to use the duty-exemption;

(2) Whether the duty-exemption is sufficient to support new entrant operations;

(3) The impact upon the established industry if new entrants are selected, particularly with respect to the effect on local employment, tax contributions to the territorial government, and the ability of the established industry to maintain satisfactory production levels; and

(4) Whether additional new entrants offer the best prospect for adding economic benefits to the territory.

After considering these factors, the Secretaries may set aside all or a portion of the allocation available for reallocation and invite applications from new entrants by publishing a notice in the **Federal Register.** If the Secretaries determine that inviting applications from new firms would be in the best interest of the territory, they shall set forth their reasons for doing so and describe the information new firms will be required to submit in applying for an allocation, including but not limited to the applicant's financial capacity, production and marketing experience, proposed source of parts and components, affiliation with other business entities in the watchmaking and watch-marketing industry, proposed degree of assembly, proposed wage rates by job classification, and the applicant's intentions with regard to the number of units to be assembled and shipped duty-free into the customs territory, establishing or acquiring a local production facility, and seeking territorial tax exemptions or other local industrial incentive benefits.

(g) Section 303.14 of this part contains the criteria and formulae used by the Secretaries in calculating each watch producer's annual watch duty-exemption allocation, and other special rules or provisions the Secretaries may periodically adopt to carry out their responsibilities in a timely manner while taking into account changing circumstances. References to duty-exemptions, unless otherwise indicated, are to the amount available for allocation or reallocation in the current calendar year. Specifications of or references to data or bases used in the calculation of current year allocations (e.g., economic contributions and shipments) are, unless indicated otherwise, those which were generated in the previous year.

(h) The Secretaries may propose changes to Section 303.14 at any time they consider it necessary to fulfill their responsibilities. Normally, such changes will be proposed towards the end of each calendar year. Interested parties shall be given an opportunity to submit written comments on proposed changes.

§ 303.7 Issuance of licenses and shipment permits.

(a) *Issuance of licenses (ITA–333).* (1) Concurrently with annual allocations under Section 303.5 the Director shall issue a non-transferable license (Form ITA–333) to each producer. The Director shall also issue a replacement license if a producer's allocation is reduced pursuant to Section 303.6.

(2) Annual duty-exemption licenses shall be for only that portion of a producer's annual duty-exemption not previously licensed.

(3) If a producer's duty-exemption has been reduced, the Director shall not issue a replacement license for the reduced amount until the producer's previous license has been received for cancellation by the Director.

(4) A producer's licenses shall be used in their entirety, except when they expire or are cancelled, in order of their date of issuance, i.e., an interim license must be completely used before shipment permits can be issued against an interim supplemental license.

(5) Outstanding licenses issued by the Director automatically expire at midnight, December 31, of each calendar year. No unused allocation of duty-exemption may be carried over into the subsequent calendar year.

(6) The Director shall ensure that all licenses issued are conspicuously marked to show the type of license issued, the identity of the producer, and the year for which the license is valid. All licenses shall bear the signature of the Director.

(7) Each producer is responsible for the security of its licenses. The loss of a license shall be reported immediately to the Director. Defacing, tampering with, and unauthorized use of a license are forbidden.

(b) *Issuance of Shipment Permits (ITA–340).* (1) The Governors of the respective insular possessions are authorized to issue shipment permits against producers' duty-exemption licenses. The Governors may delegate this authority to responsible government officials by providing the name, official title and sample signature of the designated official(s) to the Director. Such delegations of authority shall become effective upon their receipt by the Director unless the Director, on behalf of the Secretaries, withholds concurrence with a written statement of the reasons therefor.

(2) Each permit must specify the number of watches and watch movements included in the shipment, the unused balance remaining on the producer's license, and pertinent shipping information.

(3) Except when commercial hardship may result, producers shall request a shipment permit for each separate shipment or consignment.

(4) Shipment permits shall be valid in the calendar year in which issued. To accomplish duty-free entry, the importer of record or his broker must present the merchandise and the original form ITA–340 and other required documents to the District Director of Customs at the port of entry by midnight, December 31, of the year in which the shipment permit is issued.

(5) If a shipment permit expires before the shipment can be presented to Customs officials due to transportation delays, carrier mishandling or other circumstances beyond the control of the shipper, the shipment may be entered duty-free upon presentation of a new shipment permit issued against a currently valid license, provided there is compliance with all Customs regulations and procedures. In such cases the expired shipment permit must be forwarded to the Director with a letter explaining the pertinent circumstances. Such entries shall be counted as a shipment in the year of entry for purposes of calculating the producer's annual allocation the following year.

(6) For purposes calculating calendar year allocations as prescribed in the annual rules, any watches or watch movements shipped by a producer for duty-free entry into the customs territory of the United States and lost prior to entry into the customs territory of the United States shall, nevertheless, be considered as having been entered into the customs territory during the year in which they were shipped, provided the Secretaries are satisfied that shipment occurred but was lost before entering the customs territory. If the producer is able to assemble and ship a replacement shipment before the end of the calendar year, the Director will, upon written request of the producer, direct the issuing office in the territory to issue a replacement permit without charging the producer's license. In such cases, credit for the purpose of calculating allocations will be accorded the replacement shipment but not the lost shipment.

(7) If a shipment permit has been issued and not used, the holder of the license shall notify the office which issued the shipment permit and present the permit for cancellation. The issuing office shall correct the balance shown on the producer's license and notify the Director of the action taken. If a shipment permit is lost, the shipper shall immediately notify both the issuing office and the Director.

§ 303.8 Maintenance of duty-exemption entitlements.

(a) The Secretaries may order a producer to show cause within 30 days of receipt of the order why the duty-exemption to which the firm would otherwise be entitled should not be cancelled, in whole or in part, if:

(1) At any time after June 30 of the calendar year:

(i) A producer's assembly and shipment record provides a reasonable

basis to conclude that the producer will use less than 80 percent of its total allocation by the end of the calendar year, *and*,

(ii) the producer refuses a request from the Departments to relinquish that portion of its allocation which they conclude will not be used; *or*

(2) A producer fails to satisfy or fulfill any term, condition or representation, whether undertaken by itself or prescribed by the Departments, upon which receipt of allocation has been predicated or upon which the Departments have relied in connection with the sale or transfer of a business together with its allocation; *or*

(3) A producer, in the judgment of the Secretaries, has failed to make a meaningful contribution to the territory for a period of two or more consecutive calendar years, when compared with the performance of the duty-free watch assembly industry in the territory as a whole. This comparison shall include the producer's quantitative use of its allocations, amount of direct labor employed in the assembly of watches and watch movements, and the net amount of corporate income taxes paid to the government of the territory. If the producer fails to satisfy the Secretaries as to why such action should not be taken, the firm's allocation shall be reduced or cancelled, whichever is appropriate under the show-cause order. The eligibility of a firm whose allocation has been cancelled to receive further allocations may also be terminated.

(b) The Secretaries may also issue a show-cause order to reduce or cancel a producer's allocation or production incentive certificate (see Section 303.12, below), as appropriate, or to declare the producer ineligible to receive an allocation or certificate if it violates any regulation in this part, uses a form, license, permit, or certificate in an unauthorized manner, or fails to provide information or data required by these regulations or requested by the Secetaries or their delegates in the performance of their responsibilities.

(c) If a firm's allocation is reduced or cancelled, or if a firm voluntarily relinquishes a part of its allocation, the Secretaries may:

(1) Reallocate the allocation involved among the remaining producers in a manner best suited to contribute to the economy of the territory;

(2) Invite applications from new firms in accordance with § 303.6(f); or

(3) Do neither of the above if deemed in the best interest of the territories and the established industry.

§ 303.9 Restrictions on the transfer of duty-exemptions.

(a) The sale or transfer of a duty-exemption from one firm to another shall not be permitted.

(b) The sale or transfer of a business together with its duty-exemption shall be permitted with prior written notification to the Departments. Such notification shall be accompanied by certifications and representations, as appropriate, that:

(1) If the transferee is a subsidiary of or in any way affiliated with any other company engaged in the production of watch movements components being offered for sale to any territorial producer, the related company or companies will continue to offer such watch and watch movement components on equal terms and conditions to all willing buyers and shall not engage in any practice, in regard to the sale of components, that competitively disadvantages the non-affiliated territorial producers *vis-a-vis* the territorial subsidiary;

(2) The sale or transfer price for the business together with its duty-exemption does not include the capitalization of the duty-exemption *per se;*

(3) The transferee is neither directly or indirectly affiliated with any other territorial duty-exemption holder in any territory;

(4) The transferee will not modify the watch assembly operations of the duty-exemption firm in a manner that will significantly diminish its economic contributions to the insular possession.

(c) At the request of the Departments, the transferee shall permit representatives of the Departments to inspect whatever records are necessary to establish to their satisfaction that the certifications and representations contained in paragraph (b) of this section have been or are being met.

(d) Any transferee who is either unwilling or unable to make the certifications and representations specified in paragraph (b) of this section shall secure the Departments' approval in advance of the sale or transfer of the business together with its duty-exemption. The request for approval shall specify which of the certifications specified in paragraph (b) of this section the firm is unable or unwilling to make, and give reasons why such fact should not constitute a basis for the Departments' disapproval of the sale or transfer.

§ 303.10 Limitations, requirements, restrictions, and prohibitions.

(a) *Limitation on value of components.* (1) Watch movements and watches assembled from components with a value of more than the maximum values set forth, respectively, in Section 303.14(b)(3) shall not be eligible for duty-exemptions into the U.S. Customs territory.

(2) As used in paragraph (a) of this section, "value" means the value of the merchandise plus all charges and costs incurred up to the last point of shipment (i.e., prior to entry of the parts and components into the insular possession).

(b) *Minimum assembly requirements.* No insular watch or watch component may be entered free of duty into the customs territory of the United States unless it meets the requirements of this paragraph.

(1) Conventional watch movements must be assembled from no fewer than a certain number of discrete parts and components and conventional watches from no fewer than another number, both designated in § 303.14(b)(1).

(2) Quartz analog movements and watches must be assembled as prescribed in § 303.14(b)(2).

(3) The disassembly of components or movements following their manufacture or assembly, whether in the country of origin, in the territory, or in an in-transit site, shall constitute a violation of the requirements of their paragraph.

(c) *Minimum labor input criteria.* (1) No insular watch or watch component may be entered free of duty into the customs territory of the United States unless it meets the requirements of this paragraph.

(2) Firms assembling watches or watch components shall make wage payments in the territory averaging not less than the amounts set forth in § 303.14(b)(4), respectively, per watch and watch movement assembled and shipped into the customs area of the United States. In applying this criterion, the Departments may make appropriate data adjustments to take into account wages paid for units assembled during the calendar year prior to the year of the allocation.

(d) *Prohibition of preferential supply relationships.* (1) With the exceptions shown below, no producer shall accept from any watch parts and components supplier advantages and preferences which might result in a more favorable competitive position for itself *vis-a-vis* other territorial producers relying on the same supplier. This probition shall apply whether or not the supplier is affiliated with a territorial producer.

(2) A producer may accept a price differential provided it is based solely on volume considerations usual and customary in the trade and provided the supplier's prices for the line and model

in question reflect such volume-based differentials and have previously been published in a manner which could reasonably be considered to have made them easily accessible to any other territorial producer.

(3) A producer may purchase parts and components from a supplier on credit extended by the supplier, even though the supplier may not be willing to extend similar credit to all other territorial producers, provided that the denial of such credit is impartially based on the purchaser's credit history.

(4) *Limited production runs.* (i) Any territorial producer which is affiliated with a supplier shall attach the following clause to each purchase order (excepting purchase orders described in paragraph (d)(4)(iv), of this section) to that supplier:

> In the event this order is for parts and components which are in short supply in your inventory, whether because of sales from a production run of a line or model for which no further production run is scheduled or because these parts and components were produced in a limited run, my firm is prohibited by regulation from placing an order for such line or model if filling it would deplete its inventory by more than 50%. Accordingly, we expressly exclude from this purchase order any portion of the total quantity exceeding this fraction of your inventory and request that you confirm your acceptance of such excess only after 90 days have elapsed after your acceptance of the allowable portion. We understand that your receipt of an order for such merchandise from another territorial producer within that 90-day period will receive precedence over our order.

(ii) If, in compliance with the clause shown in paragraph (d)(4)(i) of this section, above, a watch parts and components supplier does not accept a purchase order, the affiliated producer shall immediately report to the Departments in writing:

(A) The total amount (in equivalent units) of its purchase order;

(B) The line and model ordered;

(C) The date the supplier accepted the order for the allowable portion; and

(D) What amount of the order was not accepted.

(iii) Each territorial producer unable to receive confirmation for the entire amount of any purchase order it places with a supplier known to be affiliated with another territorial producer shall immediately report to the Departments in writing:

(A) The total amount (in equivalent units) of its purchase order;

(B) The line and model ordered;

(C) The date it placed the order; and

(D) What portion of the amount it ordered was not confirmed.

(iv) These provisions do not apply to purchase orders by an affiliated territorial producer for the same line or model from the same supplier which are made more than 120 days following the supplier's partial acceptance of such an order in compliance with the affiliated territorial producer's request.

(5) *Introduction of new lines and models.* (i) If a territorial producer is affiliated with a supplier planning to introduce a new line or model, the territorial producer may (subject to the restrictions governing limited production runs, above) order, assemble, ship, and market the line or model without restriction during a period 60 days before and 60 days after the public introduction of the line or model.

(ii) Thereafter, the affiliated territorial producer shall treat the new line or model as any other established line or model subject to all the restrictions and prohibitions of this paragraph.

§ 303.11 Quarterly reporting requirements.

(a) Each producer is required to file a report (Form ITA- 321P) on April 15, July 15, and October 15 of each year covering the periods January 1 to March 31, April 1 to June 30, and July 1 to September 30 respectively. No report is required for the fourth quarter (October 1 to December 31) as these data will be reflected on Form ITA-334P at the time the producer applies for an annual watch quota allocation. Copies of Form ITA-321P will be forwarded by the Director to each producer at the territorial address of record at least 15 days prior to the required reporting date. The Form ITA- 321P must be returned to the Director by registered mail.

(b) In addition to providing the Director with specific information on the producer's watch movement assembly operations during the reporting period and projected operations for the remainder of the calendar year, Form ITA-321P is also used to report changes in ownership, interest and control occurring during the reporting period. (See also § 303.9 regarding restrictions on the transfer of duty-exemptions.)

§ 303.12 Issuance and use of Production incentive certificates.

(a) *Issuance of certificates.* (1) Certificates of Entitlement, Form ITA-360, shall be issued before March 1 of the current year after receipt of the producer's certification that it intends and shall be able to sustain operations beyond the current calander year.

(2) Certificates shall not be issued to more than one company in the territories owned or controlled by the same corporate entity.

(b) *Security and handling of certificates.* (1) Certificate holders are responsible for the security of the certificates. The certificates shall be kept at the territorial address of the insular producer or at another location having the advance approval of the Departments.

(2) All refund requests made pursuant to the certificates shall be entered on the reverse side of the certificate.

(3) Certificates shall be returned by registered mail to the Departments when:

(i) A refund is requested which exhausts the entitlement on the face of the certificate,

(ii) The Certificate expires, or

(iii) The Departments request their return with good cause.

(4) Certificate entitlements may be transferred according to the procedures described in paragraph (c) of this section.

(c) *The use and transfer of certificate entitlements.* (1) Insular producers issued a certificate may request a refund by executing a Form ITA-361 (see Section 303.2(b)(6) and the instructions on the form). After authentication by the Department of Commerce, the Form ITA.361 may be used to obtain duty refunds on watch movements, watches, and parts therefor. Duties on watchcases not containing a movement and on articles containing any material which is the product of a country with respect to which Column 2 rates of duty apply may be refunded. Articles for which duty refunds are claimed must have entered the customs territory of the United States during the two-year period prior to the issue date of the certificate or during the one-year period the certificate remains valid. Copies of the appropriate Customs entries must be provided with the refund request in order to establish a basis for issuing the claimed amounts. Certification regarding drawback claims and liquidated refunds relating to the presented entries is required from the claimant on the form.

(2) Regulations issued by the U.S. Customs Service, U.S. Department of the Treasury govern the refund of duties under Pub. L. 97-446. If the Departments receive information from the Customs Service that a producer has made unauthorized use of any official form, they shall cancel the affected certificate.

(3) The insular producer may transfer a portion of all its certificate entitlement to another party by entering in block C of Form ITA-361 the name and address of the party.

(4) After a Form ITA-361 transferring a certificate entitlement to a party other than the certificate holder has been

authenticated by the Department of Commerce, the form may be exchanged for any consideration safisfactory to the two parties. In all cases, authenticated forms shall be transmitted to the certificate holder or its authorized custodian for disposition (see paragraph (b) of this section).

(5) All disputes concerning the use of an authenticated Form ITA–361 shall be referred to the Departments for resolution. Any party named on an authenticated Form ITA–361 shall be considered an "interested party" within the meaning of Section 303.13 of the Part.

(d) *Calculation of value.* (1) The Departments shall verify total creditable wages paid by each producer during the calendar year and divide by the total units it shipped during the calendar year to derive its average creditable wage per unit shipped (APS). The Departments may make adjustments for these data in the manner set forth in § 303.10(c)(2).

(2) The value of each producer's certificate shall equal the producer's APS multiplied by a figure based on the number of units shipped, as determined by the Secretaries in accordance with § 303.14(c).

§ 303.13 Appeals.

(a) Any official decision or action relating to the allocation of duty-exemptions may be appealed to the Secretaries by any interested party. Such appeals must be received within 30 days of the date on which the decision was made or the action taken in accordance with the procedures set forth in paragraph (b) of this section. Interested parties may petition for the issuance of a rule, or amendment or repeal of a rule issued by the Secretaries. Interested parties may also petition for relief from the application of any rule on the basis of hardship or extraordinary circumstances resulting in the inability of the petitioner to comply with the rule.

(b) Petitions shall bear the name and post office address of the petitioner and the name and address of the principal attorney or authorized representative (if any) for the party concerned. They shall be addressed to the Secretaries and filed in one original and two copies with the U.S. Department of Commerce, Import Administration, International Trade Administration, Washington, D.C. 20230, Attention: Statutory Import Programs Staff. Petitions shall contain the following:

(1) A reference to the decision, action or rule which is the subject of the petition;

(2) A short statement of the interest of the petitioner;

(3) A statement of the facts as seen by the petitioner;

(4) The petitioner's argument as to the points of law, policy or fact. In cases where policy error is contended, the alleged error together with the policy the submitting party advocates as the correct one should be described in full;

(5) A conclusion specifying the action that the petitioner believes the Secretaries should take.

(c) The Secretaries may at their discretion schedule a hearing and invite the participation of other interested parties.

(d) The Secretaries shall communicate their decision, which shall be final, to the petitioner by registered mail.

(e) If the outcome of any petition materially affects the amount of the petitioner's allocation and if the Secretaries' consideration of the petition continues during the calculation of the annual allocations, the Secretaries shall set aside a portion of the affected territorial share in an amount which, in their judgment, protects the petitioner's interest and shall allocate the remainder among the other producers.

§ 303.14 Allocation factors and miscellaneous provisions.

(a) *The allocation formula.* (1) Except as provided in paragraph (a)(2) of this section, the territorial shares shall be allocated among the several producers in each territory in accordance with the following formula:

(i) Eighty percent of the territorial share shall be allocated on the basis of the net dollar amount of economic contributions to the territory consisting of the dollar amount of wages, up to a maximum of $28,000 per person, paid by each producer to territorial residents and attributable to each producer's headnote 3(a) watch and watch movement assembly operations, *plus* the dollar amount of income taxes attributable to its headnote 3(a) watch and watch movement assembly operations (excluding penalty and interest payments and deducting any income tax refunds and subsidies paid by the territorial government), and

(ii) Twenty percent of the territorial share shall be allocated on the basis of the number of units of watches and watch movements assembled in the territory and entered by each producer duty-free into the customs territory of the United States.

(2) If there is only one producer in a territory, the entire territorial share, excluding any amount set aside for possible new entrants, may be allocated without recourse to any distributive formula.

(b) *Minimum assembly and wage contribution requirements.* (1) The minimum number of discrete parts and components, referred to in Section 303.10(b)(2), for conventional watch movements is 30 and for conventional watches 33.

(2) Quartz analog watch movements must be assembled from parts knocked down to the maximum degree possible for the technical capabilities of the insular industry as a whole. The greatest degree of disassembly specified, for each brand and model, by any producer in any territory purchasing such brands and models shall constitute the disassembly required as a minimum for the industry as a whole. In no event, however, shall a quartz analog kit qualify for duty-free treatment if it does not permit complete assembly in the insular possession of the setting mechanism and train assemblies.

(3) The maximum value of components referred to in Section 303.10(a)(1) shall be $20 for watch movements and $40 for watches.

(4) The average wage payments referred to in Section 303.10(c)(2) are $0.75 for watch movements and $0.95 for watches.

(c) *Calculation of the value of production incentive certificates.* The value of each producer's certificate shall equal the producer's average creditable wages per unit shipped (APS) multiplied by the sum of:

(1) The number of units shipped up to 300,000 units times a factor of 90%; plus

(2) incremental units shipped up to 450,000 units times a factor of 85%; plus

(3) incremental units shipped up to 600,000 times a factor of 80%; plus

(4) incremental shipments up to 750,000 units times a factor of 65%.

(d) *New entrant invitations.* (1) Applications from new firms are invited for American Samoa's territorial share.

(2) Applications from new firms are invited for 500,000 units of the Guam territorial share.

(3) Applications from new firms are invited for 1,000,000 units of the Virgin Islands territorial share.

John L. Evans,

Deputy to the Deputy Assistant Secretary for Import Administration, Department of Commerce.

Richard T. Montoya,

Deputy Assistant Secretary, Territorial and International Affairs, Department of the Interior.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 274

[Release Nos. 33-6502; IC-13689; File No. S7-1007]

Registration Forms for Insurance Company Separate Accounts That Offer Variable Annuity Contracts

AGENCY: Securities and Exchange Commission.

ACTION: Proposed forms, form amendments, rule amendments, and guidelines.

SUMMARY: The Commission is publishing for comment two registration forms for use by certain separate accounts offering variable annuity contracts to register under the Securities Act of 1933 and, where appropriate, the Investment Company Act of 1940. Specifically, the Commission is proposing for comment: (1) Form N-3, a new registration form for certain separate accounts registered under the Investment Company Act of 1940 as management investment companies and certain other separate accounts; (2) Form N-4, a new registration form for certain separate accounts registered under the Investment Company Act of 1940 as unit investment trusts and certain other separate accounts; and (3) related rule and form amendments. The Commission is publishing and requesting comment on staff guidelines for the preparation of Forms N-3 and N-4. The purposes of the proposals are to integrate and codify disclosure requirements applicable to insurance company separate accounts that offer variable annuity contracts and to shorten and simplify the prospectus provided to investors, while providing more extensive information to those who desire it.

DATES: Comments must be received on or before April 1, 1984.

ADDRESS: Persons wishing to submit written comments should file five copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Jane A. Kanter, Special Counsel (202-272-2107) or Mary K. Bellamy, Attorney (202-272-2147), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is today proposing for comment:

(1) Form N-3, a registration form that would replace both Form N-1 (17 CFR 239.15, 274.11) under the Securities Act of 1933 (15 U.S.C. 77a et seq.) (the "1933 Act") and the Investment Company Act of 1940 (15 U.S.C. 80a et seq.) (the "1940 Act"), for use by separate accounts registered under the 1940 Act as management investment companies offering variable annuity contracts, and Form S-1 (17 CFR 239.11) under the 1933 Act for certain non-registered separate accounts offering variable annuity contracts (collectively, "management accounts"). Form N-3 would be in three parts: (i) Part A would be the prospectus required by Section 10(a) of the 1933 Act (15 U.S.C. 77j(a)); (ii) Part B would be the "Statement of Additional Information" which would contain additional information that would have to be provided upon request to recipients of the prospectus; and (iii) Part C would contain other information that would be required to be in the registration statement. The text of Form N-3 is Appendix A to this release.

(2) Form N-4, a registration form that would replace Form S-6 (17 CFR 239.16) under the 1933 Act and Form N-8B-2 (17 CFR 274.12) under the 1940 Act, for use by separate accounts registered under the 1940 Act as unit investment trusts offering variable annuity contracts, and Form S-1 under the 1933 Act for certain non-registered separate accounts offering variable annuity contracts (collectively "trust accounts"). Form N-4 would be in three parts: (i) Part A would be the prospectus required by Section 10(a) of the 1933 Act; (ii) Part B would be the "Statement of Additional Information" which would contain additional information that would have to be provided upon request to recipients of the prospectus; and (iii) Part C would contain other information that would be required to be in the registration statement. The text of Form N-4 is Appendix B to this release.

(3) Amendments to form N-1A (17 CFR 239.15A, 274.11A), the registration form under the 1933 and 1940 Acts used by, among others, open-end investment companies that sell their shares exclusively to trust accounts ("captive funds"). The amendments to Form N-1A would permit captive funds to delete any otherwise required yield disclosure, if the corresponding trust account prospectus included certain required yield disclosure.

(4) Amendments to rules 482 (17 CFR 230.482), 486 (17 CFR 230.486), 495 (17 CFR 230.495), 496 (17 CFR 230.496), and 497 (17 CFR 230.497) of Regulation C under the 1933 Act (17 CFR 230.400 et seq.). Rule 486 would be amended to reflect the three-part formats of Forms N-3 and N-4. The amendments to rules 482, 495, 496, and 497 would add Forms N-3 and N-4 to the registration forms specified in those rules.

(5) Amendments to Rules 8b-11A (17 CFR 270.8b-11A), 8b-12A (17 CFR 270.12A), and 30d-1 (17 CFR 270.30d-1) under the 1940 Act. Rules 8b-11A and 8b-12A would be amended to add Forms N-3 and N-4 to the registration form specified in those rules. Rules 30d-1 would be amended to add an item of Form N-3 to the items specified in that rule.

The Commission is requesting comment on staff guidelines [1] for the preparation of Forms N-3 and N-4 which are Appendices C and D to this release, respectively, and may be obtained directly from the Commission through the above-mentioned contact persons. In addition, the staff guidelines will be published in the SEC Docket. All comments and suggestions on the staff guidelines will be considered in the development of this proposal.

Background and Purpose

When proposed Form N-1A, the two-part registration form for open-end investment companies ("mutual funds"), was published for comment, the Commission stated its intention to develop a simplified prospectus form for other types of investment companies, including separate accounts of insurance companies,[2] taking into consideration comments received on Form N-1A.

Representatives of the insurance company industry who commented on Form N-1A stated that the concepts embodied in the form would be beneficial for both separate accounts organized as management investment companies that offer variable annuity contracts ("management accounts" and separate accounts organized as unit investment trusts that offer variable annuity contracts ("trust accounts").

Form N-1A was adopted by the Commission on August 12, 1983 for use by mutual funds.[3] Since the Commission

[1] Staff guidelines for the preparation of Forms N-3 and N-4 are filed as a part of the original document and will not be published in the **Federal Register**.

[2] The term "separate account" is defined in Section 2(a)(37) of the 1940 Act to mean: an account established and maintained by an insurance company . . . under which income, gains and losses, whether or not realized from assets allocated to such accounts, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

[3] Securities Act Release No. 6479 (August 12, 1983) [48 FR 37928 (August 22, 1983)] (adoption of Form N-1A).

was developing simplified, integrated registration forms for all registered and most non-registered [4] separate accounts offering variable annuity contracts ("separate accounts"), the Commission did not make Form N–1A available for use by separate accounts.

Currently insurance company separate accounts that register under the 1940 Act and register their securities under the 1933 Act must do so on registration forms designed primarily for other kinds of investment companies.[5] While much of the required disclosure is useful, some items request disclosure that is not important to a prospective purchaser of a variable annuity contract. Moreover, many matters that would be material to a prospective purchaser are not addressed at all by the forms. Consequently, using the currently available forms, the staff of the Commission has developed disclosure standards for separate accounts offering variable annuity contracts that call for a description of the material features of the variable annuity contract and the separate account. The Commission believes that these disclosure standards should be codified in more appropriately designed forms. The Commission also believes that the benefits of the prospectus simplification initiative should be extended to separate accounts offering variable annuity contract.[6]

The Commission has developed proposed Form N–3 for management accounts and proposed Form N–4, for trust accounts. Proposed Forms N–3 and N–4, if adopted would provide several significant benefits for separate account registrants and investors. First, proposed Form N–4 for trust accounts would integrate the reporting and disclosure requirements of both the 1933 Act and 1940 Act into one form, thereby eliminating unnecessary paperwork and duplicative reporting.[7] Second, proposed Form N–3 and N–4 would codify the disclosure standards that have been developed for separate accounts. Finally, both proposed Forms N–3 and N–4 would permit shorter and simpler prospectuses than are required under current practice, by adopting the two-part disclosure format that was first proposed in connection with Form N–1A, and by incorporating many of the reduced disclosure requirements of Form N–1A. Separate account disclosure requirements that experience has shown are unnecessary also would be eliminated,[8] as well as certain disclosure requirements that are holdovers from the requirements applicable to non-separate account unit investment trust.[9]

Synopsis of the Forms

Proposed Forms N–3 and N–4 would have the same two-part disclosure format that the Commission adopted for mutual funds in Form N–1A. Both registration forms would contain three parts: a simplified prospectus meeting the requirements of Section 10(a) under the 1933 Act (15 U.S.C. 77j(a)) and whose delivery satisfies the prospectus delivery requirements of section 5(b)(2) of the 1933 Act; a Statement of Additional Information available to prospective purchasers upon request and without charge; and other information (required only in the registration statement). The prospectus would contain a concise presentation of material information about the separate account and the variable annuity contracts. The Statement of Additional Information would contain more detailed discussions of matters required to be in the prospectus, as well as other information which might interest some investors.

Financial Information

Currently separate account prospectuses contain the full finanical statements of both the separate account and the sponsoring insurance company, as well as condensed financial information for a management account. The Commission is proposing several changes in this financial disclosure and is requesting comment on several other possible changes.

Because the separate account operates during the accumulation period in much the same manner as a mutual fund, the Commission is proposing that the financial information required about a management or trust account should be the same as that required for a mutual fund registering on Form N–1A, and should be allocated in the same manner between the prospectus and the Statement of Additional Information. Therefore, the prospectus for a management or trust account would contain the condensed financial information of that separate account and a yield quotation for any separate account having a money market component.[10] All other financial information about the separate account would be in the Statement of Additional Information.

The Commission believes, however, that contractowners or annuitants may not have the same interest in the financial condition of the sponsoring insurance company as they have in the separate account. During the accumulation period, the income, gains, and losses of the separate account are credited to or charged against the separate account without regard to the other income, gains, or losses of the sponsoring insurance company.[11] During the annuity period, however, although the annuitant's investment return is tied to the performance of the separate account, his receipt of annuity payments may be dependent upon the solvency of the insurance company.[12] Consequently, contractowners, participants, and annuitants may not want or need disclosure about the investment performance of the insurance company, and instead may be interested *only* in the sponsor's

[4] Some separate accounts are not investment companies because of the investments they make or the nature of their contractowners. *See* sections 3(a) and 3(c)(11) of the 1940 Act. Therefore, these separate accounts do not register under the 1940 Act.

[5] Trust accounts that register under the 1940 Act use Form N–8B–2 to register under that Act and register their securities under the 1933 Act on Form S–6. Both forms were designed for non-separate account unit investment trusts and were adopted before the establishment of the first separate account to fund variable annuity contracts. Management accounts that register under the 1940 Act use Form N–1, the general registration form for open-end investment companies, for both kinds of registration.

Insurance company separate accounts that do not register under the 1940 Act register their securities under the 1933 Act on Form S–1, the residual 1933 Act registration form.

[6] Registered separate accounts which fund variable life insurance contracts ("life accounts") would continue to use Forms N–1, N–8B–2, and S–6. The Commission does not expect to propose separate registration forms for life accounts until it has acquired more experience with these contracts and the various changes in the product which currently are being considered by the insurance industry.

For a description of the non-registered separate accounts that would use proposed Forms N–3 and N–4, see "Non-registered Separate Accounts," *infra*.

[7] *See* Securities Act Release No. 5964 (August 28, 1978) [43 FR 39548 (September 5, 1978)] (adoption of Form N–1), regarding integration of 1940 Act and 1933 Act reporting and disclosure requirements.

[8] For example, the requirement that the financial statements of the sponsoring insurance company be presented in the prospectus. *See* the description of Item 25 of proposed Form N–3, *infra*.

[9] For example, the requirement that the members of the board of directors of the depositor be identified.

[10] *See* "Condensed Financial Information" and "Yield Quotations" *infra*, for a fuller discussion of these requirements for trust accounts.

[11] Nevertheless, during the accumulation period, the sponsoring insurance company may guarantee that fees for certain services will not increase even if the cost of providing the services increases and that the annuity purchase rates available at the time the contractowner (or participant) annuitizes will not be less favorable to him than the annuity purchase rates in his variable annuity contract.

[12] The reserves out of which the annuity payments are paid are based upon assumptions about the longevity of annuitants as a group and the cost of administering the contracts. If those assumptions are wrong, the sponsoring insurance company may have to contribute funds sufficient to make annuity payments.

solvency. Therefore, the Commission is not proposing to require that financial statements of the sponsoring insurance company, other than a two-year comparative balance sheet, be included in the Statement of Additional Information, if the financial statements are in Part C of the registration statement and available to investors upon request and without change.

This proposed change is intended to ensure disclosure of pertinent financial information about the sponsoring insurance company to investors who wish to have it, while reducing the disclosure burden on the insurance company. However, because most investors would receive less financial information about the sponsoring insurance company, the Commission is also requesting comment on whether other information about the financial condition of the sponsoring insurance company should be contained in the prospectus.[13]

Finally, certain registrants have asserted that stock life insurance companies that are required to prepare financial statements in accordance with generally accepted accounting principles solely for the purpose of including such statements in a separate account registration statement should be permitted instead to include financial statements prepared in accordance with the applicable state statutory requirements. While the Commission has not been persuaded thus far that a change in Rule 7-02(b) of Regulation S-X [17 CFR 210.7-02(b)] to permit such substitution is appropriate, comment is requested on this question.

Proposed Form N-3

1. Part A: Prospectus

Part A of proposed Form N-3 contains instructions for preparation of the prospectus. (The General Instructions, particularly General Instruction H, contain additional guidance.)

Item 1—Cover Page

Certain technical requirements are applicable to prospectus cover pages for all issuers and these requirements have not been altered for Item 1 of proposed Form N-3.[14] The cover page must also include specific identifying information such as the name of the registrant,[15] its basic investment objectives, the name of the sponsor,[16] the types of variable annuity contracts [17] offered by means of the prospectus, and the types of qualified plans, if any, with which the contracts may be used. Additionally, the cover page must disclose the availability, without charge, of the Statement of Additional Information and the date of the Statement of Additional Information. Although the cover page may contain additional information, it should not be so detailed or complex as to prevent understanding of the basic required information.

Item 2—Definitions

Proposed from N-3 requires a glossary of all special terms used in the prospectus. If a special term is used in only one section of the prospectus, it may be defined there instead.

Item 3—Synopsis

Item 3 calls for a summary of the prospectus "when the prospectus is long or complex." Normally, a synoposis would not be necessary if the prospectus were twelve pages or less. In addition, the item requires a registrant to highlight, on the cover page, in a synopsis, or otherwise, any of the following characteristics: a revocation right;[18] a possible tax penalty on premature withdrawals;[19] or a deferred sales load.[20]

Item 4—Condensed Financial Information

Item 4 of proposed Form N-3 requires essentially the same condensed financial and yield information for management accounts as Form N-1A requires for mutual funds. Proposed Item 4 also requires registrants to state, under a separate caption, where financial statements of the registrant and the sponsor that are not in the prospectus may be found.

Item 5—General Description of Registrant and Sponsor

Item 5 requires a concise discussion of the organization and operation of the registrant, including a brief description of the sponsor and the registrant. The item calls for (i) basic identifying information about the sponsor; (ii) its date, form, and state of organization; and (iii) the identity of any persons who control the sponsor. The item also calls for (i) the registrant's date and form of organization including the registrant's subclassification under the 1940 Act; (ii) a description of the relationship between the registrant and the sponsoring insurance company, (iii) whether there are any sub-accounts of the registrant; and (iv) the name and address of any contractowner of a variable annuity contract to which 10 percent or more of the assets of any sub-account are attributable, and the specific amount of assets attributable to the contract.

Item 5 also calls for a concise description of the significant investment objectives and policies of the registrant, including: (i) whether those investment objectives may be changed without the approval of a majority of votes; (ii) how the registrant proposes to achieve its objectives, noting in particular the types of securities and special investment practices or techniques that will be used and the identity of any industry or group of industries in which the registrant proposes to concentrate; (iii) the identity of any other policies of the registrant that may be changed only with the approval of a majority of votes; and (iv)

[13] For example, the A.M. Best Co. gives life insurance companies alphabetical ratings that attempt to quantify the stability of the companies and their long-term ability to discharge their obligations to policyholders. In Securities Act Release No. 6376 (January 11, 1982) [47 FR 3130 (January 22, 1983)], concerning revised procedures for processing post-effective amendments of insurance company separate accounts, the Commission requested comment on whether policyholder ratings should be treated similarly to security ratings in registration statements (i.e., whether to provide that a policyholder rating is not a part of a registration statement prepared or certified by a person within the meanings of Sections 7 and 11 of the 1933 Act). The comment letters received were divided on the issue: one stating that the ratings "are of substantial benefit to potential investors," and two stating that the ratings are not relevant and may be misleading. The Commission decided to defer action on the question, rather than delay the adoption of Rule 486. *See* Securities Act Release No. 6402 (May 14, 1982) [47 FR 22356 (May 24, 1982)].

[14] All prospectus cover pages must include: 1) the date of the prospectus; 2) a legend warning that the securities have not been approved by the Commission; and 3) other information that may be required by the Commission or by any other governmental agency.

[15] The term "Registrant" is defined in General Instruction C to mean "the separate account . . . which offers the variable annuity contracts." The term "separate account" is defined in Section 2(a)(37) of the 1940 Act (15 U.S.C. 80a-2(a)(37)).

[16] The term "sponsor" is defined in General Instruction C to mean "the sponsoring insurance company of the Registrant."

[17] The term "variable annuity contract" is defined in General Instruction C to include: any accumulation or annuity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either before or after annuitization, or both, varies according to the investment experience of the separate account in which the contract participates.

[18] Most states require variable annuity contracts to contain a revocation right permitting a purchaser to return a variable annuity contract during a certain period after the purchase date without the imposition of any charges.

[19] The Tax Equity and Fiscal Responsibility Act, Pub. L. No. 97-284, 96 Stat. 324 (1982) imposed a five percent penalty tax on premature withdrawals under a variable annuity contract.

[20] Many separate accounts impose a deferred sales load on redemption or annuitization of contract values. The deferred sales loads may be as high as nine percent of the withdrawn amount, although most are below eight and one half percent. In July of this year the Commission codified the relief necessary to permit this type of sales load in 1940 Act Rule 6c-8 [17 CFR 270. 6c-8].

any other significant investment policies or techniques of the registrant not otherwise described.

Item 6—Management

Item 6 of proposed Form N–3 requires essentially the same disclosure about the registrant's board of managers, investment adviser, transfer agent, and brokerage practices as Item 5 of Form N–1A.

Item 7—Deductions and Expenses

Item 7 requires a brief description of all deductions from purchase payments, contractowner accounts, or the assets of the registrant. Specifically, the item calls for the amount of any such deduction as a percentage or dollar figure, its recipient, the services provided in consideration for the deduction, and an explanation of the extent to which the deduction can be modified.

In addition, the item requires a statement about the registrant's expenses. If the organization expenses of the registrant are to be paid for out of the assets of the management account, registrant must disclose in the prospectus the amount of any organization expenses to be amortized and the period of amortization. If the investment adviser is compensated for its services to the registrant by someone other than the registrant, that person must be identified as well as the amount paid by him.

Item 8—General Description of Variable Annuity Contracts

Item 8 requires identification of all persons who have rights, including voting rights, under the variable annuity contracts and a brief description of the nature of those rights, during (i) the accumulation period, (ii) annuity period, and (iii) after the death of the annuitant or contractowner. The item also specifically requires a brief description of any provisions for allocation of purchase payment among sub-accounts of the registrant, transfer of contract values between such sub-accounts, and exchanges of variable annuity contracts.

In addition, the item requires a brief description of the changes that can be made in the variable annuity contract or the operations of the registrant by the registrant or its sponsor, including: (i) why a change may be made; (ii) who must approve any change; and (iii) who must be notified of any change. The instruction to Item 8(c) specifically restricts the information that must be provided in response to this item to changes that would be material to a purchaser of the variable annuity contracts, such as a reservation of the right to deregister the registrant under the 1940 Act. Finally, the item requires a registrant to describe how contractowner inquiries should be made.

Item 9—Annuity Period

Item 9 requires a brief explanation of how the dollar amounts of initial and subsequent annuity payments are determined. The response to this item should be sufficiently precise so that the lengthy illustrations of the computation of annuity unit value and annuity payments contained in most current separate account prospectuses would not be necessary.

The prospectus must also provide a concise explanation of the choices available to a prospective annuitant, and the effect of not specifying a choice, concerning: (i) the annuity date; (ii) annuity options; (iii) frequency of annuity payments; and (iv) assumed interest rates.

Item 10—Death Benefit

This item calls for a description of the death benefit available under the variable annuity contracts during both the accumulation and annuity periods. The prospectus should include disclosure concerning when the death benefit is calculated and payable and the forms the benefit may take. Specifically, the registrant is required to identify in the prospectus the effect, if any, of the choice of an annuity option on the time when the death benefit is calculated, the effect of not choosing a payment option, and the period during which payments must commence under any annuity option.

Item 11—Purchases

Item 11 requires a brief description of how to purchase a variable annuity contract, including the minimum initial and subsequent purchase payments required, the manner in which the value of an accumulation unit [21] is determined, and when initial and subsequent purchase payments are credited. The item also requires disclosure in the prospectus of the name and address of any principal underwriter (other than the sponsor) of the variable annuity contracts and, if the principal underwriter is an affiliated person of the registrant, the sponsor, or any affiliated person thereof, how it is affiliated.

Item 12—Redemptions

Item 12 requires a brief description of the procedures by which a contractowner or annuitant (if the annuity option does not contain a life contingency) [22] may redeem in full or in part including a description of how the proceeds are calculated and when they are payable. If a registrant offers its variable annuity contracts in connection with the Texas Optional Retirement Program, Item 12 requires disclosure regarding the restrictions on redemption that apply. Item 12 also requires brief discussions in the prospectus of any provisions or plans for lapse or involuntary redemptions, delays in redemptions, redemptions in kind, or revocation rights (e.g., a "ten-day free look" provision).

Item 13—Taxes

Three areas of disclosure are called for by Item 13. First, the prospectus should briefly describe the tax consequences to an investor of an investment in a variable annuity contract prior and subsequent to annuitization, including a discussion of any tax penalties on early withdrawals. Second, Item 13 calls for disclosure of the types of qualified plans [23] with which the variable annuity contracts can be used. The instructions to this item specifically provide that the prospectus must identify the types of persons who may use the plans and must disclose whether the terms of the plans govern the rights of any person to benefits, regardless of the terms of the variable annuity contract. However, the instructions state that the requirements for qualification of plans for benefits under the Internal Revenue Code and the non-annuity tax consequences of qualification need not be described in the prospectus. The third area of disclosure called for by Item 13 is the taxation of the operations of the registrant, including any provisions for accumulating funds in the registrant for federal income taxes and the rate at which the taxes are expected to be computed. The circumstances under which amount would be transferred to or from the sponsor as a result of federal income taxation also should be briefly described.

Item 14—Legal Proceedings

Item 14 calls for information that is essentially the same as Item 9 of Form N–1(A), except for the addition of the sponsor to the list of persons about

[21] An accumulation units is the unit of measure used to calculate contract value prior to annuitization.

[22] Rule 22e–1 under the 1940 Act [17 CFR 270.22e–1] only provides an exemption from the redemption requirements of Section 22(e) [15 U.S.C. 80a–22(e)] for "contracts under which payments are being made based upon life contingencies."

[23] Variable annuity contracts are used to fund a number of different kinds of plans which qualify for special treatment under the Internal Revenue Code, such as simplified employee pension plans and state and local government deferred compensation plans.

whom disclosure must be made. Accordingly, the registrant need not discuss pending legal proceedings unless those proceedings were likely to have a materially adverse effect on the registrant, or impair the ability of the investment adviser, principal underwritter, or sponsor to perform its contractual obligations.

2. Part B: Statement of Additional Information

Part B of proposed Form N–3 generally calls for additional information about the matters discussed in the prospectus. The items also provide guidance as to what is not required in the prospectus. Most of the items are essentially the same as items in Part B of Form N–1A and therefore are not discussed in this release. However, two items merit separate attention.

Item 17. General Information and History

This item requires disclosure of any prior names of the sponsor during the past five years; whether sales of contracts by the sponsor (including sales through the registrant) have been suspended at the specific request of any governmental entity and the reasons for and results of the suspension; and the identity of jurisdictions in which the sponsor is authorized to do business. In addition, the item calls for disclosure of any block of assets in the management account (other than assets attributable to a variable annuity contract, accumulated deductions, or reserves) to which more than 10% of the assets of the account are attributable.

Item 25. Financial Statements

The financial statements of the registrant required by Item 25 are the same as the financial statements required by Item 23 of Form N–1A. Under the proposed form, the condensed financial information for the registrant and yield information required by Item 4 will be the only financial information in the prospectus. The full financial statements of the registrant will be in the Statement of Additional Information. With regard to the sponsor, the only financial information required to be in the Statement of Additional Information will be comparative balance sheets for the last two fiscal years and, in certain cases, a more current interim balance sheet of the sponsor.[24] The other financial statements of the sponsor are required to be included in the registration statement and to be made available to investors upon request, free of charge, but they are not required to be included in the Statement of Additional Information. The Commission believes this will allow a shorter Statement of Additional Information, while still providing investors with adequate information about the solvency of the insurance company.

3. Part C: Other Information

Part C of proposed Form N–3 concerns information that is required in the registration statement but is not required to be in the prospectus or Statement of Additional Information. Except for the undertakings, Part C requires information that is essentially the same as that required in Part C of Form N–1A with the following exceptions. The exhibit requirements have been modified to include exhibits concerning the sponsor, the variable annuity contract, and any contract of reinsurance. Also, the item regarding security holders has been replaced by an item requiring information about contractowners. Finally, an item requiring disclosure about officers and directors of the sponsor has been added.

Three undertaking requirements have been included in proposed Form N–3 that are not found in Form–1A. Proposed Form N–3 requires an undertaking to file post-effective amendments to update the financial statements contained in the registration statement. [25] Also, because many investors have short-lived revocation rights, proposed Form N–3 requires two undertakings that should foster the delivery of the Statement of Additional Information by the beginning of the revocation period.

In addition, the instructions to the undertaking requirements regarding filing a post-effective amendment within four to six months after the effective date of the registration statement under the 1933 Act have been modified to facilitate the use of the same financial statements in the post-effective amendment and a registrant's annual or semi-annual report to secruity holders. [26]

Signatures

If the registration statement is being filed only under the 1940 Act, the instructions to the signature requirement indicate that only the registrant must sign the registration statement. However, if the registration statement is being filed under the 1933 Act, or both the 1933 Act and the 1940 Act, the registration statement must be signed by both the registrant and the sponsor.

Proposed Form N–4

Most of the disclosure requirements of proposed Form N–4 are the same as disclosure requirements contained in proposed Form N–3. However, because of the different characteristics of trust and management accounts, many of the requirements of proposed Form N–3 have not been included in proposed Form N–4. Additionally, there are a few disclosure requirements in proposed Form N–4 that raise different issues than the requirements of proposed Form N–3. These are discussed below.

Portfolio Companies

Item 5 of proposed Form N–4 ("General Description of Registrant, Depositer, and Portfolio Companies") requires a brief description of each company in which the trust account invests ("portfolio company" [27]), including (i) the name of each company, (ii) an identification of the type of fund or a brief statement of each company's investment objectives; and (iii) identification of each company's investment adviser. Item 5 also requires a discussion of rights of contractowners, annuitants, participants, or beneficiaries to instruct the registrant on the voting of the portfolio company securities underlying their interest in the registrant.

Similarly, Item 6 ("deductions") requires a registrant to state that there are deductions from an expenses paid out of the assets of portfolio companies that are described in the accompanying prospectuses of the portfolio companies.

[24] The sponsor is only required to provide an interim balance sheet if (i) the sponsor's financial statements have never been included in an effective registration statement under the 1933 Act relating to variable annuity contracts or variable life insurance contracts, or (ii) the sponsor does not have a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of $1,000,000 or more on one of three dates specified in the instructions to Item 25.

[25] The financal statements of the registrant would have to be updated even without the required undertaking because the condensed financial information regarding the registrant in the prospectus is subject to Section 10(a) of the 1933 Act.

[26] *Compare* footnote 33, *infra*.

[27] Ordinarily, trust accounts invest in one or more mutual funds. However, a trust account might invest in other segregable assets (e.g., a bank account or another unit investment trust). The definition of "portfolio company" in Instruction C is broad enough to cover any assets in which the trust account invests. It includes "any company in which th [r]egistrant invests." The term "company in which ithe [r]egistrant invests." The term "company" is defined in section 2(a)(8) of the 1940 Act [15 U.S.C. 80a–2(a) (8)] to include, among others, "a corporation, a partnership, an association, a joint-stock company, a trust, a fund, or any organized group of persons whether incorporated or not . . ."

Prospectus Delivery Legend

Item 1 requires a registrant to state that the prospectus is not valid unless accompanied by the prospectuses of the portfolio companies in which a purchaser may invest. The purposes of this requirement is to ensure that a prospective investor will receive prospectuses of all of the portfolio companies by the trust account prospectus.

Condensed Financial Information

Trust account prospectuses do not currently provide condensed financial information, although they may provide historical information that is similar to the condensed financial information provided by a management account. Each portfolio company of the trust account also currently provides its own condensed financial information. To increase the comparability of management account and trust account prospectuses, the Commission is proposing in Item 4 to require that trust accounts provide those portions of the condensed financial information provided by managment accounts as are relevant for trust accounts. Specifically, Item 4 requires that all trust accounts disclose the accumulation unit value at the beginning and the end of each period, and the number of accumulation units outstanding at the end of each period.

Yield Quotations

Currently trust accounts do not provide yield quotations for their sub-accounts investing in money market funds,[28] although the money market fund themselves do currently provide yield quotations in their prospectuses. Because it is the prospectus of the money market fund that provides yield quotations to investors of the trust account, those yield quotations reflect charges of the money market fund, but *not* the charges of the trust account. The Commission believes that a prospective investor should be able to obtain yield quotations for all separate account money market portfolios (no matter how the separate accounts are classified under the 1940 Act) that accurately reflect the performance of those separate accounts. Therefore, proposed Item 4(a) of Form N–4 requires trust accounts to provide in the prospectus a standardized yield quotation for their money market sub-accounts, which reflects all charges. Item 20 of the registration form requires a description of the method of calculating the yield quotation to be included in the Statement of Additional Information.

We believe that requiring trust accounts to provide yield quotations in their prospectuses will permit investors to compare more accurately the performance of the different kinds of separate accounts that have money market portfolios.

Because trust account yield quotations will be available to all prospective investors in a captive fund, the Commission does not believe that a captive fund should be required to provide yield quotation disclosure. Therefore, the Commission is proposing to amend Form N–1A to delete the requirements that captive funds provide yield quotations in response to Item 3(c) of that form and that they describe the method of computing yield quotations in response to Item 22.

Non-Registered Separate Accounts

Some separate accounts are not investment companies because of the investments they make or the nature of their contractowners.[29] Securities, funded by separate accounts that are not required to be registered under the 1940 Act, currently are registered under the 1933 Act on Form S–1.[30] The Commission believes that proposed Forms N–3 and N–4 should be made available to those non-registered separate accounts that are most similar to registered separate accounts. Consequently, if the separate account would be required to be registered under the 1940 Act except for the exclusion in section 3(c)(11) of the 1940 Act,[31] then the securities would be registered on either Form N–3 or Form N–4. Separate accounts relying on Section 3(c)(11) that otherwise would be management accounts would be permitted to use Form N–3. Similarly, separate accounts that otherwise would be trust accounts would be permited to use Form N–4. Other non-registered separate accounts (e.g., "real estate" separate accounts) would continue to use Form S–1. However, where the disclosure requirements of Form N–3 or N–4 would be more appropriate (e.g., items requiring disclosure about the variable annuity contract), separate account registrants on Form S–1 should use those requirements as a guide to appropriate disclosure.[32]

Staff Guidelines

Over the years numerous releases have described the views of the Commission and the staff on matters affecting investment company disclosure. In addition, the staff has developed certain policies that have not been formally announced. The Commission has recently issued guidelines for use in preparing Form N–1A [33] that bring together and update many of these positions. In order to assist registrants in preparing Form N–3 and Form N–4, the Commission is proposing additional guidelines that are applicable to disclosure by separate accounts, and is publishing these proposed guidelines as Appendices C and D to this release. Comment is invited on these and other subjects not covered by the guidelines in order to assist the Commission and the staff in developing appropriate guidelines for proposed Forms N–3 and N–4.

Amended Rules

The disclosure format of proposed Forms N–3 and N–4 was first utilized in connection with Form N–1A. At the time Form N–1A was adopted the Commission also adopted rules 495, 496, and 497 under the 1933 Act and rules 8b–11A and 8b–12A under the 1940 Act and amended rule 30d-1 under the 1940 Act [34] to implement the new disclosure

[28] Sub-accounts represent segregated assets within a separate account. There will be at least one sub-account for each portfolio company of a trust account (two if the account offers both variable annuity contracts that qualify for special tax treatment under the Internal Revenue Code and contracts that do not qualify for special tax treatment). Similarly, a management account organized as a series company will have at least one sub-account per portfolio.

A money market sub-account of a trust account would be any sub-account funded by a money market fund. If a management account were not organized as a series company, it might have a money market sub-account funded by a money market portfolio. If a management account were organized as a series company, any money market portfolio would be its only portfolio (i.e., it would be a "money market account").

[29] *See* Sections 3(a) [15 U.S.C. 80a–3(a)] and 3(c)(11) of the 1940 Act [15 U.S.C. 80a–3(c)(11)].

[30] *See* Securities Act Release No. 5074 (July 21, 1970).

[31] Section 3(c)(11) of the 1940 Act excludes from the definition of investment company . . . any separate account the assets of which are derived solely from (A) contributions under pension or profitsharing plans which meet the requirements of section 401 of the Internal Revenue Code of 1954 or the requirements for deduction of the employer's contribution under section 404(a)(2) of such Code, (B) contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of Section 5 of the Securities Act of 1933 by section 3(a)(2)(C) of such Act, and (C) advances made by an insurance company in connection with the operation of such separate account.

[32] *Compare* Securities Act Release No. 5074 (July 21, 1970).

[33] See Securities Act Release No. 6479 (August 12, 1983).

[34] The Commission also amended rule 485 under the 1933 Act [17 CFR 230.485] and rules 18f–1, 22d–1, and 22d–2 under the 1940 Act [17 CFR 270.18f–1, 270.22d–1, and 270.22d–2]. Rule 485 does not apply to separate accounts. Rules 18f-1, 22d–1, and 22–2 can accommodate proposed Forms N–3 and N–4 without being amended.

format. The Commission is now proposing for comment amendments to rules 8b–11A, 8b–12A, and 30d–1[35] under the 1940 Act and rules 482, 495, 496, and 497 [36] under the 1933 Act in order to add Form N–3 or Form N–4 to the registration form or forms specified therein.

Additionally, the Commission is proposing to amend rule 486, the automatic effectiveness rule for post-effective amendments of registered separate accounts, to reflect the format of Forms N–3 and N–4 and to require a post-effective amendment filed to convert to Form N–3 or Form N–4 to be filed under paragraph (a) of that rule.

Transition Period

If the Commission adopts proposed Forms N–3 and N–4 on a permanent basis, as proposed or modified, those forms would eventually supplant Forms N–1, N–8B–2, and S–6 for separate accounts. However, in order to permit both the Commission and the industry to adjust to the new forms in an orderly way, the Commision would expect to provide for a transsition period of one year during which all registrants could use either the existing forms or the new forms. After the expiration of any one year transition period, Forms N–1, N–8B–2, and S–6 would be retained for use by registered separate accounts which fund variable life insurance contracts until revised registration forms for such separte accounts are adopted.

Costs and Benefits

The proposed registration forms released for public comment today are intended to shorten and simplify the prospectus available to investors. Although implementation of these reporting systems might initially result in additional costs to both the Commission and the insurance industry, the Commission believes that their potential benefits to the Commission, the industry, and investors would in time exceed those additional initial costs. The Commission would, however, like to develop, if possible, cost data. Therefore, the Commission is requesting comment and data concerning the cost savings or cost burdens to insurance companies and separate accounts of all sizes affected by this proposal.

List of Subjects

17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, and Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, and Securities.

Text of Rules and Forms

The Commission is proposing to amend Chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By proposing to revise paragraph (d) of § 230.482 as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

* * * * *

(d) In the case of an investment company which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in 13 months or less, any quotation of such company's yield contained in such advertisement shall be: (1) a quotation of current yield based on the method of computation prescribed in Form N–1 (set forth in §§ 239.15 and 274.11 of this chapter), Form N–1A (set forth in §§ 239.15A and 274.11A of this chapter), Form N–3 (set forth in §§ 239.17a and 274.11b of this chapter), or Form N–4 (set forth in §§ 239.17b and 274.11c of this chapter) and identifying the length of and the date of the last day in the base period used in computing that quotation, or (2) a quotation of current yield described in clause (1) above and a corresponding quotation of effective yield determined in accordance with the instructions as to the calculation of effective yield quotations contained in Forms N–1, N–1A, N–3, or N–4.

* * * * *

2. By proposing to revise paragraphs (b)(2) introductory text, (b)(3) and (b)(4) of § 230.486 and to add paragraph (b)(5) to § 230.486 as follows:

§ 230.486 Effective date of post-effective amendments filed by registered separate accounts of insurance companies.

* * * * *

(b) * * *

(2) Any prospectus or Statement of Additional Information filed as a part of such amendment does not include disclosure relating to any of the following events to the extent that such events have occurred since the effective date of the registrant's registration statement or the effective date of its most recent post-effective amendment thereto which included a prospectus or Statement of Additional Information, whichever is later, unless such events are disclosed in a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective:

* * * * *

(3) The registrant represents that no material event requiring disclosure in the prospectus, other than one listed in paragraph (b)(1) of this section, has occurred since the latest of three dates: (i) the effective date of the separate account's registration statement; (ii) the effective date of its most recent post-effective amendment to its registration statement which included a prospectus; or (iii) the filing date of a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective;

(4) Such amendment recites on the facing sheet thereof that the registrant proposes that the amendment will become effective pursuant to paragraph (b) of this section; and

(5) The amendment is not the first amendment containing a prospectus prepared on Form N–3 or N–4 to a registration statement initially prepared on Form S–1, S–5, S–6, or N–1.

* * * * *

3. By proposing to revise paragraphs (a), (c), and (d) of § 230.495 as follows:

§ 230.495 Preparation of registration statement.

(a) A registration statement on Form N–1A, Form N–3, or Form N–4 shall consist of the facing sheet of the applicable form; cross-reference sheet; a prospectus containing the information called for by such form; the information; list of exhibits; undertakings and signatures required to be set forth in such form; financial statements and schedules; exhibits; any other information or documents filed as part of the registration statement; and all documents or information incorporated

[35] The proposed amendments to rule 8b–11A concern the number of copies of registration statements filed on Form N–3 or N–4. That must be filed with the Commission, signature requirements, and requirements for binding the registration statement. The proposed amendments to rule 8b–12A concern the quality of paper, printing, and language requirements for registration statements filed on Form N–3 or N–4. The proposed amendments to rule 30d–1 concern, among other things, the transmission to security holders of a copy of a management account's currently effective prospectus or Statement of Additional Information, or both, as the equivalent of the annual and semi-annual reports required by the rule.

[36] The proposed amendments to rule 495 concern the preparation of registration statements on Form N–3 or N–4. The proposed amendments to rule 496 concern the contents of a prospectus or Statement of Additional Information used more than nine months after the effective date of a registration statement filed on Form N–3 or N–4. The proposed amendments to rule 497 concern the filing of copies of the prospectus as well as the Statement of Additional Information.

by reference in the foregoing (whether or not required to be filed).

* * * * *

(c) In the case of a registration statement filed on Form N–1A, Form N–3, or Form N–4, Parts A and B shall contain the information called for by each of the items of the applicable Part, except that unless otherwise specified, no reference need be made to inapplicable items, and negative answers to any item may be omitted. Copies of Parts A and B may be filed as part of the registration statement in lieu of furnishing the information in item-and-answer form. Wherever such copies are filed in lieu of information in item-and-answer form, the text of the items of the form is to be omitted from the registration statement, as well as from Parts A and B, except to the extent provided in paragraph (d) of this rule.

(d) In the case of a registration statement filed on Form N–1A, Form N–3, or Form N–4, where any item of those forms calls for information not required to be included in Parts A and B, (generally Part C of such form) the text of such items, including the numbers and captions thereof, together with answers thereto shall be filed with Parts A and B under cover of the facing sheet of the form as a part of the registration statement. However, the text of such items may be omitted provided the answers are so prepared as to indicate the coverage of the item without the necessity of reference to the text of the item. If any such item is inapplicable, or the answer thereto is in the negative, a statement to that effect shall be made. Any financial statements not required to be included in Parts A or B shall also be filed as part of the registration proper, unless incorporated by reference pursuant to Rule 411 (§ 230.411 of this chapter).

4. By proposing to revise § 230.496 as follows:

§ 230.496 Contents of prospectus used after nine months.

In the case of a registration statement filed on Form N–1A, Form N–3, or Form N–4 there may be omitted from any prospectus after the effective date of the registration statement any information previously required to be contained in the prospectus or the Statement of Additional Information insofar as later information covering the same subjects, including the latest available certified financial statements, as of a date not more than 16 months prior to the use of the prospectus or the Statement of Additional Information is contained therein.

5. By proposing to revise paragraphs (c) and (e) of § 230.497 as follows:

§ 230.497 Filing of prospectuses—number of copies.

* * * * *

(c) For investment companies filing on Form N–1A (§ 239.12A and § 274.11A of this chapter), Form N–3 (§ 239.17a and § 274.11b of this chapter), or Form N–4 (§ 239.17b and § 274.11c of this chapter), within five days after the effective date of a registration statement or the commencement of a public offering after the effective date of a registration statement, whichever occurs later, ten copies of each form of prospectus and Statement of Additional Information used after the effective date in connection with such offering shall be filed with the Commission in the exact form in which it was used.

* * * * *

(e) For investment companies filing on Form N–1A, Form N–3, or Form N–4, after the effective date of a registration statement no prospectus which purports to comply with section 10 of the Act or Statement of Additional Information which varies from any form of prospectus or Statement of Additional Information filed pursuant to paragraph (b) of this rule shall be used until copies thereof have been filed with, or mailed for filing to, the Commission, together with five copies of a cross reference sheet similar to that previously filed, if changed.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

6. By proposing to add § 239.17a to read as follows:

§ 239.17a Form N–3, registration statement for separate accounts organized as management investment companies.

Form N–3 shall be used for the registration under the Securities Act of 1933 of securities of separate accounts that offer variable annuity contracts and register under the Investment Company Act of 1940 as management investment companies and certain other separate accounts. This form is also to be used for the registration statement of such separate accounts pursuant to Section 8(b) of the Investment Company Act of 1940 (§ 274.11b of this chapter).

7. By proposing to add § 239.17b to read as follows:

§ 239.17b Form N–4, registration statement for separate accounts organized as unit investment trusts.

Form N–4 shall be used for the registration under the Securities Act of 1933 of securities of separate accounts that offer variable annuity contracts and register under the Investment Company Act of 1940 as unit investment trusts and certain other separate accounts. This form is also to be used for the registration statement of such separate accounts pursuant to Section 8(b) of the Investment Company Act of 1940 (§ 274.11c of this chapter).

8. By proposing to revise the first clause of paragraph (c) of Item 3 of Form N–1A in § 239.15A and § 274.11A to read as follows (Form N–1A does not appear in the Code of Federal Regulations):

§§ 239.15A, 274.11A Form N–1A [Amended]

* * * * *

Item 3. *Condensed Financial Information.*

* * * * *

(c) For a Registrant which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, other than a Registrant that sells its shares exclusively to separate accounts which prepare registration statements on Form N–4, furnish: . . .

* * * * *

9. By proposing to revise Item 22 of Form N–1A in § 239.15A and § 274.11A to read as follows (Form N–1A does not appear in the Code of Federal Regulations):

§§ 239.15A, 274.11A Form N–1A [Amended]

* * * * *

Item 22. *Calculations of Yield Quotations of Money Market Funds.*

For a Registrant which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in thirteen months or less, other than a Registrant that sells its shares exclusively to separate accounts which prepare registration statements on Form N–4, furnish a description of the method by which the yield quotation provided in the prospectus pursuant to Item 3(c) is computed.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

10. By proposing to revise paragraph (a) of § 270.8b–11A as follows:

§ 270.8b–11A Number of copies-signatures-binding.

(a) In the case of a registration statement filed on Form N–1A, Form N–3, or Form N–4, three complete copies of each part of the registration statement (including exhibits and all other papers and documents filed as part of Part C of the registration statement) shall be filed with the Commission.

* * * * *

11. By proposing to revise paragraph (a) of § 270.8b–12A as follows:

§ 270.8b-12A Requirements as to paper, printing and language.

(a) In the case of a registration statement filed on Form N-1A, Form N-3, or Form N-4, Part C of the registration statement shall be filed on good quality, unglazed, white paper, no larger than 8½ by 11 inches in size, insofar as practicable. The prospectus and Statement of Additional Information, however, may be filed on smaller-sized paper provided that the size of paper used in each document is uniform.

* * * * *

12. By proposing to revised paragraph (a) of § 270.30d-1 as follows:

§ 270.30d-1 Reports to stockholders of management companies.

(a) Every registered management company shall transmit to each stockholder of record, at least semi-annually, a report containing the financial statements required to be included in such reports by the company's registration statement form under the 1940 Act (instructions E and F of Item 18 of Form N-1, instructions 5 and 6 of Item 23 of Form N-1A, Item 20 of Form N-2, or Item 25(a) of Form N-3 except that the initial report of a newly registered company shall be made as of a date not later than the close of the fiscal year or half-year occurring on or after the date on which the company's notification of registration under the 1940 Act is filed with the Commission.

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

13. By proposing to add § 274.11b to read as follows:

§ 274.11b Form N-3, registration statement of separate accounts organized as management investment companies.

Form N-3 shall be used as the registration statement to be filed pursuant ot Section 8(b) of the Investment Company Act of 1940 by separate accounts that offer variable annuity contracts to register as management investment companies. This form shall also be used for registration under the Securities Act of 1933 of the securities of such separate accounts (§ 239.17a of this chapter).

14. By proposing to add § 274.11c to read as follows:

§ 274.11c Form N-4, registration statement of separate accounts organized as unit investment trusts.

Form N-4 shall be used as the registration statement to be filed pursuant to Section 8(b) of the Investment Company Act of 1940 by separate accounts that offer variable annuity contracts to register as unit investment trusts. This form shall also be used for registration under the Securities Act of 1933 of the securities of such separate accounts (§ 239.17b of this chapter).

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that proposed Form N-3, proposed Form N-4, the proposed amendments to Form N-1A, and the proposed amendments to rules 482, 486, 495, 496, and 497 under the 1933 Act and 8b-11a, 8b-12A, and 30d-1 under the 1940 Act, if adopted, will not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore is attached to this release.

Paperwork Reduction Act

The information collection required by these registration forms has been submitted to the Office of Management and Budget.

Statutory Authority

The Commission hereby proposes for comment Form N-3, Form N-4 amendments to Form N-1A, amendment to rules 482, 486, 495, 496, and 497 under the Securities Act of 1933, and amendments to rules 8b-11A, 8b-12A, and 30d-1 under the Investment Company Act of 1940 pursuant to the provisions of sections 7, 10, and 19 of the Securities Act of 1933 [15 U.S.C. 77g, 77j, and 77s] and sections 8, 30, and 38 of the Investment Company Act of 1940 [15 U.S.C. 80a-8, 80a-29, and 80a-37].

By the Commission.
December 23, 1983.
Shirley E. Hollis,
Assistant Secretary.

Regulatory Flexibility Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed forms N-3 and N-4 and the proposed amendments to form N-1A, rules 482, 486, 495, 496, and 497 under the Securities Act of 1933 ("1933 Act"), and rules 8b-11A, 8b-12A, and 30d-1 under the Investment Company Act of 1940 ("1940 Act"), if adopted, will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that there are few, if any, registered insurance company separate accounts, when considered as a part or product of their sponsoring insurance companies, that qualify as "small entities," as that term has been defined in the Commission's rules.

Dated: December 22, 1983.
John S. R. Shad,
Chairman.

Form N-3

Securities and Exchange Commission

Washington, D.C. 20549

Form N-3

Registration Statement Under the Securities Act of 1933 ☐

Pre-Effective Amendment No. —— ☐
Post-Effective Amendment No. —— ☐
and/or

Registration Statement Under the Investment Company Act of 1940 ☐

Amendment No. ——
(Check appropriate box or boxes.)
(Exact Name of Registrant) ——————
(Name of Sponsor) ——————
(Address of Sponsor's Principal Executive Offices) ——————
(Zip Code)——————
Sponsor's Telephone Number, including Area Code ——————
(Name and Address of Agent for Service)——
Approximate Date of Proposed Public Offering ——————

It is proposed that this filing will become effective (check appropriate space)

——Immediately upon filing pursuant to paragraph (b)
——on (date) pursuant to paragraph (b)
——60 days after filing pursuant to paragraph (a)
7——on (date) pursuant to paragraph (a) of rule 486

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of securities being registered	Amount being registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

The "Approximate Date of Proposed Public Offering" and the table showing the calculation of the registration fee under the Securities Act of 1933 should be included only where securities are being registered under the Securities

Act. Registrants that are registering an indefinite number of securities under the Securities Act pursuant to Investment Company Act Rule 24f-2 [17 CFR 270.24f-2] should include the declaration required by Rule 24f-2(a)(1) on the facing sheet, instead of or in addition to the Securities Act registration fee table

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Item 32. Principal Underwriters
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Signatures

General Instructions

A. Rule as To Use of Form N-3

Form N-3 shall be used by all separate accounts offering variable annuity contracts which are registered under the Investment Company Act of 1940 ("1940 Act") as management investment companies for: (1) an initial registration statement required by Section 8(b) of the 1940 Act [15 U.S.C. 80a-8(b)] and any amendments thereto; (2) a registration statement required under the Securities Act of 1933 ("1933 Act") and any amendments thereto; or (3) any combination of these 1940 Act and 1933 Act filings.

Form N-3 shall also be used to file a registration statement under the 1933 Act, and any amendments thereto, for variable annuity contracts funded by separate accounts which would be required to be registered under the 1940 Act as management investment companies except for the exclusion provided by Section 3(c)(11) of the 1940 Act.

B. Registration Fees

Section 6(b) of the 1933 Act [15 U.S.C. 77(f)(b)] and Rule 457 [17 CFR 230.457] set forth the fee requirements under the 1933 Act. Rule 8b-6 under the 1940 Act [17 CFR 270.8b-6] sets forth the fee for filing an initial registration statement under that Act. The 1940 Act fee is in addition to the fee required under the 1933 Act. Registrants that are increasing the number or amount of securities registered or registering an indefinite number of their securities are also directed to Rules 24e-2 and 24f-2, respectively, under the 1940 Act [17 CFR 270.24e-2 and 270.24f-2] to compute the filing fee.

C. Special Terms

The following terms, when used in Form N-3, shall mean:

Registrant. The term "Registrant" means the separate account (as defined in Section 2(a)(37) of the 1940 Act [15 U.S.C. 80a-2(a)(37)]) which offers the variable annuity contracts.

Sponsor. The term "sponsor" means the sponsoring insurance company of the Registrant.

Variable Annuity Contract. The term "variable annuity contract" means any accumulation or annunity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either before or after annunitization, or both, varies according to the investment experience of the separate account in which the contract participates. Unless the context otherwise requires, the term refers to the variable annunity contracts being offered pursuant to the Registration Statement prepared on this Form.

Contractowner Account. The term "contractowner account" means any account of any contractowner, participant, annuitant, or beneficiary to which (net) purchase payments under a variable annuity contract are credited and from which administrative or transaction charges may be debited.

D. Application of General Rules and Regulations

If the registration statement is being filed under both the 1933 and 1940 Acts or under only the 1933 Act, the General Rules and Regulations under the 1933 Act, particularly Regulation C [17 CFR 230.400-497], shall apply, and compliance with them will be deemed to meet the Rules for 1940 Act Registration Statements. However, if the registration statement is being filed only under the 1940 Act, the General Rules and Regulations under that Act, particularly Regulation 8(b) [17 CFR 270.8b-1 to 8b-32], shall apply, except as noted in General Instruction E below.

E. Amendments

Attention is specifically directed to Rule 8b-16 under the 1940 Act [17 CFR 270.8b-16] which requires the annual amendment of Registration Statements filed pursuant to Section 8(b) of the 1940 Act. Where Form N-3 has been used to file a registration statement under both the 1933 and 1940 Acts, any amendment of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet.

Filings of amendments on Form N-3 should contain the number of copies specified in 1933 Act Rule 472 [17 CFR 230.472].

F. Incorporation by Reference

A Registrant may, at its discretion, incorporate all or part of the Statement of Additional Information into the prospectus, without physically delivering the Statement of Additional Information to investors with the prospectus. But the Statement of Additional Information must be available to the investor upon request at no charge and any information or documents incorporated by reference into the Statement of Additional Information must be provided along with the Statement of Additional Information.

Rule 411 under the 1933 Act [17 CFR 230.411], and Rules 0-4, 8b-23, 8b-24, and 8b-32 under the 1940 Act [17 CFR 270.0-4, 270.8b-23, 270.3b-24, and 270.8b-32] contain guidance on

incorporating information or documents by reference into a registration statement filed on Form N–3. In general, a Registrant may incorporate by reference, in the answer to any item of Form N–3 not required to be in the prospectus, any information elsewhere in the registration statement or in other statements, applications, or reports filed with the Commission.

The rules on incorporation by reference under both the 1933 Act and the 1940 Act are subject to the limitations of Rule 24 of the Commission's Rules of Practice [17 CFR 201.24]. Since Rule 24 may be amended from time to time, Registrants are advised to review the Rule before incorporating by reference any documents as an exhibit to a registration statement.

Subject to these rules, a Registrant may incorporate by reference into the prospectus or the Statement of Additional Information in response to Items 4(a) or 25 of Form N-3 the information in any report meeting the requirements of Sections 30(d) of the 1940 Act [15 U.S.C. 80a-29(d)] and Rule 30d-1 [17 CFR 270.30d-1], provided:

1. The material incorporated by reference is prepared in accordance with, and covers the periods specified by, this Form;

2. The Registrant states in the prospectus or the Statement of Additional Information, at the place where the information would normally appear, that the information is incorporated by reference from a report to securityholders. The Registrant may also describe, in either the prospectus, the Statement of Additional Information, or Part C of the Registration Statement (in response to Item 26(a)), any parts of the report to securityholders that are not incorporated by reference and are not a part of the Registration Statement; and

3. The material incorporated by reference is provided with the prospectus or the Statement of Additional Information to each person to whom the prospectus or the Statement of Additional Information is given, unless the person holds securities of the Registrant and otherwise has received a copy of the material. However, Registant must state in the prospectus or the Statement of Additional Information that it will furnish, without charge, another copy of such report on request and the name, address, and telephone number of the person to contact.

G. Documents Comprising Registration Statement or Amendment

1. A registration statement or an amendment to it filed under both the 1933 and 1940 Acts, except for an amendment described in paragraph 5 below, shall consist of the facing sheet of the Form, the cross-reference sheet required by Rule 495(a) under the 1933 Act [17 CFR 230.495(a)], Part A, Part B, Part C, required signatures, and all other documents filed as a part of the registration statement.

2. A registration statement or an amendment to it which is filed under only the 1933 Act shall contain all the information and documents specified in paragraph 1 of this Instruction G, except for an amendment filed only under Sections 24 (e) or (f) of the 1940 Act [15 U.S.C. 80a–24(e), 80a–24(f)].

3. An amendment to a 1933 Act registration statement filed only to register additional securities under Section 24(e) or 24(f) of the 1940 Act need only consist of the facing sheet of the Form, required signatures, and, if filed pursuant to Section 24(e) of the 1940 Act, an opinion of counsel as to the legality of the securities being registered. Registrants are reminded that an opinion of counsel must accompany a Rule 24f–2 notice filed by Registrants that have registered an indefinite number of their shares.

4. A registration statement or an amendment to it which is filed under only the 1940 Act shall consist of the facing sheet of the Form, a cross-reference sheet, responses to all items of Parts A and B except Items 1, 2, 9, and 10, responses to all items of Part C except Items 26(b) (5), (12), (13), and (14), required signatures, and all other documents filed as part of the registration statement.

5. An amendment permitted by paragraph (d)(2) of Rule 486 under the 1933 Act [17 CFR 230.486], which is filed under paragraph (b) of that Rule to change the disclosure in an amendment filed under paragraph (a), shall consist of the facing sheet of the Form, a cross-reference sheet, responses to any items of Part A, Part B, or Part C that are amended or supplemented by the amendment, required signatures, and all other documents filed as part of the registration statement.

H. Preparation of the Registration Statement or Amendment

The instructions for Form N–3 are in three parts. Part A relates to the prospectus required by Section 10(a) of the 1933 Act; Part B relates to the Statement of Additional Information that must be provided upon request to recipients of the prospectus; Part C relates to other information that is required to be in the registration statement.

Part A: The Prospectus—The purpose of the prospectus is to provide essential information about the Registrant in a way that will help investors decide whether to purchase the securities being offered. The prospectus should be clear, concise, and understandable.

Avoid the use of technical or legal terms, complex language, or excessive detail.

1. Responses to the items of Part A should be as simple and direct as possible and include only information needed to understand the fundamental characteristics of the Registrant.

2. Descriptions of practices that are required by law generally should not include detailed discussions of the law itself.

3. Responses to items that use terms such as "list" or "identify" should include only a short explanation or description.

Part B: Statement of Additional Information—The items in Part B call for additional information about Registants which is not required in the prospectus, but which may be of interest to some investors. In addition, Part B gives Registants an opportunity to provide information about matters that they believe may interest investors.

In most cases, Registrants should not repeat in Part B information that is in the prospectus. However, the prospectus and the Statement of Additional Information, Part B of this Form N–3, are independent documents. Therefore, the Statement of Additional Information should be understandable by itself.

General Instructions for Parts A and B—1. The information in the prospectus and the Statement of Additional Information should be organized to make it easy to understand the organization and operation of the Registrant and the variable annuity contracts. The information need not be in any particular order, with the following exceptions:

(a) Items 1; 2, 3, and 4 (a) and (b) must be in numerical order in the prospectus and may not be preceded or separated by any other item, except as permitted by the instructions to Item 3.

(b) Item 4, "Condensed Financial Information," should not be preceded by any other chart or table (except for the table of contents required by Rule 481(c) under the 1933 Act [17 CFR 230.481(c)]).

(c) All of the information required by Item 7(a), "Deductions and and Expenses," should be in one place in the prospectus.

2. The prospectus or the Statement of Additional Information may contain information in addition to what is called for by this Form, provided that the

information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure, or impede understanding of required information.

3. The statutory provisions relating to the dating of the prospectus apply equally to the dating of the Statement of Additional Information for purposes of Rule 423 under the 1933 Act [17 CFR 230.423]. Furthermore, the Statement of Additional Information should be made available at the same time that the prospectus becomes available for purposes of Rules 430 and 460 under the 1933 Act [17 CFR 230.430, 230.460].

4. Instructions for charts, graphs, tables, and sales literature:

(a) A Registration Statement on this Form may include any chart, graph, or table that is not misleading; however, no chart, graph, or table should precede the condensed financial information specified in Items 4 (a) and (b).

(b) If "sales literature" is included in the prospectus, (1) the literature should not significantly lengthen the prospectus, and it should not obscure essential disclosure and (2) members of the National Association of Securities Dealers, Inc. (NASD) are not relieved of the filing and other requirements of the NASD for investment company sales literature (See Securities Act Release No. 5359, January 26, 1973 [38 FR 7220 (March 19, 1973)]).

Part A. Information Required in a Prospectus

Item 1. *Cover Page*

(a) The outside cover page must contain the following information:

(i) the Registrant's name;

(ii) the sponsor's name;

(iii) the types of variable annuity contracts offered by the prospectus (e.g., single premium immediate, flexible premium deferred);

(iv) the types of qualified plans, if any, with which the contracts may be used (e.g., individual retirement annuities, simplified employee pension plans);

(iv) identification of the type of separate account (e.g., money market account, bond account) or a brief statement of the Registrant's investment objectives;

(vi) a statement or statements that (A) the prospectus sets forth information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for future reference; (C) additional information about the Registrant has been filed with the Commission and is available upon request and without charge (This statement should explain how to obtain the Statement of Additional Information and whether any of it has been incorporated by reference into the prospectus.);

(vii) the date of the prospectus, and the date of the Statement of Additional Information;

(viii) the statement required by Rule 481(b)(1) under the 1933 Act [17 CFR 230.481(b)(1)]; and

(ix) such other information as is required by rules of the Commission or of any other governmental authority having jurisdiction over the Registrant for the issuance of its securities.

(b) The cover page may include other information, provided that it does not, by its nature, quantity, or manner of presentation, impede understanding of the required information.

Item 2. *Definitions*

Define the special terms used in the prospectus (e.g., accumulation unit, contractowner, participant, sub-account, etc.).

Instruction: Only special terms used throughout the prospectus must be defined in the glossary required by this Item. If a special term, e.g., net investment factor, is used in only one section of the prospectus, it may be defined there. However, all special terms used in the prospectus must be defined.

Item 3. *Synopsis or Highlights*

(a) The Registrant should include a synopsis of the information contained in the prospectus when the prospectus is long or complex. Normally, a synopsis should not be provided where the prospectus is not more than twelve printed pages.

(b) The synopsis should be a clear and concise description of the key features of the offering and the Registrant, with cross-references to relevant disclosures elsewhere in the prospectus.

(c) If the prospectus does not include a synopsis and the variable annuity contract contains any of the following characteristics, they must be highlighted:

(i) any portion of the sales load is assessed upon redemption or annuitization;

Instruction: If any portion of the sales load is assessed upon redemption or annuitization, the response to this Item need only state the maximum percentage load that may be assessed against any given amount redeemed or annutized and a cross reference to more complete description of the sales load in the prospectus.

(ii) a penalty tax may be assessed pursuant to Section 72(q) of the Internal Revenue Code [26 U.S.C. 72(q)] upon withdrawal of amounts accumulated under any variable annuity contract; or

(iii) the variable annuity contract contains a revocation right (e.g., a "ten-day free look" provision).

Instruction: The highlighted information may not be preceded by the response to any Item except 1 or 2. It may precede Item 2 or be on the cover page. The information does not have to appear under a separate caption.

Item 4. *Condensed Financial Information*

(a) Furnish the following information for each class of accumulation units of the Registrant, or for the Registrant and its subsidiaries consolidated as prescribed in Rule 6-03 of Regulation S-X [17 CFR 210.6-03].

Per Accumulation Unit Income and Capital Changes

(for an accumulation unit outstanding throughout the period)

1. investment income;
2. expenses;
3. net investment income;
4. net realized and unrealized gains (losses) on securities;
5. net increase (decrease) in accumulation unit value;
6. accumulation unit value at beginning of period;
7. accumulation unit value at end of period;
8. expenses to average net assets;
9. net investment income to average net assets;
10. portfolio turnover rate;
11. number of accumulation units outstanding at end of period.

Instructions: 1. The information shall be presented in comparative columnar form for each of the last ten fiscal years of the Registrant (or for the life of the Registrant and its immediate predecessors, if less) but only for periods subsequent to the effective date of Registrant's first 1933 Act Registration Statement. In addition, the information shall be presented for the period between the end of the latest fiscal year and the date of the latest balance sheet or statement of assets and liabilities furnished.

2. Per accumulation unit amounts shall be given at least to the nearest cent. If the computation of the offering price is extended to tenths of a cent or more, then the amounts on the table shall be given in tenths of a cent.

3. Per accumulation unit income and capital changes should only be given for sub-accounts that fund obligations of the Registrant under variable annuity contracts offered by means of this prospectus.

4. If the investment adviser has been changed during the period covered by this Item, the date(s) of such change(s) should be shown in a footnote.

5. The condensed financial information for not less than the latest five fiscal years shall be audited. The auditor's statement pertaining to the condensed financial information need not be included in the prospectus.

6. The amount to be shown at caption 3 may be derived from the difference between the per accumulation unit figures obtained by dividing the amount of undistributed net income attributable to an accumulation unit at the beginning and end of the year by the number of accumulation units outstanding on those respective dates. (Other acceptable methods may be used. If another method is used, the method should be explained in a footnote to this table.) The amounts to be shown at captions 1 and 2 are derived by applying to the net investment income on a per accumulation unit basis the ratio of such items, as shown in the financial statement prepared under Rule 6–04 of Regulation S–X [17 CFR 210.6–04], to the net income as shown in such statements.

7. "Expenses," as used in caption 2 above, include the expenses described in caption 2 of Rule 6–07 of Regulation S–X. If there were income deductions such as those described in captions 3 and 5 of that Rule, compute the per accumulation unit amounts thereof and state them separately immediately after caption 2 above.

8. The amount to be shown at caption 4, while mathematically determinable by the summation of amounts computed for as many periods during the year as the number of accumulation units increased or decreased is also the balancing figure derived from the other figures in the statement and should be so computed. The amount shown at this caption for an accumulation unit outstanding throughout the year may not accord with the change in the aggregate gains and losses in the portfolio securities for the year because of the timing of increases and decreases in the number of accumulation units in relation to fluctuating market values for the portfolio.

9. The "average net assets," as used in captions 8 and 9, shall be computed upon the basis of the value of the net assets determined no less frequently than as of the end of each month.

10. The portfolio turnover rate to be shown at caption 10 shall be calculated as follows:

a. The rate of portfolio turnover shall be calculated by dividing (A) The lesser of purchases or sales of portfolio securities for the particular fiscal year by (B) the monthly average of the value of the portfolio securities owned by the Registrant during the particular fiscal year. Such monthly average shall be calculated by totaling the values of the portfolio securities as of the beginning and end of the first month of the particular fiscal year and as of the end of each of the succeeding eleven months, and dividing the sum by 13.

b. For the purposes of this Item, there shall be excluded from both the numerator and the deonominator all U.S. Government securities (short-term and long-term) and all other securities, including options, whose maturities or expiraton dates at the time of acquisition were one year or less. Purchases shall include any cash paid upon the conversion of one portfolio security into another. Purchases shall also include the cost of rights or warrants purchased. Sales shall include the net proceeds of the sale of rights or warrants. Sales shall also include the net proceeds of portfolio securities which have been called, or for which payment has been made through redemption or maturity

c. If during the fiscal year the Registrant acquired the assets of another separate account in exchange for its own accumulation units, it shall exclude from purchases the value of securities so acquired, and from sales all sales of such securities made following a purchase-of-assets transaction to realign the Registrant's portfolio. In such event, the Registrant shall also make appropriate adjustment in the denominator of the portfolio turnover computation. The Registrant must disclose such exclusions and adjustments in its answer to this Item.

d. Short sales, and put and call options expiring more than one year from date of acquisition, are included in purchases and sales for purposes of this Item. A short sale should be treated as an increase in sales and the covering of a short sale should be treated as an increase in purchases.

11. The number of accumulation units outstanding at the end of each period may be shown to the nearest thousand (000 omitted), provided it is indicated that such has been done.

(b) Give the following information as of the end of each of the Registrant's last ten fiscal years for each class of senior securities (including bank loans) of the Registrant. If consolidated statements were prepared as of any of the dates specified, the information shall be furnished on a consolidated basis:

Year	Amount of debt outstanding at end of period	Average amount of debt outstanding during the period	Average number of registrant's units outstanding during the period	Average amount of debt per unit during the period
(1)	(2)	(3)	(4)	(5)

Instructions: 1. Instructions 1, 2, and 5 to Item 4(a) also apply here.

2. The method used to determine the averages shown above (e.g., weighted, monthly, daily, etc.) must be described.

3. Column 5 is derived by dividing the amount shown in column 3 by the number shown in column 4.

(c) For each sub-account that is held out to be a "money market" sub-account or has policies calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, furnish: (1) a yield quotation based on the seven days ended on either (A) the date of the most recent financial statements of the Registrant included in the prospectus or (B) the last day of the most recent month for which it is practicable both to make the required calculation and to include the results in the prospectus, computed by determing the net change, exclusive of capital changes, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the sub-account at the beginning of the period, dividing the net change in account value by the value of the account at the beginning of the base period to obtain the base period return, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and multiplying the difference by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent; and (2) the length of and the date of the last day in the base period used in computing that quotation

Instructions: 1. When calculating the yield quotation required in subsection (c) above, the determination of net change in account value must reflect all deductions that are charged to all contractowner accounts in proportion to the length of the base period and the sub-account's average account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of current yield.

3. The capital changes to be excluded from the calculation of yield required by this Item are realized gains and losses from the sale of securities and unrealized appreciation and depreciation.

4. With the presentation of the yield quotation, the Registrant must disclose any material net change that would result from the inclusion of capital changes that are excluded in the computation pursuant to this Item.

5. The Registrant need not furnish a yield figure for both an accumulation unit of a sub-account for qualified contracts and an accumulation unit for a sub-account for non-qualified contracts funded by the same portfolio, if the two yield figures would not be materially different.

6. The Registrant may furnish separate yield figures for individual and group contracts.

7. In addition to the yield quotation required by this Item, the Registrant may also include a quotation of effective yield, carried to at least the nearest hundredth of one percent, computed by compounding the unannualized base period return by adding 1 to the base period return, raising the sum to a power equal to 365 divided by 7, and substracting 1 from the result, according to the following formula: Effective yield = (Base Period Return + 1) $365/7 - 1$.

8. When calculating the yield quotation required in subsection (c) above, Registrants that choose to make such an election on an annual basis may use a median account size in place of an average account size in determining the base period return.

(d) If all the required financial statements of the Registrant and the sponsor (see Item 25) are not in the prospectus, state, under a separate caption, where the financial statements may be found. Briefly explain how any financial statements not in the Statement of Additional Information may be obtained.

Item 5. *General Description of Registrant and Sponsor*

Concisely discuss the organization and operation or proposed operation of the Registrant. Include the information specified below.

(a) Briefly describe the sponsor, including:

(i) its name, address, and a description of the general nature of its business;

Instruction: The description of the sponsor's business should be short and need not list all of the businesses in which the sponsor engages or identify the jurisdictions where it does business, if a general description (e.g., "life insurance" or "reinsurance") is provided.

(ii) the date and form of organization of the sponsor and the name of the state or other jurisdiction under whose laws it is organized; and

(iii) if the sponsor is controlled by another person, the name of that person and the general nature of its business (If the sponsor is subject to more than one level of control, simply give the name of the ultimate control person.).

(b) Briefly describe the Registrant, including:

(i) the date form of organization of the Registrant (i.e., open-end investment company);

(ii) the subclassification of the Registrant pursuant to Section 5(b) of the 1940 Act (15 U.S.C. 80a-5(b);

(iii) a statement that although income, gains, and losses, whether or not realized, from assets allocated to the Registrant, are, in accordance with the applicable variable annuity contracts, credited to or charged against the Registrant without regard to other income, gains, or losses of the sponsor, all obligations arising under the variable annuity contracts are general corporate obligations of the sponsor;

(iv) whether there are sub-accounts of the Registrant (i.e., for qualified and non-qualified contracts or for different portfolios of the Registrant); and

(v) if 10 percent or more of the assets of any sub-account are attributable to one variable annuity contract, the name and address of the contract owner of, and the percentage of assets attributable to, the variable annuity contract.

Instruction: Sub-accounts that fund obligations of the Registrant under contracts that are not offered by means of this prospectus need not be described.

(c) Concisely describe the investment objectives and policies of the Registrant, including:

(i) whether those objectives may be changed without the approval of a majority of votes;

(ii) how the Registrant proposes to achieve its objectives including:

(A) the types of securities in which Registrant invests or will invest principally and any special investment practices or techniques that will be used and

(B) the identity of any particular industry or group of industries in which the Registrant proposes to concentrate. (Concentration, for purposes of this Item, is deemed to be investment of 25% or more of the value of Registrant's total assets in a particular industry or group of industries. The policy on concentration should be consistent with Registrant's name.);

(iii) subject to subparagraph (d) of this Item, the identity of other policies of Registrant that may be changed only with the approval of a majority of votes, including those policies which Registrant deems to be fundamental within the meaning of Section 8(b) of the 1940 Act; and

(iv) subject to subparagraph (d) of this Item, the significant investment policies or techniques (such as risk arbitrage, repurchase agreements, forward delivery contracts, investing for control or management) that are not described pursuant to subparagraphs (B) or (C) above that Registrant employs or intends to employ in the foreseeable future.

(d) Discussion of types of investments that will not be Registrant's principal portfolio emphasis, and of related policies or practices, should generally receive less emphasis in the prospectus, and under the circumstances set forth below may be omitted or limited to information necessary to identify the type of investment, policy, or practice. Specifically,

(i) do not disclose a policy which prohibits a particular practice, or one which permits a particular practice but which the Registrant has not used within the past year and does not intend to use in the foreseeable future, and

(ii) if a policy limits a particular practice so that no more than 5% of Registrant's net assets are at risk, or if Registrant has not followed that practice within the last year, and does not intend to follow such practice in the foreseeable future, so that more than 5% of Registrant's net assets are at risk, simply identify the practice.

(e) Discuss briefly the principal risk factors associated with investment in Registrant, including factors peculiar to the Registrant as well as those generally associated with investment in a company with investment policies and objectives similar to Registrant's.

Item 6. *Management*

Describe concisely how the business of the Registrant is managed, including:

(a) the responsibilities of the board of managers (In responding to this Item, simply give a general statement as to the responsibilities of a board of directors under the applicable laws of the sponsor's jurisdiction of organization.);

(b) for each investment adviser of the Registrant:

(i) its name and address and a brief description of its experience as an investment adviser, and, if the investment adviser is controlled by another person, the name of that person and the general nature of its business (If the investment adviser is subject to more than one level of control, simply give the name of the ultimate control person.) and

(ii) the services provided by the investment adviser (If, in addition to providing investment advice, the investment adviser or persons employed by or associated with the investment adviser are, subject to the authority of the board of managers, responsible for overall management of registrant's business affairs, simply state that fact instead of listing all services provided.);

(c) the identity of any other person who provides significant administrative or business affairs management services (e.g., an "Administrator"), and the services provided;

Instruction: Information need not be given about any services described in response to Item 7(a).

(d) the name and principal business address of any transfer agent; and

(e) if Registrant engages in any of the following practices, a statement to that effect:

(i) paying brokerage commissions to any broker

(A) which is an affiliated person of the Registrant or its sponsor, or

(B) which is an affiliated person of such person, or

(C) an affiliated person of which is an affiliated person of the Registrant, its sponsor, its investment adviser, or its principal underwriter; and

(ii) allocating brokerage transactions in a manner that takes into account the sale of investment company securities.

Item 7. *Deductions and Expenses*

(a) Briefly describe all deduction from purchase payments, contractowner accounts, or assets of the Registrant (e.g., investment advisory fees, sales loads, administrative and transaction charges, risk charges, and premium taxes). Specify the amount of any such deduction as a percentage of dollar figure (e.g., .95% of the average daily net assets or $5 per exchange). Except for the deduction for premium taxes, identify the person who receives the amount deducted, briefly describe the services provided in consideration for the deduction, and explain the extent to which the deduction can be modified.

Instructions: 1. Identification of the range of current premium taxes is sufficient.

2. If any deduction other than the sales load may be used for distribution expenses, identify it.

3. If the Registrant has been in operation for a full fiscal year, provide the compensation paid to the adviser for the most recent fiscal year as a percentage of average net assets. No further information about the amount of the deduction is required in response to this Item if the adviser is paid on the basis of a percentage of net assets and if the Registrant has neither changed investment advisers nor changed the basis on which the adviser compensated during the most recent fiscal year. If the fee is paid in some manner other than on the basis of average net assets, briefly describe the basis of payment. If the Registrant has not been in operation for a full fiscal year, state generally what the investment adviser's fee will be as a percentage of average net assets, including any break-points, but it is not necessary to include precise details as to how the fee is computed or paid.

(b) State the commissions paid to dealers as a percentage of the public offering price.

(c) State the sales load as a percentage of the public offering price if it is and as a percentage of the net amount invested for each breakpoint. The percentages should be shown in a table.

(d) Provide a statement as to the Registrant's expenses. (If the Registrant has been in existence for a full year, simply set forth the Registrant's total expenses for the most recent full fiscal year as a percentage of average net assets unless the Registrant expects to incur a material amount of extraordinary expenses in the next year. If the Registrant has not been in operation for a full year, list the types of expenses for which Registrant will be responsible.)

(e) If organization expenses of the Registrant are to be paid out of its assets, explain how the expenses will be amortized, including the amount to be amortized and the period over which the amortization will occur.

(f) If the investment adviser is compensated for its services to the Registrant by someone other than the Registrant, identify the person who provides the compensation and specify the amount.

Item 8. *General Description of Variable Annuity Contracts*

(a) Identify the person of persons (e.g., the contractowner, participant, annuitant, or beneficiary) who have rights, including voting rights, under the variable annuity contracts, and briefly describe the nature of those rights, during the (1) accumulation period, (2) annuity period, or (3) after the death of the annuitant or contractowner.

Instruction: When describing voting rights, indicate how the rights will be allocated.

(b) Briefly describe any provisions for:

(i) allocation of purchase payments among sub-accounts of the Registrant;

(ii) transfer of contract values between sub-accounts of the Registrant; and

(iii) exchanges of variable annuity contracts, including interests or participations therein.

(c) Briefly describe the changes that can be made in the variable annuity contract or the operations of the Registrant by the Registrant or the sponsor, including:

(i) why a change may be made (e.g., changes in applicable law or interpretations of law);

(ii) who, if anyone, must approve any change (e.g., the contractowner or the Securities and Exchange Commission); and

(iii) who, if anyone, must be notified of any change.

Instruction: Describe only those changes that would be material to a purchaser of the variable annuity contracts, such as a reservation of the right to deregister the separate account under the 1940 Act. Do not describe possible non-material changes, such as changing the time of day at which accumulation unit values are determined.

(d) Describe how contractowner inquires should be made.

Item 9. *Annuity Period*

Briefly describe the operation or proposed operation of the Registrant during a variable annuity contract's annuity period. Include a concise explanation of:

(a) how the amount of the first annuity payment is determined;

(b) how subsequent changes in the amount of annuity payments are determined; and

(c) the choices available to a prospective annuitant in the following areas, including the effect of not specifying a choice:

(i) the annuity date (give the earliest and latest possible dates);

(ii) annuity options;

(iii) frequency of annuity payments (including the effect, if any, of the frequency of payments on the level of payments); and

(iv) assumed interest rates.

Item 10. *Death Benefit*

Briefly describe the death benefit available under a variable annuity contract during the accumulation and the annuity periods. Include:

(a) when the death benefit is calculated and payable and the effect of choosing a specific method of payment on calculation of the death benefit, and

(b) the forms the benefit may take, including the effect of not choosing a payment option, and the period during which payments must begin under any annuity option.

Item 11. *Purchases*

(a) Briefly describe the procedures for purchasing a variable annuity contract. Include a concise explanation of:

(i) the minimum initial and subsequent purchase payments required and any limitations on the amount of purchase payments that will be accepted (If there are separate limits for each sub-account, state these limits.);

(ii) the way in which the public offering price is determined, including: (A) that the price is based on the value of an accumulation unit, (B) that changes in accumulation unit value reflect the investment performance of the assets of the Registrant, expenses, and the deduction of certain charges (which should be specified), (C) identification of the method used to value the assets of the Registrant (e.g., market value, good faith determination, amortized cost), and (D) a statement of when calculations of accumulation unit

value are made and that the price at which a purchase is effected is based on the next calculation of accumulation unit value after the order is accepted;

(iii) a statement of when initial and subsequent purchase payment are credited.

(b) Identify each principal underwriter (other than the sponsor) of the variable annuity contracts and state its principal business address.

(c) If the principal underwriter is affiliated with the Registrant, the sponsor, or any affiliated person of the Registrant or the sponsor, identify how they are affiliated (e.g., the principal underwriter is controlled by the sponsor).

Item 12. *Redemptions*

(a) Briefly describe how a contractowner or annuitant (if the annuity option chosen by the annuitant does not contain a life contingency) can redeem a variable annuity contract, including how the proceeds are calculated and when they are payable.

(b) If the Registrant offers the variable annuity contracts in connection with the Texas Optional Retirement Program, describe the restrictions on redemption that apply.

(c) If a request for redemption may not be honored for a certain period of time after a contractowner's investment, describe briefly.

(d) Briefly describe any provision for lapse or involuntary redemptions under the contract and the reasons for it, such as size of the account or infrequency of purchase payments.

(e) Briefly describe any revocation rights (e.g., "ten-day free look" provisions).

(f) If Registrant, under normal circumstances, intends to redeem in kind, that fact should be disclosed.

Item 13. *Taxes*

(a) Describe briefly the tax consequences to investors of an investment in the variable annuity contracts.

Instruction: The discussion should include the taxation of annuity payments, death proceeds, periodic and non-periodic withdrawals, pledges and assignments of the contract (if permitted), and any other method by which taxable income may be received by the investor under the variable annuity contract, as well as the tax benefits accorded annuities during the accumulation period. If the tax consequences vary depending on the use of the variable annuity contract (e.g., to fund an individual retirement annuity or corporate plan), the variations should be briefly described.

(b) Briefly describe the types of qualified plans with which the variable annuity contracts can be used.

Instructions: 1. Identify the types of persons who may use the plans (e.g., corporations, self-employed individuals) and state whether the terms of the plans govern the rights to benefits, regardless of the terms of the variable annuity contract.

2. Do not describe the Internal Revenue Code requirements for qualification of plans or the non-annuity tax consequences of qualification (e.g., the effect on employer taxation).

(c) Briefly describe the taxation of the operations of Registrant.

Instruction: State that Registrant's operations will not be taxed separately from those of the sponsor and briefly describe any provision for accumulating funds in the Registrant for federal income taxes and the rate at which the taxes are expected to be computed. The circumstances under which amounts will be transferred to or from the sponsor as a result of federal income taxation should be briefly described.

Item 14. *Legal Proceedings*

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Registrant, any subsidiary of the Registrant, or Registrant's investment adviser, principal underwriter, or sponsor is a party. Include the name of the court where the case is pending, the date filed, and the principal parties. Include similar information for any proceedings instituted by governmental authorities.

Instruction: Legal proceedings are meterial only to the extent that they are likely to have a material adverse effect upon: (1) the ability of the investment adviser or principal underwriter to perform its contract with the Registrant or of the sponsor to meet its obligations under the variable annuity contracts or (2) the Registrant.

Part B—Information Required in a Statement of Additional Information

Item 15. *Cover Page*

(a) The outside cover page must contain the following information:

(i) the Registrant's name;

(ii) the sponsor's name;

(iii) a statement or statements (A) that the Statement of Additional Information is not a prospectus; (B) that the Statement of Additional Information should be read with the prospectus; and (C) how a copy of the prospectus may be obtained;

(iv) the date of the Statement of Additional Information; and

(v) the date of the related prospectus and any other identifying information that the Registrant deems appropriate.

(b) The cover page may include other information, provided that it does not, by its nature, quantity, or manner of presentation, inpede understanding of required information.

Item 16. *Table of Contents*

List the contents of the Statement of Additional Information and, where useful, provide cross-references to the prospectus.

Item 17. *General Information and History*

(a) If the sponsor's name was changed during the past five years, state its former name and the approximate date on which it was changed. If sales of contracts offered by the Registrant or its sponsor have been suspended at the request of any state, briefly describe the reasons for and results of the suspension.

(b) Identify the jurisdictions in which the sponsor is authorized to do business.

(c) If 10 percent of more of the assets of any sub-account are not attributable to variable annuity contracts or to accumulated deductions or reserves (e.g., initial capital contributed by the sponsor), state what percentage those assets are of the total assets of the separate account. If the sponsor, or any other person controlling the assets, has any present intention of removing the assets from the sub-account, so state.

Item 18. *Investment Objectives and Policies*

(a) Describe clearly the investment policies of the Registrant. It is not necessary to repeat information contained in the prospectus, but, in augmenting the disclosure about those types of investments, policies, or practices that are briefly discussed or identified in the prospectus, Registrant should refer to the prospectus when necessary to clarify the additional information called for by this Item.

(b) Describe any fundamental policy of the Registrant not described in the prospectus with respect to each of the following activities:

(i) the issuance of senior securities;

(ii) short sales, purchases on margin, and the writing of put and call options;

(iii) the borrowing of money (Describe any fundamental policy which limits Registrant's borrowings of money and state the purpose for which borrowing may be used.);

(iv) the underwriting of securities of other issuers (Include any fundamental policy concerning the acquisition of restricted securities, i.e., securities that must be registered under the 1933 Act before they may be offered or sold to the public.);

(v) the concentration of investments in a particular industry or group of industries;

(vi) the purchase or sale of real estate and real estate mortgage loans;

(vii) purchase or sale of commodities or commodity contracts including futures contracts;

(viii) the making of loans (For purposes of this Item, the term "loans" does not include the purchase of a portion of an issue of publicly distributed bonds, debentures, or other securities, whether or not the purchase was made upon the original issuance of the securities. However, the term "loan" includes the loaning of cash or portfolio securities to any person.); and

(ix) any other policy which the Registrant deems fundamental.

Instructions: 1. For purposes of this Item, the term "fundamental policy" is defined as any policy which the Registrant has deemed to be fundamental or which may not be changed without the approval of a majority of the votes available to eligible voters.

2. The Registrant may reserve freedom of action with respect to any of the foregoing activities, but shall express definitely, in terms of a percentage of assets to be devoted to the particular activity, the maximum extent to which the Registrant intends to engage in it. For purposes of (vii) above, see the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(c) Describe fully any significant investment policies of the Registrant not described in the prospectus which are not deemed fundamental and which may be changed without the approval of the majority of votes available to eligible voters (for example, investing for control of management, investing in foreign securities, or arbitrage activities).

Instruction: Registrant should disclose the extent to which it may engage in the above policies and the risks inherent in them.

(d) Explain any significant change in the Registrant's portfolio turnover rates over the last two fiscal years. If the Registrant anticipates a significant change in the portfolio turnover rate from that reported for its most recent fiscal year in Item 4(a)(10), so state. In the case of a new registration, the Registrant should state its policy with respect to portfolio turnover.

Item 19. *Management*

(a) Give the following information about each member of the board of managers and officer of the Registrant, and if Registrant has an advisory board, each member of such board. Also state the nature of any family relationship between persons listed.

Name and address	Position(s) held with registrant	Principal occupation(s) during past 5 years
(1)	(2)	(3)

Instructions: 1. The term "officer" means the president, vice-president, secretary, treasurer, controller, and any other officers who perform policy-making functions for the Registrant. The term "family relationship" means any relationship by blood, marriage, or adoption, not more remote than first cousin.

2. The principal business of any corporation or other organization listed under column (3) should be stated unless implicit in its name.

3. If the Registrant has an executive or investment advisory committee, identify the members and state the duties and functions of the committee.

4. Identify by asterisk the members of the board of managers who are interested persons as defined in Section 2(a)(19) of the 1940 Act [15 U.S.C. 80a-2(a)(19)].

(b) For each individual listed in column (1) of the table required by paragraph (a) of this Item describe any positions held with affiliated persons or principal underwriters of the Registrant.

(c) Give the following information about each person specified below who received from the Registrant or its subsidiaries during the Registrant's last fiscal year aggregate remuneration in excess of $60,000 for services in all capacities:

(i) each member of the board of managers, each of the three highest paid officers, and each advisory board member of the Registrant;

(ii) each affiliated person of the Registrant not included in subparagraph (i) except investment advisers;

(iii) each affiliated person of an affiliate or principal underwriter of the Registrant; and

(iv) all members of the board of managers officers, and members of the advisory board of the Registrant as a group without naming them.

Name of person	Capacities in which remuneration received	Aggregate remuneration	Persion or retirement benefits accrued during registrant's last fiscal year	Estimated annual benefits upon retirement
(1)	(2)	(3)	(4)	(5)

Instructions: 1. This item applies to any person who was a member of the board of managers, officer, or member of the advisory board of the Registrant at any time during the last fiscal year. Give information on an accrual basis if practicable.

2. If the Registrant has not completed its first full fiscal year since its organization, give information for the current fiscal year, estimating future payments that would be made pursuant to an existing agreement or understanding.

3. Columns (4) and (5) should be answered only for those persons named in response to paragraph (a) of this Item and should include all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the Registrant or any of its subsidiaries to each such person.

4. Column (4) need not be answered with respect to payments computed on an actuarial basis pursuant to any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

5. The information called for by column (5) may be given in a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

6. In the case of any plan (other than those specified in instruction 3) where the amount set aside each year depends upon the amount of earnings of the issuer or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated annual benefits upon retirement, instead of the information called for by column (5), give the total amount set aside or accrued to date, unless it is impracticable to do so, in which case state the method of computing such benefits.

Item 20. *Investment Advisory and Other Services*

(a) Give the following information about each investment adviser:

(i) the names of all controlling persons of the investment adviser and the basis of such control; and if material, the business history of any organization that controls the adviser;

(ii) the name of any affiliated person of the Registrant or the sponsor who is also an affiliated person of the investment adviser and a list of all capacities in which the person named is affiliated with the Registrant or the sponsor and with the investment adviser; and

Instruction: If an affiliated person of the Registrant or the sponsor either alone or together with others is a controlling person of the investment adviser, Registrant must disclose such fact but need not supply the specific amount or percentage of the outstanding voting securities of the investment adviser which is owned by the controlling person.

(iii) the method of computing the advisory fee payable by the Registrant including:

(A) the total dollar amounts paid to the adviser by the Registrant or its sponsor under the investment advisory contract for the last three fiscal years;

(B) if applicable, any credits which reduced the advisory fee for any of the last three fiscal years; and

(C) any expense limitation provision.

Instructions: 1. If the advisory fee payable by the Registrant or its sponsor varies depending on the Registrant's investment performance in relation to some standard, set forth the standard along with a fee schedule in tabular form. Registrant may include examples showing the fees the adviser would earn at various levels of performance, but such examples must include calculations showing the maximum and minimum fee percentages that could be earned under the contract.

2. State each type of credit or offset separately.

3. Describe only the most restrictive expense limitation provision.

4. If Registrant is organized as a "series" account the response to paragraph (a)(3) of this Item should describe the methods of allocation and payment of advisory fees for each class or series.

(b) Describe all services performed for or on behalf of the Registrant, which are supplied or paid for wholly or substantially by the investment adviser in connection with the investment advisory contract.

(c) Describe all fees, expenses, and costs of the Registrant that are to be paid by persons other than the investment adviser, the sponsor, or the Registrant, and identify such persons.

(d) Give a summary of any contract for the provision of management-related services to the Registrant, which may be of interest to a purchaser of Registrant's securities, unless the contract is described in response to some other item of this form. Show the parties to the contract and the total dollars paid and by whom, for the past three years. If the services under any management-related service contract are paid for by a deduction from contract-owner accounts disclose whether the Registrant or the sponsor may contract with a different service provider in future years and briefly describe the considerations which would affect the choice of service provider.

Instructions: 1. A contract for "management-related services" includes any agreement whereby another person agrees to keep, prepare, or file such accounts, books, records, or other documents as the Registrant may be required to keep under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include the following: (i) any contract to provide investment advice to the Registrant; (ii) any agreement to act as custodian or transfer agent for the Registrant; or (iii) bona fide contracts for outside legal or auditing services, or bona fide contracts for personal employment entered into in the ordinary course of business.

2. Information need not be given about the services of mailing proxies or periodic reports of the Registrant.

3. In summarizing a management-related servicer contract, include the name of the person providing the service; any direct or indirect relationships between such person and the Registrant, its investment adviser, its sponsor, or its principal underwriter; the nature of the services provided; and the basis of the compensation paid for the last three fiscal years.

(e) If any person (other than a bona fide member of the board of managers, officer, member of an advisory board, or employee of the Registrant, as such, or a person named as an investment advisor in response to paragraph (a) above), pursuant to any understanding, whether formal or informal, regularly furnishes advice to the Registrant or to the investment adviser of the Registrant about the desirability of the Registrant's investing in, purchasing, or selling securities or other property, or is empowered to determine what securities or other property should be purchased or sold by the Registrant, and receives direct or indirect remuneration, give the following information:

(i) the name of such person;

(ii) a description of the nature of the arrangement, and the advice or information given; and

(iii) any remuneration (including, for example, participation, directly or indirectly, in commissions or other compensation paid in connection with transactions in Registrant's portfolio securities) paid for such advice or information, and a statement of how and by whom such remuneration was paid for the last three fiscal years.

Instruction: Do not describe any of the following: (i) persons whose advice was given solely through uniform publications distributed to subscribers; (ii) persons who gave only statistical and other factual information, advice regarding economic factors and trends, or advice as to occasional transactions in specific securities, but without generally furnishing advice or making recommendations regarding the purchase of sale of securities by the Registrant; (iii) a company which is excluded from the definition of "investment adviser" of an investment company by reason of Section 2(a)(2)(iii) of the 1940 Act [15 U.S.C. 80a-2(a)(20)(iii)]; (iv) any person the character and amount of whose compensation for such service must be approved by a court; or (v) such other persons as the Commission has by rules and regulations or order determined not to be an "investment adviser" of an investment company.

(f) Give the name and principal business address of the Registrant's custodian and independent public accountant and provide a general description of the services they perform.

(g) If the portfolio securities of the Registrant are held by a person other than the sponsor, a commercial bank, trust company, or depository registered with the Commission as custodian, state the nature of the business of each such person.

(h) If an affiliated person of the Registrant or an affiliated person of such an affiliated person acts as transfer agent for the Registrant, describe the services performed by such person and the basis for remuneration.

Instruction: Information need not be given about a transfer agent who is also the sponsor.

Item 21. *Brokerage Allocation*

(a) Describe how transactions in portfolio securities are effected including a general statement about brokerage commissions and mark-ups on principal transactions and the aggregate amount of any brokerage commissions paid by the Registrant during the three most recent fiscal years. Explain any material increase in brokerage commissions paid by the Registrant during the most recent fiscal year as compared to the two prior fiscal years.

(b) (i) State the total dollar amount, if any, of brokerage commissions paid by the Registrant during the three most recent fiscal years to any broker which: (A) is an affiliated person of the Registrant; (B) is an affiliated person of an affiliated person of the Registrant; or (C) has an affiliated person that is an affiliated person of the Registrant, its sponsor, investment adviser, or principal underwriter, and the identity of each such broker and the relationships that cause the broker to be identified in this Item.

(ii) State for each broker identified in response to paragraph (b)(i) of this Item:

(A) the percentage of Registrant's aggregate brokerage commissions paid to each broker during the most recent fiscal year and

(B) the percentage of Registrant's aggregate dollar amount of transactions involving the payment of commissions effected through such broker during the most recent fiscal year.

(iii) Where there is a material difference in the percentage of brokerage commissions paid to, and the percentage of transactions effected through, any broker identified in response to paragraph (b)(i) of this Item, state the reasons for such difference.

(c) Describe how brokers will be selected to effect securities transactions for Registrant and how evaluations will

be made of the overall reasonableness of brokerage commissions paid, including the factors considered.

Instruction: 1. If the receipt products or services other than brokerage or research services is a factor in the selection of brokers, specify such products and services.

2. If the receipt of research services is a factor in selecting brokers, identify the nature of such research services.

3. State whether persons acting on behalf of Registrant are authorized to pay a broker a commission in excess of that which another broker might have charged for the same transaction, because of the value of (a) brokerage or (b) research services provided by the broker.

4. If applicable, explain that research services furnished by brokers through whom Registrant effects securities transactions may be used by Registrant's investment adviser in servicing all of its accounts and that not all such services may be used by the investment adviser in connection with the Registrant; or, if other policies or practices are applicable to Registrant with respect to the allocation of research services provided by brokers such policies and practices should be explained.

(d). If, during the last fiscal year, Registrant, its sponsor, or its investment adviser, pursuant to an agreement or understanding with a broker or otherwise through an internal allocation procedures, directed Registrant's brokerage transactions to a broker because of research services provided, state the amount of such transactions and related commission.

Item 22. *Purchase and Pricing of Securities Being Offered*

(a) Describe the method that will be used to determine the total offering price at which the variable annuity contracts may be offered to the public and the methods used to value the Registrant's assets.

Instructions: 1. Describe the valuation procedure used to determine accumulation unit value and public offering price.

2. Explain fully any difference in the price at which variable annuity contracts are offered to members of the public, as individuals and as groups, or to officers, directors, members of the board of managers, or employees of the Registrant, its sponsor, its adviser, or underwriter.

3. If the Registrant uses the amortized cost valuation method, describe, in the response to paragraph (a)(1), the nature, extent, and effect of the exemption.

(b) If the Registrant has received an order of exemption from Section 18(f) of the 1940 Act [15 U.S.C. 80a–18(f)] from the Commission or has filed a notice of election pursuant to Rule 18f–1 under the Act [17 CFR 270.18f–1] which has not been withdrawn, fully describe the nature, extent, and effect of the exemptive relief in the Statement of Additional Information if the information is not in the prospectus.

Item 23. *Underwriters*

(a) If the sponsor is the principal underwriter of the variable annuity contracts, so state.

(b) State whether the offering is continuous.

(c) If during the Registrant's last fiscal year any payments were made by the Registrant to an unaffiliated underwriter or dealer in the variable annuity contracts other than: (i) payments made through deduction from the offering price at the time of sale of the variable annuity contracts, (ii) payments representing the purchase price of portfolio securities acquired by the Registrant, (iii) commissions on any purchase or sale of portfolio securities by the Registrant, or (iv) payments for investment advisory services pursuant to an investment advisory contract, give the following information:

(A) the name and address of the underwriter of dealer;

(B) the circumstances surrounding payments;

(C) the amount paid; and

(D) how the amount of the payment was determined and the consideration received for it.

Instructions: 1. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.

2. Information need not be given about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

3. Information need not be given about payments made under any contract to provide investment advice or to act as custodian or transfer agent.

4. Information need not be given about bona fide contracts for outside legal or auditing services or for personal employment entered into in the ordinary course of business.

5. If the payments were made under an arrangement or policy applicable to dealers generally, simply describe the arrangement or policy.

Item 24. *Calculation of Yield Quotations of Money Market Sub-Accounts*

If a Registrant has any sub-accounts that are held out to be "money market" sub-accounts or have policies calling for investment of at least 80% of their assets in debt securities maturing in thirteen months or less, describe each method by which a yield quotation provided in the prospectus pursuant to Item 4(c) is computed.

Instructions: 1. For purposes of the description of the method by which the yield quotation required in the prospectus is computed the determination of net change in account value must reflect all deductions that are charged to all contractowner accounts in proportion to the length of the base period and the sub-account's average account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of current yield.

3. The capital changes to be excluded from the calculation of yield described pursuant to this Item are realized gains and losses from the sale of securities and unrealized appreciation and depreciation.

4. When calculating the yield quotation required in Item 4(c), Registrants that choose to make such an election on an annual basis may use a median account size in place of an average account size in determining the base period return.

Item 25. *Financial Statements*

(a) Provide financial statements of the Registrant.

Instructions: 1. The financial statements and schedules required by Regulation S–X (17 CFR Part 210) shall be provided in a separate section.

2. Notwithstanding Instruction 1 above, the following statements and schedules required by Regulation S–X may be omitted from Part B and instead included in Part C of the Registration Statement:

(i) the statements of any subsidiary which is not a majority-owned subsidiary and

(ii) the following schedules in support of the most recent balance sheet (a) columns C and D of Schedule III (17 CFR 210.12–03); and (b) Schedule VI (17 CFR 210.12–04).

3. In addition to the requirements of Rule 3–18 of Regulation S–X (17 CFR 210.3–18), any separate account registered under the 1940 Act which has not previously had an effective Registration Statement under the 1933 Act shall include in its initial Registration Statement under the 1933 Act such additional financial statements and condensed financial information (which need not be audited) as is necessary to make the financial statements and condensed financial information included in the Registration Statement as of a date within 90 days prior to the date of filing.

4. Every annual report required by Section 30(d) of the 1940 Act and Rule 30d–1 under it (17 CFR 270.30d–1) shall contain the following information:

(i) the audited financial statements required by Regulation S–X, as modified by Instruction 2, for the periods specified by Regulation S–X;

(ii) the condensed financial information required by Item 4(a) of this Form, for the five most recent fiscal years, with at least the most recent year audited; and

(iii) unless shown elsewhere in the report as part of the financial statements required by (i) above, the aggregate remuneration paid by the separate account during the period covered by the report (A) to all members of the board of managers and to all members of any advisory board for regular compensation; (B) to each member of the board of managers and to each member of an advisory board for special compensation; (C) to all officers; and (D) to each person of whom any officer or member of the board of managers of the separate account is an affiliated person.

5. Every report required by Section 30(d) of the 1940 Act and Rule 30d–1 under it (17 CFR 270.30d–1), except the annual report, shall contain the following information (which need not be audited):

(i) the financial statements required by Regulation S–X, as modified by Instruction 2 above, for the period commencing either with (A) the beginning of the separate account's fiscal year (or date of organization, if newly organized) or (B) a date not later than the date after the close of period included in the last report conforming with the requirements of Rule 30d–1 and the most recent preceding fiscal year;

(ii) the condensed financial information required by Item 4(a) of this Form, for the period of the report as specified by (i) above, and the most recent preceding fiscal year; and

(iii) unless shown elsewhere in the report as part of the financial statements required by (i) above, the aggregate remuneration paid by the separate account during the period covered by the report (A) to all members of the board of managers and to all members of any advisory board for regular compensation; (B) to each member of the board of managers and to each member of an advisory board for special compensation; (C) to all officers; and (D) to each person of whom any officer or member of the board of managers of the separate account is an affiliated person.

6. See General Instruction F regarding incorporation by reference.

(b) Provide financial statements of the sponsor.

Instructions: 1. The financial statements and schedules of the sponsor required by Regulation S–X shall be provided in a separate section following the response to paragraph (a) of this Item.

2. Notwithstanding Instruction 1 above, all statements and schedules required by Regulation S–X, except for the consolidated balance sheets described in Rule 3–01 of Regulation S–X (17 CFR 210.3–01), may be omitted from Part B of the Registration Statement and included in Part C of such Registration Statement.

3. Notwithstanding Rule 3–12 of Regulation S–X (17 CFR 210.3–12), the financial statements of the sponsor need not be more current than as of the end of the most recent fiscal year of the sponsor unless:

(i) the sponsor's financial statements have never been included in an effective registration statement under the Securities Act of 1933 of a separate account which offers variable annuity contracts or funds variable life insurance contracts; or

(ii) the balance sheet of the sponsor at the end of either of the two most recent fiscal years included in response to this Item shows a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $1,000,000; or

(iii) the balance sheet of the sponsor at the end of a fiscal quarter within 135 days of the expected date of effectiveness under the 1933 Act (or a fiscal quarter within 90 days of filing if the registration statement is filed solely under the 1940 Act) would show a combined capital and surplus, if a stock company, or an unassigned suplus, if a mutual company, of less than $1,000,000. If two fiscal quarters end within the 135 day period, the sponsor may choose either for purposes of this test.

Any interim financial statements required by this Item need not be comparative with financial statements for the same interim period of an earlier year.

Part C. Other Information

Item 26. *Financial Statements and Exhibits*

List all financial statements and exhibits filed as part of the Registration Statement.

(a) Financial statements.

Instruction: Designate those financial statements which are included in Part A and Part B of the Registration Statement.

(b) Exhibits:

Copies of the resolution of the board of directors of the sponsor authorizing the establishment of the Registrant;

(2) copies of the existing bylaws or instruments corresponding thereto;

(3) copies of all custodian agreements and depository contracts under Section 17(f) of the 1940 Act [15 U.S.C. 80a–17(f)] with respect to securities and similar investments of the Registant, including the schedule of remuneration;

(4) copies of all investment advisory contracts relating to the management of the assest of the Registrant;

(5) copies of each underwriting or distribution contract between the Registrant and the principal underwriter or the sponsor and the principal underwriter, and specimens or copies of all agreements between principal underwriters and dealers;

(6) the form of each variable annunity contract;

(7) the form of application used with any variable annuity contract provided in response to (6) above;

(8) copies of the certificate of incorporation or other instrument of organization and the by-laws of the sponsor;

(9) a copy of any contract of reinsurance;

(10) copies of all bonus, profit sharing, pension, or other similar contracts or arrangements wholly or partly for the benefit of members of the board of managers or officers of the Registrant in their capacity as such; any such plan that is not set forth in a formal document, furnish a reasonably detailed description thereof;

(11) copies of all other material contracts not made in the ordinary course of business which are to be performed in whole or in part at or after the date of filing the Registration Statement;

(12) an opinion of counsel and consent to its use as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid, and non-assessable;

(13) copies of any other opinions, appraisals, or rulings, and consents to their use relied on in preparing this Registration Statement and required by Section 7 of the 1933 Act;

(14) all financial statements omitted from Item 25; and

(15) copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the sponsor, underwriter, adviser, or initial contractowners and written assurances from the sponsor or initial contractowners that the purchases were made for investment purposes without any present intention of redeeming.

Instruction: Subject to the Rules on incorporation by reference, the foregoing exhibits shall be filed as a part of the Registration Statement. Exhibits numbered 5 and 12–14 above need to be filed only as part of a 1933 Act Registration Statement. Exhibits shall be lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

Item 27. *Directors and Officers of the Sponsor*

Give the following information about each director or officer of the sponsor:

Name and principal business address	Positions and offices with sponsor	Positions and offices with registrant
(1)	(2)	(3)

Item 28. *Persons Controlled by or Under Common Control with the Sponsor or Registrant*

Provide a list or diagram of all persons directly or indirectly controlled by or under common control with the sponsor or Registrant and as to each such person indicate (1) if a company, the state or other sovereign power under whose laws it is organized, (2) the percentage of voting securities owned or other basis of control by the person, if any, immediately controlling it, and (3) its principal business unless such

principal business is implicit in its name.

Instructions: 1. The list or diagram shall include the Registrant and the sponsor and shall show clearly the relationship between each company named. If the company is controlled by the direct ownership of its securities by two or more persons, so indicate by appropriate cross-reference.

2. Designate (i) subsidiaries for which separate financial statements are filed; (ii) subsidiaries included in the respective consolidated financial statements; (iii) subsidiaries included in the respective group financial statements filed for unconsolidated subsidiaries; and (iv) other subsidiaries, indicating briefly why statements of such subsidiaries are not filed.

Item 29. *Number of Contractowners*

State as of a specified date within 90 days prior to the date of filing the number of owners of qualified and non-qualified contracts offered by Registrant.

Item 30. *Indemnification*

State the general effect of any contract, arrangements, or statute under which any member of the board of managers, officer, underwriter, or affiliated person of the Registrant is insured or indemnified in any manner against any liability which may be incurred in such capacity, other than insurance provided by any member of the board of managers, officer, underwriter, or affiliated person for their own protection.

Instruction: In responding to this Item, the Registrant should note the requirements of Rules 461 and 484 under the 1933 Act [17 CFR 230.461, 230.484] and Section 17 of the 1940 Act [15 U.S.C. 80a–17].

Item 31. *Business and Other Connections of Investment Adviser*

Describe any other business, profession, vocation, or employment of a substantial nature in which each investment adviser of the Registrant, and each director, officer, or partner of any such investment adviser, is or has been, at any time during the past two fiscal years, engaged for his own account or as director, officer, employee, partner, or trustee.

Instructions: 1. State the name and principal business address of any company of which any person specified above is a director, officer, employee, partner, or trustee, and the nature of such connection.

2. The names of investment advisory clients need not be given.

Item 32. *Principal Underwriters*

(a) Give the name of each investment company (other than the Registrant) for which each principal underwriter currently distributing securities of the Registrant also acts as a principal underwriter, depositor, sponsor, or investment adviser.

(b) Give the following information about each director, officer, or partner of each principal underwriter named in the answer to item 11(b):

Name and principal business address	Positions and offices with underwriter	Positions and offices with registrant
(1)	(2)	(3)

(c) State the aggregate dollar amount of underwriting commissions and the amount retained by the principal underwriter for each of the last three fiscal years.

(d) Give the following information about all commissions and other compensation received by each principal underwriter, directly or indirectly, from the Registrant during the registrant's last fiscal year:

Name of principal underwriter	Net underwriting discounts and commissions	Compensation on redemption	Brokerage commissions	Other compensation
(1)	(2)	(3)	(4)	(5)

Instructions: 1. Show in a note, or otherwise, the nature of the services provided in return for the compensation shown in column (5). Include any compensation received by an underwriter for keeping the registrant's securities in the hands of the public.

2. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.

3. Information need not be given about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

4. Information need not be given about payments made under any agreement whereby another person contracts with the Registrant or its sponsor to provide investment advice or to act as custodian or transfer agent.

Item 33. *Location of Accounts and Records*

Give the name and address of each person who maintains physical possession of each account, book, or other document required to be maintained by Section 31(a) of the 1940 Act (15 U.S.C 80a–30(a)) and the Rules under it (17 CFR 270.31a–1 to 31a–3).

Item 34. *Management Services*

Give a summary of any contract not discussed in Part A or Part B of this Form under which services are provided to the Registrant, indicating the parties to the contract, the total dollars paid and by whom, for the last three fiscal years.

Instructions: 1. The instructions to Item 20(d) of this Form shall also apply to this Item.

2. Information need not be given about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

Item 35. *Undertakings*

Give the following undertakings in substantially this form in all initial registration statements filed under the 1933 Act:

(a) An undertaking to file an amendment to the Registration Statement with certified financial statements showing the initial capital received before accepting subscriptions from any person in excess of 25 if Registrant proposes to raise its initial capital pursuant to Section 14(a)(3) of the 1940 Act (15 U.S.C. 80a–14(a)(3));

(b) An undertaking to file a post-effective amendment, using financial statements for the Registrant which need not be certified, within four to six months from the effective date of the Registrant's 1933 Act registration statement;

Instructions: 1. Such amendment may be filed earlier only if at least one-half the dollar amount of securities registered has been raised from a public offering and has been substantially invested pursuant to Registrant's investment objectives.

2. Such amendment may be filed later only if the financial statements required by the undertaking are also going to be used in the next semi-annual or annual report to security holders required pursuant to Section 30(d) of the 1940 Act and Rule 30d-1 thereunder, the amendment is filed no later than 40 days after the end of the six month period specified in the undertaking, and acceleration of the amendment is requested to a date no later than 60 days after the end of that six month period.

3. The financial statements included in such post-effective amendment should be as of and for the time period reasonably close or as soon as practicable to the date of the amendment, but in no event more than 60 days prior to the date of filing.

(c) An undertaking to file a post-effective amendment to this registration statement as frequently as is necessary to ensure that the audited financial statements in the registration statement are never more than 16 months old;

(d) An undertaking to include, as part of any application used to purchase a variable annuity contract offered by the prospectus prepared on this Form, a space where applicant can request a Statement of Additional Information; and

Instruction: This can be either in the application itself or attached to it.

(e) An undertaking to deliver any Statement of Additional Information requested as part of the purchase application no late than the delivery of the contract purchased.

Signatures

As required by (the securities Act of 1933 and) the Investment Company Act of 1940 the Registrant (certifies that it meets the requirements of Securities Act rule 486(b) for effectiveness of this Registration Statement and) has caused this Registration Statement to be signed on its behalf, in the City of ——, and State of——on the—day of——, 19—.

(Registrant) ——
By (Signature and Title)——
(Sponsor) ——
By (Name of officer of sponsor) ——
(Title)——
Attest: (Name) ——
(Title)——

Instruction: If the registration statement is being filed only under the Securities Act or under both the Securities Act and the Investment Company Act, it should be signed by both the Registrant and its sponsor. If the registration statement is being filed only under the Investment Company Act, it should be signed only by the Registrant.

As required by Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ——
(Title)——
(Date)——

Form N–4

Securities and Exchange Commission

Washington, D.C. 20549

Form N–4

Registration Statement under the Securities Act of 1933 ☐

Pre-Effective Amendment No. ——☐
Post-Effective Amendment No. ——☐
and/or

Registration Statement Under the Investment Company Act of 1940 ☐

Amendment No. ——
(Check appropriate box or boxes.)

(Exact Name of Registrant) ——
(Name of Depositor) ——
(Address of Depositor's Principal Executive Offices) ——
(Zip Code) ——
Depositor's Telephone Number, including Area Code——
(Name and Address of Agent for Service)——
Approximate Date of Proposed Public Offering ——

It is proposed that this filing will become effective (check appropriate space)

——immediately upon filing pursuant to paragraph (b)
——on (date) pursuant to paragraph (b)
——60 days after filing pursuant to paragraph (a)
——on (date) pursuant to paragraph (a) of rule 486

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of securities being registered	Amount being registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

The "Approximate Date of Proposed Public Offering" and the table showing the calculation of the registration fee under the Securities Act of 1933 should be included only where securities are being registered under the Securities Act. Registrants that are registering an indefinite number of securities under the Securities Act pursuant to Investment Company Act Rule 24f–2 (17 CFR 270.24f–2) should include the declaration required by Rule 24f–2(a)(1) on the facing sheet, instead of or in addition to the Securities Act registration fee table.

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General Instructions

A. Rule as to Use of Form N–4

Form N–4 shall be used by all separate accounts offering variable annuity contracts which are registered under the Investment Company Act of 1940 ("1949 Act") as unit investment trusts for: (1) an initial registration statement required by Section 8(b) of the 1940 Act [15 U.S.C. 80a–8(b)] and any amendments thereto; (2) a registration statement required under the Securities Act of 1933 ("1933 Act") and any amendments thereto; or (3) any combination of these 1940 Act and 1933 Act filings.

Form N–4 shall also be used to file a registration statement under the 1933 Act and any amendments thereto for variable annuity contracts funded by separate accounts which would be required to be registered under the 1940 Act as unit investment trusts except for the exclusion provided by Section 3(c)(11) of the 1940 Act (15 U.S.C. 80a–3(c)(11)).

B. Registration Fees

Section 6(b) of the 1933 Act (15 U.S.C. 77(f)(b)) and Rule 457 (17 CFR 230.457) set forth the fee requirements under the 1933 Act. Rule 8b–6 under the 1940 Act [17 CFR 270.8b–6] sets forth the fee for filing an initial registration statement under that Act. The 1940 Act fee is in addition to the fee required under the 1933 Act. Registrants that are increasing the number or amount of securities registered or registering an indefinite number of their securities are also directed to Rules 24e–2 and 24f–2, respectively under the 1940 Act (17 CFR 270.24e–2 and 270.24f–2) to compute the filing fee.

C. Special Terms

The following terms, when used in Form N–4, shall mean:

Registrant. The term "Registrant" means the separate account (as defined in Section 2(a)(37) of the 1940 Act (15 U.S.C. 80a–2 (a)(37)) which offers the variable annuity contracts.

Depositor. The term "depositor" means the person primarily responsible for the organization of the Registrant and the person who has continuing functions or responsibilities with respect to the administration of the affairs of the Registrant other than the trustee or custodian. The term includes the sponsoring insurance company of the Registrant. If there is more than one such person the information called for in this Form about the depositor shall be provided for each such person.

Variable Annuity Contract. The term "variable annuity contracts" means any accumulation or annuity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either before or after annuitization, or both, varies according to the investment experience of the separate account in which the contract participates. Unless the context otherwise requires, the term refers to the variable annuity contracts being offered pursuant to the Registration Statement prepared on this Form.

Contractowner Account. The term "contractowner account" means any account of a contractowner, participant, annuitant, or beneficiary to which (net) purchase payments under a variable annuity contract are added and from which administrative or transaction charges may be subtracted.

Portfolio Company. The term "portfolio company" means any company in which the Registrant invests.

D. Applications of General Rules and Regulations

If the registration statement is being filed under both the 1933 and 1940 Acts, or under only the 1933 Act, the General Rules and Regulations under the 1933 Act, particularly Regulation C (17 CFR 230.400–497), shall apply, and compliance with them will be deemed to meet the Rules for 1940 Act Registration Statements. However, if the registration statement is being filed only under the 1940 Act, the General Rules and Regulations under that Act, particularly Regulation 8(b) (17 CFR 270.8b–1 to 8b–32), shall apply, except as noted in General Instruction E below.

E. Amendments

Where Form N–4 has been used to file a registration statement under both the 1933 and 1940 Acts, any amendment of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet.

Filings of amendments on Form N–4 should contain the number of copies specified in 1933 Act Rule 472 (17 CFR 230.472).

F. Incorporation by Reference

A Registrant may, at its discretion, incorporate all or part of the Statement of Additional Information into the prospectus, without physically delivering the Statement of Additional Information to investors with the prospectus. But the Statement of Additional Information must be available to the investor upon request at no charge and any information or documents incorporated by reference into the Statement of Additional Information must be provided along with the Statement of Additional Information.

Rule 411 under the 1933 Act [17 CFR 230.411], and rules 0–4, 8b–23, 8b–24, and 8b–32 under the 1940 Act [17 CFR 270.0–4, 270.8b–23, 270.8b–24, and 270.8b–32] contain guidance on incorporating information or documents by reference into a registration statement filed on Form N–4. In general, a Registrant may incorporate by reference, in the answer to any item of Form N–4 not required to be in the prospectus, any information elsewhere in the registration statement or in other statements, applications, or reports filed with the Commission.

The rules on incorporation by reference under both the 1933 Act and the 1940 Act are subject to the limitations of Rule 24 of the Commission's Rules of Practice [17 CFR 201.24]. Since Rule 24 may be amended from time to time, Registrants are advised to review the rule prior to incorporating by reference any document as an exhibit to a registration statement.

G. Documents Comprising Registration Statement or Amendment

1. A registration statement or an amendment to it filed under both 1933 and 1940 Acts, except for an amendment described in paragraph 5 below, shall consist of the facing sheet of the Form, the cross-reference sheet required by Rule 495(a) under the 1933 Act [17 CFR 230.495(a)], Part A, Part B, Part C, required signatures, and all other documents filed as a part of the registration statement.

2. A registration statement or an amendment to it which is filed under only the 1933 Act shall contain all the information and documents specified in paragraph 1 of this Instruction G, except for an amendment to a 1933 Act registration statement filed only under Sections 24(e) or (f) of the 1940 Act [15 U.S.C. 80a–24(e), 80a–24(f)].

3. An amendment of a 1933 Act registration statement filed only to register additional securities under Section 24(e) or 24(f) of the 1940 Act need only consist of the facing sheet of the Form, required signatures, and, if filed pursuant to Section 24(e) of the 1940 Act, an opinion of counsel as to the legality of the securities being registered. Registrants are reminded that an opinion of counsel must accompany a Rule 24f–2 notice filed by Registrants that have registered an indefinite number of their shares.

4. A registration statement or an amendment to it which is filed under only the 1940 Act shall consist of the facing sheet of the Form, a cross-reference sheet, responses to all items of Part A and B except Items 1, 2, 8, and 9, responses to all items of Part C except Items 21(b)(3), (9), (10), and (11), required signatures, and all other documents filed as part of the registration statement.

5. An amendment permitted by paragraph (d)(2) of 1933 Act Rule 486 [17 CFR 230.486], which is filed under paragraph (b) of that Rule to change the disclosure in an amendment filed under paragraph (a), shall consist of the facing sheet of the Form, a cross-reference sheet, responses to any items of Part A, Part B, or Part C that are amended or supplemented by the amendment, required signatures, and all other documents filed as part of the registration statement.

H. Preparation of the Registration Statement or Amendment

The instructions for Form N–4 are in three parts. Part A relates to the prospectus required by Section 10(a) of the 1933 Act; Part B relates to the Statement of Additional Information that must be provided upon request to recipients of the prospectus; Part C relates to other information that is required to be in the registration statement.

Part A: The Prospectus—The purpose of the prospectus is to provide essential information about the Registrant in a way that will help investors decide whether to purchase the securities being offered. The prospectus should be clear, concise, and understandable. Avoid the use of technical or legal terms, complex language, or excessive detail.

1. Responses to the items of Part A should be as simple and direct as possible and include only information needed to understand the fundamental characteristics of the Registrant.

2. Descriptions of practices that are required by law generally should not include detailed discussions of the law itself.

3. Responses to items that use terms such as "list" or "identify" should include only a short explanation or description.

Part B: Statement of Additional Information—The items in Part B call for additional information about Registrant which is not required in the prospectus, but which may be of interest to some investors. In addition, Part B gives Registrants an opportunity to provide information about matters that they believe may interest investors.

In most cases, Registrants should not repeat in Part B information that is in the prospectus. However, the prospectus and the Statement of Additional Information, Part B of this Form N-4, are independent documents. Therefore, the Statement of Additional Information should be understandable by itself.

General Instructions for Parts A and B—1. The information in the prospectus and Statement of Additional Information should be organized to make it easy to understand the organization and operation of the Registrant and the variable annuity contracts. The information need not be in any particular order, with the following exceptions:

(a) Items 1, 2, 3, and 4(a) must be in numerical order in the prospectus and may not be preceded or separated by any other item, except as permitted by the instructions to Item 3.

(b) Item 4, "Condensed Financial Information," should not be preceded by any other chart or table (except for the table of contents required by Rule 481(c) under the 1933 Act [17 CFR 230.481(c)]).

(c) All of the information required by Item 6(a), "Deductions," should be in one place in the prospectus.

2. The prospectus or the Statement of Additional Information may contain information in addition to what is called for by this Form, provided that the information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure or impede understanding of required information.

3. The statutory provisions relating to the dating of the prospectus apply equally to the dating of the Statement of Additional Information for purposes of Rule 423 under the 1933 Act [17 CFR 230.423]. Futhermore, the Statement of Additional Information should be made available at the same time that the prospectus becomes available for purposes of Rules 430 and 460 under the 1933 Act [17 CFR 230.430, 230.460].

4. Instructions for charts, graphs, tables, and sales literature:

(a) A Registration Statement on this Form may include any chart, graph, or table that is not misleading.

(b) If "sales literature" is included in the prospectus, (1) the literature should not significantly lengthen the prospectus, and it should not obscure essential disclosure and (2) members of the National Association of Securities Dealers, Inc. (NASD) are not relieved of the filing and other requirements of the NASD for investment company sales literature (See Securities Act Release No. 5359, January 26, 1973 [38 FR 7220 (March 19, 1973)]).

Part A. Information Required in a Prospectus

Item 1. *Cover Page*

(a) The outside cover page must contain the following information:

(i) the Registrant's name;

(ii) the depositor's name;

(iii) the types of variable annuity contracts offered by the prospectus (e.g., single premium immediate, flexible premium deferred);

(iv) the types of qualified plans, if any, with which the contracts may be used (e.g., individual retirement annuities, simplified employee pension plans);

(v) a statement or statements that (A) the prospectus sets forth the information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for future reference; (C) additional information about the Registrant has been filed with the Commission and is available upon request and without charge (This statement should explain how to obtain the Statement of Additional Information and whether any of it has been incorporated by reference into the prospectus.);

(vi) the date of the prospectus, and the date of the Statement of Additional Information;

(vii) the statement required by Rule 481(b)(1) under the 1933 Act [17 CFR 230.481(b)(1)];

(viii) the names of the portfolio companies and a statement that the prospectus is not valid unless preceded or accompanied by the prospectuses of the underlying funds in which a purchaser may invest; and

(ix) such other information as is required by rules of the Commission or of any other governmental authority having jurisdiction over the Registrant for the issuance of its securities.

(b) The cover page may include other information, provided that it does not, by its nature, quantity, or manner of presentation, impede understanding of required information.

Item 2. *Definitions*

Define the special terms used in the prospectus (e.g., accumulation unit, contractowner, participant, sub-account, etc.).

Instruction: Only special terms used throughout the prospectus must be defined in the glossary required by this Item. If a special term, e.g., net investment factor, is used in only one section of the prospectus, it may be defined there. However, all special terms used in the prospectus must be defined.

Item 3. *Synopsis or Highlights*

(a) The Registrant should include a synopsis of the information in the prospectus when the prospectus is long or complex. Normally, a synopsis should not be provided where the prospectus is not more than twelve printed pages.

(b) The synopsis should be a clear and concise description of the key features of the offering and the Registrant, with cross-references to relevant disclosures elsewhere in the prospectus.

(c) If the prospectus does not include a synopsis and the variable annuity contract contains any of the following characteristics, they must by highlighted:

(i) any portion of the sales load is assessed upon redemption or annuitization;

Instruction: If any portion of the sales load is assessed upon redemption or annuitization, the response to this Item need only state the maximum percentage load that may be assessed against any given amount redeemed or annuitized and a cross-reference to a more

complete description of the sales load in the prospectus.

(ii) a penalty tax may be assessed pursuant to Section 72(q) of the Internal Revenue Code [26 U.S.C. 72(q)] upon withdrawal of amounts accumulated under any variable annuity contract; or

(iii) the variable annuity contract contains a revocation right (e.g., a "ten-day free look" provision).

Instruction: The highlighted information may not be preceded by the response to any Item except 1 or 2. It may precede Item 2 or be on th cover page. The information does not have to appear under a separate caption.

Item 4. *Financial Information*

(a) Furnish the following information for each class of accumulation units of the Registrant.

Accumulation Unit Values

(for an accumulation unit outstanding throughout the period)

1. accumulation unit value at beginning of period;
2. accumulation unit value at end of period;
3. number of accumulation units outstanding at the end of period.

Instructions: 1. The information shall be presented in comparative columnar form for each of the last ten fiscal years of the Registrant (or for life of the Registrant and its immediate predecessors, if less) but only from the later of the effective date of Registrant's or the relevant portfolio company's first 1933 Act Registration Statement. In addition the information shall be presented for the period between the end of the latest fiscal year and the date of the latest balance sheet of statement of assets and liabilities furnished.

2. Accumulation unit amounts shall be given at least to the nearest cent. If the computation of the offering price is extended to tenths of a cent or more, then the amounts on the table should be given in tenths of a cent.

3. Accumulation unit values should only be given for sub-accounts that fund obligations of the Registrant under variable annuity contracts offered by means of this prospectus.

(b) For each sub-account that is funded by a "money market" fund or portfolio company with policies calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, furnish: (1) a yield quotation based on the seven days ended on either (A) the date of the most recent financial statements of the Registrant included in the prospectus or (B) the last day of the most recent month for which it is practicable both to make the required calculation and to include the results in the prospectus, computed by determining the net change, exclusive of capital changes, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the sub-account at the beginning of the period, dividing the net change in account value by the value of the account at the beginning of the base period to obtain the base period return, and multiplying the difference by (365/7) with the resulting figure carried to at least the nearest hundredth of one percent and (2) the length of and the date of the last day in the base period used in computing that quotation.

Instructions: 1. When calculating the yield quotation required in subsection (b) above, the determination of net change in account value must reflect all deductions that are charged to all contractowner accounts in proportion to the length of the base period and the sub-account's average account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of current yield.

3. The capital changes to be excluded from the calculation of yield required by this Item are realized gains and losses from the sale of securities and unrealized appreciation and depreciation of the sub-account and the portfolio company.

4. With the presentation of the yield quotation, Registrant must disclose any material net change that would result from the inclusion of capital changes that are excluded in the computation pursuant to this Item.

5. The Registrant need not furnish a yield figure for both an accumulation unit of a sub-account for qualified contracts by the same portfolio company, if the two yield figures would not be materially different.

6. The Registrant may furnish separate yield figures for individual and group contracts.

7. In addition to the yield quotation required by this Item, the Registrant may also include a quotation of effective yield, carried to at least the nearest hundredth of one percent, computed by compounding the unannualized base period return be adding 1 to the base period return, raising the sum to a power equal to 365 divided by 7, and subtracting one from the result according to the following formula: Effective yield = (Base Period Return + 1)$^{365/7}$ − 1.

8. When calculating the yield quotation required i subsection (b) above, registrants that choose to make such an election on an annual basis may use a median account size in place of an average account size in determining the base period return.

(c) If all the required financial statements of the Registrant and the depositor (see Item 20) are not in the prospectus, state, under a separate caption, where the financial statements may be found. Briefly explain how any financial statements not in the Statement of Additional Information may be obtained.

Item 5. *General Description of Registrant, Depositor, and Portfolio Companies*

Concisely discuss the organization and operation or proposed operation of the Registrant. Include the information specified below.

(a) Briefly describe each depositor, including:

(i) its name, address, and a description of the general nature of its business;

Instruction: The description of the depositor's business should be short and need not list all of the businesses in which the depositor engages or identify the jurisdictions where it does business, if a general description (e.g., "life insurance" or "reinsurance") is provided.

(ii) the date and form of organization of the depositor and the name of the state or other jurisdiction under whose laws it is organized; and

(iii) if the depositor is controlled by another person, the name of that person and the general nature of its business (If the depositor is subject to more than one level of control, simply give the name of the ultimate control person.).

(b) Briefly describe the Registrant, including:

(i) the date and form of organization of the Registrant (i.e., unit investment trust);

(ii) a statement that although income, gains, and losses, whether or not realized, from assets allocated to the Registrant, are, in accordance with the applicable variable annuity contracts, credited to or charged against the Registrant without regard to other income, gains, or losses of the depositor, all obligations arising under the variable annuity contracts are general corporate obligations of the depositor; and

(iii) whether there are sub-accounts of the Registrant (i.e., for qualified and non-qualified contracts or for different portfolio companies).

Instruction: Sub-accounts that fund obligations of the registrant under contracts that are not offered by means of this prospectus need not be described.

(c) Briefly describe each portfolio company, including:

(i) its name;

(ii) the type of fund which the company is (e.g., money market fund, bond fund, balanced fund, etc.) or a brief statement concerning its investment objectives; and

(iii) its investment adviser.

(d) Concisely discuss the rights of contractowners, annuitants, participants, or beneficiaries to instruct the Registrant on the voting of portfolio company securities underlying their

interest in the Registrant, including the manner in which votes will be allocated.

(e) Identify any person who provides significant administrative or business affairs management services (e.g., an "Administrator"), and briefly describe the services provided.

Instruction: Information need not be given in response to this Item about any services described in response to Item 6(a).

(f) Provide the name and principal business address of any transfer agent.

Item 6. *Deductions*

(a) Briefly describe all deductions from purchase payments, contractowner accounts, or assets of the Registrant (e.g., sales loads, administrative and transaction charges, risk charges, and premium taxes). Specify the amount of any such deduction as a percentage or dollar figure (e.g., .95% of the average daily net assets or $5 per exchange). Except for the deduction for premium taxes, identify the person who receives the amount deducted, briefly describe the services provided in consideration for the deduction, and explain the extent to which the deduction can be modified.

Instruction: 1. Identification of the range of current premium taxes is sufficient.

2. If any deduction other than the sales load may be used for distribution expenses, identify it.

(b) State the commissions paid to dealers as a percentage of the public offering price.

(c) State the sales load as a percentage of the public offering price (if it is), and as a percentage of the net amount invested for each breakpoint. The percentages should be shown in a table.

(d) State that there are deductions from and expenses paid out of the assets of the portfolio companies that are described in the accompanying prospectuses.

Item 7. *General Description of Variable Annuity Contracts*

(a) Identify the person or persons (e.g., the contractowner, participant, annuitant, or beneficiary) who have rights under the variable annuity contracts, and the nature of those rights, during the (1) accumulation period, (2) annuity period, or (3) after the death of the annuitant or contractowner.

(b) Briefly describe any provisions for:

(i) allocation of purchase payments amoung sub-accounts of the Registrant;

(ii) transfer of contract values between sub-accounts of the Registrant in either the accumulation or the annuity period; and

(iii) exchanges of variable annuity contracts, including interests or participations therein.

(c) Briefly describe the changes that can be made in the variable annuity contracts or the operations of the Registrant by the Registrant or the depositor, including:

(i) why a change may be made (e.g., changes in applicable law or interpretations of law);

(ii) who, if anyone, must approve any change (e.g., the contractowner or the Securities and Exchange Commission); and

(iii) who, if anyone, must be notified of any change.

Instruction: Describe only those changes that would be material to a purchaser of the variable annuity contracts, such as a reservation of the right to deregister the separate account under the 1940 Act. Do not describe possible non-material changes, such as changing the time of day at which accumulation unit values are determined.

(d) Describe how contractowner inquiries should be made.

Item 8. *Annuity Period*

Briefly describe the operation or proposed operation of the Registrant during a variable annuity contract's annuity period. Include a concise explanation of:

(a) how the amount of the first annuity payment is determined;

(b) how subsequent changes in the amount of annuity payments are determined; and

(c) the choices available to a prospective annuitant in the following areas, including the effect of not specifying a choice:

(i) the annuity date (give the earliest and latest possible dates);

(ii) annuity options;

(iii) frequency of annuity payments (including the effect, if any, of the frequency of payments on the level of payments); and

(iv) assumed interest rates.

Item 9. *Death Benefit*

Briefly describe the death benefit available under a variable annuity contract during the accumulation and the annuity periods. Include:

(a) when the death benefit is calculated and payable and the effect of choosing a specific method of payment on calculation of the death benefit, and

(b) the forms the benefit may take, including the effect of not choosing a payment option and the period during which payments must begin under any annuity option.

Item 10. *Purchases*

(a) Briefly describe the procedures for purchasing a variable annuity contract. Include a concise explanation of:

(i) the minimum initial and subsequent purchase payments required and any limitation on the amount of purchase payments that will be accepted (If there are separate limits for each sub-account, state these limits.);

(ii) the way in which the public offering price is determined, including: (A) that the price is based on accumulation unit value; (B) that changes in accumulation unit value reflect changes in the net asset value of the shares of the portfolio companies, dividends or other distributions, and the deduction of certain charges (which should be specified) and (C) a statement of when calculations of accumulation unit value are made and that the price at which a purchase is effected is based on the next calculation of accumulation unit value after the order is accepted; and

(iii) a statement of when initial and subsequent purchase payments are credited.

(b) Identify each principal underwriter (other than depositor) of the variable annuity contracts and state its principal business address. If the principal underwriter is affiliated with the Registrant, the depositor, or any affiliated person of the Registrant or the depositor, identify how they affiliated (e.g., the principal underwriter is controlled by the depositor).

Item 11. *Redemptions*

(a) Briefly describe how a contractowner or annuitant (if the annuity option chosen by the annuitant does not contain a life contingency) can redeem a variable annuity contract, including how the proceeds are calculated and when they are payable.

(b) If the Registrant offers the variable annuity contracts in connection with the Texas Optional Retirement Program, describe the restrictions on redemption that apply.

(c) If a request for redemption may not be honored for a period of time after a contractowner's investment, describe briefly.

(d) Briefly describe any provision for lapse or involuntary redemptions under the contract and the reasons for it, such as the size of the account or infrequency of purchase payments.

(e) Briefly describe any revocation rights (e.g., "ten-day free look" provisions).

Item 12. *Taxes*

(a) Describe briefly the tax consequences to investors of an investment in the variable annuity contracts.

Instruction: The discussion should include the taxation of annuity payments, death proceeds, periodic and non-periodic withdrawals, pledges and assignments of the contract (if permitted), and any other method by which taxable income may be received by the investor under the variable annuity contract, as well as the tax benefits accorded annuities during the accumulation period. If the tax consequences vary depending on the use of the variable annuity contract (i.e., to fund an individual retirement annuity or corporate plan), the variations should be briefly described.

(b) Briefly describe the types of qualified plans with which the variable annuity contracts can be used.

Instructions: 1. Identify the types of persons who may use the plans (e.g., corporations, self-employed individuals) and state whether the terms of the plans govern the right to benefits, regardless of the terms of the variable annuity contract.

2. Do not describe the Internal Revenue Code requirements for qualifications of plans or the non-annuity tax consequences of qualification (e.g., the effect on employer taxation).

(c) Briefly describe the taxation of the operations of Registrant.

Instruction: State that Registrant's operations will not be taxed separately from those of the depositor, and briefly describe any provision for accumulating funds in the Registrant for federal income taxes and the rate at which the taxes expected to be computed. The circumstances under which amounts will be transferred to or from the depositor as a result of federal income taxation should be briefly described.

Item 13. *Legal Proceedings*

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidential to the businees, to which the Registrant, any subsidiary of the Registrant, or the Registrant's principal underwriter or depositor is a party. Include the name of the court where the cases is pending, the date filed, and the principal parties. Include similar information for many proceedings instituted by governmental authorities.

Instruction: Legal proceedings are material only to the extent that they are likely to have a material adverse effect upon: (1) the ability of the principal underwriter to perform its contract with the Registrant or of the depositor to meet its obligations under the variable annuity contracts; or (2) the Registrant.

Part B—Information Required in a Statement of Additional Information

Item 14. *Cover Page*

(a) The outside cover page must contain the following information:

(i) the Registrant's name;

(ii) the depositor's name;

(iii) a statement or statements (A) that the Statement of Additional Information is not a prospectus; (B) that the Statement of Additional Information should be read with the prospectus; and (C) how a copy of the prospectus may be obtained;

(iv) the date of the Statement of Additional Information; and

(v) the date of the related prospectus and any other identifying information that the Registrant deems appropriate.

(b) The cover page may include other information, provided that it does not by its nature, quantity, or manner or presentation, impede understanding of required information.

Item 15. *Table of Contents*

List the contents of the Statement of Additional Information and, where useful, provide cross-references to the prospectus.

Item 16. *General Information and History*

(a) If the depositor's name was changed during the past five years, state its former name and the approximate date on which it was changed. If sales of contracts offered by the Registrant or its depositor have been suspended at the request of any state, briefly describe the reasons for and results of the suspension.

(b) Identify the jurisdictions in which the depositor is authorized to do business.

(c) State whether the offering is continuous.

Item 17. *Services*

(a) Give a description of all fees, expenses, and costs of the Registrant which are to be paid by persons other than the depositor or the Registrant, and identify such persons.

(b) Give a summary of any contract for the provision of management-related services to the Registrant that may be of interest to a purchaser of Registrant's securities, unless the contract is described in response to some other item of this form.

(c) Give the name and principal business address of the Registrant's custodian and independent public accountant and provide a general description of the services they perform.

(d) If the assets of the Registrant are held by a person other than the depositor, a commercial bank, trust company, or depository registered with the Commission as custodian, state the nature of the business of each such person.

(e) If an affiliated person of the Registrant or the depositor or an affiliated person of such an affiliated person acts as transfer agent for the Registrant, furnish a description of the services performed by that person and the basis for remuneration.

Instruction: No disclosure need be given in response to paragraph (e) of this Item for a transfer agent who is also the depositor.

(f) If the depositor is the principal underwriter of the variable annuity contracts, so state.

Item 18. *Purchase of Securities Being Offered*

Describe the method that will be used to determine the total offering price at which the variable annuity contracts may be offered to the public.

Instruction: Explain fully any difference in the price at which variable annuity contracts are offered to members of the public, as individuals or as groups, or to officers, directors, or employees of the depositor or underwriter.

Item 19. *Calculation of Yield Quotations of Money Market Sub-accounts*

If a Registrant has sub-accounts that are funded by "money market" funds or portfolio companies with policies calling for investment of at least 80% of their assets in debt securities maturing in thirteen months or less, describe the method used to compute each yield quotation provided in the prospectus pursuant to Item 4(b).

Instructions: 1. For purposes of the description of the method by which the yield quotation required in the prospectus is computed, the determination of net change in account value must reflect all deductions that are charged to all contract-owner accounts in proportion to the lenght of the base period and the sub-account's average account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of current yield.

3. The capital changes to be excluded from the calculation of yield described pursuant to this Item are realized gains and losses from the sale of securities and unrealized appreciation and depreciation of the sub-account and the portfolio company.

4. When calculating the yield quotation required in Item 4(b), Registrants that choose to make such an election on an annual basis may use a median account size in place of an average account size in determining the base period return.

Item 20. *Financial Statements*

(a) Provide financial statements of the Registrant.

Instruction: The financial statements and schedules required by Regulation S–X [17 CFR Part 210] shall be provided in a separate section. Financial statements of the Registrant may be limited to:

(i) An audited balance sheet or statement of assets and liabilities as of the end of the most recent fiscal year;

(ii) An audited statement of operations for the most recent fiscal year conforming to the requirements of Rule 6–07 of Regulation S–X [17 CFR 210 210.6–07]; and

(iii) Audited statements of changes in net assets conforming to the requirements of Rule 6–08 of Regulation S–X [17 CFR 210.6–08] for the two most recent fiscal years.

(b) Provide financial statements of the depositor.

Instructions: 1. The financial statements and schedules of the depositor required by Regulation S–X shall be provided in a separate section following the response to paragraph (a) of this Item.

2. Notwithstanding Instruction 1 above, all statements and schedules required by Regulation S–X, except for the consolidated balance sheets described in Rule 3–01 of Regulations S–X [17 CFR 210.3–01], may be omitted from Part B and instead included in Part C of the Registration Statement.

3. Notwithstanding Rule 3–12 of Regulation S–X [17 CFR 210.3–12], the financial statements of the depositor need not be more current than as of the end of the most recent fiscal year of the depositor unless:

(i) the depositor's finahcial statements have never been included in an effective registration statement under the Securities Act of 1933 of a seperate account which offers variable annuity contracts or funds variable life insurance contracts; or

(ii) the balance sheet of the depositor at the end of either of the two most recent fiscal years included in response to this Item shows a combined captial and surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $1,000,000; or

(iii) the balance sheet of the depositor at the end of a fiscal quarter within 135 days of the expected date of effectiveness under the 1933 Act (or a fiscal quarter within 90 days of filing if the registration statement is filed solely under the 1940 Act) would show a combined captial and surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $1,000,000. If two fiscal quarters end within the 135 day period, the depositor may choose either for purposes of this test.

Any interim financial statements required by this Item need not be comparative with financial statements for the same interim period of an earlier year.

Part C. Other Information

Item 21. *Financial Statements and Exhibits*

List all financial statements and exhibits filed as part of the Registration Statement.

(a) Financial statements.

Instruction: Designate those financial statements which are included in Part A and Part B of the Registration Statement.

(b) Exhibits:

(1) copies of the resolution of the board of directors of the depositor authorizing the establishment of the Registrant;

(2) copies of all agreements for custody of securities and similar investments of the Registrant, including the schedule of remuneration;

(3) copies of each underwriting or distribution contract between the Registrant and the principal underwriter or the depositor and the principal underwriter, and specimens or copies of all agreements between principal underwriters and dealers;

(4) the form of each variable annuity contract;

(5) the form of application used with any variable annuity contract provided in response to (4) above;

(6) copies of the certificate of incorporation or other instrument of organization and the by-laws of the depositor;

(7) a copy of any contract of reinsurance;

(8) copies of all other material contracts not made in the ordinary course of business which are to be performed in whole or in part on or after the date of filing the Registration Statement;

(9) an opinion of counsel and consent to its use as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid, and non-assessable;

(10) copies of any other opinions, appraisals, or rulings, and consents to their use relied on in preparing this Registration Statement and required by Section 7 of the 1933 Act;

(11) all financial statements omitted from Item 20; and

(12) copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the depositor, underwiter, or initial contractowners and written assurances from the depositor or initial contractowners that the purchases were made for investment purposes without any present intention of redeeming.

Instruction: Subject to the Rules on incorportion by reference, the foregoing exhibits shall be filed as a part of the Registration Statement. Exhibits numbered 3 and 9–11 above need be filed only as part of a 1933 Act Registration Statement. Exhibits shall be lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

Item 22. *Directors and Officers of the Depositor*

Give the following information about each director or officer of the depositor:

Name and principal business address	Positions and offices with depositor	Positions and offices with registrant

Item 23. *Persons Controlled by or Under Common Control with the Depositor or Registrant*

Provide a list or diagram of all persons directly or indirectly controlled by or under common control with the depositor or Registrant and for each such person indicate (1) if a company, the state or other sovereign power under whose laws it is organized, (2) the percentage of voting securities owned or other basis of control by the person, if any, immediately controlling it, and (3) its principal business unless such principal business is implicit in its name.

Instructions: 1. The list or diagram shall include the Registrant and the depositor and shall show clearly the relationships between each company named. If a company is controlled by direct ownership of its securities by two or more persons, so indicate by appropriate cross-reference.

2. Designate (i) subsidiaries for which separate financial statements are filed; (ii) subsidiaries included in the respective consolidated financial statements; (iii) subsidiaries included in the respective group financial statements filed for unconsolidated subsidiaries; and (iv) other subsidiaries, indicating briefly why statements of such subsidiaries are not filed.

Item 24. *Number of Contractowners*

State as of a specified date within 90 days prior to the date of filing the number of owners of qualified and non-qualified contracts offered by Registrant.

Item 25. *Indemnification*

State the general effect of any contract, arrangements, or statute under which any underwriter or affiliated person of the Registrant is insured or indemnified in any manner against any liability which may be incurred in such capacity, other than insurance provided by any underwriter or affiliated person for his own protection.

Instruction: In responding to this Item the Registrant should note the requirements of Rules 461 and 484 under the 1933 Act (17 CFR 230.461, 230.484) and Section 17 of the 1940 Act (15 U.S.C. 80a–17).

Item 26. *Principal Underwriters*

(a) Give the name of each investment company (other than the Registrant) for which each principal underwriter currently distributing securities of the Registrant also acts as a principal underwriter, depositor, sponsor, or investment adviser.

(b) Give the information required by the following table with respect to each director, officer, or partner of each principal underwriter named in the answer to Item 10(b):

Name and principal business address	Positions and offices with underwriter	Positions and offices with registrant
(1)	(2)	(3)

(c) State the aggregate dollar amount of underwriting commissions and the amount retained by the principal underwriter for each of the last three fiscal years.

(d) Give the following information about all commissions and other compensation received by each principal underwriter, directly or indirectly, from the Registrant during the Registrant's last fiscal year:

Name of principal underwriter	Net underwriting discounts and commissions	Compensation on redemption	Brokerage commissions	Compensation
(1)	(2)	(3)	(4)	(5)

Instructions: 1. Show in a note, or otherwise, the nature of the services provided in return for the compensation shown in column (5).

2. Information need not be given about bona fide contracts with the Registrant or its depositor for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registrant or its depositor in the ordinary course of business.

3. Information need not be given about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

4. Information need not be given about payments made under any agreement whereby another person contracts with the Registrant or its depositor to perform as custodian or transfer agent.

(e) If any payments were made by the Registrant during its last fiscal year to an unaffiliated underwriter or dealer in the variable annuity contracts other than payments made through deduction from the offering price at the time of sale, furnish the following information:

(i) the name and address of the underwriter or dealer;

(ii) a description of the circumstances surrounding payments;

(iii) the amount paid; and

(iv) how the amount paid was determined and the consideration received for it.

Instruction: 1. Do not repeat information furnished in answer to Item 26(d) above.

2. Instructions 2–4 to Item 26(d) above also apply here.

Item 27. *Location of Accounts and Records*

Give the name and address of each person who maintains physical possession of each account, book, or other document, required to be maintained by Section 31(a) of the 1940 Act (15 U.S.C. 80a–30(a)) and the Rules under it (17 CFR 270.31a–1 to 31a–3).

Item 28. *Management Services*

Give a summary of any contract not discussed in Part A or Part B of this Form under which management-related services are provided to the Registrant, showing the parties to the contract and the total dollars paid and by whom, for the last three fiscal years.

Instructions: 1. A contract for "management related services" includes any agreement whereby another person agrees to keep, prepare, or file such accounts, books, records, or other documents as the Registrant may be required to keep under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include: (i) any agreement to act as custodian or transfer agent for the Registrant or (ii) bona fide contracts for outside legal or auditing services, or bona fide contracts for personal employment entered into in the ordinary course of business.

2. In summarizing a management-related service contract, include: the name of the person providing the service; any direct or indirect relationships between such person and the Registrant, its depositor, or its principal underwriter; the nature of the services provided; and the basis of the compensation paid for the last three fiscal years.

3. Information need not be given about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

Item 29. *Undertakings*

Give the following undertakings in substantially this form in all initial registration statements filed under the 1933 Act:

(a) An undertaking to file an amendment to the Registration Statement with certified financial statements showing the initial capital received before accepting subscriptions from any person in excess of 25 if Registrant proposes to raise its initial capital pursuant to Section 14(a)(3) of the 1940 Act (15 U.S.C. 80a–14(a)(3));

(b) An undertaking to file a post-effective amendment to this registration statement as frequently as is necessary to ensure that the audited financial statements in the registration statement are never more than 16 months old;

(c) An undertaking to include, as part of any application used to purchase a variable annuity contract offered by the prospectus prepared on this Form, a space where applicant can request a Statement of Additional Information; and

Instruction: This can be either in the application itself or attached to it.

(d) An undertaking to deliver any Statement of Additional Information requested as part of the purchase application no later than the delivery of the contract purchased.

Signatures

As required by (the Securities Act of 1933 and) the Investment Company Act of 1940, the Registrant (certifies that it meets the requirements of Securities Act Rule 486(b) for effectiveness of this Registration Statement and) has caused this Registration Statement to be signed on its behalf, in the City of——, and State of——on this—day of——,19—.

(Registrant) ——
By (Signature and Title)——
(Depositor) ——
By (Name of officer of depositor)——
(Title)——
Attest: (Name) ——
(Title)——

Instruction: If the registration statement is being filed only under the Securities Act or under both the Securities Act and the Investment Company Act, it should be signed by both the Registrant and its depositor. If the registration statement is being filed only under the Investment Company Act, it should be signed only by the Registrant.

As required by the Securities Act of 1933, this Registration Statement has

been signed by the following persons in the capacities and on the dates indicated.

(Signature) _____
(Title) _____
(Date) _____

[FR Doc. 84-11 Filed 1-4-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 3

[Docket No. RM84-1-000]

Fees Relating to Freedom of Information Act Requests and to Other Public Information Requests

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations governing the fees to be charged for search and duplication of documents requested under the Freedom of Information Act and the Commission's general regulations on public information. The proposal would amend the current rules to set fees for microform and hard copy computer printouts; clarify that the Commission will charge for copies of public information extracted from all its computer files; permit the Executive Director to establish minimum fees below which no charges will be collected; and specify that the Commission may select the method of duplication and medium of the duplicated documents.

The Commission expects the proposed amendments to permit efficient and cost-effective distribution of public documents generated by its recently installed automated record management system. The changes will enable the Commission to sell microform and hardcopy computer printouts rather than limit, as it currently does, the public's access to such documents to inspection on Commission premises.

DATES: Comments must be received on or before February 6, 1984.

ADDRESSES: Comments must be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should refer to Docket No. RM84-1-000. An original and 14 copies must be filed.

FOR FURTHER INFORMATION CONTACT: Donna Siegel Moffa, Office of the General Counsel, Federal Energy Regulatory Commission, Washington, D.C. 20426, (202) 357-5737.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

Issued: December 29, 1983.

The Federal Energy Regulatory Commission (Commission) proposes to amend §§ 3.8(b) and 3.8(k) of its regulations. Section 3.8(k) sets the fees to be charged for search and duplication of all documents requested pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552).[1] The proposal would amend § 3.8(k) to set fees for microform and hard copy computer printouts; permit the Executive Director to establish minimum fees below which no charges are collected; and specify that the Commission may select the method of duplication and medium of the duplicated documents. Section 3.8(b) governs the availability of certain public documents. The proposal would modify this rule to clarify that the Commission will charge for copies of public data extracted from all computer files, not just from the magnetic tape computer files already listed in § 3.8(b).

I. Background

In May 1982, the Commission promulgated 18 CFR 3.8(k) setting fees to be charged for search and duplication performed by the Commission staff in response to requests from the public under the FOIA.[2] Since then, the Commission has installed the Records and Information Management System (RIMS), an automated record management system that will eventually contain all of the Commission's active files on microfilm, indexed and accessible by computer. Those records are retrievable in microform and, to a limited extent, on paper. In addition, various indexes to these records are available on hard copy computer printout. RIMS generated documents have been available to the public since March 1983. However, because the current rule does not provide prices for the sale of duplicates in microform and/or hard copy computer printout, the public has been allowed only to inspect documents in these media and has been required to return them after use.

[1] 5 U.S.C. 552(a)(4)(A) directs agencies to promulgate regulations specifying the fees that they will charge for duplication and search costs of processing FOIA requests.

[2] Fees relating to Freedom on Information Act Requests, 47 FR 23, 148 (May 27, 1982) (Final Rule, Docket No. RM81-40-000, Order No. 233, issued May 19, 1982). The related provision in § 3.8(b) also enables the public to purchase copies of public documents from the Office of Public Information. Section 3.8(b) was promulgated in 1977.

II. The Proposed Amendments

The proposed amendment to § 3.8(k)(3)(i) establishes prices for the microform and hard copy computer printouts generated by RIMS. The prices set, 10 cents per page on microform or per page of computer printout, are consistent with the 10 cents per page of photocopy in the current rule and will enable the Commission to recover marginal costs (in terms of staff time, paper, fiche or film) or document reproduction.

This NOPR also proposes to eliminate the current blanket waiver for FOIA fee assessments of $5 or less (§ 3.8(k)(4)) and to provide, instead, that fee thresholds would be set by the Executive Director. The rationale for the current minimum was predicated on the assumption that the costs of billing and collection exceed $5 when the request and response were handled by mail. However, many documents are provided over the counter in response to walk-in requests in the Office of Public Information. Most RIMS documents for example, will be provided in response to such requests, so the Commission will incur no billing costs. Moreover, the Commission estimates that 90 percent of the requests for RIMS documents would fall below the current $5 threshold. Thus, the Commission itself would bear the bulk of the document reproduction costs if the $5 minimum were retained, and it could become too costly to distribute RIMS documents.

Proposed § 3.8(k)(4) gives the Commission the flexibility necessary to set fee thresholds in a manner that allows reproduction costs to be recouped while also ensuring that the collection process remains cost-effective. It enables the Executive Director to establish separate standard thresholds for requests that are handled by mail and requests that are handled over the counter based on the actual costs and volume of each. Fee thresholds would be posted or otherwise available in the Office of Public Information.

The proposed § 3.8(k)(3)(iii) would specify that the Commission may select the method of duplication and nature of the duplicate when responding to a FOIA request. While the FOIA places no burden upon the Commission to do so, Commission staff will normally provide documents in the medium preferred by the requester. However, where it is impossible or unduly burdensome to do so, an alternative medium will be used. Section 3.8(k)(3)(iii) makes it clear that production of duplicates in a medium other than that preferred by the

requesters is permissible and satisfies the Commission's obligations under the FOIA.[3]

Section 3.8(b) currently provides that "[c]opies of data extracted from the Commission's magnetic tape computer files are available on a reimbursable basis." The proposed amendment would eliminate the words "magnetic tape" to clarify that the Commission may charge for reproducing any computerized data, including RIMS documents.

II. Certification of No Significant Impact

The Regulatory Flexibility Act (RFA)[4] requires certain statements, descriptions and analyses of proposed rules that will have "a significant impact on a substantial number of small entities."

Pursuant to Section 605(b) of the RFA, the Commission finds that the proposed amendments will not, if promulgated, have a significant economic impact on a significant number of small entities. Specifically, because the Commission estimates that 90 percent of the requests will amount to less than $5, the amendments are unlikely to create significant economic impact on entities no matter how small. Moreover, while the amendments make RIMS documents available for purchase, requesters may still choose to inspect rather than buy those documents.

III. Public Comment Procedures

The Commission invites interested persons to submit written comments on the matter proposed in this notice. An original and 14 conformed copies of such comments should be filed with the Commission on or before February 6, 1984. Comments submitted by mail should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All comments should refer to Docket No. RM84–1–000.

Written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C.

List of Subjects in 18 CFR Part 3

Administrative practice and procedures, Freedom of information, Organization and functions (Government agencies).

[3] The FOIA requires only that records be "made available" and not that they be provided in a particular medium. *See* 5 U.S.C. 552(a). Accordingly, as long as an accurate and usable copy is provided, the Commission has satisfied its obligations under the FOIA.

[4] 5 U.S.C. 601–612 (Pub. L. 96–354, September 18, 1980).

In consideration of the foregoing, the Commission proposes to amend Chapter 1, Title 18 of the Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS

1. In the sixth sentence of § 3.8(b) following the word "Commission's", the words "magnetic tape" are removed.

2. In § 3.8(k), paragraph (3)(i) is revised, a new paragraph (3)(iii) is added and paragraph (4) is revised to read as follows:

§ 3.8 Public information and submittals.

* * * * *

(k) * * *

(3) * * *

(i) If the duplication is done by Commission staff, the requester will be charged 10 cents per photocopy, per page on microform, or per page of computer printout, plus postage; or

(ii) * * *

(iii) The Commission may select the method of duplication and the nature of the duplicated copy, such as paper, microform, or some other medium.

(4) *No fees charged below minimum.* The Executive Director may establish minimum fees below which no charges will be collected. If total fees assessed by Commission staff for a Freedom of Information Act request or series of related requests are less than the appropriate threshold, the Commission will not charge the requester.

3. The authority citation for § 3.8 is revised to read as follows:

(Administrative Procedure Act, 5 U.S.C. 551–557 (1976); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V. 1981); Exec. Order 12009, 3 CFR 142 (1978); Freedom of Information Act, 5 U.S.C. 552 (1976); Federal Power Act, 16 U.S.C. 825h (1976 & Supp. V. 1981); Natural Gas Act, 15 U.S.C. 717o (1976 & Supp. V. 1981)).

[FR Doc. 84–218 Filed 1–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM79–76–221; Louisiana—5 Addition]

18 CFR Part 271

High-Cost Gas Produced From Tight Formations; Louisiana

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Louisiana that an additional area of the Smackover "C" Zone be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on February 13, 1984.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 16, 1984.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking by Director, Oppr

Issued December 30, 1983.

I. Background

On November 9, 1983, the State of Louisiana Office Conservation (Louisiana) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that an additional portion of the Smackover "C" Zone in Webster Parish, Louisiana be designated as a tight formation. On February 22, 1982, the Commission issued Order No. 211, in Docket No. RM79–76 (Louisiana—5) in which the Commission designated portions of the Smackover "C" Zone in Claiborne and Webster Parishes as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Louisiana's recommendation that an additional area of the Smackover "C"

Zone be designated a tight formation should be adopted. Louisiana's recommendation and supporting data are on file with Commission and are available for public inspection.

II. Description of recommendation

Louisiana recommends that an additional area of the Smackover "C" Zone, underlying portions of the East Dykesville Field in Webster Parish, Louisiana, be designated as a tight formation. The recommended area consists of sections 4 through 9, 16, 17, and 18, Township 22 North, Range 9 West, and sections 28 through 33, Township 23 North, Range 9 West.

There are no data wells within the recommended area. However, the Smackover "C" Zone is defined as being that gas and condensate bearing zone encountered between the depths of 11,534 feet and 11,568 feet (electric log measurements) in the Cities Service Oil and Gas Corporation Hearn A No. 1 well, located adjacent to the recommended area in section 3, Township 22 North, Range 9 West, Webster Parish, Louisiana.

III. Discussion of Recommendation

Louisiana claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

It is asserted that development of the formation within the recommended area will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Louisiana that the additional area of the Smackover "C" Zone, as described and delineated in Louisiana's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 13, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–221 (Louisiana—5 Addition) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An orginal and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 16, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Louisiana's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for Part 271 read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by revising paragraph (d)(68) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(68) *Smackover C Zone in Louisiana.* RM79–76 (Louisiana—5)

(i) *Delineation of formation.* The Smackover C Zone is found within the East Dykesville Field in Claiborne and Webster Parishes, Louisiana, in the area of Township 22 North, Range 8 West, Sections 3–10, 15–18; Township 22 North, Range 9 West, Sections 1–18; Township 23 North, Range 8 West, Sections 30–34; and Township 23 North, Range 9 West, Sections 25–36.

(ii) *Depth.* The Smackover C Zone occurs between the measured depths of 11,290 feet and 11,340 feet on the induction electrical log of the Wheless Industries—Pelto Oil—Guy Lewis *et al.* No. 1 well and between 11,534 feet and 11,568 feet on the electric log of the Cities Service Oil and Gas Corporation—Hearn A No. 1 well.

[FR Doc. 84–221 Filed 1–4–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–201–83]

Information Returns on Broker Transactions; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations published elsewhere in this issue of the **Federal Register** relating to information returns of brokers. The proposed regulations would clarify the provisions under current regulations that require brokers to make information returns on sales of commodities effected for customers.

DATES: The public hearing will be held on Wednesday, March 28, 1984, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, March 14, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn:

CC:LR:T (LR–201–83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6045 of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the **Federal Register** (see FR Doc. 83–34850).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than March 14, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83–34851 Filed 12–30–83; 4:23 pm]

BILLING CODE 4830–01–M

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26 CFR Part 1

Information Returns of Brokers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations relating to information returns of brokers. The proposed regulations would clarify the information reporting requirements applicable to sales (including short sales) of commodities and permit the Secretary to exempt from the broker reporting requirements, by notice published in the **Federal Register**, a minimum gross proceeds amount on sales of commodities. The proposed regulations would affect brokers effecting sales (including short sales) of commodities.

DATES: Written comments and request to speak at the public hearing must be delivered by March 5, 1984. A notice of public hearing on this proposed rule is published simultaneously with this notice in the **Federal Register**. The amendments are proposed to be effective on the date they are published in the **Federal Register** as final regulations. In general, the proposed amendments would apply to sales made on or after July 1, 1983, but no report would be required with respect to sales of a commodity (other than lead, palm oil, rapeseed, tea, or tin) that is not deliverable in satisfaction of a regulated futures contract by reason of its form or quality if the sale occurs before the date the amendments are published in the **Federal Register** as final regulations. The deadline to apply for an undue hardship exemption from magnetic media reporting for a broker or barter exchange in existence on or before July 1, 1983, is proposed to be extended to February 4, 1984.

ADDRESS: Send comments and request to speak at the public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–201–83), Washington, D.C. 20224. Application for exemption from magnetic media reporting should be sent to the Internal Revenue Service Center with which the taxpayer normally files a return; no such application will be processed through the National Office in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Bruce H. Jurist of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202–566–3918, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 6045 of the Internal Revenue Code of 1954, relating to information returns of brokers. These proposed amendments clarify information reporting requirements for brokers effecting sales (including short sales) of commodities. The amendments are to be issued under the authority of sections 6045 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 747, 917; 26 U.S.C. 6045, 7805).

Explanation of Provisions

The current regulations under section 6045 generally require brokers to make returns of information on sales (including short sales) of commodities effected for customers. It is unclear under these regulations whether certain forms of personal property are commodities. The proposed regulations provide rules for determining whether personal property (including gold and silver) is a commodity. In general, the term "commodity" is defined as personal property that is deliverable in satisfaction of a regulated futures contract, certain specified personal property, personal property that the Secretary determines is to be treated as a commodity, or any form or quality of or any interest in such personal property. The term "commodity" does not include a security, regulated futures contract, forward contract, or a form of tangible personal property if the gross proceeds from its sale exceed by more than 15 percent its value as a commodity. It should be noted that this rule and the alternative methods of tangible personal property valuation set out in the proposed regulations (the "exact" and "approximate" methods) represent the Service's preliminary attempt to distinguish commodities from other property. The Service encourages public comment on the proposed approach and is particularly interested in suggestions for more precise distinctions between commodities and other property.

The proposed regulations also permit the Secretary to exempt sales of small amounts of a commodity from the broker reporting requirements. The Secretary would permit the exemption by prescribing a minimum gross proceeds reporting amount in a rule-related notice published in the **Federal Register**.

Under these proposed regulations, no report would be required with respect to a sale of a commodity (other than lead, palm oil, rapeseed, tea, or tin) that is not deliverable in satisfaction of a regulated futures contract by reason of its form or quality if the sale occurs before the date the amendments are published in the **Federal Register** as final regulations.

CFTC Approved Commodities

Personal property is deliverable in satisfaction of a regulated futures contract if such property is deliverable in satisfaction of a futures contract that has been approved for trading by the Commodities Futures Trading Commission (CFTC). The CFTC has approved that trading of futures

contracts in the following types of property:

Barley
Belgian francs
British pounds
Butter
Canadian dollars
Cattle
Certificates of deposit
Cocoa
Coconut oil
Coffee
Commercial paper
Copper
Corn
Cotton
Crude oil
Deutschmarks
Dutch guilders
Eggs
Flaxseed
Franch francs
Frozen boneless beef
Frozen pork bellies
Gasoline
Gold
Grain sorghums
Heating oil
Hogs
Iced broilers
Idaho potatoes
Industrial fuel oil
Italian lira
Japanese yen
Liquefied propane
Live hogs
Lumber
Maine potatoes
Mexican pesos
Mortgages
Natural rubber
Oats
Orange juice
Palladium
Palm oil
Platinum
Plywood
Rice
Rubber
Rye
Silver
Skinned hams
Soybean meal
Soybean oil
Soybeans
Stock index
Stud lumber
Sugar
Sunflower seeds
Swiss francs
Turkeys
U.S. silver coins
U.S. Treasury bills
U.S. Treasury bonds
Wheat
Wool

Comments and Notice of a public Hearing

Before adopting these proposed regulations consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A notice of public hearing on this proposed rule is being published simultaneously in the **Federal Register** with this notice.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the notice and public procedure requirements of 5 U.S.C. 553 do not apply because the rules proposed are interpretative and provide an exemption. Accordingly, a Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these proposed regulations is Bruce H. Jurist of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.6001–1 through 1.6109–2

Income taxes, Administrative practice and procedure, Filing requirements.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Section 1.6045–1 is amended by revising paragraph (a)(5), revising Example (5) of paragraph (b), adding Examples (9) through (17) to paragraph (b), redesignating paragraphs (c)(3)(v) (*a*), (*b*), and (*c*) as (c)(3)(v) (A), (B), and (C), respectively, revising paragraph (c)(3)(vii), adding paragraph (c)(3)(x), adding Examples (4) and (5) to paragraph (c)(4), and revising paragraph (l)(2)(ii). The revised and added provisions read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

(a) *Meaning of terms.* * * *

(5)(i) Except as otherwise provided in paragraph (a)(5)(ii) of this section, the term "commodity" means—

(A) Any form or quality of personal property that is deliverable (whether or not subject to price adjustment for form or quality) in satisfaction of a regulated futures contract that has been approved for trading by the Commodity Futures Trading Commission (whether or not the regulated futures contract is actually traded);

(B) Any form or quality of lead, palm oil, rapeseed, tea, or tin;

(C) Any form or quality of personal property that the Secretary determines is to be treated as a "commodity" under this section, from and after the date specified in a rule-related notice of such determination published in the **Federal Register**;

(D) Any form or quality of personal property a form or quality of which is described in paragraph (a)(5)(i)(A) of this section; or

(E) Any interest in personal property that is described in paragraph (a)(5)(i) (A), (B), (C), or (D) of this section.

(ii) The term "commodity" does not include—

(A) A security as defined in paragraph (a)(3) of this section;

(B) A regulated futures contract as defined in paragraph (a)(6) of this section;

(C) A forward contract as defined in paragraph (a)(7) of this section;

(D) A form of tangible personal property, or an interest therein, gross proceeds from the sale of which exceed by more than 15 percent the value on the date of sale of the underlying personal property determined, at the election of the broker, by either exact valuation or approximate valuation (as defined in paragraph (a)(5)(iii) of this section); or

(E) A form or quality of tangible personal property or an interest therein if no single type of tangible personal property described in paragraph (a)(5)(i) of this section comprises at least 30 percent of the weight or volume of the underlying personal property and the gross proceeds from the sale of such property are less than three thousand dollars ($3,000).

(iii) For purposes of paragraph (a)(5)(ii)(D) of this section—

(A) The term "exact valuation" means to determine the value of the underlying personal property—

(*1*) By separately determining the value of each type of tangible personal property described in paragraph (a)(5)(i) of this section of which the underlying personal property is composed at the price at which each such type of tangible personal property is bought and sold in the ordinary course of the buyer's business, or a similarly situated business if such price cannot be determined for the buyer's business; and

(*2*) Aggregating all such separately determined values; and

(B) The term "approximate valuation" means to determine the value of the underlying personal property—

(*1*) Solely with reference to its weight or volume;

(*2*) As if such weight or volume were composed entirely of a single type of tangible personal property described in paragraph (a)(5)(i) of this section identical in kind and quality to the most valuable type of tangible personal property described in paragraph (a)(5)(i) of this section that comprises at least 30 percent of such weight or volume (or if no type of tangible personal property described in paragraph (a)(5)(i) of this section comprises at least 30 percent of such weight or volume, the most valuable type of tangible personal property described in paragraph (a)(5)(i) of this section that comprises any portion of the underlying personal property);

(*3*) At the price at which tangible personal property treated as composing the entire weight or volume is bought and sold in the ordinary course of the buyer's business, or a similarly situated business if such price cannot be determined for the buyer's business.

(iv) For purposes of paragraphs (a)(5)(ii)(E) and (iii) of this section, "type of tangible personal property" means any tangible personal property described in paragraph (a)(5)(i) (A), (B), or (C) of this section and any other tangible personal property that cannot be commercially reduced into two or more elements.

(b) Examples. * * *

Example (5). A warehouse receipt is an interest in personal property for purposes of paragraph (a) of this section. Consequently, a warehouse receipt for a quantity of lead is a commodity under paragraph (a)(5)(i)(E) of this section. Similarly, an executory contract that requires delivery of a warehouse receipt for a quantity of lead is a forward contract under paragraph (a)(7)(i) of this section.

* * * * *

Example (9). If the gross proceeds from the sale of a gold coin (such as a Krugerrand, Maple Leaf, 50 Peso coin, or 100 Crown coin) do not exceed by more than 15 percent the bullion value of the gold in the coin, the coin is a commodity under paragraph (a)(5)(i)(D) of this section and is not excluded by paragraph (a)(5)(ii)(D) of this section.

Example (10). U.S. silver dimes, quarters, and half dollars minted before 1965 are personal property deliverable in satisfaction of a regulated futures contract approved by the Commodity Futures Trading Commission. The coins are a commodity under paragraph (a)(5)(i)(A) of this section. If, however, the gross proceeds from the sale of an individual coin exceed by more than 15 percent the bullion value of the silver in the coin, the coin is not a commodity under paragraph (a)(5)(ii)(D) of this section. If the gross proceeds from the sale of coins as a unit do not exceed by more than 15 percent the bullion value of the silver in the entire unit, all the coins in the unit are a commodity under paragraph (a)(5)(i)(A) of this section notwithstanding the possibility that the gross proceeds from the sale of one or more individual coins in the unit might exceed by more than 15 percent the bullion value of the silver in such individual coins.

Example (11). If the gross proceeds from the sale of a U.S. silver dollar minted before 1970 do not exceed by more than 15 percent the bullion value of the silver in the coin, the coin is a commodity under paragraph (a)(5)(i)(D) of this section and not excluded by paragraph (a)(5)(ii)(D) of this section.

Example (12). Customer E sells to jewelry store S, a broker, a gold necklace. The gross proceeds from the sale of the necklace do not exceed by more than 15 percent the value of the gold as bullion. Consequently, the old necklace is a commodity under paragraph (a)(5)(i)(D) of this section and not excluded under paragraph (a)(5)(ii)(D) of this section.

Example (13). Customer F sells to jewelry store T, a broker, a diamond ring. The diamond ring (composed of a gold band and gem) weighs 0.5 troy ounces. The gold in the ring comprises more than 30 percent of the total weight of the ring, and the gross proceeds from the sale of the diamond ring exceed by more than 15 percent the value of 0.5 troy ounces of gold as bullion. Consequently, the diamond ring is not a commodity under paragraph (a)(5)(i)(D) of this section because of its exclusion under paragraph (a)(5)(ii)(D) of this section.

Example (14). Customer G sells to smelter U, a broker, a gold and silver goblet. More than 30 percent of the weight or volume of the goblet is gold. Assume that the broker chooses to use the "approximate valuation" method described in paragraph (a)(5)(iii)(B) of this section and the goblet weighs 10 troy ounces. If the gross proceeds from the sale of the goblet do not exceed by more than 15 percent the value of 10 troy ounces of gold as bullion, the goblet is a commodity under paragraph (a)(5)(i)(D) of this section and not excluded under paragraph (a)(5)(ii)(D) of this section.

Example (15). V, a jeweler, generally purchases inventory (that is a commodity under paragraph (a)(5) of this section) from wholesalers and purchases inventory from the general public only when sufficient inventory cannot be secured from wholesalers. V does not accept offers for sale, but seeks out sellers when inventory is needed. Since V does not stand to effect sales to be made by others, V is not a broker.

Example (16). W, a coin dealer, regularly advertises that it will purchase gold items for their bullion value. Since W stands ready to effect sales to be made by others, W is a broker.

Example (17). X, a coin dealer, regularly buys gold items when they are offered for sale and this is known to sellers of such items. Since X stands ready to effect sales to be made by others, X is a broker whether or not it advertises.

(c) *Reporting by brokers*—* * *

(3) *Exceptions.* * * *

(vii) *Foreign currency.* No return of information is required with respect to a sale of foreign currency unless—

(A) Such sale is pursuant to a regulated futures contract or forward contract that requires or permits delivery of foreign currency; or

(B) Such foreign currency is a form or quality of or interest in gold or silver not described in paragraph (a)(5)(ii)(D) of this section.

* * * * *

(x) *Minimum gross proceeds.* No return of information is required with respect to a sale of a commodity effected by a broker for a customer if the aggregate gross proceeds from all sales of commodities effected by the broker for the customer on the date of such sale are less than the minimum gross proceeds reporting amount applicable on such date. For this purpose, the minimum gross proceeds reporting amount is the amount prescribed as such by the Secretary in a rule-related notice published in the **Federal Register**.

(4) *Examples.* The following examples illustrate the application of the reporting requirements.

* * * * *

Example (4). X, an individual, exchanges at bank N British pounds, in paper currency form, for U.S. dollars. Even though the exchange is a sale of a commodity under paragraph (a)(5)(i)(A) of this section, such sale is exempt from reporting under paragraph (c)(3)(vii) of this section.

Example (5). Y, an individual, sells goods to Company P, a British corporation. In payment for those goods Company P tenders to Y a check in the amount of 1000 pounds sterling. Y cashes the check at bank M and receives U.S. dollars. Even though the transaction is a sale of a commodity under paragraph (a)(5)(i)(E) of this section, such sale is exempt from reporting under paragraph (c)(3)(vii) of this section.

* * * * *

(l) *Use of magnetic media.* * * *

(2) *Exception for undue hardship.* * * *

(ii) In the case of a person who is a broker or barter exchange on July 1, 1983, an application to file returns of information on Form 1099 must be filed on or before February 6, 1984. In the case of a person who becomes a broker or barter exchange after July 1, 1983, such application must be filed by the later of February 6, 1984 or the end of the second month following the month in

which such person becomes a broker or barter exchange.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-34850 Filed 12-30-83; 4:23 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD7 83-15]

Anchorage Grounds/Special Anchorage Area, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to modify the anchorage regulations for Charleston, SC harbor. This rulemaking is needed to provide anchorages within the harbor for commercial vessels by redefining the existing anchorages for current port needs.

DATES: Comments must be received on or before February 21, 1984.

ADDRESSES: Comments should be mailed to Commander (mps), Seventh Coast Guard District, 51 S.W. First Avenue, Miami, FL 33130. The comments will be available for inspection and copying at 51 S.W. First Avenue, Room 1231, telephone (305) 350-5651. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (J.G.) Harry Craig at (305) 350-5651.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD7-83-15) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Lieutenant (J.G.) Harry Craig, project officer, Seventh Coast Guard District Port Safety Branch, and Lieutenant Commander Kenneth E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Proposed Regulation

The current anchorage regulations, established in 1967, provide for two special anchorage areas within the harbor. Areas where anchoring is prohibited are also defined in the regulations. No area for commercial vessel anchoring is provided for. Currently few small craft use the special anchorage areas; therefore these areas can be reduced in size. There is a substantial demand by large vessels for anchorage areas within the harbor, and defined anchorage grounds would enhance the safety of these vessels at anchor. The Captain of the Port, Charleston, has proposed redefining the anchorage grounds within the port to accommodate current demand.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal because it permits local practices to continue, but with existing conditions defined within the federal regulations.

Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 110

Anchorages.

PART 110—[AMENDED]

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, by revising § 110.173(a) and by adding § 110.72d to read as follows:

§ 110.173 Port of Charleston, SC

(a) *The anchorage grounds. (1) Commercial Anchorage A.* This anchorage is located adjacent to the western edge of Folly Island Channel and southwest of Rebellion Reach and is bounded by the following coordinates:
32°45'34" N., 79°52'12" W.; to
32°46'17" N., 79°53'21" W.; to
32°45'51" N., 79°53'23" W.; to
32°45'34" N., 79°52'55" W.; thence back to
32°45'34" N., 79°52'12" W.

(2) *Commercial Anchorage B.* This anchorage is located adjacent to the south side of South Channel and bounded by the following coordinates:
32°45'28" N., 79°53'40" W.; to
32°45'28" N., 79°54'46" W.; to
32°45'19" N., 79°54'46" W.; to
32°45'12" N., 79°54'06" W.; to
32°45'16" N., 79°53'40" W.; thence back to
32°45'28" N., 79°53'40" W.

(3) *Commercial Anchorage C.* This anchorage is located 1800 yards, 118° T from St. Michaels Church Spire and has a radius of 250 yards. Vessels using this anchorage must anchor in the center.

(4) *Commercial Anchorage D.* This anchorage is located 37°00' 2017 yards from the tank atop the Fort Sumter Hotel on the Battery at Charleston, diameter of anchorage 1400 feet. The use of this anchorage is limited to loaded vessels for a period of not more than 24 hours.

(b) *The regulations.* (1) Except in cases of great emergency, no vessel shall be anchored in the main ship channels as defined by broken lines marking their boundaries on NOAA Chart 11524, nor shall a vessel be so anchored that it can swing within 400 feet of any wharf of pier on the eastern waterfront of Charleston. Vessels must be anchored in such a way as not to interfere with the free navigation of channels in the port, including Cooper, Ashley, Wando Rivers, and Town Creek, or to obstruct the approach to any pier or entrance to any slip, or to impede the movement of any vessel or craft.

(2) Vessels using the anchorages opposite the eastern waterfront of Charleston shall place their anchors as near as possible in the center of the anchorage. Vessels not using a designated commercial anchorage shall not place their anchors within the main ship channels, but vessels may be so anchored as to swing into these areas: Provided, That they are so placed, with reference to the customary winds, tides, and currents of the harbor, that they will

swing only during slack water, and at this period there shall remain in the waters adjacent to the channel an area providing sufficient depth so as to permit the safe passage of loaded vessels.

(3) No vessel may anchor within the designated anchorages for more than 72 hours without the prior approval of the Captain of the Port.

(4) No vessel may anchor unless it maintains a bridge watch, guards and answers Channel 16 FM, and maintains an accurate position plot.

(5) If any anchored vessel is so close to another that a collision is probable, each vessel must communicate with the other vessel and the Captain of the Port on Channel 16 FM and shall act to eliminate the close proximity situation.

(6) No vessel may anchor unless it maintains the capability to get underway within 4 hours.

(7) No vessel may anchor in a "dead ship" status (propulsion or control unavailable for normal operations) without the prior approval of the Captain of the Port.

(8) Dragging of anchors in or across main ship channels and cable areas is prohibited.

(9) Vessels which, through force of great emergency, are anchored contrary to the foregoing regulations in this section shall be shifted to new berths in accordance with such regulations at the earliest opportunity.

(10) A vessel, upon notification from the Captain of the Port to shift its position in anchorage grounds must get underway at once or signal for a tug, and must change position as directed with reasonable promptness.

(11) No vessel may conduct lightering operations in an anchorage without permission from the Captain of the Port.

(12) When the use of an anchorage is required by naval vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(13) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of law for obstructing navigation, or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, etc.

* * * * *

§ 110.72d Ashley River, Charleston, SC.

The waters lying within an area bounded by the outer end of Municipal Marina Bulkhead latitude 32°46'30" N., longitude 79°57'57" W.; thence 129° T to latitude 32°46'30" N., longitude 79°56'57" W.; thence 090° T to the shoreline; thence northwest along the shoreline to the shore end of City Marina bulkhead.

(33 U.S.C. 471, 2030, 2035, 2071; 49 U.S.C. 1655 (g)(1)(B); 49 CFR 1.46 (c)(2)); and 33 CFR 1.05–1(g))

Dated December 16, 1983.

Rear Adm. D. C. Thompson,

Commander, Seventh Coast Guard District.

[FR Doc. 84–271; Filed 1–4–84; 8:45 am]

BILLING CODE 4910–14–M

Notices

Federal Register
Vol. 49, No. 3
Thursday, January 5, 1984

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

December 30, 1983.

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

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer of USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Farmers Home Administration
7 CFR 1965–B Security Services for Multiple Housing Loans
On Occasion
Individuals or Households, State or Local Government, Farms, Businesses, Non-Profit Institutions: 794 responses; 1,922 hours; not applicable under 3504(h)
Dean Creenwalt, (202) 382–1615.

• Economic Research Service
Agricultural Land Values
Annually
Farms: 16,015 responses; 2,675 hours; not applicable under 3504(h)
Charles Barnard, (202) 447–9179.

• Animal and Plant Health Inspection Service
List of Plant Pests for Export Certification
Annually
State or Local Governments, Non-Profit Institutions: 50 responses; 3,600 hours; not applicable under 3504(h)
Douglas Barnett, (301) 436–8078.

• Forest Service
Free Use Permits—Timber
FS–2400–8
Recordkeeping and on Occasion
Individuals or Households, Federal Agencies or Employees: 340,000 responses; 68,000 hours; not applicable under 3504(h)
Rex Baumback, (703) 475–3757.

Revised

• Agricultural Stabilization and Conservation Service
Part 1421—General Regulations Governing Price Support for the 1978 and Subsequent crops
30 various forms
On Occasion, Annually
Farms: 1,769,400 responses; 442,350 hours; not applicable under 3504(h)
Steve Gill, (202) 447–7988.

Reinstatement

• Farmers Home Administration
7 CFR 1933–I, Self-Help Technical Assistance Grants
On Occasion and Recordkeeping
State or Local Government, Non-Profit Institutions: 1,787 responses; 2,537 hours; not applicable under 3504(h)
Cliff Herron, (202) 382–1484.

Larry K. Roberson,
Acting Department Clearance Officer.

[FR Doc. 84–248 Filed 1–4–84; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Marketing Service

Hop Marketing Advisory Board; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–436; 86 Stat. 770), notice is given of a meeting of the Hop Marketing Advisory Board at 8:15 a.m., local time, January 20, 1984, in Boise, Idaho, at the Red Lion Motor Inn.

The purpose of the meeting is to discuss marketing policy, and related matters. The meeting will be open to the public.

The Hop Marketing Advisory Board is established under Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

The names of Board members, agenda, summary of the meeting, and other information pertaining to the meeting may be obtained from Robert H. Eaton, Hop Administrative Committee, Room 1002, Corbett Building, 430 S.W. Morrison Street, Portland, Oregon, 97204, telephone (503) 224–1823.

Dated: December 29, 1983.
Issued:

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–169 Filed 1–4–84; 8:45 am]
BILLING CODE 3410–02–M

CIVIL AERONAUTICS BOARD

Fitness Determination of Huachuca Airlines, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83–12–121, Order to Show Cause.

SUMMARY: The Board is proposing to find that Huachuca Airlines, Inc. is fit, willing, and able to provide commuter air carrier service under section

419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than January 18, 1984, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–12–121 is available from the Distribution Section, Room 100, 1825 Commecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitian area may send a postcard request for Order 83–12–121 to that address.

By the Civil Aeronautics Board: December 23, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–283 Filed 1–4–84; 8:45 am]

BILLING CODE 6320–01–M

Reporting Required for International Civil Aviation Organization

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Collection of Information under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35).

SUMMARY: The Civil Aeronautics Board is requesting the Office of Management and Budget's approval to collect certain supplemental U.S. air carrier data that are required to be submitted to the international Civil Aviation Organization under a U.S. Treaty obligation. OMB approval is required under the Paperwork Reduction Act of 1980.

DATED: December 29, 1983.

FOR FURTHER INFORMATION CONTACT: M. Clay Moritz, Jr., Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. (202) 673–6042.

SUPPLEMENTARY INFORMATION: Agency Clearance Officer from Whom a Copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell (202) 673–5922

How Often the Collection of Information Must Be Filed: Monthly, Quarterly and Annually

Who is Asked or Required to Report: U.S. Certificated Air Carriers

Estimate of Number of Annual Responses: 188

Estimate of Number of Annual Hours Needed to Complete the Collection of Information: 427.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–263 Filed 1–4–84; 8:45 am]

BILLING CODE 6320–01–M

[Docket 41909]

Complaint of Pan American World Airways, Inc., Against the Government of the United Kingdom and British Airways, Ltd.

Order

On December 28, 1983, Pan American World Airways, Inc. filed a complaint against the Government of the United Kingdom and British Airways, Ltd. The complainant alleges that the Government of the United Kingdom has engaged in an unreasonable and unfair practice by subsidizing British Airways' costs in operating its Concorde service.

In support of its complaint, Pan American alleges that, because British Airways incurs no capital costs in owning its Concorde aircraft, British Airways is able to offer fares which are significantly below its costs. Pan American asserts that these fares have resulted in substantial diversion of first-class traffic from Pan American and other U.S. flag carriers to British Airways' Concorde service. Pan American maintains that this practice has put it at a competitive disadvantage which, when coupled with its recent forced "agreement" to suspend a portion of its New York-London flights, will have a "highly disruptive impact" on Pan American and will "unravel much of the operation" Pan American has built at London.[1] The complaint asserts that the United Kingdom's actions run counter to section 402(f) of the Federal Aviation Act and section 2 of the International Air Transportation Fair Competitive Practices Act (IATFCPA). Pan American states that, unless British Airways raises its Concorde fares to a level at least 50 per cent in excess of the prevailing New York-London and Washington-London first class fares, we should issue an order direction British Airways to show cause why the current Concorde fare should not be suspended pending a full investigation designed to establish the true cost of the Concorde service.

The International Air Transportation Competition Act of 1979 (IATCA) substantially expanded our ability to deal with allegations of unfairly restrictive and discriminatory practices by foreign governments and foreign airlines. We now possess power to respond quickly to such practices through amendments to section 402 of the Federal Aviation Act and section 2 of IATFCPA which permit us to deny, alter, amend, modify, suspend, cancel, limit or condition any foreign air carrier permit or tariff if we find such action to be in the public interest. They also enable us to act without any hearing or to dispense with oral evidentiary hearings and base our decision on written evidence and arguments submitted by interested parties in appropriate circumstances. Furthermore, to ensure that complaints filed under this legislation receive prompt attention, section 2 of the IATFCPA provides that we shall approve, deny, dismiss or set a complaint for hearing, or institute other proceedings proposing remedial action, within 60 days after receipt of the complaint. We may extend the period for taking action in increments of 30 days up to 180 days, if we conclude that it is likely that the complaint can be satisfactorily resolved through negotiations.

With these considerations in mind, we have decided to invite all interested persons to answer the complaint of Pan American in this docket. Answers shall include all data, evidence, and argument upon which persons rely to support their position, and shall cover all substantive and procedural issues they wish the Board to consider. We will also provide an opportunity to reply to these answers.

Answers shall be filed no later than fourteen calendar days from the service date of this order, and replies no later than seven calendar days from that answer date.[2]

After receipt and consideration of these pleadings and any evidence submitted, we will issue a further order in this proceeding. As indicated above, we may either provide for further procedures, defer action for 30 days, or

[1] Complaint at 10.

[2] We delegate to the Director, Bureau of International Aviation, the authority to dispose of all procedural questions arising in this proceeding, except for requests for oral evidentiary hearings, until further Board order.

grant, dismiss, or deny the complaint in whole or in part.

Accordingly, 1. We invite any interested person to file and serve upon persons named in paragraph 3, below, no later than January 12, 1983, answers to the complaint of Pan American in Docket 41909. If comments are filed, replies may be filed, and must be served as above, but no later than January 19, 1983;

2. If timely and properly supported requests are filed, we will give consideration to the matters and issues raised by the requests before we take further action, provided that we may order further procedure within the statutorily determined time period; and

3. We are serving this order upon Pan American World Airways, Inc., British Airways, Ltd., the Ambassador in Washington, D.C. of the United Kingdom and the Department of State and Transportation.

We shall publish this order in the **Federal Register.**

All Members concurred except Member Morales who was not present and did not vote.

By the Civil Aeronautics Board.

[FR Doc. 84-260 Filed 1-4-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Application for Approval To Transfer Ownership of a U.S. Fishing Vessel to a U.S. Corporation Under Foreign Control

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed fishing vessel transfer and request for comments.

SUMMARY: Application has been received by the Maritime Administration (MarAd), Department of Transportation, for approval to transfer to Thanh, Inc., ownership of the vessel PINE CONE. The contemplated transfer would subject the vessel to foreign control since Thanh Ngoc Nguyen, a Vietnamese citizen, owns 100 percent of the stock of the Lam Van Nguyen Corporation. Comments are requested.

DATE: All comments must be postmarked no later than February 6, 1984.

ADDRESSES: Interested persons are invited to send written comments to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: John A. Kelly, Jr., (Financial Assistance Specialist), (202) 634-7496.

SUPPLEMENTARY INFORMATION: Application for approval of the transfer of ownership of the vessel PINE CONE (O.N. 519832, built 1968, reg. length 36.3') owned by Ron Abercrombie, P.O. Box 27, Matagorda, Texas 77457, was received by MarAd November 11, 1983. The vessel would remain documented in the fisheries of the United States and be operated primarily for shrimp in Louisiana coastal waters. Finfish would also be taken. Approval of the transfer is required by Section 9 of the Shipping Act, 1916 as amended (46 U.S.C. 808) because although Thanh, Inc., a Louisiana Corporation, 4353 Field Street, New Orleans, LA 70114, meets the citizenship requirements for documentation of a vessel, it is not a citizen of the United States within the meaning of Section 2 of the Act. The Maritime Administration is the Federal agency responsible for the approval or disapproval of applications submitted under the Shipping Act. Where a foreign transfer involves a fishing vessel, MarAd customarily requests the National Marine Fisheries Service (NMFS) to review the application.

Accordingly, we are soliciting the views of interested persons in this regard and will convey them to MarAd with our recommendation. Generally, a recommendation will be favorable unless it is concluded that the transfer will adversely affect the particular segment(s) of the U.S. commercial fishery industry involved. No public hearing is contemplated at this time.

Dated: December 29, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-174 Filed 1-4-83; 8:45 am]

BILLING CODE 3510-22-M

Issuance of General Permits; Japan Deep Sea Trawlers Association, et al.

On December 14, 1983, general permits to incidentally take marine mammals during commercial fishing operations in 1984 were issued to:

1. The Japan Deep Sea Trawlers Association, No. 601 Daito Building, 3-6, Kandaogawacho, Chiyodaku, Tokyo, Japan, in Category 1: Towed and Dragged Gear to take 120 northern sea lions, 10 northern fur seals, 15 harbor seals, and 4 small cetaceans.

2. The Hokuten Trawlers Association, Toranomon Chuo Building, 1-16, Toranomon, 1, Minatoku, Tokyo, Japan, in Category 1: Towed and Dragged Gear, to take 55 northern sea lions, 5 northern fur seals, and 5 harbor seals.

3. The North Pacific Longline-Gillnet Association, Zenkeiren Building, 2-7-2, Hirakawa-cho, Chiyodaku, Tokyo, Japan, in Category 5: Other Gear to take by harassment only.

All takings are incidental to commercial fishing operations within the United States Fishery Conservation Zone, pursuant to 50 CFR 216.24 (45 FR 72187-72196).

These general permits are available for public review in the Office of the Assistant Administrator for Fisheries, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: December 29, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-175 Filed 1-4-84; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Permit; Marineland, Inc.

On October 19, 1983, Notice was published in the **Federal Register** (48 FR 48492) that an application had been filed with the National Marine Fisheries Service by Marineland, Inc., St. Augustine, Florida 32086 for a permit to take two (2) short-finned pilot whales (*Globicephala macrorhynchus*) for public display.

Notice is hereby given that on December 28, 1983, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking to Marineland, Inc., subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: December 29, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-176 Filed 1-4-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations with Taiwan to Review Trade in Categories 318, 359, 369, 442, 459, 649 and 669 pt.

December 29, 1983.

On December 23, 1983, the American Institute in Taiwan requested consultations with the Government of the Coordination Council for North American Affairs concerning exports from Taiwan in Categories 318 (Other Yarn-Dyed Fabrics), 359 (Other Cotton Apparel), 369 (Other Cotton Manufacturers), 442 (Skirts), 459 (Other Wool Apparel), 649 (Brassieres) and 669 pt. (Other than Fishnets, Polypropylene Bags and Tents). These requests were made on the basis of the agreement of November 18, 1982, concerning trade in cotton, wool and man-made fiber textiles and textile products from Taiwan.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations with Taiwan, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 318, 359, 369, 442, 459, 649 and 669 pt., produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1983 and extended through December 31, 1983.

Any party wishing to comment or provide data or information regarding the treatment of the foregoing categories under the bilateral agreement, or any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-34238 Filed 12-30-83; 9:50 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

1984 Medical Reimbursement Rate for Dependents of Military Personnel

Notice is hereby given that the Assistant Secretary of Defense (Comptroller) on December 28, 1983 issued the following memorandum to the Assistant Secretary of Defense (Health Affairs), the Assistant Secretaries of the Army (IL&FM) and Air Force (FM), and the Comptroller of the Navy:

The charge for inpatient and dental care given to dependents of military personnel shall be $6.80 per day, effective January 1, 1984.

Dated: December 30, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-172 Filed 1-4-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 83-08-NG]

Natural Gas Imports; Midwestern Gas Transmission Company and Great Lakes Gas Transmission Company; Joint Petition To Amend Authorizations To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of joint petition to amend natural gas import authorizations by extending the term of the authorizations.

SUMMARY: The Economic Regulatory Administration (ERA) gives notice of receipt on December 1, 1983, of a joint petition from Midwestern Gas Transmission Company (Midwestern) and Great Lakes Gas Transmission Company (Great Lakes) to amend their authorizations to import certain volumes of natural gas purchased from TransCanada Pipelines Limited (TransCanada) by extending the term of those authorizations through October 31, 1984.

The joint petition is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on January 20, 1984.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9622

Michael T. Skinker (Office of General Counsel, Natural Gas and Mineral Leasing), U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: By an unnumbered order issued on August 9, 1979 (ERA Docket No. 79-04-NG), Midwestern was authorized to import on a best efforts' basis through October 31, 1980, up to 114 Bcf of natural gas purchased from TransCanada. This authorization was extended to October 31, 1981, by Opinion and Order No. 20 (ERA Docket No. 80-17-NG) issued October 16, 1980; extended to October 31, 1982, by Opinion and Order No. 36 (ERA Docket No. 81-28-NG) issued October 26, 1981; and extended to October 31, 1983, by Opinion and Order No. 47 (ERA Docket No. 82-14-NG) issued November 1, 1982. Midwestern purchases the natural gas under a contract with no take-or-pay requirements and intends to resell any imported volumes taken under the extended authorization to Tennessee Gas Pipeline Company (Tennessee) on the basis of need. Under past authorizations, Midwestern also resold such imported volumes to Northern Natural Gas Company and Natural Gas Pipeline Company of America, but these companies did not wish to extend the arrangement.

By an unnumbered order issued on July 11, 1979 (ERA Docket No. 78-011-NG), Great Lakes was authorized to import on an interruptible basis through October 31, 1980, up to 18 Bcf of natural

gas purchased from TransCanada. This authorization was extended to October 31, 1981, by Opinion and Order No. 21 (ERA Docket No. 80–16–NG) issued October 20, 1980; extended to October 31, 1982, by Opinion and Order No. 35 (ERA Docket No. 81–27–NG) issued October 23, 1981; and extended to October 31, 1983, by Opinion and Order No. 47 (ERA Docket No. 82–14–NG) issued November 1, 1982. Great Lakes purchases the natural gas under a contract with no take-or-pay requirements and intends to sell the imported volumes taken under the extended authorization to Midwestern for resale to Tennessee on the basis of need. Opinion and Order No. 21 and subsequent orders also authorized Great Lakes to import additional volumes, charged to the account of Midwestern, to be used by Great Lakes, as necessary, for transporting the authorized volumes to Midwestern.

On December 1, 1983, Midwestern and Great Lakes (applicants) jointly filed a petition for an extension of their authorizations through October 31, 1984, at the current international border price of U.S. $4.40 per MMBtu, in order to permit the import of the remaining volumes previously authorized through October 31, 1983. The applicants state that they have imported aproximately 67 Bcf of the 132 Bcf previously authorized. In support of their joint petition, the applicants state that the availability of this supply with no take-or-pay requirements will provide flexibility for Tennessee to meet unusually heavy winter demand or to cope with emergency conditions which might interrupt normal sources of supply or impair operations. The applicants assert that their application is in the public interest, and request expedited consideration to ensure that these import volumes will be available to Tennessee during the 1983–84 winter season.

Other Information: Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to this joint petition. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the petition.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977, in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division, Economic Regulatory Administration, Room GA–007, RG–43, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585.

All protests and petitions to intervene must be filed no later than 4:30 p.m., on January 20, 1984.

A hearing will not be held unless a motion is made by a party or person seeking intervention and is granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of the petition is available for inspection and copying in the Natural Gas Division Docket Room, located in Room GA–007, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on December 29, 1983.

Robert L. Davies,

Director, Coal and Electricity Division, Economic Regulatory Administration.

[FR Doc. 84–168 Filed 1–4–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. QF84–88–000]

BASF Wyandotte Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 30, 1983.

On December 9, 1983, BASF Wyandotte Corporation (Applicant), of 100 Cherry Hill Road, P.O. Box 181, Parsippany, New Jersey 07054, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Applicant's Geismar Works, Geismar, Ascension Parish, Louisiana. The primary energy source of the facility will be natural gas. The facility will consist of a combustion gas turbine, an electric generator, and a waste heat recovery boiler. The useful thermal energy output, which will be in the form of process steam, will be utilized in the production of chemicals. The electric power production capacity of the facility will be 36.6 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–222 Filed 1–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP84–23–001 and TA84–1–22–001]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

December 30, 1983.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on December 21, 1983 tendered for filing proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes shown on Substitute Thirty-Fifth Revised Sheet No. 16 and Substitute Thirty-Sixth Revised Sheet No. 16 are proposed to be effective November 10, 1983 and January 1, 1984, respectively. Substitute Thirty-Fifth Revised Sheet No. 16 corrects a computational error in the initial filing in Docket No. RP84–23 made November 10, 1983.

Substitute Thirty-Sixth Revised Sheet No. 16 provides for the 1984 GRI Funding Unit to be included in Rate Schedules T and TI.

Consolidated requested a waiver of the Commission's Rules and Regulations, specifically Section 154.22 Notice Requirements. Additionally, Consolidated requested a waiver of any other of the Commission's Rules and Regulations as may be deemed necessary to permit the revised tariff sheets to become effective as proposed.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.214 and 385.211). All petitions or protests should be filed on or before January 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-223 Filed 12-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3117-002]

Dodge Falls Hydro Associates; Surrender of Exemption

December 30, 1983.

Take notice that Dodge Falls Hydro Associates (Dodge Falls), Exemptee for the Dodge Falls Project No. 3117, has requested that its exemption be terminated. The project would have been located on the Connecticut River in Grafton County, New Hampshire and Caledonia County, Vermont.

Dodge Falls filed its request on November 18, 1983, and the surrender of its exemption for Project No. 3117 is deemed effective 30 days after the issuance date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-224 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. IR000-799]

Town of Fremont; Request for Waiver

December 30, 1983.

On October 4, 1983 notice was given, 48 FR 45285, that a group of nonregulated utilities, FERC Dockets IR000-799, et al. had filed pursuant to §292.403(a) of the Commission's regulations for waiver of certain requirements established by the Commission under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). These entities seek a waiver of the requirement that they implement certain provisions of section 292.303-292.308 of the Commission's regulations. (18 CFR Part 292, Subpart C.)

This renotice correctly identifies the location of the Town of Fremont, Docket No. IR000-799 as North Carolina.

The Town of Fremont, a nonregulated electric utility, has provided public notice in its service area and held a hearing to solicit public comment regarding its obligations under the Commission's regulations. The applicant has indicated that this hearing demonstrated a lack of potential for development of cogeneration and small power production facilities within its service territory. The applicant, therefore, believes that implementation of regulation on a generic basis will not encourage the development of cogeneration and small power production facilities to any greater degree than implementation of the Commission's regulations on a case-by-case basis if, and when, proponents of such facilities approach the utility.

The Town of Fremont has requested a waiver from any of the Commission's regulations under 18 CFR Part 292, Subpart C which would require the development of standard rates, terms or conditions. The Town has adopted a resolution indicating its intent to otherwise implement the Commission's regulations on a case-by-case basis.

Any person desiring to be heard or to protest any of the above filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFC 385.211 and 385.214). All such motions or protests should be filed with thirty (30) days of publication of notice in the **Federal Register**, and should reference the applicable docket number or numbers. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to be proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-233 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-449-000]

Gas Systems Engineering, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 30, 1983.

On September 29, 1983, Gas Systems Engineering, Inc. (Applicant), of 13329 Stuebner Airline Drive, Suite T, Houston, Texas 77014, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. On December 12, 1983, supplemental information was filed to complete the application.

The topping-cycle cogeneration facility will be located in the Rothwood Field in North Harris County, Texas. The facility will consist of an induction engine generator unit. The waste heat from the exhaust gases will be routed into a "heater treater" to supplement the natural gas now being used to treat the crude oil and natural gas. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 171.6 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-225 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-94-000]

Getty Oil Co., Lost Hills Field; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 30, 1983.

On December 12, 1983, Getty Oil Compay (Applicant), of P.O. Box 10269, Bakersfield, California 93389-0269, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in the Lost Hills Field, Kern County, California. The primary energy source for the facility will be natural gas. The facility will be comprised of three units. Each unit will consist of a combustion turbine, an electric generator, and a heat recovery steam generator. The useful thermal energy output will be usd for enhanced oil recovery. The electric power production capacity of the facility will be 11.2 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-226 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-95-000]

Getty Oil Co., North Midway Field; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 30, 1983.

On December 12, 1983, Getty Oil Company (Applicant), of P.O. Box 10269, Bakersfield, California 93389-0269, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in the North Midway Field, Kern County, California. The primary energy source for the facility will be natural gas. The facility will be comprised of three units. Each unit will consist of a combustion turbine, an electric generator, and a heat recovery steam generator. The useful thermal energy output will be used for enhanced oil recovery. The electric power production capacity of the facility will be 11.2 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-227 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA84-5-000]

Gulf Oil Co.; Petition for Adjustment

December 30, 1983.

On November 25, 1983 Gulf Oil Corporation (Gulf), P.O. Box 2100, Houston, Texas 77252, filed with the Federal Energy Regulatory Commission (Commission) a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1981), and 18 CFR 385.1101-385.1117 of the Commission's Rules of Practice and Procedure. Gulf seeks a waiver of the 30-day filing requirement for rate change filings found in § 154.94(h)(2)(iii) of the Commission's regulations (18 CFR 154.94(h)(2)(iii)).

Under § 154.94(h)(2)(iii), a producer receiving a well category determination under NGPA sections 102(d) or section 108 must make a rate change filing within 30 days of the date the determination becomes final in order to collect the applicable maximum lawful price from the date of such final determination or the date of initial deliveries, whichever is later. Since the producer's interim collection authority terminates under § 273.203(2)(b) when the determination becomes final, a producer filing out of time (more than 30 days after the determination becomes final) may receive no more than the previously applicable maximum lawful price for gas sales between the date the determination becomes final and the 31st day after the notice of rate change is filed.

In its petition, Gulf states that it filed out of time under § 154.94(h)(2)(iii) six rate change statements to establish the section 108 price. Gulf asserts that it, along with other producers, has experienced difficulty in meeting the 30-day filing requirement of § 154.94(h)(2)(iii) due to difficulty in keeping abreast of final determinations for wells which the producers do not operate themselves, confusion as to the filing requirements, difficulty in monitoring a large number of determinations, and inadequacies in the notice produre for final determinations. Gulf contends that it is experiencing a special hardship that will result in a loss of revenues if § 154.94(h)(2)(iii) is not waived.[1]

The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101-1117 of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101-385.1117. Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Rule 214 (18 CFR 385.214). All petitions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-228 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-87-000]

Imperial Energy Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 30, 1983.

On December 8, 1983, Imperial Energy Corporation (Applicant), of 2049 Century Park East, Suite 1100, Los Angeles

[1] Gulf points out that the Commission has granted waivers to § 154.94(h)(2)(iii) on three previous occasions. *See* Notice of Proposed Rulemaking, Docket No. RM83-50-000, FERC Stats. and Regs. ¶ 30,506 at 32,756 (October 17, 1983).

California 90067, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be a three (3) megawatt (nominal) geothermal power plant located on 27 acres in Section 36 of Township 11S, Range 13E of Imperial County, California. The geothermal energy will be provided by a single 10,000 foot well configured as a downhole heat exchanger.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-229 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7645-003, *et al.*]

Natural Gas Companies; Mobil Oil Corporation, et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates [1]

December 30, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 16, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-7645-003, D, Dec. 7, 1983	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Northwest Central Pipeline Corp., Guymon-Hugoton Field, Texas County, Okla.	(1)	
CI77-735-001, Dec. 13, 1983	Odeco Oil & Gas Company, P.O. Box 61780, New Orleans, La. 70161.	Trunkline Gas Company, South Timbalier Block 86 Field, In the Gulf of Mexico, Offshore La. (Federal Domain).	(2)	
CI65-739-001, D, Dec. 12, 1983	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Company, Kings Bayou Field, Cameron Parish, La.	(3)	
CI69-818-001, D, Dec. 8, 1983	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Calif. 94120.	Texas Eastern Transmission Corporation, Blocks 160 and 245 Field, East Cameron Area, Offshore La.	(4)	
CI82-196-001, C, Dec. 8, 1983	Texaco Inc., P.O. Box 3756, Los Angeles, Calif. 90051	Pacific Interstate Offshore Company, Pitas Field, Leases [5]OCS P-0233 and P-0234, Offshore Calif.	(5)	14.73
CI82-197-001, C, Dec. 8, 1983	do	Pacific Interstate Offshore Company, Pitas Point Field, Lease [5]OCS P-9346, Offshore Calif.	(5)	14.73
CI182-199-001, Dec. 9, 1983	Union Oil Company of California, Union Oil Center, P.O. Box 7600, Los Angeles, Calif. 90051.	Pacific Interstate Offshore Company, OCS-P-0233 and OCS-P-0234, Pitas Point Field, Offshore Calif.	(6)	14.73
CI82-200-001, Dec. 9, 1983	do	Pacific Interstate Offshore Company, OCS-P-0346, Pitas Point Field, Offshore Calif.	(6)	14.73
CI84-128-000, (CI76-678), B, Dec. 9, 1983.	Tenneco Oil Company, P.O. Box 2511, Houston, Tex. 77001.	Tennessee Gas Pipeline Company, West Cameron Block 638, Offshore La.	(7)	
CI84-129-000, A, Dec. 12, 1983	Matagorda Island Development Corporation, P.O. Box 1330, Houston, Tex. 77251.	Amoco Gas Company, Matagorda Island Block 623, Offshore Tex.	(8)	14.73
CI84-130-000, (CI66-4), B, Dec. 12, 1983.	Exxon Corporation, P.O. Box 2180, Houston, Tex. 77252-2180.	Natural Gas Pipeline Company of America, Putnam Field, Dewey County, Okla.	(9)	
CI84-134-131-000, A, Dec. 12, 1983	The Superior Oil Company, Post Office Box 1521, Houston, Tex. 77001.	Texas Eastern Transmission Corporation, Blocks 243, and 244, South Marsh Island Area, Offshore La., Federal Domain.	(10)	15.025
CI84-132-000, B, Dec. 12, 1983	ARCO Oil and Gas Company, Division Of Atlantic Richfield Company, Post Office Box 2819, Dallas, Tex. 75221.	Getty Oil Company, McCrea "C" Lease, S/2 SE/4 Sec. 24, Block A-39, Andrews County, Tex.	(11)	
CI84-133-000, B, Dec. 12, 1983	Natomas Offshore Exploration Inc., 1155 Dairy Ashford, Suite 100, Suite 100, Houston, Tex. 77079.	Transcontinental Gas Pipe Line Corporation, Galveston Area Block A-156 and A-157, Offshore Tex.	(12)	
CI84-134-000, B, Dec. 12, 1983	Dry Run Oil and Gas Co., Term Energy Corp., Agent, 110 N. Spring Street, Harrisville, W. Va. 26362.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	(13)	
CI84-135-000, B, Dec. 12, 1983	Ruby Davisson Oil & Gas Co	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	(13)	
CI84-136-000, B, Dec. 12, 1983	Overfield Oil & Gas Co	do	(13)	
CI84-137-000, B, Dec. 12, 1983	Andy Bird Oil & Gas Co	do	(13)	
CI84-138-000, B, Dec. 12, 1983	Hurst Oil & Gas Co	Consolidated Gas Supply Co., Freeman's Creek District, Lewis County, W. Va.	(13)	
CI84-139-000, B, Dec. 12, 1983	Grose Oil & Gas Co	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	(13)	
CI84-140-000, B, Dec. 12, 1983	Hoover Oil & Gas Co	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	(13)	
CI84-146-000, A, Dec. 13, 1983	Texas Eastern Exploration Co., P.O. Box 2521, Houston, Tex. 77252.	Columbia Gas Transmission Corporation, USA Henry Bach Unit, Accident Field, Garrett County, Md.	(14)	

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI84-142-000 (CI61-1360), B, Dec. 12, 1983.	Exxon Company, U.S.A., Post Office Box 2180 Houston, Tex. 77001.	United Gas Pipe Line Company, Normanna Gas Unit No. 1 Field, Bee County, Tex.	(15)	
CI84-143-000, B, Dec. 13, 1983	Grace Petroleum Corporation, 6501 North Broadway, Oklahoma City, Okla. 73116.	El Paso Natural Gas Company, Andrews, South Field, Andrews, South Field, Andrews County, Tex.	(16)	
CI84-144-000, A, Dec. 13, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Company, West Cameron Block 239, Offshore, La.	(17)	15.025
CI84-145-000, (G-15347), B, Dec. 13, 1983.	Phillips Petroleum Company, 336 Home Savings and Loan Building, Bartlesville, Okla. 74004.	West Lake Natural Gas Company, Chrome Lease, Section 135, Block 1-A, H&TC Survey, Nolan County, Texas; Spires "A" Lease, Section 124, Block 1-A, H&TC Survey, Nolan County, Texas; and Spries "B" Lease, Section 131, Block 1-A, H&TC Survey, Nolan County, Tex.	(18)	
CI84-147-000, A, Dec. 15, 1983	Chevron U.S.A. Inc., Post Office 7643, San Francisco, Calif. 94120.	Natural Gas Pipeline Company of America, West Cameron Block 81, Offshore La.	(19)	15.025

[1] To release gas for CO2 tertiary recovery project in the Morrow Oil Reservoir. Estimated fuel requirement is 32.85 bcf.
[2] Applicant if filing under Gas Purchase Agreement dated May 25, 1977, amended by amendment dated November 28, 1983 to produce gas from deeper horizons.
[3] Due to lessor demand, Shell released Lease L-28733.
[4] By paragraph 4 of Article III of the Basic Contract, Seller reserved the right to elect to have up to 25% of the reserves covered under the contract transported by Buyer for use in Seller's plants, or plants of a corporate affiliate, as feedstock and/or plant fuel.
[5] Applicant is filing under Gas Sales and Purchase Agreement dated December 29, 1981, amended by Letter Amendment dated October 25, 1983 to add additional acreage.
[6] Applicant is filing under Gas Sale and Purchase Agreement dated October 1, 1981, amended by Amendatory Agreement dated November 9, 1983 for additional dedication of reservoirs.
[7] Only for purposes of retiring the rate schedule subsequent to depletion of reserves under the respective contract which covers the West Cameron Block 638. There is to be continued development and production from the West Cameron.
[8] Applicant is filing under Gas Purchase Contract dated October 12, 1983.
[9] The well was plugged and abandoned on April 5, 1979 and Exxon's lease covering subject property was canceled in July 1979. The contract expired by its own terms on July 2, 1983.
[10] Applicant is filing under Gas Purchase Contract dated December 1, 1983.
[11] Primary term of contract will expire January 28, 1984. The McCrea C #1 Well, last well holding the lease, ceased producing in August, 1982. The lease has expired and there are no plans for future production.
[12] Reserves depleted; wells plugged and abandoned; and leases have expired.
[13] Gas will continue to be sold under contract with same purchaser on adjoining lease.
[14] Applicant is filing under Gas Purchase Contract dated November 26, 1954, as amended, amended by Assignment and Conveyance dated July 30, 1982, and the Assignment of Oil and Gas Leases dated August 30, 1983.
[15] The well was plugged and abandoned on August 13, 1980 and the leases were cancelled August 14, 1980. The contract expired by its own terms on May 9, 1981.
[16] Depletion; uneconomical.
[17] Applicant if filing under Gas Purchase Contract dated December 8, 1983.
[18] Contract payment is based on a percentage of proceeds.
[19] Applicant is filing under Gas Purchase Contract dated October 27, 1983.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 84-230 Filed 1-4-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-78-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

December 30, 1983.

Take notice that on November 18, 1983, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP84-78-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northwest Central proposes to add two new delivery points in Washington County, Oklahoma, for the sale and delivery of gas to Lucas Gas, Inc. (Lucas Gas), under the authorization issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest Central proposes at two points to tap into its 16-inch pipeline in Washington County, Oklahoma, and construct measuring, regulating and appurtenant facilities in order to add two points of delivery of natural gas to Lucas Gas, a local distributor, for resale and distribution to customers in rural areas near the cities of Bartlesville and Dewey, Washington County, Oklahoma. Maximum deliverability from each new delivery point is estimated to be 18,000 Mcf per year.

Northwest Central estimates the cost of facilities to be $40,190 which would be paid from available funds. It is submitted that the proposed facilities are necessary for Northwest Central to meet additional demands in the above-mentioned rural areas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no portest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-231 Filed 1-4-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-168-000]

Puget Sound Power & Light Co.; Filing

December 30, 1983.

Take notice that on December 19, 1983, Puget Sound Power & Light Company (Puget) submitted for filing Second Revised exhibit A and Second Revised Exhibit B to FPC No. 55.

Puget states that Second Revised Exhibit A and B do not represent a change in rate design, but rather, reflect Puget's current actual cost of providing service under FPC No. 55.

Puget requests that these changes become effective immediately.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-232 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-36-000]

West Lake Arthur Corp.; FERC Gas Tariff

December 30, 1983.

Take notice that on December 22, 1983, West Lake Arthur Corporation (WLAC) tendered for filing a proposed FERC Gas Tariff, First Revised Sheet No. 4, Superceding Original Sheet No. 4. The proposed rates are based on the period ending September 30, 1983, annualized for jurisdictional revenues of $57,490,436.

WLAC states that the proposed rates will permit it to recover its jurisdictional cost of service for the test period ended September 30, 1983, annualized. The cost of service reflects rates as contained on First Revised Sheet No. 4, Superceding Original Sheet No. 4 of WLAC's proposed FERC Gas Tariff.

Copies of this filing have been served upon WLAC's jurisdictional customer, the Public Service Commission of the State of Louisiana, and the Department of Natural Resources Office of Conservation of the State of Louisiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-234 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Order Filed; Week of November 21 Through November 25, 1983

During the week of November 21 through November 25, 1983, the notice of objection to a proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

December 22, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

MARTIN EXPLORATION COMPANY, METAIRIE, LOUISIANA HRO-021

On November 21, 1983 Martin Exploration Company, 3501 North Causeway Boulevard, Metairie, Louisiana filed a Notice of Objection to a Proposed Remedial Order (PRO) which the Houston Office of the Economic Regulatory Administration (ERA) issued to the firm on October 18, 1983. In the PRO, the ERA found that during February 1, 1976 to May 31, 1979 the firm priced crude oil in violation of 10 CFR 212.73 and 212.74. According to the PRO, the violations resulted in $92,291.56 in overcharges.

[FR Doc. 84-167 Filed 1-4-84; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of November 25 Through December 2, 1983

During the Week of November 25 through December 2, 1983, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service to notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 20, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 25 through December 2, 1983]

Date	Name and location of applicant	Case No.	Type of submission
September 23, 1983.	A. V. Wright, Newport Beach, California	HRZ-0184	Interlocutory order. If granted: A. V. Wright and A. V. Wright & Associates, a former sole proprietorship operated by A. V. Wright, would be dismissed as a party in the Petroex Energy Corporation Proposed Remedial Order proceeding (Case No. HRO-0186), and certain portions of the Proposed Remedial Order would be stricken.
September 28, 1983.	Bassman & Mitchell, Washington, D.C.	HFA-0199	Appeal of an information request denial. If granted: The October 27, 1983, Freedom of Information Request Denial issued by the Office of Oil & Gas would be rescinded, and Bassman & Mitchell would receive access to copies of Form FEA-P302-M-1/EIA-460, containing petroleum product price information collected by the DOE.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of November 25 through December 2, 1983]

Date	Name and location of applicant	Case No.	Type of submission
October 28, 1983	Kellermyer, Inc., Fort Wayne, Indiana	RR7-5	Request for modification/rescission in the Tenneco refund proceeding. If granted: The March 30, 1983, Decision and Order (Case No. RF7-104) issued to Kellermyer, Inc. would be modified regarding the firm's application for refund submitted in the Tenneco Oil Company refund proceeding.
September 29, 1983.	Economic Regulatory Administration/Office of General Counsel, Houston, Texas.	HRZ-0180	Interlocutory order. If granted: The May 13, 1983, Proposed Remedial Order issued to Hydrocarbons Group, Inc. (Case No. HRO-0164) would be amended to join four additional parties.
November 30, 1983.	Economic Regulatory Administration/RFB Petroleum, Inc., Washington, D.C.	HRJ-0043	Request for protective order. If granted: RFB Petrolum, Inc. would enter into a Protective Order with the Economic Regulatory Administration regarding the release of proprietary information to RFB Petroleum, Inc. in connection with the firm's Statement to Objections submitted in response to a Proposed Remedial Order (Case No. HRO-0135).
December 1, 1983.	MAPCO International, Inc., Tulsa, Oklahoma	HRD-0193 & HRH-0193	Motion for discovery and request for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by MAPCO International, Inc. in response to the Proposed Remedial Order (Case No. HRO-0193) issued to the firm.
December 1, 1983.	Marathon Oil Company, Washington, D.C	HRZ-0098	Supplemental order. If granted: The Office of Hearings and Appeals would review the supplemental privilege index submitted by Marathon Oil Company pursuant to the November 18, 1983, Decision & Order (Case No. HARD-0031).
December 1, 1983.	Prosper Energy Corporation, Washington, D.C	HEF-0485	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V in connection with the July 20, 1983 court decision involving Prosper Energy Corporation.

REFUND APPLICATIONS RECEIVED

[Week of November 25 through December 2, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
Oct. 25, 1983	Amoco/Robert D. Duerkop	RF21-12239.
Oct. 28, 1983	Amoco/Steven's Standard Service	RF21-12241.
Oct. 28, 1983	Amoco/Steve's Standard Service	RF21-12242.
Oct. 28, 1983	Amoco/Tripp Oil Company	RF21-12240.
Oct. 28, 1983	Nordstrom Oil/Iowa	RQ22-32.
Oct. 30, 1983	Amoco/Doug Asker Oil Co., Inc	RF21-12243.

[FR Doc. 84-166 Filed 1-4-84; 8:45 am]

BILLIG CODE 6450-01-M

Western Area Power Administration

Proposal To Establish Additional Designated Federal Points of Delivery for Power From the Colorado River Storage Project

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Intent to Establish Additional Designated Federal Points of Delivery.

SUMMARY: On February 9, 1978, the Salt Lake City Area Office of the Western Area Power Administration (Western) published in the **Federal Register** general power marketing criteria relating to the sale of power from the Colorado River Storage Project (CRSP). Section 9, entitled Delivery Conditions, included a list of designated or equivalent Federal points of delivery, tap points, and voltages at which normal delivery of storage project power will be available. Western now proposes to add the following designated Federal points of delivery and voltages in the State of New Mexico at which normal delivery will be available:

Four Corners—230-kV

Elephant Butte—115-kV

DATES: Written comments on the proposal are due in the office of the Area Manager at the address given below, no later than 30 days from the publication of this notice in the **Federal Register.** This proposal will become final 30 days from its publication in the **Federal Register** unless Western publishes another **Federal Register** notice reflecting any differences between this original proposal and any amended final determination.

FOR FURTHER INFORMATION CONTACT:

Mr. Al Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, (801) 524-5493

Mr. John DiNucci, Director, Division of Marketing and Rates, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (801) 231-1545

SUPPLEMENTARY INFORMATION: Western proposes to establish these additional designated Federal points of delivery to benefit both the United States and its customers, by offering additional points at which power may be delivered to CRSP customers.

Issued in Golden, Colorado, December 12, 1983.

William H. Clagett,

Deputy Administrator.

[FR Doc. 84-164 Filed 1-4-84; 8:45 am]

BILLING CODE 6450-01-M

Floodplain/Wetlands Statement of Findings for Reconstruction of the Bill Williams River Crossing of the Parker-Planet Transmission Line Access Road in Mohave and Yuma Counties, Arizona

AGENCY: Western Area Power Administration, Energy.

ACTION: Foodplain/Wetlands Statement of Findings.

SUMMARY: The Western Area Power Administration (Western) has prepared a floodplain/wetlands assessment for reconstruction of the Bill Williams River crossing of the Parker-Planet 69-kV transmission line access road. The assessment was prepared pursuant to requirements of the Department of Energy's "Compliance with Floodplain/Wetlands Environmental Review Requirements" (10 CFR Part 1022). Based on the floodplain/wetlands assessment and consistent with the policy set forth in Executive Order

(E.O.) 11988—Floodplain Management, Western has determined that there is no practicable alternative to locating in the floodplain. Consistent with E.O. 11990—Protection of Wetlands, the proposed action includes all practicable measures to minimize harm to wetlands.

DATES: No action shall be taken prior to January 20, 1984.

FOR FURTHER INFORMATION CONTACT: Copies of the floodplain/wetlands assessment, which includes a location map and further information, is available from the addresses below.

Mr. Gary W. Frey, Director, Division of Environmental Affairs, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, Colorado 80401, (303) 231–1527, FTS 327–1527.

Mr. James G. Hartman, Environmental Specialist, Boulder City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, Nevada 89005, (702) 293–8844, FTS 598–7844.

SUPPLEMENTARY INFORMATION: Western proposes to reconstruct a transmission line access road crossing of the Bill Williams River in Mohave and Yuma Counties, Arizona. The crossing is located within the boundaries of the Lake Havasu National Wildlife Refuge; T. 11N., R. 17W., sec. 28, NE¼, SE¼, SE¼. The culverted, raised crossing of a transmission line access road was washed out by high river flows. Western proposes to replace this crossing to provide for routine operation and maintenance and emergency repair of transmission lines.

The new crossing would be constructed by digging a 3-foot deep, 14-foot wide, 100-foot long trench across the river channel. The trench would be backfilled with riprap and topped with 3 inches of gravel. Minor riprapping of the access road in the vicinity of the crossing would be done to control erosion. All actions would be restricted to the existing access road.

A floodplain/wetlands involvement determination for the proposed action was published in the **Federal Register** on November 10, 1983 (48 FR 51681). No comments were received during the comment period.

The effects of the proposed action on the natural action of the floodplain would be insignificant since waterflow would not be restricted and the natural contour of the riverbed would not be changed after construction has been completed. The river naturally has a high sediment load and construction would not contribute to noticeable deterioration of water quality. The proposed action would not result in any action which would endanger human life or safety nor would any structure be placed in the floodplain which, if destroyed by flooding, would result in any harmful effect on human life or safety.

Effects of the proposed action on wetlands and riparian vegetation would be insignificant. Impacts would be confined to the previously developed crossing area and access road, would include trampling of less than 0.10 acres (0.04 ha) of riparian/wetland vegetation which has invaded the access road, and would not affect sediment loads in the river to the point of significantly affecting vegetation or wildlife downstream from the construction site.

Three alternatives to the proposed action are discussed in the floodplain/wetlands assessment. These are the no action alternative, relocation of the crossing and an alternative access route which would not involve the floodplain.

The no action alternative would result in a potentially hazardous situation in which emergency conditions could not be handled effectively. The floodplain impacts of the proposed action would be so minor that the no action scenario presented relatively greater potential impacts to public safety and convenience.

Relocation of the crossing was not practical because of the greater impacts associated with it and due to the nature of the local topography. A new access road would be required for this alternative. Construction of a new road would require clearing of floodplain and upland vegetation resulting in increased erosion and wildlife habitat destruction in the Lake Havasu National Wildlife Refuge. The topography in the area consists of rugged, rocky terrain and canyons on the floodplain periphery. Access to the floodplain is limited to the present location of the access road.

An alternative access route which would not involve the floodplain would not be practical because extensive areas of vegetation would be cleared in order to construct an access road and the rugged topography restricts reasonable access road site locations.

The proposed action conforms to recommendations made by the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service. The State of Arizona has commented on the project. Their recommendation that a gabion be incorporated into the crossing design has been complied with. The proposed action conforms to applicable state and local floodplain protection standards.

The following steps will be taken in order to minimize potential harm to or within the floodplain/wetlands.

1. In order to comply with requirements of both Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clear Water Act of 1977, all conditions for the nationwide permit as listed in 33 CFR 330.5(a)(14) and (b) and management practices listed in 33 CFR 330.6 would be complied with.

2. Excessive vegetation clearing or trampling would be avoided.

3. Activity within the floodplain would be kept to the minimum required to efficiently reconstruct the crossing.

4. Construction activities and vehicular traffic would be confined to the right-of-way for Western's access road whenever possible.

5. disturbed areas would be restored to their original contours to minimize erosion.

Based on the findings of the floodplain/wetlands assessment and consistent with the policy set forth in E.O. 11988 and E.O. 11990, Western has determined that there is no practicable alternative to reconstruction of the river crossing at the present location and that the proposed action includes all practicable measures to minimize harm to wetlands.

Issued at Golden, Colorado, December 22, 1983.

Robert L. McPhail,

Administrator.

[FR Doc. 84–164 Filed 1–4–84; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–2503–2]

Science Advisory Board, Biological Effects of Radiofrequency Radiation Subcommittee; Open Meeting

Under Public Law 92–463, notice is hereby given of a two-day meeting of the Science Advisory Board's Subcommittee on the Biological Effects of Radiofrequency Radiation. The meeting will be held on January 24 and 25, 1984, in the main auditorium of the U.S. Environmental Protection Agency's Environmental Research Center in Research Triangle Park, North Carolina, located at the intersection of Highway 54 and Alexander Drive. The meeting will begin at 9:00 a.m. and will adjourn at approximately 4:30 p.m. on both days.

The Subcommittee was formed by the Science Advisory Board at the request of EPA's Office of Research and Development and Office of Radiation Programs to review and evaluate the available scientific information on the biological effects of radiofrequency

radiation as it is assessed in EPA's review draft entitled "Biological Effects of Radiofrequency Radiation."

This review draft (available from National Technological Information Service, Springfield, Va. 22161; order #PB83161550 at $43.00 in hard copy or $4.50 in microfiche) is presently being revised as a result of an earlier meeting (September 22 and 23, 1983) of the Subcommittee. It is expected to be in essentially its final draft when presented at this meeting and that this will be the last meeting of the Subcommittee.

The meeting is open to the public. Any member of the public wishing to attend, obtain information or submit comments to the Subcommittee should contact Dr. Terry F. Yosie, Director, Science Advisory Board (202) 382–4126 or Dr. Douglas B. Seba, Executive Secretary, Science Advisory Board (202) 382–2552 by close of business January 20, 1983.

Dated: December 29, 1983.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 84–181 Filed 1–4–84; 8:45 am]

BILLING CODE 6560–50–M

[Docket No. ECAO–HA–79–3; FRL 2502–7]

Draft Health Assessment Document for Methylene Chloride; Availability of Second External Review Draft

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of second external review draft.

SUMMARY: Methylene chloride, one of a number of solvents and associated compounds which are emitted to the ambient air, is currently being studied by the Environmental Protection Agency to determine whether it should be regulated as an air pollutant under the Clean Air Act. One of the factors in the Agency's study of this compound is the evaluation of available information pertaining to human health effects. The evaluation for the compound is contained in a draft health assessment document prepared by the Environmental Criteria and Assessment Office and other components of EPA's Office of Health and Environmental Assessment. As part of the thorough review of the scientific aspects of this document, an earlier external review draft was made available for public review and comment in April 1982 (47 FR 17860) and transmitted to the Agency's Science Advisory Board (SAB) which reviewed that draft in September 1982.

This document has been extensively revised since that time and is being made available again for public review and comment. The title and publication number of this second external review draft is: *Health Assessment Document for Methylene Chloride,* EPA–600/8–82–004B. The second external review draft document on methylene chloride will be available for public review on January 16, 1984 and the Agency will accept public comments until March 16, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Chappell, telephone: 919/541–3637. Those persons interested in commenting on the scientific merit of the second external review draft of the *Health Assessment Document for Methylene Chloride* will be able to obtain a copy as follows:

(1) The document will be available in single copy quantity from EPA at the following address: ORD Publications—CERI–FRN, U.S. Environmental Protection Agency, 26 W. St. Clair, Cincinnati, Ohio 45268. Tel (513) 684–7562.

Requesters should be sure to cite the EPA number assigned to the document. To receive the document, requesters should send their names and addresses to CERI at this time.

(2) The document will also be available for public inspection and copying at the EPA Library at Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Commenters must submit comments in writing, addressed to: Project Officer for Methylene Chloride, Environmental Criteria and Assessment Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Dated: December 29, 1983.

Donald J. Ehreth,

Deputy Assistant Administrator for Research and Development (RD–672).

[FR Doc. 84–187 Filed 1–4–84; 8:45 am]

BILLING CODE 6560–50–M

[AAA–FRL–2502–8]

EPA Master List of Debarred, Suspended or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of Debarred, Suspended, or Voluntarily Excluded Persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter the names of, and other information concerning, those parties debarred, suspended, or voluntarily excluded from participation in EPA assisted programs by EPA action under Part 32. Assistance (grant and cooperative agreement) recipients and contractors under EPA assistance awards may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for general informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive list, updated weekly, is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Regional or Headquarters office for grants administration that normally serves you.

DATE: This short list is current as of December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Frank Dawkins, of the EPA Compliance Staff, Grants Administration Division, at (202) 475-8025.

Dated: December 30, 1983.

Harvey G. Pippen, Jr.,

Director, Grants Administration Division (PM–216).

EPA Master List of Debarred, Suspended, and Voluntarily Excluded Persons

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Anderson, John A. (Kearney, NE)	83-0032-01	D	11-02-83	05-01-84	§ 32.200 (a), (f).
Anderson, Scott (Walnut Creek, CA)	83-0004-01	D	06-17-83	06-16-86	§ 32.200 (a), (b), (e), (f).
Ashland-Warren, Inc. (McMinnville, TN)	82-0401	D	09-22-82	05-06-85	§ 32.200 (a), (e).
Atlas Prestressing Corp. (Panorama City, CA).	83-0050-00	D	08-02-83	08-01-86	§ 32.200(a).
Averill, Ernest Jr. (Fort Myers, FL)	83-0066-06	S	12-02-83	[2]	§ 32.200(b).
Boozer, Wharton, and Zeigler, Inc. (Sumter, SC).	83-0045-00	S	07-15-83	[2]	§ 32.200(a).
Bowe, Walsh and Associates, Inc. (Melville, NY).	83-0040-00	D	04-14-83	04-13-86	§ 32.200 (a), (e).
Bowers Excavating and Fencing, Inc. (Klamath Falls, OR).	83-0058-00	S	06-27-83	[2]	§ 32.200 (b), (e), (i).
Bowers, Joe (Klamath Falls, OR)	83-0058-01	S	06-27-83	[2]	§ 32.200 (b), (e), (i).
Bowers, John (Klamath Falls, OR)	83-0058-02	S	06-27-83	[2]	§ 32.200 (b), (e), (i).
Carpenter, Frank (Monroe, NC)	82-0403	VE	09-23-82	03-01-84	§ 32.200 (a), (b).
Christian, Burl Gene (Denver, CO)	83-0050-02	VE	11-03-83	11-02-84	§ 32.200(a).

EPA Master List of Debarred, Suspended, and Voluntarily Excluded Persons—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Errichetti, Angelo J. (Camden, NJ)	83-0040-04	D	04-14-83	04-13-86	§ 32.200 (a), (b).
Gabey, Martin (Northport, NY)	83-0040-02	D	12-16-83	12-15-86	§ 32.200(a).
Harry Johnson Plumbing Company, Inc. (Walla Walla, WA).	83-0060-00	D	07-22-83	07-21-86	§ 32.200 (b), (c), (e), (i).
Herbert G. Whyte, Associates, Inc.	82-0501	D	10-20-82	10-19-85	§ 32.200 (b), (e).
Hunter, James C. (Gardena, CA)	83-0002-02	D	07-07-83	07-06-86	§ 32.200(a).
Jackson, Manly (San Jose, CA)	83-0048-02	D	06-27-83	06-26-86	§ 32.200(a).
Johnson, Mark (Walla Walla, WA)	83-0060-01	D	07-22-83	07-21-86	§ 32.200 (b), (c), (e), (i).
Keller, John (Timonium, MD)	83-0048-01	D	09-09-83	03-08-85	§ 32.200(a).
L.A. Reynolds Company (Winston Salem, NC).	83-0036-00	D	07-01-83	06-30-86	§ 32.200(a).
Long, Harold Delmar (Los Gatos, CA)	83-0050-01	D	07-07-83	07-06-86	§ 32.200(a).
Municipal & Industrial Pipe Services, Ltd. (Douglasville, GA).	82-0601, 82-0408	S	10-07-82	([2])	§ 32.200 (b), (c), (e), (i).
Newman, Fred M. (Vienna, VA)	83-0072-01	S	09-30-83	([2])	§ 32.300.
Newman, Richard Gordon, (Pierre, SD)	83-0041-00	D	11-29-83	11-28-86	§ 32.200(e).
Post-Tensioning Service Corporation (Saratoga, CA).	83-0001-00	D	07-08-83	07-07-86	§ 32.200(a).
Reynolds, Jon R. (Winston Salem, NC)	83-0036-01	D	07-01-83	06-30-86	§ 32.200(a).
Rhoades, R. Michael (Newton, KS)	83-0035-01	VE	10-21-83	04-20-84	§ 32.200(a).
Richmond, Elwood P. (Grand Forks, ND).	83-0006-01	D	06-06-83	06-05-86	§ 32.200 (a), (f).
Richmond Engineering, Inc. (Grand Forks, ND).	83-0006-00	D	06-06-83	06-05-86	§ 32.200 (a), (f).
Richmond, Lloyde W., Jr. (Grand Forks, ND).	83-0006-02	D	06-06-83	06-05-86	§ 32.200 (a), (f).
Shepherd, Frank A. (Savannah, TN)	83-0046-01	S	07-15-83	([2])	§ 32.200(a).
Stramaglia, Louis Vito (Utica, MI)	83-0066-00	S	12-02-83	([2])	§ 32.300.
Stresstee! Corporation (Wilkes-Barre, PA).	83-0051-00	D	08-02-83	02-01-85	§ 32.200(a).
Suburban Grading & Utilities, Inc. (Norfolk, VA).	83-0022-00	D	03-29-83	03-28-85	§ 32.200(a).
Swanson, David (Los Gatos, CA)	83-0003-02	VE	11-03-83	11-02-84	§ 32.200 (a), (f).
Vanderhurst, William (Saratoga, CA)	83-0001-01	D	07-08-83	07-07-86	§ 32.200(a).
Vito's Trucking & Excavating Co. (Fort Myers, FL).	83-0066-02	S	12-02-83	([2])	§ 32.3200.
Walsh, Charles T. (Huntington Bay, NY)	83-0040-01	D	04-14-83	04-13-86	§ 32.200(a).
Walstad, Merrill (Huntington Beach, CA).	83-0003-03	D	06-27-83	06-26-86	§ 32.200(a).
Watts, Richard (Los Gatos, CA)	83-0003-04	VE	11-03-83	11-02-84	§ 32.200(a).
Whyte, Herbert G. (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200 (b), (e).
Wirt, David (Douglasville, GA)	82-0601, 82-0408	S	10-07-82	([2])	§ 32.200 (b), (c), (e), (i).
Wirt, Gordon D. (Douglasville, GA)	82-0408	S	12-07-82	([2])	§ 32.200 (c), (e).
Wirt, Judith C. (Douglasville, GA)	82-0408	S	12-07-82	([2])	§ 32.200 (c), (e).
Wm. Anderson Co., Inc. (Kearney, NE)	83-0032-00	D	11-02-83	05-01-84	§ 32.200 (a), (f).
Womack, Jerry T. (Norfolk, VA)	83-0022-01	D	03-29-83	03-28-85	§ 32.200(a).
Young, Frederick M. (Fayetteville, TN)	83-0025-01	S	07-19-83	([2])	§ 32.200(a).
Zeigler, Beaty Stevens	83-0045-01	S	07-15-83	([2])	§ 32.200(a).

[1] D=Debarred; S=Suspended; VE=Voluntarily Excluded.
[2] Open.

[FR Doc. 84-182 Filed 1-4-84; 8:45 am]
BILLING CODE 6560-50-M

[Docket Nos. ECAO-83-4 (Beryllium); ECAO-HA-83-3 (Mercury) FRL-2502-6]

Workshop Draft Health Assessment Update Documents for Beryllium and Mercury

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Meetings.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Environmental Criteria and Assessment Office (ECAO) will hold workshops at the Velvet Cloak Inn in Raleigh, NC, for beryllium on February 7–8, 1984, and for mercury on February 9–10, 1984, to facilitate preparation of the *Draft Health Assessment Update Documents for Beryllium* and *Mercury*. The workshops will begin each day at 9:00 a.m. and will end at about 5:00 p.m.

DATES: Pre-registration is required. The deadline for pre-registration is February 3, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Y. Cooper, Northrop Services, Inc., P.O. Box 12313, Research Triangle Park, NC, 27709 [(919) 549-0652]. She is in charge of pre-registration and hotel reservations.

SUPPLEMENTARY INFORMATION: In March 1973, EPA's Office of Air Quality Planning and Standards (OAQPS) published the document *Background Information on the Development of National Emission Standards for Hazardous Air Pollutants: Asbestos, Beryllium, and Mercury* (APTD-1503). On April 6, 1973, EPA promulgated national emission standards for these substances (38 FR 8820).

ECAO's documents on beryllium and mercury, now in preparation, will review and evaluate new health effects information available since 1973 for these two substances. These two documents will, in turn, become part of the decisionmaking process to review and revise as appropriate the current regulations for beryllium and mercury under section 112 of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

As part of this document preparation, a panel of consulting authors and contributors, EPA scientists, and non-EPA scientific experts will discuss the drafts and ways of resolving outstanding scientific issues at these public workshops. Peer-review comments received at the workshop will be taken into account in further revisions of the drafts. Copies of the drafts will be provided to all attendees and observers at the meetings. Observers will have an opportunity to make brief oral statements should they desire.

Dated: December 29, 1983.

Donald J. Ehreth,

Deputy Assistant Administrator for Research and Development.

[FR Doc. 84-184 Filed 1-5-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Maritime Enterprise (1981) Ltd., Mantica Holdings, Inc. and Paquet Cruises, Inc., c/o Paquet Cruises, Inc., 1007 N. America Way, Miami, Florida 33132

Dated: December 29, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 84-159 Filed 1-4-84; 8:45 am]
BILLING CODE 6730-01-M

Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and

Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Maritime Enterprises (1881) Ltd., Mantica Holdings, Inc. and Paquet Cruises, Inc., c/o Paquet Cruises, Inc., 1007 N. America Way, Miami, Florida 33132

Dated: December 29, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 84-160 Filed 1-4-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

CoreStates Financial Corp, et al.; Proposed De Novo Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C.) 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of 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 that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *CoreStates Financial Corp*, Philadelphia, Pennsylvania (mortgage lending activities; Oklahoma): to engage, through its direct subsidiary Colonial Mortgage Service Company Associates, Inc. in the origination of FHA, VA and conventional residential mortgage loans and second mortgage loans. These activities would be conducted from an office in Oklahoma City, Oklahoma, serving the State of Oklahoma. Comments on this application must be received not later than January 30, 1984.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California (data processing activities; United States): to engage through its subsidiary, Decimus Corporation, a California corporation, in providing data processing and transmission services, facilities or data bases by any technologically feasible means for financial, banking or economic data and other activities incidental thereto. These activities will be conducted from a *de novo* office located in: Bellevue, Washington, serving the entire United States. Comments on this application must be received not later than January 30, 1984.

2. *BankAmerica Corporation*, San Francisco, California (underwriting insurance activities; Arkansas and North Dakota): To continue to engage, through its indirect subsidiary, BA Insurance Company, Inc., in the activity of underwriting, as reinsurer, to the extent permitted by relevant state law, credit-related life insurance and credit-related accident and health insurance which is directly related to extensions of credit by BankAmerica Corporation and its nonbank subsidiaries, as permitted pursuant to section 601(A) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from an existing office located in San Francisco, California, serving the States of Arkansas and North Dakota. Comments on this application must be received not later than January 30, 1984.

3. *Wells Fargo & Company*, San Francisco, California (finance, servicing, leasing, and insurance activities; the United States): To engage, through its subsidiary, Wells Fargo Credit Corporation, in making or acquiring loans and other extensions of credit, including or acquiring loans and other extensions of credit, including consumer installment loans originated by others and commerical loans secured by a borrower's or guarantor's assets; servicing loans for the account of others; making full pay-out leases of personal property; and acting as agent for credit life and credit accident and health insurance related to its extensions of credit in accordance with the Board's Regulation Y and Title VI of the Garn-St Germain Depository Insitutions Act of 1982. These activities would be conducted from an existing office in Scottsdale, Arizona, service the entire United States except Washington, D.C., and the states of Colorado, Maryland, Oklahoma, Texas, and Virginia. Comments on this application must be received not later than January 30, 1984.

Board of Governors of the Federal Reserve System, December 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-150 Filed 1-4-84; 8:45 am]

BILLING CODE 6210-01-M

Midwest Bancshares, Inc.; Formation of a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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 Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Midwest Bancshares, Inc.*, Edina, Minnesota; to become a bank holding company by acquiring 91.8 percent of the voting shares of State Bank of Sleepy Eye, Sleepy Eye, Minnesota. Comments on this application must be received not later than January 30, 1984.

Board of Governors of the Federal Reserve System, December 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-149 Filed 1-4-84; 8:45 am]

BILLING CODE 6210-01-M

Unicorp Bancshares, Inc.; Merger of Bank Holding Companies

Unicorp Bancshares, Inc., Houston, Texas, 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 Unicorp Bancshares-Houston, Inc., Houston, Texas (Unitedbank-Metro, Houston, Texas and Unitedbank-Houston, Houston, Texas). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to be received by the Reserve Bank not later than January 23, 1984. 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.

Board of Governors of the Federal Reserve System, December 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-148 Filed 1-4-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Notice of Hearing: Reconsideration of Disapproval of an Illinois State Plan Amendment

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

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on February 14, 1984 in Chicago, Illinois, to reconsider our decision to disapprove Illinois State Plan Amendment 83-12.

Closing Date: Requests to participate in the hearing as a party must be received by January 20, 1984.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207. Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove an Illinois State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this noitce, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Illinois' proposal to have the Department of Children and Family Services make eligibility determinations for children for which that agency has responsibility under the Adoption Assistance and Child Welfare Act of 1980 violates section 1902(a)(5) of the Social Security Act and regulations at 42 CFR 431.10(c). Section 1902(a)(5) of the Social Security Act provides that the State must utilize the State agency which administers the title I, IV-A, or XVI program as the agency to make Medicaid eligibility determinations. Regulations at 42 CFR 431.10(c) provide that for individuals under age 21, the State must utilize either the single State agency for Medicaid or the single State agency for the title IV-A program as the agency responsible for Medicaid eligibility determinations. Illinois has designated an agency other than the title XIX or the title IV-A agency to make Medicaid eligibility determinations for individuals under age 21. Therefore, HCFA has determined that Illinois' proposed plan violated the requirements at section 1902(a)(5) and 42 CFR 431.10(c).

The notice to Illinois announcing an administrative hearing to reconsider our disapproval of its State plan amendment reads as follows:

Gregory L. Coler,

Director, Illinois Department of Public Aid, 316 South Second Street, Springfield, Illinois.

Dear Mr. Coler: This is to advise you that your request for reconsideration of the decision to disapprove Illinois State Plan Amendment 83-12 was received on December 2, 1983. You have requested a reconsideration of whether this plan amendment, which provides that the State's title IV-E Agency, the Illinois Department of Children and Family Services, will make eligibility determinations for children for which that agency has responsibility under the Adoption Assistance and Child Welfare Act of 1980, conforms to the requirements for approval under the Social Security Act and pertinent Federal requirements.

I am scheduling a hearing on your request to be held on February 14, 1984, at 10 a.m., in the 8th Floor Conference Room, 175 West Jackson Boulevard, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Sec. 1116, Social Security Act (42 U.S.C. 1316))

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

Dated: December 29, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 84-270 Filed 1-4-84; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6987-A]

Alaska Native Claims Selection; Yak-Tat Kwaan, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 16 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1615(b) (ANCSA), will be issued to Yak-Tat Kwaan, Incorporated for approximately 289 acres. The lands involved are within the Copper River Meridian, Alaska.

T. 27 S. R. 34 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the SOUTHEAST

ALASKA EMPIRE upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by the decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until February 6, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of apppeal are:

U.S. Forest Service, P.O. Box 1628, Juneau, Alaska 99802

Yak-Tat Kwaan Incorporated, P.O. Box 416, Yakutat, Alaska 99689

Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-179 Filed 1-4-84; 8:45 am]

Billing Code 4310-JA-M

Minerals Management Service

Offshore Polymetallic Sulfide Minerals Lease Offering in the Gorda Ridge Area; Availability of Draft Environmental Impact Statement and Location and Dates of Public Hearings Regarding Proposed Polymetallic Sulfide Minerals Lease Offering in the Gorda Ridge Area

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a draft environmental impact statement (EIS) relating to a proposed lease offering of tracts consisting of 180,000 square kilometers of submerged lands on the Outer Continental Shelf (OCS) in the Gorda Ridge area offshore California and Oregon.

Single copies of the draft EIS can be obtained from the Regional Manager, Pacific Region, Minerals Management Service, 1340 West 6th Street, Los Angeles, California 90017.

Copies of the draft EIS will also be available for review in the following public libraries:

Main Library, 421 "I" Street, Eureka, CA 95501

University of California Library, Santa Barbara Campus, Santa Barbara, CA 93102

Library, San Francisco State University, 1600 Holloway Avenue, San Francisco, CA 94037

San Mateo County Library, 25 Tower Road, Belmont, CA 94002

Library, University of Oregon, Eugene, OR 97403

Canada College Library, 4200 Farm Hill Road, Redwood City, CA 94061

San Mateo County Library, Hillor Way and Palmetto, Pacifica, CA 94044

Engineering Library, FH-15, University of Washington, Seattle, WA 98195

Library, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, CA 94025

Coos Bay Public Library, 525 West Anderson, Coos Bay, OR 97420

Newport Public Library, 125 West Olive, Newport, OR 97365

W. H. Abel Memorial Library, 125 Main, South, Montesano, WA 98563

Oregon State University, Gifts and Exchange, Corvallis, OR 97331

IMC, 301 W. Washington Blvd., Crescent City, CA 95531

Ft. Bragg Library, Attn: Nan Wood, 353 North Main, Ft. Bragg, CA 95437

Oakland Public Library, 125 14th Street, Oakland, CA 94612

Astoria Public Library, 450 10th Street, Astoria, OR 97103

Longview Public Library, 1600 Louisiana, Longview, WA 98632

Portland Central Library, 801 SW 10th, Portland, OR 97205

In accordance with 43 CFR 3314.1, public hearings will be held on February 14, 1984, at the Pony Village Lodge in the Ocean View Room, Virginia Avenue, North Bend, Oregon, and on February 16, 1984, at the Eureka Inn in the Colonade Room, 7th and F Streets, Eureka, California, for the purpose of receiving comments regarding the Gorda Ridge area leasing proposal. The hearings will begin at 9:00 a.m., p.s.t., and an evening session may be held if interest warrants.

The hearings will provide the Secretary of the Interior with additional information from both public and private sectors to help evaluate fully the potential effects of leasing tracts in the Gorda Ridge area. In addition, the proceedings will give the Secretary the opportunity to receive further comments and views of concerned Federal, State, and local agencies.

Interested individuals, representatives of organizations, and public officials who wish to testify at the hearing are requested to contact Dena Winham, Pacific Region, Minerals Management Service, 1340 West 6th Street, Los Angeles, California 90017, telephone (213) 688-2034, by 4:00 p.m., February 6, 1984. Written comments from those unable to attend the hearing also should be addressed to the Regional Manager, Pacific Region, at the above address. The Minerals Management Service will accept written testimony and comments on the draft EIS until February 29, 1984. Time limitation makes it necessary to limit the length of oral presentations to ten minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered as part of the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will allow others who wish to testify to be heard.

After testimony and comments have been received and analyzed, a final EIS Will be prepared.

William D. Bettenburg,

Director, Minerals Management Service.

December 29, 1983.

Approved:

[FR Doc. 84-151 Filed 1-4-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-163 (Preliminary)]

Import Investigations; Certain Cell-Site Radio Apparatus and Subassemblies Thereof From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: December 29, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-163 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of certain cell-site radio apparatus and subassemblies thereof, provided for in items 685.24 or 685.29 of the Tariff Schedules of the United States (1983), which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Schechter (telephone 202-523-0300), U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed in proper form on December 29, 1983, by counsel for E.F. Johnson Co., Waseca, Minn. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by February 13, 1984 (19 CFR 207.17).

Participation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions

Any person may submit to the Commission on or before January 25, 1984, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on January 20, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact Mr. Bill Schechter (202-523-0300) not later than January 16, 1984, to arrange for their appearance. Parties in support of the imposition of antidumpting duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Bill Schechter.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: December 30, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-249 Filed 1-4-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-137]

Heavy-Duty Staple Gun Tackers; Commission Decision Not To Review Initial Determination; Deadline for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination that there is a violation of section 337 in the above-captioned investigation. The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53-210.56 of the Commission's Rules of Practice and Procedure (47 FR 25134 (June 10, 1982) as amended by 48 FR 20225 (May 5, 1983) and 48

FR 21115 (May 11, 1983); to be codified at 19 CFR 210.53–210.56).

SUPPLEMENTARY INFORMATION: On November 28, 1983, the presiding officer issued an initial determination that there is a violation of section 337 in the unauthorized importation and sale of certain heavy-duty staple gun tackers. No petitions for review of the initial determination were filed by any party and no written comments were filed by any Government agency. The initial determination has now become the Commission determination on violation of section 337 in this investigation.

Written Submissions

Inasmuch as the Commission has found that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered.

If the Commission contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting relief would have on the public interest.

If the Commission orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of bond, if any, which should be imposed.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Written submissions on remedy, the public interest, and bonding must be filed not later than the close of business on the day which is twenty-one (21) days from the date this notice appears in the **Federal Register**.

Commission Hearing

The Commission does not plan to hold a public hearing in connection with final disposition of this investigation.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadline stated above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of February 24, 1983 (48 FR 7826).

Copies of the public version of presiding officer's initial determination of November 28, 1983, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

By order of the Commission.

Issued: December 29, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–250 Filed 1–4–84; 8:45 am]

BILLING CODE 7020–02–M

[332–162]

Cancellation of Hearing on Foreign Industrial Targeting

AGENCY: United States International Trade Commission.

ACTION: Cancellation of Hearing.

EFFECTIVE DATE: December 30, 1983.

SUPPLEMENTARY INFORMATION:

Background

The Commission instituted the present investigation on its own motion under section 332(b) of the Tariff Act of 1930 (10 U.S.C. 1332(b)) on April 19, 1983, at the request of the Subcommittee on Trade of the House Committee on Ways and Means. The original notice of investigation, published in the **Federal Register** of May 11, 1983, (48 FR 21210), announced that the investigation would be divided into three phases: the first to consider Japanese industrial targeting, the second to consider the European Community's industrial targeting, and the third to consider industrial targeting of other major U.S. trading partners. The first phase of the study has been completed and a report was published, (USITC Publication 1437), in October 1983. The second phase of the study was initiated on October 18, 1983, and a notice was published in the **Federal Register** of October 26, 1983, (48 FR 49559).

Public Hearing

A public hearing was scheduled to be held in the Commission Hearing Room in Washington, D.C., beginning at 10 a.m. on January 4, 1984. Because there were no witnesses requesting an opportunity to testify, the Commission, on its own motion, has canceled the hearing.

Written Submissions

In lieu of or in addition to appearance at the public hearing, interested persons were invited to submit written statements concerning the investigation, no later than December 16, 1983. Because of the cancellation of the hearing, written submissions concerning the investigation will be received until January 15, 1983.

By order of the Commission.

Issued: December 30, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–251 Filed 1–4–84; 8:45 am]

BILLING CODE 7020–02–M

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of information collection: The proposed information collection is for use by the Commission in connection with investigation No. 332–172, Changes in the U.S. Telecommunications Industry and the Impact of U.S. Telecommunications Trade, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 332(g)).

Summary of proposals: (1) Number of forms submitted: Four

(2) Title of form: Changes in the U.S. Telecommunications Industry and the Impact on U.S. Telecommunications Trade—Questionnaires for U.S. Producers, Purchasers, Prospective Purchasers, and Importers

(3) Type of request: New

(4) Frequency of use: Nonrecurring

(5) Description of respondents: Firms manufacturing, firms purchasing, firms which may purchase, and importers of telecommunications equipment

(6) Estimated number of respondents: 200

(7) Estimated total number of hours to complete the forms: 5,000

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional information or comment: Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202–523–4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Francine Picoult, Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436).

By order of the Commission.

Issued: December 29, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–256 Filed 1–4–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–205 through 207 (Preliminary) and 731–TA–153 and 154 (Preliminary)]

Import Investigations; Certain Carbon Steel Products From Brazil

Determinations

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured[2] by reason of imports from Brazil of the following products which are alleged to be subsidized by the Government of Brazil: certain carbon steel products in coils (investigation No. 701–TA–205 (Preliminary)),[3] hot-rolled carbon steel sheet (investigation No. 701–TA–206 (Preliminary)),[4] and cold-rolled carbon steel sheet (investigation No. 701–TA–207 (Preliminary)).[5]

The Commission also determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured[2] by reason of imports from Brazil of the following products which allegedly are being, or are likely to be, sold in the United States at less than fair value: hot-rolled carbon steel sheet (investigation No. 731–TA–153 (Preliminary)),[4] and cold-rolled carbon steel sheet (investigation No. 731–TA–154 (Preliminary)).[5]

Background

On November 10, 1983, petitions were filed with the Commission and the Department of Commerce by the United States Steel Corp. alleging that imports of certain carbon steel products from Brazil are being subsidized by the Brazilian Government and/or sold in the United States at less than fair value. Accordingly, effective November 10, 1983, the Commission instituted preliminary countervailing duty and antidumping investigations under sections 701(a) and 733(a), respectively, of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigations and of a conference to be held in connection therewith was given by posting copies of the notice of the Office of the Secretary, U.S. Intenational Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of November 22, 1983 (48 FR 52782). The conference was held in Washington, D.C., on December 7, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on these investigations to the Secretary of Commerce on December 27, 1983. A public version of the Commission's report, Certain Carbon Steel Products from Brazil (investigations Nos. 701–TA–205 through 207 (Preliminary) and 731–TA–153 and 154 (Preliminary)), USITC Publication 1470, December 1983) contains the views of the Commission and information developed during the investigations.

By Order of the Commission.

Issued: December 27, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–257 Filed 1–4–84; 8:45 am]

BILLING CODE 7020–02–M

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Stern determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of such merchandise from Brazil.

[3] For purposes of this investigation, carbon steel products in coils are those provided for in item 607.6610 of the Tariff Schedules of the United States Annotated (TSUSA).

[4] For purposes of this investigation, hot-rolled carbon steel sheet are those products provided for in items 607.6710, 607.6720, 607.6730, 607.6740, 607.8320, or 607.8342 of the TSUSA.

[5] For purposes of this investigation, cold-rolled carbon steel sheet are those products provided for in items 607.8320, 607.8350, 607.8355, or 607.8360 of the TSUSA.

[Investigation No. 337–TA–139]

Certain Caulking Guns; Commission Decision Not To Review Initial Determination; Deadline for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination that there is a violation of section 337 in the above-captioned investigation. The parties to the investigation and interested Government agencies are requested to

file written submissions on the issues of remedy, the public interest, and bonding.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53–210.56 of the Commission's Rules of Practice and Procedure (47 FR 25134 (June 10, 1982) as amended by 48 FR 20225 (May 5, 1983) and 48 FR 21115 (May 11, 1983); to be codified at 19 CFR 210–53–210.56).

SUPPLEMENTARY INFORMATION: On November 25, 1983, the presiding officer issued an initial determination that there is a violation of section 337 in the unauthorized importation and sale of certain caulking guns. Pursuant to § 210.54(a) of the Commission's Rules of Practice and Procedure, the Commission investigative attorney filed a petition for review of the ALJ's determination that complainant's patent (U.S. Letters Patent 4,081,112) is not invalid as obvious in light of prior art. Having examined the record in this investigation, including the initial determination of the presiding officer, the petition for review, and the response thereto, the Commission on December 27, 1983, determined not to review the initial determination. Consequently, the initial determination has become the Commission determination on violation of section 337 in this investigation.

Written Submissions

Inasmuch as the Commission has found that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered.

If the Commission contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting relief would have on the public interest.

If the Commission orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond, if any, which should be imposed.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Written submissions on remedy, the public interest, and bonding must be filed not later than the close of business on the day which is twenty-one (21) days after publication of this notice in the **Federal Register**.

Commission Hearing

The Commission does not plan to hold a public hearing in connection with final disposition of this investigation.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadline stated above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of February 24, 1983 (48 FR 7821–22).

Copies of the presiding officer's initial determination of November 25, 1983, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0499.

By order of the Commission.

Issued: December 28, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–254 Filed 1–4–84; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Final Judgment; Arthur Murray Inc., et al.

Notice is hereby given that Arthur Murray International, Inc. ("AMI") and Educational Credit Business, Inc. ("ECB") have asked the United States District Court for the Western District of Missouri to terminate the Final Judgment in *United States v. Arthur Murray, Inc., et al.*, Civil Action No. 12146. The United States has tentatively consented to termination. The Complaint in this case, filed on November 21, 1958, alleged that AMI had required its dance studio licensees to finance dance student loan contracts only through the defendant financial institutions in violation of Section 1 of the Sherman Act. The Judgment, entered the same day the Complaint was filed, among other things: (1) Required AMI (and certain individuals, who agreed to be bound by the terms of the judgment) to divest any interest held in the defendant financial institutions; (2) enjoined AMI and the consenting individuals from continuing, beyond certain stated periods, any outstanding loans to the defendant financial institutions; and (3) cancelled the clauses in the licensees' contracts that restricted their freedom to choose financial institutions, and prohibited AMI from so restricting its licensees in the future. The United States has filed a memorandum with the Court setting forth why it believes termination of the Judgment to be in the public interest. Copies of the Complaint, the Final Judgment, AMI's and ECB's motion papers, the stipulation containing the Government's consent, the United States

memorandum and all further related papers filed with the Court will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone: 202–633–2481), and at the Office of the Clerk of the United States District Court for the Western District of Missouri, Kansas City Division, 445 U.S. Courthouse, 811 Grand Avenue, Kansas City, Missouri 64106. Interested persons may submit comments regarding the proposed Judgment termination to the Department. Such comments must be received within sixty days. They should be addressed to Stanley M. Gorinson, Chief, Special Regulated Industries Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202–724–6693).

Joseph H. Widmar,

Antitrust Division, Director of Operations.

[FR Doc. 84–256 Filed 1–4–84; 8:45 am]

BILLING CODE 4410–01–M

Proposed Termination of Final Judgment; National Ice and Cold Storage Co. of Calif. et al.

Notice is hereby given that The Union Ice Company has asked the United States District Court for the Central District of California to terminate the Final Judgment in *United States v. National Ice and Cold Storage Company of California, et al.*, Civil No. 14229. The United States has tentatively consented to termination. The Final Judgment prohibits the defendant corporations from conspiring to restrain or monopolize the production or distribution of ice or the furnishing of icing services and from, among other things: (1) Dividing or allocating customers, territories, or the production, sale or distribution of ice or icing services; (2) refraining from competition or leaving any ice company free from competition; (3) selling ice to or purchasing ice from another ice company, except in an unanticipated emergency; (4) fixing prices and exchanging information relating to terms of sale; (5) employing any ice distributor which manufactures ice or which also distributes ice for another ice company; and (6) selling ice on the condition that the purchaser refuse to deal with others. Both the complaint and the consent decree were directed at the sale and distribution of block ice used in the preservation, processing and transportation of perishable food. While block ice is still used today, most ice is now sold as party ice for home consumption to large supermarket chains. The ice industry generally, and the markets for both block ice and party ice, are unconcentrated, competitive and entered easily by new firms. Copies of the complaint, Final Judgment, motion papers, all comments submitted and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, Tenth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone: 202–633–2481), and at the Office of the Clerk of the United States District Court for the Central District of California, United States Courthouse, 312 North Spring Street, Los Angeles, California 90012. Interested persons may submit comments regarding the proposed Judgment termination to the Department. They should be addressed to Gary R. Spratling, Assistant Chief, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, P.O. Box 36046, San Francisco, CA 94102 (telephone: 415–556–6300). Such comments must be received within 60 days.

Joseph H. Widmar,

Antitrust Division, Director of Operations.

[FR Doc. 84–259 Filed 1–4–84; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Bomag (U.S.A.); Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 19, 1983–December 23, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separation at the firm.

Affirmative Determination

TA–W–14,772; Bomag (U.S.A.), A Unit of AMCA International, Springfield, OH

A certification was issued covering all workers separated on or after July 1, 1982 and before September 1, 1983.

I hereby certify that the aforementioned determination was issued during the period December 19, 1983–December 23, 1983. Copies of this determination is available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: December 27, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–213 Filed 1–4–84; 8:45 am]

BILLING CODE 4510–30–M

Machine Works, Inc., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (the "Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 16, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 16, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 23rd day of December 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Alten Foundry & Machine Works, Inc. (IAMAW)	Lancaster, OH	12/15/83	12/5/83	TA-W-15,140	Gray and ductile iron castings.
Comdial (workers)	Charlottesville, VA	12/13/83	12/7/83	TA-W-15,141	Telephone systems.
G.H. Bass & Co. (company)	Rumford, ME	12/12/83	12/6/83	TA-W-15,142	Shoes—women.
G.H. Bass & Co. (company)	North Jey, ME	12/12/83	12/6/83	TA-W-15,143	Shoes—women.
G.H. Bass & Co. (company)	Wilton, ME	12/9/83	12/6/83	TA-W-15,144	Shoes—women.
Hercules, Inc. (teamsters)	Hattiesburg, MS	12/9/83	12/6/83	TA-W-15,145	Diversified chemicals and resins.
Melville Footwear Manufacturing (wkrs)	Boone, NC	12/20/83	12/16/83	TA-W-15,146	men's and women's casual shoes.
Nilok Chemicals, Inc. (workers)	Memphis, TN	12/20/83	12/12/83	TA-W-15,147	Cyanuric chloride, hydorcyanic acid and chlorine.
Northeast Shoe Div. of Penbscot Shoe (workers)	Pittsfield, ME	12/19/83	12/6/83	TA-W-15,148	Men's and women's shoes.
Selvin Shoe Co. (company)	Baltimore, MD	12/20/83	12/10/83	TA-W-15,149	Childrens, infants, and teens leather shoes and boots.
The Torrington Co. (UAW)	So. Bend, IN	12/19/83	12/13/83	TA-W-15,150	Anti friction bearings.
U.S. Steel Corp., Gary Works (USWA)	Gary, IN	12/8/83	12/2/83	TA-W-15,151	Sheet and tin, finishing mill.

[FR Doc. 84-215 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,071]

Milwaukee Solvay Coke Company, Milwaukee, Wisconsin; Termination of Investigation

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued [TA-W-15,016]. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 27th day of December 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-214 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-25-M]

American Gilsonite Co.; Petition for Modification of Application of Mandatory Safety Standard

American Gilsonite Company, 1150 Kennecott Building, Salt Lake City, Utah 84133 has filed a petition to modify the application of 30 CFR 57.19-56 (automatic hoisting) to its #I-9 Gilsonite Mine, Bonanza Mining Operations (I.D. No. 42-01783) located in Uintah County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that when automatic hoisting is used, a competent operator of the hoist shall be readily available at or near the hoisting device while any person is underground.

2. Petitioner operates seven gilsonite mines in the Bonanza area. There is a permanent camp with several staff and operating personnel in residence, as well as processing facilities on location.

3. The hoist has been equipped with extra safety devices in addition to those incorporated in its design, and operates under limited and controlled conditions. Extra communications equipment for the underground miners has been provided to arrange for prompt assistance from underground personnel in the event of a hoist malfunction or emergency. The hoist is examined daily and a thorough mechanical and electrical inspection is performed once a month.

4. As an alternate method of compliance, petitioner proposes that in the event of an emergency of hoist failure, the miners can exit the conveyance at any point in the shaft and either call for assistance or climb the manway to the surface. The phone system at the mine is an extension of the company's direct dial system which permits calls to any extension on the property to obtain assistance. The miners can also be contacted at their underground work area through this telephone system. In addition, petitioner will install other devices to amplify the signals from underground personnel (audibly or visually, or both) so that any request for assistance can be seen and/or heard over a large area, enabling a person to reach the surface controls of the hoist from his or her location in a matter of minutes. Specifically trained personnel will be available to operate the hoist in an emergency.

5. Petitioner states that the proposed alternate method of compliance will provide the same measure of protection for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-193 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-144-C]

Angus Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Angus Mining Co., Inc., Box 266, Caretta, WV 24821 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Angus Mine (I.D. No. 46-01659] located in McDowell County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal height varies from 43 to 50 inches.

3. Petitioner states that the use of canopies on the mine's shuttle cars would result in a diminution of safety for the miners affected because the canopies can strike the roof, roof support devices, and overhanging cables, increasing the chances of an accident or injury.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-202 Filed 1-4-83 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-130-C]

Barnes & Tucker Co.; Petition for Modification of Application of Mandatory Safety Standard

Barnes & Tucker Company, 1912 Chestnut Avenue, Barnesboro, Pennsylvania 15714 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Lancashire No. 20 Mine (I.D. No. 36-00836) located in Cambria County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. The petition concerns all main return entries located between the Portal shaft and the K-7 shaft. These return entries were primarily developed prior to 1970. These entries have deteriorated due to numerous roof falls, rendering these areas inaccessible. No active section return air passes through these entries.

3. Petitioner states that rehabilitation of these entries would expose miners to extremely hazardous conditions.

4. As an alternate method, petitioner proposes to evaluate and control the air entering the affected area by regulators at the inlet monitoring stations. Air exiting the affected areas will be evaluated and controlled at the outlet monitoring stations. Examination of the monitoring stations will be weekly.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-203 Filed 1-4-84: 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-133-C]

Blue Pond Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Blue Pond Mining Co., Inc., 109 Broadbottom Road, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-14222) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal height varies from 45 to 48 inches, with consistent ascending and descending grades creating dips in the coalbed. Roof support lowers the travel height to 43 inches at the present time.

3. Petitioner states that the canopies restrict the equipment operator's visibility and cramp the operator's seating position, increasing the chances of an accident. The canopy can also become jammed against the roof, dislodging roof supports.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-207 Filed 1-4-84: 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-135-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the appliction of 30 CFR 75.326 (aircourses and belt haulage entries) to its Buchanan No. 1 Mine (I.D. No. 44-04856) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the belt haulage entries not be used to ventilate active working places.

2. Petitioner is now mining in virgin coal and developing this area for future longwall retreat mining; a minimum number of airways or entries will be developed.

3. As an alternate method, petitioner proposes to use the air conducted through the belt haulage entries at the working places to maximize the effectiveness of the entries. In addition, petitioner will install an early warning fire and telemetry system. Carbon monoxide monitors will be used in each belt flight to monitor the air with specific safeguards. A heat-actuated automatic sprinkler system will also be installed.

4. Petitioner states that the proposed alternate method will provide the same

degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-194 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-136-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installations; minimum requirements) to its Buchanan No. 1 Mine (I.D. No. 44-04856) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. Petitioner is now mining in virgin coal and developing this area for future longwall retreat mining; a minimum number of airways or entries will be developed.

3. As an alternate method, petitioner proposes to use the air conducted through the belt haulage entries at the working places to maximize the effectiveness of the entries. In addition, petitioner will install an early fire and telemetry system. Carbon monoxide monitors will be used in each belt flight to monitor the air with specific safeguards. A heat-actuated automatic sprinkler system will also be installed.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Adminstration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petitoin are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-200 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-124-C]

Eastern Mingo Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Mingo Coal Company, P.O. Box 119, Naugatuck, WV 25685 has filed a petition to modify the application of 30 CFR 75.326 (air-courses and belt haulage entries) to its No. 1 Mine (I.D. No. 46-05978) located in Mingo County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that belt air not be used to ventilate active working places.

2. Petitioner uses the split-tail system of face ventilation with seven entries. Entries one and seven are returns with each split of air being pulled by a separate fan. Entries two, three, five and six are intakes. The belt is in the number four entry, with the neutral air headed toward the working sections from the portals. This belt air is diverted into the return through a ventilation tube usually located within 1,500 feet of the working section.

3. As an alternate method, petitioner proposes to use the air from the belt entry to ventilate the working face. In support of this request, petitioner proposes to install an automatic fire detection system based on carbon monoxide (CO) monitoring on the underground belt conveyors as follows:

a. Sensors will be installed which will give early warning automatically when a fire occurs in the belt entry, and provide both audible and visual signals that permit rapid location of the fire;

b. The detection system will be calibrated to activate the warning signals should CO concentration reach 10 parts per million (p.p.m.) above ambient;

c. Petitioner proposes to locate a sensor at every belt drive, at the section loading point, and at intervals not to exceed 2,000 feet along the belt. The locations will be submitted for approval in the mine's ventilation system and methane and dust control plan;

d. Upon activation, the detection system will provide an effective warning signal at a manned location on the surface where personnel have an assigned post of duty and have telephone or equivalent communication with all persons who may be endangered. The detector located at or near the section loading point will activate when CO is detected and give a warning signal that may be heard on the working section. All persons, except those required to investigate and take appropriate action in the event of a fire, will be immediately withdrawn from the area affected to a safe area;

e. Should the automatic fire detection system be affected by a power interruption or other malfunction, petitioner proposes that the belt conveyors be allowed to continue to operate only if a qualified person begins immediate and continuous monitoring for CO at each section loading point inby the malfunctioning sensor;

f. Each CO monitor and sensor will be visually examined at least once each day during production periods to ensure proper functioning. The monitors will be calibrated with a known concentration of CO at least every 30 days and calibrated as necessary. A record will be kept of these tests and made available.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-209 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-33-M]

Dravo-Soda Springs; Petition for Modification of Application of Mandatory Safety Standard

Dravo-Soda Springs, Box 975, Soda Springs, Idaho 83276 has filed a petition to modify the application of 30 CFR 55.9-22 (berms or guards) to its Henry Phosphate Mine (I.D. No. 10-00091) located in Caribou County, Idaho. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be provided on the outer bank of elevated roadways.

2. There are seventeen miles of paved haul road which are at least 32 feet wide with 34 feet width on all curves. The roadway is posted at all entrances "closed to all private traffic" and through radio contact, any traffic entering the roadway immediately alerts all drivers of that traffic. Maximum grade point on the road does not exceed 3 percent. At the edge of the paved roadway is designed a 5 foot wide gravel shoulder on a 3 to 1 slope.

3. The hauling units are equipped with 2-way radios and have mandatory reporting points all along the roadway. Inclement weather restrictions are observed. Heavy rain on the roadway will cause the haul to be shut down because of traction concerns. In addition, any light snowfall automatically closes the haul down. Average speed on the haul road never exceeds 30 miles per hour. The haul season is from May to October; no operations are on the haul road during winter months or during very inclement weather.

4. Petitioner states that the installation of berms on the outer bank of the roadways would place a wheel-catching obstruction at the roadway edge, reducing the driver's chance to pull back on the roadway. When a wheel is pulled into the berm, the vehicles will have a tendency to jack-knife, forcing the trailing units on top of the truck unit. In addition, the berms cause any rain on the roadway to stay in the roadway, creating a traction hazard for breaking and steering. The berms will also render the ditches useless. Material sluff from the berms will be scattered on the roadway, making additional driving hazards.

5. Petitioner states that berms will add a substantial hazard to the roadway haul trucks and will expose the truck operations to unsafe conditions.

6. For these reasons, petitioner requests a modification of the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-210 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-28-M]

Elk Creek Gold Mines Co.; Petition for Modification of Application of Mandatory Safety Standard

Elk Creek Gold Mines Company, 851 Kendall Street, Lakewood, Colorado 80214 has filed a petition to modify the application of 30 CFR 57.6-1 (explosives storage) to its Mackey Mine (I.D. No. 05-03890) located in Gilpin County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that detonators and explosives other than blasting agents be stored in magazines.

2. Petitioner states that limited space on the surface of the mine does not allow for separation of magazines. Petitioner intends to provide an underground magazine as soon as the tunnel is completed.

3. As an alternate method, petitioner proposes to store the detonators in a steel-clad building which was once a refrigerated trailer van located 50 feet from the regulation magazine. A special wooden box with padlock and hasp is located on the floor of the van, which is also padlocked.

4. For these reasons, petitioner requests a modificaition of the standards.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-198 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-121-C]

Emerald Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Emerald Mines Corporation, c/o Amoco Minerals Company, 7000 South Yosemite Street, P.O. Box 3299, Englewood, Colorado 80155 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Emerald Mine No. 1 (I.D. No. 36-05466) located in Greene County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. The large majority of oil and gas wells passing through the Pittsburgh coal seam were drilled, and many were also abandoned, between 1900 and 1950. The boreholes of the wells penetrate and pass through the coal seam.

3. As an alternate method to establishing and maintaining barriers around the oil and gas wells, petitioner proposes the following method for plugging an oil or gas well:

a. A diligent effort will be made to clean out the wellbore to at least 200 feet below the lowest workable coalbed. In the case of an active gas or oil well, an attempt will be made to clean to the total depth of the hole. If old casing is found in the old wellbore in the area of plugging, an attempt will be made to remove such casing. If after reasonable effort to remove such casing is unsuccessful, this casing will be

extensively perforated to allow for plugging;

b. A bridge plug, brush plug, or suitable substitute as determined by the District Manager, will be set a minimum 200 feet below the lowest workable coalbed;

c. The wellbore will be filled with fluid from a point approximately 200 feet below the lowest workable coalbed to the surface so that an overbalanced condition will exist in the wellbore;

d. An expanding cement plug will be set in the wellbore through tubing from the top of the plug, to a point at least 100 feet above the plug. After the cement has had adequate time to harden, the plug will be tagged to verify its location and condition.

e. A 4 and ½ inch outside diameter vent pipe (or larger) will be run into the wellbore to a depth of approximately 100 feet below the lowest workable coalbed. This coal protection string of casing will be cemented by circulation with expanding cement from the bottom of the casing to the surface using standard cementing practices;

f. A directional survey and geophysical logs may be run to determine the location of the Pittsburgh coal seam and the location of the well bore in that coal seam;

g. In order to determine the effectiveness of the sealing project, all fluid will be evacuated from the wellbore. A vent will be installed on top of the casing to prevent liquids and solids from entering the well but will permit ready access to the full internal diameter of the coal protection string when required;

h. At such time when a gas or oil well is found at a location, the well may be used to vent gob gas to the surface. If the well is planned to be used as a gob ventilation borehole, 150 to 200 feet of casing above the Pittsburgh coal seam will be perforated beginning approximately 30 feet above the seam. This perforated casing segment will not be cemented into place in the wellbore. The entire remaining portion of this vent pipe, both above and below the perforated casing, will be cemented in the wellbore;

i. If the vent pipe cannot be installed as outlined in paragraph (e) above, petitioner will plug the wellbore solid from a depth of not less than 200 feet below the lowest workable coalbed to the surface. When plugging in this manner, expanding cement plugs will be installed in the area of each workable coalbed.

4. Petitioner proposes the following procedures to be followed when mining through a plugged oil or gas well:

a. Mining through a plugged well will be done on a shift determined by the District or Subdistrict Manager after a joint meeting between the operator, representative of the miners, the State Department of Mines and MSHA. A mining plan for each well intersection will be submitted to the District Manager for approval;

b. MSHA will be notified prior to mining within 300 feet of a well;

c. The mining through operation will be under the direct supervision of a certified official. Orders concerning the mining through operation will be issued by the certified official in charge;

d. When using a continuous miner, a drivage sight will be installed at the last breakthough to ensure intersection of the well and again if necessary to ensure that the last sight is not further than 50 feet from the well;

e. The methane monitor on the continuous mining machine will be calibrated on the shift prior to the mining through;

f. Tests for methane will be made with a hand-held methane detector at least every 10 minutes from the time that mining is within 10 feet of a well until the well is intersected;

g. When the wellbore has been intersected, all equipment will be deenergized and the place thoroughly examined and determined safe before mining is resumed;

h. After a well has been intersected and the working place determined safe, mining shall continue in by the well a sufficient distance to permit adequate ventilation around the area of the wellbore; and

i. MSHA personnel may interrupt or halt the mining through operation when it is necessary to ensure the safety of the miners.

5. Petitioner states that the proposed alternate method will provide the same measure of protection to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-204 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-30-M]

International Minerals & Chemical Corp.; Petition for Modification of Application of Mandatory Safety Standard

International Minerals & Chemical Corporation, IMC Fertilizer Group, P.O. Box 71, Carlsbad, New Mexico 88220 has filed a petition to modify the application of 30 CFR 57.4-61A (ventilation doors) to its Carlsbad Mine (I.D. No. 29-00802) located in Eddy County, New Mexico. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that ventilation doors be installed at or near shaft stations of intake shafts and at any shaft designated as an escapeway in order to prevent the spread of smoke or gas in the event of a fire.

2. The mine is a very large potash mine about 900 feet deep and excavated entirely in salt with some clay beds present. The mine is non-gassy and exposed rock is non-combustible.

3. Petitioner seeks a modification of the standard for the mine's new number 5 shaft, which is to be an 18-foot diameter personnel and materials and ventilation intake shaft. It is concrete lined the entire length, except for the stations and sump, which are in salt. This shaft will have all steel dividers and furnishings with wood guides. The surface buildings are constructed of non-combustible materials, with only some interior partitions of the changehouse constructed of wood. This shaft will have stations open to mine workings on the 700 and 850 foot levels.

4. The mine is divided into two independent ventilation systems. Only shaft numbers 3, 4 and 5 will connect with the number 5 shaft's ventilation system.

5. Petitioner states that the ventilation doors would be used only to prevent the introduction of smoke and toxic gases into the mine ventilation system. The doors would be closed only in the event of a fire located in the number 5 shaft or located upstream from the first working area. The doors would serve only to stop the flow of air, keeping the smoke from entering the working areas, but would

also trap the smoke and gases in the mine, hindering any firefighting activities.

6. As an alternate method, petitioner proposes to install a reversible fan on the surface at the number 3 shaft. Emergency switches would be installed at five specified locations. These switches would reverse the fan creating, within ten minutes, a positive flow of air up the number 5 shaft. Warning alarms and lights would notify personnel at both number 5 shaft stations and at the number 5 main shop that the fan has been reversed. Personnel would then escape to fresh air through a door less than 600 feet away. Reversing the fans provides a means of exhausting any smoke that has already been introduced into the mine and any smoke being produced in the mine directly to the surface. Upon fan reversal, the computer would instruct the dispatcher to notify the mine manager, mine production superintendent and safety manager. The dispatcher's station and the number 3 shaft surface fan location are the only locations where the fan can be switched back for normal air flow.

7. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-195 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-35-M]

International Minerals & Chemical Corp.; Petition for Modification of Application of Mandatory Safety Standard

International Minerals & Chemical Corporation, IMC Fertilizer Group, P.O. Box 71, Carlsbad, New Mexico 88220 has filed a petition to modify the application of 30 CFR 57.4-61(B) (fire doors) to its Carlsbad Mine (I.D. No. 29-00802) located in Eddy County, New Mexico. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire doors be constructed in each opening of an underground shop to prevent the spread of toxic gases from a fire originating there.

2. The mine is a very large potash mine about 900 feet deep and excavated entirely in salt with some clay beds present. The mine is non-gassy and exposed rock is non-combustible.

3. The "back" in the number 5 shop is 12 to 20 feet high, excavated entirely in salt and clay beds on the 850 foot level. Work areas in the shop will have concrete floors and adequate fire extinguishers will be provided in the working and storage areas of the shop. A portion of the air brought down the number 5 shaft will be directed through the number 5 main shop, then recombined with the intake air to the remaining areas. The air is then routed to the number 3 shaft and exhausted to the surface.

4. Petitioner states that the standard requires the fire doors to be closed in the event of a fire in the main shop. Although the amount of smoke introduced to the mine would be greatly reduced, some smoke would still be released due to the expanding gases released during combustion. Were the doors closed, petitioner states that the shop atmosphere would quickly become hazardous, severely hampering firefighting activities.

5. As an alternate method, petitioner proposes to install a reversible fan on the surface at the number 3 shaft. An emergency switch would be installed in the number 5 main shop. This switch would reverse the fan creating, within ten minutes. A positive flow of air up the number 5 shaft. Warning alarms and lights would notify personnel at both number 5 shaft stations and at the number 5 main shop that the fan has been reversed. Personnel would then escape to fresh air through a door less than 600 feet away. Reversing the fans provides a means of exhausting any smoke that has already been introduced into the mine and any smoke being produced in the mine directly to the surface.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-201 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-26-M]

Lane Mt. Silica Co.; Petition for Modification of Application of Mandatory Safety Standard

Lane Mt. Silica Co., P.O. Box 236, Valley, Washington 99181 has filed a petition to modify the application of 30 CFR 55.9-22 (berms or guards) to its Lane Mt. Silica Mine (I.D. No. 45-00983) located in Stevens County, Washington. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be provided on the outer bank of elevated roadways.

2. Petitioner states that the roads are built on land controlled by the Department of Natural Resources, Bureau of Land Management, and Boise Cascade, Inc. The roads are two-way and well maintained at all times.

3. Petitioner states that installing berms on these roads would narrow the roads to a point that becomes unsafe. Berms would also restrict snow removal and water drainage after rain.

4. As an alternate method, petitioner proposes to use a traffic control system to ensure that all loaded trucks and downhill traffic would travel the inboard side of the roadway, regardless of whether it be on the left or right side of the roadway. The road is well marked with signs at all corners and switchbacks advising of this unique travel flow.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and

Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey, *Director,*

Office of Standards, Regulations and Variances.

[FR Doc. 84-197 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-108-C]

Little Egypt Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Little Egypt Coal Co., Inc., P.O. Box 187, Raven, Virginia 24639 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 2 (I.D. No. 44-05541) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of canopies on the mine's electric face equipment will result in a diminution of safety for the miners affected because the canopy causes a cramped operator compartment, forcing the operator to lean out from under the canopy, exposing body parts to potential injury. The canopies strike the roofbolts and cables, increasing the chances of a roof fall and/or electrical shock.

3. For these reasons, petitioner requests a modification of the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-208 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-142-C]

Maple Leaf Mining; Petition for Modification of Application of Mandatory Safety Standard

Maple Leaf Mining, R.D. No. 1, Box 182B, Lykens, Pennsylvania 17048 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Little Vein Slope (I.D. No. 36-02000) located in Dauphin County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The mine is wet and virtually dust free. The upper area of the mine was deep and strip mined, leaving ventilation to the surface by means of abandoned slopes, cracks, fissures and strip pits. This creates a natural draft that would sweep noxious fumes to the surface away from the miners.

3. Petitioner states that the mine geology, undulation, thin coal and varying pitches make it impossible to wear the device while working. Sections of the mine are subject to freezing temperatures, making constant availability of the devices questionable. In addition, the wet conditions of the mine make it difficult to locate a suitable dry storage location for the self-rescuers.

4. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescuers.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-196 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-143-C]

Masteller Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Masteller Coal Company P.O. Box 370, Keyser, West Virginia 26726 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its J.T. No. 2 Mine (I.D. No. 46-05948) located in Mineral County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges from 0 to 60 inches, with an average of 54 inches. Inconsistent mining heights have been encountered where seam heights are much lower.

3. Petitioner states that the use of canopies on the mine's shuttle cars would obstruct the vision of the equipment operator, increasing the chances of an accident. The canopies could also strike the roof and rib, damaging the steering controls, the lighting system and the roof support system.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-211 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-125-C]

Southern Mingo Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Mingo Coal Company, P.O. Box 119, Naugatuck, WV 25685 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its No. 1 Mine (I.D. No. 46-06278) located in Mingo County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that belt air not be used to ventilate active working places.

2. Petitioner uses the split-tail system of face ventilation with seven entries. Entries one and seven are returns with each split of air being pulled by a separate fan. Entries two, three, five and six are intakes. The belt is in the number four entry, with the neutral air headed toward the working sections from the portals. This belt air is diverted into the return through a ventilation tube usually located within 1,500 feet of the working section.

3. As an alternate method, petitioner proposes to use the air from the belt entry to ventilate the working face. In support of this request, petitioner proposes to install an automatic fire detection system based on carbon monoxide (CO) monitoring on the underground belt conveyors as follows:

a. Sensors will be installed which will give early warning automatically when a fire occurs in the belt entry, and provide both audible and visual signals that permit rapid location of the fire;

b. The detection system will be calibrated to activate the warning signals should the CO concentration reach 10 parts per million (p.p.m.) above ambient;

c. Petitioner proposes to locate a sensor at every belt drive, at the section loading point, and at intervals not to exceed 2,000 feet along the belt. The locations will be submitted for approval in the mine's ventilation system and methane and dust control plan;

d. Upon activation, the detection system will provide an effective warning signal at a manned location on the surface where personnel have an assigned post of duty and have telephone or equivalent communication with all persons who may be endangered. It will also provide identification of any activated sensor.

The detector located at or near the section loading point will activate when CO is detected and give a warning signal that may be heard on the working section. All persons, except those required to investigate and take appropriate action in the event of a fire, will be immediately withdrawn from the area affected to a safe area;

e. Should the automatic fire detection system be affected by a power interruption or other malfunction, petitioner proposes that the belt conveyors be allowed to continue to operate only if a qualified person begins immediate and continuous monitoring for CO at each section loading point inby the malfunctioning sensor;

f. Each CO monitor and sensor will be visually examined at least once each day during production periods to ensure proper functioning. The monitors will be calibrated with a known concentration of CO at least every 30 days and calibrated as necessary. A record will be kept of these tests and made available.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-199 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-123-C]

Triple Jr. Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Triple Jr. Coal Co., Inc., Rt. 1, Box 219, Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-12096) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Lower Peach Orchard seam ranging from 34 to 54 inches in height with ascending and descending elevations, roof irregularities and rolls.

3. Petitioner states that the installation of a canopy on the mine's roof bolter would cause a cramped deck for the equipment operator and restrict the operator's visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-206 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-140-C]

Turris Coal; Petition for Modification of Application of Mandatory Safety Standard

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634 has filed a petition to modify the application of 30 CFR 77.216-3(a) (water, sediment, or slurry impoundments and impounding structures; inspection requirements) to its Elkhart Mine (I.D. No. 11-02664) located in Logan County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all water, sediment, or slurry impoundments which meet the requirements of § 77.216(a) be examined by a qualified person at intervals not exceeding seven days for appearance of structural weakness and other hazardous conditions, and that all instruments be monitored by a qualified

person at intervals not exceeding seven days.

2. The Slurry Pond is being constructed in stages to allow for gradual settlement of underclays. Tests performed indicate that consolidation of the underlying soil and dissipation of pore pressures will generally occur during the construction period such that undrained soil strength should increase sufficiently to maintain the stability. The Freshwater Pond, unlike the Slurry Pond, will not be changed in terms of elevation or size. It is presently sized to its intended capacity, has good vegetative cover established on the inside and outside dikes, and has an established reedgrass cover above and below the water line. This pond has been riprapped above and below the water line with three rows of tires tied and staked along the entire length of the inside dike.

3. As an alternate method, petitioner proposes to inspect the Slurry Pond and the Freshwater Pond on a monthly basis, and to monitor the instruments for the Slurry Pond on a quarterly basis, as follows:

a. Instrument readings will be taken every seven days during the first month of operation of any new stage of the Slurry Pond. If, after one month, the readings do not fluctuate to a great extend, readings from the new piezometers will be taken on a quarterly basis along with readings taken from instruments located in previously-constructed stages;

b. Both the Slurry Pond and the Freshwater Pond will be visually inspected on a monthly basis during normal weather conditions. After a major rain the ponds will be inspected, regardless of when the last inspection was performed.

4. Petitioner states that inspections performed monthly would suffice to monitor any changes in the stability of the embankment. Petitioner believes that a more thorough inspection will be conducted monthly because inspectors will be more likely to note major changes. Petitioner further believes that the monthly and quarterly inspections will supply the necessary information to ensure the stability of these impoundments.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-212 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-126-C]

Western Mingo Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Western Mingo Coal Company, P.O. Box 119, Naugatuck, WV 25685 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entires) to its No. 1 Mine (I.D. No. 46-05055) located in Mingo County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that belt air not be used to ventilate active working places.

2. Petitioner uses the split-tail system of face ventilation with seven entries. Entries one and seven are returns with each split of air being pulled by a separate fan. Entries two, three, five and six are intakes. The belt is in the number four entry, with the neutral air headed toward the working sections from the portals. This belt air is diverted into the return through a ventilation tube usually located within 1,500 feet of the working section.

3. As an alternate method, petitioner proposes to use the air from the belt entry to ventilate the working face. In support of this request, petitioner proposes to install and automatic fire detection system based on carbon monoxide (CO) monitoring on the underground conveyors as follows:

a. Sensors will be installed which will give early warning automatically when a fire occurs in the belt entry, and provide both audible and visual signals that permit rapid location of the fire;

b. The detection system will be calibrated to activate the warning signals should the CO concentration reach 10 parts per million (p.p.m.) above ambient;

c. Petitioner proposes to locate a sensor at every belt drive, at the section loading point, and at intervals not to exceed 2,000 feet along the belt. The locations will be submitted for approval in the mine's ventilation system and methane and dust control plan;

d. Upon activation, the detection system will provide an effective warning signal at a manned location on the surface where personnel have an assigned post of duty and have telephone or equivalent communication with all persons who may be endangered. It will also provide identification of an activated sensor. The detector located at or near the section loading point will activate when CO is detected and give a warning signal that may be heard on the working section. All persons, except those required to investigate and take appropriate action in the event of a fire, will be immediately withdrawn from the area affected to a safe area;

e. Should the automatic fire system be affected by a power interruption or other malfunction, petitioner proposes that the belt conveyors be allowed to continue to operate only if a qualified person begins immediate and continuous monitoring for CO at each section loading point inby the malfunctioning sensor;

f. Each CO monitor and sensor will be visually examined at least once each day during production periods to ensure proper functioning. The monitors will be calibrated with a known concentration of CO at least every 30 days and calibrated as necessary. A record will be kept of these tests and made available.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-192 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-138-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawers A & B, Big Stone Gap, Virginia 2419-0916 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Prescott No. 2 Mine (I.D. No. 44-01689) located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 177.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries, and that intake air coursed through belt haulage entries not be used to ventilate active workings.

2. As an alternate method, petitioner proposes to use the intake air which is coursed through the belt haulage and/or track entries to ventilate active working places. In support of this request, petitioner proposes to:

a. Install an MSHA-approved carbon monoxide (CO) fire detection system. This will include CO monitoring devices installed in all belt haulage entries used as intake aircourses. The monitoring system will be capable of giving an automatic warning (visual or audible) at a manned station when the CO level reashes 56 ppm above the ambient level for the mine. It will also be capable of giving an automatic fire alarm signal when the CO level reaches 10 ppm above the warning level described above. The fire alarm signal will trigger mine evacuation procedures;

b. Locate the monitors at or near each belt drive and tailpiece, and at intervals not to exceed 3,000 feet on those belts where these monitors will replace the existing point sensor system;

c. Locate the monitors at or near each belt drve and tailpiece on those belts where the proposed detection system will not replace the existing point sensor system;

d. Ensure that the detection system is capable of identifying any activated sensor(s), whether warning or alarm. A mine map can then be used to further identify the activated monitor(s) and belt flight location(s);

e. Train at least one person at each manned location in the operation procedures of the detection system and mine emergency procedures;

f. Allow the belt, in the event that the monitoring system or any portion of it is deenergized, to continue to operate in the area affected by such deenergization only when it is continuously patrolled and physically monitored by a qualified person with CO detecting tubes or equivalent methods;

g. Visually examine the monitors daily when belts are operating. Monitors and sensors will be inspected by a qualified person at least weekly and calibrated at least monthly; and

h. Include technical specifications and details of the detection system as part of the mine's ventilation system and methane and dust control plan.

3. Petitioner states that the proposed alternate method would increase the differential pressure between its intake and return entries which would provide for more effective ventilation of the entire mine. This includes an increased capability of the ventilation system to dilute, render harmless and carry away methane gas, coal dust and other potentially dangerous or harmful gases and/or contaminants, and it will provide better ventilation of the active workings of the mine.

4. Petitioner further states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-205 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: 10 CFR Part 75 Safeguards on Nuclear Material—Implementation of US/IAEA Agreement.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Installation information is submitted upon written notification from the Commission. Changes are submitted as occurring. Nuclear material accounting and control information is submitted in accordance with specified instructions.

5. Who will be required or asked to report: All persons licensed by the Commission or Agreement States to possess source or special nuclear material at an installation specified on the U.S. eligible list as determined by the Secretary of State or his designee and filed with the Commission, as well as holders of construction permits and persons who intend to receive source material.

6. An estimate of the number of responses: 10.

7. An estimate of the total number of hours needed to complete the requirement or request: 4,756.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: 10 CFR Part 75 establishes a system of nuclear material accounting and control to implement the Agreement between the United States and the International Atomic Energy Agency.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 29th day of December 1983.

For the Nuclear Regulatory Commission.

M. L. Springer,

Deputy Director, Office of Administration.

[FR Doc. 84-240 Filed 1-4-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-454A]

Commonwealth Edison Co.; Finding of No Significant Antitrust Changes and Time for Filing of Requests for Reevaluation

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review of Byron Station, Unit 1, by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license, if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination with respect to nuclear reactors to the Director, Office of Nuclear Reactor Regulation.

Based upon examination of events since issuance of the Byron Station Unit 1 construction permit to the Commonwealth Edison Company, the staffs of the Office of Nuclear Reactor Regulation and the Office of the Executive Legal Director, hereafter referred to as the "staff", have jointly concluded, after consulting with the Department of Justice, that the changes that have occurred since the antitrust construction permit review are not of the nature to require a second formal antitrust review at the operating license stage of the license application. Staff has concluded that those changes which have occurred either are not reasonably attributable to the licensee or do not have antitrust implications that would likely warrant some Commission remedy. In reaching this conclusion, the staff considered the events relevant to the Byron Station and Carroll County Station construction permit antitrust reviews, the events relevant to the LaSalle 1 and 2 operating license antitrust analysis, and other events that have occurred subsequent to those reviews and that analysis.

The Conclusion of the staff's analysis is as follows:

Commonwealth Edison Company has applied for an operating license for the Byron 1 nuclear unit. Pursuant to the Commission's "significant change" criteria, the staff has conducted an antitrust analysis of the applicant's activities and proposed activities since the Byron construction permit antitrust review was completed in April, 1974. In performing this analysis, staff has examined the applicant's compliance with license conditions attached to the Byron and LaSalle construction permits, issues raised in judicial proceedings and the Federal Energy Regulatory Commission (FERC) regulatory proceedings and activities undertaken by the applicant with respect to coordination and wholesale services. In the staff's view, none of the applicant's actions since the Byron construciton permit antitrust review was completed are inconsistent with the intent of the Byron and LaSalle construction permit license conditions. The price-squeeze issue raised at FERC and in a U.S. District Court antitrust proceeding appears capable of resolution in those forums. Other antitrust issues considered in the judicial proceeding appear to have been raised in a historical context in a period prior to the issuance of the Byron construction permit. Further, the Byron and LaSalle license conditions appear to have rendered those issues moot. Finally, applicant's activities with respect to changes in its interconnection and wholesale agreements and to responses to requests for coordination services do not suggest any antitrust consequences.

"Thus, the changes in the activities of the Commonwealth Edison Company since the completion of the Byron 1 construction permit antitrust review do not represent significant changes of an antitrust nature and, therefore, do not require a further, formal antitrust review at the operating license stage."

Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the licensee with respect to the Byron Station, Unit 1, is not required.

Signed on December 20, 1983, by Harold R. Denton, Director, Office of Nuclear Reactor Regulation.

Any person whose interest may be affected pursuant to this initial determination may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 by (30 days). Requests for a reevaluation of the no significant changes determination shall be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

For the Nuclear Regulatory Commission.

Wm. H. Regan, Jr.,

Chief, Site Analysis Branch, Office of Nuclear Reactor Regulation.

[FR Doc. 84-237 Filed 1-4-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

General Public Utilities; Availability of Draft Supplement to the Programmatic Environmental Impact Statement Related to Decontamination and Disposal of Wastes From March 28, 1979 Accident—Three Mile Island Nuclear Station Union 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Supplement to the Programmatic Environmental Impact Statement (NUREG-0638, Supplement 1) prepared by the Commission's Office of Nuclear Reactor Regulation related to decontaminated disposal of radioactive wastes resulting from March 28, 1979, accident, Three Mile Island, is available for inspection by the public in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and in the NRC TMI Program Office, 100 Brown Street, Middletown, PA 17057. Requests for copies of the Draft Supplement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Supplement to the Programmatic Environmental Impact Statement (PEIS) for the Commission's consideration. Federal, State, and Local agencies are being provided with copies of the Draft Supplement to the PEIS. Comments are due by February 29, 1984. Comments by Federal, State and Local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the NRC TMI Program Office, 100 Brown Street, Middletown, PA 17057. Upon consideration of comments submitted with respect to the Draft Supplement to the PEIS, the Commission's staff will prepare a Final Supplement to the PEIS, the availability of which will be published in the **Federal Register.**

Comments on the Draft Supplement to the PEIS from interested persons of the public should be addressed to Dr. Bernard J. Snyder, Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation, U.S.

Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 22nd day of December, 1983.

For the Nuclear Regulatory Commission

Michael T. Masnik,

Acting Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 84-238 Filed 1-4-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-354-OL]

Public Service Electric and Gas Company, et al. (Hope Creek Generating Station, Unit 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding:

Alan S. Rosenthal, Chairman
Thomas S. Moore
Dr. Reginald L. Gotchy

Dated: December 29, 1983.

C. Jean Shoemaker,

Secretary of the Appeal Board.

[FR Doc. 84-239 Filed 1-4-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review By Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, D.C. 20549.

New

Proposed Form N-3, File No. 270-281
Proposed Form N-4, File No. 270-282

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed Forms N-3 and N-4 to be used for registration under the Securities Act of 1933 and, where appropriate, the Investment Company Act of 1940 by insurance company separate accounts that offer variable annuity contracts.

Comments should be submitted to Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

Dated: December 27, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-173 Filed 1-4-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13694; (812-5655)]

First Midwest Capital Corp.; Application

December 29, 1983.

Notice is hereby given that First Midwest Capital Corporation ("Applicant"), 1010 Plymouth Building, 12 South Sixth Street, Minneapolis, Minnesota 55402, a non-diversified, closed-end managment investment company registered under the Investment Company Act of 1940 (the "Act"), and a federal licensee under the Small Business Investment Act of 1958, filed an application on September 22, 1983, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission permitting Applicant to invest up to $87,831 in Applied Spectrum Technologies, Inc. ("Applied Spectrum"). Applicant is a wholly-owned subsidiary of First Midwest Corporation, also a closed-end, non-diversified management investment compnay registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions cited in the application.

Applicant states that it is engaged in the business of providing long-term equity funding to eligible small businesses to assist them in their growth and development. According to the application, Applicant along with eleven other companies (with Applicant, the "Venture Capital Investors") provided debt and equity financing to Applied Spectrum in the total amount of $2,250,000 (the "Financing"). Applied Spectrum is a privately held corporation with 2,761,926 shares of common stock outstanding held by thirty-one shareholders. Applicant's participation in the Financing consisted of purchasing $150,000 of eight-year subordianted debentures bearing interestat a rate of 14% per annum, and 211,267 shares of voting common stock for an aggregate price of $150,000. Subsequently, Applicant and four other Venture Capital Investors acquired a total of 60,000 shares of Applied Spectrum's voting common stock from a former emploree of the company at a price of $.71 per share. Applicant states that its total purchase was 25,590 shares at an aggregate purchase price of $18,169. Accordingly, Applicant's total voting percentage of Applied Spectrum is 8.58% and its total investment in Applied Spectrum is $318,169. It is stated that Applicant, The Centennial Fund Ltd., EAB Venture Corp. FBS Venture Capital Co., and Minnesota Seed Capital Fund, Inc. (the "Affiliates") are all Venture Capital Investors and are holders of more than 5% of the outstanding voting rights of Applied Spectrum. The Affiliates are affiliated persons of Applied Spectrum, within the meaning of Section 2(a)(3) of the Act, and Applied Spectrum is an affiliated person of the Affiliates.

Applicant states that the Venture Capital Investors now propose to provide additional financing to Applied Spectrum ("Additional Financing"). Applicant states that, although the final terms of the Additional Financing have not been determined, it is expected that such financing will consist of a purchase of Applied Spectrum's convertible voting preferred stock. The purchase price per share is expected to be approximately $1.20 and it is expected that the Additional Financing will total $1,200,000. In any event the terms of the arrangement under which the Addional Financing will be provided, including the per share purchase price, will be the same for all parties to the transaction. Applicant represents that its share of the Additional Financing will be a maximum of $87,831. Applicant states that any commitment in excess of $6,831 would bring its total investment in Applied Spectrum over its Small Business Administration ("SBA") regulated investment limit of 20% of its paid-in capital and surplus of $325,000. Applicant has requested and received written permission from the SBA to exceed its investment limit.

Applicant states that the Additional Financing is needed by Applied Spectrum for emergency working capital. Applicant asserts that Applied Spectrum's business operations have been increasing at a steady pace. Applicant further asserts that the proposed investment has potential for producing a substantial return.

Applicant describes the Additional Financing arrangement as a joint enterprise between an investment company (Applicant), an affiliate of that investment company (Applied Spectrum), and affiliates of an affiliate of that investment company (the Affiliates except Applicant). The Additional Financing is, therefore, a joint transaction within the meaning of Section 17(d) of the Act. Applicant asserts that Rule 17d-1(d)(5) would

exempt the Additional Financing from the requirements of Section 17(d) of the Act and Rule 17d–1 thereunder except for the fact that Applicant proposes to commit in excess of 20% of its paid-in capital and surplus to investments in Applied Spectrum. Applicant further assets that, while the Additional Financing involves the sale of securities by an affiliate of a registered investment company to such registered company, the transaction is exempted from the prohibitions of Section 17(a) of the Act by Rule 17a–6 thereunder.

Applicant asserts that it is participating in the Additional Financing on a basis which is exactly the same and no less advantageous than that of any other participant in the transaction. Applicant represents that the terms of the proposed transaction are fair to all parties. Applicant also contends that its participation in the Additional Financing is consistent with the general purposes and policies of the Act and, therefore, requests, pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, and order of the Commission permitting Applicant to participate in the Additional Financing.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–264 Filed 1–4–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13695; (812–5702)]

Security Bond Fund, et al.; Filing of Application

December 29, 1983.

Notice is hereby given that Security Bond Fund ("Bond"), Security Equity Fund ("Equity"), Security Investment Fund ("Investment"), Security Ultra Fund ("Ultra"), Security Cash Fund ("Cash"), Security Tax-Exempt Fund ("Tax Exempt"), other funds which may from time to time be advised by Security Management Company ("Security Management") or distributed by Security Distributors, Inc. ("Distributors"), Security Benefit Life Building, 700 Harrison Street, Topeka, KS 66636, (collectively, "Funds"), Security Management and Distributors (collectively with the Funds, "Applicants"), filed an application on November 22, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Section 22(d) of the Act and Rules 22d–1 and 22d–2 thereunder to the extent necessary to permit certain exchanges, and pursuant to Section 11(a) of the Act approving the terms of those exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable sections and rules.

According to the application, each Fund is registered as an open-end investment company under the Act and is advised by Security Management. Distributors which serves as principal underwriter for each Fund except Cash, maintains a continuous public offering of Fund Shares at their respective net asset values plus a sales load. Shares of Cash are sold to the public with no load.

Applicants state that two prior Commission orders, Investment Company Act Release Nos. 8621 (December 19, 1974) and 11619 (February 13, 1981), already provide Distributors and each of the Funds except Tax-Exempt (which was not then in existence) exemptive relief from the provisions of Section 22(d) of the Act and Rules 22d–1 and 22d–2 thereunder to permit certain exchanges described in the respective applications. The orders also approved the exchanges described pursuant to Section 11(a) of the Act. Applicants further state that the terms of the exchanges proposed in the present application are the same as the terms approved in the above-mentioned orders except that the proposed terms in the present application are stated generically to cover additional funds, without reference to specific sales loads of specific funds. Applicants seek to extend the exchange privilege, according to the previously approved terms, to cover Tax-Exempt and funds which may in the future be advised by Security Management or retain Distributors as their principal underwriter.

Applicants propose the following: (1) Shares of any Fund which have been owned thirty days or more may be exchanged for shares of any other Fund (a) with an equivalent, lower, or no sales load on the basis of relative net asset value per share at the time of exchange, without payment of any sales load; (b) with a higher sales load on the basis of relative net asset value at the time of exchange plus any difference between the sales load applicable to the Fund whose shares are being acquired and the sales load already paid on shares being exchanged, except as provided below. (2) Shares acquired through capital gains distributions or income dividends reinvested with no sales load, or shares of any Fund held for not less than six consecutive months prior to the exchange, may be exchanged for shares of any other Funds at relative net asset value at the time of the exchange, with no additional sales load. (3) Shares acquired by previous exchanges (except those acquired by reinvested dividends or distributions) may be exchanged for shares of any of the other Funds at relative net asset value plus the difference between the sales load imposed on the shares being acquired and the shares being exchanged. (4) Where fewer than all of a stockholder's shares are to be exchanged, those for which no or a lesser additional sales load would be due will be exchanged first. (5) Stockholders eligible for the one-time privilege to reinstate or exchange proceeds of shares redeemed within the preceding 30 days may purchase shares of any Fund according to the same conditions which would have been applicable to an exchange of their shares if not redeemed. (6) Purchases pursuant to any reduced sales schedule (such as that currently applicable to Individual Retirement Account purchases of Equity, Investment and Ultra) would be based on the above principles, giving recognition to sales loads actually paid.

Applicants state that any stockholder wishing to exchange shares will be obligated to inform Distributors or the Fund to be acquired (if shares of that Fund are not distributed by Distributors) that he is entitled to exchange his shares at net asset value with no load or that he qualifies for a reduction in the sales load. Applicants state that the purpose of the proposed exchange offers is to permit a stockholder of any one of the Funds to transfer his investment to a different Fund in the event that his investment objectives change, and to receive credit for any sales load already paid.

Applicants submit that without Commission approval, some of the proposed exchanges would violate Section 11(a) of the Act since they would be completed on a basis other than relative net asset value. Applicants further submit that although they believe that the proposed exchanges are consistent and compatible with the intent and spirit of Section 22(d) of the Act and Rules 22d–1 and 22d–2 thereunder, they may be interpreted to be in violation of this section and the rules thereunder absent an exemptive order under Section 6(c) of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–273 Filed 1–4–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13692; 812–5700]

European Development Capital Limited Partnership; Application

December 29, 1983.

Notice is hereby given that European Development Capital Limited Partnership ("Applicant"), 767 Third Avenue, New York, NY 10017, a limited partnership under the laws of New York, filed an application on November 18, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable sections.

According to the application Applicant will be the successor to two small business investment companies ("SBIC's"), European Development Capital Corporation ("EDCC") and Van Reitschoten Capital Corporation ("VRCC"). Applicant states that the regulations of the Small Business Administration ("SBA") which licenses SBIC's, permit the conversion of an SBIC from corporate to partnership form. Applicant further states that the necessary application has been made to the SBA to permit Applicant to continue the business operations of EDCC and VRCC as a registered SBIC in partnership form.

Applicant represents that (i) EDCC and VRCC are currently exempt from the Act under Section 3(c)(1) of the Act; (ii) all of EDCC's outstanding shares are beneficially owned by 25 Dutch citizens, none of whom owns more than ten percent of EDCC's shares nor resides in the United States; and (iii) VRCC is beneficially owned by one Dutch citizen who does not reside in the United States.

According to the application the proposed transaction will occur as follows: (1) EDCC and VRCC will contribute substantially all of their assets to Applicant pursuant to a transaction in which European Development Capital Corporation, N.V. ("EDCC, N.V.") a newly formed Netherlands Antilles corporation, will acquire all of the limited partnership interest in Applicant and the current shareholders of EDCC and VRCC will acquire all the outstanding shares of EDCC, N.V. shareholders (i.e., the 26 shareholders of EDCC and VRCC) will then contribute all of their EDCC, N.V. shares to European Development Capital Corporation, B.V. ("EDCC, B.V.") a Dutch corporation, in exchange for all of EDCC, B.V.'s Common Stock; and (3) EDCC, B.V. will then conduct an initial public offering in the Dutch over-the-counter market. Applicant represents that EDCC, B.V. proposes to sell approximately $5 million of newly-issued primary shares and approximately $2.6 million of secondary shares owned by the 26 shareholders of EDCC and VRCC. Applicant states that the new public shareholders will pay approximately $7.6 million for approximately 33% of EDCC, B.V. and that these new shareholders, who may number in excess of 100 persons, along with the 26 shareholders of EDCC and VRCC, will indirectly own Applicant.

Applicant represents that the public offering of EDCC, B.V. shares will be planned and executed solely overseas, will not involve the direct or indirect use of any means of United States interstate commerce to offer for sale, sell or deliver for sale any securities pursuant to the offering and no United States residents or citizens will participate in the offering. Applicant further represents that no EDCC, B.V. securities will be offered or sold to United States citizens or residents or entities organized or having their principal place of business in the United States. Applicant represents that neither EDCC, B.V. nor EDCC, N.V. will have any officers, directors or employees who are United States citizens or residents nor will they maintain any offices or conduct business on a regular basis in the United States.

Applicant represents that the only United States citizens involved in the entire chain of affiliated entities will be three general partners of Applicant who are also the Managing Directors of Harvest Ventures, Inc. ("Harvest") a New York corporation which manages EDCC and VRCC and will continue to manage Applicant. Applicant states that the three general partners may own up to 3% of EDCC, B.V.'s total outstanding shares. Applicant also states that the general partners will have full authority and responsibility for the conduct of Applicant's business which will consist of investing the proceeds of EDCC, B.V.'s public offering and other assets of EDCC, B.V. and EDCC, N.V. principally in securities of United States issuers.

Applicant submits that it may be deemed subject to the Act because EDCC, N.V. will initially hold a 99% interest in Applicant and this interest would represent most of EDCC, B.V.'s assets. Since the sole shareholder of EDCC, N.V. will be EDCC, B.V., which will have approximately 72% of its assets represented by its interest in Applicant and may have in excess of 100 shareholders, the attribution provisions of Section 3(c)(1) may cause Applicant to be unable to avail itself of the Section 3(c)(1) exclusion from the Act's definition of an "investment company."

The application states that neither Applicant, EDCC, N.V. or EDCC, B.V. (collectively "Companies") will initially have any United States citizens as securityholders. In regard to this statement Applicant represents as follows: (1) upon completion of the proposed public offering by EDCC, B.V., no beneficial owners of Applicant's securities will be United States investors, except the SBA and the general partners; (2) thereafter, no other United States investors will ever become beneficial owners of Applicant's securities (other than short-term paper as defined in Section 2(a)(38) of the Act),

except to the extent that subsequent transfers of EDCC, B.V. shares may have that result; (3) EDCC, B.V. will at no time issue any securities under circumstances where the United States investor would thereby become a beneficial owner of the Applicant's securities and no EDCC, B.V. securities will at any time be transferred by the general partners, by any entity or person who controls, is controlled by or is under common control with any of the companies, or by any officer, director or employee of any such person or equity or company if any United States investor would thereby become a beneficial owner of the Applicant's securities; (4) EDCC, B.V. shares will not be traded on United States exchanges and quotes on these shares will not be available from United States broker-dealers. Applicant further represents that since the shares of EDCC, B.V. will be in bearer form, it will notify the Commission promptly following the end of any calendar quarter in which it becomes aware that any shares of EDCC, B.V. stock have been transferred under circumstances where any United States investors became benefical owners of Applicant's securities.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-284 Filed 1-4-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974; Proposed Systems of Records and other Privacy Act Matters

The Department of Transportation cancels six systems of records and publishes two new systems or records. The Family Case Advocacy Record System of the U.S. Coast Guard has been modified slightly during its early proposal stage to accommodate suggestions from Congress and the Office of Management and Budget. DOT/NHTSA Systems 406, 410, 412, 461, 465, and 468 are cancelled because of discontinued programs.

DOT/CG 634, the U.S. Coast Guard Family Advocacy Case Record System, is a new system. It contains information relating to individual cases of child and spouse abuse or neglect. These records consist of information concerning individuals involved in incidences of family violence as reported in investigative data, medical or dental records, or reports from local, state and federal agencies involved in the case. The USCG is the last of the informed services to establish such a system of records which is required by a Joint Services Directive of the Department of Defense.

DOT/OST 064, the Mobility Assignment Candidate File is a new system, used to record applicants who are interested in temporary assignments outside their organization, on overseas or foreign duty and many other specialized assignments. It will contain personal and personnel data about the applicants, and will be renewed annually or destroyed.

Any person or agency may submit written comments on the proposals to the Privacy Act Officer (M-30), Room 7109, U.S. Department of Transportation, 400 7th St., SW., Washington, D.C. 20590. Comments must be received by February 5, 1984, to be considered.

If no comments are received, the proposed deletions and new systems become effective on February 12, 1984. If comments are received, the comments will be considered and where adopted, the document will be republished with the changes.

Issued in Washington, D.C. on December 30, 1983.

Jon H. Seymour,

Acting Deputy Assistant Secretary for Administration.

DOT/CG 631

SYSTEM NAME:

Family Advocacy Case Record System.

SYSTEM LOCATION:

Commandant (G-PS), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All beneficiaries entitled to care at Coast Guard medical and dental facilities whose abuse or neglect is brought to the attention of appropriate authorities, and all persons suspected of abusing or neglecting such beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records of suspected and confirmed cases of family member abuse or neglect; investigative reports, correspondence, family advocacy committee reports, follow up and evaluative reports, and any other supportive data assembled relevant to individual family advocacy program files.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

May be used by officials and employees having duties relating to health and medical treatment of members and former members of the uniformed services, civilians, and dependents receiving medical care under Coast Guard auspices; for determining qualifications and suitability of Coast Guard personnel for various programs, duty assignments, and fitness for continued military service; and performance of research studies and compilation of statistical data.

Officials and employees of other components of the Department of Transportation and other Departments and agencies and the Executive Branch of government, in the performance of their official duties relating to the coordination of family advocacy programs, medical care, and research concerning family member abuse and neglect.

Federal, state or local government agencies when it is deemed appropriate to utilize civilian resources in the counseling and treatment of individuals of families involved in abuse or neglect or when it is deemed appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement.

Authorized officials and employees of the National Academy of Sciences, and private organizations and individuals for authorized health research in the interest of the Federal Government and the public; and authorized surveying bodies for professional certification and accreditation, government and the public; and authorized surveying bodies for professional certification and accreditation. See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Records may be stored in file folders, microfilm, magnetic tape, punched cards, machine lists, discs, and other computerized or machine readable media.

RETRIEVABILITY:

Records are retrieved through indices and cross indices of all individuals and relevant incident data. Types of indices used include, but are not limited to: names, social security numbers, and types of incidents.

SAFEGUARDS:

Records are maintained in various kinds of filing equipment in specified monitored or controlled access rooms or areas. Public access is not permitted. Records are accessible only to authorized personnel who are properly screened and trained, and on a need-to-know basis, only.

Computer terminals are located in supervised areas with access controlled by password or other user code system.

RETENTION AND DISPOSAL:

Family advocacy case records are maintained at the activity cognizant of the case. If the case remains open upon transfer of military sponsor, the case record is transferred to the military sponsor's new command. The original case record is transferred to the System Manager upon closure of the case or separation of the military sponsor; the records are then destroyed after 5 years from date case record was opened. Central registry records are permanently retained under the control of Commandant (G–PS).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Personnel, Department of Transportation, U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593.

NOTIFICATION PROCEDURES:

Informational requests should be directed to the cognizant system manager(s). Requests should contain the full name of the individual and social security number of the military or civilian sponsor or guardian, date and place of treatment, and alleged reporting of incident. The requestor may visit the Office of the Commandant (G–PS), U.S. Coast Guard, 2100 2nd Street, SW., Washington, D.C., and the commanding officers of the individual and the medical treatment facilities to obtain information on whether or not the system contains records pertaining to him or her. Armed Forces I.D. card or other type of identification bearing the picture and signature of the requestor will be considered adequate proof of identity.

RECORD ACCESS PROCEDURES:

Procedures may be obtained by writing to or visiting Commandant (G–CMA) at the address in Notification Procedures or the local Coast Guard District or unit office for the area in which an individual's duty station is located. Proof of identity will be required prior to affording an individual access to records. A military identification card will be considered suitable identification.

CONTESTING RECORD PROCEDURES:

Same as "Record Access Procedures."

RECORD SOURCE CATEGORIES:

Reports from physicians and other medical department personnel regarding the results of physical, dental, mental, and other examinations, treatment, evaluation, consultation, laboratory, x-ray, and special studies; reports and information from other sources, including educational institutions, medical institutions, law enforcement agencies, public and private health and welfare agencies, and witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Part of this system may be exempt under 5 U.S.C 552a(k) (2) and (5), as applicable. For additional information, contact the system manager(s).

DOT/OST 064

SYSTEM NAME:

Mobility Assignment Candidate File.

SYSTEM LOCATION:

Office of the Secretary/Office of Personnel and Training.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department who apply for listing in the file.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records will consist of an SF–171, Personal Qualifications Statement, a copy of the employee's most recent performance appraisal, a statement of interest and availability, and an endorsement by the immediate supervisor.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

1. By agency officials to consider employees for temporary assignments.
2. Preparation of analytical and statistical studies and reports.
3. See prefatory statement of general routine uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING:

STORAGE:

Records are maintained in file folders or magnetic disks.

RETRIEVABILITY:

These records are retrieved by name or by category of use.

SAFEGUARDS (ACCESS CONTROLS):

Access to and use of these records are limited to agency personnel whose official duties require such access. Safeguards including locked buildings, guard service, and locked file cabinets. Statistical information from these records may be made available to other agencies or to the interested public.

RETENTION AND DISPOSAL:

These records are destroyed after one year.

SYSTEM MANAGER AND ADDRESS:

The Chief, Special Programs Staff, Office of Personnel and Training, Office of the Assistant Secretary for Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Inquiries should be directed to the System Manager.

RECORD ACCESS PROCEDURE:

Contact or write the System Manager to arrange for access to the record.

CONTESTING RECORDS PROCEDURES:

Contact or write the System Manager. Reasonably identify the record and specify the information be contested. If

error is found, the record will be corrected.

RECORD SOURCE CATEGORIES:

Federal employees and supervisors.

[FR Doc. 84-190 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 83-073]

Towing Safety Advisory Committee; Boundary Lines Working Group; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of The Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC) Working Group on Boundary Lines. The meeting will be held on Tuesday, January 17, 1984 in room 6303, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. The meeting is scheduled to begin at 2:00 p.m. The agenda for the meeting will consist of the following item:

Supplementary Notice of Proposed Rulemaking CGD-81-058, Boundary Lines, (48 FR 41454).

In response to a request from the working group, the Coast Guard will make a presentation on the proposed rules and will illustrate the proposed boundary lines. Attendance is open to the public to the extent that facilities permit.

FOR FURTHER INFORMATION CONTACT: Captain C. M. Holland, Executive Secretary, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/44), Washington, D.C. 20593, (202) 426-1477.

Dated: December 30, 1983.

T. F. Tutwiler,

Captain, U.S. Coast Guard, Acting Deputy Chief, Office of Merchant Marine Safety.

[FR Doc. 84-265 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD 83-072]

Towing Safety Advisory Committee; Personnel Manning and Licensing Subcommittee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of The Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC) Subcommittee on Personnel Manning and Licensing. The meeting will be held on Wednesday, January 18, 1984 in room 6319, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C. The meeting is scheduled to begin at 9:30 a.m. and end at 4:00 p.m. The agenda for the meeting will consist of the following items:

Notice of Proposed Rulemaking CGD 81-059, Licensing of Operators and Registration of Staff Officers (48 FR 35920).

The Coast Guard will make a presentation on the proposed rule. Attendance is open to the public to the extent that facilities permit.

FOR FURTHER INFORMATION CONTACT: Captain C. M. Holland, Executive Secretary, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/44), Washington, D.C. 20593, (202) 426-1477.

Dated: December 30, 1983.

C. M. Holland,

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

[FR Doc. 84-267 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular; Public Debt Series—No. 39-83]

Notes of Series D-1991, Interest Rates

The Secretary announced on December 28, 1983, that the interest rate on the notes designated Series D-1991, described in Department Circular—Public Debt Series—No. 39-83 dated December 21, 1983, will be 11¾ percent. Interest on the notes will be payable at the rate of 11¾ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-268 Filed 1-4-84; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular; Public Debt Series—No. 38-83]

Notes of Series L-1987; Interest Rates

The Secretary announced on December 27, 1983, that the interest rate on the notes designated Series L-1987, described in Department Circular—Public Debt Series—No. 38-83 dated December 21, 1983, will be 11¼ percent. Interest on the notes will be payable at the rate of 11¼ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-269 Filed 1-4-84; 8:45 am]

BILLING CODE 4810-40-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 499]

Winegrape Varietal Names Advisory Committee; Open Meeting

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Winegrape Varietal Names Advisory Committee will be held at 9:00 am on February 9, 1984, in Room 2575, 525 Market Street, San Francisco, California.

SUPPLEMENTARY INFORMATION: The Committee will continue its review of the working list of varietal names, and discussions on (a) the Riesling issue, (b) the use of multiple names ("prime" and "acceptable alternative") for a single variety; and (c) guidelines or procedures for the future addition of names to the varietal list.

The meeting will be open to the public. Any person who wishes to furnish written information or to address the Committee should submit the information or the request to appear to the Committee Manager at the address shown below. Requests to appear before the Committee should specify the purpose of the presentation, the subject matter to be covered, and the amount of time desired.

FOR FURTHER INFORMATION CONTACT: Melvin T. Bruce, Manager, Winegrape Varietal Names Advisory Committee, Room 6213, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7568).

Signed: December 23, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 84-22 Filed 1-4-84; 8:45 am]

BILLING CODE 4810-31-M

VETERANS' ADMINISTRATION

Computer Matching Program

AGENCY: Veterans' Administration.

ACTION: Notice.

SUMMARY: Notice is hereby given that the VA OIG (Veterans' Administration Office of Inspector General) is conducting a computer matching program using VA records containing limited identification data concerning VA pension and compensation recipients with records maintained by State and municipal governments which

include employment records, wage records and tax records.

The goals of this match are: (1) To detect unwarranted benefit payment under title 38, United States Code, which results when income from earnings exceed allowable limits for the benefit received; and (2) to assess the effectiveness of Annual Income Questionnaires as an accurate self-reporting-of-income mechanism for beneficiaries. For the information of all concerned, the text of the VA matching program report, describing the computer match, follows. In accordance with the OMB matching guidelines, dated May 11, 1982, copies of this report are being sent to OMB and both houses of Congress.

FOR FURTHER INFORMATION CONTACT: Robert Hincken, Office of Inspector General (51), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-3093 or 3094.

Dated: December 22, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Office of Inspector General—Computer Matching Program

Authority for and Purpose of the Program

The VA Office of Inspector General (OIG), pursuant to the authority granted by the Inspector General Act of 1978 (Public Law 95-452), has initiated a computer matching program. This program is designed to identify the unwarranted payment of VA pension and certain compensation benefits which result when beneficiaries underreport or fail to report earned income.

Description of the Matching Program

This matching program involves computer matches of State employment records, wage records, and tax records and VA compensation and pension records. The social security numbers of VA pension and compensation recipients will be released to State and municipal departments for matching with State and municipal employment records, wage records and tax records. The information obtained through these matches and returned to the VA by the States and municipalities will be verified by VA with beneficiaries and employers, and by reviewing VA claim records. In those cases where the evidence indicates that income was inaccurately reported, the beneficiary will be notified and, when appropriate, adjustments will be made in benefit payments. Cases involving potential criminal acts will be referred for prosecutive consideration. These matches may be conducted on a recurring basis at the direction of the Inspector General. Matches are planned in the States of California, New York, Massachusetts, Idaho, Illinois, Indiana, Missouri, New Hampshire, Texas, Michigan, Mississippi, Arkansas, North Carolina, Alabama, Florida, Georgia, Virginia, Washington, Kentucky and the District of Columbia.

Files To Be Used in This Matching Program Are

a. Veterans' Administration: Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22/28), 47 FR 372.

b. State and Municipal Departments/bureau/divisions files.

Objectives To Be Met by the Matching Program

The objectives of this matching program are to identify beneficiaries who have received, but do not qualify for, certain VA pension payments or benefits based on individual unemployability. Ineligibility for income dependent benefits occurs when income exceeds allowable limits or levels for the benefits received. Ineligibility for benefits based on unemployability arises when the evidence indicates the beneficiary is, or could be, substantially and gainfully employed.

Procedures of Matching Program

Step 1. Development of Data Files. Selected data are to be extracted from the VA Compensation and Pension master records to allow identification of the payee, current award information and estimated and actual income reported by the payee in support of the pension or compensation claims.

Step 2. Computer Processing. Social security numbers will be released and matched with the identification data in states & municipalities. No names or addresses will be released. Future matching with states and muncipalities may include release of other identifying data such as date of birth and sex, but in no case will names and address be released. A printout and/or magnetic tape record file of the matches and related employer/wage data will be returned to the OIG. Further computer processing of the matches will associate the income reported to the VA by the payee with the wages reported by employers to the states or municipalities.

Step 3. Verification of Wages Reported Paid by Employers. Employers may be contacted to verify the identity of the employee, the period of employment and the wages paid. Employers will be contacted only if wages reported by the employer to the states or municipalities indicate that the beneficiary's income exceeds the maximum allowable for the benefit received (e.g., improved law pension, protected pension) or would affect the amount of entitlement (improved law pension). In service-connected unemployability cases, earnings will be verified when substantial ($2000.00 per quarter) and/or continuous employment is indicated. (Continuous employment is the critical element)

If the employer is contacted, he/she will be informed that the information is to be used in connection with the administration of benefits under Title 38, U.S.C. If the employer fails or refuses to respond to the request, the case will be referred to the VA Regional Office having jurisdiction for followup with the beneficiary, including field examination if necessary, and appropriate disposition.

Step 4. Analysis of Data and Adjudication of Claims. Discrepancies between earned income reported by the payee in support of a VA claim and earned income reported by employers will be analyzed. Pension cases showing discrepancies in earned income which would affect the beneficiary's entitlement or award will be referred to the Department of Veterans Benefits (DVB) for review. Where income exceeds allowable limits or levels for the benefit received, appropriate adjustments will be made in benefit payments. In service-connected unemployability cases, earnings and employment will be analyzed to determine if continued unemployability benefits are warranted.

Step 5. Litigation. Where there are reasonable grounds to believe there has been a violation of criminal law, the matter will be investigated and referred for prosecutive consideration.

Step 6. Records Maintained by DVB. Any manual records resulting from the match will be maintained by DVB. As claims are settled or repaid, the various files will be updated to reflect these changes.

Date of Matching Program

In accordance with OMB Matching Guidelines, the computer match was initiated after the publication of the routine use notice for the system of records involved in the matching program. As each State and municipality is matched, VA verification and adjudication actions should be completed by the end of FY 84.

Disclosure of Records

a. VA System of Records Extracts to OIG. The transfer of extracts from the VA Compensation, Pension, Education and Rehabilitation Records to the OIG for performing the matches is an intra-agency "need-to-know" disclosure permitted under 5 U.S.C. 552a(b)(1) and is consistent with the statutory language creating the OIG which is found in Section 6(a)(1) of Pub. L. 95–452.

b. Disclosure of Identification Data to States. Disclosure of identification data from VA system of records 58 VA 21/22/28 will be made pursuant to Routine Use Number 43. This routine use was published in the **Federal Register** of September 15, 1982. Under this routine use, except for name and address of a beneficiary, the Inspector General may disclose social security number, date of birth, and such other identifying information for which disclosure is deemed necessary by the Inspector General of the VA.

The matching departments or bureaus will agree, prior to disclosure, to certain conditions governing the use of the matching file records including: that the matching records disclosed by the VA will remain the property of the VA and be returned at the end of the matching program (or destroyed as appropriate); that the records will be used and accessed only to match the files previously agreed to; and that the VA Records will not be duplicated or disseminated within or outside the State and municipal departments or bureaus unless authorized in writing by the VA.

c. Disclosure of Identification Data to Employers. Disclosure of identifying data to employers may be necessary to verify the accuracy of the matches and wages paid. Disclosure of this information will be made pursuant to Routine Use Number 9 in VA system of records 58 VA 21/22/28.

d. Transfer of Match Products From OIG to DVB. The transfer of the products of the match (i.e., name, SSN, wages reported paid by employers, etc.) from the VA OIG to DVB is an intra-agency "need-to-know" disclosure permitted under 5 U.S.C. 552a(b)(1). Valid match information will become a part of the appropriate VA system of records. Invalid match information will be erased or destroyed.

Efforts Taken To Protect Against Unauthorized Access to or Dislosure of Personal Records

All records will be safeguarded in accordance with the National Bureau of Standards' *Federal Information Processing Standards 41 and 31.* All information collected by the VA in this matching program will be acquired, controlled, and used in compliance with the Privacy Act of 1974 (5 U.S.C. Section 552a), 38 U.S.C. Sections 3301 and 4132, implementing VA regulations, and the OMB Matching Guidelines dated May 11, 1982. Printed listings will be maintained in locked file cabinets with access limited to those VA staff with a need to know. If fraud is suspected among cases identified by the match, information obtained through the match and followup verifications will be disclosed to the appropriate prosecuting authority. Computerized records generated by this match will be destroyed after all adjuticative and/or legal proceedings are completed.

[FR Doc. 84–147 Filed 1–4–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 3
Thursday, January 5, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:50 p.m. on Wednesday, December 28, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation with respect to an administrative enforcement proceeding against an insured bank (name and location of bank authorized to be exempt from disclosure pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), and (c)(8), and (c)(9)(A)(ii)).

Dated: December 29, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-84-358 Filed 1-3-84; 3:56 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 9, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 30, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-84-359 Filed 1-3-84; 3:56 p.m.]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 9, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to purchase assets and assume liabilities and establish one branch:

Bank of Keystone, Keystone, Nebraska, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in Arthur County Co-operative Credit Association, Arthur, Nebraska, and for consent to establish the sole office of Arthur County Co-operative Credit Association as a branch of Bank of Keystone.

Personel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: December 30, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–84–360 Filed 1–4–84; 3:56 pm]

BILLING CODE 6714–01–M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, January 10, 1984, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, January 12, 1984, 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meeting
Correction and approval of minutes
Eligibility report for candidates to receive Presidential primary matching funds
Draft advisory opinion #1983–36; J. Curtis Herge, on behalf of NCPAC
FCC Order interpreting equal opportunities requirement of § 315 of the Communications Act and its impact on FEC candidate debate regulations
Testing the waters regulations—draft advance notice of proposed rulemaking
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone: 202–523–4065.

Mary W. Dove,

Administrative Secretary.

[S–89–331 Filed 1–3–84; 2:36 pm]

BILLING CODE 6715–01–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 2, 1984 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Wednesday, January 4

2:00 p.m.
Discussion of NRC Enforcement Policy (Public Meeting) (As Announced)

Friday, January 6

10:00 a.m.
Discussion/Possible Vote on Equipment Qualification Policy Statement and Proposed Rule; NRC Response to Court of Appeals Decision (Open/Closed—Ex. 10) (Title Change—See Below)
2:00 p.m. Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6) (As Announced)

ADDITIONAL INFORMATION:

Briefing on Criminal vs. Civil Investigations scheduled 1/4/84 is *cancelled.*

The Equipment Qualification meeting will be held in two parts: Part A (30 min) will be an Open Meeting in which the EDO staff will discuss the history and status of the equipment qualification effort, and the history and status of staff review of the justifications for continued plant operation; Part B (1 hr.) will be closed to public attendance (Exemption 10—Litigation) in which OGC and ELD will discuss the Commission's response to the D.C. Circuit—the proposed policy statement and rule (see SECY–83–457/457A). The EDO staff may attend the closed portion of this meeting since no *ex parte* considerations apply.

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee—(202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–1813–83 Filed 12–30–83; 4:50 pm]

BILLING CODE 7590–01

federal register

Thursday
January 5, 1984

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting; Notice

Recombinant DNA Research; Proposed Actions Under Guidelines; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20205, on February 6, 1984, from 9:00 a.m. to recess at approximately 5:00 p.m., and on February 7, 1984, from 9:00 a.m. to adjournment at approximately 12:00 noon. This meeting will be open to the public on February 6 from 9:00 a.m. to approximately 11:00 a.m. and again from 1:00 p.m. to recess, and on February 7 from 9:00 a.m. to adjournment to discuss:

Report of the Working Group on Social and Ethical Issues;
Amendment of Guidelines; and
Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public for approximately one hour and a half for the review, discussion, and evaluation of proposal(s) from a commercial concern(s) for field testing of recombinant organisms. It is anticipated that this will occur from approximately 11:00 a.m. to 12:30 p.m. on February 6. The proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 3B10, telephone (301) 496–6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

In addition, notice is hereby given of a meeting of the Large-Scale Review Working Group sponsored by the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20205, on February 7, 1983. The call to order will be dependent upon the adjournment of the Recombinant DNA Advisory Committee. If the RAC has no business to conduct on February 7, 1983, the Large-Scale Review Working Group will meet from 9:00 a.m. to approximately 12:00 noon. If the RAC meets on February 7, the Large-Scale Review Working Group will meet from 1:00 p.m. to approximately 4:00 p.m. The meeting will be open to the public. Attendance will be limited to space available.

The Large-Scale Review Working Group is soliciting data or other technical information concerning (1) viability of *E. coli* K–12, *Bacillus subtilis*, and *Saccharomyces cerevisiae* in aerosols, and (2) containment systems for fermentors, e.g., exhaust air treatment data.

Further information may be obtained from Dr. Elizabeth Milewski, Executive Secretary, Large-Scale Review Working Group, NIAID, Building 31, Room 3B10, Bethesda, Maryland, telephone (301) 496–6051.

Dated: December 8, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

[FR Doc. 84-4 Filed 1-4-84; 8:45 am]

BILLING CODE 4140-01-M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of proposed actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on February 6–7, 1984, the Director of the National Institute of Allergy and Infectious Diseases will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by February 6, 1984.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 3B10, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban and Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following actions under the Guidelines for Research Involving Recombinant DNA Molecules.

I. Proposed Amendments of the NIH Guidelines and Comments by the Director, NIAID.

A. Amendments Proposed by Messrs. Jeremy Rifkin and Edward Rogers

Messrs. Jeremy Rifkin and Edward Lee Rogers, on behalf of the Foundation on Economic Trends, Michael W. Fox, Environmental Action, Inc., and Environmental Task Force, in a letter dated November 7, 1983, propose the following amendments to the NIH Guidelines.

1. *Amendment of the Section III.* The title of Section III of the Guidelines would be changed from "Containment Guidelines for Covered Experiments" to "Guidelines for Covered Experiments."

Messrs. Rifkin and Rogers argue that the current title of Section III reflects an orientation towards experiments contained within a laboratory. However, the RAC is reviewing experiments involving the deliberate release into the environment of certain organisms containing recombinant DNA. Messrs. Rifkin and Rogers state that:

Accordingly, the focus should no longer be on the concept of containment alone, but rather on guidelines to assure safety for all experiments, whether through containment procedures or other techniques.

2. *Amendment of Section III–A.* Section III–A would be amended by adding at the end thereof the following paragraph:

A programmatic environmental impact statement (EIS) is required under the National Environmental Policy Act (NEPA), 42 U.S.C. 4332, and the Council on Environmental Quality Regulations (CEQ Regs) implementing NEPA, 40 CFR 1502.1–1520.25, for the program involving deliberate releases into the environment of recombinant DNA molecules.

Messrs. Rifkin and Rogers, in their submission, provide a detailed explanation for this proposed modification.

3. *Additional Amendment of Section III–A.* Section III–A would be further amended by adding after the material set forth in the prior amendment the following paragraph:

Individual experiments involving deliberate releases into the environment of an organism containing recombinant DNA require the preparation of either an environmental impact statement or an environmental assessment.

In explanation of this proposed change, Messrs. Rifkin and Rogers state:

Where it is uncertain whether a particular experiment may or may not have a significant impact on the environment, then, at the least, an environmental assessment (EA) must be prepared explaining the conclusion reached on the question of significant impact, and the relevant environmental agencies must be involved in that assessment process. See CEQ Regs. §§ 1501.3, 1501.4, and 1508.9. At issue here are the great variety of deliberate-release experiments that have potential environmental impacts.

B. Comments by the Director, National Institute of Allergy and Infectious Diseases, on the Amendments Proposed by Messrs. Rifkin and Rogers

The NIH Recombinant DNA Advisory Committee (RAC) does not have the responsibility to determine, and it is not appropriate for the NIH Guidelines for Recombinant DNA Research to state, what is, or is not, required by the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and the regulations (40 CFR Part 1500) promulgated by the Council on Environmental Quality (CEQ) to assure the uniform implementation of that Act. It is not the function of the RAC to determine what NEPA and the CEQ regulations require. The RAC is not constituted to interpret points of law and the requirements of NEPA. Specifically, it is not a function of RAC to determine when an environmental impact statement or an environmental assessment is required by NEPA.

Furthermore, the Foundation on Economics Trends, Jeremy Rifkin, Michael W. Fox, Environmental Action, Inc., and the Environmental Task Force have raised these issues in a lawsuit against the Department of Health and Human Services, the National Institutes of Health, and the National Institute of Allergy and Infectious Diseases. The suit (Civil Action No. 83–2714) seeks to have the United States District Court for the District of Columbia decide if additional environmental review is required by NEPA and the CEQ guidelines with respect to the procedures in the Guidelines for NIH approval of releases into the environment of organisms containing recombinant DNA and specific approvals given under those procedures. The decision of the District Court, or a higher court if an appeal is taken, will be binding on all the parties.

It should also be noted that a proposal similar to that now proposed by Messrs. Rifkin and Rogers was considered and rejected by the Director, NIH, at the time of the revision of the NIH Guidelines in December 1978. NIH Director Donald Fredrickson wrote in the **Federal Register** (43 FR 60083, December 22, 1978), "Another commentator urged that for waiver of the prohibition of deliberate release into the environment, the Guidelines explicitly require compliance with the National Environmental Policy Act (NEPA) and any additional safeguards to be stipulated by EPA. Others urged that full Environmental Impact Statements be filed on most exceptions to the prohibitions. As I noted in my Decision accompanying the PRG on July 28, 1978, all waiver decisions will include a careful consideration of the potential environmental impact. Some decisions may be accompanied by a formal assessment or statement—a determination, however, that can only be made on a case-by-case basis."

II. Questions Concerning Boundaries for NIH and RAC Oversight

Dr. Bernard Talbot, Deputy Director of the National Institute of Allergy and Infectious Diseases, has requested that a series of questions be issued for public comment and placed on the agenda for the next RAC meeting. He wrote:

The NIH Guidelines for Research Involving Recombinant DNA Molecules were originally written to deal with NIH grantees, doing biomedical research, in the laboratory. They were subsequently adopted by other Federal agencies. Most of the meetings of the NIH Recombinant DNA Advisory Committee (RAC) have been entirely open to the public. At the last RAC meeting, a portion of the meeting was closed (not open) to deal with a request to field test (not confine in the laboratory) an agricultural (not biomedical) submission from an industrial company (not an NIH grantee). Questions have been raised as to whether NIH should not redefine more circumscribed boundaries for NIH and RAC oversight, and possibly encourage other Federal agencies to provide oversight and/or regulation beyond these boundaries.

I request that the following questions be issued for public comment, and placed on the agenda of the next RAC meeting. NIH would benefit from the views of the public and of the RAC before formulating an agency position on NIH's proper future rule and steps to be taken before promulagating any changes form the current role.

1. Should the NIH Guidelines be limited strictly to work done in the laboratory? In this case, "release to the environment" including field tests would fall outside the jurisdiction of the Guidelines.

2. Should NIH accept for review only individual proposals funded by NIH or only proposals funded by the Federal government? In this case, review of individual proposals from industry would fall outside the Guidelines.

3. Should all portions of all RAC meetings be open to the public? In this case, NIH could cease to accept any proprietary data for review and such would fall outside the boundaries of the Guidelines.

4. Should the NIH Guidelines be limited strictly to biomedical research? In this case, agricultural and other studies would fall outside the jurisdiction of the Guidelines.

Each of these proposals would create a new "boundary" for the NIH Guidelines. It should be noted that an unusual "boundary" already exists, since two pieces of DNA spliced together outside living cells constitute "recombinant DNA" and fall under the Guidelines, but if the same two pieces of DNA were spliced together within a living cell they would not be considered "recombinant DNA" and, therefore, would not currently fall under the Guidelines.

III. Request for Permission to Lower Containment Conditions for the Cloning of the Gene for Shiga-Like Toxin From E. Coli

Dr. Alison O'Brien of the Uniformed Services University of the Health Sciences (USUHS) requested permission, in collaboration with Dr. Randall Holmes (USUHS), to clone in *Escherichia coli* K–12 the structural gene of the Shiga-like toxin from clinically isolated strains of *E. coli*. The *E coli*. Shiga-like toxin has activity similar to the activity of *Shigella dysenteriae* toxin. The investigators proposed to clone the Shiga-like toxin gene in *E. coli* EK1 host-vector systems using plasmid, cosmid, or lambda cloning vectors. In support of their proposal, Drs. O'Brien and Holmes offered the following arguments:

1. Clinical isolates of *E. coli* have already been demonstrated to elaborate large amounts of toxin indistinguishable from that produced by *Shigella dysenteriae* 1 (Shiga). Therefore, the

genes for Shiga-like toxin production are present in the *E. coli* gene pool found in nature.

2. Human volunteers fed large numbers of *Shigella dysenteriae* 1 organisms that produced Shiga toxin but could not colonize the bowel did not become ill. Therefore, any accidental ingestion of the organism to be manufactured, a toxin-producing *E. coli* K–12 strain that cannot colonize the human intestine tract, would pose little hazard to man.

3. Purification of Shiga toxin in several laboratories and *E. coli* Shiga-like toxin in the investigators' laboratory has not identified any excessive risk from the aerosolizatioin of toxin that probably occurs during the process of toxin preparation. In one laboratory, toxin was isolated from 500 liters of culture with only P1 physical containment.

4. Shiga toxin is a potent cytotoxin for a subline of HeLa cells (a human cervical carcinoma tissue culture cell line); but the toxin has no effect on many other human, monkey, and rodent tissue culture cells. Therefore, the toxin is quite cell-type specific, and this limited spectrum of activity suggests that it would be non-toxic for most cells in the human body.

5. Contrary to the old literature, Shiga toxin is not a neurotizxin. By 1955, it was established that the paralysis observed in rabbits and mice (but not monkeys, guinea pigs, hamsters, or rats) when toxin is given intravenously is a reflection of the effect of toxin on the endothelium of small blood vessels, not a direct effect on nerve cells.

The request was summarized in tbe **Federal Register** of September 22, 1982 (47 FR 41924). One comment on a related issue was received during the comment period. Dr. K. N. Timmis of the Universite de Geneve suggested that the NIH Guidelines for Research Involving Recombinant DNA Molecules as they relate to the cloning of the Shiga toxin gene be revised. DR. Timmis argued that *Sigella* and *Escherichia* closely related, and that the NIH recognizes the high degree of relatedness by including these two genera in Sublist A, Appendix A, of the Guidelines. Dr. Timmis, therefore, argued that no NIH review should be required (as now specified by Section III–A and Appendix F) when the Shiga toxin gene is to be cloned in *E. coli* K–12.

The RAC discussed the request submitted by Dr. O'Brien at the October 25, 1982, meeting. During that meeting, it was stated that taxonomically *Shigella* and *Escherichia coli* are so closely related that in the future they may be classified as the same organism. The toxin administered intravenously to rabbits and monkeys is very toxic; it is not very toxic to mice when administered intravenously. Many *E. coli* isolates, both pathogenic and nonpathogenic, express some toxin; therefore, shotgun cloning of *E. coli* into *E. coli* has undoubtly already resulted in cloning of the toxin gene. One RAC member pointed out that in *Shigella* the Shiga toxin gene is chromosomal, and he questioned what effect introducing that gene into a high copy number plasmid would have. Finally questions were raised concerning the relationship of invasiveness to pathogenicity and to toxin toxicity. Most of these questions could not be answered as inadequate data exist. However, there was general agreement that P4 containment would be adequate. After hearing the arguments, the committee by a vote of twelve in favor, none opposed, and one abstention, recommended that the initial experiments be performed under P4 + EK1 containment conditions. A motion to approve the experiments at P3 + EK1 failed by a vote of five in favor, seven opposed, and one abstention. A motion to approve the experiments using P3 laboratory practices and containment equipment in a P4 facility failed to pass by a vote of five in favor, seven opposed, and one abstention.

The NIH accepted the RAC recommendation that P4 + EK1 containment is adequate to contain safely the experiments proposed by Drs. O'Brien and Holmes and appropriate language was added to Appendix F of the Guidelines. The language stipulated that if the investigators wish to proceed with the experiments in the NIH P4 facility a prior review would be conducted to advise NIH whether the proposal had sufficient scientific merit to justify the use of the NIH P4 facility. A subsequent review by the Bacteriology and Mycology Study Section of the NIH indicated that the proposal had sufficient scientific merit.

Drs. O'Brien and Holmes have now requested reconsideration of containment levels in view of information which has recently become available. They are requesting approval at the P2 level of physical containment for the following reasons:

1. Epidemiology studies have been performed on over 150 *E. coli* strains isolated from human and animal stools. These studies have shown that the majority (80%) of the strains made detectable levels of Shiga-like toxin. Moreover, four of four substrains of the well-characterized bacterium *E. coli* K–12 were shown to make low levels of the toxin. Thus, cloning of the Shiga-like toxin gene from clinical isolates of *E. coli* into laboratory strains of *E. coli* K–12 will not involve the introductions of a "foreign" toxin into the organism.

2. Production of low levels of Shiga-like toxin was observed in 2 of 15 normal human gut flora *E. coli* strains from asymptomatic infants.

3. Strains of *Vibrio cholerae* and *Vibrio parahaemolyticus* were tested and shown to produce Shiga-like toxin. Thus, the gene(s) for Shiga-like toxin are present in naturally occurring isolates of the family *Vibrionaceae* and are not restricted to the *Enterobacteriaceae*. In volunteer studies, some of the strains of *V. cholerae* that produce Shiga-like toxin did not cause disease. Therefore, the ability to produce Shiga-like toxin is not equivalent with virulence in humans challenged by the oral route.

4. Phages from two clinical isolates of *E. coli* have been shown to control high-level production of Shiga-like toxin in *E. coli* K–12 host strains by phage conversion. Thus, either the structural gene(s) for the Shiga-like toxin or regulatory genes that control high-level production of the toxin are present on wild-type phages from clinical isolates of *E. coli*. In this sense, "cloning" of genes that affect production of Shiga-like toxin onto phage genames has already occurred in nature.

Based on the occurrence of the gene(s) for Shiga-like toxin in several different bacterial genera, the avirulence of some bacterial strains that produce Shiga-like toxin in human subjects challenged orally, and occurrence of converting phages in clinical isolates of *E. coli* that control high-level production of Shiga-like toxin, the investigators believe there is little justification to require the maximum possible level of physical containment for the proposed studies of cloned genes for Shiga-like toxin in laboratory strains of *E. coli* that lack the ability to colonize or invade the intestinal mucosa in man.

In addition, the U.S. Cholera Panel of the National Institute of Allergy and Infectious Disease (NIAID) in a meeting on October 16, 1983, reviewed and critiqued the Microbiology and Infectious Diseases Program dealing with cholera and *E. coli* (ETEC) vaccine development. It was the consensus of the Panel that it be recommended that NIH reconsider the ban "on shiga toxin cloning experiments in containment facilities other than P4. This strict requirement will prevent most laboratories from deleting the Shiga gene from candidate *V. cholera* and ETEC vaccine strains. Shiga toxin is now found in many nonpathogenic *E. coli*, including the common vector host, *E. coli* K–12."

IV. Proposal to Add a New Section III–A–4 to the Guidelines and to Devise Mechanisms to Review Proposals Involving Genetic Engineering in Humans

At its April 11, 1983, meeting, the Recombinant DNA Advisory Comittee (RAC) endorsed a proposal to form a working group to comment and report to RAC on the "Report on the Social and Ethical Issues of Genetic Engineering with Human Beings," issued by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The President's Commission began its study in September 1980 in response to a request of the President's Science Advisor. Concern has been expressed earlier that year by the Nation's three major religious associations that no governmental body was "exercising adequate oversight or control, nor addressing the fundamental ethical questions in a major way." The Commission's report, issued in November 1982, concluded that continuing oversight of the field is desirable and suggested that one possible mechanism could be revising the responsibilities of the RAC.

The RAC Working Group for Development of Response to President's Commission's Report on Ethical and Social Issues met at NIH on June 24, 1983, and prepared a proposal for consideration by the full RAC on September 19, 1983.

The working group's primary recommendations were:

1. The membership of the RAC be modified to include adequate representation to deal credibly with these issues.

2. Procedures should be developed for the coordinate consideration of experiments involving the use of recombinant DNA technology in humans by Institutional Review Boards (IRBs), the Office of Protection from Research Risks (OPRR), the Food and Drug Administration (FDA), Institutional Biosafety Committees (IBCs), the Office of Recombinant DNA Activities (ORDA), and the Recombinant DNA Advisory Committee (RAC).

3. The NIH Guidelines for Research Involving Recombinant DNA Molecules should be reviewed for their adequacy and clarity in dealing with human experimentation.

The RAC discussed this proposal at its September 19, 1983, meeting. It was noted that the recommendations were based on several premises. These are: (1) There is currently no other national body that deals with ethical issues in the biomedical field; (2) RAC's expertise would be supplemented by adding experts in the ethical issues of using human subjects; and (3) RAC would review proposals on a case-by-case basis in response to investigator-initiated research. RAC's review would supplement review by IBCs and IRBs.

The RAC unanimously accepted the working group's recommendation. Questions such as whether the language of the Guidelines as currently written is adequate or how the review procedures would function were to be discussed at subsequent meetings of the Working Group.

The Working Group on Social and Ethical Issues (formerly the Working Group for Development of Response to President's Commission's Report on Ethical and Social Issues) met at the NIH on December 13, 1983. The working group requested that the following modifications to the Guidelines be published for comment, and be considered by the RAC at their February 1984 meeting.

A. A new Section III–A–4 would be added to Section III–A, *Experiments that Require RAC Review and NIH and IBC Approval Before Initiation*, of the Guidelines:

III–A–4. Deliberate transfer of recombinant DNA or DNA derived from recombinant DNA into human subjects. The requirement for RAC review should not be considered to preempt any other required review of experiments with human subjects. IRB review of the proposal should be completed before submission to NIH.

B. Section III–B–4–b of Section III–B–4, *Recombinant DNA Experiments Involving Whole Animals or Plants*, would be footnoted. Section III–B–4–b reads as follows:

III–B–4–b. For all experiments involving whole animals and plants and not covered by III–B–4–a, the appropriate containment will be determined by the IBC.

C. A footnote concerning Section III–B–4–b of Section III–B–4, *Recombinant DNA Experiments Involving Whole Animals or Plants* would be added to Section V, *Footnotes and Reference of Sections I–IV*, as follows:

For recombinant DNA experiments involving human subjects, see Section III–A–4.

In addition, the Working Group on Social and Ethical Issues suggested that a working group, composed of 9 members (including chairperson), be formed to conduct initial review of proposals submitted to the RAC. Individuals with expertise in basic science, clinical medicine, law, and ethics would be appointed to the working group. Liaison members from FDA and the Office of Protection from Research Risks would also be appointed. The working group might use as resource material reports such as "Splicing Life" prepared by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

V. Proposed Exemption for Certain Experiments Involving Nonpathogenic Streptomyces

Dr. Jack Manis of The Upjohn Company requests that under Appendix C of the Guidelines that "the Director of NIH and the RAC consider exemption from the Guidelines of any recombinant DNA experiments which involves only non-pathogenic *Streptomyces* species and their indigenous plasmids and viruses."

Dr. Manis also requests that "the Director of the NIH and the RAC consider exempting from regulation by the Guidelines any scale-up of recombinant *Streptomyces* cultures which are derived from nonpathogenic streptomycetes and which use as the basic host organisms *Streptomyces* species which have routinely been used in large-scale antibiotic fermentations without medical or ecological incident (e.g., *S. lincolnensis, S. fradiae, S. Erythreus*, etc.)."

VI. P1 Growth Conditions for Plants

Sereral inquiries concerning the specifications for contained growth conditions for plants have been received. In order to facilitate understanding of these requirements, the U.S. Department of Agriculture representative to the RAC suggested that language describing the specifications for contained growth conditions for plants be added to the Guidelines. One mechanism by which to include such a description in the Guidelines would be for Section III–B–4–b to be footnoted.

Section III–B–4–b reads as follows:

II–B–4–b. For all experiments involving whole animals and plants and not covered by III–B–4–a, the appropriate containment will be determined by the IBC.

A footnote concerning P1 growth conditions for plants would be added to Section V, *Footnotes and Reference of Section I–IV, as follows:*

If the IBC wishes to require Pl growth conditions for plants, this can be met by either (1) a limited access greenhouse, or (2) a plant growth chamber, which are insect-restrictive and in which a pest control regime is maintained. The greenhouse or growth chamber should be under positive air pressure unless airborne propagules are generated (e.g., fungal spores) in which case negative air pressure should be employed.

Sterilization of run-off water is required only where this is a plausible route for dissemination of viable microorganisms containing recombinant DNA. Soil, plant parts, and unwanted plant materials shall be sterilized before disposal. Plant materials which have to be removed from the greenhouse or cabinet for further research shall be maintained under good laboratory practices as applied to plants. Plants can be transported locally, e.g., between laboratory, growth chamber, and greenhouse, at physically separated locations provided: (1) Plants are in a vegetative condition, i.e., no reproductive organs or structures (e.g., pollen, flowers, seeds) are present; (2) plants are kept in an enclosed area or container (i.e., waterproof, insect-restrictive); and (3) plants are essentially "hand-couriered" between locations.

VII. Request to Field Test Genetically Engineered Pseudomonas

Advanced Genetics Sciences, Inc., of Greenwich, Connecticut, requests permission to field test genetically engineered *Pseudomonas* strains.

Dated: December 23, 1983.

Bernard Talbot,

Acting Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techiques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

[FR Doc. 84-5 Filed 1-4-84; 8:45 am]

BILLING CODE 4140-01-M

federal register

Thursday
January 5, 1984

Part III

Department of Defense

Department of the Air Force

Privacy Act of 1974; Deletions, Amendments and Republication of Systems of Records Notices

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; Deletions, Amendments and Republication of Systems of Records Notices

AGENCY: Department of the Air Force (DAF), DOD.

ACTION: Deletions, amendments and republication of systems notices.

SUMMARY: The Department of the Air Force is systematically republishing all its notices for systems of records subject to the Privacy Act of 1974. Each system notice is being rejustified, rewritten and renumbered in the interest of accuracy, simplicity, and clarity.

This notice deletes 27 notices and amends 126 others. The deleted systems are listed below. The changes to the systems notices that are to be amended are set forth below and are followed in their entirety by the amended notices. This represents the third and final submission in this republication project.

DATES: All deletions are effective January 5, 1984. All other changes will be effective February 6, 1984.

ADDRESS: Send comments to Mr. Jon Updike, HQ USAF/DAQD(S), The Pentagon, Washington, DC 20301. Telephone: (202) 694–3431.

FOR FURTHER INFORMATION CONTACT: Mr. Updike at the address and telephone number listed above.

SUPPLEMENTARY INFORMATION: The two previous notices in this project were published by the Department of the Air Force in the **Federal Register** at FR Doc. 82–30348 (47 FR 50004), November 4, 1982 and FR Doc. 83–1956 (48 FR 4106), January 28, 1983. System notices effected by this notice also appeared in the **Federal Register:**

FR Doc. 81–897 (46 FR 6443), January 21, 1981

FR DOC. 82–675 (47 FR 2544), January 18, 1982

FR Doc. 82–2886 (47 FR 5295), February 4, 1982

FR Doc. 82–4481 (47 FR 7478), February 19, 1982

FR Doc. 82–9886 (47 FR 14936), April 7, 1982

FR Doc. 82–10593 (47 FR 16827), April 20, 1982

The three notices in this project taken together represent a complete republication of all of the Department of the Air Force notices for systems of records subject to the Privacy Act of 1974, as amended, (Title 5 United States Code Section 552a).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 21, 1983.

DELETIONS

The following deletions are effective January 5, 1984.

F01101 DPXJC C

System Name:

USAF Reconstruction Requirements for Office of JCS and HQ USAF (44 FR 74155)

Reason:

This is not a system of records under the Privacy Act of 1974.

F01101 OSAWUBB

System Name:

Source Support-Control Data (44 FR 74159)

Reason:

These transitory records are used to record test results which are transferred to permanent records. They are part of the several training and evaluation systems.

F01102 OMUHHZB

Sytem Name:

General/Colonel Status Board (44 FR 74165)

Reason:

These records are not a system of records under the Privacy Act.

F02503 DPCXP A

System Name:

Committee Management Records (44 FR 74170)

Reason:

These records are not retrieved by any personal identifier.

F02503 NB A

System:

Biographical Information File (44 FR 74170)

Reason:

These records are included under system F190 AF PA A, Official Biographies and F035 AF MP C, Unit Assigned Personnel Information File.

F03501 OMUHHZB

System Name:

Curriculum Vitae (44 FR 74214)

Reason:

These records are properly covered by system F110 AF SG B, Medical Professional Staffing Records.

F03502 OBXOPCE

System Name:

Master Cadet Personnel Records (RR)/Active (44 FR 74230)

Reason:

This system is merged with F03502 OBXQPCD to form F035 AFA B, Master Cadet Personnel Records (RR)/Active/Historical.

F03502 OMUHHZA

System Name:

Manning Specialist Evaluation (44 FR 74230)

Reason:

This system has been discontinued.

F03504 AA A

System Name:

Secretary of the Air Force Military Personnel Administration (44 FR 74233)

Reason:

These records are covered by system notice F035 AF MP O, Unit Assigned Personnel Information File.

F03504 XOXXE A

System Name:

Air Force Advisory Personnel in Latin America (44 FR 74239)

Reason:

These records are part of system F035 AF MP C, Military Personnel Records System.

F03504AAFSS S

System Name:

Office Personnel Data Information Files (44 FR 74243)

Reason:

These records are covered by system notice F035 AF MPO Unit Assigned Personnel Information File for military members, and OPM/Govt-1, 2, and 3 for civilians.

F04501 OIACYVC

System Name:

Professional Officer Course (POC) and Financial Assistance Program Cadets. (44 FR 74263)

Reason:

This system has been discontinued

F05002 OOJUBJB

System Name:

Maintenance Management Information and Conmtrol System (MMICS) (44 FR 74281)

Reason:

This is not a system of records subject to the Privacy Act of 1974.

F05302 OBXOPCB

System Name:

Air Force Academy Candidate System (44 FR 74290)

Reason:

These records have been merged with system F03501BXQPOCAB, Admission and Registrar Records to form system F053 AFA A, Admission and Registrar Records.

F06608 OOJUBJC

System Name:

Exception Time Accounting (ETA) System (44 FR 74294)

Reason:

These records are not a system or records subject to the Privacy Act.

F06711 OOJUBJA

System Name:

Tool Kit Control Card (44 FR 74295)

Reason:

This system has been discontinued.

F12702 02SCEYA

System Name:

Aircraft Accidents and Incidents Computer File (44 FR 74326)

Reason:

These records are not retrieved by any personal identifier.

F12702 02SCEYB

System Name:

Human Factors in Aircraft Accident/ Incident Computer File (44 FR 74327)

Reason:

These records are not retrieved by any personal identifier.

F12702 02SCEYC

System Name:

United States Air Force (USAF) Ground Accident Fatality File (44 FR 74327)

Reason:

These records cover only deceased individuals and are not subject to the Privacy Act.

F16401 GHXO S

System Name:

Patient Evacuation Manifest (44 FR 74339)

Reason:

These records are filed chronologically and are not a system of records subject to the Privacy Act.

F16802 CSGH R

System Name:

MAMS–R (Medical Administrative Management System-Revision) (44 FR 74340)

Reason:

These records are part of system F168 AF SG A, Automated Medical/Dental Records System.

F17701 NGBJA A

System Name:

Confidential Statement of Employment and Financial Interest (44 FR 74354)

Reason:

These records are properly part of system F030 AF JA A, Confidential Statement of Employment and Financial Interest.

F17721 ADPMSNA

System Name:

Employee Group Life and Health Insurance Plan (44 FR 74362)

Reason:

This system has been discontinued.

F182 AF A

System Name:

Air Force Postal Directory File (44 FR 4208)

Reason:

These records are properly part of system F011 AF A, Locator, Registration and Postal Directory Files which has been revised and republished below.

F18202 HC A

System Name:

Current Official Active Duty Chaplains (44 FR 74373) Mailing List.

Reason:

These records are properly part of F011 AF A, Locator, Registration and Postal Directory Files which has been revised and republished below.

F20505 OOVDYDA

System Name:

Clearance Certificate Records (44 FR 74383)

Reason:

These records are properly part of system F205 SCO C, Personnel Security Clearance and Investigation Records.

F26501 HC C

System Name:

Directory of Active Duty and Retired Chaplains (44 FR 74390)

Reason:

These records are properly part of system F011 AF A, Locator Registration and Postal Directory Files which has been revised and republished below.

AMENDMENTS

The following major changes have been made to the systems notices published as amended below. These notices have also been substantially rewritten in the interest of clarity and accuracy.

FO1001 CVAE A

System Name:

Secretary of the Air Force Historical Records (44 FR 74148)

Changes:

System Identification:

Change to, "F010 CVAE A."

F01001 REPX A

System Name:

Inquiries (Presidential, Congressional). (44 FR 74149)

Change:

System Identification:

Change to, "F010 RE A."

F01001 SAFPC A

System Name:

Air Force Discharge Review Board Retain Files (44 FR 74149)

Change:

System Identification:

Change to, "F035 SAFPC A."

F01003 OIACYVA

System Name:

Background Material (46 FR 6535)

Changes:

System Identification:

Change to, "F010 ARPC A."

Storage:

Change to, "Maintained in file folders."

F011 AF A

System Name:

Military and Civilian Personnel Locator and Registration Files (48 FR 4116)

Changes:

System Name:

Change to, "Locator, Registration and Postal Directory Files."

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses:

Add after the first sentence, "Portions of the System are used to Directorize and forward individual personal mail received by Air Force postal activities, and for assignment of individual mail boxed. Other parts of the system are used to create listings used to send official and unofficial material to or to contact present and former members or retirees."

Retention and Disposal:

Add, "Postal directory files are maintained for six months after reassignment, separation on departure from the servicing activity. Contact listings are retained until no longer needed."

F01101 PRES A

System Name:

Check Cashing Privilege File (44 FR 74156)

Change:

System Identification:

Change to, "F011 AF B."

F01102 LLI A

System Name:

Mircofilm Records Congressional/ Executive Inquiries (44 FR 74162)

Changes:

System Identification:

Change to, "F011 LLI A."

System Name:

Delete, "Microfilm Records."

F01102 SGPS F

System Name:

High Level Inquiry File (44 FR 74164)

Change:

System Identification:

Change to, "F011 AFSG A."

F01103 OBXOPCC

System Name:

Faculty Biographical Sketch (44 FR 74167)

Change:

System Identification:

Change to, "F011 AFA B."

F01103X0BXOPCD

System Name:

Class Committee Products. (44 FR 74167)

Change:

System Identification:

Change to, "F011 AFA A."

F03001X0BXOPCB

System Name:

Military, Leadership, and Basic Cadet Training Order of Merit System (46 FR 6540)

Changes:

System Identification:

Change to "F050 AFA A."

System Name:

Change to, "Military Performance Average."

Exemption:

Add, "This exemption will be withdrawn after 31 July 1983."

F03001 DPXVV A

System Name:

File Designation, Drug Abuse Waiver Requests (46 FR 6539)

Changes:

System Identification:

Change to, "F030 AF MP E."

System Name:

Delete, "File Designation."

F030040BXOPCAB

System Name:

Military Personnel Administrative Records (44 FR 74190)

Changes:

System Identification:

Change to, "F900 AFA B."

System Name:

Change to, "Thomas D. White Defense Award."

F03005 PRENC A

System Name:

Equal Opportunity in Off-Base Housing (44 FR 74192)

Change:

System Identification:

Change to, "F030 AF LE A."

F03005 PRENC B

System Name:

Off-Base Housing Referral Service (44 FR 74192)

Change:

System Identification:

Change to, "F030 AF LE B."

F03005 PRENC C

System Name:

Base Housing Management (46 FR 6549)

Change:

System Identification:

Change to, "F030 AF LE C."

F03005 02 ALSA

System Name:

On/Off-Base Housing Records (46 FR 6550)

Change:

System Identification:

Change to, "F030 AF LE D."

F03007 OOPTFLB

System Name:

Visiting Officer Quarters-Transient Airman Quarters Reservations (44 FR 74194)

Change:

System Identification:

Change to, "F090 AF A."

F03501 AFDPG Z

System Name:

General Officer Personnel Data Systems (46 FR 6551)

Change:

System Identification:

Change to, "F035 AF MP P."

F03501 AFREP T

System Name:

Files on General Officers and Colonels Assigned to General Officer Positions (44 FR 74196)

Change:

System Identification:

Change to, "F035 AF MP A."

F03501 DPMAK J

System Name:

Separation Case Files (Officer and Airman) (46 FR 6553)

Change:

System Identification:

Change to, "F035 MPC U."

F03501 HC A

System Name:

Chaplain Personnel Record (44 FR 74207)

Changes:

System Identification:

Change to, "F035 HC B."

Authority for Maintenance of the System:

Change to, "10 USC 8032, General duties, and 8067(g), Designation: officers to perform certain professional functions [Chaplains]."

F03501 HC B

System Name:

Chaplain Information Sheet (44 FR 74208)

Changes:

System Identification:

Change to, "F035 HC A."

Authority for Maintenance of the System:

Change to, "10 USC 8032, General duties, and 8067(g), Designation: officers to perform certain professional functions [Chaplains]."

F03501 REP A

System Name:

Personnel Files on Statutory Tour Officers (44 FR 74209)

Changes:

System Identification:

Change to, "F035 RE A."

Authority for Maintenance of the System:

Change to, "10 USC 265, Policies and regulations: participation of reserve officers in preparation and administration."

F03501 REP B

System Name:

Files on AF Reserve General Officers; Colonels Assigned to General Officer Positions (44 FR 74209)

Change:

System Identification:

Change to, "F035 RE B."

F03501 SAFCB A

System Name:

Military Records Processed by the Air Force Corrections Board (44 FR 74209)

Change:

System Identification:

Change to, "F035 SAFCB A."

F03501 SAFOI B

System Name:

Mobilization Augmentee Training Folders (44 FR 73210)

Change:

System Identification:

Change to, "F035 SAFPA A."

F03501 OMUHHZA

System Name:

Personnel Interview Record (46 FR 6557)

Change:

System Identification:

Change to, "F035 AFRES A."

F03501 07YLNGA

System Name:

Informational Personnel Record (44 FR 74221)

Change:

System Identification:

Change to, "F035 AFOSI C."

F03501 07YLNGB

System Name:

Internal Personnel Data System (44 FR 74221)

Change:

System Identification:

Change to, "F035 AFOSI D."

F03501FSFPC A

System Name:

Air Force Discharge Review Board Original Case Files (44 FR 74223)

Change:

System Identification:

Change to, "F035 SAFPC B."

F03501XOBXOPCB

System Name:

Prospective Instructor Files (44 FR 74223)

Change:

System Identification:

Change to, "F035 AFA C."

F035010BXOPCAB

System Name:

Admission and Registrar Records (44 FR 74226)

Change:

System Identification:

Change to, "F053 AFA C."

F03502 AFA A

System Name:

Cadet Personnel Management System (44 FR 74226)

Change:

System Identification:

Change to, "F035 AFA A."

F03502 OBXOPCD

System Name:

Master Cadet Personnel Record (RR)/ Historical (44 FR 74229)

Change:

System Identification:

Change to, "F035 AFA B."

System Name:

Change, "Historical," to, "Active/ Historical."

F03503 AFRES A

System Name:

Recruiters Automated Program (47 FR 14936)

Change:

System Identification:

Change to, "F035 AFRES B."

F03503 OMUHHZA

System Name:

Reserve Manning Report (46 FR 6560)

Change:

System Identification:

Change to, "F035 AFRES C."

F03504 DPMHC A

System Name:

Chaplain Personnel Action Folder (46 FR 6560)

Change:

System Identification:

Change to, "F035 HC C."

F03509 OIACYVA

System Name:

Requests for Discharge From the Air Force Reserve (46 FR 6565)

Change:

System Identification:

Change to, "F035 ARPC I."

F04001 DPCX A

System Name:

Non-Appropriated Fund (NAF) Civilian Personnel Records (44 FR 74253)

Change:

System Identification:

Change to, "F040 AF NAFI A."

F04001 1PTAYZC

System Name:

Civilian Pay-Personnel-Manpower (Paperman) (44 FR 74255)

Change:

System Identification:

Change to, "F040 ASG A."

F04002 DPCMS A

System Name:

Civilian Personnel Applicant Supply Files (44 FR 74255)

Change:

System Identification:

Change to, "F040 AF MP D."

F04002 DPCMS B

System Name:

Civilian Personnel Test Score Record (44 FR 74255)

Change:

System Identification:

Change to, "F040 AF MP B."

F04002 DPCMS C

System Name:

Job Element Questionnaires for Civilian Trades and Labor Occupations (44 FR 74256)

Change:

System Identification:

Change to, "F040 AF MP C."

F04002 DPCMS D

System Name:

Civilian Personnel Occupational and Suitability Employment Examinations (44 FR 74256)

Change:

System Identification:

Change to, "F040 AF MP A."

F04002 OMUHHZA

System Name:

Air Reserve Technician (ART) Officer Selection Folders (44 FR 74257)

Change:

System Identification:

Change to, "F040 AFRES A."

F04003 DPCMT A

System Name:

Training and Employee Development Record Systems (44 FR 74257)

Change:

System Identification:

Change to, "F040 AF MP E."

F04004 DPCE B

System Name:

Civilian Personnel Performance Awards and Outstanding Performance Ratings (44 FR 74259)

Change:

System Identification:

Change to, "F040 AF MP F."

F04004 DPCE C

System Name:

Labor Management Relations Records System (44 FR 74259)

Change:

System Identification:

Change to, "F040 AF MP G."

F04004 DPCMS A

System Name:

Employee Assistance Program Case Records (44 FR 74260)

Change:

System Identification:

Change to, "F040 AF MP H."

F04008 AA A

System Name:

Civilian Personnel Files (44 FR 74260)

Change:

System Identification:

Change to, "F040 AA A."

F04008 DPCE A

System Name:

Supervisor's Records of Civilian Employee (44 FR 74261)

Changes:

System Identification:

Change to, "F040 AF MP I."

Authority for Maintenance of the System:

Change to, "10 USC 8012, Secretary of the Air Force: powers and duties; delegation by."

F04501XOMUHHZA

System Name:

Reserve Medical Service Corps Officer Appointments (44 FR 74266)

Change:

System Identification:

Change to, "F045 AFRES A."

F05001 AFA A

System Name:

Faculty Academic Records (44 FR 74267)

Change:

System Identification:

Change to, "F050 AFA B."

F05001 SAFOPI B

System Name:

Information Officer Short Course Eligibility File (44 FR 74268)

Changes:

System Identification:

Change to, "F050 SAFPA B."

System Name:

Change to, "Public Affairs Officer Short Course Eligibility File."

F05001 OBXOPBB

System Name:

USAF Academy Cadet/Nominee/ Applicant Athletic Records (44 FR 74269)

Changes:

System Identification:

Change to, "F050 AFA C."

System Name:

Change to, "USAF Academy Athletic Records."

F05001 OMUHHZA

System Name:

Undergraduate Pilot and Navigator Training (44 FR 74270)

Change:

System Identification:

Change to, "F050 AFRES A."

F05002 OI A

System Name:

Graduates of Air Forces Short Course in Communications (Oklahoma University) (44 FR 74276)

Change:

System Identification:

Change to, "F050 SAFPA A."

F05002 OTMUHJA

System Name:

Student Record File (44 FR 74282)

Change:

System Identification:

Change to, "F050 TAC A."

F05301 DPP A

System Name:

Air Force Academy Appointment and Separation Records (44 74289)

Change:

System Identification:

Change to, "F053 MP A."

F05301XOBXOPCB

System Name:

Educational Research Data Base (46 FR 6574)

Change:

System Identification:

Change to, "F053 AFA A."

F05303OBXOPCAB

System Name:

Preparatory School Records (44 FR 74291)

Change:

System Identification:

Change to, "F053 AFA B."

F06003 ANGXOB

System Name:

Progress Report, Undergraduate Pilot Training (44 FR 74291)

Change:

System Identification:

Change to, "F060 ANG A."

F06703 USAFE A

System Name:

Government Furnishings Issue Record (47 FR 16827)

Change:

System Identification:

Change to, "F067 AF A."

F06711 LGYPS A

System Name:

Personal Clothing and Equipment Record (44 FR 74295)

Change:

System Identification:

Change to, "F067 AF LE A."

F07001 OEACYVA

System Name:

Accounts Payable Records (44 FR 74296)

Change:

System Identification:

Change, "F070 AF AFO A."

F07502 USAFE A

System Name:

Custom Control Records (47 FR 16827)

Change:

System Identification:

Change to, "F075 USAFE A."

F07503 AA A

System Name:

Office, Secretary of the Air Force Travel Files. (44 FR 74297)

Change:

System Identification:

Change to, "F075 AA A."

F075031LGTT A

System Name:

Personnel Property Movement Records (44 FR 74297)

Change:

System Identification:

Change to, "F075 AF LE B."

F07503100JUBJH

System Name:

Household Goods Nontemporary Storage Accounts System (NOTEMPS) (44 FR 74297)

Change:

System Identification:

Change to, "F075 AF LE A."

F07702 LGTN A

System Name:

Motor Vehicle Operator's Records (44 FR 74299)

Change:

System Identification:

Change to, "F077 AF LE A."

F08003 OBXOPCA

System Name:

Minnesota Multiphase Personality Inventory Research Program. (44 FR 74300)

Change:

System Identification:

Change to, "F080 AF A."

F09003 SAC A

System Name:

Unaccompanied Personnel Quarters Assignment/Termination (47 FR 2615)

Change:

System Identification:

Change to, "F090 SAC A."

F11001 IGO A

System Name:

Inspector General Records: Freedom of Information Act (44 FR 74303)

Change:

System Identification:

Change to, "F120 AF IG A."

F11001 SAFPC A

System Name:

Air Force Discharge Review Board Voting Cards (46 FR 6574)

Change:

System Identification:

Change to, "F035 SAFPC C."

F11001 SAFPC B

System Name:

Air Force Discharge Review Board Case Control/Locator Cards (44 FR 74304)

Change:

System Identification:

Change to, "F035 SAFPC D."

F11001 OEACYVA

System Name:

Legal Administration Records of the Staff Judge Advocate (44 FR 74305)

Change:

System Identification:

Change to, "F110 AFAFC H."

F11001 XOMUHHZA

System Name:

Reserve Judge Advocate Training Report (44 FR 74307)

Change:

System Identification:

Change to, "F110 AFRES A."

F12001 IGO A

System Name:

Inspector General Records (44 FR 74312)

Change:

System Identification:

Change to, "F120 AF IG B."

F12301 02SCEYA

System Name:

United States Air Force (USAF) Inspection Scheduling System (44 FR 74313)

Change:

System Identification:

Change to, "F123 AFISC A."

F12701 02SCEYA

System Name:

Safety Education File (44 FR 74326)

Change:

System Identification:

Change to, "F127 AFISC A."

F16001 AFA A

System Name:

Cadet Hospital/Clinic Records (46 FR 6575)

Change:

System Identification:

Change to, "F160 AFA A."

F16002 SGPS A

Change:

System Name:

Department of Defense Medical Examination Review Board Medical Examination Files (44 FR 74329)

Change:

System Identification:

Change to, "F160 DODMERB A."

F16006 SGPC A

System Name:

Medical Treatment Facility Tumor Registry (44 FR 74333)

Change:

System Identification:

Change to, "F160 AF SG C."

F16007 SGPA A

System Name:

Drug Abuse Rehabilitation Report System (44 FR 74333)

Change:

System Identification:

Change to, "F160 AF SG D."

F17602 OEACYVA

System Name:

Nonappropriated Funds Standard Payroll System (44 FR 74351)

Changes:

System Identification:

Change to, "F176 AF MP D."

System Manager(s) and Address:

Delete, "Director, Accounting and Finance, United States Air Force."

F17603 AA A

System Name:

Accounts Receivable (44 FR 74352)

Change:

System Identification:

Change to, "F176 AA A."

F17603 HC

System Name:

Chaplain Fund Service Contract File (44 FR 74352)

Change:

System Identification:

Change to, "F176 AF HC A."

F17607 DPM A

System Name:

Morale, Welfare, and Recreation (MWR) Participation/Membership/ Training Records (44 FR 74353)

Change:

System Identification:

Change to, "F176 AF MP C."

F17701 OBXOPCA

System Name:

Cadet Accounting and Finance System (46 FR 6579)

Change:

System Identification:

Change to, "F177 AFA A."

F17705 OEACYVA

System Name:

Accounting and Finance Officer Accounts and Substantiating Documents (44 FR 74355)

Change:

System Identification:

Change to, "F177 AFAFC A."

F17707 OEACYVA

System Name:

Loss of Funds Case Files (44 FR 74356)

Change:

System Identification:

Change to, "F177 AFAFC I."

F17708 OEACYVA

System Name:

Claims Case File—Corrected Military Pay and Allowances (44 FR 74356)

Change:

System Identification:

Change to, "F177 AFAFC E."

F17708 OEACYVB

System Name:

Claims Case Files—Missing in Action Data (44 FR 74357)

Change:

System Identification:

Change to, "F177 AFAFC F."

F17708 OEACYVC

System Name:

Claims Case FIle—Death Gratuity Records (44 FR 74358)

Change:

System Identification:

Change to, "F177 AFAFC D."

System Name:

Change to, "Claims Case FIle—Active Duty Casualty Case Records."

F17708 OEACYVD

System Name:

Indebtedness and Claims (46 FR 6580)

System Identification:

Change to, "F177 AFAFC M."

F17709 OEACYVA

System Name:

Report of Survey (44 FR 74359)

Change:

System Identification:

Change to, "F177 AF AFC E."

F17718 OEACYVA

System Name:

Accounts Receivable Records Maintained by Accounting & Finance (44 FR 74360)

Change:

System Identification:

Change to, "F177 AF AFC A."

F17720 OEACYVA

System Name:

Travel Records (46 FR 6580)

Change:

System Identification:

Change to, "F177 AF AFC B."

F17721 OEACYVA

System Name:

Civilian Pay Records (46 FR 6581)

Change:

System Identification:

Change to, "F177 AF AFC F."

F17722 OEACYVA

System Name:

Accrued Military Pay System, Discontinued (44 FR 74364)

Change:

System Identification:

Change to, "F177 AFAFC B."

F17722 OEACYVC

System Name:

Military Pay Records (44 FR 74364)

Change:

System Identification:

Change to, "F177 AFAFC J."

F17722 OEACYVD

System Name:

Uniformed Services Savings Deposit Program (USSDP) (44 FR 74366)

Change:

System Identification:

Change to, "F177 AFAFC C."

F17725 OEACYVA

System Name:

Air Reserve Pay and Allowance System (ARPAS) (46 FR 6582)

Change:

System Identification:

Change to, "F177 AF AFC C."

F17726 OEACYVA

System Name:

Pay and Allotment Records (46 FR 6583)

Change:

System Identification:

Change to, "F177 AFAFC K."

F17730 OEACYVA

System Name:

Joint Uniform Military Pay System (JUMPS) (44 FR 74368)

Change:

System Identification:

Change to, "F177 AF AFC D."

F17734 OEACYVA

System Name:

USAF Retired Pay System (46 FR 6584)

Change:

System Identification:

Change to, "F177 AFAFC L."

F17801 OHFREZA

System Name:

Rome Air Development Center (RADC) Manpower Resource Expenditure System (44 FR 74371)

Change:

System Identification:

Change to, "F178 AFSC A."

F17801 OHZHTVA

System Name:

Integrated Management Information and Control System (IMICS) (44 FR 74372)

Change:

System Identification:

Change to, "F178 AFSC C."

F19001 OI AB

System Name:

Official Biographies (44 FR 74375)

Change:

System Identification:

Change to, "F190 SAFPA B."

F19001 OI AB

System Name:

Biographies of Officers and Key Civilians Assigned to SAF/OI (44 FR 74374)

Changes:

System Identification:

Change to, "F190 SAFPA A."

System Name:

Change "SAF/OI" to "SAFPA."

F19001 SAFOI

System Name:

Special Events Planning-Protocol (44 FR 74376)

Change:

System Identification:

Change to, "F190 AF PA A."

F19002 A58WWYK

System Name:

Home Town News Release Background Data File (44 FR 74376)

Change:

System Identification:

Change to, "F190 AF PA B."

F20501 SPI A

System Name:

Requests for Access to Classified Information by Historical Researchers (44 FR 74378)

Change:

System Identification:

Change to, "F205 AFSP A."

F20503 DAI A

System Name:

Personnel Security Case Files (44 FR 74379)

Changes:

System Identification:

Change to, "F205 AFSCO A."

System Name:

Change "Personnel" to "Special."

F20503 DAI C

System Name:

Presidential Support Files (44 FR 74380)

Change:

System Identification:

Change to, "F205 AFSCO B."

F20505 SPI A

System Name:

Personnel Security Clearance Investigation Records (44 FR 74381)

Changes:

System Identification:

Change to, "F205 AFSCO C."

System Name:

Add, "and," after "Clearance."

Note: This notice has been extensively revised to reflect realignments of the clearance function in the Air Force Security Clearance Office. There are no changes to the records or record keeping practices.

F20505 SPI B

System Name:

Personnel Security Assess Records (44 FR 74382)

Changes:

System Identification:

Change to, "F205 AF A."

F20505 SPI C

System Name:

Special Security Files (44 FR 74383)

Changes:

System Identification:

Change to, "F205 AF SP A."

Note: This notice has been extensively revised to reflect realignments of the clearance function in the Air Force Security Clearance Office. There are no changes to the records or record keeping practices.

F21201BXOPCAB

System Name:

Library/Special Collections Records (44 FR 74385)

Changes:

System Identification:

Change to, "F212 AFA."

F21208XOBOPCE

System Name:

Library Authorized Patron File (44 FR 74385)

Changes:

System Identification:

Change to, "F212 AFA. B"

F21301 DPMSS A

System Name:

Air Force Educational Assistance Loans (44 FR 74385)

Changes:

System Identification:

Change to, "F213 MPC A."

F26501 AFA A

System Name:

Cadet Chaplain Records (44 FR 74389)

Changes:

System Identification:

Change to, 'F265 AFA A."

F26501 HC A

System Name:

Non-Chaplain Ecclesiastical Endorsement Files (44 FR 74389)

Changes:

System Identification:

Change to, "F265 HC A."

F26501 HC B

System Name:

Chaplain Personnel Roster (44 FR 74389)

Changes:

System Identification:

Change to, "F265 HC B."

F26501XHC A

System Name:

Records on Baptisms, Marriages and Funerals by Air Force Chaplains (44 FR 74390)

Changes:

System Identification:

Change to, "F265 HC D."

Authority for Maintenance of the System:

Change to, "10 USC 8012, Secretary of the Air Force: powers and duties; delegation by."

F26501XHC A

System Name:

Cadet Awards Files (44 FR 74393)

Changes:

System Identification:

Change to, "F900 AFA A."

UNITED STATES AIR FORCE

F010 ARPC A

SYSTEM NAME:

010 ARPC A Background Material

SYSTEM LOCATION:

Air Reserve Personnel Center, Denver, CO 80280.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letter request for orders, amendments, including justification on files on special authorizations when required by order publishing activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1162, Reserves: discharge.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information on form is utilized for publication of discharge orders used by military personnel and AF civilian employees within the office and verify that discharge orders were published.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for 1 year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Air Reserve Personnel Center (ARPC), Denver, CO 80280.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve, identification card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, Denver CO 80280; telephone (303) 394-4667.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, police and investigating

officers, witnesses and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F010 CVAE A

SYSTEM NAME:

010 CVAE A Secretary of the Air Force Historical Records

SYSTEM LOCATION:

Washington National Records Center, Washington DC 20409. Modern Military Branch Military Archives Division National Archives and Records Service, Washington DC 20408.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the Secretary of the Air Force, and anyone who has corresponded with the Secretary of the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Secretary of the Air Force correspondence files covering calendar years 1947 through March, 1972, most of which does not contain personal information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for research by Air Force Historian, other government agencies and private institutions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Access is authorized by the Secretary of the Air Force only. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Staff, Headquarters United States Air Force, Washington, D.C. 20330

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, educational institutions, medical institutions, police and investigating officer, the public media, a corporation, and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F010 RE A

SYSTEM NAME:

010 RE A Inquiries (Presidential, Congressional)

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330, Personnel Division, Office of Air Force Reserve (AF REPX).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Air Force civilian employees, Air Force Reserve and Air National Guard personnel, and Retired Air Force military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual inquiries, research material and replies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Office of Secretary of Air Force and Air Reserve Personnel Center to reply to inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Air Force Reserve, Personnel Division, Headquarters USAF, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager. Requests should include the full name and SSN. Individuals may visit the Personnel Division, Office of the Air Force Reserve, Pentagon, Washington DC and should provide military identification card or driver's license as means of identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F011 AF A

SYSTEM NAME:

011 AF A Locator, Registration and Postal Directory Files

SYSTEM LOCATION:

At Headquarters, United States Air Force, and at Air Force Installations, to include bases, units, offices, and functions. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel; Air Force Reserve and National Guard Personnel; Air Force civilian employees; dependents may be included at the option of the installation, unit, or organization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards or listings may contain the individuals name, grade, military service identification number, Social Security Number, duty location, office telephone number, residence address and residence telephone number, and similiar type personnel data determined to be necessary by the local authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to locate or identify personnel assigned to, attached to, tenanted on, or on temporary duty at the specific installation, office, base, unit, function, and/or organization in response to specific inquiries from authorized users for the conduct of business. Portion of the system are used to directorize and forward individual personal mail received by Air Force postal activities, and for assignment of individual mail boxes. Files may be used locally to support official and unofficial programs which require minimal locator information or membership or user listings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper records in card or form media in visible file binders/ cabinets card files or on computer and computer products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance oftheir official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, or when superseded or no longer needed for reference, then destroyed by tearing into pieces,shredding, pulping, macerating, or burning or by overwriting magnetic media. Postal directory files are maintained for six months after reassignment, separation or departure from servicing acivity.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, Headquarters, US Air Force, Washington, DC. Local System Managers: Privacy officer of the installation, base, unit, organization, office or function to which the individual is assigned, attached, tenanted on or on temporary duty. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the local System Manager or custodian of the records. Individual must furnish full name and the names of dependents to the Air Force installation, unit and organization, office, or function to which assigned, attached, tenanted on or on temporary duty at, including the calendar years of such service. The individual may visit the Locator Office or Privacy Officer at the place of assignment. No identification is required to determine if the system contains records pertaining to a specific individual.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the local System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces or from individuals or personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F011 AF B

SYSTEM NAME:

011 AF B Check Cashing Privilege Files

SYSTEM LOCATION:

Commissaries, Services, Clothing Sales Stores and any other check cashing facilities at Air Force installations. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose checks, presented at these facilities, have been dishonored and or whose check cashing privileges have been suspended or revoked.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, cards and listings on individuals who have cashed bad checks at base facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Identify individuals whose check cashing privileges are suspended or revoked and to refuse check cashing services to such individuals.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper records in card or listing media. Documents are filed in folders or card boxes and posted in or near the cashier's cage or cash register box at the check cashing facility.

RETRIEVABILITY:

By name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and stored in locked cabinets, containers, or rooms.

RETENTION AND DISPOSAL:

Retained until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

For commissaries and clothing sales stores; Director, Engineering and

Services, Deputy Chief of Staff, Programs and Resources, Headquarters United States Air Force, Wash, DC, 20330; and Chief, Services Division at the installation having jurisdiction over commissary or clothing sales store. For all other check cashing facilities; Chief of the activity having the check cashing facility.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information received from check cashing sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F011 AFA A

SYSTEM NAME:

011 AFA A Class Committee Products

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

List of cadets academically deficient at progress reports; provides grades, military order of merit and other military and entrance data on cadets meeting committees; reports committee decisions and includes worksheets with coded recommendations to the Academy Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides data on academically deficient cadets to Class Committees and Academy Board. Used by class committee to make recommendations to the Academy Board.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets and on computer paper printouts.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Destroy one year after graduation or when purpose has been served, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of Faculty USAF Academy CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Records are compiled from cadet grading and rating cycles.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(7). This exemption does not apply to records created in or after July 1980. For additional information, contact the System Manager.

F011 AFA B

SYSTEM NAME:

011 AFA B Faculty Biographical Sketch

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy faculty officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information on education, job assignments, teaching experience, publications, membership in professional societies and exit interview.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, UNITED STATES AIR FORCE ACADEMY.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used on a daily basis as the primary source for academic information on officers assigned to the faculty and as a sole source for academic information on officers who have left the faculty due to reassignment, separation, or retirement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by personnel screening. Stored in locked cabinets or rooms

RETENTION AND DISPOSAL:

Retained for 10 years after instructor's departure and then forwarded to the Library (Special Collections Branch), where it is microfilmed. The paper copy is destroyed and microfilm is retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of the Faculty, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the

individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from individual and department head.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F011 AFSG A

SYSTEM NAME:

011 AFSG A High Level Inquiry File

SYSTEM LOCATION:

HQ USAF, Surgeon General, (SGPS), Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who make high level inquiries regarding medical criteria for Air Force accession; separation; retirement; continued active duty; and medical waivers for flying duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical opinions generated as a result of high level inquiries regarding Air Force accession, separation, retirement, continued active duty, and medical waivers for flying duty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used as a cross reference to determine if action has been taken in response to high level inquiry.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Surgeon General, USAF, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F011 LLI A

SYSTEM NAME:

011 LLI A Congressional/Executive Inquiries

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel, present and former civilian employees, Air Force Reserve and Air National Guard personnel, Air Force Academy nominees/applicants and cadets, Senior and Junior Air Force Reserve Officers, dependents of military personnel, and anyone who has written to the President or a Member of Congress regarding an Air Force issue.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of applicable Congressional/Executive correspondence and Air Force replies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used as a reference base in the case of similar inquiries from other Members of Congress, in behalf of the same Air Force issue and/or follow-up by the same Member. Information may also be used by appropriate Air Force offices as a basis for corrective action and for statistical purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files and on aperture cards.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties whi are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Current year plus 2 years of microfilm records will be retained in the office, then destroyed by tearing, shredding, macerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Legislative Liaison, Office of the Secretary of the Air Force, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and is published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Personnel Records, Congressional and Executive inquiries and information from Air Force offices and organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F030 AF LE A

SYSTEM NAME:

030 AF LE A Equal Opportunity in Off-Base Housing

SYSTEM LOCATION:

Each base level Housing Referral Office; Major Command (MAJCOM)/ Assistant for Family Housing Management. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military member, Department of Defense(DOD) civilian employee, and adult dependent acting for military member submitting a housing discrimination complaint.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of Complaint in Discrimination of off base housing and supporting documents submitted to the base level housing referral office alleging a housing discrimination complaint, case files, reports of investigation, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by; 42 USC 1982, Property rights of citizens; and 10 USC 133, Secretary of Defense: appointment; powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information copies held at base, MAJCOM, and Headquarters United States Air Force (HQ USAF) as a historical record of all actions taken in response to each housing discrimination complaint. Information used by Air Force officials, at all levels, to respond to Congressional, HUD, Department of Justice (DOJ), or related inquiries pertaining to the housing discrimination complaint. Original record sent to HUD with an information copy to DOJ for their action in support of existing laws.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

By Installation and Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager. Individuals may contact agency officials at the respective base level housing referral office in order to exercise their rights under the Act.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Individuals may contact agency officials at the respective base level housing referral office in order to exercise their rights under the Act.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual's voluntary application, witnesses of alleged incident, and other sources pertinent to alledged incident.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a (k)(2). For additional information, contact the System Manager.

F030 AF LE B

SYSTEM NAME:

030 AF LE B Off-Base Housing Referral Service

SYSTEM LOCATION:

Base Level Housing Referral Offices; Major Command/DEHH. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military member, Department of Defense (DOD) civilian employee requesting off-base housing, and civilian landowner or agent listing facilities for rent.

CATEGORIES OF RECORDS IN THE SYSTEM:

Off-Base Housing Application, and Notification of Housing Selection. Data includes: name, grade, address, family composition, age, housing requirements, and housing selected. Detailed Sales/ Rental Listing. Form completed by civilian landowner or agent. Dataincludes: name, address, details on rentals listed, and nondiscriminatory assurances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U S C 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to match housing desires with rentals listed. Used by base housing officials, military personnel and authorized civilians to locate housing matching needs/desires. Identifies type of housing selected by incoming personnel and used by base housing officials to monitor availability of off-base housing, housing selected, and individual's satisfaction with housing referral service provided. Referred to DOJ and HUD, if required by them in processing a housing discrimination complaint. Used by AF officials to respond to inquiries on individual member's housing situation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name and installation

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Or individuals can contact the Housing Referral Office at the base at which they completed the applicable forms in order to exercise their rights under the Act.

RECORD ACCESS PROCEDURES:

Same procedures as for notification above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual voluntary application.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F030 AF LE C

SYSTEM NAME:

030 AF LE C Base Housing Management

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330. Headquarters of major commands and at all levels down to and including Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Military members desiring base family housing and eligible Department of Defense (DOD) civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for andAssignment to Military Family Housing, contains the following data: name, address, rank, Social Security Number (SSN),service data, family composition, and other information such as health problems. Other supporting documents-quarters condition inspection reports, assignment orders, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to apply for family housing and provide information upon which eligibility can bedetermined. Used by base housing officials to respond to Congressional, InspectorGeneral, and other inquiries on an individual basis pertaining to family member's housing situation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets, computer and computer output products.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official dutieswho are properly screened and cleared forneed-to-know. Records are stored in locked cabinets or rooms. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Advance applications are retained by losing activity and destroyed after six months. Applications received by gaining activities are destroyed one year after termination of quarters. Applications are destroyed by tearing, burning, pulping, shredding or macerating. Supporting records are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Programs and Resources, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Individuals may contact agency officials at the Base Housing Office at the installation at which he completed the applicable form or the installation which will be providing military family housing.

RECORD ACCESS PROCEDURES:

Same procedures as for notification above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtain from individual's voluntary application.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F030 AF LE D

SYSTEM NAME:

030 AF LE D On/Off-Base Housing Records.

SYSTEM LOCATION:

Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members seeking advance applications for housing both incoming and outgoing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record contains Quarters Condition Inspection Report, Real Property Maintenance Request, and Application for and assignment to military housing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9775, Quarters assignment guidance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To record data required to assign and terminate family housing, report noted deficiencies in area of housing occupants responsibility, status of waiting list, and listing of personnel occupying quarters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, computer and computer output products and in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Send full name.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information derived from member's Permanent Change of Station Orders, Quad Leaders reports, and any other information voluntarily given by each applicant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F030 AF MP E

SYSTEM NAME:

030 AF MP E Drug Abuse Waiver Requests.

SYSTEM LOCATION:

Directorate of Student Resources, USAF Recruiting Service, Air Training Command, Randolph Air Force Base, Texas 78148 (ATC/RSS, Randolph AFB TX 78148); 3700 Personnel Processing Group, Lackland AFB, Texas 78236 (3700 PPG, Lackland AFB, Texas 78236); USAF Recruiting Service Detachment Headquarters; USAF Recruiting Service Offices; Deputy Chief of Staff, Education, Headquarters Air University, Maxwell AFB, Alabama 36112) (AU/ED, Maxwell AFB AL 36112); Directorate of Senior Programs, Headquarters Air Force Reserve Officer Training Corps (AFROTC), Maxwell AFB, Alabama 36112 (AFROTC/SD, Maxwell AFB, Alabama 36112); AFROTC Detachments; Directorate of Admissions and Registrar, United States Air Force Academy, USAF Academy, Colorado 80840 (USAFA/RR, USAF Academy, Colorado 80840);

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for enlistment or commissioning who have a history of pre-service drug abuse and who have requested a waiver of their disqualification.

CATEGORIES OF RECORDS IN THE SYSTEM:

A Copy of the USAF Drug Abuse Certificate and Drug Abuse Circumstances, Recommendation of Intermediate commands, and cover letter containing HQ USAF decision on waiver request are maintained

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 504, Persons not qualified.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This record is not released outside the Air Force. Records are maintained for future reference in the case of further inquiries relative to approval or disapproval of the request for waiver of pre-service drug abuse.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by Name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and locked cabinets or rooms.

RETENTION AND DISPOSAL:

After action on the request, the paper record is filed in secured file cabinets, retained for no more than six months, and destroyed by tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Records maintained in the system are provided by either Air Training Command, Air University, or the USAF Academy.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AF MP P

SYSTEM NAME:

035 AF MP P General Officer Personnel Data Systems

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330; Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Retired Active Duty General Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Promotion board data; 'Career Brief' data/cards; Forms 11; photographs, biographies; retirement letters; dependent data; education data; promotion orders; assignment orders; demotion data; frocking letters; case studies; language data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC, Chapter 805, The Air Staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Individual queries; precedent actions; statistical analyses of historical nature; assignment nominations/worksheets; Congressional inquiries and responses; memorandums for record affecting actions taken on General Officers; career profiles; vacancy lists; array of General Officers by temporary/permanent grade and mandatory retirement data; seniority lists; retirement lists.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets/card files.

RETRIEVABILITY:

Most records are retrieved by last name and/or grade. Case studies, statistical analyses, promotion board results, Congressional inquiries and responses are retrieved by topic by year of action.

SAFEGUARDS:

Access to these records is given only to the Chief of Staff, Deputy Chief of

Staff (DCS)/Manpower and Personnel, Assistant for General Officer Matters, Chief of Air Force Reserve, Chief National Guard Bureau, and Rand Corporation, and the assigned officers/noncommissioned officers (NCOs) and civilian and clerical help, totaling approximately 20 people. Assistant for General Officer Matters (MPG), Manpower and Personnel Center/Records Maintenance Branch (MPC/DPMDRR) is the only office in the Air Force where this data could be maintained. Security procedures employed by MPG are equivalent to the security required for Confidential and Secret data.

RETENTION AND DISPOSAL:

Retired 4-star General Officer records are maintained indefinitely; Retired 1, 2 and 3-star General Officer records are retained for 3 years, reviewed to determine if there are any materials of historical value which warrant indefinite retention--if not, they are destroyed by tearing into pieces, shredding, pulping or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. An individual's full name, Social Security Number (SSN), and active duty grade will be needed to process written requests. An individual may visit the Pentagon, Room 4E212, The Office of the Assistant for General Officer Matters, to obtain the information. A requester must present Military Identification (ID) card when appearing in person and requesting information. When requesting personal information in writing, the requester must have request notarized.

RECORD ACCESS PROCEDURES:

An individual may obtain access to records by either writing Headquarters United States Air Force/Assistant for General Officer Matters (HQ USAF/MPG), The Pentagon, or by appearing in person and requesting the information. Most records will be released upon request; however, any record, the release of which is questionable in the view of the Assistant for General Officer Matters, will be cleared for release by the HQ USAF/DCS Manpower and Personnel before it is finally released to the individual. See Exemption.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Personnel Data Base; Member; Inspector General (IG) Investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(7). For additional information, contact the System Manager.

F035 AFA A

SYSTEM NAME:

035 AFA A Cadet Personnel Management System

SYSTEM LOCATION:

United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Air Force Academy Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Cadet Personnel Record (CPR) consisting of temporary and permanent forms and documents including the CPR-1 which contains Oath of allegiance, Cadet Acceptance Record, Statement of Consent, paternity, maternity, birth certificates; appointment orders; summer training orders; special orders; awards and decorations; requests for insurance; insurance program letters; applications for identification cards; training certificates; data for parachutist rating (LRA); individual jump records; aeronautical orders; records of personnel security investigation and clearance; statements of personal history; LPT scores; drug abuse certificates; small arms marksmanship training data; personnel data sheet; cadet biographical data; cadet personnel information; statements of travel; Academy/Commandant Board actions; Class Committee actions; legal reexamination letters; course completion/retake letters; cadet performance reports; basic cadet evaluation reports; letters of appreciation; Commandant's letters for placement, continuation, removal from aptitude, conditional probation; academic probation notifications; final clearances (graduates); reports of separation from active duty; records of disenrollment from officer candidate type training; (2) Offenses; referrals of offenses, awards and punishments; disciplinary board actions; squadron punishment lists; (3) special orders; (4) Cadet aptitude briefing; (5) Evidence and statements gathered by the Honor Committee which have been used to determine if accused cadets were guilty of violating the Honor Code and includes a summary of the Honor Board proceedings; (6) Course exams; answer sheets; flight mission grade sheets; (7) Prior summer training completion records of programs attended; current summer assignments and training program preferences; (8) Mandatory nonacademic appointments; (9) Board case files (proceedings, inquiries, investigations); (10) Outgoing clearance forms to assist cadet in outprocessing from the Academy.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012 Secretary of the Air Force: powers and duties; delegation by; 10 USC 9349 Cadets: organization; service; instruction.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) For use in controlling and regulating cadet activity at the USAF Academy; (2) To report offenses committed by cadets, to reflect Commandant Disciplinary Board actions and conduct probationary cases to Commandant of Cadets for his approval, to provide a format for reporting completion of punishments; (3) To announce cadet rank and position (duty) to be held. Cadet Rank Cards are used to input the necessary data; (4) Monthly aptitude briefings completed by both cadets and AOCs are used when a cadet is referred to the Commandant's Board; (5) Case files are used by Cadet Honor Representatives to investigate possible violations of the Honor Code and as evidence at Cadet Honor Hearings. The case summaries are used for statistical record keeping and training in each squadron of Honor Committee activities; (6) Exams and grade sheets are used by assigned officers and secretarial staff of the Navigation Division to resolve any questions of validity of cadet grades and as an evaluation tool to measure cadet performance; (7) Maintain record of summer training accomplishments and assign cadets to summer training program; (8) Schedule cadets for mandatory nonacademic appointments during free periods; (9) Used as a case file in board (disenrollment) actions initiated against cadets. Reviewed by the Office of the Secretary of the Air Force in making final decisions on disenrollment action. Reviewed by

Superintendent, USAF Academy in making a decision to refer to Board of Officers; (10) Accomplish required outprocessing actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, on computer and computer output products, file folders, and notebooks/binders.

RETRIEVABILITY:

Filed by name, social security number, other identification number or system identifier, military service number.

SAFEGUARDS:

Records are stored in locked cabinets, rooms, or safes. Computer records are controlled by computer system software. Manual records are accessed by custodians or persons who are responsible for servicing the record system in performance of official duties.

RETENTION AND DISPOSAL:

(1) Stored for one year after graduation, then merged with the personnel records maintained by Registrar, Cadet Records Section, USAF Academy, CO 80840; (2) Destroyed 30 days after final action. Upon disenrollment or graduation, forwarded to Registrar, where they are microfilmed one year after graduation and retained permanently. Paper copy then destroyed; (3) Destroyed after 30 days after final action. Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (4) Maintained as part of personnel record (Permanent). Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (5) Information is retained for one year in the case of first class cadets and six months in the case of underclass cadets, or until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. AF Form 525 will be submitted for summaries; (6) All material retained for 30 days after the end of the semester in which administered except for final exam answer sheets which are destroyed after one yar. All material to be destroyed is boxed and pulverized in accordance with the aforementioned time frame; (7) Retained in office files until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating or burning; (8) Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (9) & (10) Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, maceration or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of Cadets, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Information obtained from Commandant of Cadets Personnel. Information obtained from individual. Information obtained from coach. Information obtained from Educational Institutions. Information obtained from automated system interfaces. Information obtained from source documents (such as reports) prepared on behalf of the AF by boards, committees, panels, auditors, etc. Information obtained from civilian instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AFA B

SYSTEM NAME:

035 AFA B Master Cadet Personnel Record (Active/Historical)

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Air Force Academy cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Active: Letter of acceptance and appointment, high school record, admissions test scores, physical aptitude examination score, evidence of participation in high school extracurricular activities and medical qualification status, personnel data records, letter of recommendation and evaluation, and other personnel data to include address, telephone number, Social Security Number, population or ethnic group selections, height, weight, citizenship, statements of reasons for attending the Academy and preparatory school and college records, if applicable. Invitation to travel letter, transfer/validation credit information, Academy Board action, computer generated products containing academic grade information, parental addresses by state roster and verification of independent studies, computer listings of minority students by population or ethnic group, listings of foreign cadets, special order assigning cadets to the Cadet Wing; Cadet Wing, squadron and class alpha rosters, and matriculation rosters. (2) Historical: Selected special orders (appointment, assignment, awards, separation, etc.), letters and records of resignation/separation actions, details of Honor violation (if applicable), selected letters to or from parents, Permanent Record Card, decisions of committees, boards, and investigations (if applicable), high school and college transcripts, College Entrance Examination Board test scores, personnel data records and biographical data, computer generated products reflecting academic grade information, graduation data, majors awarded, types of degrees conferred, and documents pertaining to awards, academic and military honors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9331, Establishment; superintendent: faculty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Active: These records are used to record applications and appointments to the Academy and to record the academic, athletic and military training histories of cadets who attend the Academy. They provide a means of checking the performance of each cadet, recording all grades for completed courses, computing grade point averages, identifying deficiencies, and insuring all requirements for graduation are met. Grade information is released to cadets and to Academy instructors, counselors and advisors in assisting cadets in selecting majors, determining academic requirements for specific majors, and scheduling courses. Computer listings are also used by faculty and staff members to readily

identify cadets by squadron, class, and population or ethnic group. Class Committees and the Academy Board use these records to evaluate cadet performance and to determine eligibility for continuance at the Academy. Academic and personnel information is released to nominating officials and to the Western Athletic Association (WAC) officials on cadets participating in WAC-sponsored intercollegiate athletics. (2) Historical: These records form a complete history of each cadet who attended the Academy. They record the academic, athletic, and military performance of each cadet. Files are reviewed by organizations within the Department of Defense in determining qualifications for assignments, by Air Force Reserve Officer Training Corps (AFROTC), recruiting and medical services units in judging qualifications and eligibility for training programs and for military service, by the Air Force Manpower and Personnel Center (AFMPC) to confirm or recreate a military service record. Files are reviewed by investigative agencies, such as the Federal Bureau of Investigation (FBI), Office of Special Investigations (OSI), and Defense Investigative Service (DIS) in conducting background investigations for security clearances and by the Veterans Administration (VA) in determining eligibility for benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, on computer and computer output products and on microfilm.

RETRIEVABILITY:

By name and Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties, who are properly screened and cleared for need-to-know. Records are stored in locked file containers, cabinets, vaults or rooms, and in computerized data storage devices controlled by computer system software.

RETENTION AND DISPOSAL:

Temporary documents are destroyed 90 days after disenrollment or graduation. Permanent documents are microfilmed one year after graduation. The microfilm is retained permanently by the Registrar. The paper copy of the Permanent Record Card is forwarded to the Washington National Record Center, Washington, DC 20409. Paper copy of all other permanent record is destroyed after 6 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Admissions and Registrar USAF Academy Co 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from interviews with the individual and from forms the individual fills out during the admissions process. Information is also obtained from other educational institutions; grades and tests, and examinations taken at the Academy, from his school and college transcripts, and from actions taken by the Academy Board.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(7). For additional information, contact the System Manager.

F035 AFA C

SYSTEM NAME:

035 AFA C Prospective Instructor Files

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel applying for instructor duty with the faculty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copy of Application for Instructor Duty, college transcripts, past Officer Effectiveness Reports, Officer Uniform Assignment Brief which contains information such as prior assignment information, aeronautical rating information, general personnel data including security clearance, date of birth, marital status, promotion dates; correspondence between individual and department, evaluations on individual's suitability and record of personal interview.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9331, Establishment; Superintendent; faculty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Dean of Faculty, Commandant of Cadets, Commander of Preparatory School and Director of Atheletics to determine qualification, availability and location of potential instructors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and in locked cabinets or rooms, and controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Personnel, USAF Academy, CO 80840.Dean of the Faculty.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, previous employers,

educational institutions and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AFOSI C

SYSTEM NAME:

035 AFOSI C Informational Personnel Records.

SYSTEM LOCATION:

Air Force Office of Special Investigations, Washington DC 20314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All fraud, criminal, polygraph, technical services, and counterintelligence trained Air Force Office of Special Investigations (AFOSI) and USAF Defense Investigative Service (DIS) special agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records for each special agent listing investigative schools attended and experience level attained, polygraph examiner training and performance records, records indicating personnel who have volunteered for the Counterintelligence Program and special agents in the program, and technical services training records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Director of Fraud Investigations to program personnel for advanced fraud training and to identify personnel for assignment as fraud specialists, used by the Director of Criminal Investigations to evaluate polygraph examiner performance and to select polygraph examiners. Also used to determine polygraph examiner qualification for retention or termination as a certified Department of Defense polygraph examiner, used by the Director of Special Operations to program personnel for counterintelligence training and to identify volunteers for training in that area, and used by the Director of Technical Services to program personnel for advanced technical training and to identify personnel for assignment as technical services specialists.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and in card files.

RETRIEVABILITY:

Filed by Name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets, safes and in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Air Force Office of Special Investigations Washington, DC 20314

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Data is extracted from individual training and military/ civilian personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AFOSI D

SYSTEM NAME:

035 AFOSI D Internal Personnel Data System

SYSTEM LOCATION:

Air Force Office of Special Investigations, Washington DC 20314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel assigned to the Air Force Office of Special Investigations (AFOSI) and all Air Force military personnel assigned to the Defense Investigative Service (DIS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records reflecting Unit authorized positions and Unit assigned personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by personnel specialists in all assignment and manning actions to monitor special agent experience level at each operating installation and to publish strength accounting reports. Used by the Director of Fraud Investigations to manage fraud coded positions and personnel assigned to fraud operations, and to program personnel for advanced fraud training. Used by the Director of Criminal Investigations to manage criminal coded positions, to identify personnel for assignment as criminal specialists and to program personnel for advanced criminal training. Used by the Director of Special Operations to manage counterintelligence and counterespionage positions, to identify personnel for assignment as specialists in these areas and to program personnel for advanced training in these areas. Used by Budget and Accounting Specialists for tracking anticipated personnel travel funds associated with permanent change of station moves. Used by the Commander for locator purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are

stored in security file containers/ cabinets.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Air Force Office of Special Investigations, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Data is extracted from individual military/civilian personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AFRES A

SYSTEM NAME:

035 AFRES A Personnel Interview Record.

SYSTEM LOCATION:

Reserve units located on Andrews AFB DC 20331; Barksdale AFB LA 71110; Bergstrom AFB TX 78743; Carswell AFB TX 76217; Charleston AFB SC 29404; Dobbins AFB GA 30069; Dover AFB DE 19902; Eglin AF Aux Fld 3 FL 32542; Gen Billy Mitchell Fld WI 53207; Greater Pittsburgh IAP PA 15231; Grissom AFB IN 46971; Hill AFB UT 84056; Homestead AFB FL 33039; Kessler AFB MS 39534; Kelly AFB TX 78241; March AFB CA 92508; Mather AFB CA 95655; Maxwell AFB AL 36112; McChord AFB WA 98438; McGuire AFB NJ 08641; Minneapolis-St Paul IAP MN 55450; Naval Air Station, New Orleans LA 70146; Niagra Falls IAP NY 14304; Norton AFB CA 92409; O'Hare Air Reserve Forces Facility IL 60666; Petterson AFB CO 80914; Richards-Gebaur AFB MO 64030; Rickenbacker ANG Base OH 43217; Scott AFB IL 62225; Selfridge ANG Base MI 48045; Tinker AFB OK 73145; Travis AFB CA 94535; Westover AFB MA 01022; Willow Grove Air Reserve Facility PA 19090; Wright-Patterson AFB OH 45433; and Youngstown Municiple Aprt OH 44473.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All USAF Reserve non prior service & prior service applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data on military and civilian history for interviewing and tentatively qualifying a prospect.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for interviewing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on roll microfilm.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

HQ AFRES/RS, Robins AFB, GA 31098

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AFRES B

SYSTEM NAME:

035 AFRES B Recruiters Automated Program (RAP)

SYSTEM LOCATION:

HQ Air Force Reserve, Robins AFB, GA 31098

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force officers and enlisted personnel from all military services entering the Air Force Reserve; individuals tested and processed for Air Force Reserve enlistment; potential Air Force Reserve enlistees qualified through the Armed Services Vocational Aptitude Battery (ASVAB) high school testing program; Applicants for Officer Training School to fill vacancies in the Air Force Reserve program; Air Force personnel on Reserve recruiting duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records for high school seniors who are ASVAB tested and meet the basic Air Force Reserve enlistment criteria showing name, mailing address, test scores, and location of high school. Enlistment processing records for prior service Air Force and other military services showing name, SSN, mailing address, ZIP Code, educational level, processing date, recruiter ID code, lead source code, and other personal data such as date of birth, sex, phone number, number of years of prior service, MOS or AFSC held, duty AFSC, and date of enlistment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 503, Enlistments: recruiting campaigns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To furnish leads to the field recruiters derived from the high school ASVAB testing program, and from various advertising campaigns, and other sources of leads. To track leads to ensure follow-up by recruiters. To provide recruiter with management tools to follow-up on leads. To determine which sources of leads produce the greatest number of accessions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer and computer output products.

RETRIEVABILITY:

Filed by name, SSN, or nonpersonal identifier.

SAFEGUARDS:

Records are accessed through computer run scheduling arrangements by persons responsible for servicing the system in performance of their official duties. Computer paper printouts are distributed only to authorized users. Records are physically safeguarded by controlled access to the computer facility, secured buildings, and locked rooms.

RETENTION AND DISPOSAL:

Enlistment processing records are retained until no longer needed for recruiting purposes; recruiter records are retained for one year after individual is removed from recruiter production status. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record.

SYSTEM MANAGER(S) AND ADDRESS:

HQ AFRES/RS, Robins AFB, GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requests must contain full name and current mailing address.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

The source of all records in the system are from automated system interfaces and individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AFRES C

SYSTEM NAME:

035 AFRES C Reserve Manning Report

SYSTEM LOCATION:

4 AF/RS, McClellan AFB, CA 95652; 10 AF/RS, Bergstrom AFB TX 78743; and 14 AF/RS, Dobbins AFB GA 30060OB.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Manning specialists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data pertaining to nonprior and prior enlistments and accessions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Standardize statistical data.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files for 2 years after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

HQ AFRES/RS, Robins AFB GA 31098.

1 Requests from individuals should be addressed to the parent Reserve Numbered Air Force NAF/RS.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the parent NAF/RS.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Department of Defense (DD) Form 4, Department of Defense Form 1644 Interservice Transfer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 ARPC I

SYSTEM NAME:

035 ARPC I Requests for Discharge from the Air Force Reserve

SYSTEM LOCATION:

Headquarters Air Force Reserve, Robins Air Force Base, GA 31098.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and other documents related to discharge or separation by reason of dependency or hardship or for the convenience of the government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1074, Personnel records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To track each action taken until computer action is complete, reservist is informed and file copy is in Master Personnel Record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards and stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. HQ AFRES forwards copies of actions resulting in discharge to the Air Reserve Personnel Center, Denver CO 80280 for inclusion in the individual's Master Personnel Record Group.

SYSTEM MANAGER(S) AND ADDRESS:

Vice Commander, Headquarters Air Force Reserve, Robins Air Force Base, GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Chief, Personnel Actions Division, HQ AFRES/DPAA, Robins Air Force Base, GA 31098 (AFRES unit assigned personnel). Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC or HQ AFRES. Records may be reviewed in Headquarters Air Force Reserve, DPAA, Building 210, Robins Air Force Base, GA between 8:00 a.m. and 4:45 p.m. on normal workdays. Visitors wishing to see their records should provide a current Reserve identification card and/or drivers license and some verbal information that could verify the person's identification.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from AFRES/DPAA, Bldg 210, HQ AFRES, Robins Air Force Base, GA 31098, telephone (912) 926-3107.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from source documents prepared on behalf of the Personnel Data System or supplied by reservist.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 HC A

SYSTEM NAME:

035 HC A Chaplain Information Sheet

SYSTEM LOCATION:

Office Chief of Chaplains, Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty Chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, phone numbers of Chaplain and two next of kin; permanent home address of record, name and mailing address of denominational endorsing agency

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8032, General duties, and 8067(g), Designation: officers to perform certain professional functions Chaplains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Chief of Chaplains as single manager in maintaining pastoral contact with Chaplains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force. Washington DC 20330

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Obtained from individual Chaplain.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 HC B

SYSTEM NAME:

035 HC B Chaplain Personnel Record

SYSTEM LOCATION:

Office of the Chief of Chaplains, Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired, and Air Force Reserve Chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

Chronological record of permanent change of station, promotion dates of rank, service schools attended, permanent address, martial status, number of dependents, name, grade, SSN/service number, Air Force Specialty Code, religious denomination, date of birth, release date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8032, General duties, and 8067(g), Designation: officers to perform certain professional functions Chaplains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To manageme the Active Duty Chaplain force, to location Marriage and Baptism Records through former Active Duty assignment records in cases of separated Chaplains when requested by former Parishoners.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces, from Assignment Action Documents and from individual member

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 HC C

SYSTEM NAME:

035 HC C Chaplain Personnel Action Folder.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Duty Chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

This is a grouping of information for each United States Air Force (USAF) chaplain. Items of information in these folders included the following: current official photograph, current career brief, summary of education, Officer Career Objective Statement, Chaplain Services Personnel Evaluation, copy of chaplain's Ecclesiastical Endorsement, copy of Appointment orders, copy of initial Extended Active Duty Orders, Application for Extended Active Duty with the United States Air Force USAF, Application for Appointment as Reserve of the Air Force, student information sheets prepared while attending USAF Chaplain School Courses, copies of assignment action documents, correspondence between the chaplains and Headquarters USAF/Chief of Chaplains and requests for special personnel actions and dispositions curtailments, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by and 8067(g), Designation: officers to perform certain professional functions Chaplains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The documents maintained in these folders are utilized by the Resource Manager in Headquarters United States Air Force/Chief of Chaplains, Personnel Division for assignment selection of chaplains. Because of the necessity to insure an equitable denominational spread of chaplains on an installation and to insure the proper placement of specially qualified chaplains, it is necessary to maintain current information on each chaplain. Records may be disclosed to endorsing agents concerning the qualifications of their chaplains for continued duty as representatives of their denominations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by custodian of the record system, and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for 2 years after separation then destroyed by macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the Systems Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Member's personnel action requests/ preferences and information retrieved from the Advanced Personnel Data System (ADPS).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 MP A

SYSTEM NAME:

035 MP A Files on General Officers and Colonels Assigned to General Officer Position

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Reserve General Officers and Reserve Colonels assigned to General Officer positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains resume of civilian and military experience, correspondence and orders, records Reserve participation, and listings with personnel data. Data includes: name, grade, Social Security Number (SSN), date of birth, current address, telephone numbers, education, professional military education, and civilian occupation. An assignment folder is also used for initial review for a GO position. This file contains a copy of the Air Force (AF) Form 11, last five Officer Effectiveness Reports (OERs). When reviewed by the Chief of Air Force Reserve, a record of the personal interview and assignment recommendations are included with the file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These documents are maintained for initial assignments, reassignment and participation of officers assigned to Reserve GO positions, and to determine qualifications for initial and continued assignment to Reserve GO positions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and person(s) responsible for servicing the record system in performance of their official duties who are properly screened and

cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Files are maintained until no longer required for actions relating to the Reserve GO program and are then destroyed by tearing to pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

See exemption.

RECORD ACCESS PROCEDURES:

See exemption.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Air Force forms, military personnel records, and correspondence generated or received in Personnel Division, Air Force Reserve, Headquarters United States Air Force (HQ USAF/REP).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(7). For additional information, contact the System Manager.

F035 MPC U

SYSTEM NAME:

035 MPC U Separation Case Files (Officer and Airman)

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Duplicate copies may be retained temporarily at each level requiring review or action on the case.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and airmen who have requested voluntary separation, who have been recommended or identified for involuntary separation under 10 USC 617(b) (including Reserve officers as a matter of Air Force Policy). Individuals who, under P.L. 95-202, Sec 401, have requested review of service performed with the Army Air Force or U.S. Air Force to determine if such service was equivalent to 'active duty' for purposes of laws administered by the Veteran's Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Member's application, letter from commander initiating separation action with indorsements, supporting documents, or documents pertaining to actions authorized by 10 USC 617(b) and record of final action taken. If congressional inquiry involved, request for information and reply provided is also filed by those offices involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 59, Separations and 38 USC, Veteran's Benefits, 10 USC 617(b), Reports of selection boards; as implemented by Air Force Regulation 36-2, Administrative Discharge Procedures (Unfitness, Unacceptable Conduct, or in the Interest of National Security); 36-3, Administrative Discharge Procedures (Substandard Performance of Duty); 36-12, Administrative Separation of Commissioned Officers and Warrant Officers of the Air Force; and 39-10, Separation Upon Expiration of Term of Service for Convenience of Government, Minority, Dependency and Hardships.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The original document is retained as a permanent record of action taken. The duplicate copies are retained to provide a temporary record of actions being taken for responding to inquiries concerning the status of a particular case. Occasionally, a case file is retained as a precedence file for later reference in revising separation directives.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name. At National Personnel Records Center. Cases and correspondence initiated under the provisions of 10 USC 617(b) are filed with Master Personnel Records. Transitory copies are filed alphabetically by general subject categories, i.e., involuntary officer separations, involuntary airman separations, etc.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. File cabinets and power files are secured during non-duty hours.

RETENTION AND DISPOSAL:

Master copies are retained permanently. Temporary files are disposed of within three years after final action is taken. Files are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Member's application, correspondence from unit commander's initiating separation action pertaining to actions provided for in 10 USC 617(b).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 RE A

SYSTEM NAME:

035 RE A Personnel Files on Statutory Tour Officers

SYSTEM LOCATION:

Personnel Division, Office of Air Force Reserve (AF/REP) HQ USAF Washington DC 20330. Air Force Military Personnel Center (DPMYR), Randolph AFB TX 78148 (USAFR and ANG Personnel).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Air Force Reserve Officers applying for or selected for assignment as statutory tour officer.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for extended active duty with United States Air Force, military career brief, resume of prior military and civilian experience, officer effectiveness report overall rating, correspondence and special orders relative to the tour.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 265, Policies and regulations: participation of reserve officers in preparation and administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Documentary support of tour applications; approval/disapproval; initiation, termination and extension of statutory tours; historical reference not to exceed two years after tour termination; used by Air Force Manpower and Personnel Center/ Assistant for Personnel Plans, Programs and Analysis, Reserve Forces Division (AFMPC/DPMYR); used for AFMPC/ DPMYR as record of approval/ disapproval, authority to issue Department of the Air Force Special Orders (DAFSOs); by Office of the Air Force Reserve (AF/RE), Director Air National Guard, National Guard Bureau (NGB/CF) and SAF/MRR as record of approval/disapproval.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know and stored in security file containers/ cabinets.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Air Force Reserve, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Include full name and Social Security Number. Individuals may visit the Personnel Division, Office of Air Force Reserve, Pentagon, Washington DC 20330. Military identification card or driver's license required for identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 RE B

SYSTEM NAME:

035 RE B Files on Reserve General Officers; Colonels Assigned to General Officer Positions

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330 and Personnel Division Office of Air Force Reserve.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Air Force Reserve General Officers and Colonels assigned to General Officer positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Resume of prior military and civilian experience, correspondence and Special Orders, Record of Reserve participation, personnel data listings, last five officer effectiveness reports, record of personal interview and assignment recommendation made by Chief, Air Force Reserve.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine qualifications for initial/ continued assignment to General Officer positions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Air Force Reserve, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Full name Social Security Number must be provided. Individuals may visit the Personnel Division Office of Air Force Reserve, Pentagon, Washington DC 20330.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports from individual officers, and from personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFCB A

SYSTEM NAME:

035 SAFCB A Military Records Processed by the Air Force Correction Board

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330; Washington National Records Center, Suitland, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All members or former members of the Air Force; Army Air Forces, Air Corps, United States Army; Air Service, United States Navy; and Aviation Section, Signal Corps, United States Army, who have applied to the Air Force Board for the Correction of Military Records (SAFCB)

CATEGORIES OF RECORDS IN THE SYSTEM:

Case folders consist of applications to SAFCB, with supporting evidence, staff advisory opinions and final determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 79 - Correction of Military Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Case folders are permanent records of all applications and are subjected to review only by an applicant and/or his designated representative, the SAFCB and the Secretary of the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Case folders are maintained within SAFCB until conclusion of a calendar year, then permanently retired to Washington National Records Center, Suitland, MD.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary, SAFCB, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Request for review must provide applicant's full name, service number, and SAFCB docket number (if known). Reviews are held in Room 5C860, the Pentagon, between the hours of 0900 to 1600. An applicant must present a personal identification document. A designated representative must present a letter of authorization from the applicant.

RECORD ACCESS PROCEDURES:

Request for access may be obtained by letter addressed to the Executive Secretary, SAFCB, Headquarters United States Air Force, Washington DC 20330.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Forece Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from applicants, Air Force offices and/or other Government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFPA A

SYSTEM NAME:

035 SAFPA A Mobilization Augmentee Training Folders

SYSTEM LOCATION:

Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs (SAF/PAX),Room 5C941, The Pentagon, Washington DC 20330; Washington National Records Center, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Air Force Reserve assigned to Mobilization Augmentation (MA) positions within the Secretary of the Air Force Office of Public Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for mobilization augmentee status, training, or assignment; orders to training or active duty; copies of effectiveness reports, training completion certificates; pertinent correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Serves as a training record for, 'Participation and Assignment Within the Reserve Components;' used by supervisory personnel to determine eligibility for promotion or reassignment.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files for two years after the individual completes or discontinues a training course, then retired to Washington National Records Center, Washington DC 20409,and, after 28 additional years, they are then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of public Affairs, Office of the Secretary of the Air Force (SAF/PA), Washington DC 20330

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Reserve Forces Liaison Officer, Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs (SAF/PAX), Room 5C941, The Pentagon, Washington, DC 20330, telephone (202) 697-6240. Individuals inquiring by mail should furnish their name and service number. Individuals making personal visits to the Office for Resources and Projects should have in their possession a valid identification card (DD Form 2AF(RES).

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access by contacting the Reserve Forces Liaison Officer, Office for Resources and Projects, Secretary of the Air Force Office of public Affairs (SAF/PAX) Washington DC, 20330.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFPC B

SYSTEM NAME:

035 SAFPC B Air Force Discharge Review Board Original Case Files

SYSTEM LOCATION:

National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Air Force Personnel who submit applications for review of discharge/ separation/dismissal.

CATEGORIES OF RECORDS IN THE SYSTEM:

Original copy of summary of board proceedings, individual's application form, order appointing Discharge Review Board members, summary of applicant's military personnel record, correspondence between applicant and Discharge Review Board and magnetic recording of hearing (if required).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1553, Review of discharge or dismissal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Documents are created and placed in the applicant's military personnel file as a permanent record of the Board's action in the performance of its statutory function. Files are used by the Air Force Manpower and Personnel Center to create new discharge documents if required and to notify the applicant of the outcome of his case.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and recording.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained permanently at the National Personnel Records Center (Military Personnel Records), 9700 Page Blvd, St Louis, MO 63132.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Secretary of the Air Force Personnel Council, Washington, DC 20030.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should contain the full name service number and Social Security Number of the requester. Personal visits may be made to room 920, Commonwealth Building, 1300 Wilson Blvd, Arlington, VA. Visiters must supply full name, service number, Social Security Number and some form of identification such as driver's license, credit cards, etc.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual's military personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFPC C

SYSTEM NAME:

035 SAFPC C Air Force Discharge Review Board Voting Cards

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Air Force Personnel who submit applications for review of discharge/separation/dismissal.

CATEGORIES OF RECORDS IN THE SYSTEM:

Voting cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1553, Review of Discharge or Dismissal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Air Force Discharge Review Board to record votes of board members on individual cases.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and, by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for one year from date of hearing and then destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Secretary of the Air Force Personnel Council, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should contain the full name and Military Service Number or Social Security Number of the requester. Personal visits may be made to room 920, Commonwealth Building, 1300 Wilson Blvd, Arlington, VA. Personal visitors must supply full name and Military Service Number or Social Security Number and some form of identification such as driver's license, credit cards, etc.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual's military personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFPC D

SYSTEM NAME:

035 SAFPC D Air Force Discharge Review Board Case Control/Locator Cards

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Air Force personnel who submit applications for review of discharge/separation/dismissal.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case control/locator cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1553, Review of discharge or dismissal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by personnel at the Air Force Manpower and Personnel Center who are responsible for servicing the Air Force Discharge Review Board to keep track of cases and to record the daily activity relating to each case.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained permanently at the Air Force Manpower and Personnel Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Secretary of the Air Force Personnel Council, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Written requests should be addressed to: AFMPC/DPMDRAl, Randolph Air Force Base TX 78150. Such requests should contain individual's full name and Military Service Number or Social Security Number. Personal visits may be made to the Air Force Manpower and Personnel Center, Systems Management Division, Randolph Air Force Base, TX. Visitors must supply their full name and Military Service Number or Social Security Number and provide some form of identification such as driver's license or credit card.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual's application form and military personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFPC A

SYSTEM NAME:

035 SAFPC A Air Force Discharge Review Board Retain Files

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Air Force Personnel who submit applications for review of discharge/separation/dismissal.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of correspondence between applicant and Discharge Review Board; duplicates of summary of board proceedings and summary of applicant's military record; and miscellaneous control records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1553, Review of discharge or dismissal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Air Force Discharge Review Board as a temporary reference file.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files for one year from date of hearing and then destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Secretary of the Air Force Personnel Council, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should contain the full name, service number and Social Security Number of the requester. Personal visits may be made to room 920, Commonwealth Building, 1300 Wilson Blvd, Arlington, VA. Personal vistors must supply full name, service number, Social Security Number and some form of identification such as driver's license.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and

appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual's military personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AA A

SYSTEM NAME:

040 AA A Civilian Personnel Files

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilains, statutories, consultants, and Summer Hires employed in the Office of the Secretary of the Air Force only.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment applications and records; award recommendations; Personnel actions; Position descriptions, training; Process sheets.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide information and services to employees and offices within the Office of the Secretary of the Air Force

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/ binders and card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms. Access controlled by Assistant Manager and to Restricted authorized personnel.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Assistant to The Secretary of the Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Rgulation 12-35.

RECORD SOURCE CATEGORIES:

Information from Air Force Civilian Personnel Offices and from financial institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP A

SYSTEM NAME:

040 AF MP A Civilian Personnel Occupational and Suitability Employment Examinations

SYSTEM LOCATION:

At Civilian Personnel Offices only. Official mailing addressea re in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employment applicants and Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Replies to occupational and suitability inquiries, testing and examination material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC Chapter 33 - Examination, Certification and Appointment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To verify and determine qualifications and suitability for appointment and promotion to Civil Service positions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Contact Civilian Personnel Offices filling vacant positions.

RECORD ACCESS PROCEDURES:

Contact Civilian Personnel Offices filling vacant positions. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, educational institutions, automated system interfaces, police and investigating officers, state or local governments, or corporations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(5). For additional information, contact the System Manager.

F040 AF MP B

SYSTEM NAME:

040 AF MP B Civilian Personnel Test Score Record

SYSTEM LOCATION:

At Civilian Personnel Offices only. Official mailing addresses are in the

Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Test or examination scores.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC Chapter 33 - Examination, Certification and Appointment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Civilian Personnel Office personnel and management personnel to determine qualification for appointment or promotion.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files, and computer and computer output products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Contact the Civilian Personnel Office at employing activity maintaining individuals record.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Managerand are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP C

SYSTEM NAME:

040 AF MPC C Job Element Questionnaires for Civilian Trades and Labor Occupations

SYSTEM LOCATION:

At Civilian Personnel Offices only. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Questionnaires prepared by civilian employees to reflect skills and knowledges for wage grade positions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC Chapter 33 - Examination, Certification and Appointment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Inspection and verification of personnel actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files for two years after annual cut-off, then destoyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Contact the Civilian Personnel Office at Air Force Base maintaining record.

RECORD ACCESS PROCEDURES:

Contact the Civilian Personnel Office at Air Force Base maintaining record. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP D

SYSTEM NAME:

040 AF MP D Civilian Personnel Applicant Supply Files

SYSTEM LOCATION:

At servicing Civilian Personnel Offices at activities and installations, and Directorates of Civilian Personnal at Headquarters, United States Air Force Major Commands Separate Operating Agencies and independent offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Experience and training qualifications record of applicants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC Chapter 33 - Examination, Certification and Appointment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To identify and refer qualified applicants to management officials to staff vacant positions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer paper printouts.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

If employed, records are placed in Official Personnel Folder. If not employed, retained until no longer needed, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Contact the Civilian Personnel Office maintaining individuals application.

RECORD ACCESS PROCEDURES:

Contact the Civilian Personnel Office maintaining applications. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP E

SYSTEM NAME:

040 AF MP E Training and Employee Development Record Systems

SYSTEM LOCATION:

Consolidated Civilian Personnel Offices only. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees, full-time and part-time, U.S. citizens and foreign national direct hires receiving training supported by the Federal Government, paid from appropriated funds. Military personnel may be included in the automated training information system, and non-appropriated funded personnel may be included in some of the installation manual records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employees identification, Social Security Number, occupational status (series, grade level, and supervisory status), course identification, course length, category and purpose of training received, date on which training was completed, associated costs, pre-post test results, et al. Input documents for the systems include, but are not limited to completed automated forms, training reports, authorization and record, keypunched cards. The manual files are maintained in paper folders containing employee's registration and/or record of training documents. Under the Apprentice on-the-job Training Program, and similar trainee intake program manual and automated records are maintained, reflecting information pertaining to subject employee's identification, date of birth, entrance date to program, dates and nature of personnel actions which occurred during fiscal year, student progress, and statistical data which effects the numbers of apprentices in training as of a given date. Nomination forms and documents (non-automated) for centrally-administered education and training programs are maintained. The manual files contain the candidate's nomination documents, training request, enrollment and registration and other documents related to training. Manual files are maintained at Headquarter's levels and Air Force installations regarding courses conducted on their premises, or for which they sponsor, listing such things as completion dates, and course participants. Additionally, manual files are typically found at the field activities containing information regarding an employee's supervisory status, an indication as to whether or not he/she has participated in supervisory training. Files are often maintained regarding an employee's certification/recertification or demonstrated proficiency in one or more skills areas; an activity-wide annual training plan should also be maintained, as well as individual training plans. Files are also maintained regarding professional licenses held by installation personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 4103, Establishment of training programs; 4115, Collection of training information; 4118, Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Officials and employees in the performance of their official duties related to the management of the civilian employee training programs, the design, development, maintenance and operation of the manual and automated system of record keeping and reporting; the screening and selection of candidates for centrally administered programs; and administration of grievance, appeals, complaints, and litigation involving the disclosure of records of the training programs. Representatives of the Office of Personnel Management (OPM) on matters relating to the inspection, survey, audit or evaluation of civilian training programs, or such other matters under the jurisdiction of OPM. Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties related to the screening and selection of candidates for programs sponsored by their organization. Representatives of the United States Department of Labor on matters relating to the inspection, survey, audit or evaluation of the Defense Components Apprentice training programs or on other such matters under the jurisdiction of the Labor Department. Representatives of the Veterans Administration on matters relating to the inspection, survey, audit or evaluation of the Defense Components apprentice and on-the-job training programs. The Computer Systems Group Contractor (or other such contractor) and its employees for the purpose of card punch recording of data from employee training documents. A duly appointed Hearing Examiner or Arbitrator (an employee of another Federal Agency) for the purpose of conducting a hearing in connection with an employee's grievance involving the disclosure of the records of the training programs. An arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance involving the disclosure of the records of the Defense Component's Training and Employee Development Record system. Representatives of Education Institutions which have been awarded contracts to conduct training for Defense Components create and

maintain individual training records of those who attend.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer and computer output products.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

For the apprentice programs the computer magnetic tapes are permanent. Manual records are maintained on a fiscal year basis and are retained for varying periods from 1 to 5 fiscal years. For the centrally-administered programs, files on selected candidates are maintained for five years (from date selection process is completed). Records of non-selected candidates are retained only for that period of time sufficient to permit appropriate review (usually less than 60 days). Some installation records are maintained for varying periods. Destroyed by tearing into pieces, shredding, pulping, macerating or burining.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Civilian Personnel or comparable official of the Civilian Personnel Office servicing Air Force activity/installation.

NOTIFICATION PROCEDURE:

Request by correspondence should be addressed to offices of civilian personnel, headquarters or field activities employing civilians. The letter should contain the full name and Social Security Number of the requester and signature. Proof of identification for visits will consist of a building pass, identification badge, driver's license, or by other types of identification bearing an employee picture and signature.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Employee's official personnel record folder, supervisory appraisals and evaluations, training records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP F

SYSTEM NAME:

040 AF MP F Civilian Personnel Performance Awards and Outstanding Performance Ratings

SYSTEM LOCATION:

Directorate of Civilian Personnel, Headquarters United States Air Force, Washington, DC 20330; major commands and major subordinate commands; headquarters of the major commands and separate operating agencies and at all levels down to and including Air Force installations, and Air National Guard activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include recommendations for outstanding performance ratings and rating forms. Also include recommendations for cash or honorary performance awards; nominations for awards sponsored by non-Federal organizations; records of Award Committee Actions and correspondence; annual reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 4301 through 4308 cover performance ratings. 5 USC 4501 through 4506 cover performance awards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Files are originated when a manager or supervisor recommends an outstanding performance rating or a cash or honorary performance award in recognition of superior achievement. Case files are reviewed by local award program manager in Civilian Personnel Office and are referred to the Local Incentive Awards Committee for review. If the Committee approves, the case is recommended to the approval authority who authorizes granting the award. Individual name files are retained for one year after close of year in which final action was taken. Records of Committee actions are retained for three years. Copy of approved award is filed in employee's official personnel file.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained for two years after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, and Executive Secretary, Air Force Incentive Awards Board, Directorate of Civilian Personnel, Headquarters US Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Sources of information for awards are supervisors' records of performance, and employees' official personnel folders from which Social Security Number, job title, and grade are obtained.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP G

SYSTEM NAME:

040AF MP G Labor Management Relations Records Systems

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330 and headquarters of the major commands and separate operating agencies, and consolidated civilian personnel offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees paid from appropriated and non-appropriated funds, who are involved in a grievance which has been referred to an arbitrator for resolution; civilian employees involved in the filing of an Unfair Labor Practice complaint which has been referred to the Assistant Secretary of Labor-Management Relations; union officials; union stewards; and representatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to a specific arbitration case or specific Unfair Labor Practice field activities maintain manual roster of local union officials and union stewards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11491, as amended 'Labor-Management Relations in the Federal Service.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for administration/ implementation of arbitration awards, interpretation of the Executive Order through third party case decisions; National Consultation and other dealing with the recognized unions by representatives of the Office of Personnel Management on matters relating to the inspection, survey, audit, or evaluation of Civilian Personnel Management Programs by the Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the Labor Management Relations Program and by a duly appointed hearing examiner or arbitrator for the purpose of conducting a hearing in connection with an employee's grievance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Manual records are retrieved by case subject, case number, and/or individual employee names.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Case files are permanently maintained. Union official rosters are normally destroyed after a new roster has been established.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Request by correspondence should be addressed to civilian personnel office of the Air Force activity/installation. The letter should contain the full name, Social Security Number, and signature of the requester. The individual may visit the activity at which he or she is employed.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Servicing civilian personnel offices, arbitrator's offices, Office of the Assistant Secretary of Labor for Labor Management Relations, and Unions headquarters offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP H

SYSTEM NAME:

040 AF MP H Employee Assistance Program Case Record Systems

SYSTEM LOCATION:

Consolidated civilian personnel offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Copies are maintained by supervisors and other Air Force installation offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees in appropriated and non-appropriated fund activities who are referred by management for, or voluntarily request, counselling assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case records on employees which are maintained by counselors, supervisors, civilian personnel offices and Social Action offices and consist of information on condition, current status, and progress of employees or dependents who have alcohol, drug, emotional, or other job performance problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Drug Abuse Office and Treatment Act of 1972, as amended by Public Law 93-282 (21 USC 1175); Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended by Public Law 93-282 (42 USC 4582); Subchapter A oF Chapter I, Title 42, Code of Federal Regulations; 5 USC Chapter 43, Performance Rating.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the counselor in the execution of his/her counselling function as it applies to the individual employee. With specific written authority of the employee, selected information may be provided to and used by other counselors or medical personnel, research personnel, employers, representatives such as legal counsel, and to other agencies or individuals when disclosure is to the employee's benefit, such as for processing retirement applications.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened

and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Records are purged of identifying information within five years after termination of counselling or destroyed when they are no longer useful. Destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force or comparable official of the Civilian Personnel Office servicing the Air Force activity/installation.

NOTIFICATION PROCEDURE:

Request by correspondence should be addressed to servicing civilian personnel office or to the appropriate Employee Assistance Program administrator at the activity. The letter should contain the full name and signature of the requester and the approximate period of time, by date, during which the case record was developed.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as above. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Counselors, other officials, individuals or practitioners, and other agencies both in and outside of Government.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP I

SYSTEM NAME:

040 AF MP I Supervisor's Record of Civilian Employee

SYSTEM LOCATION:

All Air Force installations and offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include a record for each civilian employee assigned to the supervisor; debt letters; letters of caution, warning, admonishment, reprimand, and similar disciplinary papers; employee career appraisal prepared for employees in Civilian Career Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Supervision of civilian employees.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from employee, personnel office, and supervisor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF NAFI A

SYSTEM NAME:

040 AF NAFI A Non-Appropriated Fund (NAF) Civilian Personnel Records

SYSTEM LOCATION:

Civilian personnel offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. AFMPC/DPMS, Randolph Air Force Base, TX.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees paid from nonappropriated funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Life cycle personnel actions and related documents related to employment and pay of NAF employees including documents related to employees benefits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To document and record personnel action on individual employees and to determine pay and other benefit entitlements.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retired to National Personnel Records Center upon separation of individual from employment.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Contact the servicing Civilian personnel office. Identifying information is required to satisfy custodian of record.

RECORD ACCESS PROCEDURES:

Contact the servicing Civilian personnel office maintaining record. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, educational institutions, police and investigating officers, personnel documents requesting and appointing and paying individual, and from documents related to designation of benefits and beneficiaries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AFRES A

SYSTEM NAME:

040 AFRES A Air Reserve Technician (ART) Officer Selection Folders

SYSTEM LOCATION:

Headquarters Air Force Reserve/DPC Robins Air Force Base, GA 31098.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees who apply and are eligible for promotion to ART officer positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Qualification statement, training and testing record, appraisal and ranking records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To evaluate and rank individuals for merit promotion to ART officer level positions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Personnel, Headquarters Air Force Reserve.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

information obtained from official personnel folders, supervisory appraisals, tests, evaluations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 ASG A

SYSTEM NAME:

040 ASG A Civilian Pay-Personnel-Manpower (Paperman)

SYSTEM LOCATION:

1947th Administrative Support Group (HQ 1947 ASG/DPD), Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Pending, current, and former Air Force appropriated fund civilian employees assigned to HQ USAF civilian certain personnel of Air Force intelligence service, Air Force Communications Command, National Guard Bureau, US Air Force Manpower and Personnel Center and Air Force Data Services Center in the Washington, DC area.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment information including position authorization position, personnel date, suspense information, position control information, projected information and historical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC Chapter 33, Examination, Selection and Placement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide system support to HQ US Air Force and other serviced activities in that part of Office of Personnel Management and Air Force requirements to maintain a personnel management and records keeping system that pertains to evaluation, authorization and position control, Position management, staffing skills inventory, career management, training, retirement, Employee Services, rights and benefits and the suspensing and processing of personnel actions; to provide individual records and reports to HQ, US Air Force and the Civil Service Commission; to provide information required by the Office of Personnel Management for the transfer between USAF and other federal activities; to provide reports of military reserve status to other Armed Services for contingency planning; and to provide information to employee unions as prescribed by negotiated contract.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Normally data are retrieved by use of nonpersonal information such as organizational unit, type Of employment, occupation, functional area or other workforce characteristics, or name, Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and

cleared for need-to-know. Records are protected by guards, and controlled by personnel screening and computer system software.

RETENTION AND DISPOSAL:

Coding Forms, punch cards, on-line terminal message sheets and system quality control products are destroyed after use by tearing into pieces, shredding, pulping, macerating or burning; master personnel records for pending employees are transferred to the active file upon appointment of the employee; master personnel records for active employees are transferred to the separated employee history file where they are retained for two years subsequent to separation and then destroyed by degaussing. Computer printouts are retained until they are microfilmed, then destroyed by tearing into pieces, shredding, pulping, macerating or burning. Microforms are retained until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, macerating, burning or chemical dissolution of the images. The Notification of Personnel Action, Standard Form 50 is disposed of as directed by the Office of Personnel Management. Work files and records, such as the employee career brief, position survey worksheet, retention register, alphabetical and Social Security Number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning. Worksheets pertaining to qualifications and retention registers are disposed of as directed by the OPM. Transitory files such as the pending file and recovery files are destroyed after use by degaussing. Files and records retrieved through general retrieval systems are destroyed after use by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, 1947th ASG/DPC, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information received from the employee and the Office of Personnel Management's Official Personnel Folder

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F045 AFRES A

SYSTEM NAME:

045 AFRES A Reserve Medical Service Corps Officer Appointments

SYSTEM LOCATION:

Headquarters Air Force Reserve (AFRES) Robins Air Force Base, GA 31098.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve medical service officer applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Status and actions taken during the processing of applications for appointment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 591, Reserve components: qualifications; 2104, Advanced Training: eligibility for; 2107 Financial Assistance Program for Specially Selected Members; 8067, Designation: officers to perform certain professional functions; and 9411, Establishment: purpose.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides a ready reference and status of all applications and the actions accomplished during the processing of each.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files/folders.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by commanders of medical centers and hospitals and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Command Surgeon, HQ AFRES, Robins AFB, GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the Systems Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F05 AFRES A

SYSTEM NAME:

05 AFRES A Undergraduate Pilot and Navigator Training.

SYSTEM LOCATION:

Headquarters Air Force Reserve (AFRES), Robins Air Force Base GA 31098.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel selected for Officer Training School, undergraduate pilot training, initial navigator training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data contained in standard AF military personnel file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide class number reporting date class starting date graduation date and unit of assignment upon completion of training.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff Personnel, HQ AFRES, Robins AFB GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F050 AFA A

SYSTEM NAME:

050 AFA A Military Performance Average

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Rating forms used to compute Military Performance Average (MPA). Performance reports, rating forms and listings remaining from the superseded Military, Leadership and Basic Cadet Order of Merit System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to determine the semester and cumulative MPA for USAFA Cadets as an input to the overall performance average. Identifies cadets for the Commandant's List and deficient cadets to be placed on aptitude probation. Remaining records from the Military, Leadership, and Basic Cadet Training Order of Merit are used to record attendance and course grades, and to compute cadet standings under that system. Military performance information is released to the nominating official upon request in order to evaluate nominating procedures.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in note books/binders, on computer and computer output products.

RETRIEVABILITY:

Filed by name, Cadet Number, and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and on computer storage devices protected by computer system software.

RETENTION AND DISPOSAL:

All MPA forms prepared by coaches, Officers in Charge (OICs), academic instructors and Air Officers Commanding (AOCs) are destroyed one year after close of rating cycle. MPA forms prepared by cadets are transferred to the Cadet Personnel Record where they are destroyed 90 days after graduation. Military, Leadership, and Basic Cadet Training Order of Merit records are destroyed 90 days after graduation and none of these will exist after July 1983. Destruction is by tearing in pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of Cadets, USAF Academy CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

MPA - Information is obtained from coaches, OICs of cadet intercollegiate and extracurricular clubs and teams, academic instructors, AOCs, and the cadet chain of command. Military, Leadership, and Basic Cadet Training Order of Merit System - See exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

MPA-None. Military, Leadership, and Basic Cadet Training Order of Merit System-Parts may be exempt under 5 U.S.C. 552a(k)(7). For additional information, contact the System Manager. This exemption will be withdrawn after 31 July 1983.

F050 AFA B

SYSTEM NAME:

050 AFA B Faculty Academic Records.

SYSTEM LOCATION:

United States Air Force Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AF Academy cadets and graduates.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Cadet information card. (2) Listings of all cadet academic schedules including final examination schedules; rosters of cadets, by course, taking final examinations; extra instruction or hospital instruction schedules; rosters of cadets requesting permission to enroll in independent study, or authorized to drop or add course; listings of course rosters prepared for current semester showing individual's enrollment by course section; reports of reasons for cadet absences or lateness for academic causes; listings of cadets improperly registered in classes. (3) Themes, research papers, graded recitations, grade reviews, other graded work,

laboratory reports, case studies, final and midterm examinations, turnout examinations, validation examinations, and graded reviews of courses in which no final examination is given. (4) Copies of academic schedules and grades, requests for academic waivers, documentation of academic difficulty, plans outlining courses that must be taken in order to graduate. (5) Graduate record examination scores, orders of merit scores, cumulative GPA scores, and panel commentaries. (6) Various cadet grade reports, cards and sheets used in auditing and distributing academic grades.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, UNITED STATES AIR FORCE ACADEMY.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Individual cards on cadets listing name, date of birth, SSN, admission examination scores, course grades and instructor evaluations concerning aptitude, attitude, and performance are used by faculty to evaluate potential cadets for commissioned service and to evaluate potential cadets as future instructors. (2) Provides both cadets and instructors of schedules of classes and classrooms and an explanation for any deviation from these schedules and is used by the cadets and Dean of the Faculty staff to provide locator and scheduling information and to provide course offering information, to change current and future semester course enrollments, to reschedule cadets and establish criteria for resectioning cadets in their courses during the academic year. (3) Used in assigning grade scores to monitor progress of cadets throughout the academic year and to determine grades. (4) Used for counseling cadets on academic performance by the counselors and advisors. Assists the cadet in planning an academic program that will satisfy graduation requirements. (5) Used in the applications of graduates competing for the various fellowships and other various graduate scholarships by Graduate Scholarship Committee. (6) Used in auditing and distributing academic grades and are complied to determine a letter grade for each student in each course.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files, on computer magnetic tapes and printouts, and in file folders/notebooks/binders/visible files.

RETRIEVABILITY:

By name or Social Security Number of cadet.

SAFEGUARDS:

Records are accessed by authorized person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked safes, file containers, cabinets or rooms and on computer storage devices protected by computer storage devices.

RETENTION AND DISPOSAL:

(1) Destroy after purpose has been served or 10 years after graudation, whichever is sooner. (2) Destroy at end of academic year or upon completed action, whichever is sooner. (3) Destroy 3 months after end of the semester in which administered or at the discretion of the course director, return to the cadet for retention as reference and study materials. (4) Same as (2) above. (5) Destroy when no longer needed. (6) Destroy when superseded or when purpose has been served, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of Faculty, Director of Athletics, and Commandant of Cadets, United States Air Force Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports prepared on behalf of the AF by boards, committees, panels, auditors, and educational institutions, individual, instructors, automated system interfaces from course requisites.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F050 AFA C

SYSTEM NAME:

050 AFA C USAF Academy Athletic Records

SYSTEM LOCATION:

United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy applicants, nominees and cadets; members of coaches intercollegiate booster clubs; users of Academy athletic facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Applicants/Nominees: High school transcript, athletic questionnaire, correspondence, test scores. (2) Cadets: (a) Athletic performance tests, (b) Counseling record, (c) Intramural record, (d) Physical education record, (e) Physical fitness test, (f) Sports publicity information. (3) Physical fitness and endurance research. (4) Reservation forms and mailing lists.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Varify and evaluate athletic and academic background for possible appointment to the Air Force Academy. (2) Monitor cadet participation and progress in physical education/intramural programs; for news releases. (3) Establish standards and improve athletic programs. (4) Contact booster club members and individuals who reserve Academy athletic facilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files, computer and computer output products, and microfiche.

RETRIEVABILITY:

By name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official

duties. Records are stored in security file containers/cabinets, locked rooms and on computer storage devices protected by computer system software..

RETENTION AND DISPOSAL:

(1) Destroy one year after graduation or one year after cadet would have graduated. (2) (a) Destroy 30 days after end of academic year. (b) Destroy upon graduation. (c) Destroy after 1 year. (d) Destroy when no longer needed. (e) Destroy after four academic years. (f) Destroy when no longer needed. (3) Destroy when no longer needed. (4) Destroy when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Athletics, USAF Academy, Co. 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual applicant, nominee or cadet; coaches, instructors and squadron athletic officers; educational institutions; the media; officers in charge of individual sports; Registrar's Office, and Curriculum and Scheduling Office; Stone Human Performance Laboratory; DOD agencies; individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F050 SAFPA A

SYSTEM NAME:

050 SAFPA A Graduates of Air Force Short Course in Communication (Oklahoma University)

SYSTEM LOCATION:

Academic Detachment, Secretary of the Air Force Office of Public Affairs (SAF/PAOL), 780 Van Vleet Oval, Room 334, Norman, OK 73069.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are scheduled to attend, are attending, or have attended the Air Force Short Course in Communication at the University of Oklahoma.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, current active duty grade, and Social Security Number; class dates, copies of orders; copy of application to the University of Oklahoma; copies of transcripts from prior education; copies of final grades in the Short Course in Communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides the Academic Detachment Liaison Non-Commissioned Officer in Charge and the Chief, Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs (SAF/PAX) with historical background on the conduct of the course; serves as a ready reference for students to verify or resolve questions concerning their attendance at the Short Course.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Public Affairs, Office of the Secretary of the Air Force (SAF/PA).

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Academic Detachment Liaison Non-Commissioned Officer (SAF/PAOL), 780 Van Vleet Oval, Room 334, University of Oklahoma, Norman, OK 73069. Telephone: (405) 325-1804.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance from the Academic Detachment Liaison Non-Commissioned Officer or the Chief, Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs (SAF/PAX), Washington DC 20330.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, especially the Office of Admissions and Records, University of Oklahoma; Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F050 SAFPA B

SYSTEM NAME:

050 SAFPA B Information Officer Short Course Eligibility File

SYSTEM LOCATION:

Academic Detachment, Secretary of the Air Force Office of Public Affairs (SAF/PAOL), 780 Van Vleet Oval, Room 334, Norman, OK 73069.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Air Force Public Affairs Officers in the grades of 2nd Lieutenant through Colonel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Brief service history (including current grade and duty location), educational background, and information on previous attendance at the Air Force Short Course in Communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Public Affairs Career Management Staff Officer, Air Force Manpower and Personnel Center (AFMPC/DPMROS4D), Randolph Air Force Base, TX 78150, and by the Chief, Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs (SAF/PAX), Washington DC 20330, to determine eligibility of Public Affairs Officers to attend future classes in the Air Force Short Course in Communication.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Public Affairs, Office of the Secretary of the Air Force (SAF/OI).

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Academic Detachment Liaison Non-Commissioned Officer (SAF/PAOL), 780 Van Vleet Oval, Room 334, University of OK, Norman, OK 73069. Telephone: (405) 325-1804.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance from the Academic Detachment Liaison Non-Commissioned Officer or from the Chief, Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs, addresses as given.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Data extracted from surveys of all Public Affairs Officers provided by major commands and separate operating agencies on all assigned Public Affairs Officers. Updated annually.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F050 TAC A

SYSTEM NAME:

050 TAC A Student Record File

SYSTEM LOCATION:

Headquarters Tactical Air Command (TAC) Non-Commissioned Officer (NCO) Academy, Bergstrom Air Force Base, TX 78743.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty enlisted military personnel assigned to the academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual student evaluation record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to monitor the academic progress of Academy students and as a history file.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by class and by name.

SAFEGUARDS:

Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in office files for 10 years, then destroyed by tearing into pieces, shredding, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Education, TAC NCO Academy, Bergstrom AFB TX 78743.

NOTIFICATION PROCEDURE:

Contact Commandant, TAC NCO Academy, Bergstrom AFB TX 78743 for assistance.

RECORD ACCESS PROCEDURES:

Contact Commandant, TAC NCO Academy, Bergstrom AFB TX 78743 for assistance.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces and from student performance evaluations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F053 AFA A

SYSTEM NAME:

053 AFA A Educational Research Data Base

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active, retired and separated Air Force officers who received their commissions through the USAF Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

High school, college and USAF career information including military performance, academic performance, certain medical, disciplinary and personal facts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide readily available information on Academy graduates for use by the faculty and staff to complete various analyses and inquiries concerning how Academy graduates are competing with their contemporaries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer magnetic tapes.

RETRIEVABILITY:

Filed by name and by Social Security Number and date of birth.

SAFEGUARDS:

Records are accessed by custodian of the record system, and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Admissions and Registrar, United States Air Force Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, medical institutions, automated system interfaces, and source documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F053 AFA B

SYSTEM NAME:

053 AFA B Preparatory School Records

SYSTEM LOCATION:

United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Preparatory School Students.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains Social Security Number, admissions data including college board test scores and uniform size, academic performance, counseling, disenrollment, and physical fitness information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

l0 USC Chapter 903, United States Air Force Academy 80l2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data is used to measure student performance, progress and potential, for counseling purposes and for possible disciplinary or disenrollment action. Information contained on the record card consisting of grade, performance, and personal information pertaining to the student is used to provide transcripts when requested, to inform parents/guardians concerning student placement on academic advisement or probation and other pertinent information as required, when authorized by the cadet, and used by Preparatory School administrative personnel for management purposes such as emergency data, i.e. blood type, etc. Physical fitness test scores are furnished to the Registrar's Office for use in verification when considering student for nomination to the USAF Academy.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders card files, and on computer and computer output products.

RETRIEVABILITY:

Filed by name, year of enrollment and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties,and stored in locked cabinets or rooms and computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Forms and other records for administration of the Preparatory School such as Student Enrollment Questionnaires, Military Training Worksheets, Instructor's Comments, Instructor Grade Sheets, Physical Fitness Program, Report of Offense, Medical Status Reports, Flight Evaluations, Sign In/Out Registers are destroyed at the end of the academic year or when purpose has been served, whichever is sooner. Correspondence and forms in the student folder documenting academic history and related activities are destroyed 1 year after graduation or when student would have graduated. The Student Records Card is retained at the USAF Academy for 30 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Preparatory School, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from the academic departments within Preparatory School, based on performance of students, Preparatory School Commander, from tests administered to students, from student.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F053 AFA C

SYSTEM NAME:

053 AFA C Admissions and Registrar Records

SYSTEM LOCATION:

At United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy nominees/ appointees, cadets, graduates and Air Force Reserve Officers not on active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1)All data used in the candidate selection process for the USAF Academy. Includes high school records, admissions test scores, physical aptitude examination scores, high school extra curricular activities, medical qualification status, personal data records, letters of recommendation, address, phone number, Social Security Number, race, height, weight, citizenship, statement of reasons for attending Academy, nomination, and Preparatory School or college record if applicable. (2) Minority Affairs retention counseling record. (3) Service academies precandidate questionnaries, computerized report by congressional districts. (4) Pertinent information on assigned Liaison Officers, reports of individual Liaison Officer activity and copies of general correspondence. (5) Grade and quality point averages, course grade distributions, general and academic orders of merit, military dependents on merit lists, squadron assignments. (6) USAFA Preparatory School computer listings, selection data on new classes, medical qualification at entry, cadet high school rank and class size, fourth class squadron assignments, special rosters with all scores

(acceptees, declinations, minorities, recruited athletes, and Preparatory School), rosters from biographical data sheets (Protestant, Catholic, Jewish, and other religions, military parents, USAFA Preparatory School graduates, other Preparatory School graduates, Civil Air Patrol, former ROTC members, Boy Scouts, Girl Scouts, Camp fire Girls, cadets whose fathers are general officers, former Boys State, Girls State, and Boys Nation delegates and cadets with private pilot licenses), computer listings of high school activities and general information, admissions computer listings (all candidates, qualified candidates, selectees, athletes, minorities, ex-cadets and state status reports), and related data. (7) Combined information from above to Air Force Reserve Officer Training Corps. (8) Candidate Evaluation Records, Liaison Officer Evaluations, letters of evaluation from high school or colleges, and drug abuse certificates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Records are used by Admissions Office, selection panels, Academy Board, Athletic Department and Preparatory School personnel for selection of cadets to attend the Preparatory School and USAF Academy, to evaluate candidates for recommendation for civilian preparatory school scholarships, and to form the nucleus of the cadet record for candidates selected to attend the Academy. (2) Used by Minority Affairs Office for counseling and improving the retention of minority candidates. (3) Used by Admissions Office to prepare evaluation of candidates' potential for submission to Members of Congress and to schedule for medical examinations. Liaison Officers and advise persons interested in the Academy of the name, address, and of their nearest Liasion Officer. (5) Used to evaluate cadet academic and military achievement and to coordinate statistics relating to cadet strength and attrition. (6) Used to evaluate selection procedures of AF Academy cadets, to assure that criteria for entering cadets are met and to procure various biographical information on incoming cadets for press releases. (7) Used by Air Force Reserve Officer Training Corps (AFROTC) for possible AFROTC scholarship participation. (8) Same as (1) above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, computer and computer output products, microform and notebooks/binders.

RETRIEVABILITY:

By name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, safes or vaults and on computer storage devices protected by computer system software, and controlled by visitor registers.

RETENTION AND DISPOSAL:

(1) Records on candidates who are appointed are forwarded to Cadet Exams and Records to be included in the Master Cadet Personnel Records. Records on candidates who are not appointed are destroyed after one year. (2) Destroyed one year after graduation. (3) Same as (1) above. (4) Destroyed upon separation or reassignment. (5) Destroyed when no longer needed. (6) Same as (1) and (5) above. (7) Destroyed after one year. (8) Same as (1) and (2) above.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Admissions and Registrar, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions from automated system interfaces, from the individual on forms filled out as a candidate, College Entrance Examination Board and American College Testing scores, Air Force Medical examinations, individual letters of recommendation, from individual and personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(5). For additional information, contact the System Manager.

F053 MP A

SYSTEM NAME:

053 MP A Air Force Academy Appointment and Separation Records

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Nominees for Air Force Academy appointment and cadets in training at the Air Force Academy for each Member of Congress, the Vice President, Governors of Territories, and all other nominating sources.

CATEGORIES OF RECORDS IN THE SYSTEM:

DD Form 1870 - 'Nomination for Appointment to the United States Air Force Academy, Military Academy, Naval Academy' containing nominee's name, address, date of birth, Social Security number, telephone number, temporary address (if any), type of nomination (principal or competitive), numbered vacancy, and date submitted, name and signature of Member of Congress or other authorized nominating source submitting the nomination; AFHQ Form 0-339 - 'Air Force Academy Nominee Record' containing the names of the nominees of each Member of Congress, the Vice President, and other authorized nominating sources. (Each Member may nominate a total of ten for each vacancy available.) The card also indicates whether a nominee withdraws from consideration for Academy appointment or is medically disqualified and the nominating system used by the nominating authority; 'Chargeable and Nonchargeable Air Force Academy Appointment Record' listing the names of the cadets entering each year for each Member of Congress and other nominating sources showing charged or not charged to their quota (5 allowed at any one time - 10 USC 9342, year of scheduled graduation or separation date and reason, and reapportionment actions; - 'Report of Separation from the United States Air Force Academy' showing name, cadet number, scheduled graduation date, reason for separation, name of congressional sponsor and whether the separation action provides

an additional vacancy for the Congressional sponsor; 'Report of United States Air Force Academy' containing spaces to insert names of cadets in training who are charged to the quota of a Member of Congress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy; and Senate Resolution 154, 10 June 1963.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When a cadet separates from the Academy, the Cadet Branch Personnel uses the system to determine who nominated the cadet so that notification of the separation can be made to the Congressional sponsor. Also used in making reply to any Member of Congress who requests information concerning who nominated a cadet for Academy entrance (10 USC 9342(h)). A form is maintained annually on each Member of Congress, the Vice President, and other authorized nominating sources. Upon receipt of nominations from Members of Congress, only the name of the nominee is entered on the Form and the nominating system used by the member. The form is used to show withdrawal of a nominee or medical disqualification in order to determine the number of active candidates at any given time (10 allowed per vacancy (10 USC 9342)). Cadet Branch uses the system to answer inquiries from nominating sources. AFHQ Form 0-851 (card) is maintained on each Member of Congress, the Vice President, and other authorized nominating sources. Upon entrance of each new class to the Air Force Academy, the names of the cadets entering for each Member of Congress, etc. is posted to the individual Congressional sponsor's card. This record card is used by Cadet Branch to determine the number of vacancies available to all authorized nominating sources so that notification of vacancy information can be furnished to Members of Congress annually. Upon separation of an Academy cadet, the name is crossed out and a notation made of the date of graduation/separation and reason for separation. Another form is used as an attachment to a letter of notification to the Congressional sponsor when a cadet is separated. Upon special request from Member of Congress, another form is used to provide the names of charge cadets (principals) to their authorized quota and the year of scheduled graduation. Also used to notify new Members of Congress of the chargeable cadets upon entering Congress. Cadet Separation Case Files - A cadet separation case file is maintained on every cadet separated for the period of time his class is in training and for one year after class graduates from the Air Force Academy. The case files are maintained since this office is the responsible staff office for implementing the Secretary of the Air Force instrument of separation/discharge action. The case files are further used to reply to Congressional inquiries concerning separation actions. The data contained in the separation case file are: copy of cadet's resignation/separation action; copy of Academy Superintendent's letter to Secretary of the Air Force containing recommendation on type of separation action; copy of Secretary of the Air Force Memorandum directing type of separation; copy of 'Report of Separation from United States Air Force Academy'; copy AF/DPPA notification letter to Congressional sponsor concerning separation; copy of AF/MPPA notification letter to United States Air Force Academy Commandant of Cadets effecting the decision of the Secretary of the Air Force; copy of, 'Disenrollment From Officer Candidate-Type Training.' (Prepared by Commandant, Air Force Academy); copy of, 'Armed Forces of the United States Report of Transfer or Discharge.' (Prepared by Commandant, Air Force Academy); copy of Special Orders effecting separation/discharge action. Information in the record/records system is used to provide information to Members of Congress, the Vice President, DC Delegate, Governors of Territories and South American Republic countries and the Philippines on candidate nominations, cadet vacancies, appointments, and separations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Upon entry of the class each year, forms are destroyed on unsuccessful candidates by tearing into pieces, shredding, pulping, macerating, or burning. The forms on selected cadets are maintained for one year after graduation. One copy is maintained permanently at the Air Force Academy.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Members of Congress, the Vice President and other nominating sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F060 ANG A

SYSTEM NAME:

060 ANG A Progress Report, Undergraduate Pilot Training

SYSTEM LOCATION:

Office of Director, Air National Guard, Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air National Guard Undergraduate Pilot Trainees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Evaluation of pilot training progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 275, Personnel records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used at National Guard Bureau level to determine individual capability to perform safely in home unit weapons systems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Air National Guard, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from UPT Flying Training DCO.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F067 AF A

SYSTEM NAME:

067 AF A Government Furnishings Issue Record

SYSTEM LOCATION:

Housing Supply Offices at all Air Force installation which issue furnishings. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military and DOD civilians to whom government furnishings are issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

PCS orders, rental agreement, receipt for furnishings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 9832, Property accountability: regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To maintain authority for issue and accountability of Government furnishings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records stored in vertical file folders, and computer and computer output products.

RETRIEVABILITY:

Filed by name in manual file systems. Filed by SSN in computer storage.

SAFEGUARDS:

Stored in file cabinets in locked rooms. Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in file until furnishings are returned and then destroyed or returned to the individual.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics, headquarters of each major command which issues furnishing or Chief of Housing Supply Office at issuing base.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determination may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F067 AF LE A

SYSTEM NAME:

067 AF LE A Personal Clothing and Equipment Record

SYSTEM LOCATION:

Equipmnent Management Offices at Air Force installations. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and reserve military and civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Expendable and non-expendable individual personal clothing and equipment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9832, Property Accountability Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Accounting for authorized clothing and equipment issued to members and employees. Periodically reviewed by supply personnel and certified by the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained as paper records and stored in vertical file folders.

RETRIEVABILITY:

Filed by last name, first initial and last four digits of Social Security Number.

SAFEGUARDS:

Stored in file cabinets in locked rooms. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. When individual is reassigned, original records are transferred to the new installation. The copy retained at the previous station is destroyed after six months. When the individual is discharged, the signed copy of the record is forwarded to the Consolidated

Base Personnel Office for disposition. The originals are retained by Equipment Management function and destroyed after the turn-in of all equipment by the individual. Records are then destroyed by tearing into pieces, shredding, macerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F070 AF AFO A

SYSTEM NAME:

070 AF AFO A Accounts Payable Records

SYSTEM LOCATION:

At Accounting and Finance Offices at Air Force bases, Air National Guard activities, Air Force Reserve units, and Air Force components listed in the Department of Defense Directory in the appendix to the Air Force systems notices; some records are stored at the Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have monies owing to them by the Air Force or who have performed an official function resulting in a valid debt payable by the Air Force to a third party. Such individuals include contractors, military and civilian personnel and their dependents, assignees, trustees, guardians, survivors, claimants having tort or compensation claims against the Air Force for personal injuries or property damage.

CATEGORIES OF RECORDS IN THE SYSTEM:

Include, but are not limited to, contracts; purchase orders; temporary duty and permanent change of station orders; transportation requests; government bills of lading; tort claims; compensation claims; correspondence with creditors; dependents of military personnel and civilian employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 USC 66c, Receipts, retention and disbursement of public funds; 82e, Travel and transportation allowances: dependents: baggage and household effects; 492, Disbursing officers; 37 USC 404, Travel and transportation allowances: general; 406, Disbursing officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to support payments to creditors who may include military personnel and civilian employees, their dependents, survivors, guardians and trustees, contractors, vendors, claimants in tort and compensation claims and assignees. When authorized, records may be disclosed to creditors, dependents, claimants, Internal Revenue Service (for tax purposes, including assessments, levy action, employer/employee Social Security taxes), Social Security Administration and Veterans Administration (for verification of claims and eligibility for benefits administered by such agencies), and state and local authorities (for matters pertaining to taxation, welfare, and criminal and civil litigation within the jurisdiction of such authorities).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, visible file binders/cabinets, card files, computer and computer output products, magnetic cards, and microform.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, locked cabinets or rooms, protected by guards and controlled by personnel screening and by visitor registers.

RETENTION AND DISPOSAL:

Retention periods of various types of documents vary from one month to permanent. Some records are destroyed by the Base Accounting and Finance Offices at base level by tearing, shredding, pulping, macerating, or burning; others are retired to the Denver Federal Archives and Record Center and destroyed after varying retention periods by sale to salvage paper companies for shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance United States Air Force (USAF). Accounting and Finance Officers at Air Force installations.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/RMAD, Denver, CO 80279, telephone (303) 825-1161, extension 6341. Information pertaining to geographically dispersed elements of the record system may be obtained from documentation managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force systems notices. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/RMAD, Denver, CO 80279, telephone (303) 825-1161, extension 6341. Information pertaining to geographically dispersed elements of the record system may be obtained from documentation managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force systems notices. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Sources include, but are not limited to, information obtained from automated

system interfaces, corporations and from source documents such as reports, contractors, vendors, claimants, trustees, assignees, Air Force and other Department of Defense components, carriers, General Accounting Office, Comptroller General, and Veterans Administration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F075 AA A

SYSTEM NAME:

075 AA A Office, Secretary of Air Force Travel Files

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military, civilian, statutory, Congressional and others sponsored by Secretaries of Air Force and/or Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel orders and transportation authorizations, paying agent orders, passport information, and travel vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide reference in response to individual and/or offices requests for actual purposes of travel, costs and records used for future planning. Copies of orders on file in Director of Administration, Headquarters U. S. Air Force, Washington DC 20330, for record of authentication. Copies of paying agent orders on file Director of Administration, Headquarters U.S. Air Force Washington DC 20330 for record of payments. Travel on file at US Air Force Accounting and Finance Center, Denver CO record of Air Force expenses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders/note books/ binders/card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms. Access controlled by assistant manager and restricted to authorized personnel.

RETENTION AND DISPOSAL:

Records on currently assigned personnel are retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed. Transportation authorization and Invitational orders are retained in office files for one year after annual cut-off then destroyed. Paying agent orders are retained in office files for two years after annual cut-off, then destoyed. Records contained in this system are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Assistant to the Secretary of the Air Force, the Pentagon, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Air Force channels from agencies and individuals requesting Air Force travel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F075 AF LE A

SYSTEM NAME:

075 AF LE A Household Goods Nontemporary Storage System (NOTEMPS)

SYSTEM LOCATION:

At all Air Force bases having personal property responsibility. Official mailing addresses are contained in the Air Force Address Directory.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired military personnel or their dependents, and civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for storage, travel orders, substantiating documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 133, Secretary of Defense: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by base level traffic management offices (TMO), finance offices (AFO) and local commercial contractors in managing, controlling and payment of contractors for services rendered for storage services. Information used by TMO to maintain, identify lots, determine excess cost and perform payment actions for storage accounts. AFO will use information to process invoices for payment. Contractors will use data to verify and certify invoices for payment for services rendered against individual storage lots.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files, or computer and computer output products.

RETRIEVABILITY:

Filed by name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and controlled by personnel screening.

RETENTION AND DISPOSAL:

Files are retained for 6 months to 3 years, depending on type, and destroyed by tearing, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Logistics and Engineering, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Individual requests should be addressed to the System Manager. Base traffic management offices have individual record. Visits must provide name, grade, SSN and identification card.

RECORD ACCESS PROCEDURES:

Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from individuals, applications for storage of household goods, travel orders, and substantiating documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F075 AF LE B

SYSTEM NAME:

075 AF LE B Personal Property Movement Records

SYSTEM LOCATION:

Traffic Management Office or Air Force controlled Joint Personal Property Shipping Offices at Air Force Activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who shipped personal property through an Air Force controlled activity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application, orders, inventory, Government Bill of Lading, shipping documents, Certificates of Approval or Disapproval, Power of Attorney, carrier and/or contractor documentation, Inspection Report, and Counseling Checklist.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Traffic Management Officer uses these record to determine shipment eligibility and lawful entitlements, and as a basis for expenditure of public funds and contracts with commercial carriers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are stored in locked cabinets or rooms and are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files for three years after annual cutoff; transferred to Regional Federal Records Center for indefinite retention.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Logistics and Engineering, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Request from individual should be addressed to the System Manager. Include Individual's name, service, Social Security Number, type of shipment, origin, destination, and the date of application. Any means of positive identification is acceptable.

RECORD ACCESS PROCEDURES:

Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Government Inspector's Quality Control Report. Information also obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F075 USAFE A

SYSTEM NAME:

075 USAFE A Customs Control Records

SYSTEM LOCATION:

Customs Control Office of the Transportation Branch, 7206 Air Base Group/LGTTG, APO NY 09223. Selected sub-elements are at the Investigation Section of the Security Police Division, 7206 ABG/SPI, APO NY 09223, and the Judge Advocate Office, 7206 ABG/JA, APO NY 09223.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel assigned to duty in Greece qualifying for tax-free privileges under Article I of the North Atlantic Treaty Organization Status of Forces Agreement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Certificates of understanding and accountability; purchase records; importation documents; vehicle registration and duty-free customs certificates; customs control card roster; Greek customs tax receipts; copies of military orders; certificates of dependency; currency conversion records; military and Greek police reports concerning theft, loss or destruction of personal property; records of imports and exports via postal systems; personal property inventories for incoming and outgoing shipments of household goods; and reports of investigation concerning possible or actual customs violations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

North Atlantic Treaty Organization Status of Forces Agreement and 10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system of records is used to control the tax-free acquisition of personal property by U.S. Forces entered into Greece in tax and duty exempt status under the provisions of the NATO Status of Forces Agreement. This agreement, and others which supplement it, require the U.S. to limit the tax-free import and use of items required by the U.S. Forces to only those members with bona fide entitlements and to assist the Greek government in collecting evidence and securing payment of any applicable taxes. Users of the information in the customs control system include U.S. Air Force, Navy, Army, and State Department transportation and customs activities who compile and maintain the records; military security, investigative, and law enforcement activities who screen records to collect evidence where

possible wrongdoing is indicated; military justice officials who review evidence and advise commanders on possible legal actions; and Air Force Accounting and Finance Offices to control legal conversion of U.S. and host nation currency and to report excess profit from legal sales of property to Internal Revenue Service where appropriate. The system is used to document property imported tax-free into Greece and any purchases made by individuals in the military tax-free sales outlets. The information is used to prove compliance by the U.S. Forces with U.S. treaty obligations and to identify and correct black-marketeering or other unauthorized activities which evade Greek customs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Files are maintained in numerical sequence using a locally established individual customs control number given upon application to each member entitled to tax-free privileges in Greece. The customs control number is cross-referenced to the member's name, Social Security Number, permanent reassignment date, and employer. Dependents of entitled members are listed under their sponsor's customs control number and record file. An electronic data processing card file is used in the U.S. Air Force Customs Control Office to correlate customs control number, name, unit of assignment, and expiration date of privileges.

SAFEGUARDS:

Records are safeguarded in locked file cabinets, locked rooms, and locked buildings. Records may be reviewed only by the person to whom they apply or competent investigative authority based on a verified need to know.

RETENTION AND DISPOSAL:

Records are maintained in active use until the members clear their accounts in preparation for departure from Greece. The records are then removed to an inactive file within the U.S. Air Force Customs Control Office for one additional year and then transferred to a records staging area for two more years. Three years after closeout, files are destroyed by shredding, burning, pulping, or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Transportation, 7206 Air Base Group, APO NY 09223.

NOTIFICATION PROCEDURE:

Individuals may request information from the Systems Manager concerning their personal customs account at any time. Requesters must apply either personally or in writing providing their full name (and name of sponsor if in dependent status when the record was created), unit of assignment while in Greece, and period of stay in Greece. Requesters may visit the Customs Control Office of the Chief of Transportation, 7206 Air Base Group, Hellenikon Air Base, Greece, to review their personal customs records or seek information. Requesters must present identification cards issued by U.S. Forces in Greece to gain access to their personal records.

RECORD ACCESS PROCEDURES:

Access to personal records or data concerning an individual covered under the system can be obtained only from the Systems Manager or the customs liaison clerks in the Customs Control Section of the Office of Chief of Transportation, 7206 ABG/LGT, APO NY 09223.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individually prepared applications for duty-free entry of private property and automobiles; individually prepared applications for customs control cards; certificates of understanding and liability; bills of sale; Army and Air Force Exchange Service purchase records; Air Force Commissary Service purchase records; Air Force Accounting and Finance Office records of individual currency conversions; US Postal Service parcel receipt records; international mail parcel receipt information; USAF Security Police investigation reports concerning loss, theft, damage or property or alleged unauthorized disposition (black-marketeering); Defense Logistic Agency Property Disposal Office turn-in records; household goods carriers' inventories of personal property imported and re-exported to and from Greece by each member subject to the system; employer's certification of eligibility to tax-free privileges; official assignment orders; letters of eligibility from non-appropriated fund employers and USAF Procurement Office for eligible contractor personal, determinations of eligibility rendered by the Staff Judge Advocate's office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F077 AF LE A

SYSTEM NAME:

077 AF LE A Motor Vehicle Operators' Records

SYSTEM LOCATION:

Base Drivers Training and Qualification Section, Air Force Reserve units and Air National Guard activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian personnel issued a United States Government Motor Vehicle Operator's Identification Card.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application, test results, medical evaluation, accident history, traffic citations and driver awards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 133, Secretary of Defense; appointment; powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Determination of operator eligibility by Vehicle Operations Officer. Used as basis for issue of a Government motor vehicle operator's identification card. Releasable to Safety and Law Enforcement authorities for investigation and possible criminal prosecution or civil court action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are stored in locked cabinets or rooms and accessed by person(s) responsible for servicing the record

system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files until discharge, separation, or reassignment of the individual, then returned to servicing consolidated base personnel office for destruction by tearing, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Logistics and Engineering, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Request should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, police and investigating officers, motor vehicles bureaus, state or local governments, witnesses, Department of Transportation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F080 AFA A

SYSTEM NAME:

080 AFA A Minnesota Multiphase Personality Inventory Research Program

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy and Preparatory School cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personality tests results, group data analyses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used in research analyses concerning relationships, personality and personality and performance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Cadet Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of Faculty at United States Air Force Academy, Co 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

The individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F090 AF A

SYSTEM NAME:

090 AF A Visiting Officer Quarters-Transient Airman Quarters Reservation.

SYSTEM LOCATION:

Air Force installations. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel registering to obtain a room for the duration of visit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Registration of transient personnel into quarters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To register occupants of base transient quarters and charge for billeting.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for three months after monthly cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, Washington DC. 22030.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Full name and Social Security Number required for inquiries.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

From individual registering.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F090 SAC A

SYSTEM NAME:

090 SAC A Unaccompanied Personnel Quarters Assignment/Termination

SYSTEM LOCATION:

All Strategic Air Command bases. Located in the Base Billeting Operations Office and in the respective Squadron Orderly Room. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Unaccompanied military personnel who: (1) apply for or who are entitled to occupy unaccompanied quarters, (2) accept or decline unaccompanied on-base quarters, (3) reside off-base at their own expense, (4) accept inadequate quarters, and/or (5) are identified as authorized to reside off-base with prescribed quarters allowance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records related to application, assignment, acceptance, declination, or termination of unaccompanied quarters; authorization for unaccompanied personnel to reside off-base at their own expense; voluntary acceptance of inadequate quarters; and/or authorization to reside off-base with prescribed quarters allowance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: power and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To effectively manage unaccompanied personnel quarters; establish and maintain a record of application for unaccompanied personnel quarters assignment; terminate assignment to unaccompanied quarters; and grant authorization to reside off-base with or without specified quarters allowance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by custodian of unit files and by personnel responsible for servicing the record system in performance of official duties. File folders are stored in locked rooms and drawers.

RETENTION AND DISPOSAL:

Records are destroyed by tearing into pieces, shredding, burning, macerating, or pulping when superseded or when individual is reassigned.

SYSTEM MANAGER(S) AND ADDRESS:

Base Billeting Manager and Commanders of Strategic Air Command Squadron on SAC bases.

NOTIFICATION PROCEDURE:

Individuals may contact the Base Billeting Manager or Commanders of Strategic Command Squadrons on SAC bases. Requests to determine existence of record should include full name and grade and approximate dates individual was assigned to or serviced by the Billeting Operation function on Strategic Air Command bases, subsequent to 1 July 1981.

RECORD ACCESS PROCEDURES:

Access is controlled by Base Billeting Manager at base level or by Squadron Commanders at squadron level.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F110 AFAFC H

SYSTEM NAME:

110 AFAFC H Legal Administration Records of the Staff Judge Advocate

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Denver CO 80279.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel, present and former Air Force civilian employees, Air Force Reserve and Air National Guard personnel dependents of military personnel, and Air Force Academy Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal opinions and supporting documents including, but not limited to, opinions on losses of Air Force funds; reports of survey on loss or damage of Air Force equipment, remission of indebtedness of active duty Air Force members; waiver of claims of the United States arising out of erroneous payments of pay and allowances; legal assistance; garnishment of wages of active duty, reserve and retired pay of Air Force military and civilian personnel; Freedom of Information Act and Privacy Act interpretations and opinions; and correspondence relating to the above subjects with other Air Force and Department of Defense components, United States attorneys, attorneys, Air Force officers and members (and dependents thereof), former spouses of Air Force officers and members, and federal, state and local agencies, including, but not limited to, the Federal Bureau of Investigation (FBI), Internal Revenue Service, Social Security Administration, and state and local welfare agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 5512, Witholding pay: individuals in arrears, and 5584, Claims for overpayment; 10 USC 2774, Claims for overpayment, 9832, Property accountability: regulations and 9835, reports of survey; 31 USC 82a-1, Relief of accountable officers, 95a, Relief of disbursing officers of military departments, and 492a-c, Disbursing officers; 32 USC 710, Report of survey, and 716, Claims of overpayment; Title 37 USC, Pay and Allowances of the uniformed Services; 39 USC 406, Postal Services at Armed Forces installations; 40 USC Chapter 15 - Government Losses in Shipment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to review and make recommendations in cases including but not limited to cases involving losses of funds; reports of survey; remission and waiver of indebtedness; garnishment of pay; Freedom of Information and Privacy Acts; and legal assistance. Used by the Air Force Accounting and Finance Center (AFAFC); other Air Force and Department of Defense (DOD) components; individual Air Force officers and members and their dependents, former spouses of Air Force officers and members; attorneys; United States Attorneys; Internal Revenue Service; Social Security Administration and state and local agencies. All users

of the record system use information from the record system to obtain information, advice and recommendations in the areas of losses of Air Force funds, reports of survey, remission and waiver of indebtedness, garnishment of pay, and Freedom of Information and Privacy Acts. Disclosure of legal assistance records is limited in accordance with the attorney-client privilege.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, visible file binders/cabinets and in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Records are maintained at office of Staff Judge Advocate, Air Force Accounting and Finance Center (AFAFC/JA) for two years, or whenever their purpose has been served, whichever is later, and then destroyed by tearing or shredding. Significant cases involving legal opinions establishing precedent are transferred to subject files after two years and retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

The Staff Judge Advocate, United States Air Force; Staff Judge Advocate, Air Force Accounting and Finance Center.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/RMAD, Denver CO 80279, telephone (303) 825-1161, ext. 6341. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty station or place of employment, or other information verifiable in the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/RMAD, Denver CO 80279 telephone (303) 825-1161, ext. 6341. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status or place of employment, or other information verifiable in the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, educational institutions, police and investigating officers, state or local governments, witnesses, source documents such as reports. Information from other DOD components; information from other federal agencies, including, but not limited to, the FBI, Internal Revenue Service, Social Security Administration, Veterans Administration; applications by and correspondence with active duty, reserve and retired Air Force personnel and their dependents, former spouses, and guardians, applications by and correspondence with Air Force current and former civilian employees, their dependents, spouses, and guardians; correspondence with attorneys, records of courts-martial, interfaces with other record systems maintained at AFAFC, and correspondence with United States.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F110 AFRES A

SYSTEM NAME:

110 AFRES A Reserve Judge Advocate Training Report

SYSTEM LOCATION:

Headquarters, Air Force Reserve (AFRES), Robins Air Force Base, GA 31098.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve Judge Advocates (JAGs).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to individual training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide Air Force Reserve Staff Judge Advocate Training File on all Reserve JAGs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Judge Advocate, Air Force Reserve, Robins Air Force Base, GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, from State Bar Association and from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F120 AF IG A

SYSTEM NAME:

120 A IG A Inspector General Records - Freedom of Information Act

SYSTEM LOCATION:

Office of the Inspectors General and Base Inspectors.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All those who have requested information from the Inspectors General or Base Inspectors under the Freedom of Information Act on matters related to the Department of the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports, forms, letters, messages, witness statements and miscellaneous documents. Some records are classified.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 552, Public information; agency rules, opinions, orders, records, and proceedings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is collected to insure just, thorough, and timely resolution and response to complaints or queries, and a means of improving morale, welfare, and efficiency of organizations, units, and personnel by providing an outlet for redress. Used by the Inspectors General and Base Inspector in the resolution of complaints and response to queries involving the Department of the Air Force and in some instances the Department of Defense. Used by the correction board for the correction of records. Used by members of Congress and their staffs to conduct research and prepare replies in response to constituent inquiries. Used by commanders and their staffs to resolve issues, take action and provide information where applicable. Used by the General Accounting Office and its officers and employees to conduct audits and other statutory functions. Used by those who request information releasable as a summary, statement of facts, or reply to query considered not exempt. In these cases, requester should apply to office where complaint was filed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN) and year and office where complaint was filed.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and locked cabinets or rooms and are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in files for five years then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Inspector General, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Request from individuals should be addressed to the office where the complaint or query was filed or to the Base Inspector.

RECORD ACCESS PROCEDURES:

Individual can obtain access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Records are obtained from the individual requester, witnesses, complainants, Department of the Air Force organizations, and agencies of Federal, state, or local governments, as applicable or appropriate, for processing the case.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F120 AF IG B

SYSTEM NAME:

120 AF IG B Inspector General Records

SYSTEM LOCATION:

Office of the Inspectors General, Headquarters United States Air Force, Washington DC 20330. Official mailing addresses are contained in the Department of Defense directory in the appendix to the Air Force systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All those who have registered a complaint or query with the Inspector General or Base Inspector on matters related to the Department of the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forms, letters, messages, reports, surveys, photographs, medical, finance, personnel, administrative and technical reports, and witness statements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to insure just, thorough, and timely resolution and response to complaints or queries, and a means of improving morale, welfare, and efficiency of organizations, units, and personnel by providing an outlet for redress. Used by the Inspectors General and Base Inspectors in the resolution of complaints and responding to queries involving matters concerning the Department of the Air Force and in some instances the Department of Defense.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) and year and office where complaint was filed.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and in locked cabinets or rooms, controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files for two years after annual cut-off, then destoyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Inspector General, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

See Exemption.

RECORD ACCESS PROCEDURES:

See Exemption.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(2). For additional information, contact the System Manager.

F123 AFISC A

SYSTEM NAME:

123 AFISC A United States Air Force (USAF) Inspection Scheduling System

SYSTEM LOCATION:

Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USAF Inspection and Safety Center (AFISC) personnel/augmentors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank, SSN, security clearance, speciality code, duty and travel restrictions, inspection dates/types/locations, date of birth, office symbol, rotation date, title, address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force; powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to monitor and schedule AFISC inspection teams and efforts; publish official travel orders for safety and inspection personnel, and count AFISC mandays. This is trusted agent information; access is extremely limited and controlled when inspections are no-notice type. Portions are used to publish periodic rosters of all personnel assigned to AFISC.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products, and and on microfiche.

RETRIEVABILITY:

Filed by Name or by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes, locked cabinets or rooms, and controlled by personnel screening and controlled by computer system software.

RETENTION AND DISPOSAL:

Retained for three years and then destroyed by tearing into pieces or erasing tapes/discs.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Scheduling, Air Force Inspection and Safety Center, Norton AFB, CA 92409.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F127 AFISC A

SYSTEM NAME:

127 AFISC A Safety Education File

SYSTEM LOCATION:

Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Air Force (USAF) personnel who have received formal safety training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank, SSN, command of assignment, address, safety course name, class number. Individual training records, letters, memoranda, messages and other material pertaining to training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties: delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to identify and provide a record of USAF personnel who have received formal safety training.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer and computer output products.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are controlled by personnel screening, stored in locked cabinets or rooms and controlled by visitor registers.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning or by erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Aerospace Safety, Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F160 AF SG C

SYSTEM NAME:

160 AF SG C Medical Treatment Facility Tumor Registry

SYSTEM LOCATION:

Air Force medical centers, hospitals, and clinics.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who were diagnosed as having or were treated for cancer in an armed forces medical treatment facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain summaries of treatment provided cancer patients, to include tumor board evaluations, comprehensive chronological summaries of care rendered, a locator system, suspense files for required follow-up treatment and/or evaluation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 55, Medical and Dental Care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the military departments for clinical and statistical analysis of designated medical and dental cases, their treatment and results. The files serve as the repository of clinical information relating to individuals evaluated and/or treated in Air Force medical facilities. It is used to conduct statistical analysis and to provide clinical information to other federal medical services, scientific institutions and qualified members of the medical and dental professions (information identifiable by name is released only with permission of the patient). Information may be provided to other hospital tumor registries, physicians, scientific institutions. Information is used by the medical facilities to promote education programs and to develop statistics designed to be used as a basis for developing improved diagnostic and therapeutic standards. Used by the individual physician or scientist to develop and write professional papers, and is used by hospital tumor registries to update their case records as to status and quality of survival of individual patients.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files, on computer and computer paper printouts, roll microfilm or microfiche.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms and controlled by computer system software.

RETENTION AND DISPOSAL:

Records located at medical facilities are retained in the office files until inactivation of the tumor board or the facility, then forwarded to facility assuming patient responsibility.

SYSTEM MANAGER(S) AND ADDRESS:

Commanders of armed forces medical facilities.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requests must include full name, Social Security Number of sponsor, accession number.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions and from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F160 AF SG D

SYSTEM NAME:

160 AF SG D Drug Abuse Rehabilitation Report System

SYSTEM LOCATION:

Headquarters United States Air Force and major command headquarters. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any active duty military personnel who are confirmed as drug abusers as a result of drug abuse urinalysis testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains Drug Abuse Rehabilitation Reports in Electrical Message Form in which demographic data, urine testing results and abuser disposition are detailed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 91-513 as applied to Federal agencies by Section 2b of Executive Order 11599, 17 June 1971, Comprehensive Drug Abuse Prevention and Control Act of 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

At HQ USAF to provide statistical data for required reports to Department of Defense (DOD) and to the Special Action Office on Drug Abuse Prevention, White House; to perform epidemiologic and statistical studies for use in evaluating the effectiveness of Air Force urinalysis testing programs; to provide information for answering congressional inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and card files.

RETRIEVABILITY:

Filed by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files for five years after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F160 AFA A

SYSTEM NAME:

160 AFA A Cadet Hospital/Clinic Records

SYSTEM LOCATION:

USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AF Academy Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Daily roster of cadets hospitalized and report of cadet visits to the cadet clinic.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Used to notify concerned individuals of status of cadets hospitalized. Information is provided to the Superintendent, Commandant of Cadets and Hospital Commander and staff. The Superintendent receives a daily report of number and status of cadets hospitalized; the Hospital Commander and staff receive a daily report of status of cadets hospitalized; the Commandant and staff receive a daily report of number and status of cadets hospitalized; the Air Officer Commanding receives information in order to notify parents as required when their child is hospitalized more than three days; concerned personnel can note trends in hospitalization in terms of numbers of cadets hospitalized, length of hospital stay, and nature of medical problems being treated. (2) Report of visits to cadet clinics; record the time a cadet enters the clinic, nature of complaint and explanation of excusals and time of departure from the clinic. Distribution of this info is made to Cadet Wing Airmanships Division, Athletics and individual concerned. Cadet Wing Airmanships Division uses it to monitor cadet activity for ground safety program. Athletics uses to monitor excusals from physical education and to evaluate injury rates. The individual uses it to justify time away from classes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

(1) Records are accessed by the custodian, by person(s) responsible for servicing the record system, and authorized personnel who are properly screened and have a need-to-know. Records are stored in locked cabinets or rooms. (2) Clinic copy is under the direct control of Non-Commissioned Office in Charge (NCOIC) of Administrative Services. Distribution is made only to authorized representatives of Cadet Wing Airmanship Division and Athletics.

RETENTION AND DISPOSAL:

(1) Retained in office files for one year after annual cut-off then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. (2) Retained in office files for three months or until purpose has been served, whichever is sooner; then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, USAF Academy Hospital, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests should be addressed to the Registrar, USAF Academy Hospital Cadet Liaison, and should include full name, and date of hospital admission.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, the individual, a physical and/or medical technicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F160 DODMERB A

SYSTEM NAME:

160 DODMERB A Department of Defense Medical Examination Review Board Medical Examination Files

SYSTEM LOCATION:

Department of Defense Medical Examination Review Board (DODMERB) US Air Force Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants to the five service academies, the Four Year Reserve Officer Training Corps (ROTC) Scholarship Program, Uniform University of Health Sciences (USUHS), Airman Scholarship Commissioning Program (ASCP), College Scholarship program (CSP), and the Primary Officer Corps (POC) Program of the Air Force ROTC.

CATEGORIES OF RECORDS IN THE SYSTEM:

The record system is maintained in three forms: The original hard copy report of medical examination, report of medical history, narrative summary and any associated civilian forms or tests that may have been accomplished; may also contain personal correspondence between the DODMERB and the applicant and/or parental/guardian consultation concerning applicant's medical history or status; the second portion is microform copy of the hard copy file; the third portion is in computer storage.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 133, Executive department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The paper copy is used to determine medical acceptability for one or more of the service academies or the ROTC, USUHS, ASCR, CSP, and/or POC Program for Air Force ROTC. The

microform portion is used for historical retrieval of previous actions; The computer form is used to advise the program managers of initial medical status any update actions on an applicant. Statistical summaries are extracted from the computer bank. Consultations concerning medical conditions may be necessary with parent/guardian to clarify/explain applicant's medical status. Examinations may be accomplished by military medical facilities personnel, civilian contract agents of the government and/or private physicians.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders, microfilm jackets and on computer disks or tapes.

RETRIEVABILITY:

Filed by Name andby Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms and controlled by computer system software.

RETENTION AND DISPOSAL:

Paper copies of records of successful applicants is forwarded to the Academy, ROTC, or USUHS program for which the applicant was accepted; papers copies of records of unsuccessful applicants to these programs are destroyed at the end of the current year cycle; paper copies of records of applicants for ASCP, CSP and POC Program for Air Force ROTC are returned to the appropriate detachment; microfilm copy is kept five years and computer file is kept for two years after current year cycle.

SYSTEM MANAGER(S) AND ADDRESS:

Department of Defense Medical Examination Review Board, US Air Force Academy CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F176 AA A

SYSTEM NAME:

176 AA A Accounts Receivable

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force employees authorized to use Air Force Mess Number One.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records all charges or purchases by members of Air Force Mess Number One.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to bill members authorized use of the Mess.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms. Access controlled by Manager and restricted to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained until Official Audit and then destroyed through shredding, macerating, burning, pulping, tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Assistant to the Secretary of the Air Force, The Pentagon, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Charges.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F176 AF HC A

SYSTEM NAME:

176 AF HC A Chaplain Fund Service Contract File

SYSTEM LOCATION:

Air Force installations only. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Contracting officers and representatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contract between local chaplain fund and an individual for provision of specified services not available through other funds.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Record of terms of contracts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official

duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from contractor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F176 AF MP C

SYSTEM NAME:

176 AF MP C Morale, Welfare, and Recreation (MWR) Participation/ Membership/Training Records

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150; major command headquarters; all levels down to and including Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired military members and their dependents; members of Reserve components while on inactive duty for training and DOD civilians and their dependents; certain other categories for individuals identified by authorized personnel who directly support Air Force mission requirements. Following additional categories apply for specific activities as indicated: Air Force Aero Clubs; Air Force, Army or Naval Academy Cadets; military members of foreign governments on duty with the DOD; members elected to the US Congress or a statutory appointee of the Federal Government; Federal Government employees working on military installations and conducting various recreation programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Volunteer, membership, attendance, training, and participation/competition records and supporting data relative to Air Force MWR activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Determine membership/participation eligibility; maintain patron attendance; conduct contests; monitor training and currency of members; and serve as data base for designing and conducting various recreation programs. Used by personnel responsible for conducting Air Force MWR activities. May be provided to commercial or non-profit concerns conducting activities in support of, similar to, or in furtherance of, the Air Force programs involved.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

Filed by name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in secured buildings. Access is controlled by authorized personnel and limited to those requiring access in the performance of their duties.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning, or surrender to member upon termination, as applicable.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel (DPMSO), Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Request from individual should be addressed to the Chief, Morale, Welfare, and Recreation Division at the appropriate Air Force installation or the System Manager giving the individual's full name and SSN.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to the Chief, Morale, Welfare, and Recreation Division at the appropriate Air Force installation or the System Manager to exercise their rights under the Act. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual applications for membership/participation in MWR activities and offices of primary responsibility for MWR activities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F176 AF MP D

SYSTEM NAME:

176 AF MP D Nonappropriated Funds Standard Payroll System

SYSTEM LOCATION:

Fiscal control offices at Air Force installations, the addresses of which are provided in the Department of Defense Directory in the appendix to the Air Force systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force nonappropriated fund employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Time and attendance cards; personal payroll data listings and or cards; correspondence; combined payroll checks and employee leave and earnings statements; Federal, state, and city tax reports and or tapes; individual pay and leave records; personnel action forms covering pay changes and deductions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used to compute employees' pay entitlements and

deductions and issue payroll checks for amounts due; to withhold amounts due for Federal, state, and city taxes, to remit withholdings to the taxing authorities, and to report earnings and tax collections; and upon request of employees, to deduct specified amounts from earnings for charity, union dues, and for allotments to financial organizations. Users and uses include but are not limited to the following nonappropriated fund employees. Uses include receipt of pay and pay data covering hours worked, entitlements and deductions for taxes, insurance, retirement, union dues, and charity contributions. Records are also available to respond to specific inquiries by employees regarding their pay history. Internal Revenue Service, state and city taxing authorities, which use the records to establish the amount of earnings and tax liability of individual employees and to record remittances of payroll withholdings against tax liabilities. State employment agencies use the information to determine eligibility for unemployment compensation. Office of Personnel Management uses the records for personnel management functions. Director, Non Appropriated Fund Personnel, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX, uses the records to monitor and manage employee group life and health insurance and retirement programs. Financial organizations, employee unions, and community fund charitable organizations use the records to credit remittances to accounts of members or contributions from deduction records provided each organization.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files, on computer and computer output products.

RETRIEVABILITY:

Filed by name and/or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and safes, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

RETENTION AND DISPOSAL:

Retained in office files for two years after annual cut-off, then destoyed by tearing into pieces, shredding, pulping, macerating, or burning. Exception: records pertaining to tax data are retained for four years rather than two.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force. Assistant Comptroller for Non Appropriated Funds at Air Force installations.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from documentation managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force systems notices. The local Fiscal Control Officer (FCO) maintains the record system at installation level. Requester should be able to provide sufficient proof of identity such as name, Social Security Number, place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/RMAD, Denver, CO 80279, telephone (303) 825-1161, extension 6341. Information pertaining to geographically dispersed elements of the record system may be obtained from documentation managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force systems notices. The local FCO maintains the record system at installation level. Requester should be able to provide sufficient proof of identity such as name, Social Security Number, place of employment or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from source documents originating from Civilian Personnel Offices at Air Force installations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC A

SYSTEM NAME:

177 AF AFC A Accounts Receivable Records Maintained by Accounting & Finance

SYSTEM LOCATION:

Accounting and Finance Offices at Air Force bases, Air National Guard activities and Air Force Reserve units. Mailing addresses are in the appendix to the Air Force's systems notices. Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired military personnel, Air Force civilian employees and former employees, Air Force Reserve and Air National Guard personnel, Union or Association management personnel, contracting officers and representatives, Air Force Academy cadets, dependents of military personnel, Foreign Nationals residing in the United States, American Red Cross personnel, Peace Corps and State Department personnel, Exchange Officers, and other individuals who may be indebted to the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained by the system include but are not limited to documentation pertaining to telephone bills, utility bills, check issue discrepancies, dishonored checks, postal fund losses, reports of survey, freight losses in shipments, involuntary collections, erroneous payments, property losses and damages, administratively ascertained indebtedness of airmen, withholding for subsistence and other supplies, losses of funds, government losses in shipments, unauthorized allotment payments, setoff of final pay, detentions of pay by reason of courts martial or forfiture or fines documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 5512-5514, Withholding pay; 10 USC 856, Article 56 (UCMJ) Maximum levels; 9832, Property accountability: regulations; 9837(b), Settlement of accounts: deductions from pay; and 9840, Final settlement of officer's accounts; 31 USC 71, Public accounts to be settled in the General Accounting Office; 82(a), Listing of persons receiving periodic payments; vouchers; 95, Settlement of accounts of Army officers; 492(a)-(c), Disbursing Officers; 37 USC 1007(b),(e),(f),(g), Deductions from pay; 40 USC Chapter 15 - Government Losses

in Shipment; 49 USC 1 et. Seq., Transportation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to support customer billings and collections. Recipients of information from the record system include, but are not limited to, credit bureaus (for credit investigations); Internal Revenue Service (for determination of tax liabilities); Veterans Administration (for its administration of laws pertaining to veterans' benefits); correspondence with all of the above and their dependents and survivors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files and on computer magnetic tapes.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), Military Service Number or Civilian Payroll Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets or locked cabinets or rooms, protected by guards, and controlled by personnel screening and by visitor registers.

RETENTION AND DISPOSAL:

Retention is for up to five years or until discrepancies are cleared. Destruction is accomplished by tearing, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance USAF; Accounting and Finance Officers at Air Force installations.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory to the Air Force systems notices. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information which may be verified from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Denver CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory to the Air Force systems notices. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information which may be verified from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, educational institutions, medical institutions, trade associations, police and investigating officers, the bureau of motor vehicles, state or local governments, international organizations, corporations, witnesses, source documents such as reports, charges and invoices from other Air Force and Department of Defense components at Headquarters, major command and base levels; Internal Revenue Service; Social Security Administration; and Veteran's Administration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC B

SYSTEM NAME:

177 AF AFC B Travel Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279; accounting and finance offices at Air Force bases the addresses of which are listed in the Department of Defense directory in the appendix to the Air Force systems notices; Denver Federal Archives and Records Center, Denver Federal Center, Bldg 48, Denver, CO, 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired Air Force military personnel, Air Force civilian employees and former employees, Air Force Reserve and Air National Guard personnel, Air Force Academy nominees/applicants/cadets, Senior and Junior Air Force Reserve Officers, Dependents of military personnel, Foreign Nationals residing in the United States, Exchange Officers, and any other individual in receipt of competent travel orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents include but are not limited to travel vouchers and subvouchers; travel allowance payment lists; travel voucher or subvoucher continuation sheets; vouchers and claims for dependent travel and dislocation or trailer allowance; certificate of nonavailability government quarters and mess; multiple travel payments list; travel payment card; requests for fiscal information concerning transportation requests, bills of lading, and meal tickets; public vouchers for fees and mileage of witnesses; claims for reimbursement for expenditures on official business; claims for fees and mileage of witness; certifications for travel under classified orders; travel card envelopes; statements of adverse effect-utilization of government facilities; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 USC 404-412, Travel and transportation allowances; 5 USC 2105, Employee; 2106, Member of Congress; 5561, Definitions; 5564,Travel and transportation; 5701-5708, Travel and Subsistence Expenses; 5721-5730, Travel and Transportation Expenses; and 5742, Transportation of remains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to pay travel entitlements and supporting the payment of travel entitlements to military and civilian personnel. Uses made of the records by the paying Accounting and Finance Office, other Air Force and Dept of Defense components include but are not limited to the following: payment of advances; payment of per diem at temporary duty stations; settlement payments upon completion of travel; payment of mileage upon separation or release from active duty; consolidation

of payments; payment of dependents: travel; payment of dislocation or trailer allowance; to support a traveler's entitlement to a specific rate of per diem; to list multiple payments for travel and temporary duty performed under like conditions and circumstances; as a control record of all travel payments made to an individual; to query the United States Army Finance and Accounting Center for information contained on transportation requests, bills of lading, and meal tickets; payment of fees and allowances to civilian witnesses who are not U.S. Government employees; payment of expenses incurred within and around duty stations; supports the travel voucher in lieu of classified orders; updates leave records. Other users and specific uses made by them include but are not limited to Accounting and Finance Officers, who use travel records to pay travel entitlements to military and civilian personnel who perform official travel; traffic management Officers, who use travel orders to support the issuance of transportation requests and to support the movement of household goods or house trailer; Internal Revenue Service, which receives and records information concerning the payment of travel allowances which are subject to federal income tax; General Accounting Office (GAO), which uses travel records for auditing activities and for the settlement of questionable travel claims.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, visible file binders/cabinets, card files, and at Aeronautical Systems Division (AFSC), Wright-Patterson Air Force Base, OH, Sacramento Air Logistics Center (AFLC), and McClellan Air Force Base, CA, on computer magnetic tape, disks and printouts.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes, vaults, and locked cabinets or rooms. Records are controlled by personnel screening and by visitor registers, and by computer software in the case of machine readable records.

RETENTION AND DISPOSAL:

The original voucher and related supporting documents are stored at the Air Force Accounting and Finance Center, Denver, CO, for 18 months and then moved to the Denver Federal Archives and Records Center for 4 years and 9 months after which they are shredded. Copies of the original voucher and related supporting documents are maintained by field accounting and finance offices for 3 years and then destroyed by burning, shredding, tearing, pulping or macerating. Computer tapes are destroyed by overwriting 90 days after member or employee is transferred.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance United States Air Force. At base level the System Manager is the local Accounting and Finance Officer.

NOTIFICATION PROCEDURE:

Information may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, duty station, place of employment, and specify the accounting and disbursing station number, voucher number, date of voucher, or other information verifiable in the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, duty station, place of employment, and specify the accounting and disbursing station number, voucher number, date of voucher, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is acquired from but not limited to the individual traveler; related voucher documents such as those described above in the description of categories of records; Office of the Judge Advocate; the Comptroller; General Accounting Office; Congress; Accounting and Finance Officers; Traffic Management Officers; Consolidated Base Personnel Officers; the Air Force Accounting and Finance Center; and other Air Force and Department of Defense components.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC C

SYSTEM NAME:

177 AF AFC C Air Reserve Pay and Allowance System (ARPAS)

SYSTEM LOCATION:

Primary system location: Air Force Accounting and Finance Center, Lowry Air Force Base CO 80279; decentralized supporting segments are located at: Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150; Air Reserve Personnel Center, Denver, CO 80280; National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132; Air National Guard activities and air Force Reserve units; Accounting and Finance Offices at Air Force bases Servicing individual Air Reserve Forces members; Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices; Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO 80225; and Records Center Annex GSA, P.O. Box 141, Neosho, MO 64850 (system backup storage).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Air Reserve Forces members in a military pay status and dependents of military personnel except Air Reserve Forces members on extended active duty and members of the Air Force Reserve Officer Training Corps.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military pay account computer records and supporting documentations relating to Air Reserve Forces military pay and allowance entitlements, deductions, and collections. Military pay computer records, including but not limited to, master individual pay account files (containing essential check and member identification data, military pay entitlement and allowance data, accounting data, tax withholding rate and amount data, collection and indebtedness data, and performance data); wage and tax withholding records; records of Air Reserve Forces calendar day performance; check issue, control and cancellations records; transaction input, system reject, and

system recycle records; disbursement and collection report records; accounting report records; and other generated records supporting, substantiating, or authorizing Air Reserve Forces military pay and allowance entitlement, deduction, or collection actions. Military pay documentation records include, but are not limited to, travel orders, requests and performance records; active military duty performance records; statements of tours or performance of military duty; payroll attendance lists and rosters; document records establishing, supporting, reducing, or cancelling entitlements to basic pay; special compensations (such as medical, dental, veterinary, and optometry); special pays (such as foreign duty, hostile fire); allowances (such as basic allowance for subsistence, basic allowance for quarters, family separations, clothing maintenance and monetary allowances); incentive pays; and other entitlements in accordance with the Department of Defense Pay and Allowance Entitlement Manual; certificates and statements changing address, name, military assignment, and other individual data necessary to identify and provide accurate and timely Air Reserve Forces military pay and performance credit; allotment start, stop, or change records; declarations of benefits and waivers; military pay and personnel orders; medical certifications and determinations; death and disability documents; check issuing and cancellation records and schedules; payroll vouchers; money lists and accounting records; pay adjustment authorization records; system input certifications; member indebtedness and tax levy documentation; earnings statements; employees wage and tax reports and statements; casual payment authorization and control logs; punch card transcripts; and other documentation supporting, authorizing, or substantiating Air Reserve Forces military pay and allowance entitlement, deduction, or collection. Inquiry files, sundry lists, reports, letters, correspondence, and rosters including, but not limited to, Congressional inquiries, Internal Revenue Service notices and reports, state tax and insurance reports, Social Security Administration reports, Veterans Administration reports, inter-Department of Defense requests, treasury reports, and health education and institution inquiries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 37 USC, Pay and Allowances of the Uniformed Services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to ensure accurate and timely military pay and allowances to supported Air Reserve Forces members; provide timely, complete master individual pay account review; document and account for Air Reserve Force military pay and allowance disbursements and collections; and provide account inquiry research response capability. Records are used to determine net military pay and allowances check issues to Air Reserve Force members; or payment to a Financial organization through Direct Deposit/Electronic Fund Transfer Program; to verify and account for system input transactions; to identify, correct, and collect overpayments; to establish, control, and collect member collection and indebtedness notices and levies; to maintain complete accounting records for Air Reserve Forces military pay and allowance disbursements, collections, refunds, and reimbursement actions; and to provide internal and external managers with statistical and monetary reports. Other users and uses include, but are not limited to, record transfers to components of the Department of Defense for system transaction validity and accuracy audit, accounting, and documentation utilization; other federal agencies such as the Internal Revenue Service for wage and tax withholding reporting, accounting, tax audits or levies; Social Security Administration for wage and tax withholding reporting, accounting, or tax audit; Office of Personnel Management for personnel management functions; Veterans Administration for compensation and waiver reporting and audits, life insurance accounting, disbursement and benefit determinations; or local Governmental agencies for reports and accounting utilization; state and local governments for tax and welfare information; educational institutions for verifying scholarship qualifications and performance; charitable institutions and military associations to render recognition for meritorious service; and financial institutions for deposits (checks to banks) and credit references. Pay data is released to computer and accounting service centers upon request of financial organizations designated by individuals to receive money due them. Pay data is also released to Federal Reserve Banks under procedures specified in 31 CFR 210 for Federal recurring payments by means other than by checks. The American Red Cross and Air Force Aid Society use this information to determine needs of a member of his or her dependents in emergency situations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, card files, on computer and computer output products, and microform.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/safes/vaults, protected by guards, and controlled by personnel screening, visitor registers and computer system software requiring special random input entry identifiers.

RETENTION AND DISPOSAL:

The system contains differing types of records subject to varied retention of from 6 months to 56 years. Records are retired to the Denver Federal Archives and Record Center, and also are stored at the Records Center annex GSA at Neosho, MO for backup storage. Final destruction of records is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance, United States Air Force (USAF); managers for geographically dispersed supporting elements to the system are Chief of Air Force Reserve, Headquarters United States Air Force; Director of Air National Guard, Headquarters United States Air Force, Accounting and Finance Officers, Consolidated Base Personnel Officers, Air National Guard Base Comptrollers, Consolidated Reserve Personnel Officers, ARPAS Payroll Officers, and designated representatives thereof.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains Information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in

the appendix to the Air Force systems notices. Requesters should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, last Air Reserve Forces unit of assignment, duty status or place of employment, or other information verifiable from the system record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the Air Force component listed in the Department of Defense Directory in the appendix to the Air Force systems notices. Requesters should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, last Air Reserve Force unit of assignment, duty status, or place of employment, or other information verifiable from the system record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Record system sources for information include, but are not limited to: Headquarters USAF, Air Force major commands and Air Force installations, Consolidated Base Personnel Offices and Consolidated Reserve Personnel Offices, Air National Guard Base Comptrollers, ARPAS Payroll Offices, other DOD components; the Internal Revenue Service, Social Security Administration, Veterans Administration, and other federal agencies; financial institutions, educational institutions, medical institutions, automated system interfaces, and state and local agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC D

SYSTEM NAME:

177 AF AFC D Joint Uniform Military Pay System (JUMPS)

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Denver, CO 80279. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. consolidated base personnel offices at Air Force installations. accounting and finance offices at Air Force bases. At Air Force Data Systems Design Center, Gunter Air Force Station, AL 36114 (for research and test only), Denver Federal Archives and Records Center, Denver, CO 80225 (storage), Records Center Annex GSA, PO Box 141, Neosho, MO 64850 (back-up storage). Information pertaining to geographically dispersed elements of the record system (CBPO's and AFO's) may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel and dependents, retired and separated Air Force military personnel, officers of the Air Reserve and Air National Guard on extended active duty, officers and airmen of the Air Reserve and Air National Guard on active duty where strength accountability remains with the reserve component, and individuals to whom active duty military personnel authorize a direct payment of a portion of their pay.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military pay records and files including but not limited to; master military pay accounts, immediate access storage, six-months history, leave and earnings statements, federal insurance contribution act tax and federal income tax withholding pay authorization control files, central pay authorization file, deferred transaction file, reject suspense file and daily transaction record. Military pay supporting documents and vouchers including but not limited to basic pay; special compensation positions such as medical, dental, veterinary and optometry; special pay such as foreign duty, proficiency, hostile fire and diving duty; status adjustments relating to entrance on active duty, absent-without-leave, confinement, desertion, sick or injured, leave, mentally incompetent, missing, interned, permanent change of station, promotions and demotions; separation, reenlistment bonus; incentive pay such as flying duty, stress duty, demolition duty, parachute jumping duty and submarine duty; allowances, such as basic allowance for subsistence, basic allowance for quarters, family separation allowances, overseas station allowances, clothing monetary allowance; separation payments, death gratuities, time-in-service; allotments of pay; checks-to-banks; federal and state withholding taxes; court-martial sentences and non-judicial punishment; indebtedness resulting from but not limited to overpayment of pay and allowances and allotments, other debts to United States, certain non-government debts, and correspondence pertaining to all of the above. Inquiries files, personal financial records and sundry lists, reports and rosters including but not limited to Internal Revenue reports, state tax reports, Veterans Administration reports, Social Security Administration reports, and Treasury reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 37 USC, Pay and Allowances of the Uniformed Services; 10 USC 265, Policies and regulations: participation of Reserve officers in preparation and administration; 8033, Reserve components of the Air Force; policies and functions for government of: functions of National Guard Bureau with respect to Air National Guard; 8496, Air National Guard of the United States: commissioned officers; duty in; 9837(d), Settlement of accounts: deductions from pay; 32 USC 708, Property and fiscal officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to pay members of the Air Force, to their checking and savings accounts, and their allotments either directly to financial institutions or through Direct Deposit/Electronic Fund Transfer Program, provide members periodic comprehensive statements of their accounts, and to respond to inquiries concerning their accounts at any time. US Air Force components such as Headquarters, Air Force Accounting and Finance Center, Major Commands and Air Force installations use these records to determine pay due military members, to verify pay affecting information, to collect overpayments made to military members, to provide accrual accounting for each covered entitlement of military pay and allowances, and to provide fund manager reports, internal manager reports and external reports. Other users include but are not limited to other components of Department of Defense such as Army and Navy which may pay Air Force members and initiate claims; other federal agencies such as the Internal Revenue Service for tax information on members, Social Security Administration for information regarding Federal Insurance Contribution Act tax deducted from members, Veterans Administration for

information regarding premiums on serviceman's group life insurance, state and local governments for tax and welfare information, insurance companies for allotments made to them by military members, financial institutions for deposits (checks-to-banks) and/or payments, the American Red Cross and the Air Force Aid Society. American Red Cross uses this information to determine needs of a member or his dependents in emergency situations. The Air Force Aid Society uses this information to determine needs of a member or his dependents in emergency situations and for verification of loan applications. The name, rank and Social Security Number of each member of the Armed Services on active duty may be disclosed as a routine use to the Department of Health and Human Services (DHHS). This information shall be extracted from systems of records used for making payment to military personnel on active duty. This information may be sumbitted to the Inspector General of DHHS upon request of that department only for comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books, binders; visible file binders, cabinets, card files, computer magnetic tapes and computer paper printouts, and on roll mircrofilm and microfiche.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers, cabinets, locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

RETENTION AND DISPOSAL:

Local retention varies from 3 to 6 years. After that time, records are either destroyed by tearing, shredding, pulping, macerating or burning or transferred by the Air Force Accounting and Finance Center to the Denver Federal Archives and Records Center for varying retention periods up to 56 years. Destroyed by shredding. Back-up records for emergency reconstruction in the event of primary record destruction are retained by the Federal Records Center Annex GSA at Neosho MO. Destruction is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO, 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force's systems notices. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty status or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO, 80279 Denver, CO, 80279, telephone (303) 370-7553. the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty status or place of employment or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from financial institutions, automated system interfaces, a state or local government, source documents such as reports, military pay information originating from telephone inquiries telegraph messages and correspondence information from federal agencies and other DOD components and information from Air Force installations, Major Commands and USAF Headquarters.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC E

SYSTEM NAME:

177 AF AFC E Reports of Survey

SYSTEM LOCATION:

At Air Force Accounting and Finance Center Lowry Air Force Base, Denver CO 80279, Headquarters, of the United States Air Force, major commands and major subordinate commands and Air Force installations. Mailing addresses are listed in the directory following the systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired officer and enlisted personnel, present and former Air Force civilian employees, Air Force Reserve and Air National Guard personnel, Air Force Academy cadets, and Exchange Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include but are not limited to documentation of facts developed and liability ascertained pertaining to loss of, or damage to, Air Force owned or controlled property. Records are reports of survey; government property lost, damaged (GPLD) survey certificate; reports of survey register, survey officers' reports of investigation, depositions, affidavits, exhibits such as appraisals, reports, record copies, records of property maintenance, historical and other inspection reports, procurement records, security forces investigation reports, fire department and community and state police reports, and Judge Advocate General opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9832, Property accountability; regulations; and 9835, Reports of survey; 37 USC 1007, Deductions from pay; 32 USC 710, Reports of survey.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to determine responsibility and pecuniary liability and to adjust accountability for the loss, damage, or destruction of public property under Air Force control. Users include but are not limited to: Department of Defense and Air Force components; other federal agencies, such as Department of Justice for criminal prosecution, civil litigation, or investigations; the and the Internal Revenue Service for tax determinations resulting from Air Force adjudications of

pecuniary responsibility; the Office of Personnel Management for personnel management functions. The report of survey is used to record and present facts in support of a determination of pecuniary liability and to serve as, or support, a property adjustment voucher. The GPLD Survey certificate is used to authorize adjustment of property records of government property when a report of survey is not required. The facts recorded may be used in establishing cause of loss or damage to private or government property.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files.

RETRIEVABILITY:

Filed by other identification number or system identifier. Conventional indices are keyed to name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, in safes, vaults, locked cabinets or rooms. Records are protected by guards. Records are controlled by personnel screening and by visitor registers. Files are given the same protection as the property accountability records with which they are associated.

RETENTION AND DISPOSAL:

Files are destroyed three years after final action if pecuniary liability is not assessed, and three years after collection or ten years after final action, whichever is sooner. Destruction is by shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from the documentation manager at the applicable Air Force component listed in the Department of Defense directory in the appendix to the Air Force systems notices. Requester must present sufficient proof of identity, such as full name, Social Security Number (SSN), military or civilian status and grade, and approximate date and location of incident involving report of survey or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests should be addressed to AFAFC/DAD, Denver, CO 80279, telephone (303) 370-7553. Requester must present sufficient proof of identity, such as full name, SSN, military or civilian status and grade, and approximate date and location of incident involving report of survey or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers, the public media, the bureau of motor vehicles, a state or local government, an international organization, a corporation, witnesses, or source documents such as reports from Air Force property records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC F

SYSTEM NAME:

177 AF AFC F Civilian Pay Records.

SYSTEM LOCATION:

Accounting and Finance Offices at Air Force bases; Air Force Reserve units and Air National Guard Activities. Addresses are in the appendix to the Air Force's systems notices. Addresses of geographically dispersed units may be obtained by reference to Air Force components listed in the Department of Defense directory in the appendix to the Air Force notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual pay records; Individual leave records; source documents for posting leave and attendance; individual retirement deduction records; source documents maintained in connection with retirement deduction records and control files thereon; wage and separation information files; health benefit records; income tax withholding records; allowance and differential eligibility files, such as, but not limited to clothing allowances and night rate differentials; withholding and deduction authorization files, such as, but not limited to federal income tax withholding, insurance and retirement deductions; accounting document files; input data posting media, such as, but not limited to time and attendance cards and reports and personnel actions affecting pay; accounting and statistical reports and computer edit listings; claims and waivers affecting pay; control logs and collection/disbursement vouchers; listings for administrative purposes, such as, but not limited to health insurance, life insurance, bonds, locator files and checks to financial institutions; correspondence with the Civilian Personnel Office, dependents, attorneys, survivors, insurance companies, financial institutions, other governmental agencies and others; leave and earnings statements; travel records; and separation documents; official correspondence; federal, state and tax reports and/or tapes; forms covering pay changes and deductions, and documentation pertaining to garnishment of wages.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapters 53, 55 and 81.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used to accurately compute individual employee's pay entitlements and to withhold required and authorized deductions and issue payroll checks for amounts due. Output products are forwarded as required to other subject matter areas to ensure accurate accounting and recording of pay to civilian employees. These records and related products are also used to verify and balance in the civilian pay office and other applicable subject matter areas and to report information to recipients, other government, and nongovernment agencies. Such recipients and agencies include, but are not limited to, the individual employee; banks which credit the employee's account if the employee has requested his check to be sent to the bank; financial organizations which credit the employee's account if the employee has requested a savings allotment; other approved organizations which an employee has designated for an allotment; computer and accounting

service centers upon request of financial organizations designated by individuals to receive monies due them; Federal Reserve Banks under procedures specified in 31 CFR 210 for health benefit carriers to ensure proper credit for the employee authorized health benefit deductions; employee organizations for which the employee has requested a dues deduction (reasons for nondeduction of dues will be benefit deductions; disclosed to officials of labor organizations recognized under Executive Orders 11636 and 11491, as amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions (including disclosure of reasons for nondeduction of dues, if applicable); the US Treasury, which maintains cash accountability; the Internal Revenue Service for recording withholding and social security information; the Social Security Administration and Office of Personnel Management which credits the employee's account for Federal Insurance Contributions Act or Civil Service Retirement withheld; State revenue departments which credit employee's state tax withholding; State employment agencies which require wage information to determine eligibility for unemployment compensation benefits of former employees; city revenue departments of appropriate cities which credit employees for city tax withheld; any agency or component thereof that needs the information for proper accounting of funds, such as, but not limited to, for-others listings; Office of Personnel Management for assistance in resolving complaints, grievances, etc. Information is also supplied to the Office of Personnel Management for computation of Civil service retirement annuity. Records are also used for extraction or compilation of data and reports for management studies and statistical analyses for use internally or externally as required by the Department of Defense or other Government agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files, on computer and on computer output products, on roll microfilm, on microfiche, and in microfilm jackets.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), Civilian Payroll Number, Vehicle Registration or License Number, or other identification number or system identifier.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers, and computer system software.

RETENTION AND DISPOSAL:

Records are retained for periods ranging up to 56 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance United States Air Force (USAF); and commanders of Air Force installations.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279 telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system maybe obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory in the appendix to Air Force system notices. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, civilian identity card, duty station or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system maybe obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory in the Air Force system notices. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, civilian identity card, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, medical institutions, automated system interfaces, state or local governments, from source documents such as reports, and from other Department of Defense components and other federal agencies such as, but not limited to Social Security Administration, Internal Revenue Service, State Revenue Departments, Department of the Army, Navy or State Department. Correspondence with attorneys, dependents, survivors or guardians may also furnish data for the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFA A

SYSTEM NAME:

177 AFA A Cadet Accounting and Finance System.

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840. Air Force Accounting and Finance Center, Denver, CO 80279.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual computerized files containing pay data for all USAF Academy Cadets including Establishment/Change in Personal Checking Account, Monthly Report of Contingency Fund Status, Contingency Fund Loan Request, Cadet Pay Order, Document Control Log, Recapitulation of Cadet Pay Account, Cadet Pay Authorization, Cadet Pay Monthly Statement, Cadet Pay Record, Payment/Collection Vouchers, Separation Control Log, Electronic Data Processing Sheets, Microfilm File, Cadet Pay Disk File, Quarterly FICA Report, Transmittal Letter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy and 37 USC 201, Pay grade: assignment to; general rules.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is used to accumulate cadet pay entitlements (basic pay and subsistence), deductions (federal tax, social security, insurance premiums) in order to properly monitor the payments disbursed to the Air Force Cadet Wing (TAFCW). The information is used to determine the correct monthly net pay to be disbursed to each cadet and to charge the cadets for clothing issues and other services from authorized Academy sources. Information is used teo prepare Forms W2 for the Intrnal Revenue Service, report deductions for the Federal Insurance Contribution Act to the Social Security Administration, prepare Standard Form 1049 for release of tax information to the states and to report all expenditures to charges from authorized USAF Academy sources, and the reporting of all expenditures to the Air the Air Force Accounting and Finance Center.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in visible file binders/cabinets, in card files, on computer and computer output products, and on roll microform.

RETRIEVABILITY:

By Cadet Number or Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and in computer storage devices protected by computer system software.

RETENTION AND DISPOSAL:

The original copy of Cadet Pay Record, Cadet Pay Order, Substantiating Pay Documents and Transmittal Letter are forwarded to AFAFC, Denver, CO 80279. Copies of of Cadet Pay Orders are retained one year after annual cutoff in current files area and then destroyed. Document Control Records are destroyed 90 days after close of FY to which they pertain. W-2 listings, quarterly FICA reports and CPITF interest distribution records are retained by Cadet Pay Section six years after CY to which they pertain. Audit registers are destroyed after one academic year. Financial statements, schedules and supporting data is destroyed after 4 years. Pay inquiries are destroyed after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force Academy, Colorado, 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC A

SYSTEM NAME:

177 AFAFC A Accounting and Finance Officer Accounts and Substantiating Documents

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279. Denver Federal Archives and Records Center, Bldg 48, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel and other allotees, Air Force Reserve and Air National Guard personnel, civilian personnel employed at or paid by AF Installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military pay records; substantiating documents, such as certificates for deductions and retained military pay orders, records of travel payments, financial record data folders, miscellaneous military vouchers and statements, copies of morning or strength reports and personal financial records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 USC 67(b), Retention by executive agencies...of accounts of accountable officers, contracts, vouchers or other documents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system serves as a repository from which information may be retrieved to support claims for or against the government. The categories of users and uses are federal agencies including, but not limited to, the Federal Bureau of Investigation; Internal Revenue Service; and the Office of Personnel Management. Also used by state, local and city governments to substantiate pay, eligibility for welfare and unemployment; for personnel management functions; the general public for garnishment of pay, employment purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and note books/binders, on computer an computer output products and in microform.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards and controlled by personnel screening.

RETENTION AND DISPOSAL:

Records are stored at Air Force Accounting and Finance Center, updated and accessible for 18 months after receipt from Air Force Accounting and Finance Officers world-wide; then retired to the Denver Federal Archives and Records Center where they are retained for a period of 4 years, 9 months. Destruction is accomplished by sale to a salvage company for shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force and Director Accounting and Finance United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an

individual may be obtained from AFAFC/DAD Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security number, duty station, place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security number, duty station, place of employment or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from Air Force Accounting and Finance Officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC B

SYSTEM NAME:

177 AFAFC B Accrued Military Pay System, Discontinued

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279, and at Denver Federal Archives and Record Center Bldg 48 Denver Federal Center, Denver, CO 80225 (back-up storage).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel, and separated Air Force Personnel Officers of Air Reserve and Air National Guard on extended active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military pay records and related documentation including but not limited to monthly and cumulative six-months histories of pay transactions, wage and tax data, Uniformed Services Savings Deposit Program Records and Federal Insurance Contribution Act tax data contained on hard coy and/or microfilm. Military pay supporting documents and vouchers including but not limited to basic pay, special compensation positions, special pay, status adjustments, separation, reenlistment, reenlistment bonus, incentive pay, allowances, death gratuities, allotments of pay, court-martial sentences, indebtedness, and correspondence pertaining to all of the above. Sundry lists, reports and rosters including but not limited to Internal Revenue reports, Social Security reports, Veterans Administration reports and Treasury reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 37 USC, Pay and Allowances of the Uniformed Services; 10 USC 265, Policies and regulations: participation of Reserve officers in preparation and administration; 8033, Reserve components of Air Force: policies and regulations for government of: functions of National Guard Bureau with respect to Air National Guard; 8496, Air National Guard of the United States: commissioned officers; duty in National Guard Bureau; 9837(d), Settlement of accounts: deductions from pay; 32 USC 708, Property and fiscal officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides an audit trail for audit purposes and historical information for inquiries pertaining to past pay record data. It is used primarily by all components of the Air Force for answering inquiries pertaining to information contained in these discontinued records, and for reviews by the Air Force audit agency and Inspector General. Other users may include Internal Revenue Service for tax information on members, Social Security Administration for information regarding tax deducted from members and Social Security entitlements, Veterans Administration for information regarding premiums on servicemens group life insurance, and financial institutions for deposits and/or payments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders/visible file binders/cabinets and on roll microfilm.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards and controlled by personnel screening.

RETENTION AND DISPOSAL:

Local retention varies from 6 months to 10 years; records are either destroyed by tearing shredding, pulping, macerating or burning, or transferred by the Air Force Accounting and Finance Center to the Denver Federal Archives and Records Center where they may be retained for a period up to 56 years. Back-up records for emergency reconstitution in the event of destruction of primary records are stored at the Federal Records Center Annex, GSA, Neosho, MO. Destruction is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80205, telephone (303) 370-7553. Requester should be able to provide sufficient proof of identity such as name, Social Security Number, military status, duty status or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Requesters should be able to provide sufficient proof of identity, such as Social Security Number, military status, duty status or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial and medical institutions, state or local governments, corporations, source documents such as reports, Accounting and Finance Offices (AFO), and Consolidated Base Personnel Offices (CBPO).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC C

SYSTEM NAME:

177 AFAFC C Uniformed Services Savings Deposit Program (USSDP)

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279 and Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO 80225 and Record Center Annex GSA, P.O. Box 141, Neosho, MO 64850 (backup storage).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This notice covers both the discontinued portion of USSDP and the remaining active part of the system. Effective 30 June 1974 the USSDP program was discontinued except for those members declared missing in action (MIA) during the Vietnam conflict. Prior to 30 June 1974, the record system serviced Air Force active duty officers and enlisted personnel serving on a permanent duty assignment outside the United States or its possessions. Effective 1 July 1974, the record system services only Air Force active duty officers and enlisted personnel who have been declared MIA as a result of the Vietnam conflict. Dependents, next of kin, survivors and former spouses of USSDP participants may be included.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes but is not limited to the master account records for each depositor; transaction records of monetary data (deposits, withdrawals and adjustments); allotment records; name and Social Security number (SSN) change record; settled records; checkwriting and voucher register data records; interest paid records; quarterly statements records; supplemental address for interest refund records. Also includes correspondence files covering requests for information from members, federal agencies, spouses, former spouses, dependents, survivors, widows or widowers, next of kin, the American Red Cross, Congress, and other Air Force and DOD components.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1035, Deposits of savings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides mechanized and manual account maintenance including updating for deposits, withdrawals, interest accruals, adjustments and summary data for quarterly processing; capability of responding to inquiries regarding the status of each depositors account; capability to settle accounts, issue settlement statements and checks; quarterly statements to depositors showing detailed activity for the current quarters and cumulative balances for prior periods; reconciliation between the Accounting and Finance Officers (AFO) accounts and cash control reports with appropriate audit trails; controls to insure compliance with statutory limitations on amounts deposited, desertion status and conditions under which withdrawals are permitted; and records for storage of historical data on each depositors' account. The users and uses made of the information include but are not limited to the following United States Air Force components use these records to maintain, update, settle, and report on individual members account balances. Other DOD components use various account balances information to process withdrawal requests. Veterans Administration (VA) and Social Security use this information to determine eligibility, entitlements, and addresses of and for USSDP members. Federal Housing Agency (FHA) uses this information in their loan programs. Internal Revenue Service (IRS) uses the information for tax purposes and for levy action in the collection of taxes owed. American Red Cross uses this information to determine needs of a member or his dependents in emergency situations. Widow or widower, dependent, or next of kin of deceased members use this information in settling the affairs of the former member

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in, visible file binders/cabinets/card files, on computer magnetic tapes and computer paper printouts, and on mircrofiche.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening, visitor registers and computer system software.

RETENTION AND DISPOSAL:

All records except correspondence and balancing data (deposit, adjustment, and withdrawal) are retained for 6 years after final settlement. Correspondence is kept for 90 days; balancing data is kept for 1 year after in balance status is reached. Records are stored at Air Force Accounting and Finance Center, at the Denver Federal Archives and Record Center, and at the Record Center Annex, Neosho, MO. Destruction is by sale to salvage company for shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance, United States Air Force (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, date of final settlement, duty station or place of employment, or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, date of final settlement, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and is published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces other Air Force and DOD components and dependents, next of kin, survivors, and former spouses of USSDP members.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC D

SYSTEM NAME:

177 AFAFC D Claims Case File - Active Duty Casualty Case Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279 and at the Denver Federal Archives and Record Center, Building 48, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Deceased active duty and former active duty Air Force members; dependents, beneficiaries, and next-of-kin of deceased Air Force members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes but not limited to the following: claim certification and vouchers for death gratuity payments; claim for unpaid compensation of deceased members of the uniformed services; reports of casualty; travel vouchers; travel orders; military pay and allowance vouchers; wage and tax statements; miscellaneous income statements; divorce decrees; guardianship papers; death certificates; birth certificates; military pay records; statements of service; military pay orders; employees' exemption for dependents certificates; authorizations to start, stop or change allotments; mailing address payment options for Joint Uniform Military Pay System (JUMPS); authorizations to start or stop basic allowance for quarters credit; document transmittals (JUMPS); military pay orders transfer in; requests and authorizations to pay basic allowance subsistence and separate rations; records of emergency data; records of accounting and finance office authorized payments, JUMPS; assignments of assistance responsibility; leave and earnings statements; acknowledgments and/or transfers of casualty assistance cases; records of travel payments; special orders; record of courts-martial; per diem work sheets; marriage licenses; proceedings of homicide trials; court records; promotion orders; personal letters from deceased member to claimant; applications for commercial insurance; pay and allotment information on deceased members; affidavits in support of in local parentis relationships; pay adjustment authorizations; bills of lading; affidavits by natural custodian for claim on behalf of minor children; tax certificate statements; paternity admissions statements; Social Security wage adjustment data; leave records; claims for unpaid pay and allowances of deceased member of the uniformed services where there is no designated beneficiary of the claimant; returned check records; allotment reports; proof of adoption; and public vouchers for purchases and services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1475-1480, Death gratuity...; and 2771, Final settlement of accounts: deceased members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to compute death gratuity payments and payments of unpaid pay and allowances and to determine the proper beneficiaries thereof. Copies of records or requested information are furnished to other agencies, such as but not limited to Internal Revenue Service (IRS), Social Security Administration (SSA), and the Veterans Administration (VA), and to state and local agencies. Information is used by such entities to determine any obligations, benefits and privileges under their jurisdiction. Certified copies of past pay records are furnished to attorneys representing potential beneficiaries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN) or military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Retained at Air Force Accounting and Finance Center for one year after closing date, then forwarded to Denver Federal Archives and Records Center and destroyed six years from final closing date. Destruction is by shredding, tearing, mascerating, pulping, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance, United States Air Force (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 329-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, military status, duty station or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, military status, duty station or place of employment or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational and medical institutions, automated system interfaces, police and investigating officers, the public media, state or local governments, witnesses, and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC E

SYSTEM NAME:

177 AFAFC E Claims Case File - Corrected Military Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279 and at the Denver Federal Archives and Records Center, Denver Federal Center, Building 48, Denver CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty officers and enlisted personnel, and former active duty military personnel; Air Force Reserve and Air National Guard personnel; retired Air Force military personnel; Air Force Academy cadets; surviving dependents of military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes but not limited to: retired pay information; reserve pay information; statement of service; travel orders; travel vouchers; leave records; individual military pay records; discharge document; civilian earning statements; civilian earnings, wage and tax statement; income tax returns when provided by individuals to support a claim; copies of court martials; copies of non-judicial punishment, application for correction of military or naval records; requests, authorizations and pay orders for basic allowance for subsistence (BAS), separate rations; record of travel payments; military pay and allowances voucher; bills of lading; supplemental wage and tax statement; dependents: address and name; Social Security Number of deceased retired Air Force members; pay adjustment authorization; medical bills and receipts; correspondence pertaining to above subject matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1552, Correction of military records: claims incident thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to determine the proper payment due based on the correction of military records. Users include, but are not limited to the following: when claimant has his records changed to receive back pay for a period he was drawing unemployment, the amount of the payment is reported to the applicable state unemployment office. The various state unemployment offices may use the information to either institute collection process from the member or to adjust their records. Pay adjustment data and supporting documentation is submitted to the accounting and finance office for payment, and also to the Joint Uniform Military Pay System (JUMPS) for memorandum type entry on master military pay account. Disclosures may also be made to the Internal Revenue Service and to the Social Security Administration for their determination of tax liabilities and Social Security entitlements flowing from corrections of military pay and allowances.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Folder is retained at Air Force Accounting and Finance Center for one year, after which time it is sent to Denver Federal Archives and Record Center and destroyed six years from final closing date. Destruction is by shredding, mascerating, pulping, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance, United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the records system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, driver's license, military status, duty station or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, driver's license, military status, duty station or place of employment or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, automated system interfaces, and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC F

SYSTEM NAME:

177 AFAFC F Claims Case File - Missing in Action Data

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279 and at the Federal Archives and Record Center, Building 48, Denver Federal Center, Denver CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Missing-in-action Air Force members; dependents and next-of-kin of missing Air Force members; and former spouses of missing Air Force members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes, but not limited to the following: statements of dependent's expenses; Air Force Office of Special Investigation reports; correspondence requests for dependency determination; travel vouchers; travel orders; marriage certificates; birth certificates; annulments; divorce decrees; adoption papers; allotment documents (starts, stops, and changes); military pay and allowance vouchers; promotion orders; military pay orders; financial statements; reports of casualty; wage and tax statements; guardianship papers; statements of service; records of emergency data; assignments of assistance responsibility; leave and earnings statements; acknowledgments and/or transfers of casualty assistance; records of travel payments; per diem work sheets; pay adjustment authorizations; bills of lading; tax certificate statements; returned check records; public vouchers for purchases and services; notice of premium due from commercial insurance companies; car titles; Judge Advocate General opinions and interpretative memoranda; car insurance policy statements; requests for verification of deposits in Uniformed Services Savings Deposit program; public vouchers for refunds; military pay vouchers; letters of notification of pay increases and decreases; copies of missing member's last will and testament; Uniformed Services Savings Deposit statements; change of mailing address forms; copies of personal checks; breakdown of

expenditures for investment purposes; military pay records of missing member; medical history on dependents; and newspaper clippings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 USC Chapter 10 - Payments to Missing Persons.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for adjudication and distribution of missing member's funds, and to make determinations of dependent's eligibility and entitlement to pay allowances for parents, wives and children. Data is also disclosed through correspondence with member's dependents pertaining to distribution of monies. Copies of records may on occasion be furnished to other agencies, such as but not limited to Internal Revenue Service (IRS), Social Security Administration (SSA), and the Veterans Administration (VA), and to state and local agencies for their determination for any obligations, benefits and privileges under their respective jurisdictions. Vouchers are provided to the Automated Uniformed Services Savings Deposit Program (USSDP).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Records are retained for the entire time member is in a missing or prisoner status. If member is returned to military control, files are returned to military pay jacket (active duty). If member is declared killed-in-action, file is processed as death case, retained at AFAFC for one year, then retired to Denver Federal Archives and Record Center, and destroyed six years after final closing date. Destruction is by shredding, mascerating, pulping, tearing, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance, United States Air Force (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, military status, duty station or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity such as name, Social Security number, drivers license, military status, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from financial, educational and medical institutions; automated system interfaces; police and investigating officers; the public media; and bureaus of motor vehicles.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC I

SYSTEM NAME:

177 AFAFC I Loss of Funds Case Files

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force, Army, Navy and Marine Corps active duty military personnel, Air Force civilian employees and former employees, Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information source documents, reports of investigating officer(s) on losses in Air Force accounting and finance offices: (AFOS) accountability, loss of funds settlement vouchers, material to determine cause of the loss, identification of personnel concerned in the loss, determinations of pecuniary liability, opinions from Judge Advocate General offices, opinions from the Comptroller General and from the General Accounting Office, and final determinations by the Secretary of the Air Force.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 USC 95a, Relief of disbursing officers of military departments; 492b, Gains and losses resulting from exchange transactions; offsetting of deficiencies in accounts against gains; and 40 USC Chapter 15 - Government Losses in Shipment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Loss of funds case files record the chronological history of losses or deficiencies in AFOS money accounts. Data contained in these files are used to prepare reports and statistics, and to develop facts necessary for administrative adjudications of pecuniary responsibility. Users of the records system include, but are not limited to, attorneys, surety companies, and individuals for internal Air Force processing and outside litigation by those named in the case.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and in safes, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Whenever relief from pecuniary responsibility for a loss is recommended and granted, records are retained at AFAFC for four years and then destroyed by tearing into pieces, shredding, pulping or macerating. Whenever one or more persons are held liable for a loss, and the loss is completely recovered, records are retained in AFAFC files for six years and then destroyed by tearing into pieces, shredding, pulping, or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance, United States Air Force (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security number, military or civilian status, duty station or place of employment, or other information verifiable in the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military or civilian status, duty station or place of employment, or other information verifiable in the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from financial institutions, police and investigating officers, witnesses and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC J

SYSTEM NAME:

177 AFAFC J Military Pay Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279; Denver Federal Archives and Records Center, Building 48, Denver Federal Center, Denver CO 80225; Federal Records Center Annex, GSA, PO Box 141, Neosho, MO 64850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and separated military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Microfilm of Military Pay Records of individual Air Force personnel on active duty or separated. Military pay records and related documentation including but not limited to monthly and cumulative six-months histories of pay transactions, Federal Income Tax withholding data, Federal Insurance Contribution Act tax data contained on hard copy and/or microfilm. Military pay supporting documents and vouchers including but not limited to basic pay, special compensation positions, special pay, status adjustments, separation, reenlistment, reenlistment bonus, incentive pay, allowances, death gratuities, allotments of pay, court-martial sentences, indebtedness, and correspondence pertaining to all of the above. Sundry lists, reports and rosters including but not limited to Internal Revenue reports, Social Security reports, Veteran's Administration reports, and Treasury reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 USC 401-403, Allowances; 551-558, Payments to Missing Persons; 10 USC 1475-1480, Death Benefits; 1552, Correction of military records: claims incident thereto; 2771, Final settlement of accounts: deceased members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purposes are to furnish pay information from microfilm of Military Pay Records when hard copies of pay records cannot be located in Military Pay Record file. Used as back-up of hard copies of Military Pay Records which are also filed at this location. The purpose of the record system is to retain historical pay data on Air Force and former Air Force members, and to furnish pay information and/or related information to Accounting and Finance Offices (AFOS) and Consolidated Base Personnel Offices (CBPOs), who use this information in answering inquiries and in determining current administrative adjustments. Copies of certified pay records and related documents are disclosed to military courts for court-martial action, and to Civil Courts. Furnish wage and tax statement (Form W-2) for tax purposes to State Revenue Service, Internal Revenue Service, individual members misplacing original form W-2, widows of deceased members, or to verify Air Force service on request from other services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on roll microfilm.

RETRIEVABILITY:

Filed by name and Social Security Number or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Military Pay Records, hard copies, are retained at Denver Federal Archives and Records Center where they are sold to paper salvage companies and destroyed by shredding after a total of ten years after member's separation, or date of final action, whichever is later. Microfilm of Military Pay Records is retained at Air Force Accounting and Finance Center for six years then destroyed by shredding or burning. Copies of microfilm are retained for fifty-six years at Federal Records Center Annex, GSA at Neosho, MO and then destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance, USAF.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information which may be determined from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80205 telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information which may be determined from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial and medical institutions, automated system interfaces; police and investigating officers; state or local governments; corporations; source documents such as reports; Air Force installation Accounting and Finance Pay Offices; Joint Uniform Military System (JUMPS); state agencies; state revenue services; veterans organizations; federal agencies; Internal Revenue Service; Veteran's Administration; attorneys; widows of former members; parents of members; dependents, trustees, and guardians; and other Department of Defense components.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC K

SYSTEM NAME:

177 AFAFC K Pay and Allotment Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Denver CO 80279; Denver Federal Archives and Record Center, Building 48, Denver Federal Center, Denver, CO, 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel Air Force Reserve and Air National Guard personnel, and Air Force Academy cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for Basic Allowance for Quarters (BAQ); request for dependency determinations for benefits; copies of marriage certificates, birth certificates, annulments, divorce decrees and adoption papers; certificate of residence forms; allotment documents (starts, changes and stops); special pay authorizations; copies of allotment vouchers; change of address forms; parent dependency affidavits; correspondence between the Air Force Accounting and Finance Center (AFAFC) and members and their dependents pertaining to allotments (pay information) and determinations of dependency; Comptroller General decisions; General Accounting Office opinions; Judge Advocate General opinions and interpretative memoranda; Air Force Office of Special Investigation (OSI) reports, interpretative memoranda from plans and systems (XS) at AFAFC; status request from office of civilian health and medical program of the uniformed services (CHAMPUS) regarding medical care for children over age 21; correspondence with state and local agencies; American Red Cross; and other material related to dependency determination and eligibility of dependents for pay and allowance purposes and benefits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 USC 401, Definitions; 403, Basic allowance for quarters; 10 USC 1072, Definitions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to make final determinations of dependency and or relationship eligibility entitlement to pay allowances for parents, step-children and adopted children who have income in their own right, illegitimate children and all cases where relationship or dependency is questionable; make determinations of dependency and or eligibility entitlement to benefits for parents, parents-in-law, illegitimate children and children over age 21. Copies of affidavits, documents, related correspondence and/or information contained therein may be furnished to the service member, the claimed dependent and/or the person who furnish such information. Copies of affidavits, statements and related correspondence may be furnished OSI to verify information submitted by or in behalf of the claimed dependent. Copies of records may on occasion be furnished to Internal Revenue Service (IRS), Social Security Administration (SSA), Office of Personnel Management, and the Veterans Administration (VA), and to state and local agencies for their own determinations for any obligations, benefits and privileges that come under their jurisdiction. Notify other services (Army, Navy, Marine Corps, Coast Guard) on approvals of BAQ in behalf of parents and illegitimate children to prevent duplicate claims. Notify the American Red Cross of status of claims to inform the member and/or their dependents. On occasion may disclose information to the Air Force Aid Society.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and Social Security Number or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Records for members who have been separated from the service are purged annually and retired to the Federal Archives and Records Center at Denver Federal Center with one exception. Records for which claims are received and/or a dependency determination is made after separation, are retained at the AFAFC for six years after last determination and then sent to the Denver Federal Archives and Records Center. Records are destroyed six years after member's separation from the service or last determination, whichever is later. Destruction is by shredding, tearing or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance, United States Air Force, Wash DC 20330

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security number, service number, military status, duty station or place of employment.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Denver CO 80279, telephone (303) 370-7553. The

requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial and medical institutions, automated system interfaces, police and investigating officers, state or local governments, source documents such as reports; applications and correspondence from members for dependency determination, COLA, and medical care; correspondence from parents, guardians and custodians of dependents, attorneys and the American Red Cross pertaining to dependency determination and support of dependents; information from other components of the Department of Defense.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC L

SYSTEM NAME:

177 AFAFC L United States Air Force Retired Pay System

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver CO 80279; Federal Archives and Records Center, Building 48, Denver Federal Center, Denver, CO 80225; Records Center Annex, GSA, P.O. Box 141, Neosho, MO 64850 (backup storage only); Air Reserve Personnel Center and Personal Affairs offices at Air Force installations. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel, Air Force Reserve and Air National Guard personnel, dependents and survivors of military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include, but are not limited to retired pay and annuitant pay master files with supporting documentation relating to entitlements, deductions, collections and alotments Supporting documents include but are not limited to Retirement Orders, retirement pay orders, gross pay statements, statements of employment, employees' withholding exemption certificates, records of emergency data, retired pay allotment authorizations, retirees: United States savings bond authorizations, Air Reserve Forces retirement credit summaries, divorce decrees, computation of retired pay, death certificates, claims for unpaid pay and allowances of deceased members, marriage certificates, adoption papers, guardian papers, birth certificates, election certificates for retired servicemens' family protection plan (RSFPP), election certificates for survivor benefit plan (SBP), documents pertaining to status of childrens' schooling, and income tax withholding statements. Also included are listings of bonds, allotments, retired pay and annuitant pay checks, debts owed the government and direct remittances made by retirees for the costs of the RSFPP and SBP plans, records from dependents of retired military personnel, correspondence related to retirement entitlements such as reports from hospitals and medical review boards, print-outs of members' active duty military pay accounts from the joint uniform military pay system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapters 61, Retirement or Separation for Physical Disability; 63, Retirement for Age; 65, Retirement for Length of Service; 67, Retired Pay for Non-Regular Service; 69, Retired Grade; 71, Computation of Retired Pay; 73, and 79, Correction of Military Records; 5 USC Chapter 83, Retirement; Title 37 USC, Pay and Allowances of the Uniformed Services; 38 USC 410, Deaths entitling survisors to dependency and indemnity compensation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to accurately and timely pay the retired members of the Air Force and their survivors; provide members periodic statements of pay; document and account for all disbursements and collections; and to respond to inquiries concerning the retiree and annuitant accounts. Records are used to establish, maintain and close retiree and annuitant pay accounts and prepare related reports; compute retired and annuitant pay and initiate actions for monthly pay and allotment transactions; casualty cases are established upon the death of a member and arrears of pay are computed and disbursed to survivors; upon the death of a retired member, RSFPP and/or SBP accounts are established and survival annuities are paid. Other users include, but are not limited to, any component of the Department of Defense for inquiries, audit and document utilization; other federal agencies such as the Internal Revenue Service for normal wage and tax withholding reporting, accounting, tax audits and levies; Comptroller General and the General Accounting Office for legal interpretations and audits. Disclosures are made to the Veteran's Administration regarding establishments, changes and discontinuances of VA compensation to retirees and annuitants; disclosures are made to the Social Security Administration regarding wages and Federal Insurance Contributions Act Tax withholding; information is furnished the American Red Cross and the Air Force Aid Society for their use in assisting retirees and their survivors. Information is supplied to state and local governments for use as follow-up data in welfare cases and for tax purposes. Also, there is an automated interface with the joint uniform military pay system for data used to compute annuitant payments; retiree's pay and their allotment (checking and savings accounts) payments as well as annuitant's pay are sent either directly to financial organizations or through the Direct Deposit/Electronic Fund Transfer Program. Information is also supplied to the Office of Personnel Management when a retiree waives his military retired pay in order to use his military service for computing his Civil Service Retirement Annuity. Information is supplied to the courts regarding retiree pay in garnishment cases. Disclosures are also made to attorneys, law firms, and other parties acting as executors or administrators of retirees estates and information is provided to trustees of mentally incompetent members and guardians of survivors (children).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders/note books/binders/visible file binders/cabinets/card files, computer magnetic tapes and paper printouts, and on roll microfilm and microfiche.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/vaults/locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

RETENTION AND DISPOSAL:

The records are retained for varied periods up to 56 years. Destruction of records is by shredding. Records are maintained at the Denver Federal Archives and Records Center. Duplicate records are maintained at the alternate site at Neosho, MO for storage where destruction is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force, Washington DC 20330 (USAF). Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, TX 78150 for Survivor Benefit Plans Briefing records and spouse notification letters.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, duty station or place of employment, military status, military grade or other information verifiable from the record itself. For Survivor Benefits Plans Briefing records and spouse notification data, contact the System Manager specified in the preceding category or Personal Affairs officials at the servicing Air Force installation. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, duty station or place of employment, military status, military grade or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial, educational, and medical institutions, automated system interfaces, state or local governments, source documents such such as reports. Also record sources include but are not limited to, the following: members' survivors, trustees of mentally incompetent members, guardians of survivors (children), private law firms which are executors of estates in casualty cases, the Air Force Manpower and Personnel Center at Randolph Air Force Base, TX, and other government agencies such as the Veterans Administration and the Social Security Administration. Information also obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC M

SYSTEM NAME:

177 AFAFC M Indebtedness and Claims.

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279; Denver Federal Archives and Record Center Bldg 48 Denver Federal Center, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired Air Force military personnel and present and former Air Force civilian employees, Air Force Reserve and Air National Guard personnel, Air Force Academy cadets, Dependents of military personnel, Exchange Officers, Foreign nationals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of current and former military members and civilian employees pay accounts showing entitlements, deductions, payments made, and any indebtedness resulting from deductions and payments exceeding entitlements. These records include, but are not limited to, individual military pay records, substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account print out from Joint Uniform Military Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents, including but not limited to, statements of financial status (personal income and expenses), statements of commanders, statements of Accounting and Finance Officers, correspondence with members and employees. Claims of individuals requesting additional payments for services rendered with supporting documents including, but not limited to, time and attendance reports, leave and earnings statements, travel orders, travel vouchers, statements of non-availability of quarters and mess, paid receipts, and correspondence with members and employees. Delinquent accounts receivable from base Accounting and Finance Officers including, but not limited to, returned checks, medical services billings, collection records, and summaries of the Air Force Office of Special Investigation and Federal Bureau of Investigation reports. Reports from probate courts regarding estates of deceased debtors. Reports from bankruptcy courts regarding claims of the US against debtors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 USC Chapter 18-Compromise and Collection of Federal Claims; 10 USC 2774, Claims for overpayment of pay and allowances, other than travel and transportation claims and 9837 (d), Settlement of accounts: remission or cancellation of indebtedness of enlisted members; 5 USC 5584, Claims for overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses; 12 USC 1715m, Mortgage insurance for servicemen .

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information is collected to determine eligibility for waiver of erroneous payments and remission of indebtedness or additional payments for services rendered. Also, information is required to attempt collection of all claims of the United States for money or property arising out of the activities of the United States Air Force. Data necessary to identify the individual involved is disclosed to commercial credit agencies whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Claims of the United States may be compromised, terminated, or suspended when warranted by

information collected. The records are used by, but not limited to, Air Force Accounting and Finance Center (AFAFC) Director of Accounting and Finance and Deputy Director of Accounting and Finance (HQ USAF/ACF), Assistant Secretary of the Air Force for Manpower and Reserve Personnel (SAF/MR), United States Air Force Comptroller (HQ USAF/AC), and the Comptroller General. AFAFC/CC uses the information to make final determinations or recommendations to SAF/MR, HQ USAF/AC, or the Comptroller General; to furnish legal advice to operating officials; to establish debts and respond to letters received from individuals. After action is completed, files are closed and filed in individual records. SAF/MR, HQ USAF/AC and the Comptroller General use the files for making final determinations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and in machine - readable form.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, transferred to the Denver Federal Archives and Record Center for nine additional years, and then sold to salvage paper companies to be destroyed by shredding, tearing, mascerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance United States Air Force (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty station or place of employment, or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from financial and medical institutions; automated system interfaces; police and investigating officers; the public media, a state or local government; and source documents such as reports; credit bureaus; Bureau of Employees Compensation, Veterans Administration; Social Security; Internal Revenue Service; Federal Housing Administration; health insurance companies; U.S. Army Finance and Accounting Center; Navy Finance Center; Base Accounting and Finance Officers, Major Commands; Comptroller General; and correspondence with individual concerned or his representative.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F178 AFSC A

SYSTEM NAME:

178 AFSC A Rome Air Developement Center (RADC) Manpower Resources Expenditure System

SYSTEM LOCATION:

Rome Air Development Center (RADC), Griffiss AFB NY 13441.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel assigned to RADC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel identification and job classification data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to compile statistical reports and for support of manpower and cost accounting systems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the records system in the course of their official duties who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Rome Air Development Center, Griffiss Air Force Base, NY.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager or from RADC/Department of Administration Griffis Air Force Base NY.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35

RECORD SOURCE CATEGORIES:

Obtained from individual and personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F178 AFSC C

SYSTEM NAME:

178 AFSC C Integrated Management Information and Control System (IMICS)

SYSTEM LOCATION:

Foreign Technology Division (FTD), Wright-Patterson Air Force Base, Ohio 45433.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel assigned to Foreign Technology Division (FTD).

CATEGORIES OF RECORDS IN THE SYSTEM:

Identification data such as name, SSN, address, security access, grade.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Verify security clearances and manpower accounting.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Foreign Technology Division (FTD), Wright-Patterson Air Force Base OH 45433.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager; FTD Director of Administration, Wright-Patterson Air Force Base OH 45433.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual and verified from file.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F190 AF PA A

SYSTEM NAME:

190 AF PA A Special Events Planning - Protocol

SYSTEM LOCATION:

Office of the Secretary of the Air Force (SAF/PAC). At Air Force installations and USAF Recruiting Service offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-Air Force civilians, generally, but not limited to civilian leaders of the local community. Segments of the system may be specialized; e.g. active and retired military persons identified by special interests, teachers or other persons in governmental agencies qualified or considered to lecture in Air Force training courses, winners of AF-sponsored Science Fairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data usually including, but not limited to: name; business and home address and telephone numbers; name of spouse and family; description of positions in business and community affiliations with Air Force-oriented civic organizations; photographs. For Science Fair winners; name/date of fairs; name of school; year in school; name of project; judging category; previous selection as Air Force winner with year and name of fair. May include summaries of circumstances of visits to the installation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Public Affairs Officers, Executive Officers, Protocol Officers, or Commanders, as reference for planning official functions, reporting to higher headquarters, selecting lecturers for training courses, and submitting nominations for Air Force or Department of Defense conferences or other functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Secretary of the Air Force (SAF/PAC), Washington, DC 20330 or Commander of the Air Force installation concerned. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Office of Public Affairs, for public affairs planning, or the Executive Officer or Office for Protocol, for protocol system segments. Requests regarding systems for selection of lecturer should be addressed to the particular school or training unit, e.g. USAF Special Operations School (EDPT), Eglin AAF 9, FL 32544.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained

from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the public media, a state or local government, source documents such as reports, Federal agencies staff recommendations, and Science Fair questionaires.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F190 AF PA B

SYSTEM NAME:

190 AF PA B Home Town News Release Background Data File

SYSTEM LOCATION:

United States Air Force Home Town News Center, Tinker Air Force Base, OK 73145. Subsystems of the main system may be located at the Information Office of the Air Force base, or Air National Guard or Air Force Reserve or similar installation to which an individual is assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force active duty military personnel, Air Reserve or Air National Guard personnel recently selected for promotion, reassigned, awarded a medal or decoration, or who otherwise participated in a newsworthy event.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information including, but not necessarily limited to name, current grade, marital status, local address, name and address of parents, educational background and military history, photographs. Information is usually, but not necessarily, contained in a USAF Home Town News Release Form or similar form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Preparation of news releases for distribution to newspapers and broadcast stations throughout the United States.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and visible file binders/cabinets.

RETRIEVABILITY:

Filed by name within date of release.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in Home Town News Center files until 90 days after monthly cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Local files may be retained for one year and are then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Public Affairs, Office of the Secretary of the Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to Commander, USAF Home Town News Center, Tinker Air Force Base, OK 73145. Inquiries about a subsystem should be addressed to the Information Officer at the base or installation of the individual's assignment. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force systems notices.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the Commander, USAF Home Town News Center or the installation Information Officer.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35

RECORD SOURCE CATEGORIES:

Information obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F190 SAFPA A

SYSTEM NAME:

190 SAFPA A Biographies of Officers and Key Civilians Assigned to SAF/PA

SYSTEM LOCATION:

Secretary of the Air Force Office of Public Affairs (SAF/PA), Room 4D926, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and key civilians (grade GS-10 or higher) currently assigned to positions in the Secretary of the Air Force Office of Public Affairs and its component divisions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information including summary of military service, educational background, marital status and special interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Serves as a ready reference of assigned personnel for the Director of Public Affairs, Office of the Secretary of the Air Force; used in preliminary personnel evaluations for reassignment within the Secretary of the Air Force Office of Public Affairs and throughout the Public Affairs field.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Public Affairs, Office of the Secretary of the Air Force (SAF/PA).

NOTIFICATION PROCEDURE:

Requests for information should be addressed to the Executive, Secretary of the Air Force Office of Public Affairs (SAF/PA), Washington DC 20330, telephone (202) 695-5227. Personal visit may be made to the system location in

room 4D926, The Pentagon, Washington DC.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance from the Executive, Secretary of the Air Force Office of Public Affairs, address as above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, trade associations, automated system interfaces and from the public media.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F190 SAFPA B

SYSTEM NAME:

190 SAFPA B Official Biographies

SYSTEM LOCATION:

Biographies of active duty general officers and high-level civilian personnel of the Department of the Air Force: Air Force Service Information and News Center, Kelly Air Force Base, TX 78241 (AFSINC/IIB). Record system segments or duplicates pertaining to active duty general officers may be found at the Office of Public Affairs, Office of the Secretary of the Air Force, Washington, DC 20330; Headquarters of major commands and at all levels down to and including Air Force installations. Also at Air Force libraries, offices of air attaches to United States Embassies, Air Force sections of Military Assistance Advisory Groups and missions, unified activities and unified commands. Additional locations include the Air Force Chief Historian (AF/CHO), Washington, DC 20330; Assistant for General Officer Matters (AF/MPG) Washington, DC 20330; and the Aerospace Historical Foundation, University of KS. Biographies of retired Air Force general officers are located at the Media Relations Division, Secretary of the Air Force Office of Public Affairs (SAF/PAM), Room 5C879, The Pentagon, Washington, DC 20330, and at the Retired Activities Section, Assistant DCS/Personnel, Air Force Manpower and Personnel Center (AFMPC/AFPMSDMI), Randolph Air Force Base, TX 78150. Biographies of key civilian employees of the Office of the Secretary of the Air Force and of Headquarters, United States Air Force, are located at the Director of Civilian Personnel, Washington, DC 20330. Biographies of key civilian employees at subordinate organizational levels may be found at the office of the Director of Civilian Personnel. Biographies of Air Reserve general officers are at Headquarters USAF/REL, Washington, DC 20330. Record segments or duplicates may be found at the Office of Public Affairs, Headquarters, of the United States Air Force, major commands and major subordinate commands. Air Force Manpower and Personnel Center (AFMPC/DPMYR), Randolph Air Force Base, TX 78150; Headquarters, Air Force Reserve (Commander and Public Information Office), Robins Air Force Base, GA 31098; Air Reserve Personnel Center (Commander and Public Affairs Office), Denver, CO 80280; Headquarters, Military Airlift Command (CSB), Scott Air Force Base, IL 62225; Secretary of the Air Force, Manpower and Reserve Affairs (MRR), Washington, DC 20330; the Reserve Forces Policy Board, Washington, DC 20330; and the offices of all Air Reserve general officers. Biographies of Air National Guard general officers are located at the National Guard Bureau, Washington, DC 20310. Records system segments of duplicates may be found at Department of the Army major divisions and installations. Headquarters of the major commands and separate operating agencies. Army readiness regions; the offices of Army Guard and Air National Guard Liaison Officers; the Aerospace Audio-Visual Service, Norton Air Force Base, CA 92404; the Office of the Secretary of Defense; the Office of the Secretary of the Navy; the Library of Congress; the Air Force Association; the Army Association; the Reserve Officers Association; Air Force libraries; the Air War College, the offices of all National Guard and Air National Guard general officers, and the offices of state Adjutants General. Specific addresses may be obtained from the National Guard Bureau. Biographies prepared under the official biographies program for key military and civilian personnel of other Air Force organizations may be found at the Office of Public Affairs. Headquarters of major commands and at all levels down to and including Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Secretary of the Air Force, Under Secretary and assistant secretaries of the Air Force, Air Force general officers on active duty or retired, Air Reserve and Air National Guard general officers, Air Force personnel assigned as pilots to the Manned Space Program, and key military and civilian personnel at all Air Force organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes, but not limited to, summary of military service (including dates and locations of assignments and dates of promotions), military honors and awards, educational background, date and place of birth, marital status, name of spouse and family, and any additional personal information provided by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Biographies are prepared to support the Air Force policy to keep its members and the public informed about the Air Force and its leaders. In their final form the biographies are considered published, public domain material and may be released to any requester on an as needed or as requested basis. Biographies may be used as resource documents in preparing news releases or other public information material and are included in the official personnel records of all general officers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

No specific safeguards required.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Air Force Service Information and News Center (AFSINC/CC), Kelly Air Force Base, TX 78241.

NOTIFICATION PROCEDURE:

Requests from individuals should be directed to Commander, Air Force Service Information and News Center (AFSINC/CC), Kelly Air Force Base, TX 78241, telephone (512) 925-6161 for all

biographies of active duty general officers and key civilians assigned to the Office of the Secretary of the Air Force or to Headquarters Air Force. Biographies for Air Reserve general officers at Headquarters USAF/REL; Air National Guard general officers at the National Guard Bureau, and retired officers from the Media Relations Division (SAF/PAM), mailing addresses in the Department of Defense directory in the appendix to the Air Force's systems notices. All other biographies: Office of Public Affairs at the appropriate level

RECORD ACCESS PROCEDURES:

Individual can obtain assistance from the Commander, Air Force Service Information and News Center, the National Guard Bureau, Headquarters USAF/REL, Media Relations Division (SAF/PAM) or the Office of Public Affairs at the appropriate level. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the public media and Information obtained from source documents such as reports. Subject to final review by the individual concerned before publication.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F205 AF A

SYSTEM NAME:

205 AF A Personnel Security Access Records

SYSTEM LOCATION:

Records are normally located at organizational units where individuals are currently assigned or employed. They may be located at offices of installation Chiefs of Security Police and for non-immigrant aliens at headquarters of major commands and major subordinate commands or at the National Personnel Records Center, Military Personnel Records, 9700 Page Blvd, St Louis, Mo., 63132, or Civilian Personnel Records, 111 Winnebago St., St Louis, Mo. 63118. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's Systems Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military and civilian personnel, Air Force Reserve and Air National Guard personnel, Air Force Academy cadets, American Red Cross Personnel, Exchange Officers, and Foreign National.

CATEGORIES OF RECORDS IN THE SYSTEM:

System includes documentation requesting, granting and terminating access to classified information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to record level of security clearance and level of access to classified information that has been authorized. Information is used by commanders, supervisors, and security managers to insure that individuals who receive classified information have been properly investigated, cleared, have a definite need-to-know, and have been properly debriefed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, visible file binders/cabinets or card files.

RETRIEVABILITY:

Filed by Name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes or vaults, or in locked cabinets or rooms, protected by guards, and controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. (Exception: Records on non-immigrant aliens are retained for two years after termination of access or employment, then destroyed, as above.) Security Termination Statements are retired one year after termination of service or employment to the National Personnel Records Center, Military Personnel Records, 9700 Page Blvd, St Louis, Mo 63132, or Civilian Personnel Records, 111 Winnebago St, St Louis, Mo, 63118. Records indicating that access to classified information has been withdrawn for cause are forwarded to installation Chief of Security Police for disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Security Police, Headquarters United States Air Force. Commanders of organization units and the Director National Personnel Records Center Military Personn Records, 9700 Page Blvd, St Louis, Mo 63132 or Civilian Personnel Records, 111 Winnebago St. St Louis, Mo 63118.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Write or visit the organizational unit where currently assigned or employed. Written requests must be notarized; personal visits require positive identification. Provide full name, SSN, and military rank or civilian rating.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, from police and investigating officers, or from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F205 AF SP A

SYSTEM NAME:

205 AF SP A Special Security Files

SYSTEM LOCATION:

Commanders or Chiefs of Security Police at Air Force installations or units.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force military and civilian personnel including Air Force Reserves and Air National Guard; Air Force

Academy and Air Force ROTC Cadets; Air Force Contractor personnel requiring unescorted entry, Nonappropriated Fund Instrumentality personnel in sensitive positions at Air Force installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative report, some of which are exempt under the Privacy Act of 1974, incident reports, police and law enforcement reports and records, reports of audit, medical evaluation records and reports, personnel record data or reports, disciplinary or administrative action data, records and reports, correspondence among local Air Force officials and between officials and other Air Force agencies or higher headquarters and/or the Air Force Security Clearance Office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Files are temporary records used to collect and record data and documentation of actions taken on cases where the individual's security clearance status may be affected. Portions of the records may be referred to investigative agencies for further inquiry; to personnel officials for administrative action to legal personnel for disciplinary or judicial actions; to medical personnel for evaluation, testing or treatment; to commanders for denial or suspension of access to classified information or restricted areas; to other local Air Force officials for review, recommendation, advice, or assistance for resolution of the case file.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know, and by commanders of medical centers and hospitals. Records are stored in security file containers/cabinets, safes or vaults, protected by guards and controlled by personnel screening.

RETENTION AND DISPOSAL:

Records are temporary and are either sent to the Air Force Security Clearance Office for conversion to Special Security Case Files or are destroyed locally upon favorable determination by tearing into pieces, shredding, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Security Police, Headquarters Air Force Office of Security Police, Kirtland, Air Force Base, New Mexico 87117.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Chief of Security Police or the Commander at the installation of current employment or assignment. Write or visit the installation where currently employed or assigned. Written requests must be notorized and must provide the full name, SSN, military or civilian grade or status. Personal visits require positive identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager or from the Chief of Security Police or Commander of the installation. Mailing addresses are in the Department of Defense directory in the Appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from investigative reports; incident reports; police, law enforcement and audit reports and records; financial institutions; employers,; local government agencies; legal and judicial reports and records; individuals; witnesses, commanders and local officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(5). For additional information, contact the System Manager.

F205 AFSCO A

SYSTEM NAME:

205 AFSCO A Special Security Case Files

SYSTEM LOCATION:

Air Force Security Clearance Office, Washington, DC 20330. Decentralized segments at the Washington National Records Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees and applicants, and Air Force military members and prospective members, including Air Force Reserve and Air National Guard, Air Force contractor employees requiring unescorted access, Air Force Academy and ROTC Cadets and applicants, overseas educators involved in the education and orientation of military personnel, Nonappropriated Fund Instrumentality personnel and applicants for sensitive positions, personnel requiring DOD building passes, whose personnel security investigations contain significant unfavorable information, whose cases were previously processed or adjudicated under the Air Force Military or Civilian Security Programs, or who are the subject of Special Security Files initiated by commanders..

CATEGORIES OF RECORDS IN THE SYSTEM:

Files may include (1) requests for clearance, investigation, or waiver of investigative requirements, (2) determinations of eligibility for assignment to sensitive or nonsensitive positions, (3) medical records checks and evaluations, (4) personnel records information, (5) personnel security questionnaires, (6) correspondence between the Air Force Security Clearance Office and the individual, office of assignment, commanders, medical facilities and installations, personnel offices, investigative agencies, Air Staff offices, or offices of the Secretary of the Air Force, (7) clearance records, and (8) summaries, evaluations, recommendations and records of adjudication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 7531, Definitions; 7532, Suspension and removal; 7533, Effect on other statutes; 10 USC 8012, Secretary of the Air Force: powers and duties; delegation by; Executive Order 10450, Security requirements for government employment; implemented by Department of Defense Regulation 5200-2R, DOD Personnel Security Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Files are established to evaluate the security acceptability of Air Force military and civilian and contractor personnel, applicants, enlistees and nominees for appointment, assignment or retention in sensitive positions with

access to classified defense information or to restricted areas and locations in the interest of national security. Files are used to record clearance adjudicative actions, eligibility determinations and investigative data. Investigative case file information may be reviewed by Air Force installation commanders, supervisors, personnel officers, medical, security, and investigative personnel, personnel of Air Staff offices and offices of the Secretary of the Air Force. Case files and cards are also used to answer inquiries from other Air Force offices and agencies, and from investigative, security and personnel representatives of other Federal agencies concerning the clearance status of individuals. Case records are maintained to prepare statistical accounting and to measure the effectiveness of the adjudicative programs and procedures.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and microfiche maintained in file folders, card files, visible file binders/cabinets and notebooks/binders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are stored in vaults, safes and security file containers/cabinets. All records are stored, processed, transmitted and protected as the equivalent of classified information. Records are accessed by the custodian of the records system, by persons responsible for servicing the system in the performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Case files which result in a final, favorable adjudicative determination are retained in the office files for one year after annual cut-off then are destroyed by tearing into pieces, shredding, pulping, or burning. Case files resulting in an adverse adjudicative determination are retained in office files for two years after annual cut-off, then are retired to the Washington National Records Center, Washington, DC 20409.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Air Force Security Clearance Office, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager, and should contain the full name, including any former names, grade, date of birth and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is received from investigative reports from federal investigative agencies, personnel and medical records, board reports, correspondence from offices and organizations of assignment, and from commanders, supervisors, witnesses and individuals, from security, and investigative personnel and from Air Staff offices, offices of the Secretary of the Air Force.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(5). For additional information, contact the System Manager.

F205 AFSCO B

SYSTEM NAME:

205 AFSCO B Presidential Support Files.

SYSTEM LOCATION:

Primary System at the Air Force Security Clearance Office, Washington, DC 20330. Decentralized segments are located at security police offices for units having a Presidential Support mission and those units from which personnel are nominated or assigned to Presidential Support duties.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those Air Force military and civilian personnel who are nominated or assigned to authorized, designated positions involving Presidential Support duties on either a full or part-time basis.

CATEGORIES OF RECORDS IN THE SYSTEM:

Nomination Files include reports of investigation by the Defense Investigative Service and by other Federal investigative agencies; correspondence between the Air Force Security Clearance Office and units, installations, contractors and major commands, investigative agencies, security offices, Air Staff offices and offices of the Secretary of the Air Force, the office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense, the Office of the Director, White House Military Office, medical evaluations, statements by nominees, summaries and evaluations of investigative information. Assignment Record Files include letters of notification of selection and quarterly rosters of all assigned personnel listed alphabetically by organization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by; implementing Department of Defense Directive 5210.55, Selection of DOD Military and Civilian Personnel and Contractor Employees for Assignment duties; and Department of Defense Regulation 5200-2R, DOD Personnel Security Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Nomination files are temporary files used to evaluate the background, character, suitability and qualifications of nominees being considered for selection to positions requiring regular or frequent contact with the President or access to Presidential facilities or modes of transportation. Files are reviewed and evaluated by staff members at each level in the selection process, by medical facility staff members, by the Air Force Security Clearance Office, and and other appropriate Air Staff office, by the Office of the Administrative Assistant to the Secretary of the Air Force, and by the Office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense. Files are reviewed by the Office of the Director, White House Military Office and contractor personnel files may be reviewed by the contractor and by the U.S. Secret Service. Assignment Record Files are originated from data in the Nomination Files to locate, identify, control, manage, and administer individuals selected for assignment to Presidential Support duties, to initiate assignment actions after final selection, to notify medical facilities, and to prepare the quarterly listing of individuals assigned to the program for submission to the Office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense, to major command and units and Security Police offices

having a Presidential support mission, and submission to the Office of the Director, White House Military Office and to contractors. Presidential Support mission. Assignment Record Files at locations other than the Air Force Security Clearance Office are merely duplicate copies of the file copy. File copies are retained at the Air Force Security Clearance Office to permit record access and to record the accountability of disclosures of the Nomination Files.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders and on computer paper output products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system, by person responsible for servicing the record system in performance of their official duties, and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, in safes and vaults.

RETENTION AND DISPOSAL:

Upon completion of final favorable determination of selection, Nomination Files are destroyed by tearing into pieces, shredding, pulping, or burning and are replaced by Assignment Record Files. Assignment Record Files for individuals are retained during the period of assignment or for five years, whichever is longer, as the disclosure accountability record, then are destroyed by tearing into pieces, shredding, pulping, or burning except for the file copy which is kept by the System Manager for five years for disclosure accounting. Assignment Record Files in quarterly roster listing form are destroyed when superseded by the next quarterly roster by tearing into pieces, shredding, pulping, or burning. Nomination Files for personnel not selected are retained in the office of nonselection or at the Air Force Security Clearance Office for one year after the date of nonselection, at which time they are destroyed by tearing into pieces, shredding, pulping, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Presidential Support Security Specialist, Air Force Security Clearance Office, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requests should contain the full name, military or civilian grade, date of birth, position in unit or contracting firm, the date of nomination or nonselection, or the unit or organization to which assigned, location and period of assignment.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from the individual, from reports from Federal investigative agencies, military and civilian contractor personnel records, and military medical records, correspondence from military and civilian law enforcement and Security Police offices, major command staff offices, Air Staff offices, offices of the Secretary of the Air Force, the Office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense, Office of the Director, White House Military Office and other Federal agencies and office of the Executive and Legislative Branches.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F205 AFSCO C

SYSTEM NAME:

205 AFSCO C Personnel Security Clearance and Investigation Records

SYSTEM LOCATION:

Air Force Security Clearance Office, Washington, DC 20330, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150, Air Force units, personnel offices, Security Police elements at all Air Force installations, Air Force Academy, CO, and Air Force ROTC Headquarters, Maxwell Air Force Base, AL.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force military and civilian personnel and applicants including Air Force Reserve and Air National Guard personnel, Air Force Academy and Air Force ROTC Cadets, Air Force contractors requiring unescorted entry or special access, Nonappropriated Fund Instrumentality personnel at Air Force installations and overseas educators at Air Force installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

System includes clearance status and eligibility records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 9838; 10450; and 11652; 10 USC 8012 Secretary of the Air Force: powers and duties; delegation by; as implemented by DOD Regulation 5200.2R, DOD Personnel Security Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to grant access to classified information or unescorted entry to restricted areas; to record completion of investigative requirements for enlistment, induction, appointment, commissioning, assignment to sensitive positions, duty or training; to grant special access for special programs or projects; to determine investigative requirements needed for assignment; to record status of investigative actions; to record date of separation; to record adjudicative determinations of ineligibility for enlistment, induction, commissioning, retention, appointment, assignment, clearance or access.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer and computer output products.

RETRIEVABILITY:

Filed by name and Social Security Number..

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms or in security file containers/cabinets or vaults, and controlled by computer system software and personnel screening.

RETENTION AND DISPOSAL:

Records are retained in computer systems for two years after separation, deleted. Paper records in file folders are destroyed upon separation. A Reserve commitment are retained until

commitment is fulfilled, then Computer printouts are temporary records and are destroyed when replaced by more recent listing. Paper records are destroyed by tearing into pieces, shredding, pulping or burning. Computer storage devices are overwritten or erased.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Air Force Security Clearance Office, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Provide full name, including maiden name if applicable, and Social Security Number.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, investigative reports, medical facilities, police and law enforcement offices, personnel documents, Air Force Special Security Files and Special Security Case Files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F205 AFSP A

SYSTEM NAME:

205 AFSP A Requests for Access to Classified Information by Historical Researchers

SYSTEM LOCATION:

SAFPA Pentagon, Room 4C-914, Washington DC 20330

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons outside the Executive Branch of the United States Government who request access to classified information for historical research purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Basic biographical data on the requestor, letters of requests, letters granting access or denial and statement signed by the requestor explaining the conditions governing access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to determine the trustworthiness of individuals for whom access is requested, authorize or deny access based on this determination and prescribe locations, schedules and circumstances in which research may be conducted. Biographical data is disseminated to the Defense Investigative Service, the Department of Justice, the Air Force Office of Special Investigations and the Air Force Security Clearance Office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly cleared for need to know. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Security Police, Headquarters United States Air Force. Chief Magazine and Book Branch Secretary of the Air Force Office of Public Affairs.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Chief Magazine and Book Branch Secretary of the Air Force Office of Public Affairs. Written requests should be notarized. Personal visits require positive identification such as Military ID card, drivers license, SSN, date of birth, etc.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, police and investigating officers, and the Department of Justice.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F212 AFA A

SYSTEM NAME:

212 AFA A Library/Special Collections Records

SYSTEM LOCATION:

USAF Academy Library, United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Cadets, Air Force active duty personnel, members of boards and committees associated with Academy operations (Board of Visitors, General Officer Advisory Committee, etc.), faculty, staff and graduates of USAF Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of the following categories of information or subsystems: (1) Index by name to persons in historical photographs and on official officer rosters; (2) historical rosters of cadet wing, cadet class rosters, files of orders, grade lists contained in historical course materials, athletic squad rosters; (3) index by name, date of service on each board or committee; (4) dissertations, theses, books, articles, published reports furnished by individual concerned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To identify an individual with his period of service at the academy and his connection with historic Academy events as recorded in photographs and/or biographical data. (2) Used by faculty, staff and cadets working on history and operation of the Academy. (3) To identify an individual's service on official Academy boards and committees. (4) Publication collection is

a traditional library function to indicate scholarly achievements of an institute of higher education, for use in accreditation reports, and as a central reference resource.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files, photographs, file folders, visible file binders/cabinets and on roll microfilm.

RETRIEVABILITY:

Card catalog by individual's name is maintained. Historical files: No direct name access is available from a library catalog. Individual would have to know his name is in a particular roster.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Catalog is not available when staff or branch personnel are not present.

RETENTION AND DISPOSAL:

Permanent Library Collection, USAF Academy Library, USAF Academy, CO 80840.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Academy Libraries, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Card catalog is prepared manually by Library personnel from photograph identification captions, officer rosters, historical materials and records. Materials generated by Superintendent, Dean of Faculty agencies, Commandant of Cadet agencies, Director of Athletics, Registrar, Staff Agencies. Publications are supplied by individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F212 AFA B

SYSTEM NAME:

212 AFA B Library Authorized Patron File

SYSTEM LOCATION:

USAF Academy Library (DPSLB), United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Academy military and civilian personnel and cadets, specially authorized non-base library patrons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Social Security Number, name, base or home address, type of patron code, expiration date for special borrower privileges.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Library personnel to fully identify patron to whom library material is charged in operation of the Library's automated circulation control system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Will be used by Library staff to identify person to whom material is charged, to follow up on delinquent borrowers by generation of overdue notices, and to clear departing patrons and delete their name from the authorized borrower file. Issue library cards. Maintained in computer.

RETRIEVABILITY:

Filed by Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for library circulation control operation in the performance of their office duties. Microfiche printout is stored in locked room when not in use by circulation desk staff during hours when the Library is open.

RETENTION AND DISPOSAL:

Patron data is deleted from master files maintained on computer when outgoing clearance is accomplished. Microfiche lists of patrons are destroyed by tearing into pieces, shredding, pulping, macerating, burning or burial, when update is received.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Academy Libraries, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Request from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual input on library circulation authorization form.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F213 MPC A

SYSTEM NAME:

213 MPC A Air Force Educational Assistance Loans

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1961, 1962 and 1963 dependents of active duty Air Force military members who received educational assistance loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain loan agreement documents made with loan recipients, related documentation between Air Force Manpower and Personnel Center (AFMPC/Executive Secretariat/Air Force Welfare Board (DPMSS)) and college/university registrars, retained copies of documents and correspondence received from or sent to loan recipients; and individual ledger cards reflecting accounting data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for loan follow-up action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Files are retained until paid in full at which time the original loan agreement is returned to the loan recipient.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Original loan agreements generated by the loan recipient; correspondence received from or sent to loan recipients; certifications from college/university registrars as to receipt of payment for tuition, school supplies and other educational expenses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F265 AFA A

SYSTEM NAME:

265 AFA A Cadet Chaplain Records

SYSTEM LOCATION:

United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Religious affiliation, background and religious interests and choir audition consisting of musical capabilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9331, Establishment; Superintendent; faculty, and 9337, Chaplain.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Identify incoming Fourth Class Cadets religious affiliation, religious background data and religious interests. Cadet Chaplains use this information to organize cadet lay participation as ushers, choir members, lay readers, lectors, commentators, and religious education teachers. Cadet Chaplains and Chapel Managers assigned to the USAF Academy Cadet Chaplain's Office use this information. (2) Choir audition record identifies incoming Cadet's musical capabilities and the music directors use this information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products and in card files.

RETRIEVABILITY:

Filed by name and Social Security Number .

SAFEGUARDS:

Records are accessed by the custodian, by person(s) responsible for servicing the record system in the course of their official duties, and by authorized personnel who are properly cleared for need to know. Records are stored in locked rooms and on computer storage devices protected by computer system software.

RETENTION AND DISPOSAL:

Retained in offices for one year after graduation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

USAF Academy Command Chaplain.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual cadet.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F265 HC A

SYSTEM NAME:

265 HC D Non-Chaplain Ecclesiastical Endorsement Files

SYSTEM LOCATION:

Records maintained at the Office of the Chaplain for the installation where employed. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military/civilians authorized to function as Lay Leaders, Auxiliary Chaplains, Ushers, Lectors, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Certification from religious denomination that the indivisual is qualified to function as Lay Leader or Auxiliary Chaplain.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Determining qualifications of individuals to serve as Lay Leader or Auxiliary Chaplain.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Returned to issuing denomination if requested.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Request access from Senior Installation Chaplain.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Denominational agency endorsing individual to function.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F265 HC B

SYSTEM NAME:

265 HC B Chaplain Personnel Roster

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330. Air Reserve Personnel Center, Denver, CO 80280. Headquarters of the major commands and separate operating agencies. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's sytems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees, Air Force Reserve and Air National Guard personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Organization and station, manpower authorization records, statistical grade codes, Air Force specialty codes, name, Social Security Number, current rank, date of current rank, religious denomination code symbol, date of separation or service commitment, date of birth, effective date of current assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Insuring adequate manning of Reserve, Air National Guard, and civilian auxiliary authorizations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and note books/binders.

RETRIEVABILITY:

Filed by name. Filed by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Request for access may be made to the Major Command Chaplain of the nearest major command. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces and from individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F265 HC D

SYSTEM NAME:

265 HC D Records on Baptisms, Marriages and Funerals by Air Force Chaplains

SYSTEM LOCATION:

Washington National Records Center, Washington DC 20409. 1955 to 1958 Records Group, Modern Military Branch, Military Archives Division, National Archives Service, Washington, DC 20408; 1949 to 1955 Records Group.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel, marriages, military and dependent personnel, baptisms, military and dependent personnel, funerals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of baptisms, marriages and funerals performed by Air Force Chaplains.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records of rites performed by Air Force Chaplains used to verify rites performed for individuals.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Fifty-year retention 1955 to 1958, Washington National Records Center, Washington, DC 20409; Year Group 1949 to 1955 retained at Modern Military Branch, Military Archives Division,

National Archives Service, Washington, DC 20408; system discontinued after 1958.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from individuals and Air Force Chaplains reporting rites.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F900 AFA A

SYSTEM NAME:

900 AFA A Cadet Awards Files

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Relatives of deceased persons who are memorialized through cadet awards and any former USAF Academy cadet who has been honorably discharged because of being crippled, disabled, or blinded while enrolled at the USAF Academy, or because of the discovery of a physical defect after entering the USAF Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cadet Awards files by award area, including background on person memorialized, donor financial arrangements, record of award winners and administrative history and military, academic and medical information on individual considered for award, financial status of parents or guardian and/or candidate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For continuing award sponsorship business with donors, which consist of private individuals, patriotic and veteran organizations, and major air command and used by Cadet Awards Council to aid in their selection of individuals to receive annual award presented to disabled former cadets.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets. Awards Council Chairman and appointed project officer are only persons reviewing financial statements.

RETENTION AND DISPOSAL:

Records are maintained five year in office area before retiring to base staging area for 45 additional years.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of Faculty, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, from individual or next of kin.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F900 AFA B

SYSTEM NAME:

900 AFA B Thomas D. White Defense Award

SYSTEM LOCATION:

United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Living U.S. citizens who have contributed significantly to the National Defense and security of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Nominations and supporting biographical information on nominees for the Thomas D. White Defense Award.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U S C 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data pertaining to the Thomas D. White Defense Award is used by a selection board in identifying an appropriate recipient for the award.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on microfiche.

RETRIEVABILITY:

By Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Personnel, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers and from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

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Thursday
January 5, 1984

Part IV

Federal Reserve System

12 CFR Part 225

Bank Holding Companies and Change in Bank Control; Revision of Regulation Y

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R-0470]

Bank Holding Companies and Change in Bank Control; Revision of Regulation Y

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On May 19, 1983, the Board proposed for comment a revision of 12 CFR Part 225, Regulation Y, its regulation implementing the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*) and the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)). The Bank Holding Company Act requires prior Board approval for a company to become a bank holding company or for a bank holding company to acquire more than five percent of the voting shares of a bank or a bank holding company. The Act also regulates the nonbanking activities of bank holding companies and of foreign banking organizations that control U.S. banks or have U.S. offices. The Change in Bank Control Act requires generally that persons and certain companies give notice to the Board prior to acquiring shares representing control of a bank holding company or state member bank.

After considering the comments received, the Board is adopting the revision of Regulation Y with some significant modifications. The final regulation reduces regulatory burden by eliminating various application requirements, particularly in the nonbanking area, and by accelerating the processing schedules for all applications. In addition, the final regulation incorporates Board interpretations of significant provisions of the Bank Holding Company Act and Change in Bank Control Act to improve understanding of the Board's policies. The regulation also has been comprehensively reorganized and rewritten for clarity in order to enhance the usefulness of the regulation to the reader.

Finally, the Board has amended the regulation to add five nonbanking activities to the list of those permissible for bank holding companies. The Board will publish a separate **Federal Register** notice seeking public comment on amendments to Regulation Y regarding the scope of permissible insurance activities for bank holding companies under Title VI of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320, 96 Stat. 1469, 1536-38). The Board will also seek comment on a number of other nonbanking activities that were suggested by commenters on the proposed revision.

EFFECTIVE DATE: February 6, 1984, except for the procedural provisions of §§ 225.14 and 225.23, which will be effective for all applications and notices submitted to the Board on and after January 1, 1984.

FOR FURTHER INFORMATION CONTACT: J. Virgil Mattingly, Associate General Counsel (202/452-3430), Bronwen Mason Chaiffetz, Senior Counsel (202/452-3564), or Carl V. Howard, Senior Counsel (202/452-3786), Legal Division; David Kulig, Senior Counsel (202/452-2347) or Lily T. Pilgrim, Senior Attorney (202/452-2421) Regulatory Improvement Project; Don E. Kline, Associate Director (202/452-3421), or Sidney M. Sussan, Assistant Director (202/452-2638), Division of Banking Supervision and Regulation.

SUPPLEMENTARY INFORMATION: The Bank Holding Company Act of 1956, as amended ("BHC Act"), governs the acquisition of control of banks by companies and regulates the nonbanking activities of bank holding companies or covered foreign banking organizations. It was enacted to prevent the undue concentration of banking resources, to separate banking and commerce, and to ensure that the performance of nonbanking activities of bank holding companies is consistent with certain basic prudential limitations in the Act regarding risk, safety and soundness, conflicts of interest, and the maintenance of impartiality in the granting of credit. Section 5(b) of the BHC Act (12 U.S.C. 1844(b)) authorizes the Board to adopt regulations to effect the purposes of the BHC Act and to prevent evasions of its provisions.

The Change in Bank Control Act of 1978 ("Bank Control Act") imposes a 60-day prior notice requirement on persons seeking to acquire control of a bank holding company or an insured state-chartered bank that is a member of the Federal Reserve System ("state member bank"). The Board is authorized to adopt regulations to implement the Bank Control Act (12 U.S.C. 1817(j)(13)).

I. Background and Summary

The proposed revision of Regulation Y was issued under the Board's Regulatory Improvement Project, which conducts periodic reviews of the Board's regulations (See Statement of Policy Regarding Expanded Rulemaking Procedures. 44 *Fed. Reg.* 3957 (1979)), and under the Financial Regulation Simplification Act of 1980 (12 U.S.C. 3521). The review of Regulation Y focused on reducing regulatory burden and on clarifying and simplifying the regulation consistent with the terms and purposes of the BHC Act and the Bank Control Act. Specifically, the Board reexamined all of its current requirements concerning transactions for which applications must be filed to identify those application requirements that could be eliminated from the current regulation. In addition, the Board's formal and informal procedures and schedules for processing applications were reviewed to determine ways in which applications might be acted on more promptly and processing delays eliminated. Finally, the current regulation, which was initially adopted in 1971 and has been amended only infrequently since that time, was reviewed to determine whether it accurately reflected the Board's current interpretations of the provisions of the BHC Act.

As a result of this analysis, the proposed revision contained a number of provisions that were designed to reduce or eliminate regulatory burden. The regulation was also reorganized to reflect the provisions of the BHC Act, and a number of Board interpretations of provisions of the Act were incorporated in the regulation, including the terms "deposits that a depositor has the legal right to withdraw on demand" and "commercial loan" contained in the definition of "bank" in section 2(c) of the BHC Act. The Board requested comment on the proposed revision of Regulation Y, including the definitions of terms, as well as five proposed new nonbanking activities for addition to the Regulation Y list of permissible nonbanking activities. The Board also requested suggestions for other nonbanking activities that might be considered to be closely related to banking and that should be added to the Regulation Y list of permissible nonbanking activities.

The Board has also reviewed its application forms to simplify them by eliminating duplicative information and information already available to the Board. The Board expects these measures to reduce by 40 to 60 percent the number of pages contained in applications required under this regulation.

The comments generally favored the procedural aspects of the proposed revision designed to reduce burden, eliminate unnecessary applications and avoid duplication and delay. Commenters particularly favored the provisions: a) eliminating most applications for *de novo* expansion of approved nonbanking activities; b)

exempting certain nonbank asset acquisitions from prior approval under the Act; c) providing a 15-day notice procedure for small acquisitions of nonbanking concerns; d) establishing expedited processing schedules for all applications; and e) adding the five proposed new nonbanking activities. The commenters urged the Board to implement these improvements as rapidly as possible.

The Board agrees with the commenters that the procedural changes would result in substantial benefits and should be implemented immediately. Accordingly, the provisions of section 553 of the Administrative Procedure Act (5 U.S.C. 553) relating to deferred effective date have not been followed in connection with adoption of the procedures set forth in sections 225.14 and 225.23. Most of the procedures, particularly the new processing schedules contained in §§ 225.14 and 225.23, will become effective for applications and notices submitted to the Board on and after January 1, 1984, while the remainder of the provisions will become effective within 30 days of publication of this notice in the **Federal Register.**

On the other hand, a number of commenters opposed the incorporation into the proposed regulation of the Board's interpretation of the terms "demand deposit", "commercial loan", and "voting securities" in the BHC Act; the proposed revised interpretation of the servicing exemption in section 4 of the Act; the proposed revision of the stock redemption rules; the reaffirmation of the provisions governing the nonbanking activities of subsidiary banks of a bank holding company and the nonbank subsidiaries of such banks; and certain other provisions of the proposed regulation.

The issues raised by the commenters together with the changes made in the final regulation (except for technical and editorial changes) are discussed later in this notice under the relevant provisions of the revised regulation. The following is a summary of the major issues that were raised and the Board's determination on each issue:

(1) *De novo expansion of nonbanking activities.* The current Regulation Y requires prior Board approval each time a bank holding company seeks to open a new office of a nonbank subsidiary or to expand the service area of such a subsidiary. The Board proposed two alternative approaches with respect to *de novo* expansion of nonbanking activities. Under the first approach, a bank holding company would be allowed to open offices *de novo* without the Board's prior approval within any state or states where the company had previously received approval to engage in the specified nonbanking activity. Alternatively, the Board proposed to eliminate all application requirements for *de novo* expansion in the United States once the bank holding company received initial Board approval to engage in the nonbanking activity. Most comments favored the alternative proposal, although there were objections to both proposals.

The Board's experience with the administration of the BHC Act and Regulation Y has indicated that *de novo* expansion is procompetitive and that there is no evidence of any significant adverse effects associated with *de novo* expansion. Accordingly, and in view of the absence of any requirement in the BHC Act for an application in such cases, the Board is adopting the alternative to eliminate all applications for *de novo* expansion of previously approved nonbanking activities in the United States. Thus, once a bank holding company has received approval to engage in a nonbanking activity, it may expand that activity anywhere in the United States by opening new offices or expanding its service area without further Board approval. (See section 225.23(b)). The Board, however, is retaining the authority to require an application where, for example, a bank holding company is not in sound financial condition and expansion may not be consistent with sound banking practice.

Because prior Board approvals under section 4(c)(8) were limited to the geographic area stated in the application, and potential opponents may have withheld protest because they were not affected by the limited geographic scope of the application, bank holding companies will be required to file a one-time notice to expand a nonbanking activity beyond the geographic areas previously approved by the Board under the current Regulation Y. These notices may be processed under the 30-day notice procedure for *de novo* expansion.

(2) *Notice for De Novo Entry.* The Board is retaining the present procedure of the regulation that allows a bank holding company to file a simple notice with the Reserve Bank to engage in a permissible nonbanking activity. The applicant may engage in the activity 30 days after filing the notice unless a substantive adverse comment is received or the Reserve Bank finds that the proposal is inconsistent with the statutory criteria. The notice period has been reduced from the present 45 days to 30 days. (Section 225.23(a)(1)).

(3) *Notice procedure for small nonbanking acquisitions.* The proposed revision contained an expedited 15-day notice procedure for small acquisitions of going concerns engaged in permissible nonbanking activities. The commenters generally favored this proposal as substantially remedying unnecessary delays imposed by the section 4(c)(8) prior approval requirement that place bank holding companies at a competitive disadvantage with respect to their nonbank competitors. Some suggestions were made to broaden the criteria for use of this procedure and to provide notice in the **Federal Register** rather than in a newspaper. The Board has incorporated these suggestions in the final regulation and has also clarified that the expedited procedure may not be used, and a full application is required, where the applicant bank holding company is not in sound financial condition and does not meet the Board's Capital Adequacy Guidelines. (See section 225.23(f)).

(4) *Exempt nonbanking asset acquisitions.* Most commenters favored the Board's proposal to exempt from prior approval requirements under the BHC Act acquisitions of offices and other assets of consumer finance and mortgage companies. They stated that this would enhance competitive equality between bank holding companies and their nonbank consumer finance and mortgage company competitors. Several suggestions were made to modify the provision to broaden its applicability and to include the acquisition of the assets by an industrial banking office. The Board is adopting a number of these suggestions in the final regulation, but is making the procedure available only if the acquiring bank holding company meets the Board's Capital Adequacy Guidelines. (See § 225.22(c)(8)).

(5) *List of permissible nonbanking activities.* The Board proposed to add five new activities to the Regulation Y list of permissible nonbanking activities: issuing money orders, arranging commercial real estate equity financing, underwriting and dealing in government obligations and certain money market obligations, providing foreign exchange advisory and transaction services, and acting as a futures commission merchant. The Board has previously approved these activities by order in a number of cases. The commenters supported these activities, and the Board is adding them to the list of permissible activities in the final regulation. The Board had adopted the suggestions of the commenters to eliminate a number of the conditions

from the regulation proposed with respect to the conduct of these activities. (See § 225.25(14) and(18)).

In addition, there was support for a substantial expansion of the Regulation Y list of nonbanking activities permissible for bank holding companies. Several bank holding companies suggested that the Board defer action on the revision until proposals for new activities were developed. However, most of these commenters also urged prompt implementation of the procedural improvements in the proposed revision. In view of the expected benefits from the procedural improvements, the Board does not believe that it should delay final adoption of the regulation.

The Board made four decisions with respect to adding new nonbanking activities suggested for addition to the Regulation Y list in response to the Board's proposal to revise Regulation Y. First, the Board will publish a separate **Federal Register** notice seeking comment on an amendment to Regulation Y that defines the scope of insurance activities that are permissible under the authority of Title VI of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320, 96 Stat. 1469, 1536–38) ("Garn-St Germain Act"). Second, certain of the suggested activities, particularly certain securities and real estate activities, the operation of a thrift institution and certain activities of a financial nature, are the subject of or related to bills currently pending in Congress, particularly, the Administration's proposed Financial Institutions Deregulation Act (S. 2181), the proposed Financial Services Competitive Equity Act introduced by Senator Garn (S. 2134), and the proposed Depository Institutions Holding Company Act Amendments introduced by Senator Proxmire (S. 2134). The Board does not believe that it is appropriate to commence a regulatory proceeding that would overlap with Congressional consideration of whether these activities should be performed by bank holding companies and, accordingly, it is not publishing these activities for comment at this time. Third, the Board will publish a separate **Federal Register** notice seeking public comment on a number of activities that the Board has previously approved by order in individual cases or that are similar to approved activities. Fourth, the Board will consider in the near future publishing for comment an additional number of activities that were suggested by commenters, have not previously been considered by the Board, and are not the subject of pending Congressional consideration.

(6) *Expedited processing schedules for all applications.* The proposed revision contained regulatory deadlines for each step of the applications process, including pre-acceptance review, acceptance, publication of notice, and final action. These deadlines represent a substantial reduction in the current informal schedules for processing applications—from 45 to 30 days for delegated applications and from 90 to 60 days for Board action on applications. The deadline for pre-acceptance review by the Reserve Banks has also been shortened to a maximum period of 30 days.

The comments supported the expedited processing schedules and the Board is adopting them as proposed. Under current procedures, more than 90 percent of all applications are processed under delegated authority. Based on this experience, the Board expects that, under the new procedures, most cases will be acted on under delegated authority within 30 days from acceptance. In this regard, the Board's decision to publish notice of receipt of the application immediately upon its submission to the Reserve Bank (rather than after acceptance of the application) will allow for approval of many cases within a few days of the acceptance of the application. (See §§ 225.14 and 225.23).

(7) *Stock redemptions.* More than 600 of the comments addressed the proposed changes concerning the redemption by a bank holding company of its own securities. The comments uniformly opposed the Board's proposed amendment, stating that it would adversely affect the transferability of ownership of small one-bank holding companies. The Board has decided to retain the current stock redemption notice procedures, including the rule that no notice is required unless redemptions within a 12-month period amount to 10 percent or more of the company's net worth. The Board has modified the regulation to specify the standards under which the Board will review a proposed redemption transaction for which notice is given. These standards are those generally applied by the Board in applications filed under the BHC Act, including the Board's Capital Adequacy Guidelines and the Board's standards for small one-bank holding companies. However, stock redemptions should not be made that would substantially impair an institution's capital or prevent the attainment of the capital and debt projections submitted in connection with bank holding company formations. (See § 225.4(b).)

(8) *Servicing subsidiaries of bank holding companies.* The Board proposed to modify its existing interpretations of sections 4(a)(2) and 4(c)(1)(C) of the BHC Act, which permit a holding company to own a servicing subsidiary that acts as agent for the holding company and its bank or nonbank subsidiaries in providing their services to the public. Under the proposed amendment, servicing subsidiaries would have been limited to providing services for the internal operations of the holding company and its subsidiaries. This provision was designed to address situations in which bank holding companies had used the servicing exemption to purchase nonbank companies and, in effect, to engage as principal in providing nonbank services to the public without complying with section 4(c)(8) of the BHC Act.

A number of comments were received objecting to the proposal as contrary to the Board's longstanding interpretations on which many companies had relied. Accordingly, the Board is modifying the proposed provision to reaffirm its longstanding interpretation that, although a servicing subsidiary may not act as principal in providing nonbank services to the public, it may act as agent for its affiliates in furnishing services to the public. The Board will rely on its supervisory authority under the Act to address problems in this area. (See § 225.22(a).)

(9) *Definition of "voting securities."* A number of the comments objected to the proposed definition of "voting securities," stating that it would include preferred shares, partnership interests, and shares with contingent voting rights. The Board has previously determined that preferred shares do not constitute voting securities if the voting rights are limited, generally by state law, to those necessary to protect the investment and do not otherwise provide the holder with control. The Board is clarifying the proposed definition to reflect this position. (See § 225.2(1).)

(10) *Definition of "bank."* The Board proposed to include in the revision its existing interpretations of the terms "deposits that the depositor has a legal right to withdraw on demand" and "commercial loans," the two essential elements of the definition of "bank" for the purpose of establishing coverage under the BHC Act. (See *First Bancorporation (Beehive Thrift and Loan)*, 68 *Federal Reserve Bulletin* 253 (1982) and Board ruling of December 10, 1982, regarding the Dreyfus Corporation.

Federal Reserve Regulatory Service 4–363.2.)

A number of commenters opposed the definitions. The Independent Bankers Association supported the definition of bank, as interpreted by the Board, and the American Bankers Association supported the definition of "commercial loan."

After careful consideration of the comments and for the reasons set out in Supplementary Information Appendix A to this notice, which follows the text of the regulation, the Board has determined to adopt the "bank" definition with minor modifications, including the definitions of "demand deposit" and "commercial loan." The Board believes these interpretations are consistent with the terms and legislative history of the Act, and reflect the equivalency between demand deposits and NOW accounts and between commercial loans and commercial paper and the other instruments referred to in the definition. In the Board's judgment, any other interpretation of these important terms would produce a result that is plainly at variance with the purposes of the BHC Act and would preempt Congressional discretion to determine the proper delineation between banking and commerce in this country as well as the permissible limits for interstate banking.

(11) *Permissible activities for subsidiaries of banks.* The proposed revision included the current provision of section 225.4(e) of Regulation Y that generally permits a subsidiary state bank of a bank holding company to acquire or retain the shares of a nonbank subsidiary engaged in activities that the bank may perform directly, subject to all limitations applicable to the bank. A number of comments were received challenging the Board's authority to adopt this provision. The Board plans to consider the comments on this issue separately in connection with certain pending bank holding company applications that directly raise the issue of the appropriateness of this provision and the scope of the Board's authority to adopt it. The Board believes that implementation of the other provisions of the regulation, which reduce regulatory burden and have widespread support, should not be delayed pending resolution of this issue. Until the rulemaking on this provision is complete, the provisions of former § 225.4(e) of Regulation Y remain in effect and have been reprinted as § 225.22(d) of the final regulation.

Revision of current interpretations

It will be necessary to revise some of the Board's published interpretations to reflect the changes being made in the regulation; and, in that connection, the Board will try to accommodate the views of those who favor a commentary or other format that would make other Board positions readily available. In the interim, the Board will republish this **Federal Register** notice in the Federal Reserve Regulatory Service to provide a convenient source of guidance on the final regulation.

Regulatory Flexibility Act

The Board certifies that none of the proposed changes will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A number of commenters asserted that the amendments regarding bank holding company redemption of securities would have a disproportionate impact on a large number of small entities. However, as noted above, the Board is modifying its proposed amendments to the bank holding company stock redemption provisions. Thus, the Board believes that no further analysis under the Regulatory Flexibility Act is necessary with respect to these amendments to Regulation Y.

Some commenters objected that there was no analysis under the Regulatory Flexibility Act regarding the impact of the definition of "bank" on small entities. In this regard, the Board notes that the bank definition incorporated by the Board in the final regulation represents the Boards's existing interpretations of terms in the BHC Act and would be applicable even if the definitions were not included in Regulation Y. The BHC Act contains no exemption from the bank definition for small institutions, and indeed such an exemption was affirmatively rejected by Congress when it amended the statute in 1970. Thus, the Board believes it would be inconsistent with legislative intent and the prudential policies of the Act to attempt to exempt some identifiable class of small institutions. Unlike some other statutes that the Board administers, the BHC Act does not generally give the Board discretionary authority to make adjustments and exceptions in the statutory coverage for particular classes of institutions so as to relieve compliance burdens.

Since the Board concludes that the definition is required to carry out the purposes and to prevent evasions of the BHC Act and that an exemption for small entities is not consistent with the BHC Act, an analysis of the impact on small entities is unnecessary. Nonetheless, to the extent it has been argued that some institutions covered by the definition would not be considered "banks" if the Board adopted another interpretation, the Board has considered the impact of the regulation on this group of institutions.

The impact of the definition would be felt in two ways: (1) eligibility for ownership of the institution would be affected; and (2) the institution itself would be required to obtain FDIC insurance if it is owned by a company.

For the most part, the organizations that will be affected by the Board's commercial loan definition are the large commercial, industrial, insurance, and securities companies that have recently acquired so called "nonbank banks" based upon a narrow reading of the bank definition in the Act or that may wish to do so in the future. These companies would become bank holding companies and would have to terminate nonconforming activities or divest the bank (or terminate the bank's demand deposit and NOW accounts or commercial lending activity). To date, such organizations have been large and do not include a "substantial number of small entities" within the meaning of the Regulatory Flexibility Act. Most of the banks that have been acquired by such large organizations already have FDIC insurance.

With respect to the FDIC insurance requirement, it appears that the impact would be primarily on industrial banks and similar institutions. Of course, these institutions would be affected only if the are subsidiaries of other companies. Moreover, the Board notes that the impact of this definition on such institutions results not from the definition *per se*, but from recent changes in state laws or interpretations thereof that have authorized these institutions to offer NOW accounts or other checking accounts and to make commercial loans. Prior to 1980, industrial banks did not typically offer checking accounts or make commercial loans, and data provided by trade associations indicate that only a few states authorize industrial banks to offer NOW accounts. Indeed, the legislative history of the BHC Act is clear that when Congress acted to exempt such institutions from the Act in 1966, it did so on the basis of testimony from the industrial banking industry that industrial banks did not offer checking accounts or make commercial loans. (See Supplementary Information Appendix A to this notice). The effect of these changes in state laws, which have rendered industrial banks "banks" for purposes of the statute, may be avoided if the institution in question discontinues either the commercial lending or NOW

account activities that were recently commenced.

The Board notes that there are approximately 1,200 industrial banks or industrial loan companies operating in about 21 States. However, only about 100 of these institutions accept NOW or other checking accounts. In addition, about half of the states that authorized industrial banks or industrial loan companies do not permit them to offer transaction accounts, limiting the institution to the issuance of thrift notes, investment certificates and similar instruments or passbook savings accounts. The Board also notes that in some states that industrial bank must obtain FDIC insurance in order to offer NOW accounts. The Board received specific comments concerning the impact of the proposal in the States of Hawaii, where NOW accounts are not authorized, and Rhode Island, where eleven industrial loan companies operate, of which approximately 5 accept NOW accounts. No specific comment was received regarding the impact in any other State, although there were a number or comments regarding the impact of the rule generally. In view of the limited number of institutions engaged in accepting NOW accounts, it does not appear that the regulation would leave a significant economic impact on a substantial number of small entities.

Companies that control such banks would have 180 days to register with the Board and the institutions owned by such companies would have two years to obtain Federal Deposit Insurance. This two year period would lessen the impact of the regulation of these institutions and provides an opportunity for Congress to consider amending section 3(e) of the BHC Act to provide for other types of insurance as an alternative to FDIC insurance.

Finally, as discussed in § 225.2(a) below, the Board is adopting a procedure to exempt from the nonbanking prohibitions of the BHC Act and certain other requirements of this regulation companies that acquired a "bank", as defined in this final regulation, on or before December 10, 1982, on the basis of a narrow interpretation of the term "demand deposit" or "commercial loan." This provision will significantly reduce the burden of this regulation on companies that qualify for this exemption.

For these reasons, the Board believes that no further analysis under the Regulatory Flexibility Act is necessary with respect to the "demand deposit" or "commercial loan" definitions in Regulation Y.

II. Subpart A—General Provisions

No significant comments were received regarding § 225.1 ("Authority, purpose, and scope"), § 225.3 ("Administration"), § 225.5 ("Registration, reports, and inspections"), and § 225.6 ("Penalties for violations"). In § 225.2(e) of the final regulation the Board has incorporated the definitions of the terms "foreign banking organization" and "qualifying foreign banking organization" from § 211.23 of its Regulation K (12 CFR 211.23). In addition, the definition of "United States" contained in § 225.2(a)(1)(iii) of the proposed regulation appears at § 225.2(k) of the final regulation. Finally, the Board has clarified in paragraph (a) of § 225.5, that a company that has obtained the Board's prior approval to become a bank holding company may complete the registration process by filing its first annual report with the Board.

The remaining paragraphs in this subpart, § 225.2 ("Definitions") and § 225.4 ("Corporate Practices") were the subject of numerous comments, as discussed below.

Section 225.2—Definitions

The following definitions received comments:

Section 225.2(a) "Bank". Section 2(c) of the BHC Act defines "bank" as "any institution * * * which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans." In its proposed revision, the Board interpreted the demand deposit aspect of the "bank" definition as including NOW accounts and other transaction accounts and the commercial loan aspect as including the purchase of commercial paper, certificates of deposit and bankers acceptances, the sale of federal funds and similar transactions. For the reasons set out in detail in the Supplementary Information Appendix A, the Board is adopting, with some modifications, the definitions of these two aspects of the bank definition as proposed in the revision, and in addition, is incorporating in the "commercial loan" definition the purchase of retail installment loans.

As is explained in the Supplementary Information Appendix A, the Board has clarified the scope of the regulation it is adopting since it has determined that at present it is unnecessary to regard as demand deposits such accounts as money market deposit accounts, preauthorized transfer accounts, telephone transfer accounts, savings accounts that do not have checking capability, accounts accessible through ATM machines, bill-payer accounts, and credit balance accounts accessible by negotiable check or draft. Also as is explained in the Supplementary Information Appendix A, the Board does not at this time believe repurchase transactions involving government securities or non-interest bearing demand deposits should be regarded as within the meaning of the term "commercial loan."

The Board received and has considered requests for hearings to explore the extent of the Board's authority to adopt the bank definition, the appropriateness of such action in light of pending judicial and Congressional actions, and the consistency of the definition with the terms of the Act. The Board believes that the opportunity presented for comment on the definitions through the submission of written materials provided as adequate method for interested persons to express their views regarding the legal issues and other matters raised by the proposed revision and that hearings on these issues are neither required nor appropriate.

The Board also has considered requests that the Board republish notice of the proposal providing greater specificity regarding the proposed definitions and the reasons for the definitions. In publishing the revision for comment, the Board stated that it was proposing to incorporate its interpretations of the BHC Act's provisions into Regulation Y to prevent evasions of the Act and specifically referred to its decisions in *First Bancorporation* and *The Dreyfus Corporation*, which contain detailed discussions of the basis for the Board's interpretations of the demand deposit and commercial loan aspects of the bank definition. Accordingly, the Board believes that adequate notice of the proposal has been given and has decided not to republish for comment the definitions of demand deposit or commercial loan.

The Board received several comments urging the Board to delay inclusion of the demand deposit and commercial loan definitions in Regulation Y in view of pending litigation regarding the Board's *First Bancorporation* decision and Congressional consideration of the types of institutions that should be subject to the Act. The Board emphasizes, however, that its decision to incorporate these definitions into Regulation Y is intended to bring the regulation into conformity with previous orders of the Board interpreting the Act

and to carry out the purposes and prevent evasion of the Act. Amendments will be made as necessary in the light of any legislative or judicial action.

The Board notes that, under section 5 of the BHC Act, any company that controls an institution that is a bank under the BHC Act must, within 180 days of becoming a bank holding company, register with the Board and, under section 4 of the Act, must within two years either conform its activities to those permissible under section 4 of the Act or divest its subsidiary bank or cause the bank to cease being a "bank" under the Act. In the future, any company that seeks to acquire a "bank" must, in compliance with section 3 of the Act, file an application and obtain the Board's prior approval for the acquisition.

The Board recognizes that some companies may have prior to December 10, 1982, acquired banks on the basis of a narrow interpretation of the terms "demand deposit" or "commercial loan" and without objection by the Board. Accordingly, the Board has adopted a provision in the final regulation (section 225.21(b)(4)) under which the Board will consider grandfather rights for acquisitions accomplished, or banking operations commenced, prior to December 10, 1982, the date the Board issued its commercial loan interpretation in connection with the *Dreyfus* proposal. The Board will consider modifying the effect of the regulation on the basis of petitions from such companies that demonstrate that application of the regulation without a transition period to permit compliance would be unfair or represent an unreasonable hardship and that exclusion from coverage as a bank holding company would be consistent with the purposes of the BHC Act and the Bank Holding Company Act Amendments of 1970. The Board will promptly act on such petitions upon receipt of all necessary information regarding the petition.

The basis for the Board's actions is further described in detail in Supplementary Information Appendix A to this statement. Supplementary Information Appendix A is not part of the regulation, and is not codified in CFR.

Section 225.2(c) "Company". One commenter objected to including limited partnerships in the definition of "company," arguing that the regulation exceeds the scope of section 2(b) of the BHC Act. The statute defines "company" as "any corporation, partnership, business trust, association, or similar organization." (12 U.S.C. 1841(b).) The legislative history of the BHC Act indicates that limited partnerships as well as general partnerships are covered as companies under the Act. (H.R. Rep. No. 91–387, 91st Cong., 1st Sess. 22 (1969).) Accordingly, the Board is adopting the definition of "company" as proposed.

Section 225.2(d) "Control" of bank or company. Among other things, the definition of "control" in section 225.2(d) of the proposed regulation specifies that the Board may determine that a company controls another company if it finds that the company has the "power to exercise a controlling influence." This definition is based on sections 2(a)(2)(C) and 2(d)(3) of the BHC Act.

Some commenters objected to this provision on the basis that section 2(a)(2)(C) of the BHC Act defines control as the *actual* exercise of a controlling influence, rather than the *power* to exercise a controlling influence. However, section 2(d) of the Act in defining subsidiary for the purposes of the BHC Act, defines control to include the power to exercise a controlling influence. The proposed revision reconciles these two sections of the BHC Act. The Board notes that, because section 2(d) establishes the test for when a bank or company is a subsidiary of a bank holding company, the test in that section would be applicable when a bank holding company seeks to acquire a bank or other company. Thus, the proposed definition of control does not impose a more stringent standard on companies that are bank holding companies.

In addition, as indicated in its previous decisions regarding this matter, the Board believes that, to a large extent, this debate is one of semantics and not substance. (See, *e.g., Patagonia Corporation*, 63 *Federal Reserve Bulletin* 288 (1977).) The critical question is whether the Board may determine in advance that, as a result of a particular transaction, a company would be able to exercise a controlling influence over a bank or other company. It is the Board's belief that it may make such determinations in advance, and that it need not wait until a transaction is consummated in a manner that would frustrate the Act's purposes. Such advance determinations would also enable companies to avoid expending substantial resources on transactions that may ultimately be determined to be unlawful under the controlling influence provisions.

Based on the foregoing discussion, the definition of control is being adopted as proposed. The Board is also adopting the suggestion of a number of commenters to include in the regulation the presumptions of non-control in sections 2(a) (3) and (4) of the BHC Act. These presumptions have been included in section 225.31 of Subpart D of the final regulation.

Section 225.2(f) "Management official". The proposed definition of "management official," which is relevant to control and divestiture determinations under Subpart D, included advisory and honorary directors, as well as all officers. The Board's proposed definition was derived from its interpretation concerning the presumption of continued control under section 2(g)(3) of the BHC Act in divestiture situations. (12 CFR 225.139.)

Some comments suggested that the definition of management official specified in Regulation L (12 CFR Part 212) should be adopted in Regulation Y. The Board does not believe that the Regulation L definition of management official should be used here because it is derived from the Depository Institutions Management Interlocks Act (12 U.S.C. 3201), which has different purposes from the control provisions of the BHC Act.

A number of commenters objected to the proposal on the grounds that advisory and honorary directors do not have voting rights, and that not all officers have policy-making functions. Section 2(g)(3) of the BHC Act relating to divestitures and the presumptions of control in Regulation Y covers all officers and directors, regardless of whether they exercise policy-making functions. The Board's interpretation of section 2(g)(3) explicitly covers honorary and advisory directors. The Board does not believe this coverage should be limited because the divestiture and control provisions of the BHC Act are designed to prevent a control situation from developing or continuing and, in any event, are presumptions that may be rebutted upon a showing that control does not, in fact, exist.

One comment also objected to including employees with policy-making functions in the definition because the presumptions of control for use in control determinations do not now specifically include such employees. The Board does not believe this represents a substantive change in the current provisions because the Board regards an employee of a company with policy-making functions as an officer of the company even if the employee is not designated as an officer. (12 CFR 225.139(a)(2).)

Based on the foregoing, the Board is adopting the definition of management official as proposed.

Section 225.2(l) "Voting securities". The Board proposed to define "voting

securities" as common and preferred stock, partnership interests, and other similar interests, if the holders are entitled (under statute, charter, or in any manner) to vote for or select directors, trustees, or partners, or to vote on significant corporate matters. A number of commenters objected to the inclusion of preferred stock and limited partnership interests in the definition of voting securities.

With respect to limited partnership interests, commenters stressed that limited partners do not have voting rights comparable to those of common stock, and that the business of a limited partnership is managed by the general partner and not by the limited partners who may only be passive investors. Commenters also pointed out that in order to preserve their limited liability status, limited partners may not actively participate in the business affairs of the partnership.

In 1970, the BHC Act was amended to include partnerships within the definition of the term "company." Accordingly, when the BHC Act refers to shares of a company throughout section 4, the term includes partnership interests. The Board has previously recognized that the term shares as used in section 2(g)(3) of the Act includes general as well as limited partnership interests. (12 CFR 225.139 (c)(3) (1983).)

Many commenters also objected to including in the definition nonvoting preferred stock that has limited or contingent voting rights, pointing out that such preferred stock does not have the right to vote regularly for election of directors or on other corporate matters. The commenters did not believe that nonvoting preferred stock should be defined as a voting security under the BHC Act merely because it often has limited voting rights. For example, under some state corporate statutes, preferred stock often has the right to vote as a class on dissolution, mergers, the payment of dividends, or the issuance of additional preferred stock. Similarly, to qualify under New York Stock Exchange rules, preferred stock as a class must have the right to elect two directors if six quarterly dividends are not paid.

The Board continues to believe that the term "voting shares" in the BHC Act includes equity securities, partnership interests, or similar interests that entitle the holder to vote for or select directors, trustees, or partners or to vote on or direct the management of company affairs. However, the Board has modified the proposed definition to meet some of the concerns of the commenters. Under the modified definition, preferred stock, limited partnership interests and similar interests will not be considered voting securities if they have limited voting rights that: (i) Are of the type customarily provided by statute solely with regard to matters that adversely and significantly affect the rights or preference of the stock or other interest; (ii) do not select or vote for the election of directors, general partners, or trustees; and (iii) do not otherwise constitute control. For example, preferred stock would not be viewed as a voting security if it may vote on a merger that would adversely affect its rights or preference or that involves the issuance of additional amounts or classes of senior securities, or the alteration of charter or by-laws that would adversely affect the preferred stock. On the other hand, preferred stock that may vote on any merger regardless of whether its preferred status would be affected, could be viewed as a voting security. Similarly, arrangements under which the limited partner may select the general partner or control the investments or policies of the partnership could constitute the partnership interest as a voting security.

With respect to nonvoting preferred stock that has the right to elect directors upon failure to pay preferred dividends, the **Federal Register** notice accompanying the proposed revision stated that such nonvoting stock would be considered a voting security only at the time the right to vote arises. Moreover, in a number of cases where the holders have committed that they will not exercise the right, or will only do so after obtaining the Board's prior approval, the Board has indicated that such action is appropriate to ensure compliance with the BHC Act. The Board, however, emphasizes that this position applies only in this particular circumstance. The Board has consistently held that a company may not purchase voting common stock on the basis that it will not exercise the voting rights associated with these securities or where the voting rights are extinguished while the company holds the securities. (*See, e.g.*, Policy Statement on Nonvoting Equity Investments by Bank Holding Companies, 12 CFR 225.143(d)(6)(iii); Board letter dated, August 30, 1974, Federal Reserve Regulatory Service ("FRRS") 4–550.)

Finally, investments in nonvoting preferred stock and limited partnership interests that are not voting securities under the terms of the regulation may raise issues under the Board's Policy Statement on Nonvoting Equity Investments by Bank Holding Companies (12 CFR 225.143). The Board has taken the position that such investments generally should not exceed 25 percent of the equity of the company issuing the securities. (12 CFR 225.143(d)(4) and (5); *Security Bancorp., Inc.*, 66 *Fed. Res. Bull.* 977 (1980); *United Midwest Bankshares, Inc.*, 68 *Fed. Res. Bull.* 774 (1982).) The foregoing rules are not intended to prevent bank holding companies from making venture capital investments that are consistent with these rules. As a result of the numerous inquiries on this subject, the Board is preparing an interpretation of these rules as they apply to venture capital investments.

Section 225.4—Corporate Practices

There were no substantive comments from the public on paragraph (a) ("Bank holding company policy and operations"), paragraph (d) ("Tie-in arrangements"), or paragraph (e) ("Acting as transfer agent, municipal securities dealer, or clearing agent"). The only comments on paragraph (c) ("Deposit insurance") were based on objections to the scope of the definition of "bank," which is discussed in § 225.2(a). The comments on paragraph (b) ("Purchase or redemption by a bank holding company of its own securities") are discussed below.

Section 225.4(b) Purchase or redemption by a bank holding company of its own securities. The proposed revision prohibited purchases and redemptions by a bank holding company of its own securities unless, after giving effect to the transaction, the holding company and subsidiary banks meet the minimum primary capital-to-total-assets ratios (based on size) contained in the Board's Capital Adequacy Guidelines. In addition, a bank holding company with banking assets of $150 million or less must have a consolidated debt-to-equity ratio of less than 30 percent after the redemption. There would be an exception to the prohibition for *de minimis* redemptions totalling less than one percent of the holding company's net worth. Also, a bank holding company could seek the Board's prior approval for a proposed redemption on the basis of unusual circumstances.

The current regulation requires a bank holding company to give 45 days' notice to the Board of a proposed redemption if the purchase price would exceed 10 percent of the holding company's net worth, or would exceed that amount when aggregated with all redemptions made in the previous twelve-month period. Under this procedure, the Board may institute cease and desist proceedings to present the redemption if the Board finds it would be unsafe or unsound.

More than 600 comments objected to the removal of the exemption for purchases totalling 10 percent or less of net worth in a twelve-month period on the grounds that it would discourage local ownership of small banks and would interfere with the use of bank holding companies as estate planning vehicles. They stated that a small bank holding company often provides a market for its securities where no other market exists, and that under the proposed redemption provisions, bank holding companies would effectively be prevented from performing this function, resulting in the sale of the stock of small banks to larger banking organizations or other persons outside the local community.

Based on the comments, the Board has determined to modify the proposal in the following manner. First, the 10 percent exemption contained in the current regulation will be retained, and no notice will be required for redemptions involving less than 10 percent of net worth in any twelve-month period. This modification will significantly reduce the burdens associated with the proposed revision because it would exempt a large number of transactions.

Bank holding companies are cautioned, however, against the use of this exemption for repeated redemptions that do not require notice but undermine the capital position of the banking organization. Such situations will be closely examined by the Board to ensure that they do not constitute an unsafe or unsound practice. Also, the exemption should not be used by companies that do not meet the Board's capital guidelines for redemptions that would significantly reduce their capital, and by a small one-bank holding company to increase it debt-to-equity ratios significantly from the projections relied on by the Board in approving its application to become a bank holding company.

Two other modifications will also reduce the burden associated with these provisions. The final regulation reflects the modification of both the standards used in judging a proposed redemption transaction and the procedure for objecting to such transactions. Under the current regulation, a bank holding company is notified if it is determined that a proposed redemption is unsafe or unsound, or would violate any applicable law, rule, regulation, order, or any written agreement with the Board. The Board may then commence a cease-and-desist proceeding to prevent the transaction. The Board is modifying this provision to provide that, prior to the end of the notice period, the Board will advise the bank holding company that the proposed purchase or redemption has been approved or disapproved.

The standards for disapproval will be the same as those set forth in the current regulation; however, the final regulation provides that the safety and soundness of a proposed redemption transaction will be judged under the Board's Capital Adequacy Guidelines. The Board's Capital Adequacy Guidelines are contained in Appendix A to the final regulation. With respect to bank holding companies with banking assets of $150 million or less, if debt is incurred in connection with a proposed redemption, the amount and repayment of such indebtedness generally will be governed by the Board's standards for small one-bank holding company formations. (Policy Statement for Formation of Small One-Bank Holding Companies, FRRS 4–855 and FRRS 4–856.) This policy statement is contained in Appendix B to the final regulation.

The Board is authorized by the Financial Institutions Supervisory Act to issue rules prescribing practices that are unsafe or unsound. (12 U.S.C. 1818(b), (n)), and the courts have confirmed this authority. (*Independent Banker Association* v. *Heimann*, 613 F. 2d 1164 (D.C. Cir. 1979).) The Board has similar authority under section 5(b) of the BHC Act to issue rules to carry out the purposes of the Act, one of which is to assure that bank holding companies maintain adequate financial resources. Finally, section 908 of the recently enacted International Lending Supervision Act of 1983 (Title IX of Pub. L. 98–181), authorizes the appropriate federal banking agency to establish minimum levels of capital for banking institutions and to require institutions to achieve and maintain such minimum levels. The Board is also authorized under that provision to consider the impact of a holding company's proposals on its subsidiary bank's progress in achieving its minimum capital level and, under section 910(a)(2) of that statute, to apply the provisions of the statute to bank holding companies in order to promote uniform application of the statute and to prevent evasions thereof.

The information to be provided in connection with prior notice to the Board of a proposed redemption is being consolidated from eight to three items. In addition, the period for reviewing the notice is being reduced from 45 to 30 days, unless the notice is referred to the Board for decision, in which case the review period will be 60 days, in order to conform to the processing requirements for applications under the BHC Act.

III. Subpart B—Acquisition of Bank Securities or Assets

Section 225.11—Transactions Requiring Board Approval

This section of the proposed regulation, which is based on section 3(d) of the BHC Act, sets out the following transactions for which prior Board approval is required: (a) formation of a bank holding company; (b) acquisition of a subsidiary bank; (c) acquisition by a bank holding company of control of more than 5 percent of the voting securities of a bank or a bank holding company; (d) acquisition of bank assets; (e) merger or consolidation of bank holding companies; and (f) any other transaction that the Board determines in a particular case requires prior approval under the BHC Act. The majority of the comments on this section addressed paragraphs (c), (d) and (f), as discussed below.

Generally, the acquisition by a bank or bank holding company of its own voting securities or those of its parent bank holding company would not require the Board's prior approval under this section of the regulation, unless there is an evasion of the BHC Act or other adverse effects. Such an acquisition may, however, require notice under section 225.4(b).

In the **Federal Register** notice accompanying the proposed revision, the Board stated that a redemption of securities by a bank or bank holding company that increases the proportional interest of a holder of such securities will be regarded as an "acquisition" of bank securities and will require the holder to file an application for prior Board approval under paragraph (a) or (c) of this section. For example, an application would be required under this section if the redemption results in the holder becoming a bank holding company because its proportional interest has increased to 25 percent or more of any class of voting securities of a bank or bank holding company.

Some commenters objected that there might not be sufficient time to obtain the Board's approval in advance when a redemption increases a shareholder's percentage ownership beyond a regulatory threshold. They suggested that the regulation specifically permit the filing of retention applications within a reasonable period after the redemption has occurred. The Board is not amending the regulation as suggested, because section 3 of the BHC Act specifies that the Board's approval

is required prior to acquisitions of bank and bank holding company stock under that section. However, the Board has in similar situations accepted applications to retain shares acquired by a company for which it was impossible to obtain approval in advance. In the redemption situation, where the holder does not cause the redemption and does not have sufficient prior notice of it to file an application, the Board would consider 90 days after the redemption as an appropriate period within which to file an application (or to divest the necessary number of shares to bring it into compliance with the Act).

Section 225.11(c) Acquisition of control of bank or bank holding company securities. Under this provision, a bank holding company must apply for the Board's prior approval to acquire voting securities of a bank or bank holding company if, after the acquisition, the bank holding company would hold more than 5 percent of any class of voting securities of the bank or holding company.

Several commenters objected to applying this prior approval requirement to acquisitions of the voting securities of a bank holding company. The commenters argue that if a bank holding company does not acquire 25 percent or more of the voting shares of the other bank holding company, it cannot be presumed to indirectly control any of the bank shares held by the other bank holding company because the acquiring holding company would not control the acquired holding company under the BHC Act.

It is the Board's view that the same rationale that prompted Congress to require an application when a bank holding seeks to acquire more than 5 percent of a bank's shares, whether or not the interest acquired provides the holder with control, supports a similar rule when a bank holding company seeks to acquire more than 5 percent of the voting shares of another bank holding company. The Board has consistently required an application in such circumstances. Accordingly, the Board is adopting the proposed provision requiring an application for the acquisition by a bank holding company of voting securities of another bank holding company that would result in it holding more than 5 percent of the voting securities of the other bank holding company.

Commenters also objected to the requirement of prior approval where a bank holding company acquires more than 5 percent of any class of voting securities. They point out that section 3(a)(3) of the BHC Act only requires prior approval for the acquisition of more than 5 percent of the outstanding voting securities. Thus, they suggest that all voting securities should be aggregated to determine whether the five percent limitation has been met. The Board does not agree with this interpretation.

The requirement for an application in such a circumstance is intended to reconcile section 3(a)(3) with the control provisions of section 2(a)(2)(A) of the BHC Act. The 1970 Amendments to the BHC Act added the concept of a class of voting securities to the definition of control in section 2(a) of the BHC Act. The Board believes that, while corresponding changes were not made in all other sections of the BHC Act, such changes were intended and are necessary. Any other interpretation would allow a bank holding company to acquire 25 percent or more of a class of voting securities, and thereby to acquire control of a bank as defined in section 2(a)(2)(A) of the BHC Act without filing an application under section 3 of the BHC Act, whereas under section 3(a)(1) of the BHC Act a company that is not a bank holding company would have to file an application for the same acquisition. Such a result would produce an anamolous situation, imposing less stringent controls on bank holding company acquisitions of additional banks than on bank holding company formations under section 3(a)(1) of the BHC Act.

In addition, the Board believes that, because under corporate law various classes of stock may be given different voting rights, control of shares of a particular class of voting securities may provide a holder with disproportionate influence in the affairs of the target company or bank, and may present the concerns that the prior approval requirement of section 3(a)(3) of the BHC Act was meant to address, even though the amount of shares acquired may be less than 5 percent of all classes of voting securities of the target company or bank. The Board also believes that its clarification of the definition of "voting securities" to exclude preferred stock with only limited voting rights addresses in major part the concerns of the commenters about imposing the prior approval requirement on the acquisition by a bank holding company of more than 5 percent of a class of voting securities of a bank or bank holding company, because no application would be required if the preferred or other shares are not "voting securities."

Accordingly, the Board is adopting in the final regulation the proposed provision requiring an application for the acquisition of more than 5 percent of any class of voting securities of a bank or bank holding company.

Section 225.11(d) Acquisition of bank assets. This provision requires the Board's prior approval for an acquisition by a bank holding company or a nonbank subsidiary of all or substantially all the assets of a bank. Although several commenters requested the Board to quantify the percentage of assets that would require an application, in view of the absence of any questions arising concerning the interpretation of this provision in the almost 30 years it has been in place, the Board is adopting the provision as proposed.

Section 225.11(f) Other acquisitions. Under this provision, the Board proposed a procedure for determining when other acquisitions of securities of a bank or bank holding company require the Board's prior approval under section 3 of the BHC Act, after notice to the acquiring company. This proposal was based on the Board's responsibility for administration of the BHC Act, and its purpose was to avoid unnecessary filings with other agencies under the Bank Control Act and differing and conflicting interpretations of the BHC Act. Several commenters objected that adoption of the provision would exceed the Board's authority because there is no comparable provision in section 3 of the BHC Act. In view of the Board's action in adopting the definition of "bank," which specifies by regulation those institutions the acquisition of which require prior approval under the BHC Act, the Board does not believe that adoption of this provision is necessary to ensure compliance with and prevent evasions of the Act. Thus, the Board is not adopting this provision in the final regulation.

Section 225.12—Transactions Not Requiring Board Approval

This section specifies transactions for which prior Board approval is not required under section 3(a) of the BHC Act. No substantive comments were received concerning paragraph (c) ("Acquisition of securities by a bank holding company with majority control"); and paragraph (e) ("Holding securities in escrow"). Paragraphs (a), (b) and (d) are discussed below.

Section 225.12(a) Acquisition of securities in fiduciary capacity. This paragraph provides that Board approval is not required for a company (including a bank) to acquire voting securities of a bank or bank holding company in good faith in a fiduciary capacity, unless (1) the company has sole discretionary authority to vote the securities and will retain that authority for more than two

years, or (2) the acquisition is for the benefit of the company, its shareholders, employees, or subsidiaries.

Under section 3(a) of the BHC Act, a company must apply to retain voting securities of a bank or bank holding company acquired in a fiduciary capacity with sole discretionary voting authority within 90 days of receiving such shares. The proposes regulation specified that no application is required unless the company proposed to retain the shares with sole discretionary voting authority beyond the two-year grace period provided in section 3(a) of the BHC Act. The Board is reaffirming the position reflected in the proposed regulation.

There was a request for an extension of the two-year grace period to file an application when the acquiring bank or company decides belatedly that it wishes to retain the shares in a fiduciary capacity. The BHC Act specifies a maximum grace period of two years, and the Board believes that if a company has any doubts about its plans regarding retention of fiduciary shares, it should file an application in time for Board action before the expiration of the grace period.

One commenter objected to excluding from the fiduciary exemption voting securities held in a fiduciary capacity for the employees of a company's subsidiaries. However, authority for this exclusion is clearly set forth in section 3(a)(A)(i) of the BHC Act, which excludes from the fiduciary exemption in that section, shares acquired as provided in section 2(g)(2) of the Act. Section 2(g)(2) provides that shares held by trustees for the benefit of the employees of a company are controlled by the company. Section 2(g)(1) of the BHC Act provides that shares owned or controlled by a subsidiary of a bank holding company are controlled by the bank holding company.

While the exception contained in section 3 of the BHC Act for the acquisition of bank or bank holding company securities or assets in a fiduciary capacity is limited to such acquisitions made by a bank, the regulation extends the exception for fiduciary acquisition of bank and bank holding company securities to those made by a nonbank company. This interpretation recognizes the fact that there are nonbank companies, including nonbank subsidiaries of bank holding companies, that are engaged in fiduciary activities and would receive securities or assets in a fiduciary capacity.

The fiduciary exemption in the BHC Act and the regulation does not exempt the acquisition of bank or bank holding company shares or assets by a bank as fiduciary for a trust that is a "company" as defined in § 225.2(c) of Subpart A. Thus, an application must be filed by such a trust if it proposes to make an acquisition of bank or bank holding company securities or assets covered under § 225.11 of the proposed regulation. In this situation, however, an application would not also be required from the fiduciary or its parent, if the fiduciary meets the requirements for the exemption described in § 225.12(a) of the proposed regulation.

The BHC Act also does not provide an exemption where the fiduciary receives shares from a selling company that is deemed to continue to control the shares after the diverstiture under section 2(g)(3) of the BHC Act.

Based on the foregoing, the Board is adopting the provision as proposed.

Section 225.12(b) Acquisition of securities in satisfaction of debts previously contracted. This paragraph exempts from prior approval under the BHC Act the acquisition by a bank or other company of voting securities of a bank or bank holding company in the regular course of securing or collecting a debt previously contracted in good faith so long as the company divests the securities within two years of acquisition.

Several commenters sought clarification about when the holding period begins to run. While the Board is adopting this provision as proposed, it believes clarification is appropriate. For example, in the Board's view, the pledge of more than 5 percent of the voting securities of a bank as collateral for a loan does not represent an acquisition that would start the holding period if the lender does not acquire voting rights to the pledged securities. On the other hand, if the lender acquires ownership or control of pledged voting securities as a result of a default on the loan, the transaction would be an acquisition under this paragraph and the two-year holding period would commence, regardless of whether the lender votes the securities.

While the statutory exception is limited to acquisitions made by banks, the final regulation extends the exception to any company that acquires bank securities in good faith in satisfaction of a debt previously contracted.

Section 225.12(d) Transactions subject to Bank Merger Act. This paragraph generally exempts from prior approval under the BHC Act a merger involving a subsidiary bank of a bank holding company if the merger is subject to approval under the Bank Merger Act. This exemption was proposed to implement section 3(a)(4) of the BHC Act, which does not require Board approval for the acquisition of bank assets by a bank. However, as one commenter noted, the Board would continue to retain jurisdiction over a transaction subject to the Bank Merger Act if the transaction would have a significantly adverse financial or other impact on the parent bank holding company. The Board has not found it necessary to exercise its authority in such cases, but the regulation has been clarified to reserve the Board's authority to do so when appropriate to effect the purposes of the Act. The Board has also clarified that a merger or consolidation of bank holding companies, which requires the Board's prior approval under section 3(a)(5) of the BHC Act, is not exempted from that requirement by this paragraph.

Section 225.13—Factors Considered in Deciding Applications Under Subpart B

Section 225.13(a) Prohibited anticompetitive transactions. Paragraph (a) of this section incorporates the antitrust standards in section 3(c) of the BHC Act, and paragraph (c) contains the prohibition against interstate bank acquisitions of section 3(d) of the Act. There were no significant comments regarding either of these provisions, and they are being adopted substantially as proposed with technical changes to conform to the language of the BHC Act. The comments on paragraph (b) ("Other factors considered") are discussed below.

Section 225.13(b) Other factors considered. This paragraph, which is based on section 3(c) of the BHC Act, outlines the factors considered by the Board in acting on all applications for acquisitions of banks and bank holding companies under this subpart. The factors include financial and managerial resources and the convenience and needs of the communities to be served. In view of objections raised by the commenters to including competitive considerations under the convenience and needs standard, the Board is deleting the reference in that provision to "existing and potential competition and the concentration of banking resources."

Several commenters objected to consideration of the financial and managerial resources of the subsidiaries of an applicant in connection with an application under section 3 to acquire an additional bank. They urge the Board to consider only the financial and managerial resources of the applicant and the bank to be acquired. Under section 3(c) of the BHC Act, the Board is directed to consider the financial and

managerial resources of "the banks concerned." In a proposed acquisition by a bank holding company to acquire an additional bank, the Board believes that each of its existing subsidiaries is necessarily affected by the proposal, particularly since the bank holding company would be diverting financial and managerial resources from existing subsidiaries to the proposed new subsidiary.

Section 225.14—Procedures for Applications, Notices, and Hearings

This section sets forth the procedures for applications, notices, and hearings with respect to applications for the Board's prior approval of acquisitions of bank securities and assets. In an effort to expedite the processing of applications, the proposed regulation established time constraints for: (i) Accepting an application for processing or notifying the applicant that the application is incomplete and seeking additional information; (ii) publishing notice of the application in the **Federal Register**; and (iii) acting on the application. Similar provisions appear in section 225.23 with respect to applications for nonbanking activities under section 4(c)(8) of the BHC Act.

The procedural changes reflected in this section were favored by most commenters. Some commenters suggested that these procedural rules not be included in the regulation or that they be included elsewhere, such as the Board's Rules of Procedure (12 CFR Part 262). The Board believes that it is appropriate to include the procedural rules in Regulation Y, rather than the Rules of Procedure, because they relate specifically to applications under the BHC Act. Thus, incorporation of the procedural rules in Regulation Y will provide a more convenient source of guidance to those referring to the application provisions of the regulation. Accordingly, the Board is adopting the procedural rules as proposed with some modifications discussed below.

There were no significant comments on paragraph (a) ("Filing application"), paragraph (e) ("Hearings"), and paragraph (g) ("Exceptions to notice and hearing requirements"), and these provisions are being adopted as proposed. A new paragraph (e) has been added reflecting the statutory requirement that the Board notify the United States Attorney General of approval of an application under section 3 of the BHC Act. Accordingly, paragraphs (e), (f), (g) and (h) of section 225.14 of the proposed revision are renumbered as paragraphs (f), (g), (h) and (i) in the final regulation. The comments on the other paragraphs are discussed below.

Section 225.14(b) Notice. The majority of commenters favored the proposed prompt publication of the notice. Several commenters expressed concern that the provision in the proposed revision that calls for publication of notice in the **Federal Register** upon receipt of the application, rather than upon acceptance, would result in **Federal Register** publication of an application that ultimately may not be processed.

The object of the early notice provision was to allow an adequate **Federal Register** comment period (25 to 30 days), while at the same time enabling Reserve Banks to meet the 30-day processing schedule for delegated applications. Based on its experience with newspaper notices, which are published in advance of acceptance of the application, the Board does not believe that publication of **Federal Register** notice prior to acceptance of the application will result in any significant difficulties. Accordingly, the Board is adopting the notice provision as proposed in the revision.

Section 225.14(c) Accepting application for processing. Under the proposed revision, the Reserve Banks are allowed 10 calendar days from the date an application is filed to review the application and either to accept it, or if the application is found to be incomplete, to seek additional information. A number of commenters objected to beginning the time schedule for substantive review of an application from the date that the application is accepted by the Reserve Bank rather than from the date the application is filed, arguing that this delay will create uncertainty about the deadline for action on an application. Some commenters maintained that an application should be accepted immediately if it is responsive to each item on the application form, and that if additional information is needed, it can be obtained later.

In the Board's experience, many applications require additional information, and the time within which this information is furnished depends on the applicant. The time period for the pre-acceptance review process has been substantially shortened. Moreover, under the new application processing procedures, a Reserve Bank may only seek additional information once, and must review such information within 5 business days. If the application is not complete at that point, the application will be returned as incomplete. Establishing an earlier date for the processing schedule for an application would not reduce the processing time but would, instead, create uncertainty in processing deadlines, since the deadlines would often have to be extended in order to request additional information. Therefore the pre-acceptance review period is being retained in the final regulation. However, a modification is being made, at the suggestion of Reserve Banks, to state the time period for acceptance in business days, rather than calendar days, to ensure uniformity in the review process.

There were also requests for the Board to define the circumstances under which an application may be considered incomplete by the Reserve Bank. Because of the diversity of proposals made in applications to the Board under the BHC Act, the Board believes the better approach is to continue a case-by-case review of the information submitted in response to application forms, and to establish and adhere to very short time frames for the review of applications and supplemental material prior to acceptance.

Section 225.14(d) Action on applications. There was general approval of the proposed reduction in the processing time for applications to 60 days for those acted on by the Board and 30 days for those approved by the Reserve Banks. One commenter suggested that the Board processing period should be reduced to 45 days and that a special expedited schedule should be provided for tender offers. Another commenter questioned whether 60 days would allow sufficient time to develop the issues on an application for Board consideration.

The Board believes that the reduction of processing time by 33 percent represents the maximum reduction consistent with the Board's responsibility under the BHC Act to evaluate each application under the statutory factors, without resorting to frequent extensions of the processing periods. Also, the Board notes that the proposed timeframe for Board action is consistent with recent legislation, such as the Bank Control Act and the Bank Export Services Act (12 U.S.C. 1843(c)(14)). Of course, if a particular application can be processed more quickly than the period provided, it will be. A few applications that present protested or significant issues will take more than 60 days to process, but under the new procedures, the Board is required to advise the applicant in such cases of the reason for delay. The decision to extend the 60 day period for

Board action on an application will be made by an appropriate Board member.

Under the proposed revision, the Reserve Bank could, after giving notice to the applicant, extend the 30-day period for acting on an application for an additional 15 days, for a total processing period of 45 days. Several Reserve Banks expressed concern that this limited extension period may not provide sufficient time to obtain necessary information from the applicant, another regulator, or a protestant. Some recommended authorizing them to extend the processing period for an indefinite time pending receipt of needed information. As noted above, one of the purposes of incorporating processing periods into the regulation is to provide more certainty concerning the date of final action on an application. An indefinite extension may interfere with this objective. However, the Board also agrees that the 15-day extension may not be sufficient where the Reserve Bank is awaiting receipt of information necessary to its decision. Accordingly, the extension provision is being clarified to indicate that where the Reserve Bank is waiting for requested information, the 15-day period does not begin to run until the date the information is received by the Reserve Bank.

Section 225.14(g) Approval through failure to act. This provision incorporates judicial constructions of the 91-day rule in the BHC Act, which provides that an application shall be deemed approved if the Board fails to act within 91 days after the date that the record on the application is complete. A number of commenters favored the inclusion in Regulation Y of a provision explaining the 91-day rule, since it would clarify a confusing subject. The Board is adopting this provision as proposed with minor modifications, as discussed below.

The 91-day rule is the legal maximum for the Board to make its decision on an application. More than 90 percent of all applications filed with the Board currently are approved in less than 46 days. Under the procedures set forth in the regulation, it is expected that most applications will be acted upon within 30 days of acceptance.

In conformity with established rules for computing time periods, such as the Federal Rules of Civil Procedure, the first day of the 91-day period is the day following completion of the record. Under this method of computations, the date the record is completed is day zero and the Board must act within 91 days thereafter. The regulation also specifies that Board act includes issuance of an order stating that the Board has approved or denied the application, reflecting the votes of the Board members, and indicating that a statement of the reasons for the action will follow.

The regulation specifies that the record on an application will not be considered complete before: (1) The date the Board receives an application accepted for processing by a Reserve Bank; (2) the last day of the formal comment period specified in any notice required under the regulation; (3) the date of the receipt of the last relevant, noncumulative information needed for the Board's decision on the application from a source outside the Federal Reserve System; or (4) the completion of any hearing required on the application.

Information from a source outside the Federal Reserve System includes any information submitted by the applicant in response to a request by the Board during the processing period as well as information from a government agency. If the Board has requested information that the Board believes is necessary for its decision, the record is not complete until the Board receives that information.[1] Similarly, the Board has previously stated that if it is awaiting the results of an examination of any bank involved in the application, or if issues raised by the application are the subject of pending litigation, legislation or rulemaking, the Board may appropriately suspend decision on an application. In such cases the record on the application is not deemed to be complete until the results of the examination are received or the collateral proceeding has been terminated. The purpose of the 91-day rule is, in the Board's view, to guard against unjustified delay resulting from inefficiency in the processing of applications, and is not to prevent the Board from withholding decision on an application when compelling reasons lead the Board to conclude that the public interest would be served by doing so. S-letter No. 2299, dated December 1, 1975, *reprinted in* [1978–1979 Transfer Binder] *Fed. Banking L. Rep.* (CCH), paragraph 96, 708.

Some commenters asserted that the 91-day period should start with the acceptance of the application by the Reserve Banks rather than the close of the comment period. However, this view of the statute is inconsistent with the legislative history, judicial precedent, and the Board's established construction of the 91-day rule. Thus, the Board is not accepting this suggestion. The notes, however, that the requirement for publication of notice in the **Federal Register** upon submission of the application (rather than acceptance) means that in many cases the 91-day period will in fact commence upon or shortly after acceptance of the application.

One commenter suggested that the Board notify an applicant when it receives information that would restart the 91-day period. The Board's procedures already provide that an applicant is to receive copies of materials from outside parties. Moreover, an applicant or other interested person may ask Board staff for advice on the calculation of the 91-day period in a particular application. Board staff will inform the applicant or other party of the last date provided in any notice for comment on the application and the last date that any relevant information concerning the application has been received from outside the Federal Reserve System.

There were objections to the provision that allows the Board to issue a statement of reasons for its action after the 91st day, if it issues an order by the 91st day. These commenters contend that parties adversely affected by an action of the Board would be deprived of the full 30 days to pursue judicial review of a Board action under the BHC Act. However, judicial decisions of similar statutory review provisions indicate that the period for judicial review does not commence until the statement of reasons in issued. *Airline Pilots Association* v. *C.A.B.*, 509 F. 2d 964 (D.C. Cir. 1975).)

There were also suggestions that the Board incorporate in the regulation the rules governing protests and the treatment of late comments. The Board's policy regarding comments and protests are set forth in the Board's Rules of Procedure (12 CFR Part 262). Since comments and protests are received on applications other than those under the BHC Act, the Board believes that its protest rules should remain in the Rules of Procedure, which apply to all types of applications the Board considers.

Section 225.14(i) Waiting period. Under section 11(b) of the BHC Act, a transaction that has been approved under section 3 of the Act, either as a result of Board approval or the 91-day rule, may not be consummated until 30 days after approval of the application. Emergency and failing bank acquisitions are generally exempt from the 30-day waiting period. The purpose of the

[1] See *Tri-State Bancorporation, Inc.* v. *Board of Governors*, 524 F.2d 562 (7th Cir. 1975); *North Lawndale Economic Development Corp.* v. *Board of Governors*, 553 F.2d 23 (7th Cir. 1977); *Central Wisconsin Bankshares, Inc.* v. *Board of Governors*, 583 F.2d 294 (7th Cir. 1978); *Republic of Texas Corp.* v. *Board of Governors*, 649 F.2d 1026 (5th Cir. 1981).

waiting period is to afford the United States Department of Justice an opportunity to review the proposal and determine whether it conforms to the antitrust laws.

The Board requested comment on the desirability of an amendment to Regulation Y that would allow this waiting period to be reduced with the concurrence of the Department of Justice where the proposal does not present any anticompetitive effects. For example, one-bank holding company formations generally do not present anticompetitive effects and are not the type of proposals for which the 30-day waiting period was designed. This proposal was favored by a large number of commenters. The Department of Justice endorsed the Board's suggestion in principle, but took the position that an amendment to the BHC Act would be necessary to implement the proposal. Accordingly, the Board will recommend such a proposal to the Congress.

IV. Subpart C—Nonbanking Activities and Acquisitions By Bank Holding Companies

Section 4 of the BHC Act, which embodies one of the primary purposes of the BHC Act, the separation of banking and commerce, limits the nonbanking activities in which a bank holding company and its subsidiaries may engage and prohibits the acquisition of voting shares of nonbanking entities unless the acquisition is specifically exempted. This subpart of the regulation implements section 4 and applies to any bank holding company as defined in Subpart A (including certain foreign banking organizations).

The subpart sets forth the limitations on nonbanking activities and describes the major exemptions contained in the BHC Act. It does not include the statutory exemption in section 4(a)(2) of the BHC Act (relating to retention of real estate holdings acquired prior to 1970), and the limited exemption in section 4(c)(10) (for a bank that is a bank holding company) because of their limited applicability. Also not included are (i) the provisions of section 4(c)(12) of the BHC Act which pertain to the expansion of nonbanking activities that were required to be divested by 1980; and (ii) the statutory exemptions in sections 4(c) (9), (13) and (14) of the BHC Act, which generally pertain to international banking and export trading company activities and which are implemented in various provisions of Regulation K ("International Bank Operations," 12 CFR Part 211).

Section 225.21—Prohibited Nonbanking Activities and Acquisitions; Exempt Bank Holding Companies

There were no substantive comments concering paragraph (b) ("Exempt bank holding companies"). As noted above, the Board has added a new paragraph (b)(4) to his section, which provides a procedure to exempt certain companies that acquired a so-called "nonbank bank" prior to December 10, 1982, on the basis of a narrow interpretation of the term "demand deposit" or "commercial loan" in the definition of "bank" in section 2(c) of the BHC Act. The comments on paragraph (a) are discussed below:

Section 225.21(a) Prohibited nonbanking activities and acquisitions. This paragraph contains the prohibitions of section 4(a) of the BHC Act that a bank holding company may not (i) acquire or retain the voting securities or assets of a company that is not a bank unless the company qualifies for one of the exemptions to the Act or (ii) engage in any activity other than those of banking or managing or controlling banks or activities otherwise deemed permissible under the BHC Act. The statutory exemptions to this prohibition, including the authorization for activities determined by the Board to be closely related to banking, are set forth in §§ 225.22 and 225.25 of Regulation Y, respectively.

This paragraph also sets forth the principal exception to the nonbanking prohibitions of section 4 of the BHC Act, under which a bank holding company may, with the prior approval of the Board, engage in, or acquire or control voting securities or assets of a company engaged in, activities that the Board has determined by order or regulation to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.

Section 4(c)(8) of the BHC Act imposes a "two-step" test for determining the permissibility of nonbanking activities for bank holding companies, that is, whether the activity is closely related to banking and a "proper incident" to banking; and whether the benefits of a particular bank holding company engaging in a specific nonbanking activity outweigh the possible adverse effects. (*Board of Governors* v. *Investment Co. Institute*, 450 U.S. 46 (1981); *Nat'l Courier Ass'n.* v. *Board of Governors*, 516 F.2d 1229 (D.C. Cir. 1975).) The factors considered by the Board under the net public benefits test are set out in § 225.24 of the final regulation.

The **Federal Register** notice accompanying the proposed revision stated that the Board has found the guidelines set forth by the court in *National Courier* to be useful in determining whether an activity is closely related to banking. Several commenters asked the Board to expand the criteria beyond the *National Courier* tests, arguing that those guidelines do not allow sufficient flexibility and limit holding companies essentially to activities that have been traditional for banks. They urge the Board to look to other factors in evaluating activities under section 4(c)(8), including the changing competitive environment, particularly the expanded services offered by unregulated financial organizations.

The Board notes that the *National Courier* criteria are not considered exclusive, and the **Federal Register** notice accompanying the proposed revision stated that the Board has wide discretion under section 4(c)(8) of the BHC Act in making its closely related to banking determinations. The notice referred to judicial decisions stating that the Board may consider other factors in determining whether activities are closely related to banking. (*Alabama Ass'n of Ins. Agents* v. *Board of Governors*, 533 F.2d 224, 241 (5th Cir. 1976), *cert. denied*, 435 U.S. 904 (1978); *Board of Governors* v. *Investment Co. Institute*, 450 U.S. 46, 55 (1981).) In acting on a request to engage in a new nonbanking activity, the Board will consider, in addition to the *National Courier* criteria, any other factor that an applicant may advance to demonstrate a reasonable or close connection or relationship of the activity to banking or managing and controlling banks. Moreover, the Board agrees that the banking environment is changing and has indicated that it will reconsider any activity previously denied if it is demonstrated that circumstances have changed.

One commenter objected that section 4(a)(1) of the BHC Act does not require Board approval for acquisitions of assets. The Board has indicated, in its discussion of § 225.22 below, the circumstances under which an aquisition of assets will not be subject to the prior approval requirement of this section of the regulation. The Board believes that prior approval is required for the acquisition of assets to prevent a company from engaging in an impermissible nonbanking activity represented by the acquired assets in violation of section 4(a) of the BHC Act. Moreover, the Board views the acquisition of all or substantially all of the assets of a company as being equivalent to the acquisition of voting

securities, a transaction that would be prohibited without prior approval under section 4(c)(8) of the BHC Act.

The **Federal Register** notice accompanying the proposed revision stated that the prohibition against engaging in a nonbanking activity also applies to a bank holding company or subsidiary becoming a partner in a partnership (or acquiring voting securities in a partnership) that is engaged in nonbanking activities. (See *Central Colorado Co. & C.C.B., Inc.*, 66 *Federal Reserve Bulletin* 665 (1980).) Similarly, the prohibition applies to acquiring an interest in a joint venture (either in corporate or partnership form) where the joint venture is engaged in a nonbanking activity.

Several commenters objected to the statement that section 4(a) of the BHC Act prohibits a bank holding company from becoming a partner in a firm engaged in impermissible nonbanking activities, arguing that a limited partnership interest is not a voting security, that only the acquisition of voting securities is prohibited under section 4(a), and that a finding of control of the partnership is necessary for a nonbanking partnership interest to be prohibited under section 4(a).

The Board believes that these objections are addressed in its clarification of the definition of "voting securities," (see section 225.2(1)), which would not include preferred stock or similar interests with certain limited voting rights. However, the Board notes that a bank holding company may be presumed to be engaged in the business of a partnership, or may have established a control relationship over the partnership, because of (i) the size of its equity investment in the partnership (ii) its selection, or ability to select or to vote for the selection, of the general partner; (iii) limitations imposed on the management discretion of the general partner over the affairs or assets of the partnership; or (iv) the particular facts and circumstances of a case. In addition, the Board believes that a bank holding company that is a general partner in a partnership should be regarded as engaging in the activities of the partnership.

Commenters questioned the meaning of paragraph (a)(1) of this section regarding "banking" activities of bank holding companies. One commenter suggested that nonbanking activities (such as making loans) may also be "banking" functions and could be performed under section 4(c)(8) of the BHC Act or § 225.23 of the regulation without prior Board approval. Another commenter suggested that paragraph (a)(1) empowers bank holding companies to engage in banking.

The Board has previously limited the exception now contained in paragraph (a)(1) by interpreting it to mean that a bank, which is or becomes a bank holding company, may continue to function as a bank (FRRS 4–510). Thus, paragraph (a)(1) does not authorize a bank holding company to become a bank, nor does it authorize a bank holding company that is not a bank to perform any bank functions.

One commenter asked whether paragraph (a) of this section prohibits the holding of shares of a namesaver company. It does not because a namesaver company is not engaged in any activity and is merely a corporate shell.

Based on the foregiong, the Board is adopting section 225.21(a) substantially as proposed with some editorial amendments.

Section 225.22—Exempt Nonbanking Activities and Acquisitions

A bank holding company may engage in an activity or acquire shares of a nonbanking company without prior Board approval, if the activity or acquisition falls within one of the exemptions set forth in this section. The exemptions are derived from those set forth in section 4(c) of the BHC Act, and from interpretations issued by the Board.

There were no substantive comments concerning paragraph (b) ("Safe deposit business"), paragraph (c)(2) ("Securities or assets required to be divested by subsidiary"), paragraph (c)(3) ("Fiduciary investments"), paragraph (e) ("Activities and securities of new bank holding companies"), and paragraph (g) ("Securities or activities exempt under Regulation K"), and these paragraphs are being adopted as proposed. Comments were received on the following paragraphs:

Section 225.22(a) Servicing activities. This section of the proposed regulation interpreted sections 4(a)(2) and 4(c)(1)(C) of the BHC Act, which allow a bank holding company to furnish services to and perform services for its subsidiaries. The provision also reflected sections 4(c)(1) (A) and (D) of the BHC Act, which allow a bank holding company to form or acquire a company to hold and operate properties for the use of the bank holding company and its subsidiary banks, and to liquidate assets acquired from the bank holding company and its subsidiary banks, respectively. The proposed servicing provision limited a bank holding company to providing services only for the internal operations of the bank holding company and its subsidiaries, and enumerates the services that could be provided under this exemption, such as insurance, accounting, advertising and data processing. Under the proposal, a servicing subsidiary could not act as agent for the holding company or its subsidiaries in providing services to the public. The proposed limitation was intended to prevent the use of servicing subsidiaries to circumvent the requirements of section 4(c)(8) of the BHC Act by acquiring going concerns or providing services for customers as principal.

The Board received numerous comments on this provision, which objected to the proposed limitation as reversing the Board's longstanding position regarding section 4(c)(1)(C) subsidiaries, and not accurately reflecting the language and legislative history of the servicing exemptions in sections 4(a)(2) and 4(c)(1)(C) of the BHC Act. In light of these concerns, the Board is modifying the proposed provision and is reaffirming and clarifying its longstanding position that servicing subsidiaries may not deal with the public as principal, but may deal with outside parties provided they are acting only as agent for the holding company or its subsidiaries. (12 CFR 225.104, 225.109, 225.118, 225.122, 225.123, 224.141.) The Board believes its supervisory authority is sufficient to prevent abuse of the servicing exemption and that the proposed modification is not necessary. In this regard, bank holding companies that seek to acquire going concerns to furnish services under this exemption should consult with the appropriate Reserve Bank to ensure that the acquisition is exempt under this paragraph.

Several commenters objected to the requirement that the holding company own all the shares of the servicing subsidiary, as is the case under the Board's operations subsidiary ruling (12 CFR 225.141). The Board agrees that section 4(c)(1)(C) of the BHC Act, which authorizes a bank holding company to form or acquire a company to furnish services to its subsidiary banks, does not require the ownership of all the shares of a servicing subsidiary. However, section 4(a)(2) of the BHC Act, which permits a bank holding company to provide services for both its bank and nonbank subsidiaries, does not specifically authorize a bank holding company to establish or acquire shares of a company to perform such services. The Board has interpreted section 4(a)(2) to allow a bank holding company to establish a subsidiary to provide

services to the holding company's bank and nonbank subsidiaries under section 4(a)(2) of the BHC Act if the servicing subsidiary is wholly-owned (12 CFR 225.141). This requirement is based in part on the Board's interpretation under section 9 of the Federal Reserve Act (12 U.S.C. 335) that a state member bank may establish and hold shares of operations subsidiaries to perform activities that the member bank could perform directly or through a department or division of the bank (12 CFR 250.141).

In response to comments, the Board is deleting the requirement in the regulation that a servicing subsidiary must be wholly-owned. However, in accordance with 12 CFR 225.141, the ownership requirement continues to apply to a subsidiary that provides services to nonbank subsidiaries of the bank holding company. The Board will continue to review whether a similar requirement should be imposed on servicing subsidiaries established under section 4(c)(1)(C) to provide services exclusively to bank subsidiaries of the holding company, and will amend the regulation and its interpretation accordingly.

In connection with the question of the ownership requirement for servicing subsidiaries, the Board notes that a servicing subsidiary may not engage in impermissible nonbanking activities in addition to its servicing functions. For example, a holding company may not acquire on the basis of the servicing exemption a 10 per cent interest in a data processing company that, in addition to serving the internal needs of the holding company and acting as agent for the banking subsidiaries, offers data processing services to others. Thus, the regulation specifies that a servicing subsidiary may engage solely in permissible servicing functions.

The Board also notes that there is an exemption from the lending restrictions of section 23A of the Federal Reserve Act (12 U.S.C. 371c) for loans by a member bank to affiliates organized under section 4(c)(1) of the BHC Act. Thus, a servicing subsidiary exempt under § 225.22(a) of this regulation that provides services exclusively to the holding company or its subsidiary banks is not subject to the lending restrictions of section 23A. However, a servicing subsidiary exempt under this provision of the regulation that provides services in whole or part to or for the nonbanking subsidiaries of the bank holding company is subject to the lending restrictions of section 23A of the Federal Reserve Act.

A number of commenters stated that the list of activities servicing subsidiaries are authorized to perform for the internal operations of the bank holding company should not be exhaustive. Although the list was preceded by the word "include," and was clearly meant to be illustrative, the provision has been modified to make this clearer. At the suggestion of some commenters, the Board is also expanding the list of servicing activities to include activities identified in the legislative history of section 4(c)(1)(C), such as auditing, appraising, advertising and public relations. The Board is also incorporating in the list data processing and courier services for the internal operations of the bank holding company, which are permissible servicing activities contained in § 225.23 (b)(7)(i) and (b)(10)(i) of the proposed revision. The commenters favored this change, which clarifies that there is no prior approval requirement to engage in these servicing activities. The Board emphasizes that, these activities may be provided only for the internal operations of the holding company, unless the activities are authorized for the nonbanking subsidiaries of a bank holding company under section 4(c)(8) or for its banking subsidiaries under appropriate banking laws.

The only activity on the proposed list of permissible servicing activities that drew significant comment was insurance. Some commenters contended that the only authority for bank holding company insurance activities is section 4(c)(8) of the BHC Act, and objected to allowing bank holding companies under the servicing exemption to act as agent or to underwrite insurance on their own risks (*e.g.*, blanket bond insurance or employee group insurance plans).

The Board believes that sections 4(a)(2) and 4(c)(1)(C) provide general authority for bank holding companies to engage in activities necessary for their internal operations. While the legislative history indicates that the Congress did not intend servicing subsidiaries to be used as a means of supplanting section 4(c)(8), that section is relevant only when a bank holding company provides services to the public. The prohibition on insurance activities now contained in section 4(c)(8) as a result of the Garn-St Germain Act has no bearing on the internal operations of a bank holding company.

The purchase of group health insurance for a company's employees or property and casualty insurance for a company's buildings and equipment is a normal internal operating activity for most businesses, including bank holding companies. If the most economical or efficient way for a bank holding company to secure such insurance is to act as agent or underwriter, the Board believes that this is authorized under the servicing exemption. Accordingly, the Board is retaining this activity on the list of permissible servicing activities.

Section 225.22(c) Nonbanking acquisitions not requiring prior Board approval. This paragraph sets forth a number of exemptions to the prohibition of section 4 of the BHC Act against the acquisition of the voting securities or assets of a company engaged in nonbanking activities. In some situations, more than one exemption may apply to a particular acquisition. A bank holding company is entitled to rely on any applicable exemption. Thus, a bank holding company that acquires voting securities in satisfaction of a debt previously contracted is entitled to retain up to five percent of these securities under section 225.22(c)(5) of this regulation, notwithstanding the requirement of section 225.22(c)(1) of this regulation to divest DPC property within 2 years.

Section 225.22(c)(1) DPC acquisitions. The proposed regulation exempted from the prior approval requirement of section 4(c)(8) of the BHC Act a holding company's acquisition of securities and real or personal property in satisfaction of debts previously contracted ("DPC property"), so long as the company disposes of such property within two years of acquisition. The Board may extend the two-year period upon request for three additional one-year periods, for a total holding period of five years. Also, with regard to real property the Board may grant an additional five-year holding period, for a total of 10 years. The proposed regulation was based on the Board's published interpretation that while acquisitions of assets "dpc" may be regarded as necessary and incidental to the business of lending, prudent banking practice and the BHC Act require that such assets be liquidated and not held for an extended period of time (12 CFR 225.140).

Some commenters objected that this provision should apply only to voting shares, and that the BHC Act does not prohibit the ownership or control of assets. The Board's longstanding position has been that the nonbanking prohibitions of the BHC Act cover certain assets held by a bank holding company, such as real estate. (Liberty National Corporation, 38 FR 31054 (1973).) Moreover, in exempting certain real estate from the nonbanking prohibitions of section 4(a) of the BHC Act, section 4(a)(2) of the BHC Act expressly recognizes that real estate, or interests in real estate, held by bank

holding companies is covered by the nonbanking prohibition of the Act. The applicability of the nonbanking prohibitions of the BHC Act to the ownership of particular property depends upon whether that ownership constitutes engaging in an activity, which is a question resolved on the basis of the facts and circumstances of the particular case. The Board believes it is necessary to retain the reference to property in this paragraph in order to allow holding companies an appropriate period of time to comply with section 4 of the Act and effect a divestiture where the holding of DPC property would constitute engaging in an impermissible activity.

One commenter requested that the Board also allow extensions beyond 5 years for the holding of personal property, as well as for real estate. The Board's interpretation provides a maximum 5-year holding period for property other than real estate. The Board does, however, believe that where personal property has value and marketability characteristics similar to real estate, an additional extension for up to five years may be appropriate. The Board is adopting the proposed paragraph with this modification.

Another commenter suggested specifying that the divestiture period commences only when the bank holding company acquires title to and possession of the property. The Board believes that such questions depend on the facts and circumstances of a particular case, and companies with such questions should consult the appropriate Reserve Bank.

Section 225.22(c)(4) Securities eligible for investment by a national bank. This exemptive provision, which is derived from section 4(c)(5) of the BHC Act, permits a bank holding company to own securities of the kinds and amounts that are explicitly eligible by federal statute for investment by a national bank. The Board proposed to limit this exemption by excluding investments in companies authorized under the Bank Services Corporation Act ("BSCA") (12 U.S.C. 1861 *et seq.*). Under the BSCA, banks may invest in bank service corporations, which may, with the prior approval of the Board, engage in nonbanking activities on the Regulation Y list of activities permissible for bank holding companies. Under the proposed provision, a bank holding company would have to obtain the Board's prior approval under section 4(c)(8) of the BHC Act to invest in a bank service corporation just as a bank must now obtain prior approval to invest in such a corporation. If investments authorized under the BSCA were not excluded from the section 4(c)(5) exemption, bank holding companies would be permitted to make such investments and engage in nonbanking activities without complying with either the section 4(c)(8) or BSCA prior approval requirements. In order to ensure that the exemption in section 4(c)(5) does not supplant the requirements of section 4(c)(8) and the BSCA, the limitation as proposed is necessary and is being adopted.

A question was raised as to the status of bank service corporations owned by bank holding companies under the provisions of the BSCA prior to the amendments made by the Garn-St Germain Act. An earlier Board interpretation (12 CFR 225.115) stated that section 4(c)(5) could be used as authority for a bank holding company to own such a corporation. The types of activities authorized in the earlier Bank Service Corporation Act are now contained in section 3 of the amended BSCA, which is codified at 12 U.S.C. 1863. The Board has determined that bank holding companies may, on the basis of section 4(c)(5) of the BHC Act and without the Board's prior approval, invest in a bank service corporation whose activities are limited to those allowed under section 3 of the BSCA. However, the Board notes that in using this authority the other requirements of the BSCA with respect to notice, services, and prices would apply. Of course, a bank holding company may also apply under section 4(c)(8) of the BHC Act to invest in a bank service corporation engaged in activities under section 4 of the BSCA (12 U.S.C. 1864).

Section 225.22(c)(5) Securities or property representing 5 percent or less of a company. This paragraph implements section 4(c)(6) of the BHC Act, which allows a bank holding company to acquire and retain shares in a nonbanking company that do not exceed 5 percent of its outstanding voting shares. There were three objections to the Board's proposed interpretation of section 4(c)(6) as discussed below.

First, some commenters objected to limiting the exemption to ownership of 5 percent of any *class* of voting securities, whereas section 4(c)(6) of the BHC Act does not specifically impose such a limit. As discussed in § 225.11(c) of this notice regarding the acquisition of bank shares, the Board believes that the concept of a class of voting securities was intended to be incorporated in all the sections of the BHC Act dealing with acquisitions of voting securities. The Board has previously so construed this section.

Second, there was an objection to including property in the exemption on the ground that the nonbanking prohibitions of section 4 of the BHC Act do not extend to real estate or other assets, and thus there is no need for a 5 percent exemption for property. As explained with regard to DPC acquisitions (section 225.22(c)(1)), the Board believes the BHC Act encompasses interests in property in some circumstances. Moreover, the Board believes that section 4(c)(6) of the BHC Act reflects the concept found elsewhere in the Act that a 5 percent or less interest generally does not constitute engaging in an activity. Since this is a regulatory exemption to the general prohibition against acquiring nonbank shares or engaging in nonbank activities, it does not necessarily prohibit larger nonvoting interests that (i) are passive; (ii) do not involve engaging in an activity; and (iii) do not establish a control relationship. (*See* discussion of section 225.21(a).) If the ownership of property constitutes engaging in an activity, the holding company is limited to a 5 percent interest, as it would be if it were investing in voting securities of a company that is engaged in nonbanking activities.

Third, some commenters objected to including the requirement, derived from a current Board interpretation, that the investment be held as a "passive investment," arguing that such a requirement is not in section 4(c)(6) and creates uncertainty because it is subjective in nature. The Board agrees that there have been few problems in this area, and that the Board's interpretation (12 CFR 225.137) and the control provisions of the BHC Act are sufficient to address any problems that may arise. Accordingly, the Board is replacing this requirement in the final regulation, with a reference to its interpretation of section 4(c)(6) of the BHC Act.

Section 225.22(c)(6) Securities of investment company. The only substantive comments on this paragraph concerned the requirement that an exempt investment company may not hold more than 5 percent of any *class* of voting securities. The Board is retaining this requirement for the reasons discussed in sections 225.11(c) and 225.22(c)(5) of this notice.

Section 225.22(c)(7) Assets acquired in the ordinary course of business. This paragraph incorporates a Board interpretation (12 CFR 225.132) of the BHC Act as not requiring prior approval for certain acquisitions of assets in the ordinary course of business, as long as

the acquisition is not of all or of substantially all of the assets of a going concern, or of a subsidiary, division, department or office of the company, and provided that the assets acquired relate to activities previously approved by the Board. The primary comments on this provision asked that the regulation quantify or clarify the meaning of "all or substantially all of the assets of a company."

The Board's interpretation provides flexibility to determine whether an acquisition of assets constitutes an exempt acquisition in the ordinary course of business or whether it constitutes the acquisition of all or substantially all the assets of a company. A primary consideration in determining if an application is required would be whether there is a purchase of a substantial portion of the assets in the particular line of nonbanking activity in which the seller is engaged. There are other equally important considerations outlined in the Board's interpretation, including the size of the proposed acquisition in terms of the acquiror's assets, whether the acquisition of assets is for resale and the resale would not be a normal business activity of the acquiror, and whether the purpose of the acquisition is to hire employees or gain expertise. The Board believes that establishing an arbitrary number to define the phrase "substantially all the assets" is not appropriate. In addition, the following paragraph of Regulation Y, § 225.22(c)(8), which exempts from prior approval requirements certain asset acquisitions by consumer finance or mortgage companies, addresses in substantial part the concerns expressed by the commenters.

Finally, the Board believes its interpretation provides the Reserve Banks with sufficient flexibility to review, on a prompt basis, asset acquisition proposals with due regard for the purposes of the Act and the competitive situation of bank holding companies with respect to nonbank competitors in this area. Accordingly, the Board is modifying the proposed language of this regulatory provision in favor of the more flexible procedures of the Board's interpretation.

Section 225.22(c)(8) Asset acquisitions by a consumer finance or mortgage company. Under this paragraph, an application for prior approval is not required under section 4(c)(8) of the BHC Act for acquisitions of all or substantially all of the assets of an office that relate solely to consumer and residential mortgage finance activities and that do not involve the acquisition of voting securities. The comments generally favored this provision, but suggested a number of changes. The Board is adopting the provision as proposed with some modifications as discussed below.

Several commenters suggested expanding this exemption to include all nonbanking activities on the Regulation Y list of those permissible for bank holding companies. This provision was designed for those industries where asset acquisitions are a normal part of the business operations, and where bank holding companies have indicated they are at a particular competitive disadvantage because of the section 4(c)(8) prior approval requirement. Based on the Board's experience, it appears that, with the exception of industrial banking, which the Board is adding to this provision, there are no other permissible activities where asset acquisitions are a normal part of business operations. The Board will consider including other nonbanking activities in this provision if it is demonstrated to be appropriate.

A number of commenters stated that exempting acquisitions only where the assets acquired relate "solely" to making, acquiring, or servicing consumer or residential mortgage loans limits the usefulness of the exemption because in many cases a company will also have nonconforming assets such as commercial loans among the qualifying assets. To address this issue, the Board is modifying the provision to require that substantially all of the assets (rather than all of the assets) relate to qualifying loans. Thus, a nonconforming asset acquired pursuant to this provision may be held until it is repaid in accordance with its terms. This modification does not authorize a bank holding company to expand the activity represented by the nonconforming assets and thereby engage in a nonbanking activity for which the company does not have approval under section 4(c)(8).

Some commenters stated that the amount of assets that may be purchased under the exemption should be increased. The limitations in the proposed revision (10 percent of the acquiring company's assets or $10 million, whichever is less) were based in part on a 1971 provision regarding asset acquisitions. The Board agrees with the commenters that these limits should be increased to 25 percent of the acquiring bank holding company's assets or $25 million, whichever is less. The Board believes that this increase is appropriate in view of provision (v) of this paragraph, under which the Board may notify a bank holding company that it may not acquire assets under this section, if, for example, it is experiencing financial problems or has expanded too rapidly. In addition, the regulation is being clarified to indicate that the percentage and dollar limits are annual limits on aggregate purchases from all companies, rather than limits on purchases from any single company during the year.

The proposed exemption limits the assets acquired to no more than 50 percent of the assets of the seller. Some commenters recommended the elimination of this condition, arguing that the proportion of the seller's assets that are acquired should not concern the Board. This provision was designed to ensure that the acquisition does not represent the acquisition or elimination of a competitor, and is being retained in the final regulation.

Some commenters noted that, in some cases, one or more offices of the selling company may be separately incorporated and thus, the acquisition of the office represents the acquisition of 100 percent of the assets of a company. To address this problem, the Board is modifying this condition to clarify that it refers to the consolidated assets of the ultimate selling company engaged in the line of the business being acquired, rather than the assets of a separately incorporated office.

It should also be noted that under a current Board interpretation, (12 CFR 225.140), a company that has obtained the Board's approval to engage in a nonbanking activity in a particular geographic area may form and acquire a shell corporation for the purpose of acquiring assets, the direct acquisition of which would be permissible under this paragraph. Similarly, a bank holding company may acquire assets under this provision and then form and acquire a subsidiary to hold the assets without prior approval if the bank holding company previously received the Board's approval to engage in the activity. If, however, the seller holds the assets to be acquired in a separate subsidiary corporation, and the bank holding company proposes to acquire the shares of the subsidiary corporation, an application for prior Board approval is required under section 4(c)(8) of the BHC Act. Several commenters suggested that the exemption be expanded to permit "asset acquisitions" effected by stock purchases. However, the Board does not believe acquisitions of voting shares are exempt from the prior approval requirements of section 4(c)(8) of the BHC Act. The Board has addressed the issue of small acquisitions by providing the expedited

15-day notice procedures in § 225.23(f) of the proposed revision, which would be available in the case of an acquisition of the voting securities of a going concern.

Several commenters objected to the provision reserving the right to revoke, upon notice, a bank holding company's authority to make acquisitions under this provision and to require applications for such acquisitions, on the ground that the regulation does not set forth standards for the Board's use of this revocation authority. As discussed below (in § 225.23(a)(1)), the Board intends to exercise this authority only where, for example, the holding company is not in sound financial condition. In this regard, the Board believes that this exemption should only be available where the bank holding company meets the Board's Capital Adequacy Guidelines, and is so modifying the final regulation.

Section 225.22(d) Acquisition of securities by subsidiary banks. This paragraph restates § 225.4(e) of the current regulation, which was adopted in 1971, and provides an exemption (set out in paragraph (d)(2) of the revision) from the prohibitions of section 4 of the BHC Act for a state-chartered bank that is a subsidiary of a bank holding company to make the same kinds of investments explicitly eligible for national banks. In addition, the paragraph authorizes the state bank to acquire or retain shares of a company that engages solely in activities in which the parent bank may engage directly, at the same locations and subject to the same limitations as if the bank were engaged in the activity directly. Paragraph (d)(1) of the proposed revision provides that national bank subsidiaries of holding companies may acquire or retain subsidiaries in accordance with the rules of the Comptroller of the Currency.

The Board received numerous comments urging the Board not to adopt paragraph (d)(2) of this provision. These comments were based on conflicting theories, with some commenters contending the Board has no authority to exempt the nonbank subsidiaries of a bank from the nonbanking provisions of section 4 of the BHC Act, while others asserted that the Board has no authority to regulate the nonbanking activities or subsidiaries of a subsidiary bank of a bank holding company.

The provision regarding nonbank subsidiaries of state banks, which has not presented any substantive issues since its addition to the current regulation in 1971, has assumed major importance as a result of state legislation being enacted or considered that would authorize state-chartered banks to engage directly or through subsidiaries in nonbanking activities that are not permissible for bank holding companies under the Act. For example, the State of South Dakota has authorized banks chartered under its laws to engage in all facets of the insurance business. As noted, Title VI of the Garn-St Germain Act generally prohibits bank holding companies from engaging in insurance agency and underwriting activities under section 4(c)(8) of the BHC Act.

There are pending before the Board applications by a number of bank holding companies to acquire state banks in South Dakota that raise the issue of the scope of the nonbanking restrictions of the BHC Act relative to nonbank subsidiaries of state banks that are owned by bank holding companies. The Board has received requests for hearing on these applications and, as noted above, believes it appropriate to consider this provision of the proposed revision and the comments thereon in connection with its consideration of these applications and hearing requests. The Board does not wish to delay final action on Regulation Y and, accordingly, is postponing further consideration of paragraph (d) of this provision at this time. The provisions of § 225.4(e) of Regulation Y, which have been reprinted in this section, will continue in effect pending completion of the rulemaking on this provision.

Section 225.22(f) Grandfathered activities and securities. This paragraph reflects the Board's interpretation of sections 4(a)(2) and 4(c)(11) of the BHC Act, which provide grandfather privileges to a "company covered in 1970" (i.e., a company that become a bank holding company as a result of the 1970 Amendments to the BHC Act and would have been a bank holding company on June 30, 1968, if the amendments had been in effect then). Generally, such a company may hold interests and engage in activities that it held or engaged in continuously since June 30, 1968, and may expand such activities *de novo*, including the formation of new subsidiaries to engage in such activities.

One comment asserted lack of authority to permit unlimited *de novo* expansion of grandfathered activities, including the formation of new subsidiaries. The provision is being adopted as proposed because the legislative history of the BHC Act clearly indicates that it was the intent of Congress that the Board limit grandfathered activities only when it determines, after notice and opportunity for a hearing, that it is necessary to prevent undue concentration of resources or other specified adverse effects.

Section 225.23—Procedures for Applications, Notices, and Hearings

This section sets out the procedures for the filing of notices and applications, the acceptance of notices and applications, and action with regard to notices and applications to engage in nonbanking activities. In the final regulation, the Board is eliminating the provision of proposed § 225.23(a), ("Nonbanking activities requiring Board approval") because that section was redundant of the provisions of § 225.21(a) ("Prohibited nonbanking activities and acquisitions"). The Board is also moving the list of permissible nonbanking activities from § 225.23(b) of the proposed regulation to § 225.25 of the final regulation.

The comments regarding the following paragraphs, which parallel provisions of § 225.14 of Subpart B relating to acquisition of banks, have been discussed in connection with that section: paragraph (c) ("Accepting application for processing"), paragraph (d)(1) ("**Federal Register** notice—listed activities"), paragraph (e) ("Action on applications"), and paragraph (h) ("Approval through failure to act; 91-day rule"). No significant substantive comments were received regarding paragraph (i) ("Emergency thrift institution acquisitions"). The remaining paragraphs in this section are discussed below.

Section 225.25(a) Application or notice required for nonbanking activities. This paragraph sets out the circumstances and procedures under which a bank holding company may apply for the Board's prior approval to engage in, or acquire or control the voting securities or assets of a company engaged in, nonbanking activities that the Board determines are so closely related to banking or managing or controlling banks as to be a proper incident thereto. An application is generally required to acquire a company engaged in activities that the Board has previously added to the list of permissible nonbanking activities for bank holding companies (section 225.23(a)(2)), or to engage *de novo*, or to acquire a company engaged, in activities that the Board has not added to the list of permissible activities (section 225.23(a)(3)). In the latter case, the application must contain evidence demonstrating that the activity is so closely related to banking as to be a proper incident thereto.

The Department of Justice recommended that the Board use "notice" procedures for initial entry by a particular company into an activity previously determined to be closely related to banking. Thus, instead of a full application, a notice would be required that would be considered approved if the Board failed to disapprove it within a fixed period of time.

The Department's recommendation is essentially contained in the present § 225.4(b)(1) of the Board's Regulation Y. Under this provision, a bank holding company is permitted to engage *de novo* in a nonbanking activity that is on the Board's list of permissible activities in Regulation Y, 45 days after filing a notice with the appropriate Reserve Bank unless within that period the company is advised that it may not consummate the proposal because of the receipt of adverse comments of a substantive nature or because the proposal is not appropriate under the Board's Rules Regarding Delegation of Authority. The Board proposed to omit this provision in the revision because it did not appear to have any practical effect in view of the Board's current and proposed operating procedures. However, based on the Department's comments, the Board is retaining the notice procedure in such cases, and is also reducing the notice period from 45 to 30 days. The Board is authorizing the Reserve Banks to extend for 15 days this 30-day notice period (§ 225.23(a)(1)).

Section 225.23(b) Notice to expand or alter nonbanking activities. In this paragraph, the Board proposed to modify the requirement of the current regulation that a bank holding company obtain the Board's prior approval each time it opens a new office of a nonbanking activity or expands the service area for that activity on a *de novo* basis.

The Board proposed two alternative approaches with respect to such *de novo* expansion. Under the first approach, a bank holding company would be allowed to open offices *de novo* without the Board's prior approval within any state or states where it had previously received approval to engage in the specified nonbanking activity. Alternatively, the Board proposed to eliminate all application requirements for *de novo* expansion once the bank holding company received initial Board approval to engage in the activity. Under the latter approach, a bank holding company that wished to engage in consumer finance activities, for example, would be required to file a one-time application to engage in the activity. Once the bank holding company received Board approval for that activity, no further applications to the Board under section 4 of the Act would be required to expand that activity *de novo* through the opening of new offices, the expansion of the service area of the activity, or the incorporation of new subsidiaries to engage in the activity. Under both approaches, the Board reserved the right, upon notice, to require applications for *de novo* expansion under certain circumstances as discussed below. Expansion through the acquisition of a going concern engaged in a nonbanking activity would continue to require an application, although the Board also has proposed expedited notice procedures for certain small acquisitions (§ 225.23(f)).

This paragraph of the proposed revision received a large number of comments, almost all of which urged the Board to adopt the alternative eliminating all applications for *de novo* expansion. In view of the comments and the Board's experience with applications involving *de novo* expansion, the Board is adopting the alternative to eliminate any requirement for an application for *de novo* expansion by a bank holding company in an activity in which it has previously received Board approval to engage. In the Board's view, this approach will substantially reduce regulatory burden.

The Board imposed the office-by-office approval requirement in 1971 to monitor the significant expansion authorized by the 1970 Amendments to the BHC Act, both with respect to the new types of nonbanking activities permitted for bank holding companies and the interstate scope of such activities. In the more than 5,000 applications involving *de novo* expansion decided since 1971, not one application has been denied on the merits. Based on its experience, the Board believes the requirement for an application for *de novo* expansion is no longer warranted except, perhaps, in certain cases where the holding company is experiencing financial problems. The Board will continue to monitor *de novo* expansion in connection with its ongoing supervision of each bank holding company.

Some comments objected that adoption of this alternative is inconsistent with the requirements of section 4(c)(8) of the BHC Act, contending that the Board is required to consider the public benefits and adverse effects associated with each *de novo* office. Section 4 of the BHC Act requires that the Board's prior approval be obtained by a bank holding company to engage in, or acquire shares of a company engaged in, nonbanking activities that the Board has determined to be closely related to banking. The courts have interpreted this provision as a two-step test: first, that the Board determine, after notice and opportunity for hearing, that a nonbanking activity is closely related to banking and a proper incident thereto; and second, that the Board determine whether performance of a particular nonbanking activity by a particular bank holding company will result in net public benefits.

The Board believes that the alternative being adopted is consistent with the requirements of section 4(c)(8). The provision allowing geographic *de novo* expansion of nonbanking activities applies only to activities listed in Regulation Y that the Board has already determined are closely related to banking and a proper incident thereto. Second, this provision does not eliminate the requirement of section 4(c)(8) of the BHC Act, as interpreted by the courts, that a bank holding company apply to the Board to engage in a particular nonbanking activity. However, once a bank holding company has obtained approval to engage in an activity determined to be closely related to banking, and the Board has found that the public benefits associated with the performance of that specific activity by the bank holding company outweigh any reasonably likely adverse effects, the Board does not believe that separate approval for individual offices is specifically required under section 4(c)(8) of the BHC Act. In this regard, section 4(c)(8) specifically provides that in regulations issued under that section, the Board may distinguish between nonbanking activities commenced *de novo* and those commenced by the acquisition of a going concern. The United States Department of Justice, in its comment on the proposed revision, also noted that prior approval is not required under section 4(c)(8) for individual new offices.

The proposed regulation requires that a holding company must exercise its authority to engage in an activity within two years. If it fails to consummate the proposal within this time period, a new application would be required. Several commenters suggested allowing periods longer than two years. The Board believes that a proposal should be consummated within a relatively short period of time in order to preserve the factual situation on which the approval was based. The Board is eliminating the two-year period from the regulation in favor of a case-by-case determination by the appropriate Reserve Bank of the

time within which a proposal should be consummated. Under current practice, this period is normally 90 days. Because the Board has eliminated the requirement for *de novo* expansion in most cases, this should not impose an undue burden on applicants.

The modification of the regulation to allow *de novo* expansion without further applications is prospective only. Consequently, holding companies that have received approval to engage in a particular activity within a limited geographic area (e.g., a particular state or local market) may not expand *de novo* outside of that geographic area without filing an additional notice, which will be processed on an expedited basis under the *de novo* notice procedure in this regulation. Once the additional notice to expand throughout the country is approved, no further notice or application would be required for new offices. A holding company that previously received approval to solicit business on a nationwide basis from any office engaged in the relevant activity could open additional offices nationwide without a further notice, on the basis of the geographic area authorized previously. This requirement is contained in § 225.23(b)(1) of the final regulation.

Under the amended provision, the Board may notify a company that it must file an application for prior approval of *de novo* expansion. Some commenters requested the Board to establish guidelines indicating when it might withdraw the authority of a company to rely on this provision of the regulation to expand *de novo*. As discussed in connection with a similar provision in § 225.22(c)(8) concerning asset acquisitions, the Board expects that its authority under this provision will be used sparingly, and that guidelines in the regulation would not be practicable or desirable. In general, the authority will be invoked when the Board believes that the holding company is not in sound financial condition or does not meet the Board's Capital Adequacy Guidelines; or where the Board wishes to monitor the expansion of a particular activity more closely.

The Board is also transferring § 225.25(f) of the proposed regulation regarding nonbanking activities conducted outside of the United States, to § 225.23(b)(2) of the final regulation.

Section 225.23(b)(3)—Alteration of nonbanking activity. The proposed revision specified that "nonbanking activities shall not be altered in any significant respect from those considered by the Board in acting on the application, nor provided in any states other than those specified in the notice published with respect to such application." The Board is clarifying that an application or notice is required only where the alteration would represent a material, rather than significant, change from the activity as approved by the Board. This provision is also being modified to reflect the Board's decision not to require applications for *de novo* expansion on a state by state basis.

One commenter asked the Board to clarify that if a bank holding company or any nonbanking subsidiary has permission to engage in an activity, then the holding company may engage in that activity through any other nonbanking subsidiary. An outstanding Board interpretation of section 4(c)(8) of the BHC Act states that a holding company may shift authorized activities from one subsidiary to another without any additional approval (12 CFR 225.123), and the Board does not believe it is necessary to modify the regulation. The Board notes, however, that in some instances, the activities of different subsidiaries could not be combined where such combination would otherwise be inconsistent with the BHC Act or the Board's regulations.

Section 225.23(d)(2) Federal Register notice—unlisted activities. This paragraph sets forth the procedures for publication in the **Federal Register** of proposals by bank holding companies to engage in nonbanking activities that have not previously been found by the Board to be closely related to banking. Under the current regulation, the Board will publish notice of a new nonbanking activity only if the applicant demonstrates a reasonable basis for believing that the activity is closely related to banking. No time period is specified for publishing notice of a proposal to engage in a new nonbanking activity, and the decision whether to publish notice of an unlisted activity is currently made in every case by the Board at a formal Board meeting. As a result, processing of such proposals has at times been delayed.

The Board asked for comment on two alternative procedures, both of which were designed to expedite publication of notice of applications for new activities not on the Regulation Y list. Under the procedure in the proposed regulation, the Board would publish notice in the **Federal Register** of every such application, within 10 business days, unless there is no basis to believe that the activity is closely related to banking. Alternatively, the Board suggested in the **Federal Register** notice accompanying the proposed revision that it retain discretion to extend the 10-day period for an additional 30 days to allow the Board to decide whether to publish notice of the application. If the Board decides not to publish notice of the proposal, the Board will notify the applicant of the reasons for its decision. Under either procedure, the Board expects that a prompt decision will be made whether to publish notice of an application for a new activity.

Most of the commenters favored the procedure for automatic publication of notice of applications to engage in new activities. The Board, however, believes that it should retain the discretion to review applications for proposed new activities in order to determine whether there is a reasonable basis for believing that the activity is closely related to banking. The proposed alternate procedure addresses the concern of the commenters for more expeditious publication of new nonbanking activities by requiring a Board decision on publication within a maximum of 40 days as well as the concerns regarding the desirability of publishing an activity for comment whether or not there is any prospect for its adoption under the standards of section 4(c)(8) of the BHC Act.

Some commenters questioned whether an application is necessary in order for the Board to consider adding a new activity to the list of new activities in the regulation. Under the Administrative Procedure Act, any party may petition for amendment of a regulation at any time (5 U.S.C 552(b)), although the time frames specified in this section for processing applications to engage in new activities would not apply to a petition for rulemaking.

Section 225.23(f) Expedited procedure for small acquisitions. In response to requests that the Board reinstitute the simplified procedures contained in the current regulation (which were suspended in 1971) and to establish a procedure for expedited consideration of small acquisitions that raise no significant issues, the Board proposed in this paragraph to adopt an expedited 15-day notice procedure for small acquisitions involving permissible nonbanking activities.

Under this paragraph of the proposed revision, a bank holding company may acquire voting securities or assets of a company engaged in nonbanking activities on the Regulation Y list by filing with the Reserve Bank a brief description of the proposed transaction and a notice of the proposed acquisition that appeared in a newspaper of general circulation in the area(s) to be served as a result of the acquisition. As proposed, the procedure would apply only to an

acquisition where the book value of the assets acquired or the gross consideration paid for the securities or assets is $10 million or less, and the bank holding company had previously received approval to engage in the activity in the relevant State. Within five business days after the close of the comment period, the Reserve Bank would notify the bank holding company that the proposed acquisition has been approved pursuant to delegated authority, or that the application has been referred to the Board because the application is not eligible for action under delegated authority.

While this proposal was supported by bank holding companies as well as the Department of Justice, a number of commenters suggested modifications to the provision. Some commenters objected to publishing notice of a proposal in a newspaper of general circulation, since in 1978 the Board eliminated that method of giving notice under section 4(c)(8) of the BHC Act in favor of **Federal Register** notice. However, one commenter recognized that the use of newspaper notice might be the only way for the Board to adopt an expedited application procedure and at the same time satisfy the notice requirement of the BHC Act, because publication of a notice in the **Federal Register** is more time-consuming and may not be feasible on the proposed expedited basis.

To address the concerns of the commenters, the Board is amending the provision to provide for notice in the **Federal Register** as an alternative to newspaper notice. Thus, an applicant may choose the type of notice most suitable to its needs and objectives. The Board notes that publication of notice in the **Federal Register** will extend the application process under the expedited procedure by about 15 additional days.

There were a variety of suggestions for raising the maximum limit on acquistitions that may be made under the expedited procedures. On the other hand, some commenters suggested that a percentage limitation also be applied because an absolute dollar limitation may represent a significant investment for many bank holding companies.

The Board is responding to these suggestions by raising the maximum amount from $10 million to $15 million, the amount suggested by most commenters. The Board does not believe that a percentage limitation is necessary, because in the case of an application filed under the expedited procedure that raises financial or other issues, the Reserve Bank is authorized to require a full application and to refer the application to the Board for decision. In this regard, the Board is also specifying in the regulation that this procedure may not be used unless the bank holding company meets the Board's Capital Adequacy Guidelines.

Finally, in view of the fact that the Board is not adopting the proposal to require bank holding companies to file applications for new offices of previously-approved nonbanking activities on a state by state basis, there is no reason to require, as a condition of eligibility for the expedited notice procedures, that the company have received prior authority from the Board to engage in the particular activity in the area served by the company to be acquired. Accordingly, the final regulation is being modified to require only that the acquiring company previously must have received Board approval to engage in the particular activity. While some commenters favored use of expedited procedures for a bank holding company's entry into a new nonbanking activity by acquisition of a going concern, the Board does not believe that the 15-day notice period would allow sufficient time to consider the financial, managerial and other factors specified in the BHC Act.

Section 225.23(g) Hearing. This paragraph indicates that the Board may order a hearing or other proceeding in connection with an application. Several commenters suggested that in order to avoid delay, requests for hearing should be presented to the Board for decision as soon as they are received, rather than when the staff completes its analysis of the application. In view of the shortened processing schedules that are being adopted by the Board, the suggested procedure would not save much time in most cases and in fact might unduly lengthen the application process. Accordingly, the Board believes that it is more efficient under the new processing schedules to evaluate the merits of the protest and hearing request in the context of the evaluation of the application. The Board will, however, take the opportunity in applications raising major issues in which a hearing is required to order the hearing at the earliest possible time.

Some commenters objected that the proposed revision did not include detailed procedures for handling protests. They argued that such procedures are necessary to avoid substantial delays in deciding protested cases. The Board's procedures for handling protested applications are already set forth in its Rules of Procedure (12 CFR Part 262), and there appears to be no reason to transfer them to Regulation Y, since the protest procedures also apply to other types of applications. The Board notes that adoption in 1980 of revised protest procedures have been useful in reducing delays in processing protested applications. In addition, the Board is continuing to study improvements that may be made in processing protested applications.

Section 225.24—Factors Considered in Acting on Nonbanking Applications

This section describes the factors the Board considers in deciding applications under section 4(c)(8) of the BHC Act to engage in nonbanking activities. The Board has consolidated the three paragraphs of this section in the proposed regulation into one paragraph in the final regulation.

This section incorporates the statutory test in section 4(c)(8) of the BHC Act, which requires the Board, in its consideration of an application, to weigh the public benefits against the possible adverse effects that are likely to result from a bank holding company's proposal to engage in a specific nonbanking activity. This paragraph also reflects the general finding of the Board that performance of an activity by a bank holding company on a *de novo* basis is likely to yield public benefits, which is based on section 4(c)(8) of the BHC Act, allowing the Board to differentiate between nonbanking activities commenced *de novo* and those commenced through the acquisition of a going concern.

The comments supported the presumption in the regulation that *de novo* entry will result in benefits to the public through increased competition. The provision is being adopted as proposed.

This section also reflects the Board's practice in acting on applications under section 4(c)(8) of the BHC Act to consider the financial and managerial resources of the bank holding company, its subsidiaries, and the company to be acquired, and the effect of the transaction on their resources. For example, a proposal that may detract from the financial condition of the applicant bank holding company would be weighed as an adverse factor in the Board's overall evaluation of the application under section 4(c)(8).

Some commenters urged deleting these criteria because section 4(c)(8) of the BHC Act does not explicitly list financial and managerial considerations among the factors the Board is required to consider. Section 4(c)(8) specifically mentions "unsound banking practices" under the adverse effects to be considered, and the list of adverse effects and public benefits in section

4(c)(8) is illustrative rather than exhaustive. The Board regards consideration of financial and managerial factors in connection with applications for nonbanking activities as included within the required net public benefits analysis under section 4(c)(8) of the BHC Act.

Section 225.25—List of Permissible Nonbanking Activities

This section, which was proposed as § 225.23(b) of the revision, lists the nonbanking activities that the Board has determined by regulation to be closely related to banking under the BHC Act. Generally, an application involving a listed activity may be acted on by the Reserve Banks under delegated authority, whereas an application involving an unlisted activity is considered by the Board. In addition, an applicant may file a simple notice under a 30-day procedure to engage *de novo* in a listed activity, whereas a full application is required for an unlisted activity.

This section, as proposed, essentially restated the current list of permissible activities, but combined two of the activities (making and servicing loans), and expanded one activity to include issuing money orders. Four new activities were proposed to be added to the list, all of which the commenters favored.

The Board is adopting a list of 18 activities, including five proposed new activities that the Board, on the basis of the record in this proceeding, has determined to be closely related to banking within the meaning of section 4(c)(8) of the BHC Act. The final regulation also includes securities brokerage (§ 225.25(b)(15)), which the Board recently adopted in a separate rulemaking proceeding (48 FR 37003 (1983)). There were no significant comments regarding activity (6) community development, and activity (13) real estate appraising. Activities receiving substantive comments or requests for clarification are discussed below.

(1) Making and servicing loans. In considering applications to engage in this activity, the Board requires a bank holding company to specify the type of loans it is proposing to make or the type of finance company to be acquired (e.g., consumer finance, factor, etc.). Some commenters suggested that approval be granted to bank holding companies for all types of lending without specification. The Board believes that, because of the section 4(c)(8) requirement of notice of competitors and opportuniy for hearing, the specification of the type of lending activities should be retained.

Commenters questioned whether, in combining the activities of making loans with servicing loans, the Board intended to confer servicing authority on companies that currently have lending authority. The Board did not intend to confer such authority, and companies that wish to acquire loan servicing authority must apply for it specifically. However, as a practical matter, the Board notes that generally companies that have obtained approval for various lending activities have also applied for and received authority for servicing such loans.

(2) Industrial banking. A banking holding company may acquire or retain an industrial bank under this section only if the industrial bank is not a "bank" within the meaning of section 225.2(a) of this regulation. Otherwise, the application would have to be filed under section 3 of the Act and Subpart B of this regulation relating to the acquisition of "banks." The acquisition of an industrial bank or loan company under section 3 of the BHC Act may also raise issues under the interstate prohibition of § 225.13(c), as well as the deposit insurance requirement of § 225.4(c) of the final regulation.

The only comments on this section were incidential to comments on the definition of "bank" in § 225.2(a) of the regulation. Commenters noted that, under that definition, many industrial banks would be regarded as banks.

In acting on applications to acquire industrial banks under section 4(c)(8) of the BHC Act and § 255.4(a)(2) of the current regulation, the Board has required that such institutions not engage both in taking NOW accounts and making commercial loans, as those terms have been defined by the Board. In light of the Board's definition of bank in this regulation, a bank holding company may acquire or retain an industrial bank under this section only where the bank either does not accept demand deposit or NOW accounts or does not make commercial loans, as defined in this regulation.

(3) Trust company functions. The Board has clarified that a trust company that functions as a bank may not be acquired under this subpart, but rather under section 3 of the BHC Act and subpart B of this regulation.

(4) Investment or financial advice. In the final regulation, the Board is including the footnote in the current regulation that distinguishes investment advice from management consulting. The substance of this footnote was included in the notice accompanying the proposed revision.

(5) Leasing personal or real property. The **Federal Register** notice accompanying the proposed revision inadvertently failed to discuss the addition of the following limitation to permissible leasing activities not contained in the current regulation: "provided, that in the aggregate the amount derived from estimated residual value under subparagraph C and any unconditional guarantee shall not exceed 60 percent of the acquisition cost of the property."

Although this limitation reflects staff advice that has consistently been given in response to inquiries regarding the conditions of permissible leasing activities, the Board is not adopting the limitation in the final regulation. The Board agrees with the objections of commenters that the limitation is more restrictive than the current provision, and will have serious adverse effects in terms of the ability of holding companies to compete on an equitable basis with their nonbank competitors.

(7) Data processing. The proposed revision reflected the amendments to this activity that the Board adopted in 1982. Several commenters urged deletion of the requirement that the data to be processed must be limited to "banking, economic or financial data." However, as noted, the Board has recently completed an extensive formal rulemaking proceeding with respect to the type of data processing permissible for bank holding companies. This rulemaking resulted in a substantial broadening of the scope of this activity consistent with the requirements of section 4(c)(8) of the BHC Act. That rule is currently being challenged in the U.S. Court of Appeals for the District of Columbia, and the Board believes that it would not be appropriate to commence another rulemaking proceeding until that matter is resolved.

As discussed above with respect to § 225.22(a), the provision by a bank holding company of data processing services for the internal operations of the holding company system is considered an exempt servicing activity and has been deleted from this paragraph.

(8) Insurance sales. The proposed revision reflected the enactment of Title VI of the Garn-St Germain Act without delineating the changes it effected in the scope of permissible bank holding company insurance activities, pending review and resolution of the issues raised by the changes.

A number of comments, particularly from holding companies with insurance

activities grandfathered or otherwise exempt under the Garn-St Germain Act, expressed the view that the regulation should be explicit in defining the scope of permissible activities and in recognizing grandfather rights. Since the proposed revision, the Board has considered a number of issues raised with regard to the proper scope and interpretation of Title VI of the Garn-St Germain Act. Based on that review, the Board will publish for comment in the near future in a separate **Federal Register** notice an amendment to this section to define the scope of permissible insurance activities under Title IV of the Garn-St Germain Act.

(9) Underwriting credit life, accident and health insurance. Commenters suggested deleting the footnote and related interpretation that require a bank holding company to provide and maintain the public benefits of engaging in this activity by, for example, reducing rates or increasing policy benefits. On November 25, 1983, the Board sought public comment on a proposal to delete this requirement. (48 FR 53125 (1983)).

(10) Courier services. As discussed above with respect to § 225.22(a), the provision by a bank holding company of courier services for the internal operations of the holding company system is regarded as an exempt servicing activity and has been deleted from this paragraph.

The **Federal Register** notice accompanying the proposed revision indicated that applications to provide courier services would not be acted on by the Reserve Banks under delegated authority, but would be forwarded to the Board for action. In response to comments, the Board is deleting this restriction.

(11) Management consulting to depository institutions. There were requests to expand this activity to permit bank holding companies to offer general managment consulting. For the reasons set out in its decision in *First Commerce Corp.*, 58 *Federal Reserve Bulletin* 674 (1972), the Board is not seeking public comment on whether to add this activity to the Regulation Y list of permissible activities.

(12) Money orders, savings bonds, and travelers checks. The Board received no objections to its proposal to include in this activity the issuance of money orders with a face value of no more than $1,000. Several commenters suggested that the $1,000 dollar limitation on the issuance and sale of money orders be raised to at least $5,000, or, alternatively, be eliminated. In a notice dated November 23, 1983 (48 FR 52977) (1983)), the Board sought public comments on a proposal to raise the dollar limit for the sale or issuance of money orders to $10,000.

(14) Arranging commercial real estate equity financing. The commenters generally favored the Board's proposal to add this activity to the list of nonbanking activities permissible for bank holding companies, but objected to inclusion in the regulation of conditions on performance of the activity, which they contend were voluntarily undertaken by the applicants in particular cases, are not necessary to determine that the activity is closely related to banking, and should be imposed on a case-by-case basis.

The Board has reviewed the conditions and believes that they are necessary for the conduct of equity financing by bank holding companies under the standards in section 4(c)(8) of the BHC Act. The Board believes that imposing conditions on a case-by-case basis as suggested would defeat the major purpose of placing equity financing on the Regulation Y list, because it would prevent approval by the Reserve Banks under delegated authority within a shorter time period. The Board notes that the Office of the Comptroller of the Currency has recently authorized a subsidiary of a national bank to provide equity financing services subject to all the conditions imposed by the Board, with the exception of the retirement that an affiliate of the equity financing subsidiary may not finance the investor's purchase of the property. The Board imposed this requirement to prevent unsafe and unsound banking practices and conflicts of interest, as required under section 4(c)(8) of the BHC Act. The Board is, however, evaluating the possibility of an alternative to this requirement that would address the Board's concerns with these adverse effects and will consider the modification of this restriction if a satisfactory alternative is developed.

For the reasons set out in *BankAmerica Corporation*, 68 *Federal Reserve Bulletin* 647 (1982), the Board concludes that the activity of arranging commercial real estate equity financing, subject to the conditions and limitations proposed, is closely related to banking, and the Board is hereby adding that activity to its Regulation Y list of nonbanking activities permissible for bank holding companies.

(16) Underwriting and dealing in government obligations and money market instruments. The commenters favored adding this proposed new nonbanking activity to the Regulation Y list. For the reasons set out in *Citicorp (Citicorp Government Securities, Inc.)*, 68 *Federal Reserve Bulletin* 249 (1982), the Board concludes that the activity of underwriting and dealing in government securities and money market instruments is closely related to banking and is hereby adding that activity to its Regulation Y list of nonbanking activities permissible for bank holding companies. The applicant is subject to the same limitations that would be applicable if the activity were performed by the applicant's subsidiary member bank or by its subsidiary nonmember banks as if they were member banks.

(17) Foreign exchange advisory and transactional services. The commenters generally favored the Board's proposal to add foreign exchange services to the list of permissible activities for bank holding companies, but objected to inclusion in the regulation of conditions for engaging in the activity. The Board has reviewed the conditions and believes that they are necessary for the conduct of this activity in accordance with the standards of section 4(c)(8) of the BHC Act. For the reasons set out in its decision in *Hongkong and Shanghai Banking Corporation*, 69 *Federal Reserve Bulletin* 221 (1983), the Board concludes that the activity of foreign exchange advisory and transactional services, subject to the conditions and limitations proposed, is closely related to banking, and the Board is hereby adding that activity to its Regulation Y list of permissible activities. In response to comments, the Board is also specifying that arranging for the execution of foreign exchange transactions is included within the activity because the Board found this facet of foreign exchange transactional services to be closely related to banking in its *Hongkong and Shanghai Banking Corporation* decision.

(18) Futures commission merchant. The commenters generally favored adding this activity to the list of permissible activities, but objected to including conditions in the regulation, which they contend are not necessary for conduct of the activity and should be imposed on a case-by-case basis. The Board has reviewed each of these conditions, most of which are designed to ensure safety and soundness and avoid conflicts of interest, and continues to believe that the conditions appearing in paragraphs (i), (ii), (iii), (iv), (vi) and (vii) of the activity as proposed are necessary for the conduct of the activity in accordance with the standards of section 4(c)(8) of the BHC Act.

The activities of a futures commission merchant are highly specialized, and require well defined parameters to ensure that their conduct is consistent

with the BHC Act. For example, one of the more important conditions is that relating to capitalization. The Board regards this as a critical factor in its analysis, and has required substantial capitalization in each application to engage in this activity. By retaining the conditions in the regulation, the Board believes it will facilitate the prompt processing of applications by specifying the threshold criteria that must be met.

However, the conditions appearing in paragraphs (v), (viii) and (ix) of the activity as proposed have been deleted because the substance of those requirements can be monitored and evaluated in other ways. In addition, conditions (i) and (ii) have been shortened and combined. The Board is also modifying the condition regarding capitalization to require fully adequate capital rather than capital in substantial excess of that required by the CFTC.

For the reasons set forth in its decision in *J.P. Morgan & Co., Inc.*, 68 *Federal Reserve Bulletin* 514 (1982), the Board concludes that the activity of acting as a futures commission merchant is closely related to banking, and is hereby adding that activity to its Regulation Y list of permissible activities. In addition, the Board is including in this activity the execution and clearance of options on futures contracts for bullion, U.S. Government securities and money market instruments, which the Board authorized by order after proposing the revision of Regulation Y for comment. (*J.P. Morgan & Co. Inc.*, 69 *Federal Reserve Bulletin* 733 (1983); *Security Pacific Corp.*, 69 *Federal Reserve Bulletin* —— (1983)). In so doing, the Board found that an option on a futures contract is functionally and operationally similar to a futures contract on the same commodity, and in view of this close relationship, the Board believes that its initial proposal to place the execution and clearance of futures contracts on the list of permissible activities is sufficiently broad to encompass the execution and clearance of options on these contracts.

V. Subpart D—Control and Divestiture Proceedings

This subpart consists of two sections: the first covers control proceedings (§ 225.2 of the current regulation); the second covers divestiture proceedings and is based on a published Board interpretation (12 CFR 225.139). There were no substantive comments regarding § 225.32 ("Divestiture proceedings").

Section 225.31—Control Proceedings

Under sections 2(a)(2)(C) and 2(d)(3) of the BHC Act, the Board may determine, after notice and opportunity for hearing, that a company exercises or has the power to exercise a controlling influence over the management or policies of a bank or other company, even though the company may not otherwise have control over 25 percent of the voting securities or the power to elect a majority of the directors of the other company. Sections 225.2 (b) and (c) of the current regulation describe circumstances and procedures under which control determinations may be made. While these provisions were reorganized and simplified in the proposed revision, the basic approach of the current provisions has not been altered. Where facts and circumstances are present or information is received to indicate that a company exercises a controlling influence over the management or policies of a bank or another company, the Reserve Bank will review the relationship to determine if it would be appropriate for the Board to issue a preliminary determination of control.

It is anticipated that most situations involving possible control relationships will be handled informally. However, where discussion does not resolve the issue, the Board may institute a formal proceeding by issuing a preliminary determination of control under the procedures described in this section. In those situations where a preliminary determination of control is issued, the company will be given notice of the facts and the circumstances on which the determination is based and provided an opportunity to contest the determination.

There were objections to paragraph (c) of this section in which the Board reserves the discretion to order a hearing when the company contests a preliminary determination of control. The commenters assert that under section 2(a)(2)(C) of the BHC Act, a company has the right to a hearing in a controlling influence proceeding. The Board agrees that a company is entitled to a hearing with respect to controlling influence determinations under section 2(a)(2)(C), but not with respect to control of shares under section 2(a)(2)(A) of the BHC Act. The regulation is being clarified accordingly.

With respect to the rebuttable presumptions of control in paragraph (d) of this section, there were several comments contending that substantive changes had been made in the proposed revision, notwithstanding the statement in the **Federal Register** notice that no changes had been proposed. Since the Board did not intend to make substantive changes, the paragraphs in question are being modified in the final regulation to follow the language of the current regulation more closely. In this regard, one commenter claimed that the current presumptions do not apply to an employee with policy-making factors. However, the Board believes that such an individual would qualify as an officer under the current regulation and that this clarification effects no substantive change (compare § 225.2(f) in the revision and existing § 225.2(b)(1)).

Finally, the Board is adopting the suggestion of commenters to include in this section of the final regulation the presumption in section 2(a) of the BHC Act that a company that controls less than 5 percent of any class of voting securities of another company or bank does not control it.

VI. Subpart E—Change in Bank Control

This subpart reorganizes § 225.7 of the current regulation relating to notices filed with the Board under the Bank Control Act involving State member banks and bank holding companies. (See also the Board's Policy Statement on Change in Bank Control Act of 1978, FRRS 4–801). In general, a description of the specific provisions of this subpart is contained in the **Federal Register** notice accompanying the proposed revision. The only change proposed was the addition of paragraph (d) in § 225.43 of the proposed revision to clarify the lack of standing of third parties who submit information during the investigation of a Bank Control Act notice. No substantive comments were received regarding the proposed provisions of this subpart, and the Board is adopting the subpart as proposed with some editorial changes.

It was suggested that the Board add a provision to define "acting in concert," although the commenters did not offer a specific proposal in this regard. The Board does not believe that it has enough regulatory experience with respect to this issue to propose a reguatory definition at this time, although the **Federal Register** notice accompanying the proposed revision contained some guidance concerning the term. It was stated in that notice that the Board regards two or more persons (which may also include a corporation or other entity) as acting in concert when they have joined together formally or informally for the purpose of acquiring voting securities of a bank or bank holding company. For example, a group of persons who have identified themselves as a group for purpose of the Federal securities laws may constitute persons "acting in concert" for purposes of this section.

List of Subjects in 12 CFR Part 225

Banks, Bankings, Federal Reserve Systems, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(b)); sections 8 and 13(a) of the International Banking Act of 1978 (12 U.S.C. 3106 and 3108); Title IX of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX); the Financial Institutions Supervisory Act of 1966, as amended (12 U.S.C. 1818(b) *et seq.*); and section 7(j)(13) of the Federal Deposit Insurance Act, as amended by the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)(13)), the Board is amending 12 CFR Part 225 by: (1) Removing §§ 225.1 through 225.7 and § 225.51, except § 225.4(e), which is redesignated § 225.22(d) as set forth below (§§ 225.101 through 225.143 remain in effect); and (2) adding the following Subparts A through E and the Appendices to Subparts A through E to Part 225:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Subpart A—General Provisions

Sec.

225.1 Authority, purpose, and scope.
225.2 Definitions.
225.3 Administration.
225.4 Corporate practices.
225.5 Registration, reports, and inspections.
225.6 Penalties for violations.

Subpart B—Acquisition of Bank Securities or Assets

225.11 Transactions requiring Board approval.
225.12 Transactions not requiring Board approval.
225.13 Factors considered in acting on bank applications.
225.14 Procedures for applications, notices, and hearings.

Subpart C—Nonbanking Activities and Acquisitions by Bank Holding Companies

225.21 Prohibited nonbanking activities and acquisitions; exempt bank holding companies.
225.22 Exempt nonbanking activities and acquisitions.
225.23 Procedures for applications, notices, and hearings.
225.24 Factors considered in acting on nonbanking applications.
225.25 List of permissible nonbanking activities.

Subpart D—Control and Divestiture Proceedings

225.31 Control proceedings.
225.32 Divestiture proceedings.

Subpart E—Change in Bank Control

225.41 Transactions requiring prior notice.
225.42 Transactions not requiring prior notice.
225.43 Procedures for filing, processing and acting on notices.

Appendices to Subparts A through E

Appendix A—Capital Adequacy Guidelines
Appendix B—Policy Statement for Formation of Small One-Bank Holding Companies

* * * * *

Authority: 12 U.S.C. 1844(b), 3106, 3108, 1817(j)(13), 1818(b); and Pub L. 98–181, Title IX.

Subpart A—General Provisions

§ 225.1 Authority, purpose, and scope.

(a) *Authority.* This Part (Regulation Y) is issued by the Board of Governors of the Federal Reserve System ("Board") under section 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(b)) ("BHC Act"); sections 8 and 13(a) of the International Banking Act of 1978 (12 U.S.C. 3106 and 3108); section 7(j)(13) of the Federal Deposit Insurance Act, as amended by the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)(13) ("Bank Control Act"); section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)); and the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX). The BHC codified at 12 U.S.C. 1841, *et seq.*

(b) *Purpose.* The principal purposes of this Part are to regulate the acquisition of control of banks by companies and individuals, to define and regulate the nonbanking activities in which bank holding companies and foreign banking organizations with United States operations may engage, and to set forth the procedures for securing approval for such transactions and activities.

(c) *Scope.* (1) Subpart A contains general provisions and definitions of terms used in this regulation.

(2) Subpart B governs acquisitions of bank or bank holding company securities and assets by bank holding companies or by any company that will become a bank holding company as a result of the acquisition.

(3) Subpart C defines and regulates the nonbanking activities in which bank holding companies and foreign banking organizations may engage directly or through a subsidiary. In addition, certain nonbanking activities conducted by foreign banking organizations and certain foreign activities conducted by bank holding companies are governed by the Board's Regulation K (12 CFR Part 211, International Banking Operations).

(4) Subpart D specifies situations in which a company is presumed to control voting securities or to have the power to exercise a controlling influence over the management or policies of a bank or other company, sets forth the procedures for making a control determination, and provides rules governing the effectiveness of divestitures by bank holding companies.

(5) Subpart E governs changes in bank control resulting from the acquisition by individuals or companies (other than bank holding companies) of voting securities of a bank holding company or state member bank of the Federal Reserve System.

(6) Appendix A to the regulation contains the Board's Capital Adequacy Guidelines for bank holding companies and for state member banks.

(7) Appendix B to the regulation contains the Board's Policy Statement for Formation of Small One-Bank Holding Companies.

§ 225.2 Definitions.

Except as modified in this section or unless the context otherwise requires, the terms used in this regulation have the same meanings as set forth in the relevant statutes.

(a)(1) "Bank" means any institution organized under the laws of the United States that: (i) accepts deposits that the depositor has a legal right to withdraw on demand and (ii) engages in the business of making commercial loans. For the purposes of this definition:

(A) "Deposits that the depositor has a legal right to withdraw on demand" (hereinafter "demand deposits") means any deposit with transactional capability that, as a matter of practice, is payable on demand and that is withdrawable by check, draft, negotiable order of withdrawal, or other similar instrument; and

(B) "Commercial loans" means any loan other than a loan to an individual for personal, family, household, or charitable purposes, and includes the purchase of retail installment loans or commercial paper, certificates of deposit, bankers' acceptances, and similar money market instruments, the extension of broker call loans, the sale of federal funds, and the deposit of interest-bearing funds.

(2) "Bank" includes any state-chartered bank or national banking association that (i) is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions, or by a bank holding company owned exclusively by other depository institutions; and (ii) is organized to engage exclusively in providing services for other depository institutions and their officers, directors, and employees.

(3) "Bank" does not include:

(i) Any institution that does not do business in the United States except as an incident to its activities outside the United States;

(ii) Any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any institution chartered by the Federal Home Loan Bank Board; or

(iii) "Agreement" or "Edge" corporations operating under sections 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601–604(a), 611–631).

(b)(1) "Bank holding company" means any company (including a bank) that has direct or indirect control of a bank, other than control that results from the ownership or control of:

(i) Voting securities held in good faith in a fiduciary capacity (other than as provided in paragraphs (d)(2)(ii) and (iii) of this section) without sole discretionary voting authority, or as otherwise exempted under section 2(a)(5)(A) of the BHC Act;

(ii) Voting securities acquired and held only for a reasonable period of time in connection with the underwriting of securities, as provided in section 2(a)(5)(B) of the BHC Act;

(iii) Voting rights to voting securities acquired for the sole purpose and in the course of participating in a proxy solicitation, as provided in section 2(a)(5)(C) of the BHC Act;

(iv) Voting securities acquired in satisfaction of debts previously contracted in good faith, as provided in section 2(a)(5)(D) of the BHC Act, if the securities are divested within two years of acquisition (or such later period as the Board may permit by order); or

(v) Voting securities of certain institutions owned by a thrift institution or a trust company, as provided in sections 2(a)(5)(E) and (F) of the BHC Act.

(2) Except for the purposes of section 225.4(b) of this subpart and Subpart E of this regulation or as otherwise provided in this regulation, the term "bank holding company" includes a foreign banking organization. For the purposes of Subpart B, the term "bank holding company" includes a foreign banking organization only if it owns or controls a bank in the United States.

(c)(1) "Company" includes any bank, corporation, general or limited partnership, association or similar organization, business trust, or any other trust unless by its terms it must terminate either within 25 years, or within 21 years and 10 months after the death of individuals living on the effective date of the trust.

(2) "Company" does not include any organization, the majority of the voting securities of which are owned by the United States or any state.

(d)(1) "Control" of a bank or other company means (except for the purposes of Subpart E):

(i) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting securities of the bank or other company, directly or indirectly or acting through one or more other persons;

(ii) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the bank or other company;

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the bank or other company, as determined by the Board after notice and opportunity for hearing in accordance with § 225.31 of Subpart D of this regulation; or

(iv) Conditioning in any manner the transfer of 25 percent or more of the outstanding shares of any class of voting securities of a bank or other company upon the transfer of 25 percent or more of the outstanding shares of any class of voting securities of another bank or other company.

(2) A bank or other company is deemed to control voting securities or assets owned, controlled, or held, directly or indirectly:

(i) By any subsidiary of the bank or other company;

(ii) In a fiduciary capacity (including by pension and profit-sharing trusts) for the benefit of the shareholders, members, or employees (or individuals serving in similar capacities) of the bank or other company or of any of its subsidiaries; or

(iii) In a fiduciary capacity for the benefit of the bank or other company or any of its subsidiaries.

(e) "Foreign banking organization" and "qualifying foreign banking organization" shall have the same meanings as provided in § 211.23 of the Board's Regulation K (12 CFR 211.23).

(f) "Management official" means any officer, director (including honorary or advisory directors), partner, or trustee of a bank or other company, or any employee of the bank or other company with policy-making functions.

(g) "Outstanding shares" means any voting securities, but does not include securities owned by the United States or by a company wholly-owned by the United States.

(h) "Person" includes an individual, bank, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

(i) "Principal shareholder" means a person that owns or controls, directly or indirectly, 25 percent or more of any class of voting securities of a bank or other company.

(j) "Subsidiary" means a bank or other company that is controlled by another company, and refers to a direct or indirect subsidiary of a bank holding company. An indirect subsidiary is a bank or other company that is controlled by a subsidiary of the bank holding company.

(k) "United States" means the United States and includes any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(l) (1) "Voting securities" means shares of common or preferred stock, general or limited partnership shares or interests, or similar interests if the shares or interest, by statue, charter, or in any manner, entitle the holder: (i) to vote for or to select directors, trustees, or partners (or persons exercising similar functions of the issuing company); or (ii) to vote on or to direct the conduct of the operations or other significant policies of the issuing company.

(2) Preferred shares, limited partnership shares or interests, or similar interests are not "voting securities" if: (i) any voting rights associated with the shares or interest are limited solely to the type customarily provided by statute with regard to matters that would significantly and adversely affect the rights or preference of the security or other interest, such as the issuance of additional amounts or classes of senior securities, the modification of the terms of the security or interest, the dissolution of the issuing company, or the payment of dividends by the issuing company when preferred dividends are in arrears; (ii) the shares or interest represent an essentially passive investment or financing device and do not otherwise provide the holder with control over the issuing company; and (iii) the shares or interest do not entitle the holder, by statute, charter, or in any manner, to select or to vote for the selection of directors, trustees, or partners (or persons exercising similar functions) of the issuing company.

§ 225.3 Administration.

(a) *Delegation of authority.* Designated Board members and officers and the Federal Reserve Banks are authorized by the Board to exercise

various functions prescribed in this regulation and in the Board's Rules Regarding Delegation of Authority (12 CFR Part 265) and the Board's Rules of Procedure (12 CFR Part 262).

(b) *Appropriate Federal Reserve Bank.* In administering this regulation, the appropriate Federal Reserve Bank is as follows:

(1) For a bank holding company (or a company applying to become a bank holding company): the Reserve Bank of the Federal Reserve district in which the company's banking operations are principally conducted, as measured by total domestic deposits in its subsidiary banks on the date it became (or will become) a bank holding company;

(2) For a foreign banking organization that has no subsidiary bank and is not subject to paragraph (b)(1) of this section: the Reserve Bank of the Federal Reserve district in which the total assets of the organization's United States branches, agencies, and commercial lending companies are the largest as of the later of January 1, 1980, or the date it becomes a foreign banking organization;

(3) For an individual or company submitting a notice under Subpart E of this regulation: the Reserve Bank of the Federal Reserve district in which the banking operations of the bank holding company or State member bank to be acquired are principally conducted, as measured by total domestic deposits on the date the notice is filed.

§ 225.4 Corporate practices.

(a) *Bank holding company policy and operations.* (1) A bank holding company shall serve as a source of financial and mangerial strength to its subsidiary banks and shall not contuct its operations in an unsafe or unsound manner.

(2) Whenever the Board believes an activity of a bank holding company or control of a nonbank subsidiary (other than a nonbank subsidiary of a bank) constitutes a serious risk to the financial safety, soundness, or stability of a subsidiary bank of the bank holding company and is inconsistent with sound banking principles or the purposes of the BHC Act or the Financial Institutions Superisory Act of 1966, as amended (12 U.S.C. 1818(b) *et seq.*), the Board may require the bank holding company to terminate the activity or to terminate control of the subsidiary, as provided in section 5(e) of the BHC Act.

(b) *Purchase or redemption by a bank holding company of its own securities.*— (1) *Filing notice.* A bank holding company shall give the Board prior written notice before purchasing or redeeming its equity securities, if the gross consideration for the purchase or redemption, when aggregated with the net consideration paid by the company for all such purchases or redemptions during the preceding 12 months, is equal to 10 percent or more of the company's consolidated net worth. For the purposes of this section, "net consideration" is the gross consideration paid by the company for all of its equity securities purchased or redeemed during the period minus the gross consideration received for all of its equity securities sold during the period other than as part of a new issue.

(2) *Content of notice.* Any notice under this section shall be filed with the appropriate Reserve Bank and shall contain the following information:

(i) The purpose of the transaction, a description of the securities to be purchased or redeemed, the total number of each class outstanding, the gross consideration to be paid, and the terms of any debt incurred in connection with the transaction;

(ii) A description of all equity securities redeemed within the preceding 12 months, the net consideration paid, and the terms of any debt incurred in connection with those transactions; and

(iii) A current and *pro forma* consolidated balance sheet if the bank holding company has total assets of over $150 million, or a current and *pro forma* parent company only balance sheet if the bank holding company has total assets of $150 million or less.

(3) *Acting on notice.* Within 30 calendar days of receipt of a notice under this section, the appropriate Reserve Bank shall either approve the transaction proposed in the notice or refer the notice to the Board for decision. If the notice is referred to the Board for decision, the Board shall act on the notice within 60 calendar days after the Reserve Bank receives the notice.

(4) *Factors considered in acting on notice.* The Board may disapprove a proposed purchase or redemption if it finds that the proposal would constitute an unsafe or unsound practice, or would violate any law, regulation, Board order, directive, or any condition imposed by, or written agreement with, the Board. In determining whether a proposal constitutes an unsafe or unsound practice, the Board will consider whether the bank holding company's financial condition, after giving effect to the proposed purchase or redemption, meets the financial standards applied by the Board under section 3 of the BHC Act, including the Board's Capital Adequacy Guidelines (Appendix A to Subparts A through E) and the Board's Policy Statement for Formation of Small One-Bank Holding Companies (Appendix B to Subparts A through E).

(5) *Disapproval and hearing.* The Board shall notify the bank holding company in writing of the reasons for a decision to disapprove any proposed purchase or redemption. Within 10 calendar days of receipt of a notice of disapproval by the Board, the bank holding company may submit a written request for a hearing. The Board will order a hearing within 10 calendar days of receipt of that request if it finds that material facts are in dispute or if it otherwise appears appropriate. Any hearing conducted under this paragraph shall be held in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR Part 263). At the conclusion of the hearing, the Board shall by order approve or disapprove the proposed purchase or redemption on the basis of the record of the hearing.

(c) *Deposit insurance.* Every bank that is a bank holding company or a subsidiary of a bank holding company shall obtain Federal Deposit Insurance and shall remain an "insured bank" as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)).

(d) *Tie-in arrangements.* A bank holding company and any nonbanking subsidiary conducting an activity authorized under section 225.23 of this regulation may not in any manner extend credit, lease or sell property of any kind, provide any service, or fix or vary the consideration for any of these transactions subject to any condition or requirement that, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971, 1972(1)).

(e) *Acting as transfer agent, municipal securities dealer, or clearing agent.* A bank holding company or any nonbanking subsidiary that is a "bank," as defined in section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)), and that is a transfer agent of securities, a municipal securities dealer, a clearing agency, or a participant in a clearing agency (as those terms are defined in section 3(a) of the Securities Exchange Act, (12 U.S.C. 78c(a)), shall be subject to sections 208.8(f)-(j) of the Board's Regulation H (12 CFR 208.8(f)-(j)) as if it were a state member bank.

§ 225.5 Registration, reports, and inspections.

(a) *Registration of bank holding companies.* Each company shall register within 180 days after becoming a bank

holding company by furnishing information in the manner and form prescribed by the Board. A company that receives the Board's prior approval under subpart B of this regulation to become a bank holding company may complete this registration requirement through submission of its first annual report to the Board as required by paragraph (b) of this section.

(b) *Reports of bank holding companies.* Each bank holding company shall furnish, in the manner and form prescribed by the Board, an annual report of the company's operations for the fiscal year in which it becomes a bank holding company, and for each fiscal year during which it remains a bank holding company. Additional information and reports shall be furnished as the Board may require.

(c) *Examinations and inspections.* The Board may examine or inspect any bank holding company and each of its subsidiaries and prepare a report of their operations and activities. With respect to a foreign banking organization, the Board may also examine any branch or agency of a foreign bank in any state of the United States and may examine or inspect each of the organization's subsidiaries in the United States and prepare reports of their operations and activities. The Board will rely as far as possible on the reports of examination made by the primary federal or state supervisor of the subsidiary bank of a bank holding company or of the branch or agency of the foreign bank.

§ 225.6 Penalties for violations.

(a) *Criminal and civil penalties.* Section 8 of the BHC Act provides criminal penalties for willful violation, and civil penalties for violation, by any company or individual of the BHC Act or any regulation or order issued under it, or for making a false entry in any book, report, or statement of a bank holding company. Civil money penalty assessments for violations of the BHC Act shall be made in accordance with subpart B of the Board's Rules of Practice for Hearings (12 CFR 263, Subpart B). For any willful violation of the Bank Control Act or any regulation or order issued under it, the Board may assess a civil penalty as provided in 12 U.S.C. 1817(j)(15).

(b) *Cease and desist proceedings.* For any violation of the BHC Act, the Bank Control Act, this regulation, or any order or notice issued thereunder, the Board may institute a cease and desist proceeding in accordance with the Financial Institutions Supervisory Act of 1966, as amended (12 U.S.C. 1818(b) *et seq.*).

Subpart B—Acquisition of Bank Securities or Assets

§ 225.11 Transactions requiring Board approval.

The following transactions require an application for the Board's prior approval under section 3 of the BHC Act unless otherwise exempted under § 225.12 of this subpart:

(a) *Formation of bank holding company.* Any action that causes a bank or other company to become a bank holding company.

(b) *Acquisition of subsidiary bank.* Any action that causes a bank to become a subsidiary of a bank holding company.

(c) *Acquisition of control of bank or bank holding company securities.* The acquisition by a bank holding company of direct or indirect ownership or control of any voting securities of a bank or bank holding company, if the acquisition results in the company's control of more than 5 percent of the outstanding shares of any class of voting securities of the bank or bank holding company. An acquisition includes the purchase of additional securities through the exercise of preemptive rights, but does not include securities received in a stock dividend or stock split that does not alter the bank holding company's proportional share of any class of voting securities.

(d) *Acquisition of bank assets.* The acquisition by a bank holding company or by a subsidiary thereof (other than a bank) of all or substantially all of the assets of a bank.

(e) *Merger of bank holding companies.* The merger or consolidation of bank holding companies, including a merger through the purchase of assets and assumption of liabilities.

§ 225.12 Transactions not requiring Board approval.

The following transactions do not require the Board's approval under § 225.11 of this subpart:

(a) *Acquisition of securities in fiduciary capacity.* The acquisition by a bank or other company (other than a trust that is a company) of control of voting securities of a bank or bank holding company in good faith in a fiduciary capacity, unless:

(1) The acquiring bank or other company has sole discretionary authority to vote the securities and retains the authority for more than two years; or

(2) The acquisition is for the benefit of the acquiring bank or other company, or its shareholders, employees, or subsidiaries.

(b) *Acquisition of securities in satisfaction of debts previously contracted.* The acquisition by a bank or other company of control of voting securities of a bank or bank holding company in the regular course of securing or collecting a debt previously contracted in good faith, if the acquiring bank or other company divests the securities within two years of acquisition. The Board or Reserve Bank may grant requests for up to three one-year extensions.

(c) *Acquisition of securities by a bank holding company with majority control.* The acquisition by a bank holding company of additional voting securities of a bank or bank holding company if more than 50 percent of the outstanding voting securities of the bank or bank holding company is lawfully controlled by the acquiring bank holding company prior to the acquisition.

(d) *Transactions subject to Bank Merger Act.* The merger or consolidation of a subsidiary bank of a bank holding company with another bank, or the purchase of assets by such a subsidiary bank, or a similar transaction involving subsidiary banks of a bank holding company, if the transaction requires the prior approval of a Federal supervisory agency under the Bank Merger Act (12 U.S.C. 1828(c)). This exception does not include: (1) the merger of a nonsubsidiary bank and a nonoperating subsidiary bank formed by a company for the purpose of acquiring the nonsubsidiary bank; and (2) any transaction requiring the Board's prior approval under section 225.11(e) of this subpart. The Board may require an application under this subpart if it determines that the merger or consolidation would have a significant adverse impact on the financial condition of the bank holding company or otherwise requires approval under section 3 of the BHC Act.

(e) *Holding securities in escrow.* The holding of any voting securities of a bank or bank holding company in an escrow arrangement for the benefit of an applicant pending the Board's action on an application for approval of the proposed acquisition, if title to the securities and the voting rights remain with the seller and payment for the securities has not been made to the seller.

§ 225.13 Factors considered in acting on bank applications.

(a) *Prohibited anticompetitive transactions.* As specified in sections 3(c) (1) and (2) of the BHC Act, the Board may not approve any application under this subpart if:

(1) The transaction would result in a monopoly or would further any combination or conspiracy to monopolize, or to attempt to monopolize, the business of banking in any part of the United States; or

(2) The effect of the transaction may be substantially to lessen competition in any section of the country, tend to create a monopoly, or in any other manner be in restraint of trade, unless the Board finds that the transaction's anticompetitive effects are clearly outweighed by its probable effect in meeting the convenience and needs of the community.

(b) *Other factors.* In deciding applications under this subpart, the Board also considers the following factors with respect to the applicant, its subsidiaries, any banks related to the applicant through common ownership or management, and the bank or banks to be acquired:

(1) *Financial condition.* Their financial condition and future prospects, including whether current and projected capital positions and levels of indebtedness conform to standards and policies established by the Board.

(2) *Management.* The competence and character of the principals of the applicant and banks or bank holding companies concerned; their record of compliance with laws and regulations; and applicant's record of fulfilling any commitments to, and any conditions imposed by, the Board in connection with prior applications.

(3) *Convenience and needs of the community.* The convenience and needs of the communities to be served, including the record of performance under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*) and regulations issued thereunder, including the Board's Regulation BB (12 CFR Part 228).

(c)(1) *Interstate transactions.* The Board may not approve any application under this subpart that would permit:

(i) The formation of a bank holding company that controls more than 5 percent of the outstanding shares of any class of voting securities of two or more banks located in different states; or

(ii) The acquisition by a bank holding company or by any of its subsidiaries of any voting securities of, any interest in, or substantially all of the assets of, an additional bank located in a state other than the state in which the operations of the banking subsidiaries of the bank holding company were principally conducted (as measured by total deposits) on July 1, 1966, or on the date on which the company became a bank holding company, whichever date is later.

(2) *Exceptions.* The prohibitions of this paragraph do not apply if:

(i) The Bank is located in a state that by statute expressly authorizes the acquisition of securities of, an interest in, or substantially all of the assets of, a bank within the state by an out-of-state bank holding company; or

(ii) The acquisition involves a closed or failing bank with assets of at least $500,000,000, and has been authorized under section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)).

§ 225.14 Procedures for applications, notices, and hearings.

(a) *Filing application.* An application for the Board's prior approval under this subpart shall be filed with the appropriate Reserve Bank on the designated form and shall comply with § 262.3 of the Rules of Procedure (12 CFR 262.3), which requires the applicant to publish newspaper notice of the application.

(b) *Notice.*—(1) *Notice to primary banning supervisor.* Upon receipt of an application under this subpart, the Reserve Bank shall promptly furnish notice and a copy of the application to the primary banking supervisor of the bank to be acquired. The primary supervisor shall have 30 calendar days from the date of the letter giving notice in which to submit its views and recommendations to the Board.

(2) *Federal Register notice.* Upon receipt by the Reserve Bank of an application under this section, notice of the application shall be promptly sent to the **Federal Register** for publication. The **Federal Register** notice shall invite comment on the application for a period of no more than 30 days.

(c) *Accepting application for processing.* Within 10 business days after the Reserve Bank receives an application under this section, the Reserve Bank shall accept it for processing, request additional information to complete the application, or return the application if it is substantially incomplete. If additional information is requested, the Reserve Bank shall, within 5 business days of receipt of the requested information, either accept the application for processing or return it to the applicant if it is still incomplete. Upon accepting an application, the Reserve Bank shall immediately send copies to the Board.

(d) *Action on applications.*—(1) *Action under delegated authority.* The Reserve Bank shall approve an application under this section within 30 calendar days after it has accepted the application, unless the Reserve Bank, upon notice to the applicant, refers the application to the Board for decision because action under delegated authority is not appropriate. Upon written notice to the applicant, the Reserve Bank may extend the 30-day period for 15 days. If the extension of time is to request necessary additional information, the 15-day period does not commence until after the Reserve Bank receives the requested information.

(2) *Board action.* The Board shall act on an application under this subpart that is referred to it for decision within 60 calendar days after the Reserve Bank has accepted the application, unless the Board notifies the applicant that the 60-day period is being extended for a specified period and states the reasons for the extension. In no event may the extension exceed the 91-day period provided in paragraph (g) of this section. The Board may request additional information that it believes is necessary for its decision.

(e) *Notice to Attorney General.* The Board or Reserve Bank shall immediately notify the Attorney General of approval of any application under this section.

(f) *Hearings.* As provided in section 3(b) of the Act, the Board shall order a hearing if it receives from the primary supervisor of the bank to be acquired, within the 30-day period specified in paragraph (b)(1) of this section, a written recommendation of disapproval of an application. The Board may order a formal or informal hearing or other proceeding on the application, as provided in section 262.3(i)(2) of the Board's Rules of Procedure. Any request for hearing (other than from the primary supervisor) shall comply with section 262.3(e) of the Rules of Procedure (12 CFR 262.3(e)).

(g) *Approval through failure to act.*—(1) *Ninety-one day rule.* An application under this subpart shall be deemed approved if the Board fails to act on the application within 91 calendar days after the date of submission to the Board of the complete record on the application. For this purpose, the Board acts when it issues an order stating that the Board has approved or denied the application, reflecting the votes of the members of the Board, and indicating that a statement of the reasons for the decision will follow promptly.

(2) *Complete record.* For the purpose of computing the commencement of the 91-day period, the record is complete on the latest of:

(i) The date of receipt by the Board of an application that has been accepted by the Reserve Bank;

(ii) The last day provided in any notice for receipt of comments and hearing requests on the application;

(iii) The date of receipt by the Board of the last relevant material regarding the application that is needed for the Board's decision, if the material is received from a source outside of the Federal Reserve System; or

(iv) The date of completion of any hearing or other proceeding.

(h) *Exceptions to notice and hearing requirements.*—(1) *Probable bank failure.* If the Board finds it must act immediately on an application in order to prevent the probable failure of a bank or bank holding company, the Board may modify or dispense with the notice and hearing requirements provided in this section.

(2) *Emergency.* If the Board finds that, although immediate action on an application is not necessary, an emergency exists requiring expeditious action, the Board shall provide the primary supervisor ten days to submit its recommendation. The Board may act on such an application without a hearing and may modify or dispense with the other notice and hearing requirements provided in this section.

(i) *Waiting period.* A transaction approved under this subpart shall not be consummated until thirty days after the date of approval of the application, unless the Board has determined under paragraph (h) of this section that: (1) the application involves a probable bank failure, in which case the transaction may be consummated immediately upon approval; or (2) an emergency exists requiring expeditious action, in which case the transaction may be consummated on or after the fifth calendar day following approval.

Subpart C—Nonbanking Activities and Acquisitions by Bank Holding Companies

§ 225.21 Prohibited nonbanking activities and acquisitions; exempt bank holding companies.

(a) *Prohibited nonbanking activities and acquisitions.* Except as provided in § 225.22 of this subpart, a bank holding company or a subsidiary may not engage in, or acquire or control, directly or indirectly, voting securities or assets of a company engaged in, any activity other than:

(1) Banking or managing or controlling banks and other subsidiaries authorized under the BHC Act; and

(2) An activity that the Board determines to be so closely related to banking or managing or controlling banks as to be a proper incident thereto, including any incidental activities that are necessary to carry on such an activity, if the bank holding company has obtained the prior approval of the Board for that activity in accordance with and subject to the requirements of this regulation.

(b) *Exempt bank holding companies.* The following bank holding companies are exempt from the provisions of this subpart:

(1) *Family-owned companies.* Any company that is a "company covered in 1970," as defined in section 2(b) of the BHC Act, more than 85 percent of the voting securities of which was collectively owned on June 30, 1968, and continuously thereafter, by members of the same family (or their spouses) who are lineal descendants of common ancestors.

(2) *Labor, agricultural, and horticultural organizations.* Any company that was on January 4, 1977, both a bank holding company and a labor, agricultural, or horticultural organization exempt from taxation under section 501 of the Internal Revenue Code (26 U.S.C. 501(c)).

(3) *Companies granted hardship exemption.* Any bank holding company that has controlled only one bank since before July 1, 1968, and that has been granted an exemption by the Board under section 4(d) of the BHC Act, subject to any conditions inposed by the Board.

(4) *Companies granted exemption on other grounds.* Any company that acquired control of a bank before December 10, 1982, without the Board's prior approval under section 3 of the BHC Act, on the basis of a narrow interpretation of the term "demand deposit" or "commercial loan" if the Board has determined that: (i) coverage of the company as a bank holding company under this subpart would be unfair or represent an unreasonable hardship; and (ii) exclusion of the company from coverage under this regulation is consistent with the purposes of the BHC Act and section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971, 1972(1)). The provisions of section 225.4 of subpart A of this regulation are not applicable to a company exempt under this paragraph.

§ 225.22 Exempt nonbanking activities and acquisitions.

(a) *Servicing activities.* A bank holding company may, without the Board's prior approval under this subpart, furnish services to or perform services for, or establish or acquire a company that engages solely in furnishing services to or performing services for:

(1) The bank holding company or its subsidiaries in connection with their activities as authorized by law, including services that are necessary to fulfill commitments entered into by the subsidiaries with third parties, if the bank holding company or servicing company complies with the Board's published interpretations and does not act as principal in dealing with third parties; and

(2) The internal operations of the bank holding company or its subsidiaries. Services for the internal operations of the bank holding company or its subsidiaries include, but are not limited to: (i) accounting, auditing, and appraising; (ii) advertising and public relations; (iii) data processing and data transmission services, data bases or facilities; (iv) personnel services; (v) courier services; (vi) holding or operating property used wholly or substantially by a subsidiary in its operations or for its future use; (vii) liquidating property acquired from a subsidiary; (viii) liquidating property acquired from any sources either prior to May 9, 1956, or the date on which the company became a bank holding company, whichever is later; and (ix) selling, purchasing, or underwriting insurance such as blanket bond insurance, group insurance for employees, and property and casualty insurance.

(b) *Safe deposit business.* A bank holding company or nonbank subsidiary may, without the Board's prior approval, conduct a safe deposit business, or acquire voting securities of a company that conducts such a business.

(c) *Nonbanking acquisitions not requiring prior Board approval.* The Board's prior approval is not required under this subpart for the following acquisitions:

(1) *DPC acquisitions.* (i) Voting securities or assets, acquired by foreclosure or otherwise, in the ordinary course of collecting a debt previously contracted ("DPC property") in good faith, if the DPC property is divested within two years of acquisition.

(ii) The Board may, upon request, extend this two-year period for up to three additional one-year periods. The Board may permit additional extensions for up to 5 years (for a total of 10 years), for real estate or other assets that are demonstrated by the bank holding company to have value and marketability characteristics similar to real estate.

(iii) Transfers of DPC property within the bank holding company system do not extend any period for divestiture of the property.

(2) *Securities or assets required to be divested by subsidiary.* Voting securities or assets required to be divested by a subsidiary at the request of an examining federal or state authority (except by the Board under the BHC Act or this regulation), if the bank holding company divests the securities or assets within two years from the date acquired from the subsidiary.

(3) *Fiduciary investments.* Voting securities or assets acquired by a bank or other company (other than a trust that is a company) in good faith in a fiduciary capacity, if the voting securities or assets are:

(i) Held in the ordinary course of business; and

(ii) Not acquired for the benefit of the company or its shareholders, employees, or subsidiaries.

(4) *Securities eligible for investment by a national bank.* Voting securities of the kinds and amounts explicitly eligible by federal statute (other than section 4 of the Bank Service Corporation Act, 12 U.S.C. 1864) for investment by a national bank, and voting securities acquired prior to June 30, 1971, in reliance on section 4(c)(5) of the BHC Act and interpretations of the Comptroller of the Currency under section 5136 of the Revised Statutes (12 U.S.C. 24(7)).

(5) *Securities or property representing 5 percent or less of a company.* Voting securities of a company or property that, in the aggregate, represent 5 percent or less of the outstanding shares of any class of voting securities of a company or a 5 ;percent interest or less in the property, subject to the provisions of 12 CFR 225.137.

(6) *Securities of investment company.* Voting securities of an investment company that is solely engaged in investing in securities and that does not own or control more than 5 percent of the outstanding shares of any class of voting securities of any company.

(7) *Assets acquired in the ordinary course of business.* Assets of a company acquired in the ordinary course of business, subject to the provisions of 12 CFR 225.132, if the assets relate to activities in which the acquiring company has previously received Board approval under this regulation to engage in the geographic areas to be served.

(8) *Asset acquisitions by consumer finance or mortgage company or industrial bank.* Assets of an office(s) of a company, all or substantially all of which relate to making, acquiring, or servicing loans for personal, family, or household purposes, if:

(i) The acquiring company has previously received Board approval under this regulation to engage in consumer finance, residential mortgage banking, or industrial banking activities in the geographic areas to be served by the acquired office(s);

(ii) The assets acquired during any twelve-month period do not represent more than 25 percent of the assets (on a consolidated basis) of the acquiring consumer finance company, mortgage company or industrial bank, or more than $25 million, whichever amount is less;

(iii) The assets acquired do not represent more than 50 percent of the selling company's consolidated assets that are devoted to the consumer finance, residential mortgage banking, or industrial banking business;

(iv) The acquiring company notifies the Reserve Bank of the acquisition within 30 days after the acquisition; and

(v) The acquiring company, after giving effect to the transaction, meets the Board's Capital Adequacy Guidelines (Appendix A to Subparts A through E) and the Board has not previously notified the acquiring company that it may not acquire assets under the exemption in this paragraph.

(d) *Acquisition of securities by subsidiary banks.*—(1) *National bank.* A national bank or its subsidiary may, without the Board's approval under this subpart, acquire or retain securities on the basis of section 4(c)(5) of the BHC Act in accordance with the regulations of the Comptroller of the Currency.

(2) *State bank.* A state-chartered bank or its subsidiary may, insofar as federal law is concerned and without the Board's prior approval under this subpart: (i) acquire or retain securities, on the basis of section 4(c)(5) of the BHC Act, of the kinds and amounts explicitly eligible by federal statute for investment by a national bank; or (ii) acquire or retain all (but, except for directors' qualifying shares, not less than all) of the securities of a company that engages solely in activities in which the parent bank may engage, at locations at which the bank may engage in the activity, and subject to the same limitations as if the bank were engaging in the activity directly.

(e) *Activities and securities of new bank holding companies.* A company that becomes a bank holding company may, for a period of two years, engage in nonbanking activities and control voting securities or assets of a nonbank subsidiary, if the bank holding company engaged in such activities or controlled such voting securities or assets on the date it became a bank holding company. The Board may grant requests for up to three one-year extensions of the two-year period.

(f) *Grandfathered activities and securities.* Unless the Board orders divestiture or termination under section 4(a)(2) of the BHC Act, a "company covered in 1970," as defined in section 2(b) of the BHC Act, may:

(1) Retain voting securities or assets and engage in activities that it has lawfully held or engaged in continuously since June 30, 1968; and

(2) Acquire voting securities of any newly-formed company to engage in such activities.

(g) *Securities or activities exempt under Regulation K.* A bank holding company may acquire voting securities or assets and engage in activities as authorized in Regulation K (12 CFR Part 211).

§ 225.23 Procedures for applications, notices, and hearings.

(a) *Application or notice required for nonbanking activities.* An application or notice for the Board's prior approval under § 225.21(a) of this subpart for the following transactions shall be filed by a bank holding company with the appropriate Reserve Bank on the designated form in accordance with the Board's Rules of Procedure (12 CFR 262.2):

(1) *Engaging de novo in listed nonbanking activities.* A notice is required to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity listed in § 225.25 of this subpart. The applicant may commence the activity 30 days after receipt by the Reserve Bank of the notice unless the Reserve Bank within the 30-day period:

(i) Returns the notice because it is incomplete or requires an application under paragraph (a) (2) or (3) of this section;

(ii) Notifies the company that it may consummate the transaction at an earlier date;

(iii) Extends the 30-day period for an additional 15 days; or

(iv) Refers the notice to the Board for decision because substantive adverse comment is received or it otherwise appears appropriate.

If the 30-day period is extended by the Reserve Bank to request necessary additional information, the 15-day period does not commence until after the Reserve Bank receives the requested information. The Reserve Bank shall promptly send a copy of any notice received under this paragraph to the Board.

(2) *Acquiring a company engaged in listed nonbanking activities.* An application is required to acquire or control voting securities or assets of a company engaged in a permissible

nonbanking activity listed in § 225.25 of this subpart.

(3) *Engaging in or acquiring a company to engage in unlisted nonbanking activities.* An application is required to commence or to engage *de novo*, or to acquire or control voting securities or assets of a company engaged in, any activity not listed in § 225.25 of this subpart. The application shall contain evidence that the proposed activity is so closely related to banking or managing or controlling banks as to be a proper incident thereto.

(b) *Notice to expand or alter nonbanking activities.*—(1) *De novo expansion.* A notice under paragraph (a)(1) of this section is required to open a new office or to form a subsidiary to engage in, or to relocate an existing office engaged in, a nonbanking activitiy that the Board has previously approved for the bank holding company under this regulation, only if:

(i) The Board's prior approval was limited geographically;

(ii) The activity is to be conducted in a country outside of the United States and the bank holding company has not previously received prior Board approval under this regulation to engage in the activity in that country; or

(iii) The Board or appropriate Reserve Bank has notified the company that a notice under paragraph (a)(1) of this section is required.

The Board may require an application under paragraph (a)(2) or (a)(3) of this section instead of a notice.

(2) *Activities outside United States.* With respect to activities to be engaged in outside the United States that require approval under this subpart, the procedures of this section apply only to activities to be engaged in directly by a bank holding company that is not a qualifying foreign banking organization or by a nonbank subsidiary of a bank holding company approved under this subpart. Regulation K (12 CFR Part 211) governs other international operations of bank holding companies.

(3) *Alteration of nonbanking activity.* A notice under paragraph (a)(1) of this section is required to alter a nonbanking activity in any material respect from that considered by the Board in acting on the application or notice to engage in the activity. The Board may require an application under paragraph (a) (2) or (3) of this section instead of a notice.

(c) *Accepting application for processing.* Withing 10 business days after the Reserve Bank receives an application under this section, the Reserve Bank shall accept it for processing, request additional information to complete the application, or return the application to the applicant if it is substantially incomplete. If additional information is requested, the Reserve Bank shall, within 5 business days of receipt of the requested information, either accept the application for processing or return the application to the applicant if it is still incomplete. Upon accepting an application, the Reserve Bank shall immediately send copies to the Board.

(d) *Federal Register notice.*—(1) *Listed activities.* Upon receipt by the Reserve Bank of an application or notice involving an activity listed in § 225.25 of this subpart, notice of the application or proposal shall be promptly sent to the **Federal Register** for publication. The **Federal Register** notice shall invite comment for a period of not more than 30 days.

(2) *Unlisted activities.* In the case of an application under this section involving an activity not listed in § 225.25 of this subpart, the Board shall, within 10 business days of acceptance by the Reserve Bank, send notice of the application to the **Federal Register** for publication, unless the Board determines that the applicant has not demonstrated that the activity is so closely related to banking or to managing or controlling banks as to be a proper incident thereto. The Board may extend the 10-day period for an additional 30 calendar days upon notice to the applicant. In the event notice of an application is not published for comment, the Board shall inform the applicant of the reasons for the decision. The **Federal Register** notice shall invite comment on the proposal for a reasonable period of time, generally for 30 days.

(e) *Action on applications.*—(1) *Action under delegated authority.* The Reserve Bank shall approve an application under paragraph (a)(2) of this section within 30 calendar days after it has accepted the application, unless the Reserve Bank, upon notice to the applicant, refers the application to the Board for decision because action under delegated authority is not appropriate. Upon written notice to the applicant, the Reserve Bank may extend the 30-day period for 15 days. If the extension of time is to request necessary additional information, the 15-day period does not commence until the Reserve Bank receives the requested information.

(2) *Board action.* The Board shall act on an application or notice under this secton that is referred to it for decision within 60 calendar days after the Reserve Bank has accepted the application or received the notice, unless the Board notifies the applicant that the 60-day period is being extended for a specified period and explains the reasons for the extension. In no event may the extension exceed the 91-day period specified in paragraph (h) of this section. The Board may request additional information that it believes is necessary for its decision.

(f) *Expedited procedure for small acquisitions.*—(1) *Filing notice.* As an alternative to the application procedure of paragraph (a)(2) of this section, a bank holding company may apply to acquire voting securities or assets of a company engaged in an activity listed in § 225.25 of this subpart by: (i) providing the appropriate Reserve Bank with a description of the transaction; and either (ii) submitting a copy of a newspaper notice in the form prescribed by the Board; or (iii) requesting the Board to publish notice of the application in the **Federal Register**. The newspaper notice shall be published in a newspaper of general circulation in the areas to be served as a result of the acquisition and shall provide an opportunity for interested persons to comment on the application for a period of at least 10 calendar days. If the applicant elects **Federal Register** notice, the notice shall provide an opportunity for interested persons to comment for a period of at least 15 calendar days.

(2) *Criteria for use of expedited procedure.* The procedure in this paragraph is available only if:

(i) Neither the book value of the assets to be acquired nor the gross consideration to be paid for the securities or assets exceeds $15 million;

(ii) The bank holding company has previously received Board approval to engage in the activity involved in the acquisition; and

(iii) The bank holding company meets the Board's Capital Adequacy Guidelines (Appendix A to Subparts A through E).

(3) *Action on application.* Within 5 business days after the close of the comment period specified in the **Federal Register** notice or within 15 calendar days after receipt by the Reserve Bank of the newspaper notice, the Reserve Bank shall either approve the application or refer it to the Board for decision if action under delegated authority is not appropriate. The Board shall act on an application under this paragraph that is referred to it for decision in accordance with paragraph (e)(2) of this section. The Reserve Bank, upon written notice to the applicant, may extend the time period for approval under this paragraph for a reasonable period of time not to exceed 30 days. The Reserve Bank or the Board may require an application under paragraph (a)(2) of this section.

(g) *Hearing.* Any request for a hearing on an application or notice under this section shall comply with the provisions of § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)). The Board may order a formal or informal hearing or other proceeding on an application, as provided in § 262.3(i)(2) of the Rules of Procedure (12 CFR 262.3(i)(2)). The Board shall order a hearing only if there are disputed issues of material fact that cannot be resolved in some other manner.

(h) *Approval through failure to act; 91-day rule.* An application or notice under this subpart shall be deemed approved if the Board fails to act on the application or notice within 91 calendar days after the date of submission to the Board of the complete record on the application or notice. The procedures for computation of the 91-day rule as set forth in § 225.14(g) of Subpart B of this regulation apply to applications and notices under this subpart.

(i) *Emergency thrift institution acquisitions.* In the case of an application to acquire a thrift institution, the Board may modify or dispense with the notice and hearing requirements of this section if the Board finds that an emergency exists that requires the Board to act immediately and the primary Federal regulator of the institution concurs.

§ 225.24 Factors considered in acting on nonbanking applications.

In evaluating an application or notice under section 225.23 of this subpart, the Board shall consider whether the performance by the applicant of the activity can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, the gains in efficiency) that outweigh possible adverse effects (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, and unsound banking practices). This consideration includes an evaluation of the financial and managerial resources of the applicant, including its subsidiaries, and any company to be acquired, and the effect of the proposed transaction on those resources. Unless the record demonstrates otherwise, the commencement or expansion of a nonbanking activity *de novo* is presumed to result in benefits to the public through increased competition.

§ 225.25 List of permissible nonbanking activities.

(a) *Closely related nonbanking activities.* The activities listed below are so closely related to banking or managing or controlling banks as to be a proper incident thereto and may be engaged in by a bank holding company or a subsidiary thereof in accordance with and subject to the requirements of this regulation.

(b)(1) *Making and servicing loans.* Making, acquiring, or servicing loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the company's account or for the account of others, such as would be made, for example, by the following types of companies: (i) consumer finance; (ii) credit card; (iii) mortgage; (iv) commercial finance; and (v) factoring.

(2) *Industrial banking.* Operating an industrial bank, Morris Plan bank, or industrial loan company, as authorized under state law, so long as the institution is not a bank.

(3) *Trust company functions.* Performing functions or activities that may be performed by a trust company (including activities of a fiduciary, agency, or custodial nature), in the manner authorized by federal or state law, so long as the institution is not a bank and does not make loans or investments or accept deposits other than:

(i) Deposits that are generated from trust funds not currently invested and that are properly secured to the extent required by law;

(ii) Deposits representing funds received for a special use in the capacity of managing agent or custodian for an owner of, or investor in, real property, securities, or other personal property; or for such owner or investor as agent or custodian of funds held for investment or as escrow agent; or for an issuer of, or broker or dealer in securities, in a capacity such as a paying agent, dividend disbursing agent, or securities clearing agent; provided such deposits are not employed by or for the account of the customer in the manner of a general purpose checking account or interest-bearing account; or

(iii) Making call loans to securities dealers or purchasing money market instruments such as certificates of deposit, commercial paper, government or municipal securities, and bankers acceptances. (Such authorized loans and investments, however, may not be used as a method of channeling funds to nonbanking affiliates of the trust company.)

(4) *Investment or financial advice.* Acting as investment or financial advisor to the extent of:

(i) Serving as the advisory company for a mortgage or a real estate investment trust;

(ii) Serving as investment adviser (as defined in section 2(a)(20) of the Investment Company Act of 1940, 15 U.S.C. 80a-2(a)(20)), to an investment company registered under that act, including sponsoring, organizing, and managing a closed-end investment company;

(iii) Providing portfolio investment advice [1] to any other person;

(iv) Furnishing general economic information and advice, general economic statistical forecasting services and industry studies; [2] and

(v) Providing financial advice to state and local governments, such as with respect to the issuance of their securities.

(5) *Leasing personal or real property.* Leasing personal or real property or acting as agent, broker, or adviser in leasing such property if:

(i) The lease is to serve as the functional equivalent of an extension of credit to the lessee of the property;

(ii) The property to be leased is acquired specifically for the leasing transaction under consideration or was acquired specifically for an earlier leasing transaction;

(iii) The lease is on a nonoperating basis;[3]

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[1] The term "portfolio investment" is intended to refer generally to the investment of funds in a "security" as defined in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b) or in real property interests, except where the real property is to be used in the trade or business of the person being advised. In furnishing portfolio investment advice, bank holding companies and their subsidiaries shall observe the standards of care and conduct applicable to fiduciaries.

[2] This is to be contrasted with "management consulting," which the Board views as including, but not limited to, the provision of analysis or advice as to a firm's (A) purchasing operations, such as inventory control, sources of supply, and cost minimization subject to constraints; (B) production operations, such as quality control, work measurement, product methods, scheduling shifts, time and motion studies, and safety standards; (C) marketing operations, such as market testing, advertising programs, market development, packaging, and brand development; (D) planning operations, such as demand and cost projections, plant location, program planning, corporate acquisitions and mergers, and determination of long-term and short-term goals; (E) personnel operations, such as recruitment, training, incentive programs, employee compensation, and management-personnel relations; (F) internal operations, such as taxes, corporate organization, budgeting systems, budget control, data processing systems evaluation, and efficiency evaluation; or (G) research operations, such as product development, basic research, and product design and innovation. The Board has determined that "management consulting" is not an activity that is so closely related to banking or managing or controlling banks as to be a proper incident thereto.

[3] For purposes of the leasing of automobiles, the requirement that the lease be on a nonoperating basis means that the bank holding company may not, directly or indirectly: (A) provide for the servicing, repair, or maintenance of the leased vehicle during the lease term; (B) purchase parts and accessories in bulk or for an individual vehicle

Continued

(iv) At the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions[4]) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease,[5] from:

(A) Rentals;

(B) Estimated tax benefits (investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect);

(C) The estimated residual value of the property at the expiration of the initial term of the lease, which in no case shall exceed 20 percent of the acquisition cost of the property to the lessor; and

(D) In the case of a lease of personal property of not more than seven years in duration, such additional amount, which shall not exceed 60 percent of the acquisition cost of the property, as may be provided by an unconditional guarantee by a lessee, independent third party, or manufacturer, which has been determined by the lessor to have the financial resources to meet such obligation, that will assure the lessor of recovery of its investment and cost of financing;

(v) The maximum lease term during which the lessor must recover the lessor's full investment in the property, plus the estimated total cost of financing the property, shall be 40 years; and

(vi) At the expiration of the lease (including any renewals or extensions with the same lessee), all interest in the property shall be either liquidated or released on a nonoperating basis as soon as practicable but in no event later than two years from the expiration of the lease;[6] however, in no case shall the lessor retain any interest in the property beyond 50 years after its acquisition of the property.

(6) *Community development.* Making equity and debt investments in corporations or projects designed primarily to promote community welfare, such as the economic rehabilitation and development of low-income areas by providing housing, services, or jobs for residents.

(7) *Data processing.* Providing to others data processing and data transmission services, facilities (including data processing and data transmission hardware, software, documentation or operating personnel), data bases, or access to such services, facilities, or data bases by any technological means, if:

(i) The data to be processed or furnished are financial, banking, or economic, and the services are provided pursuant to a written agreement so describing and limiting the services;

(ii) The facilities are designed, marketed, and operated for the processing and transmission of financial, banking, or economic data; and

(iii) The hardware provided in connection therewith is offered only in conjunction with software designed and marketed for the processing and transmission of financial, banking, or economic data, and where the general purpose hardware does not constitute more than 30 percent of the cost of any packaged offering.

(8) *Insurance sales.* Except as prohibited in Title VI of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1843(c)(8)), acting as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business (or in an office adjacent thereto) with respect to the following types of insurance:

(i) Any insurance that (A) is directly related to an extension of credit by a bank or bank-related firm of the kind described in this regulation, or (B) is directly related to the provision of other financial services by a bank or such a bank-related firm; and

(ii) Any insurance sold by a bank holding company or a nonbanking subsidiary in a community that has a population not exceeding 5,000 (as shown by the last preceding decennial census), if the principal place of banking business of the bank holding company is located in a community having a population not exceeding 5,000.

(9) *Underwriting Credit Life, Accident and Health Insurance.* Acting as underwriter for credit life insurance and credit accident and health insurance that is directly related to an extension of credit by the bank holding company system.[7]

(10) *Courier services.* Providing courier services for:

(i) Checks, commercial papers, documents, and written instruments (excluding currency or bearer-type negotiable instruments) that are exchanged among banks and financial institutions; and

(ii) Audit and accounting media of a banking or financial nature and other business records and documents used in processing such media.[8]

(11) *Management consulting to depository institutions.* Providing management consulting advice [9] to nonaffiliated bank and nonbank depository institutions, including commercial banks, savings and loan associations, mutual savings banks, credit unions, industrial banks, Morris Plan banks, cooperative banks, and industrial loan companies, if:

(i) Neither the bank holding company nor any of its subsidiaries own or control, directly or indirectly, any equity securities in the client institution;

(ii) No management official, as defined in 12 CFR 212.2(h), of the bank holding company or any of its subsidiaries serves as a management official of the client institution, except

after the lessee has taken delivery of the vehicle; (C) provide for the loan of an automobile during servicing of the leased vehicle; (D) purchase insurance for the lessee; or (E) provide for the renewal of the vehicle's license merely as a service to the lessee where the lessee could renew the license without authorization from the lessor.

[4] The Board understands that some federal, state and local governmental entities may not enter into a lease for a period in excess of one year. Such an impediment does not prohibit a company authorized to conduct leasing activities under this paragraph from entering into a lease with such governmental entities if the company reasonably anticipates that the governmental entities will renew the lease annually until such time as the company is fully compensated for its investment in the leased property plus its costs of financing the property. Further, a company authorized to conduct personal property leasing activities under this paragraph may also engage in so-called "bridge" lease financing of personal property, but not real property, if the lease is short-term pending completion of long-term financing, by the same or another lender.

[5] The estimate by the lessor of the total cost of financing the property over the term of the lease should reflect, among other factors: the term of the lease, the modes of financing available to the lessor, the credit rating of the lessor and/or the lessee, if a factor in the financing, and prevailing rates in the money and capital markets.

[6] In the event of a default on a lease agreement prior to the expiration of the lease term, the lessor shall either release the property, subject to all the conditions of this paragraph, or liquidate the property as soon as practicable but in no event later than two years from the date of default on a lease agreement or such additional time as the Board may permit under section 225.22(c)(1) of this regulation, as if the property were DPC property.

[7] To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

[8] See also the Board's interpretation on courier activities (12 CFR 225.129), which sets forth conditions for bank holding company entry into the activity.

[9] A bank holding company that has received the Board's prior approval to engage in offering management consulting advice to nonaffiliated commercial banks as of April 20, 1982, may offer such advice on a *de novo* basis to nonbank depository institutions pursuant to this paragraph without filing an application under section 225.23 of this subpart.

where such interlocking relationships are permitted pursuant to an exemption granted under 12 CFR 212.4(b);

(iii) The advice is rendered on an explicit fee basis without regard to correspondent balances maintained by the client institution at any depository institution subsidiary of the bank holding company; and

(iv) Disclosure is made to each potential client institution of (A) the names of all depository institutions that are affiliates of the consulting company, and (B) the names of all existing client institutions located in the same county(ies), Metropolitan Statistical Area, or Primary Metropolitan Statistical Area as the client institution.[10]

(12) *Money orders, savings bonds, and travelers checks.* The issuance and sale at retail of money orders and similar consumer-type payment instruments having a face value of not more than $1,000; the sale of U.S. savings bonds; and the issuance and sale of travelers checks.

(13) *Real estate appraising.* Performing appraisals of real estate.

(14) *Arranging commercial real estate equity financing.* Acting as intermediary for the financing of commercial or industrial income-producing real estate by arranging for the transfer of the title, control and risk of such a real estate project to one or more investors, if:

(i) The financing arranged exceeds $1 million;

(ii) The bank holding company and its affiliates do not provide financing to the investors to acquire a real estate project for which the bank holding company arranges equity financing;

(iii) The bank holding company and its affiliates do not have an interest in or participate in managing, developing or syndicating a real estate project for which it arranges equity financing, and do not promote or sponsor the development or syndication of such property; and

(iv) The fee received for arranging equity financing for a real estate project is not based on profits to be derived from the project and is not larger than the fee that would be charged by an unaffiliated intermediary.

(15) *Securities Brokerage.* Providing securities brokerage services, related securities credit activities pursuant to the Board's Regulation T (12 CFR Part 220), and incidental activities such as offering custodial services, individual retirement accounts, and cash management services, if the securities brokerage services are restricted to buying and selling securities solely as agent for the account of customers and do not include securities underwriting or dealing or investment advice or research services.

(16) *Underwriting and dealing in government obligations and money market instruments.* Underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335, including bankers' acceptances and certificates of deposit, under the same limitations as would be applicable if the activity were performed by the bank holding company's subsidiary member banks or its subsidiary nonmember banks as if they were member banks.

(17) *Foreign exchange advisory and transactional services.* Providing, by any means, general information and statistical forecasting with respect to foreign exchange markets; advisory services designed to assist customers in monitoring, evaluating and managing their foreign exchange exposures; and transactional services with respect to foreign exchange by arranging for "swaps" among customers with complementary foreign exchange exposures and for the execution of foreign exchange transactions; provided the activity is conducted through a separately incorporated subsidiary of the bank holding company that:

(i) Does not take positions in foreign exchange for its own account;

(ii) Observes the standards of care and conduct applicable to fiduciaries with respect to its foreign exchange advisory and transactional services; and

(iii) Does not itself execute foreign exchange transactions.

(18) *Futures commission merchant.* Acting as a futures commission merchant for nonaffiliated persons in the execution and clearance on major commodity exchanges of futures contracts and options on futures contracts for bullion, foreign exchange, government securities, certificates of deposit and other money market instruments that a bank may buy or sell in the cash market for its own account, if the activity is conducted through a separately incorporated subsidiary of the bank holding company that:

(i) Does not become a clearing member of any exchange or clearing association that requires the parent corporation of the clearing member to also become a member of that exchange or clearing association unless a waiver of the requirement is obtained;

(ii) Does not trade for its own account except for the purpose of hedging a cash position in the related government security, bullion, foreign currency, or money market instrument;

(iii) Time stamps orders of all customers to the nearest minute, executes all orders strictly in chronological sequence to the extent consistent with the customers' specifications, and executes all orders with reasonable promptness with due regard to market conditions;

(iv) Does not extend credit to customers for the purpose of meeting initial or maintenance margins required of customers except for posting margin on behalf of customers in advance of prompt reimbursement; and

(v) Has and maintains capitalization fully adequate to meet its own commitments and those of its customers, including affiliates.

Subpart D—Control and Divestiture Proceedings

§ 225.31 Control proceedings.

(a) *Preliminary determination of control.* (1) The Board may issue a preliminary determination of control under the procedures set forth in this section in any case in which:

(i) Any of the presumptions of control set forth in paragraph (d) of this section is present; or

(ii) It otherwise appears that a company has the power to exercise a controlling influence over the management or policies of a bank or other company.

(2) If the Board makes a preliminary determination of control under this section, the Board shall send notice to the controlling company containing a statement of the facts upon which the preliminary determination is based.

(b) *Response to preliminary determination of control.* Within 30 calendar days of issuance by the Board of a preliminary determination of control or such longer period permitted by the Board, the company against whom the determination has been made shall:

(1) Submit for the Board's approval a specific plan for the prompt termination of the control relationship;

(2) File an application under subpart B or C of this regulation to retain the control relationship; or

[10] In performing this activity, bank holding companies are not authorized to perform tasks or operations or provide services to client institutions either on a daily or continuing basis, except as necessary to instruct the client institution on how to perform such services for itself. See also the Board's interpretation of bank management consulting advice (12 CFR 225.131). This interpretation shall apply to the performance of management consulting services for commercial banks and any other type of depository institution.

(3) Contest the preliminary determination by filing a response, setting forth the facts and circumstances in support of its position that no control exists, and, if desired, requesting a hearing or other proceeding.

(c) *Hearing and final determination.* (1) The Board shall order a formal hearing or other appropriate proceeding upon the request of a company that contests a preliminary determination that the company has the power to exercise a controlling influence over the management or policies of a bank or other company, if the Board finds that material facts are in dispute. The Board may also in its discretion order a formal hearing or other proceeding with respect to a preliminary determination that the company controls voting securities of the bank or other company under the presumptions in paragraph (d)(1) of this section.

(2) At a hearing or other proceeding, any applicable presumptions established by paragraph (d) of this section shall be considered in accordance with the Federal Rules of Evidence and the Board's Rules of Practice for Formal Hearings (12 CFR Part 263).

(3) After considering the submissions of the company and other evidence, including the record of any hearing or other proceeding, the Board shall issue a final order determining whether the company controls voting securities, or has the power to exercise a controlling influence over the management or policies, of the bank or other company. If a control relationship is found, the Board may direct the company to terminate the control relationship or to file an application for the Board's approval to retain the control relationship under subpart B or C of this regulation.

(d) *Rebuttable presumptions of control.* The following rebuttable presumptions shall be used in any proceeding under this section:

(1) *Control of voting securities.*—(i) *Securities convertible into voting securities.* A company that owns, controls, or holds securities that are immediately convertible, at the option of the holder or owner, into voting securities of a bank or other company, controls the voting securities.

(ii) *Option or restriction on voting securities.* A company that enters into an agreement or understanding under which the rights of a holder of voting securities of a bank or other company are restricted in any manner controls the securities. This presumption does not apply where the agreement or understanding:

(A) is a mutual agreement among shareholders granting to each other a right of first refusal with respect to their shares;

(B) Is incident to a *bona fide* loan transaction; or

(C) Relates to restrictions on transferability and continues only for the time necessary to obtain approval from the appropriate federal supervisory authority with respect to acquisition by the company of the securities.

(2) *Control over company.*—(i) *Management agreement.* A company that enters into any agreement or understanding with a bank or other company (other than an investment advisory agreement), such as a management contract, under which the first company or any of its subsidiaries directs or exercises significant influence over the general management or overall operations of the bank or other company controls the bank or other company.

(ii) *Shares controlled by company and associated individuals.* A company that, together with its management officials or principal shareholders (including members of the immediate families of either as defined in 12 CFR 206.2(k)), owns, controls, or holds with power to vote 25 percent or more of the outstanding shares of any class of voting securities of a bank or other company controls the bank or other company, if the first company owns, controls, or holds with power to vote more than 5 percent of the outstanding shares of any class of voting securities of the bank or other company.

(iii) *Common management officials.* A company that has one or more management officials in common with a bank or other company controls the bank or other company, if the first company owns, controls or holds with power to vote more than 5 percent of the outstanding shares of any class of voting securities of the bank or other company, and no other person controls as much as 5 percent of the outstanding shares of any class of voting securities of the bank or other company.

(iv) *Shares held as fiduciary.* The presumptions in paragraphs (d)(2) (ii) and (iii) of this section do not apply if the securities are held by the company in a fidicuary capacity without sole discretionary authority to exercise the voting rights.

(e) *Presumption of non-control.* (1) In any proceeding under this section, there is a presumption that any company that directly or indirectly owns, controls, or has power to vote less than 5 percent of the outstanding shares of any class of voting securities of a bank or other company does not have control over that bank or other company.

(2) In any proceeding under this section, or judicial proceeding under the BHC Act, other than a proceeding in which the Board has made a preliminary determination that a company has the power to exercise a controlling influence over the management or policies of the bank or other company, a company may not be held to have had control over the bank or other company at any given time, unless that company, at the time in question, directly or indirectly owned, controlled, or had power to vote 5 percent or more of the outstanding shares of any class of voting securities of the bank or other company, or had already been found to have control on the basis of the existence of a controlling influence relationship.

§ 225.32 Divestiture proceedings.

(a) *Ineffective divestitures.* (1) The divestiture of assets or voting securities by a bank holding company (or a company that would be a bank holding company but for the divestiture) is ineffective, and the divesting company shall be presumed to control the acquiring person or the divested assets or securities, if

(i) The acquiring person is indebted in any manner to the divesting company; or

(ii) The divesting company has any management official in common with the acquiring person.

(2) For the purposes of this section:

(i) "Indebtedness" does not include routine business or personal credit that is unrelated to the divestiture transaction and that is extended by the divesting company in the ordinary course of its lending business; and

(ii) "Divesting company" and "acquiring person" include their parent companies, subsidiaries, and, if the acquiring person is an individual, companies controlled by the individual.

(b) *Request for divestiture determination.* For any divestiture that is deemed ineffective under paragraph (a) of this section, the divesting company may request the Board to determine that the divestiture is in fact effective by submitting a letter that includes:

(1) A description of the divestiture transaction and the existing and prospective relationship between the divesting company and the acquiring person;

(2) Evidence and argument demonstrating that the divesting company is not capable of controlling the acquiring person or the divested assets or securities; and

(3) A request for a hearing, if desired.

(c) *Hearing.* The Board shall order a formal hearing or other appropriate proceeding upon the request of a divesting company under paragraph (b) of this section, if the Board finds that material facts are in dispute. The Board may also order a formal hearing or other proceeding if, in the Board's judgment, such a proceeding would be appropriate.

(d) *Standards for making divestiture determination.* In acting on the request of a divesting company under paragraph (b) of this section, the Board shall consider the following factors, among others, in determining whether the divesting company is capable of controlling the acquiring person or the divested assets or securities:

(1) *Indebtedness of acquiring person to divesting company.* (i) The terms of the indebtedness, including the amount of the indebtedness in relation to the total purchase price;

(ii) The ability of the acquiring person to repay the indebtedness; and

(iii) The manner in which the divesting company would dispose of the divested assets in the event it reacquires the assets as a result of default on the indebtedness.

(2) *Management official interlocks.* The extent of the involvement of the interlocking management official in the operations of the divesting company and the acquiring person, and the management official's relationship to the assets or securities being divested.

(e) *Final determination.* After considering the submission of the divesting company and other evidence, including the record of any hearing or other proceeding, the Board shall issue an order determining whether the company controls or is capable of controlling the acquiring person or the divested assets or securities.

(f) *Review of other divestitures.* In any divestiture of assets or securities by a company that is not covered under paragraph (a) of his section, the Board may review the divestiture to assure that the divesting company is not capable of controlling the acquiring person or the divested assets or securities.

Subpart E—Change in Bank Control

§ 225.41 Transactions requiring prior notice.

(a) *Prior notice requirement.* (1) Any person acting directly or indirectly, or through or in concert with one or more persons, shall give the Board 60 days' written notice, as specified in § 225.43 of this subpart, before acquiring control of a state member bank or bank holding company, unless the acquisition is exempt under § 225.42 of this subpart.

(2) For the purposes of this subpart, "acquisition" includes a purchase, assignment, transfer, or pledge of voting securities, or an increase in percentage ownership of a bank or other company resulting from a redemption of voting securities.

(b) *Acquistions requiring prior notice.* The following transactions constitute, or are presumed to constitute, the acquisition of control under the Bank Control Act, requiring prior notice to the Board:

(1) the acquisition of any voting securities of a state member bank or bank holding company if, after the transaction, the acquiring person (or persons acting in concert) owns, controls, or holds with power to vote 25 percent or more of any class of voting securities of the institution; or

(2) the acquisition of any voting securities of a state member bank or bank holding company if, after the transaction, the acquiring person (or persons acting in concert) owns, controls, or holds with power to vote 10 percent or more (but less than 25 percent) of any class of voting securities of the institution, and if:

(i) the institution has registered securities under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*); or

(ii) no other person will own a greater percentage of that class of voting securities immediately after the transaction.

(c) *Rebuttal of presumption of control.* Prior notice to the Board is not required for any acquisition of voting securities under the presumption set forth in paragraph (b)(2) of this section, if the Board finds that the acquisition will not result in control. The Board will afford the person seeking to rebut the presumption an opportunity to present views in writing or, if appropriate, orally before its designated representatives at an informal conference.

(d) *Other transactions.* Transactions other than those set forth in paragraph (b)(2) resulting in a person's control of less than 25 percent of a class of voting securities of a state member bank or bank holding company do not result in control for purposes of the Bank Control Act.

§ 225.42 Transactions not requiring prior notice.

The following transactions do not require prior notice to the Board under this subpart:

(a) *Increase of previously authorized acquisitions.* The acquisition of additional shares of a class of voting securities of a state member bank or bank holding company by any person who has lawfully acquired and maintained control of 25 percent or more of that class of voting securities after filing the notice required under § 225.41(b)(1) of this subpart.

(b) *Acquisitions subject to approval under BHC Act or Bank Merger Act.* Any acquisition of voting securities subject to approval under section 3 of the BHC Act (§ 225.11 of subpart B), or section 18(c) of the Federal Deposit Insurance Act (Bank Merger Act, 12 U.S.C. 1828(c)).

(c) *Transactions exempt under BHC Act.* Any acquisition described in sections 2(a)(5) or 3(a) (A) or (B) of the BHC Act (12 U.S.C. 1841(a)(5), 1842(a) (A) and (B)) by a person described in those provisions.

(d) *Grandfathered control relationships.* (1) The acquisition of additional voting securities of a state member bank or bank holding company by a person who continuously since March 9, 1979 (or since that institution commenced business, if later) held power to vote 25 percent or more of any class of voting securities of that institution; or

(2) the acquisition of additional voting securities of a state member bank or bank holding company by a person who is presumed under § 225.41(b)(2) of this subpart to have controlled the institution continuously since March 9, 1979, if the aggregate amount of voting securities held does not exceed 25 percent of any class of voting securities of the institution.

(e) *Acquisitions in satisfaction of debts previously contracted or through inheritance or gift.* Any acquisition of voting securities, which would otherwise require a notice under this subpart, in satisfaction of a debt previously contracted in good faith, or through inheritance or a *bona fide* gift, if the acquiring person notifies the appropriate Reserve Bank within 30 calendar days after the acquisition and provides any relevant information requested by the Reserve Bank.

(f) *Proxy solicitation.* The acquisition of the power to vote securities of a state member bank or bank holding company through receipt of a revocable proxy in connection with a proxy solicitation for the purpose of conducting business at a regular or special meeting of the institution, if the proxy terminates within a reasonable period after the meeting.

(g) *Stock dividends.* The receipt of voting securities of a state member bank or bank holding company through a stock dividend or stock split if the proportional interest of the recipient in

the institution remains substantially the same.

(h) *Acquisition of foreign banking organization.* The acquisition of voting securities of a qualifying foreign banking organization. (This exemption does not extend to the reports and information required under paragraphs 9, 10, and 12 of the Bank Control Act (12 U.S.C. 1817(j)(9), (10), and (12)).

§ 225.43 Procedures for filing, processing, and acting on notices.

(a) *Filing notice.* a notice required under this subpart shall be filed with the appropriate Reserve Bank and shall contain the information required by paragraph 6 of the Bank Control Act (12 U.S.C. 1817(j)(6)), or prescribed in the designated Board form. With respect to personal financial statements required by paragraph 5(B) of the Bank Control Act, an individual may include a statement of assets and liabilities as of a date within 90 days of filing the notice, a brief income summary, and a description of any subsequent material changes, subject to the authority of the Reserve Bank or the Board to require additional information.

(b) *Advice to bank supervisory agencies.*—(1) Upon accepting a notice relating to acquisition of securities of a state member bank, the Reserve Bank shall send a copy of the notice to the appropriate state bank supervisor, which shall have 30 calendar days from the date the notice is sent in which to submit its views and recommendations to the Board. The Reserve Bank shall also send a copy of any notice it accepts to the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

(2) If the Board finds that it must act immediately in order to prevent the probable failure of the bank or bank holding company involved, the Board may dispense with or modify the requirements for notice to the state supervisor.

(c) *Time period for Board action.*—(1) *Consummation of acquisition.* (i) A proposed acquisition may be consummated 60 days after submission to the Reserve Bank of a complete notice under paragraph (a) of this section, unless within that period the Board disapproves the proposed acquisition or extends the 60-day period as provided under paragraph (c)(2) of this section.

(ii) A proposed acquisition for which notice has been filed under paragraph (a) of this section may be consummated before the expiration of the 60-day period if the Board notifies the acquiring person in writing of the Board's intention not to disapprove the acquisition.

(2) *Extensions of time period.* (i) The Board may extend the 60-day period in paragraph (c)(1) of this section for an additional 30 days by notifying the acquiring person.

(ii) The Board may further extend the period for disapproval or return the notice, if the Board finds that the acquiring person has not furnished all the information required under paragraph (a) of this section or has submitted material information that is substantially inaccurate. If the Board so extends the time period, it shall notify the acquiring person of the information that is incomplete or inaccurate.

(d) *Investigation of notice.* In investigating any notice accepted under this subpart, the Board or Reserve Bank may solicit information or views from any person (including any bank or bank holding company involved in the notice, and any appropriate state, federal or foreign governmental authority). No person (other than the acquiring person), whose views are solicited or who presents information, thereby becomes a party to the proceeding or acquires any standing or right to participate in the Board's consideration of the notice.

(e) *Factors considered in acting on notices.* In reviewing a notice filed under this subpart, the Board shall consider the information in the record, the views and recommendations of the appropriate bank supervisor, and any other relevant information obtained during any investigation of the notice. The Board may disapprove an acquisition if it finds adverse effects with respect to any of the factors set forth in paragraph 7 of the Bank Control Act (12 U.S.C. 1817(j)(7)) (*i.e.*, competitive, financial, managerial, banking or incompleteness of information).

(f) *Disapproval and hearing.* Within three days after its decision to issue a notice of intent to disapprove any proposed acquisition, the Board shall notify the acquiring person in writing of the reasons for the action. Within 10 calendar days of receipt of the notice of the Board's intent to disapprove, the acquiring person may submit a written request for a hearing. Any hearing conducted under this paragraph shall be in accordance with the Rules of Practice for Formal Hearings (12 CFR Part 263). At the conclusion of the hearing, the Board shall, by order, approve or disapprove the proposed acquisition on the basis of the record of the hearing. If the acquiring person does not request a hearing, the notice of intent to disapprove becomes final and unappealable.

Appendices to Subparts A Through E

Appendix A—Capital Adequacy Guidelines

Definition of Capital To Be Used in Determining Capital Adequacy of National and State Member Banks and Bank Holding Companies

Primary Components of Capital

The primary components of capital are:
—Common stock
—Perpetual preferred stock
—Surplus
—Undivided profits
—Contingency and other capital reserves
—Mandatory convertible instruments (capital instruments with covenants mandating conversion into common or perpetual preferred stock)
—Allowance for possible loan and lease losses
—Minority interest in equity accounts of consolidated subsidiaries

Secondary Components of Capital

It is recognized that other financial instruments can, with certain restrictions, be considered as part of capital because they possess some, though not all, of the features of capital. These instruments are:
—Limited-life preferred stock
—Bank subordinated notes and debentures and unsecured long-term debt of the parent company and its nonbank subsidiaries

Restrictions Relating to Secondary Components

The secondary components will be considered as capital under the conditions listed below:
—The issue must have an original weighted average maturity of at least seven years
—If the issue has a serial or installment repayment program, all scheduled repayments shall be made at least annually, once contractual repayment of principal begins, and the amount repaid in a given year shall be no less than the amount repaid in the previous year
—For banks only, the aggregate amount of limited-life preferred stock and subordinated debt qualifying as capital may not exceed 50 percent of the amount of the bank's primary capital
—As the secondary components approach maturity, redemption or payment, the outstanding balance of all such instruments—including those with serial note payments, sinking fund provisions, or an amortization schedule—will be amortized in accordance with the following schedule:

Years to maturity	Percent of issue considered capital
Greater than or equal to 5	100
Less than 5 but greater than or equal to 4	80
Less than 4 but greater than or equal to 3	60
Less than 3 but greater than or equal to 2	40
Less than 2 but greater than or equal to 1	20

Years to maturity	Percent of issue considered capital
Less than 1	0

(No adjustment in the book amount of the issue is required or expected by this schedule. Adjustment will be made by a memorandum account.)

Minimum Capital Guidelines

The Federal Reserve and the Office of the Comptroller of the Currency have developed minimum capital guidelines to provide a framework for assessing the capital of well-managed national banks, state member banks and bank holding companies.[1] The guidelines are used in the examination and supervisory process and will be reviewed from time to time for possible adjustment commensurate with changes in the economy, financial markets and banking practices.

Objectives of the minimum capital guidelines are to:

—Introduce greater uniformity, objectivity and consistency into the supervisory approach for assessing capital adequacy;
—Provide direction for capital and strategic planning to banks and bank holding companies and for the appraisal of this planning by the agencies; and
—Permit some reduction of existing disparities in capital ratios between banking organizations of different size.

Two principal ratio measurements of capital are used: (1) primary capital to total assets; and, (2) total capital to total assets. Primary capital consists of common stock, perpetual preferred stock, capital surplus, undivided profits, reserves for contingencies and other capital reserves, mandatory convertible instruments, the allowance for possible loan and lease losses, and any minority interest in the equity accounts of consolidated subsidiaries. Total capital includes the primary capital components plus limited-life preferred stock and qualifying notes and debentures.

The capital guidelines generally will be applied on a consolidated basis. However, for those bank holding companies with consolidated assets under $150 million, the capital guidelines will apply only to the bank if: (1) the company does not engage directly or indirectly in any nonbanking activity involving significant leverage; and, (2) no significant debt of the parent company is held by the general public.

Some bank holding companies are engaged in significant nonbanking activities that require capital ratios higher than those for the bank alone. In these cases, appropriate adjustments will be made in the application of the consolidated capital guidelines.

Institutions affected by the guidelines are categorized as either multinational organizations (as designated by their respective supervisory agency); regional organizations (all other institutions with assets in excess of $1 billion)[2]; or community organizations (less than $1 billion in total assets).

A minimum level of primary capital to total assets is established at 5 percent for multinational and regional organizations and 6 percent for community organizations. Generally, banking organizations are expected to operate above the minimum primary capital levels. Also, those banking organizations that have a higher than average percentage of their assets exposed to risk, or have a higher than average amount of off-balance sheet risk, may be expected to hold additional primary capital to compensate for this risk.

The agencies also have established capital guidelines for the total capital to total assets ratio. These guidelines consist of three broad zones:

	Multinational and regional	Community
Zone 1	Above 6.5 percent	Above 7.0 percent.
Zone 2	5.5 percent to 6.5 percent.	6.0 to 7.0 percent.
Zone 3	Below 5.5 percent	Below 6.0 percent.

Generally, the nature and intensity of supervisory action will be determined by the zone in which an institution falls. While an institution's position in the quantitative capital zones will normally trigger the below specified supervisory responses, qualitative analysis will continue to be used in determining minimum levels of capital for banking institutions.

For banking institutions operating in Zone 1, the agencies will:

—Presume that capital is adequate if the primary capital ratio is acceptable to the regulator and is above the minimum level;
—Intensify analysis and action when unwarranted declines in capital ratios occur.

For banking institions operating in Zone 2, the agencies will:

—Presume that the institution may be under-capitalized, particularly if the primary and total capital ratios are at or near the minimum guidelines;
—Engage in extensive contact and discussion with the management and require the submission of comprehensive capital plans acceptable to the regulator;
—Closely monitor the capital position over time.

The agencies' approach to insitutions operating in Zone 3 will include:

—A very strong presumption that the institutions is under-capitalized;
—Frequent contact with management and a requirement that the institution submit a comprehensive capital plan, including a capital augmentation program that is acceptable to the regulator;
—Continuous analysis, monitoring and supervision.

The guidelines will be applied in a flexible manner with exceptions as appropriate. The assessment of capital adequacy will continue to be made on a case-by-case basis considering various qualitative factors that affect an institution's overall financial condition. Thus, the agencies retain the flexibility to make appropriate adjustments in the application of the guidelines to individual institutions.

Appendix B—Policy Statement for Formation of Small One-Bank Holding Companies

Assessment of Financial Factors

In acting on applications filed under the Bank Holding Company Act, the Board has adopted, and continues to follow, the principle that bank holding companies should serve as a source of strength for their subsidiary banks. When bank holding companies incur debt and rely upon the earnings of their subsidiary banks as the means of repaying such debt, a question arises as to the probable effect upon the financial condition of the company and its subsidiary bank or banks.

The Board believes that a high level of debt at the parent holding company level impairs the ability of a bank holding company to provide financial assistance to its subsidiary bank and in some cases the servicing requirements on such debt may be a significant drain on the bank's resources. For these reasons, the Board has not favored the use of acquisition debt in the formation of bank holding companies. Nevertheless, the Board has recognized that the transfer of ownership of small banks often requires the use of acquisition debt. The Board therefore has permitted the formation of small one-bank holding companies with debt levels higher than would be permitted for larger or multibank holding companies. Approval of these applications has been given on the condition that the small one-bank holding companies demonstrate the ability to service the acquisition debt without straining the capital of their subsidiary bank and, further, that such companies restore their ability to serve as a source of strength for their subsidiary bank within a relatively short period of time.

In the interest of furthering its policy of facilitating the transfer of ownership in banks without diluting bank safety and soundness, the Board has reexamined the analytical framework and financial criteria it applies when considering the formation of small one-bank holding companies and has adopted certain revisions in its procedures and standards as described below.

The revised criteria shift the focus from debt repayment to the relationship between debt and equity at the parent holding company. The holding company will have the option of improving the relationship of debt to equity by repaying the principal amount of its debt or through the retention of earnings, or both. Under these procedures, newly organized small one-bank holding companies will be expected to reduce the relationship of their debt to equity over a reasonable period of time to a level comparable to that maintained by many large and multibank holding companies.

In general, this policy is intended to apply only to one-bank holding companies that would not have significant leveraged nonbank activities and whose subsidiary bank would have total assets of

[1] Institutions that are under special supervision and those that have been in operation for less than two years are not included in the program.

[2] May include some other institutions located money centers.

approximately $150 million or less at the time the application is filed. Small one-bank holding companies formed before the initial effective date of the Board's policy concerning formation of small one-bank holding companies and assessment of financial factors (March 28, 1980) may switch to a plan that adheres to the intent of this policy provided they comply with criteria 2, 3, and 4 set forth below.

The criteria are as follows:

General

In evaluating applications filed pursuant to section 3(a)(1) of the Bank Holding Company Act, as amended, when the applicant intends to incur debt to finance the acquisition of a small bank, the Board will take into account a full range of financial and other information, including the recent trend and stability of earnings of the bank, the past and prospective growth of the bank, the quality of the bank's assets, the ability of the applicant to meet debt servicing requirements without placing an undue strain on the bank's resources, and the record and competency of management of the applicant and the bank. In addition, the Board will require applicants to meet the minimum requirements set forth below. As a general rule, failure to meet any of these requirements will result in denial of the application; however, the Board reserves the right to make exceptions if the circumstances warrant.

1. *Minimum Down Payment.* The amount of acquisition debt should not exceed 75 percent of the purchase price of the bank to be acquired. When the owner(s) of the holding company incur debt to finance the purchase of the bank, such debt will be considered acquisition debt even though it does not represent an obligation of the bank holding company, unless the owner(s) can demonstrate that such debt can be serviced without reliance on the resources of the bank or bank holding company.

2. *Maintenance of Adequate Capital.* An applicant proposing to use acquisition debt must demonstrate to the satisfaction of the Board that any debt servicing requirements to which the bank holding company may be subject would not cause the subsidiary bank's ratio of gross capital to assets to fall below 8 percent during the 12-year period following consummation of the acquisition. Gross capital is defined as the sum of total stockholders' equity, the allowance for possible loan losses, and subordinated capital notes and debentures.

3. *Reduction in Parent Company Leverage.* The applicant must demonstrate to the satisfaction of the Board that the parent holding company's ratio of debt to equity will decline to 30 percent within 12 years after consummation of the acquisition. The holding company must also demonstrate that it will be able to safely meet debt servicing and other requirements imposed by its creditors.

The term "debt," as used in the ratio of debt to equity, means any borrowed funds (exclusive of short-term borrowings that arise out of current transactions, the proceeds of which are used for current transactions), and any securities issued by, or obligations of, the holding company that are the functional equivalent of borrowed funds.

The term "equity," as used in the ratio of debt to equity, means the total stockholders' equity of the bank holding company adjusted to reflect the periodic amortization of "goodwill" (defined as the excess of cost of any acquired company over the sum of the amounts assigned to identifiable assets acquired, less liabilities assumed) in accordance with generally accepted accounting principles. In determining the total amount of stockholders' equity, the bank holding company should account for its investments in the common stock of subsidiaries by the equity method of accounting.

Ordinarily the Board does not view redeemable preferred stock as a substitute for common stock in a one-bank holding company formation. Nevertheless, to a limited degree and under certain circumstances the Board will consider redeemable preferred stock as equity in the capital accounts of the holding company if the following conditions are met: (1) The preferred stock is redeemable only at the option of the issuer and (2) the debt to equity ratio of the holding company would be at or remain below 30 percent following the redemption or retirement of any preferred stock. Preferred stock that is convertible into common stock of the holding company may be treated as equity.

4. *Dividend Restrictions.* The bank holding company is not expected to pay any corporate dividends on common stock until such time as its debt to equity ratio is below 30 percent. However, some dividends may be permitted provided all of the following conditions are met: (a) The applicant has begun making scheduled repayments of principal on the acquisition debt; (b) such scheduled repayments of principal are reasonable in amount, will be made at least annually, and will allow for the retirement of the acquisition debt over a period not to exceed 25 years; and (c) the applicant can clearly demonstrate at the time the application is filed that such dividends will not jeopardize the ability of the holding company to reduce its debt to equity ratio to 30 percent within 12 years of consummation of the proposal or cause the gross capital to assets of the subsidiary bank to fall below 8 percent over the same period. Also, it is expected that dividends will be eliminated if the holding company is not meeting the projections made at the time the application was filed regarding the ability of the holding company to reduce the debt to equity ratio to 30 percent within 12 years of consummation of the proposal.

The requirements of this Policy Statement should be read in the context of the Board's Capital Adequacy Guidelines (Appendix A), including the definitions of capital and its components.

Effective date: This revision of Part 225 becomes effective February 6, 1984, except for section 225.14 and 225.23, which become effective for all applications and notices submitted to the Board on and after January 1, 1984.

By order of the Board of Governors of the Federal Reserve System, December 29, 1983.

William W. Wiles,

Secretary of the Board.

Supplementary Information, Appendix A

(Note.—This is an appendix to the Supplementary Information section in the preamble. This appendix will not appear in the Code of Federal Regulations.)

The proposed revision of Regulation Y included the following definition of "bank":

> Any institution organized under the laws of the United States that accepts demand deposits and engages in the business of making commercial loans.

This definition essentially reiterates the two-pronged definition of bank in section 2(c) of the BHC Act, which defines a "bank" as "any organization * * * which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans." [1] The bank definition is the key to the Act because it supplies the basis for effecting the fundamental purposes for which the legislation was enacted: (1) the separation of the business of banking from commerce to assure impartiality in the granting of credit and avoidance of conflicts of interest; (2) the limitation of risk to the banking system inherent in the unlimited association of banking and commerce; and (3) the prevention of concentration of banking resources.

In order to clarify the coverage of the bank definition consistent with these policies, the Board has interpreted the terms "deposits that the depositor has a legal right to withdraw on demand" [2] and "commercial loans" in section 2(c) of the Act. In approving an application by a bank holding company under the Act to acquire an industrial loan company that offered NOW accounts and made commercial loans, the Board interpreted the phrase "deposits that the depositor has a legal right to withdraw on demand" in section 2(c) of the Act to include NOW accounts. *First Bancorporation (Beehive Thrift and Loan)*, 68 Federal Reserve Bulletin 253 (1982).

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[1] 12 U.S.C. 1841(c). There are a number of statutory exemptions to this definition, *e.g.*, for FSLIC insured thrift institutions.

[2] Hereinafter "demand deposit."

Similarly, in reviewing a proposal to acquire an FDIC insured state bank by The Dreyfus Corporation, a nonbanking organization engaged in the underwriting and sale of securities, the Board reiterated its view that the term commercial loan in section 2(c) of the Act means any loan the proceeds of which are used for other than personal, family, household, or charitable purposes. The Board also determined that, for this purpose, commercial loans include the purchase of commercial paper, bankers acceptances, and certificates of deposit, and the sale of federal funds and other transactions that establish a debtor-creditor relationship. Letter of December 10, 1982, to the FDIC.

The proposed amendments would incorporate the Board's interpretations into Regulation Y. A number of commenters opposed the definitions. The Independent Bankers Association favored the definitions, and the American Bankers Association supported the proposed definition of "commercial loan."

After careful consideration of the comments, the Board has determined to adopt the "bank" definition with minor modifications, including its interpretations of the terms demand deposit and commercial loan. The Board believes that these interpretations are both necessary and appropriate to carry out the fundamental purposes of the Act. In the Board's judgment, any other interpretation of these important terms would produce a result that is plainly at variance with the purposes of the Act and would preempt Congressional discretion to determine the proper delineation between banking and commerce in this country as well as the scope for interstate banking. The Board's interpretation of the bank definition is directed, towards this end, consistent with its authority under section 5(b) of the Act to issue rules and regulations.

As originally enacted, the BHC Act defined "bank" as "any national banking association, or any State bank, savings bank, or trust company. * * *" In 1966, Congress eliminated this charter test in favor of the functional demand deposit test. The legislative history of these amendments indicates that Congress intended to cover all checking accounts as demand deposits and did not intend to exempt from the definition of "bank" institutions that function like banks. Congress viewed the ability to offer checking accounts as critical in determining whether an institution meets the "demand deposit" portion of the Act's definition of bank and intended demand deposits to include all checking accounts.

In 1970, Congress again amended the Act by adding a second requirement for bank status: that the institution also be engaged in the business of making commercial loans. The Board did not propose the amendment in 1970, which limited the definition of bank to those institutions that accept demand deposits and make "commercial loans," although the Board offered no objection to the amendment because it was intended to be narrow in scope, possibly exempting only a single company—Boston Safe Deposit and Trust.[3] The Board's view is reflected in a letter from Federal Reserve Chairman Burns to Chairman Sparkman of the Senate Banking and Currency Committee:

> " * * * S. 3823 would amend the definition of "bank" to exclude banks that make no commercial loans. To the best of our knowledge, this amendment would have very limited application at present, possibly affecting only one institution. Since there is less need for concern about preferential treatment in extending credit where no commercial loans are involved, and in view of the very limited application of this amendment, the Board would have no objection to its adoption.[4]

The House conferees agreed to the change of the definition of "bank" (not present in the House passed bill), but the majority of the House conferees cautioned that the Board should construe the 1970 exemptions from the Act "as narrowly as possible in order that all bank holding companies which should be covered under the Act in order to protect the public interest, will, in fact, be covered."[5]

These modifications to the definition of bank in the Act were designed to exclude from coverage under the Act savings banks, trust companies and industrial banks.[6] In both 1966 and 1970, savings banks, trust companies and industrial banks bore little resemblance to commercial banks because these three types of entities did not have bank charters or their activities were confined to fiduciary activities, the taking of savings and time deposits, and the making of home mortgages and consumer loans.

Between 1970 and 1981, the exemption remained within the narrow confines intended by Congress. However, since 1980, the powers of industrial banks have substantially expanded and they are eligible for FDIC insurance, making them for all intents and purposes banks. More importantly, a large number of insurance, securities, industrial and commercial organizations have acquired FDIC insured national or state banks.[7] These acquisitions have been accomplished through the device of divesting a portion of the acquired bank's commercial loan portfolio and continuing to accept demand deposits or through giving up the taking of demand deposits but continuing to make commercial loans. Both techniques are premised on a narrow interpretation of the terms demand deposits and commercial loans in section 2(c) of the Bank Holding Company Act.

These so-called "nonbank banks" acquired through this device continue to take deposits from the public, to make loans, to enjoy the benefits of discount window access and federal deposit insurance, and to have access to the payments system. They remain for all practical purposes banks, but are not subject to the prudential limitations that Congress deemed essential when banks are affiliated with commercial enterprises. Indeed, the charter powers of a "nonbank bank" are identical to those of a full service commercial bank—and it is only different to the extent that the nonbank bank *voluntarily* chooses not to offer commercial loans or demand deposits under a narrow definition of those terms.

Acquisitions of this nature and in the numbers that have occurred were not contemplated by the 1970 Amendments. As noted above, the Board advised Congress that it believed the exemption would be of "very limited application," and the House Conferees admonished the Board to construe the exemption "narrowly." Such a construction is consistent with the broad expansion of the Act's coverage accomplished by the 1970 Amendments to encompass partnerships, one bank holding companies, and control relationships based on a controlling influence. Indeed, the desire to prevent evasion of the Act's purposes in 1970 was sufficiently pervasive for Congress to reject a proposed exemption for very small banks which had no more than $3

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[3] 116 Congressional Record S. 6908, 6911 (daily ed. May 11, 1970; 116 Congressional Record H. 7207 (daily ed. July 27, 1970; 116 Congressional Record S. 20642 (daily ed. December 18, 1970).

[4] One Bank Holding Company Legislation of 1970: Hearings on S. 1052, S. 1664, S. 3823; and H.R. 6778, before the Senate Committee on Banking & Currency, 91st Cong., 2d Sess. 137 (1970).

[5] Statement of the Managers on the Part of the House, H. Rep. No. 1747, 91st Congress, 2d Sess. 23 (1970).

[6] S. Rep. No. 1179, 89th Cong., 2d Sess. 7 (1966); S. Rep. No. 91-1084, 91st Cong. 2d Sess. 24 (1970).

[7] Since 1980, there have been a number of acquisitions of insured banks by insurance, securities, commercial and industrial companies.

million in net worth.[8] It is inconsistent with the Congressional intent as expressed in the Act to suggest that at the same time Congress substantially expanded the Act's coverage to ensure the separation of banking and commerce, it took the significant step, almost without debate, of creating a new class of depository institution that could be acquired by all types of nonbanking organizations.

The primary impetus for the 1970 Amendments were two events that occurred in the late 1960s. First, the largest banks in the nation sought to use the then existing one bank holding company exemption to form holding companies and commence various nonbanking activities, at times through the acquisition of going concerns such as large insurance companies. At the same time, large nonbanking organizations such as manufacturing firms, insurance companies, and retailers began to acquire single banks. Congress sought to block both of these trends through the 1970 Amendments.[9] The recent acquisition of banks by large commercial enterprises such as insurance, securities, and industrial companies is completely inconsistent with expressed Congressional intention to prevent such affiliations.[10]

In recognition of the unique and critical role that banks play in the nation's financial system and economy with respect to operation of the payments system, as custodians of the bulk of liquid savings, and as suppliers of credit, Congress has provided these institutions with access to the Federal Reserve as a lender of last resort, and access to federal deposit insurance. However, as a consequence of this special status, banks are subject to prudential limitations designed to limit risk, promote sound operations, assure impartiality in the credit granting process, and prevent excessive concentration of credit resources. The Bank Holding Company Act represents one of the principal mechanisms for accomplishing these goals through its limitations on the commingling of banking and commerce and the concentration of banking resources.

The framework of regulation created by the Bank Holding Company Act is frustrated, however, to the extent that institutions engaged in banking functions are allowed to secure the benefits of bank status while at the same time their corporate parents evade the prudential limitations on the scope of nonbanking activities that Congress established in the Bank Holding Company Act. Moreover, this situation threatens to undermine the system of bank holding company regulation as a whole since bank holding companies that are subject to the Act's prudential limitations are placed at an increasing competitive disadvantage with respect to the securities, insurance, manufacturing and retail companies that own "nonbank banks" and that are free to establish synergistic relationships between their banking and impermissible nonbanking operations.

It has been suggested that these nonbank bank institutions that are chartered as banks are not engaged in demand deposit taking or indirect commercial lending to customers or clients of the bank and therefore the nonbanking activities of their affiliates do not raise the policy concerns that the Act was intended to address. However, as indicated in more detail below, these banks raise the same prudential problems as other banks and, in fact, the operating techniques used by nonbank banks do amount to the taking of demand deposits and the making of commercial loans. Moreover, the Board is also concerned with the difficulty of assuring the enforcement of a self-imposed limitation on direct commercial lending where, for example, close links associated with the common control would be established between the demand deposit-taking function of the nonbank bank and commercial lending activities conducted through separate corporate subsidiaries of the parent organization.

The possibility of "understandings" involving the placing of funds derived from deposit taking by nonbank banks with banking institutions that would agree to take a favorable view toward lending to the nonbank bank's industrial or commercial affiliates would circumvent the purposes of the Act and pose serious enforcement problems. Similarly, as is discussed below, a nonbank bank could lend to consumers on terms aimed at furthering the purchase of goods or services from affiliates of the nonbank banks. The Act was designed to deal with the potential abuses that could result from concentration of resources and/or from conflicts of interest that inherently arise in the common ownership of banks and commercial organizations, and the potential for these abuses is clearly present in the relationship between nonbank banks and their corporate parents and affiliates.

The legislative history of the Act confirms the fact that Congress was concerned about the use of banking powers in tandem with other commercial and industrial enterprises even where these powers were used exclusively for so-called consumer lending. Congress believed that banks exercising these powers should be covered by the Act to assure impartiality in lending and prevent the cartelization of industry and commerce around banks. The 1970 report of the Senate Committee on Banking and Currency quotes, and indicates agreement with, the following remarks by former Federal Reserve Chairman Martin:

> If a holding company combines a bank with a typical business firm, there is a strong possibility that the bank's credit will be more readily available to the customers of the affiliated business than to customers of other businesses not so affiliated. Since credit has become increasingly essential to merchandising, the business firm that can offer an assured line of credit to finance its sales has a very real competitive advantage over one that cannot * * * [I]f we allow the line between banking and commerce to be eased, we run the risk of cartelizing our economy. Just as we have seen the country's largest banks join the new wave of one-bank holding companies, we could later see the country's business firms clustering about banks in holding company systems in the belief that such an affiliation would be advantageous, or perhaps even necessary to their survival.[11]

The Congressional concern that banks which were affiliated with other businesses might make loans designed to further the interests of those affiliates is also evidenced in section 4(d) of the Act. This section allows the Board to grant exemptions from the nonbanking prohibitions of the Act for certain companies, including those whose subsidiary banks are so small "as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to further the holding company's other interests." 12 U.S.C. § 1843(d). While Congress was prepared to concede that there could be cases where a bank was so small as not to create a situation that was inconsistent with the basic purposes of the Act, it deliberately avoided a blanket size exemption and instead

[8] Statement of The Managers on the Part of the House, *supra* at 23.

[9] Statement of the Managers on the Part of the House, *supra*, at 11; S. Rep. No. 1084, *supra*, at 2–3; Cong. Rec. S 1696 (1969) (Remarks of Sen. Proxmire); Cong. Rec. H 9776–77 (1969) (Remarks of Cong. Patman).

[10] Moreover, many of the "nonbank banks" that nonbanking companies have formed differ significantly from the institution for which the exemption was written, since Boston Safe was primarily engaged in trust company business in 1970.

[11] S. Rep. No. 1084, *supra*, at 3.

conferred the exemption judgment exclusively on the Board.

The nonbank bank device allows precisely the conflicts of interest and other adverse effects that Congress sought to prohibit in 1970. A nonbank bank is able to make commercial loans by purchasing such instruments as commercial affiliate bank. 12 CFR 225.4(c) (1983). Under the narrow interpretation of commercial loan relied on by nonbank banks, not only are the activities of the parent of the nonbank bank unlimited, but the nonbank bank itself is free to require that prospective borrowers buy insurance, securities or other goods and services from those affiliates in order to receive an extension of credit from the nonbank bank. The Board believes that the ability of nonbank banks to engage in such coercive practices in order to provide a competitive advantage for their affiliates creates serious competitive inequalities and significantly undermines the structure designed by Congress for the regulation of the nonbanking activities of banks and their holding company affiliates.

In addition, the proliferation of nonbank banks would allow for the expansion of banking across state lines without either state authorization or Congressional approval as is now required by law. While the Board has supported a Congressional reevaluation of the present ban on interstate acquisitions without state approval, interstate acquisitions of so-called nonbank banks would violate both the letter and clear intent of the Douglas Amendment.

In this context the Board has reexamined its interpretation of the terms demand deposits and commercial loan in light of the comments received from the public.

Definition of Demand Deposits. The final amendments interpret the phrase "deposits that the depositor has a legal right to withdraw on demand" in section 2(c) of the Act as "any deposit with transactional capability that as a matter of practice is payable on demand and that the depositor may withdraw by check, draft, negotiable order of withdrawal, or other similar instrument for payment to third parties."

Several commenters objected to the Board's definition of demand deposits as contrary to the traditional treatment of NOW accounts as savings deposits. These commenters argued that, because institutions offering NOW accounts are required to reserve the right to require 14 days' prior notice of withdrawals, the accounts are not in fact demand deposits. The commenters also objected to the proposed definition as inconsistent with legislative history indicating that certain institutions that currently offer NOW accounts, such as industrial banks and industrial loan companies, were not intended to be treated as banks.

The Board believes, however, that traditional interpretations of the term demand deposits, the regulatory treatment of accounts with transactional capability, the functional equivalency of demand deposits and NOW accounts, and the legislative history and purposes of the Bank Holding Company Act require that NOW and similar accounts be treated as demand deposits for purposes of the BHC Act. The legislative history and purposes demonstrate that the term demand deposits in section 2(c) of the Act cannot be interpreted to turn on the technicality of whether the account is subject to a notice of withdrawal requirement that in practice is never imposed. Such an interpretation would permit the fundamental purposes of the Act to be circumvented or rendered meaningless simply through the offering of checking accounts that perform the same function as demand deposits, that are advertised as checking accounts, and that for all intents and purposes are the equivalent of a conventional demand checking deposit, but that are not treated as demand checking deposits only because they are subject to a never exercised right of the depository institution to require prior notice of withdrawals. It is a fundamental principle of statutory construction that a statute must be interpreted to give effect to its purposes and to avoid an absurd or unreasonable result. *United States* v. *American Trucking Association*, 310 U.S. 534, 543 (1940).

Legislative History. As indicated, the legislative history of the Act reflects that, when Congress eliminated the charter test of "bank" status in 1966 in favor of the demand deposit test, it intended to cover checking accounts, like NOW accounts, as demand deposits and did not intend to exclude institutions that function as banks. In 1963, the Board issued an interpretation regarding the coverage of industrial banking organizations, such as industrial loan companies, under the charter test in the original Act. 49 Fed. Res. Bull. 166 (1963). The Board ruled that industrial banking organizations would be banks for purposes of the Act in two situations: (1) if they issued accounts subject to withdrawal by check; or (2) if in actual practice they permitted a withdrawal of deposits on demand. The second part of this test referred to ordinary passbook savings deposits, which are paid on demand but that are not freely withdrawable by check.

Subsequently, during Congressional hearings on the 1966 Amendments to the BHC Act, representatives of industrial banking organizations requested that certain of these institutions be exempted from the Act on the rationale that industrial banks and similar institutions only made loans to consumers, offered savings certificates, and did not accept checking accounts.[13] The Board endorsed this proposal on the basis that the BHC Act should cover only institutions that accept demand or checking accounts.[14] In effect, the Board favored repeal of the second part of its 1963 industrial bank interpretation that covered an industrial banking organization if such institutions limited their deposit taking activities to the offering of passbook savings accounts. The Board stressed, however, that the first part of this test should be retained and industrial banks should continue to be covered if they accepted checking accounts.

Congress adopted the Board's proposals by eliminating the charter test in favor of the demand deposit definition. The legislative history is clear that Congress did not intend to repudiate the first part of the Board's 1963 industrial bank interpretation, and that the authority to offer checking accounts was regarded as the fundamental characteristic of a "bank" under the Act. The Senate Report accompanying the amendments expressly stated that the bank definition was intended to include an institution that accepts deposits payable on demand, which the report described as checking accounts.[15] Senator Robertson, the sponsor of the bill, stated that the amendment covered only institutions that "accept demand deposits subject to check" and excluded industrial banks because they did not accept deposits subject to check. 112 Cong. Rec. 11,794 (1966). Nothing in the reports of the relevant committees or in the statements of the bill's sponsor ever refers to a notice of withdrawal requirement as a prime characteristic of the deposits covered by the Act.[16] Based on this

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[13] *Amend the Bank Holding Company Act of 1956: Hearings on S. 2353, S. 2418, and H.R. 7371 before a Subcomm. of the Senate Comm. on Banking and Currency*, 89th Cong., 2d Sess. 155, 157 (1966) (testimony of Max A. Denney, American Industrial Bankers Association) (hereinafter "1966 Senate Hearings").

[14] *Id.* at 447.

[15] S. Rep. No. 1179, 89th Cong. 2d Sess. 7 (1966).

[16] While the language adopted in the 1966 Amendments differed from that proposed by the Board ("deposits payable on demand"), there is no

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legislative history, the Board concludes that Congress did not intend to exclude from the concept of demand deposit checking accounts that are subject to a formal requirement of notice where the instrument functions in all other respects in the same manner as one that is not subject to such a formal notice.

Thus, following the 1966 Amendments, the Act continued to apply to institutions accepting deposits subject to withdrawal by check, but no longer applied to institutions offering deposits, such as passbook savings deposits, that are in practice paid on demand but which are not subject to withdrawal by check or similar device. The United States Court of Appeals for the Third Circuit has recently held that the retention of the right to require advance notice of withdrawal is *not* necessarily determinative of whether a particular type of deposit is a demand under the BHC Act:

> Congress did not choose the words "accepts deposits that the depositor has a legal right to withdraw on demand" because it was concerned with the distinction between a depositor's *legal* right to withdraw on demand and the ability *in practice* to withdraw on demand. The more reasonable interpretation of why Congress selected these terms is that stated in the [1966] Senate Report * * * Congress was merely adopting "the commonly accepted test of whether an institution is a commercial bank." [17]

Administrative Interpretations. The term "demand deposit" had been used in many earlier federal banking laws and over the years had uniformly been interpreted to include any deposit, such as a NOW account, that is withdrawable by check regardless of whether the deposit is subject to a notice of withdrawal requirement. As early as 1915, the Board recognized the right of an institution to require advance notice of withdrawal as a distinguishing factor of a savings account, but made clear that, where a notice account was ordinarily subject to withdrawal by check, that account would be treated as a demand deposit and would be subject to the higher level of reserves applicable to demand deposits. 1 Fed. Res. Bull. 38 (1915).[18] In 1933, the Board, in defining demand deposit for purposes of the prohibition against the payment of interest on accounts payable on demand, included savings accounts subject to withdrawal by check, notwithstanding the fact that the savings account had an advance notice of withdrawal requirement. The Board explained that such action was necessary to prevent evasion of the statutory prohibition since accounts subject to a notice requirement typically pay interest and reflected the Board's view that checkable notice of withdrawal accounts were functionally demand deposits.[19] 21 Fed. Res. Bull. 792, 863 (1935).

Thus, at the time of the 1966 amendment of the "bank" definition to cover demand deposits, that term had a well-defined meaning under longstanding agency interpretation and included all checkable deposits, regardless of a notice of withdrawal requirement. The Board believes that, since the legislative history repeatedly refers to demand deposits as "checking accounts," it is likely that Congress meant to incorporate the longstanding agency interpretation into the statute.[20]

Function of NOW accounts as checking accounts. NOW accounts in practice perform the same function as conventional demand deposits, are advertised and used in a manner indistinguishable from conventional bank checking accounts, and are subject to the same reserve requirements as conventional demand deposits. It is uniformly recognized that NOW accounts operate as demand checking accounts and that checks drawn on these accounts are paid by the drawee institutions on demand, just like conventional checking accounts. *e.g., New York State Bankers Association* v. *Albright*, 38 N.Y. 2d 430, 381 N.Y.S. 2d 18, 343 N.E. 2d 735 (1975) ("Manifestly and unabashedly", the NOW account is intended to be the equivalent of a checking account); Kaplan, *Federal Legislative and Regulatory Treatment of NOW Accounts*, 91 Banking L.J. 439, 440 (1974) ("NOW accounts permit money transfers to third parties in much the same manner as conventional checking accounts").

Like a conventional checking account, the holder of a NOW account makes withdrawals by means of a demand draft that may be issued to a third party as a means of transferring funds to the third party from the depositor. The payee of the NOW draft deposits it in the payee's bank for collection from the drawee institution. The drawee institution then charges the depositor's NOW account to pay the draft. *See New York State Banker's Association* v. *Albright, supra.* NOW drafts are cleared through the Federal Reserve check collection facilities as demand items, exactly like conventional checks.

Because of the third party payment feature, NOW accounts are used by depositors to pay bills and to perform other financial transactions, the very function of a conventional demand deposit. A survey conducted by the American Bankers Association of the operation of NOW accounts in New England, where such accounts were first permitted on an experimental basis, concluded that:

> * * * a large number of depositors are using the NOW account as their *main transaction account.* Indeed, some New England banks report that usage of NOW accounts closely resembles the usage of demand deposit accounts.[21]

The Board notes that NOW accounts are uniformly advertised as checking accounts with little, if any, reference to the fact that they may be subject to a 14-day notice of withdrawal requirement. Not only is the right to require advance notice of withdrawal ordinarily not invoked with respect to such accounts, but it is apparent from the nature of a NOW account that, once a draft has been drawn on such an account, the funds in the account that cover the draft cannot effectively be made subject to a notice of withdrawal requirement. Because withdrawals from NOW accounts are made by demand drafts issued directly to third party payees, the drawee institution would face a serious

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indication in the legislative history that this change was intended to be substantive. Indeed, as noted, the Congress consistently referred to the change as encompassing "checking accounts."

[17] *Wilshire Oil Co.* v. *Board of Governors*, 668 F.2d 732, 737 (3d Cir. 1981), *cert. denied*, 457 U.S. 1132 (1982) (emphasis in original).

[18] *See* 1 Fed. Res. Bull. (1915) (savings deposits subject to check); 9 Fed. Res. Bull. 677 (1923) (special savings accounts against which an unlimited number of checks can be drawn); 13 Fed. Res. Bull. 609 (1927) (special reserve savings accounts that "in actual practice" are subject to check).

[19] In *United States League of Savings Associations* v. *Board of Governors*, 595 F.2d 888 (D.C. Cir.) (table), *cert. denied*, 444 U.S. 920 (1979), the District of Columbia Circuit obviously believed that a deposit arrangement that functions as a checking account should be treated as such regardless of the retention of a notice of withdrawal requirement. The Tenth Circuit has adopted the same view in invalidating a similar deposit arrangement offered by certain savings and loan associations. *Otero Savings & Loan Association* v. *Federal Home Loan Bank Board*, 665 F.2d 279 (10th Cir. 1981).

[20] *See Lorillard* v. *Pons*, 434 U.S. 575, 580–81 (1978) (When Congress incorporated prior statutory language in new statute, Congress is presumed to have incorporated longstanding administrative interpretations of earlier statutory language.)

[21] Hoffman and Herman, *NOW Accounts in New England* in American Bankers Association, Studies on the Payment of Interest on Checking Accounts 31 (1976) (emphasis added). *See also* Cates and Chase, *The Payment of Interest on Checking Accounts: A Report to the South Carolina Bankers Association* 29–30 (1976) (NOW experience in Massachusetts and New Hampshire indicates most holders of commercial bank NOW accounts use them as substitutes for regular demand deposit accounts); Simpson and Williams, *Recent Revisions in the Money Stock*, 67 Fed. Res. Bull. 539, 542 (1981) (70 to 80 percent of funds deposited in new-type checking accounts, *e.g.*, NOW accounts, opened in early 1981 were shifted from conventional demand deposits).

loss of good will if it attempted to invoke that right against drafts drawn against the NOW account.[22] The Board is aware of no instance in which the notice requirement has been invoked on a NOW account.[23]

The history of the federal NOW account authorization legislation evidences the Congressional understanding of such accounts as demand deposits. The 1974 prohibition of NOW accounts (except in certain New England states) was a direct response to and recognition of the fact that the ability to make withdrawals by check converted the traditional interest-bearing savings account into a demand deposit and represented a device to circumvent Congress' 1933 ban on the payment of interest on demand deposits.[24] In effect, the legislation codified the Board's longstanding view that a checking account is functionally a demand deposit.[25] Indeed, if NOW accounts are not demand deposits, there would have been no need at all for legislation authorizing NOW accounts, since the prohibition on payment of interest applies only to deposits *payable on demand* and not to ordinary savings accounts.[26]

Finally, the Monetary Control Act of 1980 requires depository institutions to maintain the same level of reserves against NOW accounts as are required to be maintained with respect to conventional demand deposits.[27] This requirement reflects the Congressional belief that these accounts are functionally equivalent and form the basis of our country's medium of exchange. H.R. Rep. No. 263, 96th Cong., 1st Sess. 4 (1979). Thus, the Monetary Control Act also in effect codified the Board's early administrative rule that imposed on *checkable* accounts (whether or not subject to a notice of withdrawal requirement) the same reserve requirements applicable to conventional demand deposits.

Several commenters stated that the proposed definition of demand deposit is overly broad and could cover some types of institutions that should not be covered. The Board is aware that, under its interpretation, industrial banks and similar institutions that may currently offer NOW accounts and make commercial loans will be covered as "banks" under the Act. As noted, the legislative history of the Act manifests a Congressional intent not to cover such institutions as they operated in 1966. That intent was premised upon the belief and the testimony of the industrial banking industry before Congress that such institutions did not offer checking accounts or engage in the commercial loan business. In recent years, industrial banks and similar organizations have been authorized to offer NOW checking accounts and to make commercial loans. Clearly, in light of this significant departure from the traditional and commonly accepted functions of industrial banking organizations, these institutions, which function essentially as banks, are not the type of institution Congress intended to exclude from the Act in 1966. Indeed, in the Garn-St Germain Act of 1982, Congress recognized the essential bank-like functioning of industrial banks and specifically made them eligible for FDIC insurance.[28]

The Board believes that institutions that both offer NOW accounts, or other accounts that clearly are the funcitional equivalent of a demand deposit, and make commercial loans must be treated as banks in the interests of competitive equity and to prevent evasion of the Act and to ensure that its fundamental purposes are effected.

Some commenters stated that the proposed definition of demand deposit could call into question the status of certain types of accounts, such as money market deposit accounts, preauthorized transfer accounts, telephone transfer accounts, accounts accessible through ATM machines, various types of bill-payer accounts, and credit balance accounts accessible by negotiable check or draft. Under certain circumstances, it is possible that some of these accounts may fall into the category of deposits that the Board regards as demand deposits, especially if they function as checking accounts or the equivalent thereof. However, the Board does not believe it is necessary to treat such accounts as demand deposits for purposes of the regulation as currently written, since it is unlikely that there would be a significant number of depository institutions offering these accounts that do not also offer NOW or other checking accounts.

In this regard, the inclusion of the definition of demand deposits in Regulation Y should not be interpreted as effecting the present status of credit balances offered by investment companies chartered under Article XII of New York's banking law, which the Board has previously determined are not demand deposits for purposes of the Act. *European-American Bancorp*, 63 Federal Reserve Bulletin 595 (1977). The Board may determine to review the status of such credit balances at some future date upon request or upon the Board's own initiative, but does not intend by this action to address these types of accounts. Similarly, the Board's interpretation of demand deposits does not affect the status of deposits accepted in a *bona fide* fiduciary capacity, which the Board has determined are not demand deposits for purposes of the Act.

In the comments, concern also was expressed that the definition of demand deposit would result in the forced divestiture of some industrial loan company subsidiaries of bank holding companies that do not meet the eligibility requirements for FDIC insurance. Section 3(e) of the BHC Act requires that every bank that is a subsidiary of a bank holding company be insured by the FDIC. 12 U.S.C. 1842(e). This provision was added to the BHC Act at the Board's suggestion

[22] By refusing temporarily to pay NOW drafts on demand, the institution would refuse payment, not to the holder of the NOW account, but to a third party payee, such as a merchant, who has no necessary relationship with the institution and who has given value for the NOW draft. Payees would thereafter refuse to accept NOW drafts drawn on that institution. NOW account depositors would thus be forced to withdraw the NOW account funds and place them in a more acceptable payment vehicle. Also, under federal law, an institution that wishes to invoke the notice of withdrawal requirement is obligated to impose such a requirement on every other account of a similar nature. 12 C.F.R. § 217.5(a).

[23] The notice requirement on occasion has been invoked with respect to ordinary savings accounts, which do not contain funds used to pay bills and are not checkable. *See* American Banker, June 22, 1976, p. 1, col. 2. Because the Board's interpretation concerns only accounts subject to the notice of withdrawal requirement that are *withdrawable by check*, it does not cover savings deposits, which are subject to the notice of withdrawal requirement but may not be withdrawn by negotiable order and thus that do not have transactional capability. *See* 22 C.F.R. § 217.5(c)(1).

[24] 119 Cong. Rec. 16,071 (1973) (Remarks of Senator Brock stating, "Failure to ban "NOW" accounts infringes on a *40-year old statutory prohibition on the payment of interest on checking accounts.*"); *Id.* at 15,005 (Remarks of Cong. Johnson stating, unless NOW accounts are limited, "the net result will be nationwide, all banks will pay interest on *checking accounts.*"); *Id.* at 15,002 (remarks of Rep. Patman, characterizing NOW accounts as permitting interest on *demand deposits*); *Id.* at 16,486 (remarks of Sen. Proxmire to the effect that NOW accounts permit "one to earn interest on his *demand* deposits").

[25] S. Rep. No. 368, 96th Cong., 1st Sess. 5 (1979). "[NOW accounts] are the functional equivalent of interest bearing checking accounts." *Accord* 125 Cong. Rec. H7613 (daily ed. Sept. 10, 1979) (Remarks of Cong. St Germain).

[26] The fact that NOW accounts are limited to consumers has no significance under the BHC Act, in which the definition of "bank" depends on the *demand checking* feature of *deposits*, not on the commercial or consumer nature of the depositor (unlike the loan part of the "bank" definition).

[27] 12 U.S.C. 461(b)(1)(C). In contrast, Congress mandated no reserve requirement for traditional savings deposits. *See* 12 C.F.R. § 204.9(a).

[28] Pub L. No. 97-320, § 703, 96 Stat. 1469, 1538-39, S. Rep. No. 536, 97th Cong., 2d Sess. 43 (1982).

based on the Board's belief that the value of federal deposit insurance to the public is such that all banks should offer this service to their coustomers. *See Mercantile Bankshares Corporation*, 56 Federal Reserve Bulletin 596 (1970). The Board notes that, under that Act, an institution that qualifies as a bank under the Board's interpretation and that is owned by a company would be allowed two years to obtain FDIC insurance. This will provide time for Congress to consider amending section 3(e) of the Act to allow other types of qualified insurance as a alternative to FDIC insurance.

Concern also was expressed in the comments that, if NOW accounts are deemed to be demand deposits, banks would no longer be permitted to pay interest on such accounts. The Board stresses, however, that a determination that NOW accounts are demand deposits for purposes of the BHC Act does not affect their status under other federal statutes. In particular, the Board's interpretation does not prevent institutions from continuing to pay interest on NOW accounts.

For the above reasons, the Board concludes that demand deposits in the bank definition include NOW accounts and similar deposits that the depositor may withdraw by check, draft, negotiable order of withdrawal, or similar instrument. Accordingly, the Board is adopting in Regulation Y the definition of the term demand deposit as proposed, with certain technical modificaions.

Definiton of Commercial Loan. In order to qualify as a bank under the BHC Act, an institution must, in addition to accepting demand deposits, be engaged in the business of making commercial loans. The final regulation reflects the Board's definition of commercial loan as a loan the proceeds of which are used other than for personal, family, household or charitable purposes. Moreover, as noted above, even consumer loans, when made to further a commercial purpose, such as to promote an affiliate's business, would be considered a commercial loan under the Act.

The final regulation includes as a commercial loan the purchase of such instruments as commercial paper, bankers acceptances and certificates of deposit, the extension of broker call loans, the sale of federal funds, and similar transactions. Some commenters have objected to the proposed inclusion of commercial paper, certificates of deposit, bankers acceptances and federal funds as commercial loans as beyond the scope of the Board's authority under the Act and contrary to the terms of the Act and established Board interpretations thereof. The commenters state that these transactions are not loans, but rather passive investment, which typically are short term and effected through a secondary market as a means of investing idle funds or maintaining liquidity, and that these transactions do not present the evils of credit abuse and concentration of economic power at which the Act is aimed. These commenters also state that the definition would bring under the Act many institutions that were not intended to be covered.

The Board has considered these comments and, for the reasons set out below, has determined to adopt the definitions as proposed with certain modifications.

In the Board's judgment, these instruments as a matter of law establish a debtor-creditor relationship and constitute an extension of credit or loan. Since these loans result in the provision of funds to commercial enterprises, including banks, which are also commercial enterprises, and since they are not made for personal, family, household or charitable purposes, these loans are commercial loans for purposes of the bank definition in the Act.[29] Moreover, as set forth above, the Board believes this interpretation to be consistent with and necessary to ensure implementation of the Act, prevent evasions of its fundamental purposes, and carry out expressed legislative policies.

Some commenters argue that the term commercial loan must be applied to encompass only those transactions traditionally denominated "commercial loans" by the parties to the transactions. There is nothing in the legislative history that supports such a proposition. On the contrary, the thrust of the 1970 Amendments was to cover all banking institutions regardless of size because such action was necessary to prevent the potential for the abuses about which Congress was concerned—conflicts of interest, risk, partiality in the granting of credit, and concentration of resources. In fact, the instruments covered by the Board's definition are loans to commercial enterprises, and institutions which engage in banking functions by accepting demand deposits and making such commercial loans are subject to the potential abuses which Congress sought to prevent through a broadly applicable Bank Holding Company Act.

Moreover, the interpretation proposed by the commenters would deny to the Board any authority to prevent evasion of the Act by covering instruments that are in fact loans to commercial enterprises but take non-traditional forms. This approach would permit banks to structure their lending transactions to avoid the coverage of the Act and to circumvent its purposes. The courts, however, have recognized the authority of the Board to look beyond form to the substance of a transaction in order to prevent an evasion of the purposes of the Act.[30]

As a first and preliminary matter, all of the instruments covered by the Board's definition are in a technical legal sense "loans" since a debtor-creditor relationship is created in each. The term "loan" is generally defined as any transaction as a result of which a party advances money and obtains an absolute promise to repay, and generaliy involves the following elements: a principal sum placed with a borrower, an agreement that interest is to be paid on that sum, and a recognition by the receiver of the money of a liability for the return of the principal amount with interest. *See e.g.* Black's Law Dictionary 1085 (4th rev. ed. 1968). As explained in detail below, each of the instruments creates a debtor-creditor relationship meeting these standards and thus falls within the term "loan" in section 2(c) of the Act.

Second, the definition in section 2(c) requires that the loan be "commercial." The Supreme Court has stated that "[c]ommercial loans, generally speaking, are relatively short-term loans to business enterprises of all sizes, usually for purposes of inventory or working capital." *United States* v. *Connecticut National Bank*, 418 U.S. 656, 665 (1974). As indicated, the instruments listed in the regulation provide funds to commercial organizations, as in the case of commercial paper and bankers acceptances, or, as in the case of certificates of deposit or federal funds, to banks, which also are commercial enterprises.[31] Moreover, the maturity, interest rate, and credit risk of all of these instruments is generally comparable to that of a short-term, prime quality commercial loan.[32] Each of

[29] Federal, state and local governments and their agencies are not regarded as commercial enterprises by the Board, and their debt obligations therefore would not be regarded as commercial loans.

[30] *See Wilshire Oil Co., supra* at 739–40. Indeed, the court agreed that section 5(b) of the Act enables the Board to prohibit activities that are technically outside the literal terms of the Act in order to prevent a clear evasion of the purposes of the Act. *Id.* at 740.

[31] *See United States* v. *Philadelphia National Bank*, 374 U.S. 321, 343 (1963).

[32] Although some commercial loans are of medium term, the traditionally commercial loan is a short

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these instruments typically provides short-term funding for working capital or current operations such as the financing of inventory. In addition, for each of these instruments, the lender generally will not extend funds unless it or a third party has accomplished a credit analysis to demonstrate that the borrower is capable of repaying the extension of credit from current income. In short, the instruments described in the Board's definition are loans for a commercial purpose—in other words, commercial loans.

The following discussion demonstrates that, both in terms of function and in terms of the legal obligation created, the instruments covered by the regulation are commercial loans for purposes of the BHC Act.

Commercial Paper. Commercial paper is a prime quality, short-term unsecured promissory note establishing a debtor-creditor relationship between lender and borrower. It is generally used as a financial device by large, financially strong corporate borrowers to obtain funds for seasonal or working capital purposes such as the financing of inventory. The maturity of commercial paper is generally 60 days or less, although it can have a maturity of up to 270 days. Commercial paper is generally sold in denominations of $100,000 or more. Although it is negotiable, it is generally held to maturity and interest rates are fixed.[33]

It is uniformly agreed that the purchase of commercial paper by a bank is a commercial lending transaction. Indeed, the Comptroller of the Currency has taken the position that the purchase of commercial paper is "after all nothing but [a] loan to industrial corporations" and thus qualifies as a loan under the lending limitations in the National Bank Act and under the Glass-Steagall Act. Letters of February 24, 1972, and November 19, 1971. The term and denomination of commercial paper, its status as a promissory note, the uses to which the funds are put, and the type of credit analysis involved, all mean that commercial paper is a commercial loan for purposes of the BHC Act.[34]

Certificates of Deposit. A certificate of deposit ("CD") is an instrument evidencing a deposit with a bank for a specified period of time, generally at a fixed rate of interest. The legal relationship established between the purchaser of a certificate of deposit and the bank that issues it is that of creditor and debtor, and the loan that the purchaser of the instrument effectively makes to the bank is an unsecured loan.[35] As is the case with commercial paper, large denomination CDs that are traded in the money market are usually short-term, negotiable instruments, and typically have a maturity of from one to six months. The minimum denomination of such CDs is usually $1 million.[36]

The use of large denomination CDs with negotiable rates and maturities was originated by large banks in the 1960s as a method of providing additional funding for their operations, and has now become a key funding source for banks.[37] Banks use large denomination CDs to provide short term funding for their commercial operations in the same manner that other business organizations use commercial paper to raise working capital.[38] Moreover, as is the case with purchasers of commercial paper, purchasers of large denomination CDs engage in credit analysis of the issuers of these instruments, and establish limits for the amount that they are prepared to purchase from any particular issuer.[39] In sum, for purposes of the Bank Holding Company Act, a large denomination certificate of deposit is a commercial loan.

Some banks purchase CDs in denominations as small as $100,000. Since such CDs are fully insured by the FDIC, they involve no credit risk. In all other respects, however, such CDs function as commercial loans to other banks, presenting the same potential for conflicts of interest and concentration of resources as other commercial loans. When a bank regularly purchases CDs of other banks, or otherwise makes interest bearing deposits on a regular basis, the Board believes the purchasing bank is engaged in the business of making commercial loans.[40] The Board's commercial loan definition therefore encompasses the regular purchase of smaller CDs or other interest bearing deposits.[41]

Federal funds transactions. Federal funds transactions represent interest bearing loans by one depository institution of its deposits with a Federal Reserve Bank to another depository institution, generally on an overnight basis.[42] The so-called "sale" of federal funds in not only legally the making of an unsecured loan to the purchasing bank, but it is so regarded by bankers.[43] Consequently, banks assess the credit risk associated with these transactions, and they will normally lend federal funds only to banks to which they have granted a line of credit.[44] Indeed, the Board has stated that the sale of federal funds is an unsecured loan from one depository institution to another.[45]

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term instrument. *United States* v. *Connecticut National Bank*, 418 U.S. 656, 665 (1974); Munn and Garcia, *Encyclopedia of Banking and Finance* 572 (8th rev. ed. 1983); Stigum, *The Money Market* 76 (1983).

[33] Stigum, supra, at 625–41; Hurley, *The Commercial Paper Market*, 63 Federal Reserve Bulletin 525 (1977); Munn and Garcia, *supra* at 196. Interest is usually paid on commercial paper on a discount basis.

[34] Morover, in terms of function, commercial paper is an important substitute for commercial loans from banks, and the amount of such paper outstanding often increases or decreases as a result of changes in the cost and availability of bank loans. Hurley, *supra*, at 525. Indeed, the origins of commercial paper in the early 19th century can be traced directly to the inability of the U.S. banking system to provide sufficient credit for larger corporations that experienced significant seasonal swings in their need for credit. Stigum, *supra*, at 626.

[35] Bankers Desk Reference 64 (1978). *See Sutter* v. *Groen*, 687 F.2d 197, 200 (7th Cir. 1982) (certificate of deposit issued by bank and insured by FDIC is "a type of promissory note"); *Wightman* v. *American National Bank*, 610 P. 2d 1001, 1004 (Wyo. 1980) ("a certificate of deposit is simply a commercially glamorous name for a promissory note"); 2 *Anderson on the Uniform Commercial Code* 615 (1971) ("The differences between a certificate of deposit and a promissory note are merely formal. In substance and legal effect the two instruments are the same. . . .").

[36] Stigum, *supra* at 525–26, Munn and Garcia, *supra*, at 608.

[37] Stigum, *supra* at 107. By 1960, the demand for loans at large New York City banks significantly exceeded the ability of those banks to fund loans from traditional sources such as savings deposits. At the same time, many large corporations had money they would be prepared to lend to large banks if the instrument evidencing the loan provided a relatively high rate of return and was negotiable. The large denomination CD satisfied this need. *Stigum, supra* at 35–36, 107–08.

[38] Controlling the amount of CDs that it issues is one of the principal devices by which a bank can make short term adjustments to the volume of loans it has outstanding. Thus, when loan demand is up, bank issue more CDs is in order to make more loans. Stigum, *supra* at 36, 107.

[39] Stigum, *supra* at 530. As a result of this fact, even the largest banks can experience difficulty in issuing CDs if their performance raises market concerns.

[40] The Board regards this construction of the term "engaged in the business" as being necessary to prevent evasion of the statute. It is also consistent with judicial construction of similar language in other statutes. *SEC v. Fifth Avenue Coach Lines*, 289 F. Supp. 3, 30–31 (S.D.N.Y. 1968). *Cf. Buckley v. New York Times*, 215 F. Supp. 894 (E.D. La. 1963). Although the Board used a somewhat higher threshold with regard to Boston Safe, and certain savings and loan associations, the status of Boston Safe as a trust company and the independent regulatory scheme for savings and loan associations distinguishes those prior decisions.

[41] On the basis of existing evidence, however, the Board does not believe that a non-interest bearing demand deposit is likely to function as a commercial loan, and such deposits are not covered by the definition of commercial loan.

[42] *Bankers Desk Reference*, 301–02, 367 (1978); Stigum, *supra* at 33–34, 105.

[43] Stigum, *supra* at 105.

[44] *Id.*

[45] Letter of June 8, 1972, to Laurence H. Stone regarding Boston Safe Deposit and Trust Company. In the context of Boston Safe's trust company activities, the Board concluded that sales of federal funds by Boston Safe were loans but were not commercial loans.

Moreover, the purchase of Federal funds in substantial amounts on a regular basis is viewed by large financial institutions (which are themselves commercial enterprises) as a method of satisfying their basic funding needs.[46] In view of these facts, the Board concludes that Federal funds should be regarded as commercial loans for purposes of the Act.

Bankers' Acceptances. A bankers' acceptance is an interest bearing loan—a debtor-creditor relationship—in the form of a draft with a payment date several months in the future that is drawn by a business on a specified bank, and that has been accepted for payment by that bank.[47] The use of bankers acceptances provides an alternative to a direct extension of commercial credit for the business which initially secures the letter of credit under which the draft is drawn.[48] By accepting the draft, the issuing bank has made the draft a primary obligation of the bank. After creating the acceptance, the bank may discount it and retain the instrument until maturity as part of its commercial loan portfolio. Alternatively, in order to raise funds to be used in the bank's current business, it may sell the acceptance in the money market. The buyer of the acceptance receives an unconditional promise from the selling/accepting bank that it will pay the draft at maturity. In turn, the accepting bank looks to the business that is the account party on the draft for repayment; the purchaser of the acceptance may also recover from the account party if the accepting bank defaults.

The direct effect of purchasing a bankers' acceptance is to provide funds to the accepting bank, which is itself a commercial enterprise.[49] Moreover, in view of the liability of the business that is the account party on the draft, the purchase of a banker's acceptance from the accepting bank or any other party is the functional equivalent of purchasing a commercial loan that is guaranteed by the accepting bank. On the basis of the preceding discussion, the Board concludes that the purchase of a bankers' acceptance should also be regarded as a commercial loan.

Some commenters have objected to the inclusion of these money market instruments as commercial loans on the basis that they are often purchased through brokers with no direct negotiation with the issuer, and should therefore be classified as passive investments rather than commercial loans.[50] However, a substantial portion of the transactions in all of these instruments occurs through direct negotiations between lenders and borrowers and, even when purchased through brokers, the lender knows the borrower's identity. Based on its experience, the Broad is aware that holders of large amounts of so-called money market instruments relative to the size of the borrower are in a position to influence the conduct of the borrower, and do at times exercise this influence.[51] Moreover, a "nonbank bank" could, for example, favor its affiliates by purchasing the CDs or commercial paper of those affiliates, or by purchasing such instruments from customers of its affiliates. Similarly, it could refuse to purchase such instruments from competitors of its affiliates and, as noted above, "understandings" could well develop that would lead to commercial lending by indirect means, *e.g.*, through affiliated commercial finance companies or other reciprocal lending arrangements.

Thus the Board finds that the financial instruments discussed above are, in fact, properly categorized as loans providing for the extension of credit from one commercial enterprise to another. Moreover, the Board believes it is proper to include these instruments within the scope of the term commercial loan as used in the Act in order to carry out the Act's basic purposes: to maintain the impartiality of banks in providing credit to business, to prevent conflicts of interest, and to avoid concentration of control of credit. As noted above, the proliferation of nonbank banks owned by companies of very substantial size outside the prudential rules of the Bank Holding Company Act suggests that the dangers of evasion of the Act are real and that action to remedy potential abuses is both necessary and desirable.

Several commenters asserted that commercial paper, certificates of deposit and other money market instruments are merely passive investments having the characteristics of a security rather than a loan. Although an occasional purchase of commercial paper, a certificate of deposit or other money market instrument would not mean that the purchaser is engaged in the business of making commercial loans, this has little relevance for a bank that regularly purchases such instruments as one of its basic business operations.[52] Moreover, a commercial loan may be characterized as an investment and vice versa.[53]

Although for purposes of the Bank Holding Company Act, the distinction between a commercial loan and an investment appears largely irrelevant, the distinction has been made for the purposes of certain Federal securities laws.[54] The cases interpreting these statutes have set forth certain criteria for distinguishing a transaction that is essentially a commercial loan from a transaction that is essentially an investment embodied in a security regulated by the Federal securities laws. Under the criteria employed in these cases, the purchase by a financial institution of commercial paper, certificates of deposit, bankers acceptances or the sale of Federal funds possesses the qualities primarily associated with a loan rather than these qualities associated with a security.[55]

Some commenters asserted that the purchase of retail installment loans by bank should not be regarded as

[46] Stigum, *supra* at 374–76.

[47] *Bankers Desk Reference* 304 (1978); Munn and Garcia, *supra* at 69–71. Interest is paid on a discount basis.

[48] Stigum, *supra* at 39.

[49] The purchase of a bankers acceptance from a dealer in such instruments similarly provides funds to the dealer, which is a commercial enterprise.

[50] The absence of direct negotiation with the borrower is a characteristic of the purchase of a participation interest in a direct extension of commercial credit, a technique commonly used by commercial banks to spread the risk of default and increase the total amount of funds that may be loaned to one customer. It is only the "lead" bank in a participated lending transaction that typically negotiates directly with the borrower. However, most courts that have considered the issue have concluded that a bank that purchases a participation in a commercial loan is purchasing a commercial loan rather than a security. *E.g., Union Planters National Bank* v. *Commercial Credit Business Loans, Inc.*, 651 F.2d 1174 (6th Cir.), *Cert. denied*, 45 U.S. 1124 (1981).

[51] For the most part, the influence that any lender has over a borrower in an arms-length transaction is likely to be an influence that encourages moderation and prudence. It is the potential for abuse of this relationship, however, that prompted Congress to enact the bank Holding Company Act. Indeed, in deciding to extend the Acts' coverage to one-bank holding companies, Congress stated that there had been "no major abuses effectuated through the one-bank holding company device . . . the legislation is to prevent possible future problems rather than to solve existing ones." S. Rep. No. 1084, *supra*, at 4.

[52] The Board regards an institution that engages in such transactions on anything more than an occasional basis as being engaged in the business of making commercial loans. See n. 40, *supra*.

[53] In *C.N.S. Enterprises, Inc.* v. *G & G Enterprises, Inc.*, 508 F.2d. 1354, 1359, *cert. denied*, 423 U.S. 825 (1975), the U.S. Court of Appeals for the Seventh Circuit made precisely this point when it stated: "In one sense every lender of money is an investor since he places his money at risk in anticipation of a profit in the form of interest. Also in a broad sense every investor lends his money to a borrower who uses it for a price and is expected to return it one day."

[54] *See, e.g., American Bank & Trust Company* v. *Wallace*, 702 F.2d 93 (6th Cir. 1983); *Bellah* v. *First National Bank of Hereford, Texas*, 495 F.2d 1109 (5th Cir. 1974); *Great Western Bank & Trust*, v. *Kotz*, 532 F.2d 1252 (9th Cir. 1976). *Cf. Marine Bank* v. *Weaver*, 455 U.S. 551 (1981); *Exchange Nat. Bank* v. *Touche Ross & Co.* 544 F.2d 1126 (2d Cir. 1976).

[55] *Id.*

involving commercial lending, because the ultimate recipient of the funds are consumers. However, the effect of purchasing an installment loan is to finance the day-to-day operations of the retailer involved, and to provide funds with which the retailer may purchase additional inventory or finance retail sales. Thus, the effect of the purchase is to promote the retailer's commercial business. Moreover, if the retailer is an affiliate of the lending bank, the purchase of its retail installment paper by the bank is precisely the type of transaction criticized in the legislative history of the Act, as discussed above—the retail affiliate has an assured line of credit to finance its sales, thereby giving it an advantage over its competitors. Even though a purchase of such loans may not involve an affiliate, and may be without recourse, the bank is supplying funds to a commercial enterprise, and the retailer generally maintains an ongoing business relationship with the bank, which provides the bank with an opportunity to influence the retailer's affairs through its willingness to continue to provide or deny additional credit. Thus, consistent with a 1976 Board staff opinion, the Board regards the purchase of retail installment loans as a commercial lending transaction, and is so modifying its commercial loan definition in the regulation.

One other type of loan specified as a commercial loan in the regulation adopted by the Board is a broker call loan. A broker call loan is a loan to a securities broker or dealer that is payable on demand and is made for the purchase or carrying of securities. Munn and Garcia, *supra*, at 137, 154. The Board's staff issued an opinion in 1976 that such loans are not commercial loans on the basis that such loans are a passive medium of investment that do not involve a close lender-borrower relationship. Letter of January 26, 1976.

However, broker call loans are loans; they are clearly made for commercial purposes; and they thus fall within the Bank Holding Company Act's definition of commercial loan. While the staff's interpretation may have been appropriate in a different factual context, in view of the rapidly expanding use of the nonbank bank loophole to evade the BHC Act as described above, the Board believes it is appropriate to regard broker call loans as commercial loans.[56]

Several commenters asserted that the Board's proposed commercial loan definition represented an abrupt and unwarranted reversal of prior positions taken by the Board. The fundamental rule which the Board established in 1971 is that the term "commercial loan" should encompass all loans other than a loan the proceeds of which are used to acquire property or services used by the borrower for his own personal, family, or household purposes, or for charitable purposes. Letter of July 1, 1971, to Greater Providence Deposit Corporation. In only three subsequent cases[57] over a ten-year period was the Board prepared to allow companies that could not qualify as bank holding companies to engage in demand deposit-taking while placing those deposits in money market commercial loans. The decisions in these cases represented a willingness by the Board to refrain from applying the full scope of the Act in conditions that did not appear to generate the potential for its evasion. Now that conditions have changed so that widespread evasion of the statute has developed through the combination of demand deposit-taking and the placing of the funds thus generated in money market commercial loans, regulatory action to apply the Act to all kinds of demand deposits and commercial loans is necessary.

The courts have held that an agency may alter its interpretations in response to changing circumstances if it provides a reasoned explanation for its action. In *American Trucking Association, Inc.* v. *Atchinson, Topeka & Santa Fe Railway Co.*, 387 U.S. 397, 416 (1967), the Supreme Court ruled that:

> Regulatory agencies do not establish rules of conduct to last forever; they are supposed, within the limits of the law and of fair and prudent administration, to adapt their rules and practices to the nation's needs in a volatile, changing economy.

In its *Dreyfus* decision and in this notice, the Board has detailed the factors and considerations that underlie its interpretation and believes that its action, as explained herein, is both appropriate and necessary in light of the purposes of the Act and is within the Board's express authority under section 5(b) of the BHC Act. Moreover, the Act clearly contemplates changes in interpretation to address changes in market conditions in order that the fundamental purposes of the Act be maintained and to prevent a serious competitive imbalance between competing institutions fostered by the change in market conditions. The definition of demand deposit and commercial loan that the Board has adopted will accomplish these objectives.

The Board's action on the definition of the term "bank" as used in the Act is also intended for the purpose of maintaining the structure established by Congress for limiting the association of banking and commercial enterprises in order to avoid the preemption of Congressional discretion through actions that have the effect of evading the Act. Various proposals to confirm or change the present structure are now before the Congress and the ability of Congress to act on these proposals would be limited by rapid expansion of the use of nonbank banks. Changes in the basic framework established by Congress are properly a matter for Congressional decision and the Board looks to legislative action in the near future to clarify both the proper dividing line between commerce and banking and to establish the proper scope of bank holding company powers to deal with changed market conditions.

Accordingly, for the reasons set out above, the Board is adopting in Regulation Y, with certain technical modifications, the definition of the term "commercial loan" as proposed, and in addition is incorporating in that definition the purchase of retail installment loans.

[FR Doc. 84-34848 Filed 12-30-83; 12:33 pm]

BILLING CODE 6210-01-M

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[56] Trust company subsidiaries of bank holding companies are permitted to make broker call loans and purchase money market instruments. However, such subsidiaries are not permitted to accept general purpose demand deposits, and therefore are not "banks" under the bank definition.

[57] Letters of June 8, 1972, to Laurence H. Stone; March 11, 1981 to Mr. Robert C. Zimmer; and May 28, 1981, to Mr. R. S. Miller, Jr

federal register

Thursday
January 5, 1984

Part V

Department of Labor

Occupational Safety and Health Administration

Environmental Protection Agency

29 CFR Part 1910

Occupational Exposure to 1,3-Butadiene; Proposed Rule

Initiation of Accelerated Review; 1,3-Butadiene; Notice

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to 1,3-Butadiene

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for information.

SUMMARY: This notice announces that OSHA Is joining with the Environmental Protection Agency (EPA) in its request for information on 1,3-butadiene. An EPA Notice announcing the initiation of a review of 1,3-butadiene is published in this issue of the **Federal Register** in a separate notice. The two Agencies are inviting interested parties to submit data and comments relevant to the determination of risks associated with potential adverse health effects of 1,3-butadiene exposure.

DATES: Comments should be submitted by March 5, 1984.

ADDRESSES: One copy of written comments should be submitted to the Docket Office, Occupational Safety and Health Administration, Docket No. H–041, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–7894. Since the Environmental Protection Agency is also reviewing 1,3-butadiene, comments should also be sent in triplicate to the Document Control Officer (TS–793), Docket No. 48502, Office of Toxic Substances, Environmental Protection Agency, Room E–409, 401 M Street, SW., Washington, D.C. 20460, Telephone (202) 382–3749.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Room N–3637, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION: The present OSHA standard for 1,3-butadiene is an 8-hour time-weighted average of 1000 parts per million parts of air. It is codified at 29 CFR 1910.1000, Table Z–1, and was adopted in 1971 under authority of section 6(a) of the Occupational Safety and Health Act.

Two recent animal studies have demonstrated the potential for 1,3-butadiene to cause cancer in rodents.

There is also a report of a retrospective mortality study of white and black workers in production plants in the United States and Canada during the period 1943-1979. Study results were reported to show all cancer mortality to be less than for the general population. The study also reported no statistically significant elevation in standardized mortality ratios for specific cancers. No attempt was made to include work environment exposure information in the analysis because information was not reliable or not available.

The primary worker populations exposed to 1,3-butadiene are chemical and rubber workers. 1,3-butadiene is used as a chemical intermediate in the development of acrylonitrile-butadiene-styrene (ABS) rubber, styrene-butadiene rubber, and at least 14 other polymers, co-polymers, and other nitrile-type synthetic rubber compounds that are used in the manufacture of tires, tubes, bladders, plastics, and many other consumer products.

The NIOSH National Occupational Hazard Survey estimates that there are approximately 70,000 workers potentially exposed to 1,3-butadiene.

Information relating to the above is presently contained in the OSHA 1,3-butadiene docket, Docket H–041, and may be reviewed at the location and times indicated below.

Public Participation

OSHA requests that interested persons submit information concerning the health effects of 1,3-butadiene, its toxicologic properties, estimates of risk presented, current occupational exposure levels, control technologies and costs of reducing exposures and their cost-effectiveness, and health effects research in progress and planned. The information should be submitted by March 5, 1984. One copy of comments should be sent to the Docket Officer, OSHA, Docket H–041, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Three copies should be sent to the Docket Control Officer (TS–793), Docket No. 48502, Office of Toxic Substances, Environmental Protection Agency, Room E–409, 401 M Street, SW., Washington, D.C. 20460. All written comments submitted in response to this notice will be available for inspection and copying at the Docket Offices on weekdays between 8:15 am and 4:15 PM. All such written submissions as well as other information will be considered by the Agencies in making their determinations.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of December, 1983.

Thorne G. Auchter,

Assistant Secretary for Occupational Safety and Health.

[FR Doc. 84–186 Filed 1–4–84; 8:45 am]

BILLING CODE 450–26–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 48502; TSH-FRL 2477-1]

1,3-Butadiene; Initiation of Accelerated Review

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This notice announces initiation of a 180-day review of 1,3-butadiene under section 4(f) of the Toxic Substnces Control Act (TSCA), 15 U.S.C. 2803. Information relevant to this review may be submitted to EPA and will receive consideration in the Agency's determination whether to initiate appropriate action to prevent or reduce risk from the chemical or to find that the risk is not unreasonable.

DATES: Information for review must be submitted on or before March 5, 1984.

ADDRESS: Since some information may contain confidential business information, three copies of submitted information should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Rm. E–409, 401 M St., SW., Washington, D.C. 20460.

One copy of the information should be sent to: Department of Labor, Occupational Safety and Health Administration, Docket Office, Rm. S–6212, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Submissions should include the docket numbers OPTS 48502, and H–041. Submissions received on this notice will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E–107 at the EPA address given above and in Rm. S–6212 at the OSHA address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Environmental Protection Agency, Rm. E–543, Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C.: (544–1404), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION: A 180-day review of 1,3-butadiene has been initiated under section 4(f) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2603. The Administrator's decision to initiate appropriate action to prevent or reduce risk from the chemical or, alternatively, that the risk is not unreasonable will be published in the **Federal Register** on or before May 7, 1984. Review may be extended for up to 90 days for good cause. If extended review is necessary, a notice will be published in the **Federal Register**.

Because the Occupational Safety and Health Administration (OSHA) is also currently reviewing 1,3-butadiene, it is requested that a copy of the information submitted to EPA be sent to OSHA at the address given above.

Dated: December 20, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84–185 Filed 1–4–84; 8:45 am]

BILLING CODE 6560–50–M

federal register

Thursday
January 5, 1984

Part VI

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 907

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling; Final Rules

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 587; Navel Orange Reg. 586, Amdt. 1; Navel Orange Reg. 585, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 6–12, 1984, increases the quantity of such oranges that may be shipped during the periods December 30, 1983–January 5, 1984, and December 23–29, 1983. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATES: This regulation becomes effective January 6, 1984 (§ 907.887), and the amendments are effective for the periods December 23–29, 1983 (§ 907.885), and December 30, 1983–January 5, 1984 (§ 907.886).

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendments are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on December 27, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendments are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information on views on the regulation at an open meeting, and the amendments relieve restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.887 is added as follows:

§ 907.887 Navel Orange Regulation 587.

The quantities of navel oranges grown in California and Arizona which may be handled during the period January 6, 1984, through January 12, 1984, are established as follows:

(a) District 1: 1,200,000 cartons;
(b) District 2: 28 cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. In § 907.886 Navel Orange Regulation 586 (48 FR 57260; December 29, 1983), paragraphs (a) through (d) are hereby revised to read:

§ 907.886 Navel Orange Regulation 586.

(a) District 1: 1,00,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

3. In § 907.885 Navel Orange Regulation 585 (48 FR 56732; see also FR Doc. 84–243 appearing elsewhere in this issue), paragraphs (a) through (d) are hereby revised to read:

§ 907.885 Navel Orange Regulation 585.

(a) District 1: 900,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

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

Dated: December 29, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–244 Filed 1–4–84; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 907

[Navel Orange Reg. 585, Amdt. 2]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quanity of fresh California-Arizona navel oranges that may be shipped to market during the period December 23–29, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATES: The amendment is effective for the period December 23–29, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This amendment is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby

found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1983–84. The committee met by telephone on December 28, 1983, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provision and the effective time.

Lits of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

In § 907.885 (originally published at 48 FR 56732; December 23, 1983, and amended in FR Doc. 84–244 published elsewhere in this issue), paragraphs (a) through (d) are hereby revised to read as follows:

§ 907.885 Navel Orange Regulation 585

(a) District 1: 1,100,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

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

Dated: December 29, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–243 Filed 1–4–84; 8:45 am]

BILLING CODE 3410-02-M

federal register

Thursday
January 5, 1984

Part VII

Department of the Treasury

Customs Service

19 CFR Part 10

Caribbean Basin Initiative; Interim Rule

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 84-14]

Caribbean Basin Initiative

AGENCY: Customs Service, Treasury.

ACTION: Interim Regulations.

SUMMARY: The Caribbean Basin Economic Recovery Act implements an economic recovery program for nations of the Caribbean and Central America. The Act provides for the waiver of duties until September 1995 on most products imported from any of 27 Caribbean and Central American countries designated as beneficiary countries.

This document amends the Customs Regulations to implement the duty-free aspects of the Caribbean Basin Economic Recovery Act, commonly referred to as the Caribbean Basin Initiative.

EFFECTIVE DATE: January 1, 1984.

Comments: The amendments contained in this document are being published as interim regulations in order to extend the benefits of the Caribbean Basin Recovery Act to designated beneficiary countries at the earliest possible date. However, written comments received on or before March 5, 1984 will be considered in determining whether any changes to the interim regulations are required before a final rule is published.

ADDRESS: Comments may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: William L. Marchi, Duty Assessment Division (202-566-2957); Legal Aspects: Francis W. Foote, Classification and Value Division (202-566-2938; U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Subtitle A, Title II, Pub. L. 98-67, the Caribbean Basin Economic Recovery Act (the "Act"), commonly referred to as the Caribbean Basin Initiative (CBI), implements an economic recovery program for nations of the Caribbean and Central America announced by the President on February 24, 1982, in an address to the Organization of American States.

The Act provides for the waiver of duties until September 30, 1985, on most products imported from any of 27 Caribbean and Central American countries designated as beneficiary countries. Beneficiary countries must meet several criteria before the President is authorized to designate them as eligible under the CBI. Further, certain products cannot be declared duty free. Under other provisions of law, duty-free treatment can be withdrawn for articles imported in such quantities as to cause injury to a competing U.S. industry. A rule of origin specifies under what conditions articles will be considered products of a beneficiary country, and, therefore, entitled to duty-free entry.

Pursuant to Presidential Proclamation 5133 dated November 30, 1983 (48 FR 54453), the President designated the countries and territories or successor political entities set forth in the Annex to the Proclamation as "beneficiary countries", thus conferring duty-free treatment for all eligible articles from those beneficiary countries. This action, is effective with respect to all articles that are entered, or withdrawn from warehouse for consumption, on or after January 1, 1984, and on or before September 30, 1995.

Certain products originating in all of the beneficiary countries are currently eligible for preferential, duty-free entry into the U.S. pursuant to the Generalized System of Preferences (GSP) (19 U.S.C. 2461-2465). The GSP imposes several restrictions on the types and total value of imports of articles that are entitled to its benefits.

In view of the similarity between duty-free treatment under the CBI and the duty-free treatment provided under the GSP, the Customs Regulations relating to the CBI contained in this document are generally based on the Customs Regulations relating to the GSP found in § 10.171 through § 10.178, Customs Regulations (19 CFR 10.171 *et seq.*). However, in addition to the specific differences identified in the section-by-section analysis set forth below, the following general points should be noted regarding those areas where a different approach has been taken in the CBI regulations:

(1) Although the Customs Regulations relating to the CBI consist of eight sections as in the case of the GSP, the order of the sections has been changed to present a more logical sequence.

(2) Except in § 10.191, the word "article" is used throughout rather than "eligible article" since, in the context of an individual section setting forth only a portion of the requirements for duty-free eligibility, a reference to an "eligible article" appears to be inappropriate.

(3) No mention is made of an association of countries treated as one country for purposes of duty-free treatment since no such language appears in the Act.

(4) The term "beneficiary country" is used rather than "beneficiary developing country" since the Act does not contain the word "developing."

(5) In most cases the word "a" or "any" is used before "beneficiary country" rather than the word "the", for the reasons set forth in the discussion of § 10.193.

With the foregoing in mind, a section-by-section analysis of the interim Customs Regulations relating to the CBI is set forth below.

Section-By-Section Analysis

Section 10.191—General Provisions

In addition to a statement of the statutory authority for the CBI, certain definitions are set forth in subsection (b):

(1) *Beneficiary country.* As in the case of § 10.171(b), Customs Regulations (19 CFR 10.171(b)), relating to the GSP, it seems appropriate to define "beneficiary country" in general terms for purposes of the CBI. The definition is taken from the wording in sections 212 (a)(1)(A) and (b) of the Act. The stated exception relates to the Commonwealth of Puerto Rico and the United States Virgin Islands which may be considered beneficiary countries for purposes of the 35 percent value-added requirement (see the discussion of § 10.195(b) below).

(2) *Eligible articles.* Although no corresponding definition appears in the Customs Regulations relating to the GSP, contrary to the GSP under which the President must specifically designate the articles to be accorded duty-free treatment which are so identified in the GSP column within the Tariff Schedules of the United States (TSUS), under the CBI, duty-free treatment may be given to all articles without specific designation thereof by the President. Given the broader scope under the CBI as concerns what may be considered an eligible article and since TSUS will not contain a CBI column so as to identify CBI-eligible articles as such, it is appropriate to define in this provision the articles which may be subject to duty-free treatment under the CBI. The first part of the definition is derived from the basic requirements of section 213(a)(1) of the Act, and the second part is intended to ensure that the definition is complete by listing the five exceptions set forth in section 213(b) of the Act and

the two additional exceptions set forth in the Presidential Proclamation and by referring to those provisions in the Act under which the President may suspend or withdraw duty-free treatment.

(3) *Wholly the growth, product, or manufacture of a beneficiary country.* This definition is intended, in part, to clarify the distinction made in section 213(a)(2) of the Act between articles "wholly" the growth, product, or manufacture of a beneficiary country and other articles not entirely grown, produced, or manufactured in the beneficiary country of origin. This definition is based on the position of Customs concerning the interpretation of similar language in § 10.176 and § 10.177, Customs Regulations (19 CFR 10.176, 10.177), relating to the GSP.

(4) Entered. This definition is taken directly from section 212(a)(1)(B) of the Act.

Section 10.192—Claim for Exemption From Duty Under the CBI

This section is based on § 10.172, Customs Regulations (19 CFR 10.172), relating to the GSP. In addition to minor editorial amendments, this text differs from the GSP provision only in that (1) the prefix "C" will be used in a CBI context as distinguished from the prefix "A" used for the GSP, and (2) for the reasons stated in the discussion of § 10.198 below, reference is made to the declaration of the manufacturer or exporter and the endorsement by the importer or consignee rather than to a Certificate of Origin.

Section 10.193—Imported Directly

It should be noted that although under both the GSP and the CBI an article must be "imported directly" in order to qualify for duty-free treatment, the CBI differs from the GSP in that the country of exportation and the country where the article was grown, produced, or manufactured (i.e., the country of origin of the article) do not necessarily have to be the same. This is due to the fact that while in the GSP statute (19 U.S.C. 2463(b)) reference is made to an article which is imported directly from "a beneficiary developing country" and to the cost or value of materials produced in "the beneficiary developing country" and to the direct costs of processing operations performed in "such beneficiary developing country," the corresponding language in section 213(a)(1) of the Act refers in each case simply to "a beneficiary country." Thus, for purposes of the CBI the "imported directly" requirement is not, technically speaking, part of the country of origin criteria. For this reason the "imported directly" requirement is specifically set forth in this section rather than in § 10.195 which deals with the country of origin criteria.

The text of this section is based on section 10.175, Customs Regulations (19 CFR 10.175), relating to the GSP, as amended by T.D. 83–144 published in the **Federal Register** on June 28, 1983 (48 FR 29683). However, in addition to various editorial amendments to conform to a CBI context, this text differs from the GSP provision in the following respects: (1) In subsection (a) reference is made to direct shipment from "any" beneficiary country to clarify that under the Act direct importation is not restricted to any specific beneficiary country; (2) various references are made to articles shipped through a "non-beneficiary" country, again to clarify that shipment through any beneficiary country would meet the direct importation requirement; (3) a provision similar to § 10.175(c), Customs Regulations, relating to the GSP, has not been included since shipment through a free trade zone in a beneficiary country is in effect covered by subsection (a); and (4) in subsection (c)(5) (§ 10.175(d)(5), Customs Regulations, relating to the GSP), reference is made to the declaration of the manufacturer or exporter and the endorsement of the importer or consignee rather than to a Certificate of Origin Form A in order to align on the provisions of § 10.198.

Section 10.194—Evidence of Direct Shipment

Subject to several minor editorial amendments, this section corresponds exactly to § 10.174, Customs Regulations (19 CFR 10.174), relating to the GSP.

Section 10.195—Country of Origin Criteria

Although this section corresponds to § 10.176, Customs Regulations (19 CFR 10.176), relating to the GSP, there are a number of differences between the two sections which are discussed below.

Subsection (a). The first and second sentences are based on the provisions specifically required to be inserted in the regulations under section 213(a)(2) of the Act. The second sentence has been drafted to clarify that the statutory limitation concerning combining, packaging, or diluting operations has reference to the origin of the article or material rather than to entitlement to duty-free treatment as such. Given the statutory reference to "no article or material," this interpretation is important insofar as the distinction between articles and materials is concerned (see the discussion of § 10.196 below) and is supported by the following statement found on page 34 of Senate Report No. 98–58 of the Committee on Finance:

> These rules shall provide that the article must be wholly the growth, product, or manufacture of a beneficiary country, or a new or different article of commerce produced in it. Specifically, this formulation excludes products merely packaged or combined in the country, or merely diluted by a liquid that does not materially alter the article's essential character.

The third sentence merely sets forth the 35 percent value-added requirement contained in section 213(a)(1)(B) of the Act which is essentially the same as the value-added requirement set forth in the GSP statute and in the Customs Regulations relating to the GSP. For the reasons set forth in the discussion of § 10.193 above, no reference is made to the "imported directly" requirement in this subsection.

Subsection (b). This subsection has no counterpart in the Customs Regulations relating to the GSP and is based on a provision contained in section 213(a)(1) of the Act. Although the second sentence is not based on the Act itself, this provision is deemed necessary to clarify that in the case of the United States Virgin Islands it would be necessary to return the article to a beneficiary country prior to its importation into the United States in order to comply with the imported directly requirement. Since Puerto Rico is within the customs territory of the United States, the imported directly requirement would be satisfied even though value is added in Puerto Rico after final exportation of the article from a beneficiary country (see the discussion § 10.198(a)(3) below). Thus, Puerto Rico is not mentioned in this context.

Subsection (c). As is the case with subsection (b), this subsection has no counterpart in the Customs Regulations relating to the GSP and is based on a provision contained in section 213(a)(1) of the Act.

Subsection (d). This provision is based on § 10.176(c), Customs Regulations (19 CFR 10.176(c)). Although this text is somewhat shorter in order to correspond to a CBI context, the effect is entirely the same as that of the GSP provision.

Section 10.196—Cost or Value of Materials Produced in a Beneficiary Country or Countries

This section corresponds to § 10.177, Customs Regulations (19 CFR 10.177). However, the text departs from the GSP provision as explained below.

Subsection (a). This subsection represents a considerable expansion of § 10.177(a), Customs Regulations,

relating to the GSP and is specifically intended to incorporate the basic provisions of T.D. 76–100, published in the Federal Register on April 6, 1976 (41 FR 14547). This T.D. sets forth the principles that Customs has consistently applied for purposes of determining compliance with the 35 percent value-added requirement under the GSP. The inclusion of the principles set forth in T.D. 76–100 is believed to be necessary in order to avoid interpretative difficulties which have arisen in connection with the GSP provisions. This approach appears to be appropriate since the Senate and House Committee Reports make clear that the origin requirements under the CBI are intended to be the same as the origin requirements as administered under the GSP. The reference in this subsection to "materials" produced in a beneficiary country or countries is intended to clarify the distinction, also made in section 213(a)(2) of the Act, between, on the one hand, imported articles to which duty-free treatment may apply and, on the other hand, those materials incorporated in such an article which may be counted toward the 35 percent value-added requirement (see also the discussion of § 10.195(a) above). The specific reference to only § 10.195 at the beginning of this subsection is intended to put this subsection in the proper context, since the provisions of this subsection relate specifically to one element of the country of origin criteria set forth in § 10.195(a).

The four examples included are intended to demonstrate application of the provisions of this subsection and are based on positions taken by Customs in numerous rulings issued under the GSP. The first example shows a case falling within subsection (a)(1) and is intended to indicate that the origin of a material may be cumulated between two or more beneficiary countries. The second example sets forth a case where the material does not fall within either subsection (a)(1) or subsection (a)(2). The third example is an extension of the second example and shows how further processing will cause a material to fall within subsection (a)(2). It should also be noted that the cutting and sewing operations preceding the assembly operation in the example are sufficient to take the material beyond the "simple combining" operations mentioned in § 10.195(a) and discussed at page 13 of House Report No. 98–266 of the Committee on Ways and Means. The fourth example covers another case falling within subsection (a)(1) and is specifically intended to show the relationship between § 10.195(b) and this subsection.

Subsection (b). Although this provision is based on § 10.177(b), Customs Regulations, the word "article" appearing in the GSP provision has been changed to read "material" since in this context a reference to an "article" appears to be inappropriate.

Subsection (c). Subject to several editorial amendments to correspond to a CBI context, this subsection is equivalent to § 10.177(c), Customs Regulations. The only amendment of consequence concerns subsection (c)(2)(i) from which the word "assembly" has been deleted in order to reflect the limitation set forth in section 213(a)(2) of the Act and in § 10.195(a).

Section 10.197—Direct Costs of Processing Operations Performed in a Beneficiary Country or Countries

In consideration of the fact that section 213(a)(3) of the Act was taken directly from § 10.178, Customs Regulations (19 CFR 10.178), this section incorporates the entire text of the GSP provision. Although subsections (a) (3) and (4) of the GSP provisions were not incorporated in the Act, they have been retained in the regulation relating to the CBI, since the statutory provision is not all inclusive and those subsections appear to fall within the intent of the statutory language. The only departure from the GSP provision concerns the inclusion in this text of the words which appear in the second sentence of subsection (a) immediately after the words "but are not limited to". This qualification appears necessary to avoid an anomolous situation under which certain costs falling within one of the specific items in the regulation would nevertheless not be includable in the appraised value of the imported article, thereby leaving open the possiblility that costs countable toward the 35 percent value-added requirement would bear a disproportionately high relationship to the appraised value of the article.

Section 10.198—Evidence of Country of Origin

Although this section is intended to serve the same purpose as § 10.173, Customs Regulations (19 CFR 10.173), relating to the GSP, it should be noted that use of a Certificate of Origin Form A is not contemplated for purposes of the CBI. The Form A is used for the GSP primarily for the reason that it had already been accepted by other countries applying a GSP program when the United States adopted the GSP. There is no similar direct precedent in the case of the CBI which is purely an American program. Moreover, Customs is of the opinion that the GSP Form A approach should not be adopted for the CBI since a procedure involving a certification by a governmental authority and a declaration by the exporter does not provide Customs with a sufficient basis for undertaking enforcement proceedings against the importer for an intentional or negligent misstatement of material facts. It has therefore been determined that a better approach would be to require a declaration of the manufacturer or exporter in conjunction with an endorsement thereof by the importer or consignee, similar to the approach taken in § 10.24(a), Customs Regulations (19 CFR 10.24(a)), relating to the entry of merchandise under item 807.00, TSUS. It is noted that this approach is consistent with the terms of the Presidential Proclamation implementing duty-free treatment under the CBI.

The declaration of the manufacturer or exporter, as set forth in subsection (a), has been drafted to ensure that all information will be provided with the entry to establish compliance with the country of origin criteria. As a practical matter, in most cases only the manufacturer or exporter would be able to supply this information. The text has been drafted so that the case of articles wholly the growth, product, or manufacture of one beneficiary country, it will merely be necessary to insert the name of the country in the first part of the text and to complete the first two columns below. The "P" designation for such articles in the second column has been adopted from the GSP Form A. All other articles for which duty-free treatment is claimed will require insertion of the name of the country of production or manufacture in the second part of the text and, in most cases, completion of all six columns. The "Y" designation to be included in the second column in such cases is also adopted from the GSP Form A. It will be noted that the first four columns relate to the imported article. The third column is intended both to ensure that the article is in fact a product of that country within the meaning of § 10.195(a) and to describe processing operations, if any, performed on the article in any other beneficiary countries. The fourth column is intended to reflect all costs of such processing operations so that they may be counted toward the 35 percent value-added requirement. The fifth and sixth columns have reference to the requirements set forth in § 10.196 concerning materials incorporated in the imported article whose costs may be counted toward the 35 percent value-

added requirement. As concerns the fourth and sixth columns, it is assumed that it would be easier for the manufacturer or exporter to insert a monetary figure rather than the percentage required on the GSP Form A since he would not in all cases know the appraised value of the article at the time of importation. It would then be the responsibility of Customs to total the costs from those two columns and to compare that total to the appraised value of the article in order to determine compliance with the 35 percent value-added requirement. The declaration has been designed to allow different articles to be included therein, whether or not they are wholly the growth, product, or manufacture of the country in question. However, in any case where a shipment covers articles which are products of different countries, a separate declaration will have to be prepared for each country of origin unless there are only two such countries and one can be named in the first part of the text and the other in the second part.

The text of the endorsement by the importer or consignee is based on the text contained in § 10.24(a)(2), Customs Regulations (19 CFR 10.24(a)(2)), as well as on the declaration by the exporter set forth in box 12 of the GSP Form A. It is intended that a separate endorsement shall accompany each declaration.

It should be noted that in subsections (a) and (b) reference is made to "formal" and "informal" entries rather than to shipments valued in excess of "250" dollars or valued at "250" dollars or less as contained in the corresponding GSP provisions. Although the net effect is the same, this approach appears preferable in order to avoid the need for amending the regulations at a later date in the event that the line of demarcation between formal and informal entries, as set forth in § 143.21, Customs Regulations (19 CFR 143.21), is changed at a future date. Subsection (a)(3), which has no counterpart in the GSP provisions, has been inserted to ensure that all information pertaining to the 35 percent value-added requirement is included since such information in the situation described therein could not be included in the declaration accompanying the goods when they are exported from the beneficiary country (see the discussion of § 10.195(b) above). Subsections (a)(4) through (a)(7) are identical to § 10.173(a)(2) through (a)(5) of the GSP provisions. Finally, except as indicated above, the first sentence of subsection (b) is identical to § 10.173(b), Customs Regulations, relating to the GSP. The second sentence has been added to clarify that entries under the CBI may be subject to the provisions of section 143.22, Customs Regulations (19 CFR 143.22).

Comments

Before adopting the interim regulations as a final rule, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Inapplicability of Notice and Delayed Effective Date Provisions

Pursuant to the provisions of 5 U.S.C. 553(a) public notice is inapplicable to this regulation because it is within the foreign affairs function of the United States. Not having regulations implementing the duty-free aspects of the CBI in effect on the effective date of the Presidential Proclamation extending benefits of the Act to beneficiary Caribbean and Central American countries would provoke undesirable international consequences. For the above reason it is also believed that pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are impracticable, unnecessary, and contrary to the public interest.

Further, for the reason set forth above, and because the regulations implement procedures granting duty-free treatment for certain articles, thus conferring substantial benefits upon the beneficiary countries and public in general, it is believed good cause exists under the provisions of 5 U.S.C. 553(d)(1) and (d)(3) for dispensing with the normal 30 day delayed effective date requirement.

Executive Order 12291

This interim regulation is not a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly a regulatory impact analysis is not required under E.O. 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because the regulation will not have a significant economic impact on a substantial number of small entities. Any economic impact flows directly from the Caribbean Basin Economic Recovery Act and not from the implementing regulations. The regulations are not expected to: have significant secondary or incidental effects on a substantial number of small entities; impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from entities through comments.

Accordingly, it is hereby certified under the provisions of section 3, Regulatory Flexibility Act, that the interim regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The interim regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511. Accordingly, applicable sections of the interim regulation have been cleared by the Office of Management and Budget and assigned control number 1515–0112.

Drafting Information

The principal author of this document was John Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Office of the United States Trade Representative participated in its development.

List of Subjects in 19 CFR Part 10

Caribbean Basin initiative, Customs duties and inspection, Imports.

Amendments to the Regulations

Part 10, Customs Regulations (10 CFR Part 10), is amended as set forth below.

Approved: December 23, 1983.

William Von Raab,

Commissioner of Customs.

J. M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for these provisions reads as follows:

Authority: R. S. 251, as amended, secs. 623, 624, 46 Stat. 759, 211 *et seq.*, 97 Stat. 384 *et seq.* (19 U.S.C. 66, 1523, 1624, 2701 *et seq.*)

2. Part 10, Customs Regulations, is amended by adding new §§ 10.191 through 10.198 and the Centerheading "Caribbean Basin Initiative" to read as follows:

Caribbean Basin Initiative

Sec.

10.191 General.

10.192 Claims for exemption from duty under the CBI.

Sec.
10.193 Imported directly.
10.194 Evidence of direct shipment.
10.195 Country of origin criteria.
10.196 Cost or value of materials produced in a beneficiary country or countries.
10.197 Direct costs of processing operations performed in a beneficiary country or countries.
10.198 Evidence of country of origin.

Part 10, Customs Regulations, is amended by adding new §§ 10.191 through 10.198 to read as follows:

Caribbean Basin Initiative

§ 10.191 General.

(a) *Statutory authority.* Subtitle A, Title II, Pub. L. 98–67, entitled the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701–2706) and referred to as the Caribbean Basin Initiative (CBI), authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country.

(b) *Definitions.*— (1) *Beneficiary country.* For purposes of § 10.191 through § 10.198 and except as otherwise provided in § 10.195(b), the term "beneficiary country" means any country or territory or successor political entity with respect to which there is in effect a proclamation by the President designating such country, territory or successor political entity as a beneficiary country in accordance with section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)).

(2) *Eligible articles.* For purposes of § 10.191(a), the term "eligible articles" means any merchandise which is imported directly from a beneficiary country as provided in § 10.193 and which meets the country of origin criteria set forth in § 10.195. However, the following merchandise shall not be considered eligible articles entitled to duty-free treatment under the CBI:

(i) Textile and apparel articles which are subject to textile agreements.

(ii) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated on August 5, 1983, as eligible articles for the purpose of the Generalized System of Preferences under Title V, Trade Act of 1974, as amended (19 U.S.C. 2461–1465).

(iii) Tuna, prepared or preserved in any manner, in airtight containers.

(iv) Petroleum, or any product derived from petroleum, provided for in Part 10, Schedule 4, Tariff Schedules of the United States (TSUS).

(v) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which TSUS column 2 rates of duty apply.

(vi) Sugars, sirups, and molasses, provided for in item 155.20 or item 155.30, TSUS, to the extent that importation and duty-free treatment of such articles are limited by Headnote 4, Schedule A, Part 10, Schedule 1, TSUS.

(vii) Articles subject to the provisions of Subpart A, Part 2, Appendix, TSUS, to the extent that such provisions have not been modified or terminated by the President pursuant to section 213(e)(5) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(e)(5)).

(viii) Merchandise for which duty-free treatment under the CBI is suspended or withdrawn by the President pursuant to sections 213 (c)(2), (e)(1), or (f)(3) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 (c)(2), (e)(1), or (f)(3)).

(3) *Wholly the growth, product, or manufacture of a beneficiary country.* For purposes of § 10.191 through § 10.198, the expression "wholly the growth, product, or manufacture of a beneficiary country" refers both to any article which has been entirely grown, produced, or manufactured in a beneficiary country or two or more beneficiary countries and to all materials incorporated in an article which have been entirely grown, produced, or manufactured in any beneficiary country or two or more beneficiary countries, as distinguished from articles or materials imported into a beneficiary country from a non-beneficiary country whether or not such articles or materials were substantially transformed into new or different articles of commerce after their importation into the beneficiary country.

(4) *Entered.* For purposes of § 10.191 through § 10.198, the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

§ 10.192 Claim for exemption from duty under the CBI.

A claim for an exemption from duty on the ground that the CBI applies shall be allowed by the appropriate district director only if he is satisfied that the requirements set forth in this section and § 10.193 through § 10.198 have been met. Duty-free treatment may be claimed at the time of filing the entry summary by placing the symbol "C" as a prefix to the TSUS item number for each article for which such treatment is claimed. If duty-free treatment is claimed subsequent to the time of filing the entry summary but before liquidation becomes final, the filing of the declaration and endorsement as required in § 10.198 shall constitute the written claim.

§ 10.193 Imported directly.

To qualify for treatment under the CBI, an article shall be imported directly from a beneficiary country into the customs territory of the United States. For purposes of § 10.191 through § 10.198 the words "imported directly" means:

(a) Direct shipment from any beneficiary country to the United States without passing through the territory of any other country; or

(b) Except as provided in paragraph (c) of this section, if shipped from any beneficiary country to the United States through the territory of any non-beneficiary country, the article shall not have entered into the commerce of any non-beneficiary country while en route to the United States, and the invoices, bills of lading, and other documents connected with the shipment shall show the United States as the final destination; or

(c) If shipped from any beneficiary country to the United States through the territory of any non-beneficiary country, provided that the article:

(1) Is wholly the growth, product, or manufacture of a beneficiary country;

(2) Remains under the control of the customs authorities of the intermediate country;

(3) Does not enter into the commerce of the intermediate country except for sale other than at retail, and the district director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the latter's sales agent;

(4) Has not been subjected to operations other than loading and unloading, and other activities necessary to preserve the article in good condition; and

(5) Complies with the origin requirements for goods exported to the United States under the CBI, as stated in the declaration of the manufacturer or exporter and in the endorsement of the importer or consignee required under § 10.198.

In addition, the importer shall provide, upon request, evidence sufficient to satisfy the appropriate Customs official that the shipment complies with the requirements of this paragraph.

§ 10.194 Evidence of direct shipment.

(a) *Documents constituting evidence of direct shipment.* The district director may require that appropriate shipping papers, invoices, or other documents be

submitted within 60 days of the date of entry as evidence that the articles were "imported directly", as that term is defined in § 10.193. Any evidence of direct shipment required shall be subject to such verification as deemed necessary by the district director.

(b) *Waiver of evidence of direct shipment.* The district director may waive the submission of evidence of direct shipment when otherwise satisfied, taking into consideration the kind and value of the merchandise, that the merchandise clearly qualifies for treatment under the CBI.

§ 10.195 Country of origin criteria.

(a) *Articles produced in a beneficiary country.* Any article which is either (1) wholly the growth, product, or manufacture of a beneficiary country or (2) a new or different article of commerce which has been grown, produced, or manufactured in a beneficiary country, may qualify for duty-free entry under the CBI. However, no article or material shall be considered to have been grown, produced, or manufactured in a beneficiary country by virtue of having merely undergone (i) simple combining or packaging operations, or (ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article. Moreover, duty-free entry under the CBI may be accorded to an article only if the sum of the cost or value of the materials produced in a beneficiary country or countries, plus the direct costs of processing operations performed in a beneficiary country or countries, is not less than 35 percent of the appraised value of the article at the time it is entered.

(b) *Commonwealth of Puerto Rico and United States Virgin Islands.* For purposes of determining the percentage referred to in paragraph (a) of this section, the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. However, any cost or value of materials or direct costs of processing operations attributable to the Virgin Islands must be included in the article prior to its final exportation from a beneficiary country to the United States.

(c) *Materials produced in the United States.* For purposes of determining the percentage referred to in paragraph (a) of this section, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered may be attributed to the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico).

(d) *Articles wholly grown, produced, or manufactured in a beneficiary country.* Any article which is wholly the growth, product, or manufacture of a beneficiary country, including articles produced or manufactured in a beneficiary country exclusively from materials which are wholly the growth, product, or manufacture of a beneficiary country or countries, shall normally be presumed to meet the requirements set forth in paragraph (a) of this section.

§ 10.196 Cost or value of materials produced in a beneficiary country or countries.

(a) *"Materials produced in a beneficiary country or countries" defined.* For purposes of § 10.195, the words "Materials produced in a beneficiary country or countries" refer to those materials incorporated in an article which are either:

(1) Wholly the growth, product, or manufacture of a beneficiary country or two or more beneficiary countries; or

(2) Subject to the limitations set forth in § 10.195(a), substantially transformed in any beneficiary country or two or more beneficiary countries into a new or different article of commerce which is then used in any beneficiary country in the production or manufacture of a new or different article which is imported directly into the United States.

Example 1. A raw, perishable skin of an animal grown in one beneficiary country is sent to another beneficiary country where it is tanned to create nonperishable "crust leather"; the tanned product is then imported directly into the United States. Since the material of which the imported article is composed is wholly the growth, product, or manufacture of one of more beneficiary countries, the entire cost or value of that material may be counted toward the 35 percent value requirement set forth in section 10.195.

Example 2. A raw, perishable skin of an animal grown in a non-beneficiary country is sent to another beneficiary country where it is tanned to create nonperishable "crust leather"; the tanned skin is then imported directly into the United States. Although the tanned skin represents a new or different article of commerce produced in a beneficiary country within the meaning of § 10.195(a), the cost or value of the tanned skin may not be counted toward the 35 percent value requirement since (1) the tanned material of which the imported article is composed is not wholly the growth, product, or manufacture of a beneficiary country and (2) the tanning operation creates the imported article itself rather than an intermediate article which is then used in the beneficiary country in the production or manufacture of an article imported into the United States.

Example 3. A raw, perishable skin of an animal grown in a non-beneficiary country is sent to a beneficiary country where it is tanned to create nonperishable "crust leather"; the tanned material is then cut, sewn and assembled with a metal buckle imported from a non-beneficiary country to create a finished belt which is imported directly into the United States. Since the operations performed in the beneficiary country involve both the substantial transformation of the raw skin into a new or different article and the use of that intermediate article in the production or manufacture of a new or different article imported into the United States, the cost or value of the tanned material used to make the imported article may be counted toward the 35 percent value requirement. However, the cost or value of the metal buckle imported into the beneficiary country may not be counted toward the 35 percent value requirement since the buckle was not substantially transformed in the beneficiary country into a new or different article prior to its incorporation in the finished belt.

Example 4. A raw, perishable skin of an animal grown in United States Virgin Islands is sent to a beneficiary country where it is tanned to create nonperishable "crust leather"; which is then imported directly into the United States. The tanned skin represents a new or different article of commerce produced in a beneficiary country within the meaning of § 10.195(a), and under § 10.195(b) the raw skin from which the tanned product was made is considered to have been grown in a beneficiary country for the purpose of applying the 35 percent value requirement. Therefore, the tanned material of which the imported article is composed is considered to be wholly the growth, product, or manufacture of one of more beneficiary countries with the result that the entire cost or value of that material may be counted toward the 35 percent value requirement.

(b) *Questionable origin.* When the origin of a material either is not ascertainable or is not satisfactorily demonstrated to the appropriate district director, the material shall not be considered to have been grown, produced, or manufactured in a beneficiary country.

(c) *Determination of cost or value of materials produced in a beneficiary country.* (1) The cost or value of materials produced in a beneficiary country or countries includes:

(i) The manufacturer's actual cost for the materials;

(ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

(iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap; and

(iv) Taxes and/or duties imposed on the materials by any beneficiary country, provided they are not remitted upon exportation.

(2) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

(i) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(ii) An amount for profit; and

(iii) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

If the pertinent information needed to compute the cost or value of a material is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

§ 10.197 Direct costs of processing operations performed in a beneficiary country or countries.

(a) *Items included in the direct costs of processing operations.* As used in § 10.195 and § 10.198, the words "direct costs of processing operations" mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under oonsideration. Such costs include, but are not limited to, the following to the extent that they are includable in the appraised value of the imported merchandise:

(1) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe beneifts, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(2) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;

(3) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise and;

(4) Costs of inspecting and testing the specific merchandise.

(b) *Items not included in the direct costs of processing operations.* Those items which are not included within the meaning of the words "direct costs of processing operations" are those which are not directly attributable to the merchandise under consideration or are not "costs" of manufacturing the product. These include, but are not limited to:

(1) Profit; and

(2) General expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salemen's salaries, commissions, or expenses.

§ 10.198 Evidence of country of origin.

(a) *Shipments covered by a formal entry—(1) Declaration of manufacturer or exporter.* Except as provided in paragraph (a)(7) of this section, the importer or consignee of a shipment of merchandise covered by a formal entry for which treatment under the CBI is claimed shall file with the district director with the entry summary a declaration of the manufacturer or exporter in substantially the following form:

Declaration of Manufacturer or Exporter

I, ——— (name), hereby declare (1) that the articles described below and identified by the letter P are wholly the growth, product, or manufacture of ——— (country), and/or (2) that the articles described below and identified by the letter Y (a) were produced or manufactured in ——— (country) by means of processing operations performed in that country as set forth below and were also subjected to processing operations in the other beneficiary country or countries (including the Commonwealth of Puerto Rico and the United States Virgin Islands) as set forth below and (b) incorporate materials produced in the country named above or in any other beneficiary country or countries (including the Commonwealth of Puerto Rico and the United States Virgin Islands) or in the United States (other than the Commonwealth of Puerto Rico) as set forth below:

Marks of identification, numbers	Description of article and quantity	Processing operations		Materials produced in a beneficiary country or in the United States	
		Description of processing operations and country of processing	Direct costs of processing operations	Description of material and country of production	Cost or value of material

Date ———
Address ———
Signature ———
Title ———

(2) *Endorsement by importer or consignee.* Except as provided in paragraph (a)(7) of this section, the importer or consignee of a shipment shall attach to the declaration described above an endorsement in substantially the following form:

Endorsement by Importer or Consignee

I declare that to the best of my knowledge and belief the attached declaration, and any other information submitted herewith, or otherwise supplied or referenced to, is correct in every respect and there has been compliance with all requirements specified for those goods for duty-free treatment under the Caribbean Basin Initiative.

Date ———
Address ———
Signature ———
Title ———

(3) *Value added in Puerto Rico.* In a case involving materials incorporated in, or processing operations performed on, an article in the Commonwealth of Puerto Rico after final exportation of the article from a beneficiary country, a separate declaration and endorsement prepared by the appropriate parties shall be filed with the entry summary setting forth all details concerning the nature of, and cost or value of, such materials and processing operations.

(4) *Duplicate declaration or endorsement.* In the event of the loss, theft, or destruction of a declaration or endorsement, the district director shall accept in connection with the entry summary a duplicate declaration or endorsement prepared and signed by the appropriate party and marked with the word "duplicate" at the top thereof. The duplicate shall bear the date of issue of the original declaration or endorsement and will be effective from that date.

(5) *Release under bond.* If the required declaration or endorsement properly completed, or a duplicate thereof as described in subparagraph (4) of this paragraph, is not filed with the entry summary, the entry summary shall be accepted, subject to compliance with the requirements set forth in § 10.192 through § 10.197, only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of the declaration or endorsement. The bond shall be in the amount required under § 113.14 of this chapter. Within 60 days after filing the entry summary, or such additional period as the district director may allow for good cause shown, the importer or consignee shall deliver to the district director the declaration or endorsement. If the declaration or endorsement is not delivered to the district director within 60 days of the date of filing the entry summary or such additional period as

the district director, for good cause, may allow, the district director shall treat the entry as dutiable and may cancel the bond or the charge against the bond, as appropriate, in accordance with § 172.22(c) of this chapter.

(6) *Verification of evidence.* Evidence of the country of origin required under this paragraph shall be subject to such verification as the district director deems necessary.

(7) *Waiver of declaration and endorsement.* The district director may waive production of the declaration and endorsement when he is otherwise satisfied that the merchandise qualifies for duty-free entry under the CBI.

(b) *Shipments covered by an informal entry.* Although the filing of a declaration and endorsement is not required for shipments covered by an informal entry, the district director may require such other evidence of the country of origin as deemed necessary. However, the filing of a declaration and endorsement may be required in a case involving consolidation of individual shipments under § 143.22 of this chapter. (Approved by the Office of Management and Budget under control number 1515–0112)

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